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## Legislation

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## I

*(Acts whose publication is obligatory)*

**COMMISSION REGULATION (EEC) No 359/87****of 5 February 1987****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 the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals<sup>(1)</sup>, as last amended by Regulation (EEC) No 1579/86<sup>(2)</sup>, and in particular Article 13 (5) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy<sup>(3)</sup>, 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 Commission Regulation (EEC) No 135/87<sup>(4)</sup> 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, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Regulation (EEC) No 1676/85,

— 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, and the aforesaid coefficient ;

Whereas these exchange rates being those recorded on 4 February 1987 ;

Whereas the aforesaid corrective factor affects the entire calculation basis for the levies, including the equivalence coefficients ;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 135/87 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 6 February 1987.

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 139, 24. 5. 1986, p. 29.

<sup>(3)</sup> OJ No L 164, 24. 6. 1985, p. 1.

<sup>(4)</sup> OJ No L 17, 20. 1. 1987, p. 1.

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

Done at Brussels, 5 February 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

# ANNEX

to the Commission Regulation of 5 February 1987 fixing the import levies on cereals and on wheat or rye flour, groats and meal

| CCT heading No | Description                                         | (ECU/tonne)    |                                                     |
|----------------|-----------------------------------------------------|----------------|-----------------------------------------------------|
|                |                                                     | Levies         |                                                     |
|                |                                                     | Portugal       | Third country                                       |
| 10.01 B I      | Common wheat, and meslin                            | 9,23           | 197,76                                              |
| 10.01 B II     | Durum wheat                                         | 43,91          | 265,66 <sup>(1)</sup> <sup>(2)</sup>                |
| 10.02          | Rye                                                 | 38,30          | 176,68 <sup>(6)</sup>                               |
| 10.03          | Barley                                              | 36,57          | 189,40                                              |
| 10.04          | Oats                                                | 94,86          | 159,16                                              |
| 10.05 B        | Maize, other than hybrid maize for sowing           | —              | 183,46 <sup>(2)</sup> <sup>(3)</sup> <sup>(6)</sup> |
| 10.07 A        | Buckwheat                                           | 36,57          | 130,05                                              |
| 10.07 B        | Millet                                              | 36,57          | 155,66 <sup>(4)</sup>                               |
| 10.07 C II     | Grain sorghum, other than hybrid sorghum for sowing | 22,48          | 182,90 <sup>(4)</sup> <sup>(6)</sup>                |
| 10.07 D I      | Triticale                                           | <sup>(7)</sup> | <sup>(7)</sup>                                      |
| 10.07 D II     | Canary seed; other cereals                          | 36,57          | 65,65 <sup>(5)</sup>                                |
| 11.01 A        | Wheat or meslin flour                               | 27,81          | 291,75                                              |
| 11.01 B        | Rye flour                                           | 68,51          | 261,29                                              |
| 11.02 A I a)   | Durum wheat groats and meal                         | 81,64          | 425,35                                              |
| 11.02 A I b)   | Common wheat groats and meal                        | 27,96          | 313,02                                              |

<sup>(1)</sup> Where durum wheat originating in Morocco is transported directly from that country to the Community, the levy is reduced by 0,60 ECU/tonne.

<sup>(2)</sup> In accordance with Regulation (EEC) No 486/85 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'.

<sup>(3)</sup> Where maize originating in the ACP or OCT is imported into the Community the levy is reduced by 1,81 ECU/tonne.

<sup>(4)</sup> Where millet and sorghum originating in the ACP or OCT is imported into the Community the levy is reduced by 50 %.

<sup>(5)</sup> 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.

<sup>(6)</sup> 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.

<sup>(7)</sup> The levy applicable to rye shall be charged on imports of the product falling within subheading 10.07 D I (triticale).

<sup>(8)</sup> The levy referred to in Article 1 of Council Regulation (EEC) No 2913/86 shall be fixed on the basis of an invitation to tender in accordance with Commission Regulation (EEC) No 3140/86.

## COMMISSION REGULATION (EEC) No 360/87

of 5 February 1987

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 the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals<sup>(1)</sup>, as last amended by Regulation (EEC) No 1579/86<sup>(2)</sup>, and in particular Article 15 (6) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy<sup>(3)</sup>, 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 Commission Regulation (EEC) No 2011/86<sup>(4)</sup> 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, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Regulation (EEC) No 1676/85,

- 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, and the aforesaid coefficient;

Whereas these exchange rates being those recorded on 4 February 1987;

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*

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 originating in Portugal shall be zero.
2. 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 originating in third countries shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 6 February 1987.

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

Done at Brussels, 5 February 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 139, 24. 5. 1986, p. 29.

<sup>(3)</sup> OJ No L 164, 24. 6. 1985, p. 1.

<sup>(4)</sup> OJ No L 173, 1. 7. 1986, p. 4.

## ANNEX

to the Commission Regulation of 5 February 1987 fixing the premiums to be added to the import levies on cereals, flour and malt from third countries

## A. Cereals and flour

| CCT heading No | Description                                         | (ECU/tonne)  |                 |                 |                 |
|----------------|-----------------------------------------------------|--------------|-----------------|-----------------|-----------------|
|                |                                                     | Current<br>2 | 1st period<br>3 | 2nd period<br>4 | 3rd period<br>5 |
| 10.01 B I      | Common wheat, and meslin                            | 0            | 0               | 0               | 0               |
| 10.01 B II     | Durum wheat                                         | 0            | 0               | 0               | 0               |
| 10.02          | Rye                                                 | 0            | 0               | 0               | 0               |
| 10.03          | Barley                                              | 0            | 3,83            | 3,83            | 3,85            |
| 10.04          | Oats                                                | 0            | 0               | 0               | 0               |
| 10.05 B        | Maize, other than hybrid maize for sowing           | 0            | 0               | 0               | 0               |
| 10.07 A        | Buckwheat                                           | 0            | 0               | 0               | 0               |
| 10.07 B        | Millet                                              | 0            | 0               | 0               | 0               |
| 10.07 C II     | Grain sorghum, other than hybrid sorghum for sowing | 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<br>2 | 1st period<br>3 | 2nd period<br>4 | 3rd period<br>5 | 4th period<br>6 |
| 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            | 6,82            | 6,82            | 6,85            | 6,85            |
| 11.07 A II b)  | Unroasted malt, other than that obtained from wheat, other than in the form of flour | 0            | 5,09            | 5,09            | 5,12            | 5,12            |
| 11.07 B        | Roasted malt                                                                         | 0            | 5,94            | 5,94            | 5,97            | 5,97            |

## COMMISSION REGULATION (EEC) No 361/87

of 5 February 1987

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 the Act of Accession of Spain and Portugal,

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<sup>(1)</sup>, as last amended by Regulation (EEC) No 1454/86<sup>(2)</sup>, 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<sup>(3)</sup>, as last amended by Regulation (EEC) No 414/86<sup>(4)</sup>, 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<sup>(5)</sup>, as last amended by Regulation (EEC) No 413/86<sup>(6)</sup>, 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<sup>(7)</sup>, as last amended by Regulation (EEC) No 413/86, 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<sup>(8)</sup>, as last amended by Regulation (EEC) No 415/86<sup>(9)</sup>, 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<sup>(10)</sup>;

Whereas by Regulation (EEC) No 3131/78<sup>(11)</sup> the Commission decided to use the tendering procedure to fix levies on olive oil;

Whereas Article 3 of Council Regulation (EEC) No 2751/78 of 23 November 1978 laying down general rules for fixing the import levy on olive oil by tender<sup>(12)</sup> speci-

fies 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, with regard to Turkey and the Maghreb countries, the provisions of this Regulation should be without prejudice to the additional amount to be determined in accordance with the agreements between the Community and these third countries;

Whereas application of the rules recalled above to the levy rates indicated by tenderers on 2 and 3 February 1987 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.

*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 6 February 1987.

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

<sup>(2)</sup> OJ No L 133, 21. 5. 1986, p. 8.

<sup>(3)</sup> OJ No L 169, 28. 6. 1976, p. 24.

<sup>(4)</sup> OJ No L 48, 26. 2. 1986, p. 2.

<sup>(5)</sup> OJ No L 169, 28. 6. 1976, p. 43.

<sup>(6)</sup> OJ No L 48, 26. 2. 1986, p. 1.

<sup>(7)</sup> OJ No L 169, 28. 6. 1976, p. 9.

<sup>(8)</sup> OJ No L 142, 9. 6. 1977, p. 10.

<sup>(9)</sup> OJ No L 48, 26. 2. 1986, p. 3.

<sup>(10)</sup> OJ No L 181, 21. 7. 1977, p. 4.

<sup>(11)</sup> OJ No L 370, 30. 12. 1978, p. 60.

<sup>(12)</sup> OJ No L 331, 28. 11. 1978, p. 6.

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

Done at Brussels, 5 February 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

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## ANNEX I

## Minimum import levies on olive oil

| (ECU/100 kg)   |                      |
|----------------|----------------------|
| CCT heading No | Non-member countries |
| 15.07 A I a)   | 52,00 <sup>(1)</sup> |
| 15.07 A I b)   | 54,00 <sup>(1)</sup> |
| 15.07 A I c)   | 52,00 <sup>(1)</sup> |
| 15.07 A II a)  | 64,00 <sup>(2)</sup> |
| 15.07 A II b)  | 82,00 <sup>(3)</sup> |

<sup>(1)</sup> 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) Lebanon: 0,60 ECU/100 kg;

(b) Turkey: 11,48 ECU/100 kg <sup>(\*)</sup> 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, Tunisia and Morocco: 12,69 ECU/100 kg <sup>(\*)</sup> 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.

<sup>(\*)</sup> These amounts may be increased by an additional amount to be determined by the Community and the third countries in question.

<sup>(2)</sup> 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.

<sup>(3)</sup> 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     | 11,88                |
| 07.03 A II     | 11,88                |
| 15.17 B I a)   | 27,00                |
| 15.17 B I b)   | 43,20                |
| 23.04 A II     | 4,16                 |

## COMMISSION REGULATION (EEC) No 362/87

of 4 February 1987

concerning the stopping of fishing for cod, whiting, plaice, sole and hake by  
vessels flying the flag of the Netherlands

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European  
Economic Community,Having regard to Council Regulation (EEC) No 2057/82  
of 29 June 1982 establishing certain control measures for  
fishing activities by vessels of the Member States <sup>(1)</sup>, as last  
amended by Regulation (EEC) No 4027/86 <sup>(2)</sup>, and in  
particular Article 10 (3) thereof,Whereas Council Regulation (EEC) No 4034/86 of 18  
December 1986, fixing, for certain fish stocks and groups  
of fish stocks, total allowable catches for 1987 and certain  
conditions under which they may be fished <sup>(3)</sup>, provides for  
cod, whiting, plaice, sole and hake quotas for 1987;Whereas, in order to ensure compliance with the provi-  
sions relating to the quantitative limitations on catches of  
stocks subject to quotas, it is necessary for the Commis-  
sion to fix the date by which catches made by vessels  
flying the flag of a Member State are deemed to have  
exhausted the quota allocated;Whereas the quotas allocated to the Netherlands for cod,  
whiting, plaice and sole in the waters of ICES division  
VII a, of whiting in the waters of ICES division VII exclu-  
ding VII a, of plaice and sole in the waters of ICES divi-  
sions VII h, j, k, of hake in the waters of ICES divisions  
V b (EC zone), VI, VII, XII, XIV and of cod in the waters  
of ICES divisions VII a, VIII, IX, X; CECAF 34.1.1  
(EC zone) have been exhausted by exchanges of quotas;  
whereas the Netherlands have prohibited fishing for these  
stocks as from 1 January 1987; whereas it is therefore  
necessary to abide by that date,

HAS ADOPTED THIS REGULATION:

*Article 1*

The quotas of cod, whiting, plaice and sole in the waters  
of ICES division VII a, of whiting in the waters of ICES  
division VII excluding VII a, of plaice and sole in the  
waters of ICES divisions VII h, j, k, of hake in the waters  
of ICES divisions V b (EC zone), VI, VII, XII, XIV and of  
cod in the waters of ICES divisions VII excluding VII a,  
VIII, IX, X; CECAF 34.1.1 (EC zone) allocated to the  
Netherlands for 1987 are deemed to be exhausted.

Fishing for cod, whiting, plaice and sole in the waters of  
ICES division VII a, of whiting in the waters of ICES divi-  
sion VII excluding VII a, for plaice and sole in the waters  
of ICES divisions VII h, j, k, for hake in the waters of  
ICES divisions V b (EC zone), VI, VII, XII, XIV and for  
cod in the waters of ICES divisions VII excluding VII a,  
VIII, IX, X; CECAF 34.1.1 (EC zone) by vessels flying the  
flag of the Netherlands or registered in the Netherlands is  
prohibited, as well as the retention on board, the tranship-  
ment and the landing of such stocks captured by the  
abovementioned vessels after the date of application of  
this Regulation.

*Article 2*

This Regulation shall enter into force the day of its publi-  
cation in the *Official Journal of the European Commu-  
nities*.

It shall apply with effect from 1 January 1987.

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

Done at Brussels, 4 February 1987,

*For the Commission*

ANTÓNIO CARDOSO e CUNHA

*Member of the Commission*

<sup>(1)</sup> OJ No L 220, 29. 7. 1982, p. 1.

<sup>(2)</sup> OJ No L 376, 31. 12. 1986, p. 4.

<sup>(3)</sup> OJ No L 376, 31. 12. 1986, p. 39.

## COMMISSION REGULATION (EEC) No 363/87

of 5 February 1987

fixing the amounts to be levied in the beef sector on products which left the United Kingdom during the week 19 to 25 January 1987

THE COMMISSION OF THE EUROPEAN COMMUNITIES,  
Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1347/86 of 6 May 1986 on the granting of a premium for the slaughter of certain adult bovine animals in the United Kingdom <sup>(1)</sup>, as amended by Regulation (EEC) No 4049/86 <sup>(2)</sup>,

Having regard to Commission Regulation (EEC) No 1695/86 of 30 May 1986 laying down detailed rules for the application of the premium for the slaughter of certain adult bovine animals for slaughter in the United Kingdom <sup>(3)</sup>, and in particular Article 7 (1) thereof,

Whereas, under Article 3 of Regulation (EEC) No 1347/86, an amount equivalent to the amount of the variable slaughter premium granted in the United Kingdom is levied on meat and meat preparations from animals on which it has been paid, when they are consigned to other Member States or to non-member countries;

Whereas, under Article 7 (1) of Regulation (EEC) No 1695/86 the amounts to be charged on departure from the territory of the United Kingdom of the products listed

in the Annex to the said Regulation must be fixed each week by the Commission;

Whereas, accordingly, the amounts to be levied on products which left the United Kingdom during the week 19 to 25 January 1987 should be fixed,

HAS ADOPTED THIS REGULATION:

*Article 1*

Pursuant to Article 3 of amended Regulation (EEC) No 1347/86, the amounts to be levied on the products referred to in Article 7 (1) of Regulation (EEC) No 1695/86 which left the territory of the United Kingdom during the week 19 to 25 January 1987 shall be those set out in the Annex.

*Article 2*

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

It shall apply with effect from 19 January 1987.

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

Done at Brussels, 5 February 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

<sup>(1)</sup> OJ No L 119, 8. 5. 1986, p. 40.

<sup>(2)</sup> OJ No L 377, 31. 12. 1986, p. 28.

<sup>(3)</sup> OJ No L 146, 31. 5. 1986, p. 56.

## ANNEX

Amounts to be levied on products which left the territory of the United Kingdom during the week 19 to 25 January 1987

| (ECU/100 kg net weight)                     |                                                                                                                                                                                                                                                                                |                                                                      |
|---------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|
| CCT heading No                              | Description                                                                                                                                                                                                                                                                    | Amount                                                               |
| 1                                           | 2                                                                                                                                                                                                                                                                              | 3                                                                    |
| ex 02.01 A II a)<br>and<br>ex 02.01 A II b) | Meat of adult bovine animals, fresh, chilled or frozen :<br>1. Carcases, half-carcases or 'compensated' quarters<br>2. Separated or unseparated forequarters<br>3. Separated or unseparated hindquarters<br>4. Other :<br>aa) Unboned (bone-in)<br>bb) Boned or boneless       | <br><br>26,26474<br>21,01179<br>31,51769<br><br>21,01179<br>35,98269 |
| ex 02.06 C I a)                             | Meat salted, in brine, dried or smoked, of adult bovine animals :<br>1. Unboned (bone-in)<br>2. Boned or boneless                                                                                                                                                              | <br>21,01179<br>29,94180                                             |
| ex 16.02 B III b) 1                         | Other prepared or preserved meat or meat offal, containing meat or offal of adult bovine animals :<br>aa) Uncooked ; mixtures of cooked meat or offal and uncooked meat or offal :<br>11. Containing 80 % or more by weight of beef meat excluding offals and fat<br>22. Other | <br><br><br>29,94180<br>21,01179                                     |

## COMMISSION REGULATION (EEC) No 364/87

of 4 February 1987

amending Regulations (EEC) Nos 2710/84 and 3262/85 as regards the final date for apportioning aid provided for under Regulation (EEC) No 1207/84 among small-scale milk producers

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1079/77 of 17 May 1977 on a co-responsibility levy and on measures for expanding the market in milk and milk products<sup>(1)</sup>, as last amended by Regulation (EEC) No 1338/86<sup>(2)</sup>, and in particular Article 2a thereof,

Whereas Council Regulation (EEC) No 1207/84<sup>(3)</sup>, as amended by Regulation (EEC) No 3177/84<sup>(4)</sup>, fixed the amounts per Member State and the criteria for the apportionment, among producers of the aids to support the incomes of small-scale milk producers during the 1984/85 and 1985/86 milk years;

Whereas Commission Regulation (EEC) No 2710/84<sup>(5)</sup>, as last amended by Regulation (EEC) No 1164/86<sup>(6)</sup>, set 1 September 1986 as the date by which the apportionment of the aids for the 1984/85 milk year must be completed; whereas certain Member States are having difficulty in abiding by that date; whereas a new date should accordingly be set;

Whereas Commission Regulation (EEC) No 3262/85<sup>(7)</sup> sets the date by which the apportionment of the aids for the 1985/86 milk year must be completed; whereas, in view of the delay in apportioning the aid for the 1984/85 milk year, the abovementioned date should be put back from 1 January 1987 to 1 July 1987,

HAS ADOPTED THIS REGULATION:

*Article 1*

The date '1 September 1986' in the second paragraph of Article 1 of Regulation (EEC) No 2710/84 is hereby replaced by '1 March 1987'.

*Article 2*

The date '1 January 1987' in the second paragraph of Article 1 of Regulation (EEC) No 3262/85 is hereby replaced by '1 July 1987'.

*Article 3*

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

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

Done at Brussels, 4 February 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

<sup>(1)</sup> OJ No L 131, 26. 5. 1977, p. 6.

<sup>(2)</sup> OJ No L 119, 8. 5. 1986, p. 27.

<sup>(3)</sup> OJ No L 115, 1. 5. 1984, p. 74.

<sup>(4)</sup> OJ No L 298, 16. 11. 1984, p. 6.

<sup>(5)</sup> OJ No L 258, 27. 9. 1984, p. 11.

<sup>(6)</sup> OJ No L 106, 23. 4. 1986, p. 10.

<sup>(7)</sup> OJ No L 311, 22. 11. 1985, p. 21.

## COMMISSION REGULATION (EEC) No 365/87

of 5 February 1987

derogating for the first quarter of 1987 from Regulation (EEC) No 2377/80 in respect of the issue of import licences under certain special arrangements in the beef and veal sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,  
Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal <sup>(1)</sup>, as last amended by Regulation (EEC) No 3768/85 <sup>(2)</sup>,

Whereas certain special import arrangements for products in the beef and veal sector, referred to in Articles 9 to 11 of Commission Regulation (EEC) No 2377/80 <sup>(3)</sup>, as last amended by Regulation (EEC) No 3815/85 <sup>(4)</sup>, have only been decided in January 1987 for 1987; whereas consequently it is necessary to derogate from Regulation (EEC) No 2377/80 with regard to the periods for lodging applications and for the granting of licences within the framework of these special systems;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

For the first quarter of 1987, notwithstanding Article 15 of Regulation (EEC) No 2377/80 and in respect of the

arrangements referred to in Articles 9 to 11 of the said Regulation:

- (a) applications may only be lodged from 9 until 13 February 1987;
- (b) the information provided for in Article 15 (4) (a) and (b) of the said Regulation shall be provided on 20 February 1987;
- (c) the licences provided for in Article 15 (5) (a) of the said Regulation shall be issued on 2 March 1987.

*Article 2*

Commission Regulation (EEC) No 3984/86 <sup>(5)</sup> is hereby replaced.

*Article 3*

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, 5 February 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

<sup>(1)</sup> OJ No L 148, 28. 6. 1968, p. 24.

<sup>(2)</sup> OJ No L 362, 31. 12. 1985, p. 8.

<sup>(3)</sup> OJ No L 241, 13. 9. 1980, p. 5.

<sup>(4)</sup> OJ No L 368, 31. 12. 1985, p. 11.

<sup>(5)</sup> OJ No L 370, 30. 12. 1986, p. 36.

## COMMISSION REGULATION (EEC) No 366/87

of 5 February 1987

introducing a countervailing charge and suspending the preferential customs duty on imports of lemons originating in Turkey

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables<sup>(1)</sup>, as last amended by Regulation (EEC) No 1351/86<sup>(2)</sup>, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Article 25 (1) of Regulation (EEC) No 1035/72 provides that, if the entry price of a product imported from a third country remains at least 0,6 ECU below the reference price for two consecutive market days, a countervailing charge must be introduced in respect of the exporting country concerned, save in exceptional circumstances; whereas this charge is equal to the difference between the reference price and the arithmetic mean of the last two entry prices available for that exporting country;

Whereas Commission Regulation (EEC) No 1661/86 of 29 May 1986 fixing the reference price for lemons for the 1986/87 marketing year<sup>(3)</sup> fixed the reference price for products of class I for the period from November 1986 to April 1987 at 45,00 ECU per 100 kilograms net;

Whereas the entry price for a given exporting country is equal to the lowest representative price or the arithmetic mean of the lowest prices recorded for at least 30 % of the quantities from the exporting country concerned which are marketed on all representative markets for which prices are available less the duties and the charges indicated in Article 24 (3) of Regulation (EEC) No 1035/72; whereas the meaning of representative price is defined in Article 24 (2) of Regulation (EEC) No 1035/72;

Whereas, in accordance with Article 3 (1) of Regulation (EEC) No 2118/74<sup>(4)</sup>, as last amended by Regulation (EEC) No 3811/85<sup>(5)</sup>, the prices to be taken into

consideration must be recorded on the representative markets or, in certain circumstances, on other markets;

Whereas, for lemons originating in Turkey, the entry price calculated in this way has remained at least 0,6 ECU below the reference price for two consecutive market days; whereas a countervailing charge should therefore be introduced for these lemons;

Whereas, in Article 1 of Council Regulation (EEC) No 3671/81 of 15 December 1981 on imports into the Community of certain agricultural products originating in Turkey<sup>(6)</sup>, as amended by Regulation (EEC) No 1555/84<sup>(7)</sup>, a rate of customs duty of 4 % should be reintroduced.

Whereas if the system is to operate normally the entry 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, multiplied by the coefficient provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85<sup>(8)</sup>,
- 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 and the aforesaid coefficient,

HAS ADOPTED THIS REGULATION:

*Article 1*

A countervailing charge of 7,30 ECU per 100 kilograms net is applied on imports of lemons falling within subheading 08.02 C of the Common Customs Tariff originating in Turkey.

*Article 2*

This Regulation shall enter into force on 7 February 1987.

<sup>(1)</sup> OJ No L 118, 20. 5. 1972, p. 1.

<sup>(2)</sup> OJ No L 119, 8. 5. 1986, p. 46.

<sup>(3)</sup> OJ No L 145, 30. 5. 1986, p. 39.

<sup>(4)</sup> OJ No L 220, 10. 8. 1974, p. 20.

<sup>(5)</sup> OJ No L 368, 31. 12. 1985, p. 1.

<sup>(6)</sup> OJ No L 367, 23. 12. 1981, p. 3.

<sup>(7)</sup> OJ No L 150, 6. 6. 1984, p. 4.

<sup>(8)</sup> OJ No L 164, 24. 6. 1985, p. 1.

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

Done at Brussels, 5 February 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

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**COMMISSION REGULATION (EEC) No 367/87****of 5 February 1987****abolishing the countervailing charge on clementines originating in Morocco**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,  
Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables<sup>(1)</sup>, as last amended by Regulation (EEC) No 1351/86<sup>(2)</sup>, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Commission Regulation (EEC) No 208/87<sup>(3)</sup>, as amended by Regulation (EEC) No 322/87<sup>(4)</sup>; introduced a countervailing charge on clementines originating in Morocco;

Whereas the present trend of prices for products originating in Morocco on the representative markets referred to in Regulation (EEC) No 2118/74<sup>(5)</sup>, as last amended by Regulation (EEC) No 3811/85<sup>(6)</sup>, recorded or calculated

in accordance with the provisions of Article 5 of that Regulation, indicated that entry prices have been at least equal to the reference price for two consecutive market days; whereas the conditions specified in the second indent of Article 26 (1) of Regulation (EEC) No 1035/72 are therefore fulfilled and the countervailing charge on imports of these products originating in Morocco can be abolished,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 208/87 is hereby repealed.

*Article 2*

This Regulation shall enter into force on 6 February 1987.

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

Done at Brussels, 5 February 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

<sup>(1)</sup> OJ No L 118, 20. 5. 1972, p. 1.

<sup>(2)</sup> OJ No L 119, 8. 5. 1986, p. 46.

<sup>(3)</sup> OJ No L 22, 24. 1. 1987, p. 26.

<sup>(4)</sup> OJ No L 30, 31. 1. 1987, p. 80.

<sup>(5)</sup> OJ No L 220, 10. 8. 1974, p. 20.

<sup>(6)</sup> OJ No L 368, 31. 12. 1985, p. 1.

## COMMISSION REGULATION (EEC) No 368/87

of 5 February 1987

applying the duty in the Common Customs Tariff to fresh lemons originating in Cyprus

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 1252/73 of 14 May 1973 on imports of citrus fruits originating in Cyprus<sup>(1)</sup>, and in particular Article 5 thereof;

Whereas Article 5 (2) and (3) of Annex I to the Agreement establishing an Association between the European Economic Community and the Republic of Cyprus provides for a reduced rate of duty on imports into the Community of fresh lemons originating in Cyprus; whereas, during the period in which reference prices are applied, this reduction is dependent on the observance of a specified price on the Community market; whereas detailed rules for the application of this system are contained in Regulation (EEC) No 1252/73;

Whereas, in certain respects, these rules refer to provisions of Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables<sup>(2)</sup> as last amended by Regulation (EEC) No 1351/86<sup>(3)</sup>;

Whereas Regulation (EEC) No 1252/73 provides that, where products are imported, the duty in the Common Customs Tariff is applied where quotations for that product, in accordance with the provisions of Article 24 (2) of Regulation (EEC) No 1035/72 recorded on the representative Community markets at the importer/wholesaler stage or converted to that stage, adjusted by the conversion factors and following deduction of import charges other than customs duties, remain lower than the reference price in force, plus the incidence of the Common Customs Tariff on that price and a standard amount fixed at 1,2 units of account (1,44 ECU) per 100 kilograms, for three consecutive market days on the representative markets of the Community with the lowest quotations;

Whereas the conversion factors and import charges other than customs duties are those used for the purpose of

calculating the entry price referred to in Regulation (EEC) No 1035/72; whereas the method of calculating import charges other than customs duties is, for certain cases, defined in Article 2 of Regulation (EEC) No 1252/73;

Whereas, if the system is to operate normally, it 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, multiplied by the corrective factor provided for in the last paragraph of Article 3(1) of Council Regulation (EEC) No 1676/85<sup>(4)</sup>,
- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded over a given period in relation to the Community currencies referred to in the previous indent and the aforesaid coefficient;

Whereas application of these rules to quotations recorded for lemons imported into the Community and originating in Cyprus indicates that the conditions set out in the first paragraph of Article 4 of Regulation (EEC) No 1252/73 are fulfilled; whereas the duty in the Common Customs Tariff should, therefore, be applied to the products in question,

HAS ADOPTED THIS REGULATION:

*Article 1*

As from 7 February 1987, the duty in the Common Customs Tariff shall be applied to fresh lemons (subheading 08.02 C of the Common Customs Tariff) imported into the Community and originating in Cyprus.

*Article 2*

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

<sup>(1)</sup> OJ No L 133, 21. 5. 1973, p. 113.

<sup>(2)</sup> OJ No L 118, 20. 5. 1972, p. 1.

<sup>(3)</sup> OJ No L 119, 8. 5. 1986, p. 46.

<sup>(4)</sup> OJ No L 164, 24. 6. 1985, p. 1.

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

Done at Brussels, 5 February 1987.

*For the Commission*

Frans ANDRIESSEN

*Vice-President*

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**COMMISSION REGULATION (EEC) No 369/87**  
**of 5 February 1987**  
**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 the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector <sup>(1)</sup>, as last amended by Regulation (EEC) No 229/87 <sup>(2)</sup>, and in particular Article 16 (8) thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 2051/86 <sup>(3)</sup>, as last amended by Regulation (EEC) No 356/87 <sup>(4)</sup>;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2051/86 to the infor-

mation known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION :

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 6 February 1987.

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

Done at Brussels, 5 February 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

- <sup>(1)</sup> OJ No L 177, 1. 7. 1981, p. 4.  
<sup>(2)</sup> OJ No L 25, 28. 1. 1987, p. 1.  
<sup>(3)</sup> OJ No L 173 1. 7. 1986, p. 91.  
<sup>(4)</sup> OJ No L 34, 5. 2. 1987, p. 46.

ANNEX

to the Commission Regulation of 5 February 1987 fixing the import levies on white sugar and raw sugar

| (ECU/100 kg)         |                                              |                      |
|----------------------|----------------------------------------------|----------------------|
| CCT<br>heading<br>No | Description                                  | Levy                 |
| 17.01                | Beet sugar and cane sugar, in solid form :   |                      |
|                      | A. White sugar : flavoured or coloured sugar | 51,01                |
|                      | B. Raw sugar                                 | 42,97 <sup>(1)</sup> |

<sup>(1)</sup> 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 370/87****of 5 February 1987****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 the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector <sup>(1)</sup>, as last amended by Regulation (EEC) No 229/87 <sup>(2)</sup>, and in particular Article 16 (8) thereof,

Whereas the import levies on syrups and certain other sugar products were fixed by Commission Regulation (EEC) No 293/87 <sup>(3)</sup>;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 293/87 to the informa-

tion 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 293/87 are hereby altered to the amounts shown in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 6 February 1987.

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

Done at Brussels, 5 February 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

<sup>(1)</sup> OJ No L 177, 1. 7. 1981, p. 4.

<sup>(2)</sup> OJ No L 25, 28. 1. 1987, p. 1.

<sup>(3)</sup> OJ No L 30, 31. 1. 1987, p. 11.

## ANNEX

to the Commission Regulation of 5 February 1987 altering the basic amount of the import  
levies on syrups and certain other products in the sugar sector

(ECU)

| CCT<br>heading<br>No | Description                                                                                                                                                                  | Basic amount<br>per percentage point<br>of sucrose content<br>and per 100 kg net<br>of the product<br>in question | Amount of levy<br>per 100 kg<br>of dry matter |
|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| 17.02                | Other sugars in solid form ; sugar syrups, not containing added<br>flavouring or colouring matter ; artificial honey, whether or not<br>mixed with natural honey ; caramel : |                                                                                                                   |                                               |
|                      | C. Maple sugar and other syrup                                                                                                                                               | 0,5101                                                                                                            | —                                             |
|                      | D. Other sugars and syrups (other than lactose, glucose and<br>malto-dextrine) :                                                                                             |                                                                                                                   |                                               |
|                      | I. Isoglucose                                                                                                                                                                | —                                                                                                                 | 59,71                                         |
|                      | ex II. Other                                                                                                                                                                 | 0,5101                                                                                                            | —                                             |
|                      | E. Artificial honey, whether or not mixed with natural honey                                                                                                                 | 0,5101                                                                                                            | —                                             |
|                      | F. I. Caramelized sugar and molasses containing, in the dry<br>state, 50 % or more by weight of sucrose                                                                      | 0,5101                                                                                                            | —                                             |
| 21.07                | Food preparations not elsewhere specified or included :                                                                                                                      |                                                                                                                   |                                               |
|                      | F. Flavoured or coloured sugar syrups :                                                                                                                                      |                                                                                                                   |                                               |
|                      | III. Isoglucose                                                                                                                                                              | —                                                                                                                 | 59,71                                         |
|                      | IV. Other                                                                                                                                                                    | 0,5101                                                                                                            | —                                             |

**COMMISSION REGULATION (EEC) No 371/87**  
**of 5 February 1987**  
**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 the Act of Accession of Spain and Portugal,

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<sup>(1)</sup>, as last amended by Regulation (EEC) No 1454/86<sup>(2)</sup>, and in particular Article 27 (4),

Having regard to Council Regulation (EEC) No 1678/85 of 11 June 1985 fixing the conversion rates to be applied in agriculture<sup>(3)</sup>, as last amended by Regulation (EEC) No 2923/86<sup>(4)</sup>,

Having regard to Council Regulation (EEC) No 1569/72 of 20 July 1972 laying down special measures for colza, rape and sunflower seed<sup>(5)</sup>, as last amended by Regulation (EEC) No 1474/84<sup>(6)</sup>, and in particular Article 2 (3) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the target price and the monthly increments in the target price for colza, rape and sunflower seed for the 1986/87 marketing year have been fixed in Regulations (EEC) No 1457/86<sup>(7)</sup> and (EEC) No 1458/86<sup>(8)</sup>;

Whereas the amount of the subsidy referred to in Article 27 of Regulation No 136/66/EEC was fixed by Commission Regulation (EEC) No 3776/86<sup>(9)</sup>, as last amended by Regulation (EEC) No 300/87<sup>(10)</sup>;

Whereas, in the absence of the target price for the 1987/88 marketing year for colza and rape seed, the amount of the subsidy in the case of advance fixing for July 1987 for colza and rape seed has been obtainable only provisionally on the basis of the target price for the marketing year 1986/87; whereas this amount may, therefore, be applied on a temporary basis and should be confirmed or replaced when the indicative price of the 1987/88 marketing year is known;

Whereas estimated production of colza and rape seed for the 1987/88 marketing year has not been fixed; whereas the amount, where appropriate, to be deducted from the subsidy in compliance with the system of maximum guaranteed quantities referred to in Article 27a of Regulation No 136/66/EEC could therefore not be determined; whereas the amounts of the subsidy should therefore only be applied on a temporary basis and should be confirmed or replaced once the effects of the system of maximum guaranteed quantities for colza and rape seed are known;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 3776/86 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 Annexes hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. The amounts of the subsidy and the exchange rates referred to in Article 33 (2) and (3) of Commission Regulation (EEC) No 2681/83<sup>(11)</sup> shall be as set out in the Annexes hereto.

2. The amount of the compensatory aid referred to in Article 14 of Regulation (EEC) No 475/86 and Article 12 of Regulation (EEC) No 476/86 shall be as shown in Annex III to this Regulation for sunflower seed harvested in Spain and Portugal.

3. The amount of the subsidy in the case of advance fixing for July 1987 for colza and rape seed will, however, be confirmed or replaced as from 1 July 1987 to take into account the indicative price, and like measures, which is fixed for these products for the 1987/88 marketing year.

4. However, the amount of the subsidy in the case of advance fixing for July 1987 for colza and rape and for August will be confirmed or replaced as from 1 July 1987 to take into where appropriate, the effects of the application of the system of maximum guaranteed quantities for colza and rape seed.

*Article 2*

This Regulation shall enter into force on 6 February 1987.

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

<sup>(2)</sup> OJ No L 133, 21. 5. 1986, p. 8.

<sup>(3)</sup> OJ No L 164, 24. 6. 1985, p. 11.

<sup>(4)</sup> OJ No L 272, 24. 9. 1986, p. 18.

<sup>(5)</sup> OJ No L 167, 25. 7. 1972, p. 9.

<sup>(6)</sup> OJ No L 146, 31. 5. 1986, p. 25.

<sup>(7)</sup> OJ No L 133, 21. 5. 1986, p. 12.

<sup>(8)</sup> OJ No L 133, 21. 5. 1986, p. 14.

<sup>(9)</sup> OJ No L 349, 11. 12. 1986, p. 34.

<sup>(10)</sup> OJ No L 30, 31. 1. 1987, p. 21.

<sup>(11)</sup> OJ No L 266, 28. 9. 1983, p. 1.

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

Done at Brussels, 5 February 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

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## ANNEX I

## Aids to colza and rape seed other than 'double zero'

(amounts per 100 kilograms)

|                                               | Current month | 2nd month | 3rd month | 4th month | 5th month | 6th month <sup>(1)</sup> |
|-----------------------------------------------|---------------|-----------|-----------|-----------|-----------|--------------------------|
| 1. Gross aids (ECU):                          |               |           |           |           |           |                          |
| — Spain                                       | 0,610         | 0,610     | 0,610     | 0,610     | 0,610     | 0,610                    |
| — Portugal                                    | 0,000         | 0,000     | 0,000     | 0,000     | 0,000     | 0,000                    |
| — Other Member States                         | 36,269        | 36,688    | 36,629    | 36,474    | 36,163    | 31,840                   |
| 2. Final aids:                                |               |           |           |           |           |                          |
| (a) Seed harvested and processed in:          |               |           |           |           |           |                          |
| — Federal Republic of Germany (DM)            | 87,40         | 88,40     | 88,31     | 88,04     | 87,32     | 77,32                    |
| — Netherlands (Fl)                            | 98,48         | 99,61     | 99,49     | 99,18     | 98,37     | 87,07                    |
| — BLEU (Bfrs/Lfrs)                            | 1 693,94      | 1 713,55  | 1 710,53  | 1 702,64  | 1 687,91  | 1 480,80                 |
| — France (FF)                                 | 248,68        | 251,60    | 250,60    | 248,99    | 246,56    | 216,23                   |
| — Denmark (Dkr)                               | 305,85        | 309,40    | 308,73    | 307,36    | 304,61    | 267,28                   |
| — Ireland (£ Irl)                             | 27,297        | 27,619    | 27,525    | 27,250    | 26,977    | 23,477                   |
| — United Kingdom (£)                          | 19,921        | 20,167    | 20,011    | 19,880    | 19,619    | 16,720                   |
| — Italy (Lit)                                 | 54 411        | 55 046    | 54 783    | 54 642    | 54 130    | 47 214                   |
| — Greece (Dr)                                 | 3 534,58      | 3 559,76  | 3 498,35  | 3 459,05  | 3 404,95  | 2 801,09                 |
| (b) Seed harvested in Spain and processed:    |               |           |           |           |           |                          |
| — in Spain (Pta)                              | 88,94         | 88,94     | 88,94     | 88,94     | 88,94     | 88,94                    |
| — in another Member State (Pta)               | 4 229,73      | 4 289,33  | 4 270,01  | 4 218,06  | 4 166,12  | 3 523,73                 |
| (c) Seed harvested in Portugal and processed: |               |           |           |           |           |                          |
| — in Portugal (Esc)                           | 0,00          | 0,00      | 0,00      | 0,00      | 0,00      | 0,00                     |
| — in another Member State (Esc)               | 5 147,14      | 5 204,27  | 5 150,20  | 5 112,54  | 5 055,83  | 4 347,53                 |

<sup>(1)</sup> Subject to the amount to be deducted in accordance with the system of guaranteed maximum quantities and the Council Decision regarding prices and related measures for the 1987/88 marketing year.

## ANNEX II

## Aids to colza and rape seed 'double zero'

(amounts per 100 kilograms)

|                                               | Current month | 2nd month | 3rd month | 4th month | 5th month | 6th month <sup>(1)</sup> |
|-----------------------------------------------|---------------|-----------|-----------|-----------|-----------|--------------------------|
| 1. Gross aids (ECU):                          |               |           |           |           |           |                          |
| — Spain                                       | 1,860         | 1,860     | 1,860     | 1,860     | 1,860     | 1,860                    |
| — Portugal                                    | 1,250         | 1,250     | 1,250     | 1,250     | 1,250     | 1,250                    |
| — Other Member States                         | 37,519        | 37,938    | 37,879    | 37,724    | 37,413    | 33,090                   |
| 2. Final aids:                                |               |           |           |           |           |                          |
| (a) Seed harvested and processed in:          |               |           |           |           |           |                          |
| — Federal Republic of Germany (DM)            | 90,38         | 91,39     | 91,30     | 91,03     | 90,31     | 80,30                    |
| — Netherlands (Fl)                            | 101,84        | 102,97    | 102,86    | 102,55    | 101,74    | 90,43                    |
| — BLEU (Bfrs/Lfrs)                            | 1 752,54      | 1 772,14  | 1 769,12  | 1 761,24  | 1 746,50  | 1 539,39                 |
| — France (FF)                                 | 257,56        | 260,48    | 259,48    | 257,87    | 255,44    | 225,11                   |
| — Denmark (Dkr)                               | 316,53        | 320,08    | 319,41    | 318,04    | 315,29    | 277,96                   |
| — Ireland (£ Irl)                             | 28,276        | 28,597    | 28,503    | 28,228    | 27,956    | 24,456                   |
| — United Kingdom (£)                          | 20,705        | 20,951    | 20,795    | 20,665    | 20,403    | 17,504                   |
| — Italy (Lit)                                 | 56 335        | 56 970    | 56 708    | 56 566    | 56 054    | 49 138                   |
| — Greece (Dr)                                 | 3 680,42      | 3 705,61  | 3 644,20  | 3 604,89  | 3 550,79  | 2 946,94                 |
| (b) Seed harvested in Spain and processed:    |               |           |           |           |           |                          |
| — in Spain (Pta)                              | 271,19        | 271,19    | 271,19    | 271,19    | 271,19    | 271,19                   |
| — in another Member State (Pta)               | 4 411,98      | 4 471,58  | 4 452,26  | 4 400,31  | 4 348,37  | 3 705,98                 |
| (c) Seed harvested in Portugal and processed: |               |           |           |           |           |                          |
| — in Portugal (Esc)                           | 189,77        | 189,77    | 189,77    | 189,77    | 189,77    | 189,77                   |
| — in another Member State (Esc)               | 5 336,91      | 5 394,04  | 5 339,97  | 5 302,31  | 5 245,60  | 4 537,30                 |

<sup>(1)</sup> Subject to the amount to be deducted in accordance with the system of guaranteed maximum quantities and the Council Decision regarding prices and related measures for the 1987/88 marketing year.

## ANNEX III

## Aids to sunflower seed

(amounts per 100 kilograms)

|                                               | Current month | 2nd month | 3rd month | 4th month | 5th month |
|-----------------------------------------------|---------------|-----------|-----------|-----------|-----------|
| 1. Gross aids (ECU):                          |               |           |           |           |           |
| — Spain                                       | 1,720         | 1,720     | 1,720     | 1,720     | 1,720     |
| — Portugal                                    | 0,000         | 0,000     | 0,000     | 0,000     | 0,000     |
| — Other Member States                         | 41,633        | 42,224    | 41,958    | 41,958    | 41,958    |
| 2. Final aids:                                |               |           |           |           |           |
| (a) Seed harvested and processed in (!):      |               |           |           |           |           |
| — Federal Republic of Germany (DM)            | 100,44        | 101,85    | 101,25    | 101,35    | 101,35    |
| — Netherlands (Fl)                            | 113,17        | 114,76    | 114,06    | 114,18    | 114,18    |
| — BLEU (Bfrs/Lfrs)                            | 1 943,69      | 1 971,39  | 1 958,80  | 1 958,13  | 1 958,13  |
| — France (FF)                                 | 284,32        | 288,51    | 286,18    | 285,69    | 285,69    |
| — Denmark (Dkr)                               | 350,57        | 355,62    | 353,27    | 353,27    | 353,27    |
| — Ireland (£ Irl)                             | 31,194        | 31,657    | 31,424    | 31,251    | 31,251    |
| — United Kingdom (£)                          | 22,503        | 22,873    | 22,649    | 22,649    | 22,649    |
| — Italy (Lit)                                 | 62 275        | 63 183    | 62 607    | 62 747    | 62 747    |
| — Greece (Dr)                                 | 3 967,14      | 4 011,19  | 3 935,66  | 3 920,38  | 3 920,38  |
| (b) Seed harvested in Spain and processed:    |               |           |           |           |           |
| — in Spain (Pta)                              | 250,77        | 250,77    | 250,77    | 250,77    | 250,77    |
| — in another Member State (Pta)               | 3 909,00      | 3 995,17  | 3 951,25  | 3 918,98  | 3 918,98  |
| (c) Seed harvested in Portugal and processed: |               |           |           |           |           |
| — in Portugal (Esc)                           | 0,00          | 0,00      | 0,00      | 0,00      | 0,00      |
| — in Spain (Esc)                              | 6 516,37      | 6 603,37  | 6 515,97  | 6 503,95  | 6 503,95  |
| — in another Member State (Esc)               | 6 304,92      | 6 389,09  | 6 304,53  | 6 292,90  | 6 292,90  |
| 3. Compensatory aids:                         |               |           |           |           |           |
| — in Spain (Pta)                              | 3 855,69      | 3 944,03  | 3 903,60  | 3 871,34  | 3 871,34  |
| — in Portugal (Esc)                           | 6 271,99      | 6 357,50  | 6 275,10  | 6 263,47  | 6 263,47  |

(!) For seed harvested in the Community as constituted at 31 December 1985 and processed in Spain, the amounts shown in 2 (a) to be multiplied by 1,0335380.

## ANNEX IV

Exchange rate of the ECU to be used for converting final aids into the currency of the processing country when the latter is a country other than the country of production

(value of 1 ECU)

|           | Current month | 2nd month | 3rd month | 4th month | 5th month | 6th month |
|-----------|---------------|-----------|-----------|-----------|-----------|-----------|
| DM        | 2,060120      | 2,054670  | 2,048940  | 2,043390  | 2,043390  | 2,027920  |
| Fl        | 2,322680      | 2,319120  | 2,315170  | 2,311050  | 2,311050  | 2,298950  |
| Bfrs/Lfrs | 42,666400     | 42,700400 | 42,719700 | 42,730100 | 42,730100 | 42,773400 |
| FF        | 6,867220      | 6,875450  | 6,887110  | 6,897930  | 6,897930  | 6,927540  |
| Dkr       | 7,801920      | 7,821830  | 7,838550  | 7,854290  | 7,854290  | 7,904580  |
| £ Irl     | 0,775059      | 0,779411  | 0,783567  | 0,787889  | 0,787889  | 0,797368  |
| £         | 0,747892      | 0,749904  | 0,752228  | 0,754405  | 0,754405  | 0,761441  |
| Lit       | 1 466,86      | 1 470,45  | 1 473,97  | 1 478,14  | 1 478,14  | 1 489,13  |
| Dr        | 150,65500     | 152,91700 | 154,89100 | 157,17400 | 157,17400 | 163,44800 |
| Esc       | 159,70300     | 161,47500 | 162,80100 | 164,00500 | 164,00500 | 167,27000 |
| Pta       | 146,30800     | 146,90500 | 147,53500 | 148,20500 | 148,20500 | 150,00500 |

## COMMISSION REGULATION (EEC) No 372/87

of 5 February 1987

fixing the corrective amount applicable to the refund on cereals

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EEC) No 1579/86 <sup>(2)</sup>,

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

Having regard to the opinion of the Monetary Committee,

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

Whereas Council Regulation (EEC) No 2744/75 of 29 October 1975 on the import and export system for products processed from cereals and from rice <sup>(4)</sup>, as last amended by Regulation (EEC) No 1588/86 <sup>(5)</sup>, made possible the fixing of a corrective amount for certain products listed in Article 1 (c) of Regulation (EEC) No 2727/75;

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

Whereas, pursuant to that Regulation, when the corrective amount is being fixed, 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 possibilities and conditions for the sale of cereals and cereal products on the world market on the other; whereas the same Regulation 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 exports and the need to avoid disturbances on the Community market;

Whereas for the products listed in Article 1 (c) of Regulation (EEC) No 2727/75 account should be taken of the specific criteria laid down in Article 2 (2) of Regulation (EEC) No 1281/75;

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

Whereas the corrective amount must be fixed at the same time as the refund and according to the same procedure;

Whereas it may be altered in the period between fixings;

Whereas, if the system of corrective amounts is to operate normally, corrective amounts should be 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, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85 <sup>(7)</sup>;
- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded over a given period in relation to the Community currencies referred to in the preceding indent and the aforesaid coefficient;

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

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 6 February 1987.

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 139, 24. 5. 1986, p. 29.

<sup>(3)</sup> OJ No L 281, 1. 11. 1975, p. 78.

<sup>(4)</sup> OJ No L 281, 1. 11. 1975, p. 65.

<sup>(5)</sup> OJ No L 139, 24. 5. 1986, p. 47.

<sup>(6)</sup> OJ No L 131, 22. 5. 1975, p. 15.

<sup>(7)</sup> OJ No L 164, 24. 6. 1985, p. 1.

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

Done at Brussels, 5 February 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

# ANNEX

to the Commission Regulation of 5 February 1987 fixing the corrective amount applicable to the refund on cereals

| CCT heading No | Description                                         | (ECU/tonne) |            |            |            |            |            |            |
|----------------|-----------------------------------------------------|-------------|------------|------------|------------|------------|------------|------------|
|                |                                                     | Current     | 1st period | 2nd period | 3rd period | 4th period | 5th period | 6th period |
|                |                                                     | 2           | 3          | 4          | 5          | 6          | 7          | 8          |
| 10.01 B I      | Common wheat and meslin                             | 0           | 0          | 0          | 0          | 0          | — 30,00    | — 30,00    |
| 10.01 B II     | Durum wheat                                         | 0           | 0          | 0          | 0          | 0          | —          | —          |
| 10.02          | Rye                                                 | 0           | 0          | 0          | 0          | 0          | —          | —          |
| 10.03          | Barley                                              | 0           | 0          | 0          | 0          | — 20,00    | — 20,00    | — 20,00    |
| 10.04          | Oats                                                | —           | —          | —          | —          | —          | —          | —          |
| 10.05 B        | Maize other than hybrid maize for sowing            | 0           | 0          | 0          | —          | —          | —          | —          |
| 10.07 C II     | Grain sorghum, other than hybrid sorghum for sowing | —           | —          | —          | —          | —          | —          | —          |
| 11.01 A        | Common wheat flour                                  | 0           | 0          | 0          | 0          | 0          | — 50,00    | — 50,00    |
| 11.01 B        | Rye flour                                           | 0           | 0          | 0          | 0          | 0          | — 50,00    | — 50,00    |
| 11.02 A I a)   | Durum wheat groats and meal                         | 0           | 0          | 0          | 0          | 0          | — 50,00    | — 50,00    |
| 11.02 A I b)   | Common wheat groats and meal                        | 0           | 0          | 0          | 0          | 0          | — 50,00    | — 50,00    |

N.B. The zones are those defined in Regulation (EEC) No 1124/77 (OJ No L 134, 28. 5. 1977), as last amended by Regulation (EEC) No 3817/85 (OJ No L 368, 31. 12. 1985).

## COMMISSION REGULATION (EEC) No 373/87

of 5 February 1987

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 the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals<sup>(1)</sup>, as last amended by Regulation (EEC) No 1579/86<sup>(2)</sup>, 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<sup>(3)</sup>, 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 quantities of cereals required for their manufacture; whereas these quantities were fixed in Commission Regulation No 162/67/EEC<sup>(4)</sup>, as amended by Regulation (EEC) No 1607/71<sup>(5)</sup>;

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, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85<sup>(6)</sup>,
- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded over a given period in relation to the Community currencies referred to in the previous indent and the aforesaid coefficient;

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, pursuant to Article 275 of the Act of Accession of Spain and Portugal, refunds may be granted in the case of exports to Portugal; whereas, in the light of the situation and the level of prices no refund should be fixed in the case of exports to Portugal;

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

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.

The refund on export to Portugal has not been fixed.

*Article 2*

This Regulation shall enter into force on 6 February 1987.

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 139, 24. 5. 1986, p. 29.

<sup>(3)</sup> OJ No L 281, 1. 11. 1975, p. 78.

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

<sup>(5)</sup> OJ No L 168, 27. 7. 1971, p. 16.

<sup>(6)</sup> OJ No L 164, 24. 6. 1985, p. 1.

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

Done at Brussels, 5 February 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

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## ANNEX

to the Commission Regulation of 5 February 1987 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

| CCT heading No | Description                                                                                                                                                                                                                                                                                                   | (ECU/tonne)<br>Refund                                              |
|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| 10.01 B I      | Common wheat and meslin<br>for exports to :<br>— Switzerland, Austria, Liechtenstein, Ceuta and Melilla<br>— zone II b)<br>— other third countries                                                                                                                                                            | 122,00<br>128,00<br>15,00                                          |
| 10.01 B II     | Durum wheat<br>for exports to :<br>— Switzerland, Austria and Liechtenstein<br>— other third countries                                                                                                                                                                                                        | 15,00 (?)<br>20,00 (?)                                             |
| 10.02          | Rye<br>for exports to :<br>— Switzerland, Austria and Liechtenstein<br>— other third countries                                                                                                                                                                                                                | 5,00<br>10,00                                                      |
| 10.03          | Barley<br>for exports to :<br>— Switzerland, Austria, Liechtenstein, Ceuta and Melilla<br>— zone II b)<br>— other third countries                                                                                                                                                                             | 125,00<br>129,00<br>20,00                                          |
| 10.04          | Oats<br>for exports to :<br>— Switzerland, Austria and Liechtenstein<br>— other third countries                                                                                                                                                                                                               | —<br>—                                                             |
| 10.05 B        | Maize, other than hybrid maize for sowing<br>for exports to :<br>— Switzerland, Austria and Liechtenstein<br>— zone I, zone V, the German Democratic Republic and the Canary Islands<br>— other third countries                                                                                               | 10,00<br>20,00<br>—                                                |
| 10.07 B        | Millet                                                                                                                                                                                                                                                                                                        | —                                                                  |
| 10.07 C II     | Grain sorghum, other than hybrid sorghum for sowing                                                                                                                                                                                                                                                           | —                                                                  |
| ex 11.01 A     | Wheat flour<br>for exports to :<br>— Egypt<br>— other third countries :<br>— of an ash content of 0 to 520<br>— of an ash content of 521 to 600<br>— of an ash content of 601 to 900<br>— of an ash content of 901 to 1 100<br>— of an ash content of 1 101 to 1 650<br>— of an ash content of 1 651 to 1 900 | 196,00<br>190,00<br>190,00<br>167,00<br>155,00<br>143,00<br>128,00 |

| (ECU/tonne)    |                                                                                                                                                                                                                      |                                                                                                  |
|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| CCT heading No | Description                                                                                                                                                                                                          | Refund                                                                                           |
| ex 11.01 B     | Rye flour :<br>— of an ash content of 0 to 700<br>— of an ash content of 701 to 1 150<br>— of an ash content of 1 151 to 1 600<br>— of an ash content of 1 601 to 2 000                                              | 190,00<br>190,00<br>190,00<br>190,00                                                             |
| 11.02 A I a)   | Durum wheat groats and meal :<br>— of an ash content of 0 to 1 300 <sup>(1)</sup><br>— of an ash content of 0 to 1 300 <sup>(2)</sup><br>— of an ash content of 0 to 1 300<br>— of an ash content of more than 1 300 | 325,00 <sup>(3)</sup><br>307,00 <sup>(3)</sup><br>274,00 <sup>(3)</sup><br>259,00 <sup>(3)</sup> |
| 11.02 A I b)   | Common wheat groats and meal :<br>— of an ash content of 0 to 520                                                                                                                                                    | 190,00                                                                                           |

<sup>(1)</sup> Meal of which less than 10 % by weight is capable of passing through a sieve of 0,250 mm mesh.

<sup>(2)</sup> Meal of which less than 10 % by weight is capable of passing through a sieve of 0,160 mm mesh.

<sup>(3)</sup> With the exception of the quantities referred to in the Commission's Decision of 19 March 1986.

N.B. The zones are those defined in Regulation (EEC) No 1124/77 (OJ No L 134, 28. 5. 1977), as last amended by Regulation (EEC) No 3817/85 (OJ No L 368, 31. 12. 1985).

## COUNCIL REGULATION (EEC) No 374/87

of 5 February 1987

definitively collecting the provisional anti-dumping duty and imposing a definitive anti-dumping duty on imports of housed bearing units originating in Japan

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2176/84 of 23 July 1984 on protection against dumped or subsidized imports from countries not members of the European Economic Community<sup>(1)</sup>, and in particular Article 12 thereof,

Having regard to the proposal submitted by the Commission after consultations within the Advisory Committee as provided for under the above Regulation,

Whereas :

## A. PROVISIONAL MEASURES

- (1) Commission Regulation (EEC) No 2516/86<sup>(2)</sup> imposed a provisional anti-dumping duty on imports of housed bearing units originating in Japan. Council Regulation (EEC) No 3662/86<sup>(3)</sup> extended that duty for a period of two months.

## B. CONTINUATION OF PROCEEDING

- (2) Following imposition of the provisional duty the producers/exporters on which a provisional duty has been imposed and certain complainant producers applied to be heard by the Commission and a hearing was granted. The Commission informed them in detail of the facts and considerations on which it had based its provisional conclusions and on the basis of which it intended to propose that a definitive duty be imposed and that the provisional duty be definitively collected. All parties were given the opportunity to make their views on those conclusions known within a specified period. Some of them did so and their comments were taken into account.
- (3) As stated in C. II, the Commission determined the definitive dumping margins of producers/exporters linked with subsidiary companies established in the Community on the basis of a comparison between the normal value and the reconstructed export prices.

To this end the Commission carried out additional checks at the following companies :

- Deutsche Koyo Wälzlager Verkaufsgesellschaft mbH,
- Nachi Fujikoshi (Europe) GmbH,
- NSK Kugellager GmbH,
- NTN France SA.

- (4) Producers/exporters for which export prices were reconstructed and which so requested were subsequently informed of the results obtained and were given the opportunity of making their views known within a specified period. The Commission took their comments into account.

## C. DUMPING

I. Asahi Seiko Co. Ltd, Nippon Pillow Block Sales Co. Ltd, Showa Pillow Block Mfg Co. Ltd (hereinafter referred to as producers/exporters not linked with companies established in the Community)

- (5) None of the producers/exporters not linked with companies established in the Community supplied any new information (apart from a few minor details) or put forward sufficiently convincing arguments to cause the Commission to revise its findings on dumping as stated in Regulation (EEC) No 2516/86.
- (6) The definitive weighted average dumping margins for these producers/exporters, duly corrected to take account of the details referred to above, are thus as follows :

|                                     | %    |
|-------------------------------------|------|
| — Asahi Seiko Co. Ltd               | 4,58 |
| — Nippon Pillow Block Sales Co. Ltd | 3,77 |
| — Showa Pillow Block Mfg Co. Ltd    | 3,99 |

II. Koyo Seiko Co. Ltd, Nachi Fujikoshi Corporation, Nippon Seiko KK, NTN Toyo Bearing Ltd (hereinafter referred to as producers/exporters linked with companies established in the Community)

## (1) Normal value

- (7) As stated in Regulation (EEC) No 2516/86, in the case of producers/exporters linked with companies established in the Community, the Commission determined the normal value of the housed bearing units included in the representative sample by reference to the price charged by their domestic sales subsidiaries, where appropriate.

<sup>(1)</sup> OJ No L 201, 30. 7. 1984, p. 1.

<sup>(2)</sup> OJ No L 221, 7. 8. 1986, p. 16.

<sup>(3)</sup> OJ No L 339, 2. 12. 1986, p. 4.

- (8) Nippon Seiko KK (hereinafter referred to as NSK) once again contested the method used by the Commission to establish the normal value of its housed bearing units.
- (9) However, the Council confirms the conclusion drawn by the Commission, namely that the prices charged by the company's domestic sales subsidiaries should likewise be taken into account as NSK and its sales subsidiaries — which, as was stated in Regulation (EEC) No 2516/86, are wholly owned by NSK and perform functions which correspond essentially to those of a sales subsidiary or sales department — form a single economic unit.
- (10) Contrary to the argument put forward by NSK, the Council supports the Commission's view that it is not appropriate to deduct a reasonable profit margin and all sales overheads incurred by sales subsidiaries from the prices charged by them.

#### (2) *Export prices*

- (11) As proposed in Regulation (EEC) No 2516/86, in order to calculate the definitive dumping margin for producers/exporters linked with companies established within the Community the Commission reconstructed the export prices to the first independent buyer.
- (12) In accordance with Article 2 (8) (b) of Regulation (EEC) No 2176/84, allowances were made in these cases for all costs incurred between entry into the Community territory and resale, and for a profit margin of 6 %. This profit margin was considered reasonable in view of the profit margins achieved by independent importers of the products concerned in respect of which sufficient information was available to the Commission.
- (13) Koyo disputed the deduction of a margin of 6 %, claiming that such a deduction would have the effect of preventing the Koyo group from deciding as it saw fit, whether its profit margin should be applied on the Japanese market or on overseas markets. Koyo claimed that in view of the group's overall policy the deduction of a margin of just 2 % should be considered reasonable.
- (14) The Council agrees with the Commission that this argument is irrelevant, in view of the objectives of the export price reconstruction mechanism provided for in Article 2 (8) (b) of Regulation (EEC) No 2176/84. It should be remembered that the aim of this mechanism, which applies in particular where there is a link between the exporter and the importer, is to enable a price at the Community frontier to be established which is not influenced

by the relationship between the producer/exporter and its associated importer. This explains why the criterion generally used to determine the reasonable profit margin is not the profit margin that a group such as Koyo has achieved or would like to achieve but that which independent importers achieve when reselling the products concerned within the Community.

#### (3) *Comparison*

- (15) The allowances made in respect of the normal value and the export prices with a view to establishing a valid comparison between the export prices and the normal value are those set out in point 19 *et seq.* of Regulation (EEC) No 2516/86.
- (16) NSK maintained the requests referred to in points 23 to 32 of that Regulation.
- (17) The Council agrees with the Commission that those requests should be rejected for the reasons expounded by the Commission in that Regulation.

#### (4) *Dumping margin*

- (18) In view of the adjustment made to the export prices determined for the linked producers/exporters, the definitive weighted average dumping margin, determined in the manner described in point 33 *et seq.* of Regulation (EEC) No 2516/86, is as follows :

|                                 | %      |
|---------------------------------|--------|
| — Koyo Seiko Co. Ltd :          | 7,23,  |
| — Nachi Fujikoshi Corporation : | 2,24,  |
| — Nippon Seiko KK :             | 13,39, |
| — NTN Toyo Bearing Ltd :        | 11,22  |

- (19) Koyo disputed the method used to determine the dumping margin, claiming that it should have been determined by comparing the normal value with the weighted average of the reconstructed export prices of the housed bearing units included in the representative sample. Koyo claimed that the transaction-by-transaction comparison method should not be used because it would have the effect of placing producers/exporters which sell their products within the territory of the Community through subsidiaries at a disadvantage by comparison with producers/exporters which sell through independent importers.
- (20) As the Commission has already stressed in other Regulations implementing the basic anti-dumping Regulation, it uses the transaction-by-transaction comparison method in certain cases because it is the only method which eliminates the compensating effects of reconstructed export prices which are

higher than the normal value and consequently makes it possible to determine with greater precision, in view of the very concept of dumping as set out in Article 2 (2) of the basic anti-dumping Regulation, the real extent of the dumping and to prevent selective dumping for certain destinations chosen by the exporter.

### III. Other producers/exporters

- (21) In accordance with the method adopted for determining the provisional anti-dumping duty, the Commission considered that the dumping carried out by producers/exporters other than those referred to at I and II should be determined on the basis of the available facts and that the definitive outcome of its investigation was the most appropriate basis on which to determine the dumping margin.
- (22) The Council shares this view and considers that, as the Commission stated in point 37 of Regulation (EEC) No 2516/86, it would be rewarding non-cooperation or making it possible to evade duty if it were to accept that the dumping margins of these producers/exporters could be lower than the highest dumping margin established for the other producers/exporters (13,39 %).

### D. INJURY

- (23) None of the producers/exporters concerned presented the Commission with sufficiently convincing arguments to cause it to alter its conclusion that the housed bearing units originating in Japan are the cause of material injury to the Community industry concerned.
- (24) The Commission has thus confirmed the reasons which led it to conclude that injury had been caused, as set out in points 42 *et seq.* of Regulation (EEC) No 2516/86.
- (25) In spite of the arguments put forward by NSK the Council agrees with the Commission's analysis. In particular it considers that the levels of price undercutting, the ratio between the market share of housed bearing units originating in Japan and those manufactured by the Community producers concerned and the impact these factors have had on the prices charged by Community producers (which have increased less than production costs and inflation), the utilization of capacity (less than 75 %), profits and the return on investment of Community producers in the housed bearing units sector (generally negative, except for RHP, which is

in a special situation) are sufficient to establish that material injury within the meaning of Article 4 (1) of Regulation (EEC) No 2176/84 has been caused to the Community industry.

- (26) Koyo claimed that in Regulation (EEC) No 2516/86 the Commission had failed to establish a causal link between the dumping of Japanese bearing units and the injury caused to the Community industry concerned, but provided no further explanation.
- (27) The Council confirms the Commission's findings as set out in points 57, 58 and 59 of Regulation (EEC) No 2516/86. In agreement with the Commission, the Council considers that when, as in this case, the investigation has uncovered no apparent indications to that effect, it is for the companies concerned to provide the Community institutions with specific relevant information enabling them to reach the conclusion, where such is the case, that the injury suffered by the Community industry was attributable to factors other than the dumped housed bearing units.

### E. COMMUNITY INTEREST

- (28) The Council considers that the difficulties that the Community industry continues to face as a result of imports at dumped prices of housed bearing units originating in Japan and/or the threat of injury that these unfair trading practices represent for the industry concerned show that it is in the Community interest to take measures to protect trade.

### F. UNDERTAKINGS

- (29) Certain producers/exporters offered to give undertakings to the Commission concerning their future exports to the Community.
- (30) The Commission did not accept those undertakings. It informed the producers/exporters concerned of the reasoning behind that decision.

### G. DEFINITIVE COLLECTION OF PROVISIONAL ANTI-DUMPING DUTIES AND IMPOSITION OF A DEFINITIVE DUTY (form and rate of duty)

- (31) In view of the above, the Council considers it necessary, in order to protect the interests of the Community, to impose a definitive anti-dumping duty on imports of the products concerned originating in Japan and to collect definitively the provisional anti-dumping duty imposed by Regulation (EEC) No 2516/86.

(32) The Council considers, having regard in particular to the price undercutting margins detected and the prices considered necessary to cover Community producers' costs and guarantee them an adequate profit margin, that the anti-dumping duties should be fixed at the level of the overall dumping margins as definitively determined, these margins being without exception substantially lower than the price undercutting margins detected.

(33) On account of the differences between the prices of the various housed bearing units imported, the anti-dumping duty should be expressed in the form of an *ad valorem* percentage,

HAS ADOPTED THIS REGULATION :

#### Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of housed bearing units falling within subheading ex 84.63 B I of the Common Customs Tariff, corresponding to NIMEXE code ex 84.63-12, originating in Japan.

2. The housed bearing units referred to in paragraph 1 are cast or pressed steel housings fitted with ball bearings.

3. The rate of the anti-dumping duty shall be as set out below, expressed as a percentage of the net, free-at-Community frontier price before duty.

| Exporters                            | Products manufactured by              | Manufacturer or trade mark | Rate % |
|--------------------------------------|---------------------------------------|----------------------------|--------|
| 1. Asahi Seiko Co. Ltd               | Asahi Seiko Co. Ltd                   | ASAHI                      | 4,58   |
| 2. Kohyo Seiko Co.                   | Nippon Pillow Block Manufacturing Co. | KOYO                       | 7,33   |
| 3. Nachi Fujikoshi Corporation       | Asahi Seiko Co. Ltd                   | NACHI                      | 2,24   |
| 4. Nippon Pillow Block Sales Co. Ltd | Nippon Pillow Block Manufacturing Co. | FYH                        | 3,77   |
| 5. Nippon Seiko KK                   | Nippon Seiko KK                       | NSR                        | 13,39  |
| 6. NTN Toyo Bearing Ltd              | NTN Toyo Bearing Ltd                  | NTN                        | 11,22  |
| 7. Showa Pillow Block Mfg. Co. Ltd   | Showa Pillow Block Mfg Co. Ltd        | NBR                        | 3,99   |
| 8. Other                             | —                                     | —                          | 13,39  |

4. The provisions in force concerning customs duties shall apply to this duty.

#### Article 2

The amounts secured by way of provisional anti-dumping duty imposed by Commission Regulation (EEC) No 2516/86 shall be definitively collected at the rates fixed by that Regulation, except with regard to products exported by Nippon Seiko KK, for which the rate fixed in Article 1 (3) shall apply.

#### Article 3

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, 5 February 1987.

For the Council

The President

L. TINDEMANS

## II

(Acts whose publication is not obligatory)

## COMMISSION

## COMMISSION DECISION

of 15 December 1986

relating to a proceeding under Article 85 of the EEC Treaty

(IV/31.458 — X/Open Group)

(Only the German, English, French, Italian and Dutch texts are authentic)

(87/69/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 <sup>(1)</sup>, as last amended by the Act of Accession of Spain and Portugal, and in particular Articles 6 and 8 thereof,

Having regard to the notification made on 19 August 1985 of a set of agreements, including the 'Agreement for X/Open Group' entered into between Compagnie des Machines Bull, France, Digital Equipment Corporation International (Europe), Switzerland, L. M. Ericsson, Sweden, International Computers Ltd, UK, Nixdorf Computer AG, Federal Republic of Germany, Ing. C. Olivetti & C. SpA, Italy, Philips International BV, The Netherlands, Sperry Corporation (now Unisys), USA, and Siemens Aktiengesellschaft, Federal Republic of Germany, and to the subsequent agreement entered into in pursuance thereof between these undertakings and AT&T Information Systems Inc., USA,

Having published a summary of the notification in accordance with Article 19 (3) of Regulation No 17 <sup>(2)</sup>,

After consulting the Advisory Committee on Restrictive Practices and Dominant Positions.

*General background*

- (1) All computers require an operating system which supplies the operating instructions needed by the computer to carry out its functions. Historically, the concept of computer architecture has caused operating systems software to be tied very closely to the hardware components of the system, with the result that operating systems designed for one architecture could not normally be used on machines of a different architecture. The tasks which the users want their computers to do are carried out by application programs. Application programs are written for use with a particular operating system and can normally only function with that system. The investments of users in application programs are substantial. Users considering the acquisition of a new machine on which their present application programs cannot function do so in the knowledge that such a step may lead to a costly and time-consuming task in rewriting their existing programs or acquiring a range of new application programs. Users have, consequently, tended to be locked into the systems which they have acquired. This has meant a limitation of the choice of users and of the importance of price and quality as parameters in the competition between suppliers of hardware and software.

<sup>(1)</sup> OJ No 13, 21. 2. 1962, p. 204/62.

<sup>(2)</sup> OJ No C 250, 7. 10. 1986, p. 2.

- (2) However, in recent years, starting with small-scale systems, several extensive hardware-independent operating systems have been developed and marketed for commercial use. For software houses, the development of 'open systems' means that the market for the programs which they write for such a system is not limited to that of users of machines of a particular architecture. For users, the development of 'open systems' means that they can mix and match hardware and software from the different suppliers addressing such systems, and that they can move application programs between machines ('portability') to meet changing requirements as business grows, thereby giving protection of investments in such programs in the future.

### *The product*

- (3) Unix<sup>(1)</sup> is an operating system which was first developed in the Bell Laboratories of AT&T in about 1970. Several versions have since then been developed and offered by AT&T; the version 'Unix System V' has been offered since 1983. In 1985 AT&T published a 'System V Interface Definition' aimed at providing a standard application interface to the Unix operating system.
- (4) One of the features of the design of Unix is that it offers a high degree of portability and machine independence. This means that an application program written for a Unix operating system can be moved from one machine to another of different make or capacity with little or not modification. This characteristic should enable users to change their hardware without loss of their software investment.
- (5) A number of other companies have developed varieties of Unix, either under a licence from AT&T or loosely based on the principles of Unix, thereby avoiding the need to pay a royalty to AT&T. Only the versions developed by AT&T are offered under the name of Unix. Since there has been little or no standardisation either between the different versions of Unix itself or between any of the Unix-type varieties, the application software written for any one version or variety will not function with any other without modification. In total, there are today 30 to 35 different commercial versions which are used on machines with very different capacities.

### *The parties and the notification*

- (6) On 19 August 1985 several agreements were notified to which the following companies are parties:

- Compagnie des Machines Bull, France,
- International Computers Limited, UK,
- Nixdorf Computer AG, Federal Republic of Germany,
- Ing. C. Olivetti & C., SpA, Italy,
- Siemens Aktiengesellschaft, Federal Republic of Germany,
- Philips International BV, The Netherlands.

Since that date, the following companies have also become parties to the agreements:

- LM Ericsson, Sweden,
- Digital Equipment Corporation International (Europe), Switzerland,
- Sperry Corporation, USA (now Unisys).

The parties to the notified agreements are hereinafter referred to as 'the members'.

- (7) The agreements notified on 19 August 1985 are the following:

- Agreement for X/Open Group, (hereinafter referred to as the 'Group Agreement'),
- Non-Disclosure Agreement,
- Arbitration Agreement.

These agreements were all made on 26 June 1985 with retroactive effect as of 30 November 1984.

- (8) In pursuance of a clause in the Group Agreement, the members have also entered into an Information Exchange Agreement with AT&T Information Systems Inc., USA. This agreement became effective as of 27 September 1985. A copy was sent to the Commission on 27 November 1985.

### *The agreements between the members*

- (9) The principal objective of the X/Open Group established by the members is to take advantage of the portability of Unix and thereby to make possible an increase in the volume of applications available on the members' computer systems. This is to be

<sup>(1)</sup> Unix is a trademark of AT&T Bell Laboratories.

achieved by the creation of an open industry standard consisting in a stable but evolving common application environment ('CAE') for software based on AT&T's System V Interface Definition.

- (10) The Group will define this software environment by selecting existing interfaces; it has no primary intent of creating new interfaces. The Group will proceed, in due time, to the standardization of selected interfaces by appropriate national and international standards organizations.
- (11) Group decisions are taken by simple majority.
- (12) According to the Group Agreement, the members will consider for membership particularly those applicants who are major manufacturers in the European information technology industry, with their own established expertise concerning Unix operating systems in such industry, and who are committed to the objectives of the Group.
- (13) Interpreting this clause, the members have indicated that in order to ensure the ability of an applicant to dedicate resources to the Group, they expect the information technology revenue of the applicant to be in excess of US \$ 500 million and that the applicant must demonstrate willingness to contribute to standards and guidelines as well as an existing commitment to established standards.
- (14) The members have further indicated that the members are aware that applicants who do not fulfil the criteria may nonetheless have special attributes which will significantly contribute to achievement of Group objectives and that they should therefore be accepted as members.
- (15) A member may resign at any time.
- (16) The Group Agreement will remain in effect (with regard to the subsisting members of the Group) for so long as the Group remains in existence.
- (17) In order to make the Group's discussions most productive the Group Agreement provides for an exchange of technical and market — but not marketing — information between the members. The members have indicated that the technical information will concern the Unix environment and that the market information will concern the European software industry and its requirements, both those of independent software vendors and those of end-users. In respect of the market information, they have further indicated that it may include analysis of the current structure of the relevant market for Unix operating systems. This analysis may cover categorization of the relevant market by reference to the type of operating system

(Unix, particular type of Unix or otherwise) or the type of computer hardware. It may also cover predictions as to the future market structure derived from the collation of information from software vendors, retailers, end-user groups.

- (18) Non-disclosure of confidential information is considered to be a vital part of the membership. The Non-Disclosure Agreement provides for the protection of such information from unauthorized use and disclosure.
- (19) A definition of the interfaces currently identified by the Group as components of the CAE is being published in the 'X/Open Portability Guide' which is on sale to the public. An agreement concerning copyright provides for joint ownership of all present and future copyright in this manual.
- (20) The Group will establish and maintain a software catalogue for appropriate software of the members and third-party suppliers, having end-users as target. The members have indicated that third-party software which is competitive to any member's own product(s) will not be excluded from the catalogue.
- (21) The members are not obliged to design their products to conform with any element of the CAE and they are free to offer Unix systems with facilities additional to or enhancing the CAE elements. They are also free to select their suppliers and to carry out their own publicity in respect of products implementing the CAE or elements thereof.
- (22) The Arbitration Agreement lays down the procedure to be followed in case of disputes between the members.

*The agreement between the members and AT&T*

- (23) Under the Information Exchange Agreement, an exchange of certain information between AT&T and the members is contemplated to take place through certain defined committees. According to the agreement such information may include unpublished materials appropriate to the evaluation of AT&T's Unix System V operating system and related software; unpublished strategies for the direction of the parties' System V standardization efforts; and unpublished versions of AT&T's verification suite of programs for System V applications. The object of this exchange is to give the members the necessary forward visibility of future modifications and updates to the System V Interface Definition to enable the members to maintain compatibility between the AT&T System V Interface Definition and the X/Open Portability Guide. It is intended to amend the guide to reflect and

conform to such modifications and updates. In order that the interfaces which AT&T defines can meet market requirements and be adopted by the members, they will provide AT&T with the market and technical information necessary for this purpose. No exchange of marketing information is provided for.

- (24) The confidentiality of the information supplied under this agreement is ensured by a Non-Disclosure Agreement to be entered into with AT&T by each member, the terms of which are annexed to the Information Exchange Agreement.

#### *The members' submissions*

- (25) In support of their request for an exemption under Article 85 (3) of the EEC Treaty the members have submitted that the establishment of a common application environment for software to run on Unix operating systems will be an important development in the support of open standards generally since the elements of the CAE will be defined by reference to international standards, whether official or *de facto*. They further argue that their definition and adoption of aspects of Unix operating systems presents to independent software vendors a large and (from a technical viewpoint) cohesive potential market providing the attractions of scale economics necessary to encourage such vendors to design their products so as to conform to such environment. The consumers will therefore benefit because the range of software available will be significantly greater and less restricted by the design of the computer system itself. In the opinion of the members, the promotion of a stable base for application software investment will encourage new investment, development and competition in the information technology market. As the elements of the CAE to be endorsed or adopted by the Group will only be fundamental or low-level elements, the members can build upon them when designing their own competitive products. The members also claim that the agreements mean an increase in their ability to compete with other major information technology companies and that this benefit will be extended to non-members since the elements of the CAE defined and endorsed by the Group will be published and available to all applicants.

#### *Observations from third parties*

- (26) Following the publication of the summary of the notification in the *Official Journal of the European Communities*, the Institut der Anwaltschaft

für Büroorganisation und Bürotechnik GmbH, Federal Republic of Germany, has informed the Commission that it supports the application made by the members of the X/Open Group. The company is a subsidiary of the Deutsche Anwaltverein and has been established by this association of German lawyers with the purpose, *inter alia*, of advising on the use of modern technology by law firms. In its submission the company stresses that, seen from the users' side of the market, where German lawyers are involved only cooperation between the manufacturers as set out in the notification can satisfy the need of users for portability.

- (27) No other observations from third parties have been received.

## II. LEGAL ASSESSMENT

### A. Article 85 (1)

- (28) Article 85 (1) prohibits as incompatible with the common market all agreements between undertakings 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.

#### *Agreements between undertakings*

- (29) All the above agreements (cf. points 7 and 8) are agreements in the sense of Article 85 (1) and all parties to these agreements (cf. points 6 and 8) are undertakings in the sense of that Article.

#### *Distortion of competition*

- (30) It is the objective of the members of the X/Open Group to establish a standard interface to a particular version of Unix. There is no obligation on the members to design their computers so that they can function with the version of Unix in question, and they are not likely to design all their products for use with this operating system. This is because, *inter alia*, to do so would oblige users with substantial investments in application software for use with a proprietary operating system of one of the members to change their computer systems. The members are, however, likely to put a considerable effort into the design and development of computers on which application programs implementing the CAE can function and to design such software themselves.

- (31) The members are all companies of a considerable size in the computer industry and they are all established or active throughout the Community. It is true that they have varying strength in the markets for different categories of computers and that their market positions vary from Member State to Member State. However, together they represent a substantial opportunity for software houses offering their products for use in the common market because application programs which implement the CAE can run on a wide range of machines offered by the members. Software houses should therefore be very interested in designing application programs which implement the group's definitions. This, in turn, may also make other hardware manufacturers interested in implementing them.
- (32) The definitions which the group adopts are made publicly available. In this respect the definitions constitute an open industry standard. However, non-members as opposed to members cannot influence the results of the work of the group and do not get the know-how and technical understanding relating to these results which the members are likely to acquire. Moreover, non-members cannot implement the standard before it has been made publicly available whereas the members are in a position prior to implement the interfaces which the Group defines because of earlier knowledge of the final definitions and, possibly, of the direction in which the work is going. In an industry where lead time can be a factor of considerable importance, membership of the group may thus confer an appreciable competitive advantage on the members *vis-à-vis* their hardware and software competitors. Considering the wider importance which is likely to be attached to the standard, this advantage in lead time directly affects the market entry possibilities of non-members. The advantage in question is different in nature from the competitive advantage which the participants in a research and development project naturally hope to get over their competitors by offering a new product on the market; they hope that their new product will result in a demand from users but their competitors are not prevented from developing a competing product whereas in the present case non-members wanting to implement the standard cannot do so before the standard becomes publicly available and, therefore, are placed in a situation of dependence as to the members' definitions and the publication thereof.
- (33) If the Group was open to any company willing to commit itself to the objectives of the Group no such company would be prevented from competing with the members of the Group on an equal basis.
- (34) According to the Group Agreement, the members decide upon applications for membership. Applications from major manufacturers in the European information technology industry with Unix expertise and a commitment to the objectives of the Group will particularly be considered (cf. points 11 and 12). It appears that competing companies with a commitment to the objectives of the Group but which are not 'major manufacturers' with a revenue from information technology in excess of US \$ 500 million (cf. point 13) are likely to be excluded from membership. Also companies fulfilling the criteria may, however, be excluded from membership as a result of the fact that a majority approval is required (cf. point 11). The members, consequently, have available to them a power to exclude applicants who fulfil the stipulated criteria for membership. In addition, since the Group 'particularly' will consider companies fulfilling the said conditions for membership, it also appears that companies not fulfilling the criteria but which 'have special attributes which will significantly contribute to achievement of Group objectives' (cf. point 14), may nevertheless be admitted to the Group. Apart from excluding competing companies from membership the conditions for membership also leave the way open for possible discriminatory treatment of applications.
- (35) In the circumstances of the case, an appreciable distortion of competition within the meaning of Article 85 (1) may result from future decisions of the Group on interfaces in combination with decisions on admission of new members to the Group.
- (36) The exchange of information between the members (cf. point 17) and between the members and AT&T (cf. point 23) concerns technical information with regard to the Unix environment and market information in respect of the requirements of users. The particular aim of the Group, that is, to create an open industry standard, cannot be achieved without an exchange of technical information between the members and with AT&T, and this technical information cannot be viewed and assessed by the parties in isolation from the structure and the requirements of the market. It is therefore natural that an exchange of such information is provided for.
- (37) The members are competitors in the supply of machines on which application programs implementing the CAE can function. They are also competitors of AT&T, although programs implementing the CAE may not function with the

version of Unix used by AT&T without certain modifications. However, neither the Group Agreement nor the agreement between the members and AT&T provide for any exchange of information with respect to prices, customers, market positions, production plans or other sensitive market information concerning the products of the parties. The Group Agreement only provides for an exchange of information necessary for the members to establish the CAE. As to the agreement with AT&T, it only provides for an exchange of information necessary to give the members the necessary forward visibility of future modifications and updates to the System V Interface Definition to enable them to maintain compatibility between the AT&T System V Interface Definition and the X/Open Portability Guide.

- (38) The exchange of information does not restrict the parties in their freedom to determine their market behaviour independently. In the context of the present case, there is no reason to assume that the exchange of information will go further than provided in the agreements nor that it will result in concerted behaviour by the parties. As far as the exchange of market information in particular is concerned it may be noted that, in the absence of more far-reaching cooperation between the parties, joint market research to collect information and ascertain facts and market conditions does not in itself affect competition. Neither is competition between the members affected by the joint establishment of structural analyses. Insofar as the members design their products to conform to the CAE, an exchange of information of the kind provided for may actually help increase competition between the members and between the members and AT&T. In the absence of any such exchange of information the users might not be released from their dependence on a single supplier. On the basis of the information at hand it may therefore be concluded that the clauses concerning the exchange of information do not have the object or effect of restricting competition in the sense of Article 85 (1).

- (39) The Non-Disclosure Agreement is just a natural legal safeguard and the Arbitration Agreement only lays down the procedure to be followed in case of conflict. Neither of these agreements have the object or effect of restricting competition in the sense of Article 85 (1).

#### *Trade between Member States*

- (40) The members intend to market the products which implement the Group definitions in all Member States of the European Community. The Group

Agreement can therefore directly influence the flow of goods manufactured by the members and indirectly the flow of goods manufactured by non-members and competing with the goods of the members. Trade between Member States may thus be affected to an appreciable extent.

#### *Conclusion*

- (41) Consequently, the Group Agreement fulfils the conditions in Article 85 (1) of the EEC Treaty as it relates to the criteria for membership and the requirement of majority decisions concerning admission of new members.

#### **B. Article 85 (3)**

##### *Overall balance of advantages and disadvantages*

- (42) In the present case the Commission considers that the advantages involved in the creation of an open industry standard (in particular the intended creation of a wider availability of software and greater flexibility offered to users to change between hardware and software from different sources) easily outweigh the distortions of competition entailed in the rules governing membership which are indispensable to the attainment of the objectives of the Group Agreement. In fact, the competitive advantages conferred on members by their ability to restrict access to the Group and the distortions of competition this entails, are reduced by the Group's professed aim of making available as widely and quickly as possible the results of the cooperation. This same aim also increases the objective advantages the cooperation will promote. The Commission considers that the willingness of the Group to make available the results as quickly as possible is an essential element in its decision to grant an exemption.

The detailed reasons for the conclusion that Article 85 (3) is applicable are set out below.

#### *Promotion of technical progress*

- (43) The Group Agreement contributes to promoting technical progress by establishing a common application environment for software to run on Unix operating systems. As a result of this, open industry standard application programs may be developed by independent software houses, and possibly by the members, which might not otherwise have been developed because, in the absence of the agreement, the markets to be addressed would not

have offered sufficient commercial prospects to make it worthwhile to begin the design work. It is the professed aim of the Group to make available as widely and quickly as possible the results of the cooperation. Consequently, hardware manufacturers and software houses which are not members will have available the information necessary to permit them to produce compatible products with a minimum of delay.

#### *Consumer's benefit*

- (44) As a result of the agreement consumers are likely to be offered a wider choice of application programs doing either the same job or doing jobs for which no program, in the absence of the agreement, would have been available. The agreement means, moreover, that the programs which will be developed will be considerably less restricted by the architecture of the computers. The main investment by users being in software, users are generally not willing to acquire a new machine on which their existing software cannot run. This has tended to make users dependent upon the manufacturers of their systems. As the Group is defining a common application environment, the Group Agreement means, therefore, that users will obtain greater scope for mixing hardware and software from different suppliers and replacing their hardware without having also to replace their software. This represents a major advantage for users compared with the present situation (cf. point 26).

#### *Indispensability*

- (45) The aims of the Group could not be achieved if any company willing to commit itself to the Group objectives had a right to become a member. This would create practical and logistical difficulties for the management of the work and possibly prevent appropriate proposals being passed. The way in which access to the Group is limited is indispensable to the attainment of the positive objectives of the Group. According to the Group Agreement, it is required that the members be major manufacturers in the European information technology industry with Unix experience. Only such companies can normally be expected to be able to provide resources of all kinds appropriate to the support of the Group's activities. It is, moreover, required that new members be approved by a majority vote. This enables a majority of the members to prevent admission of companies which might have an adverse effect on the cooperation and the achieve-

ment of the objectives of the Group. The members are the best to ascertain and weigh the advantages and disadvantages of admitting a new member for the efficiency of the work of the Group. The practical difficulties of bringing together representatives of the members with authority to commit their companies without endless discussions increase considerably with the number of members. The requirement of a majority vote also gives the members a further possibility of limiting the number of members to a manageable size. The fact that the members are in a position to admit applicants who do not fulfil the general criteria means, on the other hand, that it is possible to admit companies which are not major manufacturers but which may be able to make a substantial contribution to the work of the Group. Because qualitative as well as quantitative judgements may be called for in order to ensure that the work of the Group will not be hindered by new members, some discretionary power of admission is necessary.

#### *Competition not eliminated*

- (46) The members will offer the products which they develop and which will implement the Group's definitions in competition with each other and in competition with similar products which are developed and offered by third parties. The Group Agreement does not, therefore, afford the possibility of eliminating competition in respect of a substantial part of such products.

#### *Conclusion*

- (47) All conditions for the application of Article 85 (3) are thus fulfilled.

#### **C. Articles 6 and 8 of Regulation No 17**

- (48) Whenever the Commission takes a decision pursuant to Article 85 (3) of the Treaty it shall, pursuant to Article 6 (1) of Regulation No 17, specify therein the date from which the decision shall take effect. Such date shall not be earlier than the date of notification.
- (49) Pursuant to Article 8 (1) of Regulation No 17 a decision in application of Article 85 (3) of the Treaty shall be issued for a specified period and conditions and obligations may be attached thereto.
- (50) The Group Agreement was notified on 19 August 1985. It was entered into with retroactive effect as of 30 November 1984 for an indefinite period (cf. point 16).

- (51) The period until 30 November 1990 should give the members sufficient time to decide upon the definitions to be adopted. Such period will, furthermore, enable the Commission to reassess the cooperation between the members and its impact on non-members within a reasonable period of time. It is therefore appropriate to grant an exemption from 19 August 1985 to 30 November 1990.
- (52) Although the conditions for membership are indispensable they may be applied in an unreasonable manner. In order to ensure that the conditions for the application of Article 85 (3) are fulfilled in the above period it is, therefore, necessary that the Group submits an annual report to the Commission on cases where applications for membership have been refused and that it immediately informs the Commission of any changes in the membership.

HAS ADOPTED THIS DECISION :

#### *Article 1*

Pursuant to Article 85 (3) of the EEC Treaty, the provisions of Article 85 (1) are hereby declared inapplicable from 19 August 1985 to 30 November 1990 to the 'Agreement for X/Open Group' entered into by the parties referred to in Article 5, (1) to (9), hereinafter called 'the members'.

#### *Article 2*

The following obligations are attached to this Decision :

- (a) The members shall ensure that the Commission is informed immediately of any changes in the membership of the X/Open Group.
- (b) The members shall ensure that the Commission receives an annual report on any case where an application for membership of the X/Open Group has been refused in the period covered by the report. The first such report shall be submitted no later than 30 November 1987 and the subsequent reports no later than 30 November of the following years.

#### *Article 3*

On the basis of the facts in its possession, the Commission has no grounds for action under Article 85 (1) of the EEC Treaty in respect of the Non-Disclosure Agreement and the Arbitration Agreement entered into by the members.

#### *Article 4*

On the basis of the facts in its possession, the Commission has no grounds for action under Article 85 (1) of the

EEC Treaty in respect of the Information Exchange Agreement entered into by the parties referred to in Article 5, (1) to (10).

#### *Article 5*

This Decision is addressed to :

1. Compagnie des Machines Bull,  
121, avenue de Malakoff,  
F-75116 Paris,
2. Digital Equipment Corporation International  
(Europe),  
12, avenue des Morgines,  
case postale 510,  
CH-1213 Petit-Lancy 1, Geneva,
3. Telefonaktiebolaget L.M. Ericsson,  
S-126 25 Stockholm,
4. International Computers Limited,  
ICL House,  
Putney,  
GB-London SW15 1SW
5. Nixdorf Computer AG,  
Fürstenallee 7,  
D-4790 Paderborn,
6. Ing. C. Olivetti & C., SpA,  
Via G. Jervis 77,  
I-10015 Ivrea,
7. Philips International BV,  
PO Box 218,  
Groenewoudseweg 1,  
NL-5600 MD Eindhoven,
8. Siemens Aktiengesellschaft,  
Wittelsbacherplatz 2,  
D-8000 München 2,
9. Unisys Corporation,  
Mail Station B307M,  
PO Box 500,  
Blue Bell,  
USA-PA 19424,
10. AT&T Information Systems,  
100 Southgate Parkway,  
Morris Township 07960,  
Morristown,  
New Jersey,  
USA.

Done at Brussels, 15 December 1986.

*For the Commission*

Peter SUTHERLAND

*Member of the Commission*

## CORRIGENDA

**Corrigendum to Council Regulation (EEC) No 3094/86 of 7 October 1986 laying down certain technical measures for the conservation of fishery resources***(Official Journal of the European Communities No L 288 of 11 October 1986)*

Page 3, Article 2 (1), second subparagraph, first indent :

This indent shall read as follows :

— they are target species for which the maximum percentage of protected species is 10 %,

Article 2 (9):

for: 'Aristeomorpha foliacea',

read: 'Aristaeomorpha foliacea'.

Page 7, Article 9 (3) (b) third subparagraph, third and fourth lines :

for: 'and whose total length overall, ...',

read: 'and whose length overall, ...'.

Article 9 (4), second subparagraph, second indent, third and fourth lines :

for: 'and whose total length overall, ...',

read: 'and whose length overall, ...'.

Article 9 (4), third subparagraph, first line :

The first line shall start :

'However, it shall be prohibited...'

Page 10, Annex I, Region I, Column entitled 'Authorized target species':

for: 'Bereogadus saida'

read: 'Boreogadus saida'

for: 'Gadiculus thorii'

read: 'Godiculus thori'

Page 10, Annex I, Region 2, Column entitled 'Authorized target species', line for North Sea : from 1 January 1987 :

Read: 'Sole (*Solea Solea*)'

Page 11, Annex I, Region 2, Column entitled 'Geographical area':

Line for blue whiting.

This entry shall read as follows :

'Entire region, except the zone delimited to the North by a line at latitude 52°30'N and to the East by a line at longitude 7°00'W.'

Page 13, Annex I, Region 3, Column entitled 'Authorized target species':

for: 'Aristeomorpha foliacea',

read: 'Aristaeomorpha foliacea';

for: 'Engraulis encrasicolus',

read: 'Engraulis encrasicolus',

Annex I, Region 3, Column entitled 'Geographical area':

for: 'In the bastard sole box <sup>(2)</sup>',

read: 'In the little sole box <sup>(2)</sup>'.

Footnote <sup>(2)</sup> shall be replaced by the following :

<sup>(2)</sup> The little sole box is defined as an area bounded by a line running from the southern end to the northern end of the bridge linking the mainland of France to the Ile d'Orléron, thence northwards along the west coast of the Ile d'Orléron to Chassiron lighthouse (46°03'N, 1°25'W), thence north-westwards to a point on the south coast of the Ile de Ré named "Feu de Chanchardon" (46°10'N, 1°28'W), thence along the south coast of the Ile de Ré to Les Baleines lighthouse (46°15'N, 01°34'W), thence to a point at latitude 46°05'N, longitude 1°44'W, thence to a point at latitude 45°40'N, longitude 1°34'W, thence due south to a point at latitude 44°40'N and 1°34'W and from this point due east to the coast of France on the western coast of Cap Ferret.'

Page 14, Annex I, Region 6, Column entitled 'Authorized target species':

for: *Xiphopeneus kroyeri*,

read: *Xiphopenaeus kroyeri*!

Page 15, Annex II, Column entitled 'Species':

for: *L. boudegassa*,

read: *L. budegassa*!

Page 16, Annex III, Column entitled 'Species':

for: *Engraulis encrasicolus*,

read: *Engraulis encrasicolus*!

Page 19, Annex IV:

for: *(Maja squinado)*,

read: *(Maia squinado)*!

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