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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 2346/87
of 23 July 1987
amending Regulation (EEC) No 2915/79 as regards the application of the annual
tariff quotas for certain cheeses from Austria

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

tariff quotas allocated to Austria should, as a result, be amended,

Having regard to the Treaty establishing the European Economic Community,

HAS ADOPTED THIS REGULATION:

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EEC) No 773/87 ⁽²⁾, and in particular Article 14 (6) thereof,

Article 1

Regulation (EEC) No 2915/79 is hereby amended as follows:

Having regard to the proposal from the Commission,

1. The first indent of Article 7 (1) is replaced by the following:

‘— 18,13 ECU in respect of the products appearing under (a), (c) and (d) in Annex II.’

Whereas Council Regulation (EEC) No 2915/79 of 18 December 1979 determining the groups of products and the special provisions for calculating levies on milk and milk products ⁽³⁾, as last amended by Regulation (EEC) No 169/87 ⁽⁴⁾, provides for reduced levies for certain types of cheese;

2. In Article 9 (1) the references to ‘(d)’, ‘(e)’ and ‘(f)’ are replaced respectively by references to ‘(e)’, ‘(f)’ and ‘(g)’.

3. In Article 10 (2) the references to ‘(g)’ and ‘(h)’ are replaced by references to ‘(h)’, ‘(i)’ and ‘(k)’.

Whereas Austria and the Community have agreed to conclude a new arrangement concerning trade in cheese for an unlimited period applicable from 1 September 1987; whereas by Decision 87/399/EEC ⁽⁵⁾, the Council approved the said arrangement;

4. In Article 11 (1) the references to ‘(i)’, ‘(k)’, ‘(l)’ and ‘(m)’ are replaced respectively by references to ‘(l)’, ‘(m)’, ‘(n)’ and ‘(o)’.

5. Article 11 (2) are replaced by the following:

‘2. The levy on 100 kilograms shall be 60 ECU for the products listed under (p) of Annex II and 55 ECU for products listed under (r) of that Annex if it is established that the products correspond to the description therein.’

Whereas, to enable the Community to comply with its undertakings, the provisions relating to certain annual

6. In Annex II, the wording which corresponds to (c) to (s) shall be replaced by the following:

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 78, 20. 3. 1987, p. 1.

⁽³⁾ OJ No L 329, 24. 12. 1979, p. 1.

⁽⁴⁾ OJ No L 21, 23. 1. 1987, p. 9.

⁽⁵⁾ See page 36 of this Official Journal.

CCT heading No	Description
(c) ex 04.04 A	Emmentaler, Gruyère, Sbrinz and Bergkäse, not grated or powdered, of a minimum fat content of 45 % by weight, in the dry matter, matured for at least three months : — Whole cheeses with rind, within the limit of an annual tariff quota of 6 850 tonnes, including the quota of Finlandia referred to in q), originating in Finland ; — Pieces packed in vacuum or inert gas, with rind on at least one side, of a net weight of not less than 1 kg but less than 5 kg, within the limit of an annual tariff quota of 1 700 tonnes, originating in Finland The quantities provided for these categories of cheese in case of Finland are interchangeable within the limit of 25 % of the stated quantities
(d) ex 04.04 A	Emmentaler, Gruyère, Sbrinz and Bergkäse, not grated or powdered, of a minimum fat content of 45 % by weight, in the dry matter, matured for at least three months : — Whole cheeses, — Pieces packed in vacuum or inert gas, with rind on at least one side, of a net weight of net less than 1 kg, — Pieces packed in vacuum or inert gas, of a net weight not exceeding 450 g, within the limit of an annual global tariff quota of 8 000 tonnes, originating in Austria
(e) ex 04.04 E I b) 1	Cheddar made from unpasteurized milk, of a minimum fat content of 50 % by weight in the dry matter, matured for at least nine months, of a free-at-frontier value per 100 kilograms net weight of not less than : — 277,96 ECU in respect of whole cheeses, — 296,10 ECU in respect of cheeses of a net weight of not less than 500 grams, — 308,19 ECU in respect of cheeses of a net weight of less than 500 grams within an annual tariff quota of 2 750 tonnes.
(f) ex 04.04 E I b) 1	Whole Cheddar cheeses, of a minimum fat content of 50 % by weight in the dry matter, matured for at least three months, within an annual tariff quota of 9 000 tonnes
(g) ex 04.04 E I b) 1 ex 04.04 E I b) 2	— Cheddar — other cheeses falling within subheading 04.04 E I b) 2, for processing, within an annual tariff quota of 3 500 tonnes
(h) ex 04.04 D	Processed cheese, not grated or powdered, in the blending of which only Emmentaler, Gruyère and Appenzell have been used and which may contain, as an addition, Glarus herb cheese (known as Schabziger), put up for retail sale, of a free-at-frontier value of not less than 243 ECU per 100 kilograms net weight and of a fat content, by weight, in the dry matter, not exceeding 56 %

CCT heading No	Description
(i) ex 04.04 D	Processed cheese, not grated or powdered, in the blending of which only Emmentaler, Gruyère and Appenzell have been used and which may contain as an addition, Glarus herb cheese (known as Schabziger), put up for retail sale and of a fat content, by weight, in the dry matter, not exceeding 56 %, within the limit of an annual tariff quota of 700 tonnes, originating in Finland and including the Tilsit, Turunmaa and Lappi cheeses referred to under s)
(k) ex 04.04 D	Processed cheese, not grated or powdered, in the blending of which only Emmentaler, Bergkäse or similar hard cheeses have been used, put up for retail sale and of a fat content, by weight, in the dry matter, not exceeding 56 %, within the limit of an annual tariff quota of 3 750 tonnes, originating in Austria.
(l) ex 04.04 E I b) 2	Tilsit and Butterkäse, of a fat content, by weight, in the dry matter, not exceeding 48 %
(m) 04.04 E I b) 2	Tilsit and Butterkäse, of a fat content, by weight, in the dry matter, exceeding 48 %
(n) 04.04 E I b) 2	Kashkaval
(o) 04.04 E I b) 2	Cheese of sheep's milk or buffalo milk, in containers containing brine, or in sheepskin or goatskin bottles
(p) ex 04.04 C ex 04.04 E I b) 2	— Blue-veined cheese, not grated or powdered. — Tilsit, matured for at least one month, and Butterkäse, — Mondseer, of a fat content, by weight, in the dry matter, of not less than 40 % but less than 48 %, — Alpentaler, of a minimum fat content of 45 % by weight in the dry matter and of a moisture content exceeding 40 % but less than 45 % by weight, — Edam, of a fat content, by weight, in the dry matter, of not less than 40 % but less than 48 %, in whole cheeses of a net weight not exceeding 350 g (known as 'Geheimratskäse'), — 'Tiroler Graukäse', of a fat content, by weight, in the dry matter, of less than 1 % and of a moisture content exceeding 60 % but less than 66 % by weight, — Cheese known as 'Weißkäse nach Balkanart' and 'Kefalotyri', made of cow's milk, of a fat content, by weight, in the dry matter, of less than 48 %, within the limit of an annual global tariff quota of 3 950 tonnes, originating in Austria. For 1987, this quota is fixed at 3 050 tonnes.
(q) ex 04.04 E I b) 2	Finlandia of a minimum fat content of 45 % by weight, in the dry matter, matured for at least 100 days, in rectangular blocks of a net weight of not less than 30 kilograms, originating in Finland, within the limit of an annual tariff quota of 3 000 tonnes. Quantities of this product which are not imported may be replaced by corresponding quantities of the cheeses which appear in the first indent of (c).

CCT heading No	Description
(r) ex 04.04 E I b) 2	— Jarlsberg, of a minimum fat content of 45 % by weight in the dry matter, and of a dry matter content by weight of not less than 56 %, matured for at least three months : — Whole cheeses with rind, of between 8 kg and 12 kg — Rectangular blocks of a net weight not exceeding 7 kg (the packing must be labelled in such a way as to enable identification of the cheese by the consumer) — Pieces packed in vacuum or in inert gas, of a net weight of not less than 150 g but not exceeding 1 kg (the packing must be labelled in such a way as to enable identification of the cheese by the consumer) — Ridder, of a minimum fat content of 60 % by weight in the dry matter, matured for at least four weeks : — Whole cheeses with rind, of between 1 kg and 2 kg — Pieces packed in vacuum or in inert gas, with rind on at least one side, of a net weight of not less than 150 g (the packaging must be labelled in such a way as to enable identification of the cheese by the consumer), originating in Norway, within the limit of an annual tariff quota of : — 1 820 tonnes for 1986 — 1 920 tonnes for 1987 — 2 020 tonnes for 1988
(s) ex 04.04 E I b) 2	Tilsit, Turunmaa and Lappi, originating in Finland, within the limit of the annual tariff quota specified under (i)

Article 2

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

It shall apply with effect from 1 September 1987.

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

Done at Brussels, 23 July 1987.

For the Council

The President

K. E. TYGESEN

COUNCIL REGULATION (EEC) No 2347/87

of 23 July 1987

imposing a definitive anti-dumping duty on mechanical wrist-watches originating in the USSR

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⁽¹⁾, and in particular Article 12 thereof,

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

Whereas :

A. Procedure

- (1) By Regulation (EEC) No 1882/82⁽²⁾ the Council imposed a definitive anti-dumping duty on mechanical wrist-watches originating in the USSR.
- (2) Following the imposition of these measures the complainant, Timex Corporation, Dundee, lodged an application with the Court of Justice of the European Communities pursuant to the second subparagraph of Article 173 of the Treaty for partial annulment of Article 1 of Regulation (EEC) No 1882/82.

The Court, in its judgment in Case 264/82⁽³⁾, declared the Article in question to be void and ordered the anti-dumping duty imposed by that provision to be maintained until the competent institutions adopt the measures needed to comply with its judgment.

- (3) In compliance with this judgment, the Commission, as the competent institution, considered, together with Timex, the most appropriate procedure to be undertaken. In view of the time which had elapsed since the original investigation and the change in circumstances which had occurred particularly regarding the producers of mechanical wrist-watches in the chosen analogous market, Hong Kong, it was considered that the proceeding should be reopened and an investigation commenced at Community level. Accordingly, the Commission announced, by a notice published in the *Official Journal of the European Communities*⁽⁴⁾, the initiation of an anti-dumping proceeding concerning imports into the Community of certain mechanical wrist-watches falling within heading No ex 91.01 of the Common Customs

Tariff corresponding to NIMEXE codes ex 91.01-37 and 57 and originating in the USSR.

- (4) The Commission officially advised both the exporters and the importers known to be concerned and the Community producers, and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.

The principal Community producer, Timex, which accounts for a major proportion of Community output of the product in question, made its views known both in writing and orally and requested and received the essential facts and considerations on the basis of which it was intended to recommend definitive action. The USSR exporter did not cooperate in the investigation.

- (5) In order to verify the export prices to the Community of the product in question and the extent of injury caused to the Community industry, the Commission carried out an inspection at the premises of the principal importer concerned, Global Watches Ltd, and of the principal Community producer, Timex Corporation.
- (6) The investigation of dumping covered the period from January to October 1985 inclusive.

B. Normal value

- (7) In order to establish whether products originating in the USSR were being imported at dumped prices, the Commission had to take into account the fact that the USSR does not operate a market economy. In such circumstances the normal value for the product in question must ordinarily be determined on the basis of the prices charged for, or the constructed value of, the like product in a market economy third country.
- (8) In the original investigation the analogous market chosen by the Commission was Hong Kong.

However, in both the previous and present proceedings, Timex contended that the prices of Swiss mechanical wrist-watches would be the most appropriate basis for establishing normal value. Timex's current contention was based mainly on the assertions that the use of any data regarding watches produced in Hong Kong would raise problems of reliability and that the type of manufacturing operation of the Swiss producers would provide the basis of a fairer comparison than those of Hong Kong.

⁽¹⁾ OJ No L 201, 30. 7. 1984, p. 1.

⁽²⁾ OJ No L 207, 15. 7. 1982, p. 1.

⁽³⁾ Not yet published in the Official Journal.

⁽⁴⁾ OJ No C 248, 7. 11. 1985, p. 3.

- (9) Having visited the premises of three of the largest producers of mechanical watches in Hong Kong, Kaybee International Ltd, Foremost Trading Company and Swiss Watch and Jewellery Manufacturing Company, the Commission was satisfied on the question of the reliability of the information obtained. As regards the nature of the manufacturing or assembly operations in Hong Kong, the Commission continued to be of the view that, while the structure of the manufacturing process in the country in question is a criterion in the choice of analogous market, it is not necessarily determinative. In any event, it was not demonstrated that buying parts or sub-assemblies from an outside firm (as is the case in Hong Kong) rather than producing them internally (as is allegedly the case in the USSR) materially influences the final selling price. Furthermore, the Swiss industry, advanced by Timex as a more appropriate analogue for establishing normal value, operates (as is the case with Hong Kong) on the basis of buying parts and sub-assemblies.

Accordingly, in the absence of satisfactory alternatives to either Hong Kong or Switzerland, the Commission saw no reason to alter its opinion, as based on the grounds set out in Regulation (EEC) No 84/82⁽¹⁾ which imposed a provisional anti-dumping duty on imports of the product concerned and confirmed in Regulation (EEC) No 1882/82, that normal value based on the choice of Hong Kong as an analogous market was determined in an appropriate and not unreasonable manner and thus in accordance with Article 2 (5) of Regulation (EEC) No 2176/84. Accordingly, normal value was therefore established on the basis of the price at which watches, comparable to those exported to the Community from the USSR, were actually sold by producers in Hong Kong. Following submission by the Commission to the interested parties of details of watches which were considered comparable, no objection was received on the comparability of these watches.

- (10) Since the three Hong Kong companies visited had virtually no sales of the product concerned in the Hong Kong market, normal value, in accordance with Article 2 (5) (a) (ii) of Regulation (EEC) No 2176/84, was established on the basis of prices obtained by these companies for export sales, including those to the Community. Where prices varied for comparable Hong Kong models, weighted average normal values were established.

C. Export price

- (11) With regard to export prices of the USSR products, these were determined on the basis of the prices actually paid for the product concerned sold for export to the Community.

D. Comparison

- (12) For the purpose of a fair comparison between normal value and export prices the Commission took account, where appropriate, of differences affecting price comparability, such as differences in physical characteristics and differences in conditions and terms of sale where claims of a direct relationship to the sales under consideration could be satisfactorily demonstrated. This was the case in respect of differences in packaging, transport, handling and ancillary costs. As regards physical characteristics, the USSR products were imported without a strap or bracelet and the movements generally have seventeen jewels. An appropriate adjustment was made, therefore, to take account of the fact that the Hong Kong product was sold complete with strap or bracelet and generally had a one jewel movement.

All comparisons were made at an ex-works level and covered approximately 70 % of exports during the reference period.

E. Dumping margins

- (13) The comparison between normal value and export prices showed the existence of dumping in respect of all imports of mechanical wrist-watches originating in the USSR during the reference period.

The margin of dumping was the amount by which the normal value exceeded the prices for export to the Community, and, expressed as a percentage of the total CIF value of the imports of the product concerned, equalled 13,4 %.

F. Injury

- (14) With regard to injury caused by the dumped imports, the evidence available to the Commission showed that imports into the Community of the product concerned from the USSR increased from approximately 350 000 units in 1982 to approximately 1 050 000 units in 1985 i.e. by 200 %. Since, in 1985, more than 90 % of these imports were concentrated in the United Kingdom market, the injury assessment was based mainly on information obtained regarding the situation in that Member State.

⁽¹⁾ OJ No L 11, 16. 1. 1982, p. 14.

(15) Since the advent of inexpensive liquid crystal diode and quartz analogue watches, sales of mechanical watches in the Community have fallen steadily. By 1985, mechanical watches accounted for approximately 19 % of total watch sales as against almost 30 % in 1982. The increased sales of the USSR product has resulted in a considerable increase in the market share held by the imports from the USSR. In the United Kingdom, the Community market in which almost all sales of USSR products took place and in which by far the largest volume of relatively inexpensive mechanical watches were sold, this market share rose from approximately 9 % in 1982 to about 32 % in 1985.

(16) The evidence available to the Commission on prices showed that the USSR watches undercut the prices of the Community producer by up to 20 % during the reference period. This calculation took account of the fact that the USSR watches were generally imported as 'heads' only, the importer adding the strap or bracelet and presentation packaging.

(17) The impact on the Community producer of the dumped imports has been a fall in market share in the United Kingdom from an estimated 35 % in 1982 to 18 % in 1985. During this period, Timex attempted to increase prices on a regular basis. Faced, however, with relatively stable prices for USSR watches, price undercutting has consequently increased with the result that Timex has lost both volume and, more particularly, market share.

(18) Despite Timex's increased prices, the effect of the loss of volume on unit costs has been that this company made losses on its sales of mechanical watches in each year from 1983 to 1985.

(19) A further impact of the dumped imports on the Community industry has been a considerable reduction in the workforce employed in mechanical watch manufacturing.

(20) The Commission has considered whether injury has been caused by other factors such as a change in the pattern in consumption. While consumption of mechanical watches has fallen steadily in the Community in recent years, sales of USSR watches have actually increased in volume, thus accounting for a higher market share held by these imports.

In addition, it was alleged that injury to Timex's mechanical watch operations was due to internal corporate problems. Even if this may have been partially the case, considerable rationalization and diversification has taken place at Timex's two

mechanical watchmaking facilities in the Community in an attempt to reduce the fixed cost element of the total cost of its products.

Thus, the increasing volumes of dumped imports and the low prices at which they were sold in the Community has led the Commission to determine that the effect of the dumped imports of mechanical wrist watches from the USSR, taken in isolation, had to be considered as materially injuring the Community industry concerned.

G. Community interest

(21) No observations were received on the question of whether it would be in the Community interest to impose anti-dumping measures in the present case. In view of the extent of the injury caused by the dumped imports and in particular the possibility of further redundancies at the Community producers' plants, the Commission has come to the conclusion that it is in the Community interest that action be taken and that this action take the form of a definitive anti-dumping duty.

H. Rate of duty

(22) The Commission and the Council, as the responsible Community institutions, are satisfied that, in re-opening the proceeding and undertaking the present investigation, the judgment of the Court in Case 264/82 has been complied with and that the anti-dumping duty imposed by Regulation (EEC) No 1882/82 need no longer be maintained in force. However, in view of the finding that imports into the Community of mechanical wrist-watches originating in the USSR were again being dumped and, taking into consideration the injury sustained, in particular the level of the losses incurred by the Community producer, it is considered that a definitive anti-dumping duty, which would eliminate the dumping found, should be imposed. The rate of duty should therefore be 13,4 %.

(23) No objections to this proposal were raised in the Advisory committee,

HAS ADOPTED THIS REGULATION :

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of mechanical wrist-watches falling within heading No ex 91.01 of the Common Customs Tariff, corresponding to NIMEXE codes ex 91.01-37 and 57, originating in the USSR.

2. The amount of the definitive anti-dumping duty shall be 13,4 % of the value free-at-Community-frontier, before duty.

3. The free-at-Community-frontier price, not cleared through customs, shall be net if the actual terms and conditions of sale provide that payment shall be made within 30 days of the date of dispatch and it shall be lowered by 1 % for each month by which payment is actually deferred.

4. The provisions in force with regard to customs duties shall apply.

Article 2

The anti-dumping duty imposed or collected pursuant to Article 1 shall be collected on imports into Spain and Portugal only insofar as the cumulative amount of the customs duty in force in these Member States on the product in question and of the anti-dumping duty does not exceed the cumulative amount of the Common Customs Tariff and the anti-dumping duty concerning the same product.

Article 3

This Regulation shall enter into force on the day following that 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, 23 July 1987.

For the Council

The President

K.E. TYGESEN

COMMISSION REGULATION (EEC) No 2348/87

of 3 August 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⁽¹⁾, as last amended by Regulation (EEC) No 1900/87⁽²⁾, 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⁽³⁾, as last amended by Regulation (EEC) No 1636/87⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 1944/87⁽⁵⁾ and subsequent amending Regulations;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, 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 31 July 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 1944/87 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 4 August 1987.

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

Done at Brussels, 3 August 1987.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 182, 3. 7. 1987, p. 40.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 185, 4. 7. 1987, p. 38.

ANNEX

to the Commission Regulation of 3 August 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	—	183,39
10.01 B II	Durum wheat	34,54	239,16 ⁽¹⁾ ⁽²⁾
10.02	Rye	28,12	156,60 ⁽³⁾
10.03	Barley	26,43	173,51
10.04	Oats	82,74	128,02
10.05 B	Maize, other than hybrid maize for sowing	5,29	179,29 ⁽²⁾ ⁽³⁾ ⁽⁴⁾
10.07 A	Buckwheat	26,43	114,11
10.07 B	Millet	26,43	107,47 ⁽⁴⁾
10.07 C II	Grain sorghum, other than hybrid sorghum for sowing	29,71	182,71 ⁽⁴⁾ ⁽⁵⁾
10.07 D I	Triticale	(7)	(7)
10.07 D II	Canary seed ; other cereals	26,43	29,01 ⁽⁵⁾
11.01 A	Wheat or meslin flour	13,50	269,97
11.01 B	Rye flour	52,59	232,46
11.02 A I a)	Durum wheat groats and meal	66,62	383,78
11.02 A I b)	Common wheat groats and meal	14,34	291,33

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

⁽²⁾ In accordance with Council 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'.

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

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

⁽⁵⁾ Where durum wheat and canary seed produced in Turkey are transported directly from that country to the Community, the levy is reduced by 0,60 ECU/tonne.

⁽⁶⁾ The import levy charged on rye produced in Turkey and transported directly from that country to the Community is laid down in Council Regulation (EEC) No 1180/77 and Commission Regulation (EEC) No 2622/71.

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

⁽⁸⁾ 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 2349/87

of 3 August 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⁽¹⁾, as last amended by Regulation (EEC) No 1900/87⁽²⁾, 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⁽³⁾, as last amended by Regulation (EEC) No 1636/87⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 1945/87⁽⁵⁾ and subsequent amending Regulations;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, 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 31 July 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 coming from 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 4 August 1987.

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

Done at Brussels, 3 August 1987.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 182, 3. 7. 1987, p. 40.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 185, 4. 7. 1987, p. 41.

ANNEX

to the Commission Regulation of 3 August 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 8	1st period 9	2nd period 10	3rd period 11
10.01 B I	Common wheat, and meslin	0	0	0	0
10.01 B II	Durum wheat	0	0	0	2,78
10.02	Rye	0	0	0	0
10.03	Barley	0	0	0	0
10.04	Oats	0	0	0	0
10.05 B	Maize, other than hybrid maize for sowing	0	1,86	1,86	0,99
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 8	1st period 9	2nd period 10	3rd period 11	4th period 12
11.07 A I a)	Unroasted malt, obtained from wheat, in the form of flour	0	0	0	0	0
11.07 A I b)	Unroasted malt, obtained from wheat, other than in the form of flour	0	0	0	0	0
11.07 A II a)	Unroasted malt, other than that obtained from wheat, in the form of flour	0	0	0	0	0
11.07 A II b)	Unroasted malt, other than that obtained from wheat, other than in the form of flour	0	0	0	0	0
11.07 B	Roasted malt	0	0	0	0	0

COMMISSION REGULATION (EEC) No 2350/87

of 30 July 1987

amending Regulation (EEC) No 3538/86 laying down detailed rules for the application of the import arrangement provided for by Council Regulation (EEC) No 3495/86 in the beef and veal sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to the Treaty establishing the European Economic Community,

HAS ADOPTED THIS REGULATION:

*Article 1*Having regard to Council Regulation (EEC) No 2114/87 of 13 July 1987 setting an additional period for use of the special import tariff quota for high-quality beef opened by Regulation (EEC) No 3495/86⁽¹⁾,

The following subparagraph is hereby added to Article 3 (1) of Regulation (EEC) No 3538/86:

'Certificates issued during 1987 in respect of the products referred to in Article 1 (c) to be imported under Regulation (EEC) No 2114/87 may not be presented after 18 November 1987.'

Whereas the abovementioned Regulation made provision for an additional period of four months for use of this quota; whereas Commission Regulation (EEC) No 3538/86⁽²⁾ should be adapted accordingly;*Article 2*This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 30 July 1987.

For the Commission

Frans ANDRIESEN

Vice-President⁽¹⁾ OJ No L 197, 18. 7. 1987, p. 4.⁽²⁾ OJ No L 326, 21. 11. 1986, p. 21.

COMMISSION REGULATION (EEC) No 2351/87

of 31 July 1987

reducing the buying-in price for wine for the 1987/88 wine year as provided for in Article 44 of Regulation (EEC) No 822/87

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine ⁽¹⁾, as amended by Regulation (EEC) No 1972/87 ⁽²⁾, and in particular Articles 44 and 81 thereof,

Whereas within the meaning of Article 44 of Regulation (EEC) No 822/87, in respect of certain types of distillation, provision should be made for a reduction in the buying-in price to be paid to producers who have brought about an increase in alcoholic strength by adding sucrose or concentrated grape must for which an application for the aid provided for in Article 45 of that Regulation has been made or which has benefited from that aid; whereas that reduction must correspond to the economic advantage thus obtained;

Whereas, although a method of analysis to detect whether the alcoholic strength of a given batch of wine has been increased through one of the abovementioned practices has recently been perfected, that method is still not yet operational throughout the Community; whereas, moreover, it is very difficult to establish by how much the alcoholic strength of wine delivered for distillation has been increased by each producer; whereas, accordingly, the economic advantage to each producer may be determined accurately only at the cost of an excessive administrative burden likely to delay the payment of aid and to jeopardize intervention measures as a whole; whereas that advantage should therefore be determined on a flat-rate basis;

Whereas experience in previous wine years has shown that the system of reducing the buying-in price of wine delivered for distillation on the basis of fixing a maximum natural alcoholic strength has not provided the results anticipated; whereas, therefore, in order to ensure that the buying-in price is reduced in proportion to the economic advantage obtained from increasing the alcoholic strength, it should be reduced in line with the average increase in the natural alcoholic strength in each wine-growing zone and should vary with the minimum price laid down for each type of distillation; whereas, to

avoid the excessive administrative burden which systematically monitoring all producers to check the increase in alcoholic strength would entail, provision must be made for a flat-rate reduction in the buying-in price for wine delivered for each type of distillation within each zone or part thereof;

Whereas it is fair to provide that producers who have not brought about an increase in the alcoholic strength of their wine by adding sucrose or concentrated grape must having benefited from the aid provided for in Article 45 of Regulation (EEC) No 822/87 in respect of any part of their table wine production may received the full price;

Whereas, in addition, provision should be made for producers who have made use of that process only for a part of their production which is less than the quantity which they deliver for distillation may receive the full price for a quantity corresponding to the difference between the quantity delivered and the quantity enriched; whereas, however, while it is possible to determine the quantities of wine the alcoholic strength of which has been increased with concentrated must, at the cost of a heavy administrative burden in checking aid application files, the results are uncertain where the alcoholic strength is increased using sucrose; whereas, accordingly, provision should be made for the full price to be paid only where the production conditions and administrative structures so permit;

Whereas the reduction in the buying-in price applies to all producers who have increased the alcoholic strength of their table wine production by means of the said process and who deliver wine for the types of distillation in question; whereas, consequently, and taking into account the economic advantage from which they benefit, provision must be made for producers who have thus increased the alcoholic strength of their table wine production and who make use of the possibility provided for in the first subparagraph of Article 12 (2) of Commission Regulation (EEC) No 854/86 of 24 March 1986 laying down detailed rules for applying compulsory distillation as referred to in Article 39 of Council Regulation (EEC) No 822/87 ⁽³⁾, as last amended by Regulation (EEC) No 1410/87 ⁽⁴⁾, to pay the intervention agency, for the quantity of wine which they have delivered, an amount equal to the reduction laid down for compulsory distillation;

⁽¹⁾ OJ No L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ No L 184, 3. 7. 1987, p. 26.

⁽³⁾ OJ No L 80, 25. 3. 1986, p. 14.

⁽⁴⁾ OJ No L 135, 23. 5. 1987, p. 11.

Whereas the aid for the product obtained from distillation and the price of the products taken over by the intervention agency under distillation as provided for in Article 39 of Regulation (EEC) No 822/87 must be adjusted to take account of the reduction in the buying-in price for wine ;

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

HAS ADOPTED THIS REGULATION :

Article 1

1. The buying-in price for wine delivered in the 1987/88 wine year for one of the types of distillation provided for in Articles 38, 39, 41 or 42 of Regulation (EEC) No 822/87 shall be reduced by the amounts set out in the following table :

Measures	Wine-growing zones		Zone C	
	Zone A	Zone B	Spanish part	Other parts
Compulsory distillation as provided for in Article 39 of Regulation (EEC) No 822/87	0,18	0,15	0,04	0,09
Preventive distillation as provided for in Article 38 of Regulation (EEC) No 822/87	0,30	0,25	0,07	0,15
Distillation as provided for in Article 41 of Regulation (EEC) No 822/87	0,40	0,33	0,09	0,20
Distillation as provided for in Article 42 of Regulation (EEC) No 822/87	0,46	0,38	0,11	0,23

(ECU / % vol/hl)

The reductions provided for in the first subparagraph shall not apply to wine entering distilleries after the dates laid down for the various wine-growing zones in Article 23 (3) of Regulation (EEC) No 822/87 and delivered by producers who provide the competent authorities with evidence that during the wine year they have neither brought about an increase in the alcoholic strength of their table wine production by adding of sucrose nor submitted in respect of that production any application for aid as provided for in Article 45 of that Regulation.

2. Producers who have brought about an increase in the alcoholic strength of their table wine production by adding sucrose or must having benefited from the aid referred to in Article 45 of Regulation (EEC) No 822/87 and who have table wine delivered under the first subparagraph of Article 12 (2) of Regulation (EEC) No 854/86 shall be required to pay the intervention agency in the Member State in which their main place of business is located, for the quantity in question, an amount equal to the reduction provided for in paragraph 1 for compulsory distillation.

3. An amount equal to the reduction provided for in paragraph 1 shall be paid, for the quantity of wine delivered for any of the types of distillation referred to in that paragraph, to producers who apply therefor before 1 September 1988 to the competent authority, either directly or through a distiller, and who, during the wine year, have neither brought about an increase in the alcoholic strength of their table wine production by adding

sucrose nor submitted for such production any application for aid as provided for in Article 45 of Regulation (EEC) No 822/87.

For producers who apply therefor before 1 September 1988 and who, during the wine year, have not brought about an increase in alcoholic strength by adding sucrose or have applied for such aid in respect only of a part of their table wine production which is less than the quantity delivered for all the said types of distillation during the wine year, the amount referred to in the first subparagraph shall be paid for the quantity corresponding to the difference between the quantity of table wine which the producer has delivered or has had delivered for distillation and the quantity of table wine the alcoholic strength of which has been increased.

The competent authorities of the Member States may require that such producers provide any particulars needed to show that the application is in order. Where special production situations or administrative difficulties do not allow individual cases to be checked, the preceding subparagraph shall not apply and accordingly the reduction provided for in paragraph 1 shall apply in full.

4. The second subparagraph of paragraph 3 shall not apply to quantities of wine delivered by a producer who has purchased the wine.

5. Paragraphs 1 and 3 shall not apply to producers in Member States which do not authorize increase in the natural alcoholic strength pursuant to Article 18 (1) of Regulation (EEC) No 822/87.

Article 2

1. For wine delivered for any of the types of distillation referred to in Article 1, the aid to be paid to the distiller shall be reduced by an amount equal to the reduction provided for in that Article.

2. For products obtained from wine delivered for distillation as provided for in Article 39 of Regulation (EEC) No 822/87, the price to be paid to distillers for quantities delivered to an intervention agency shall be reduced by an amount equal to that referred to in Article 1.

Article 3

The Member States shall take all measures required to check the facts and compliance with the provisions referred to in Article 1.

They shall inform the Commission forthwith of such measures.

Article 4

This Regulation shall enter into force on 1 September 1987.

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

Done at Brussels, 31 July 1987.

For the Commission

Frans ANDRIESEN

Vice-President

COMMISSION REGULATION (EEC) No 2352/87

of 31 July 1987

laying down, for the 1987/88 wine year, detailed implementing rules for the distillation as provided for in Article 36 of Council Regulation (EEC) No 822/87

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 822/87 of 16 March 1987 on the common organization of the market in wine⁽¹⁾, as last amended by Regulation (EEC) No 1972/87⁽²⁾, and in particular Articles 47 (3), 36 (6) and 81 thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EEC) No 1636/87⁽⁴⁾,

Having regard to Council Regulation (EEC) No 1678/85 of 11 June 1985 fixing the conversion rates to be applied in agriculture⁽⁵⁾, as last amended by Regulation (EEC) No 1953/87⁽⁶⁾,

Whereas the distillation operations referred to in Article 36 of Regulation (EEC) No 822/87 must be carried out in accordance with the provisions of Council Regulation (EEC) No 2179/83 of 25 July 1983 laying down general rules for distillation operations involving wine and the by-products of wine-making⁽⁷⁾, as last amended by Regulation (EEC) No 3805/85⁽⁸⁾;

Whereas it is necessary to determine both the conditions for the fulfilment by producers of the obligations laid down in Article 36 of Regulation (EEC) No 822/87 and the conditions for the fulfilment of the obligations incumbent on distillers;

Whereas each producer should be exempted from the obligation to deliver for distillation in respect of a standard quantity representing family consumption and any quantities exported; whereas it should therefore be provided that any export of wine must take place before a date which will allow the remaining quantities to be

distilled, as laid down, before the end of the marketing year;

Whereas under Article 36 (2) of Regulation (EEC) No 822/87 the obligation to distil does not apply to quantities of wine normally produced; whereas those quantities should be defined for each of the different types of wine produced from grapes raised for two purposes;

Whereas the quantity to be distilled by each producer should be determined on the basis of the total quantity produced; whereas this is derived from the declarations provided for by Commission Regulation (EEC) No 2102/84 of 13 July 1984 on harvest production and stock declarations relating to wine-sector products⁽⁹⁾, as last amended by Regulation (EEC) No 2467/86⁽¹⁰⁾, and from the particulars appearing in the records provided for by Commission Regulation (EEC) No 1153/75 of 30 April 1975 prescribing the form of accompanying documents for wine products and specifying the obligations of wine producers and traders other than retailers⁽¹¹⁾, as last amended by Regulation (EEC) No 418/86⁽¹²⁾;

Whereas, for wine obtained from grapes grown in Spain, a price should be fixed taking account of the new guide prices in that Member State;

Whereas the risk must be avoided that the products of the distillation of certain wines to be distilled pursuant to Article 36 of Regulation (EEC) No 822/87 may disturb the market in potable spirits with a registered designation of origin; whereas, to that end, in accordance with Article 3 (2) of Regulation (EEC) No 2179/83, provision should be made that a product obtained from the direct distillation of such wine should not have an alcohol strength less than 92 % vol;

Whereas, in order to ensure that the arrangements are as effective as possible, provision should be made for certain time limits on the operations to be carried out by producers and distillers;

Whereas distillers may, in accordance with Article 36 (4) of Regulation (EEC) No 822/87, either receive aid for the product to be distilled or send the product obtained from distillation to the intervention agency; whereas the amount of the aid must be fixed on the basis of the criteria referred to in Article 16 of Regulation (EEC) No 2179/83; whereas there is a difference between the level

⁽¹⁾ OJ No L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ No L 184, 3. 7. 1987, p. 26.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 9.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 11.

⁽⁶⁾ OJ No L 185, 4. 7. 1987, p. 68.

⁽⁷⁾ OJ No L 212, 3. 8. 1983, p. 1.

⁽⁸⁾ OJ No L 367, 31. 12. 1985, p. 39.

⁽⁹⁾ OJ No L 194, 24. 7. 1984, p. 1.

⁽¹⁰⁾ OJ No L 211, 1. 8. 1986, p. 17.

⁽¹¹⁾ OJ No L 113, 1. 5. 1975, p. 1.

⁽¹²⁾ OJ No L 48, 26. 2. 1986, p. 8.

of the buying-in price for wine in Spain and that fixed for the Community of Ten ; whereas the amount of the aid in Spain must accordingly be fixed at a level taking such differences into account ;

Whereas, in order to avoid the production of poor-quality potable spirits, it should be laid down, in the absence of Community provisions on this matter, that the potable spirits produced must comply with the national provisions in force ;

Whereas, to qualify for the aid, the parties concerned must lodge an application accompanied by certain supporting documents ; whereas to ensure that the system operates uniformly in all Member States, time limits should be laid down for the lodging of applications ;

Whereas, in order to avoid the risk of unjustified payments, for alcohol it should be laid down that payment of aids and payment for alcohol delivered to the intervention agency is not to be made until the distiller furnishes the intervention agency with proof that the buying-in price has been paid to the producer or provides a security in its favour ;

Whereas the price to be paid by the intervention agencies for products delivered to them should be fixed on the basis of the criteria referred to in Article 18 (2) of Regulation (EEC) No 2179/83 ; whereas, for reasons mentioned, in Spain that price is to be fixed at a different level than in the Community of Ten ;

Whereas, in the absence of an organized Community market in ethyl alcohol, the intervention agencies responsible for marketing such alcohol are obliged to resell it at less than the buying-in price ; whereas provision should be made for the difference between the buying-in price and the selling price of such alcohol to be borne, at a standard rate, by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund ;

Whereas the provisions on the financing of intervention laid down in Council Regulation (EEC) No 729/70 ⁽¹⁾, as last amended by Regulation (EEC) 2788/72 ⁽²⁾, should be extended to cover the taking-over by intervention agencies of the products of distillation ;

Whereas some of the wines for distillation pursuant to Article 36 of Regulation (EEC) No 822/87 may be made into fortified wines ; whereas corresponding adjustments should therefore be made to the provisions applicable to distillation operations in accordance with the rules laid down in Articles 25 and 26 of Regulation (EEC) No 2179/83 ;

Whereas, in order that the Commission may keep a general watch on compliance with the obligations regarding distillation under Article 36 of Regulation (EEC) No

822/87, the Member States concerned must keep the Commission regularly informed, on the basis of reports from distillers, of the progress and outcome of distillation operations ;

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

HAS ADOPTED THIS REGULATION :

Article 1

This Regulation lays down detailed implementing rules for distillation as provided for in Article 36 of Regulation (EEC) No 822/87 for the 1987/88 wine year.

Article 2

1. Those producers subject to an obligation to distil under Article 36 of Regulation (EEC) No 822/87 shall discharge their obligation by delivering their wine to an approved distiller by 31 July 1988 at the latest. The provisions of paragraph 2 and 3 shall apply.

In cases covered by Article 26 (1) of Regulation (EEC) No 2179/83, the obligation shall be discharged by delivery of the wine to an approved fortifier of wine for distillation by 30 June 1988 at the latest.

2. In the case of wine covered by Article 36 (1) of Regulation (EEC) No 822/87, each producer must deliver a quantity equal to the total quantity which he has produced less :

- a standard quantity of 10 hectolitres,
- any quantity which he proves has been exported by 3 July 1988 at the latest.

Where the distillation requirement is incumbent on a collective winery, the 10 hectolitres referred to in the first indent of the first subparagraph shall be deducted from the quantity produced by each member who actually delivers table grapes to the cooperative. However, the total amount deducted by the cooperative as a whole may not exceed the total quantity returned to individual members delivering table grapes in 1987/88.

3. In the case of wine covered by Article 36 (2) of Regulation (EEC) No 822/87, each producer must deliver a quantity equal to the total quantity which he has produced less :

- a standard quantity of 10 hectolitres,
- any quantity which he proves to have been exported by 31 July 1988 at the latest,
- the quantity normally produced, calculated as specified in paragraph 4.

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽²⁾ OJ No L 295, 30. 12. 1972, p. 1.

4. For each administrative unit the total quantity of wine normally produced shall be equal to the average quantities produced in the wine years 1974/75 to 1979/80 in the Community of Ten and in the wine years 1978/79 to 1983/84 in Spain in the case of wine produced from grape varieties classed in that administrative unit as both wine-grape varieties and varieties for other uses.

However, as regards wine produced from grape varieties classed in an administrative unit as both wine-grape varieties and varieties for the production of wine spirits, the quantities undergoing distillation other than for the production of potable spirits with a registered designation of origin shall be deducted from the quantity.

As regards the wine referred to in the first subparagraph, the quantity normally produced per hectare shall be fixed by the Member States concerned by determining for the reference period mentioned in that subparagraph the proportions of wine produced from grape varieties classed in an administrative unit as both wine-grape varieties and varieties for other uses.

5. The total quantity produced by each producer shall be the sum of the quantities of wine mentioned in paragraph 1 appearing in the production declaration referred to in Article 2 (1) of Regulation (EEC) No 2102/84 and the quantities entered in the records referred to in Article 14 of Regulation (EEC) No 1153/75 and obtained by the producer, after the date of submission of the production declaration, from grapes or from must produced from grapes of the varieties referred to in Article 36 (1) and (2) of Regulation (EEC) No 822/87 which appear in that declaration.

Article 3

1. The buying-in price provided for in Article 36 (3) of Regulation (EEC) No 822/87 shall be 1,56 ECU per % vol per hectolitre. The corresponding price for wines obtained from grapes grown in Spain shall be 1,06 ECU.

2. The buying-in price referred to in paragraph 1 shall be paid by the distiller to the producer within three months of the day on which each consignment of wine enters the distillery.

Article 4

1. The distillation operations provided for in Article 36 of Regulation (EEC) No 822/87 may not take place after 31 August 1988.

2. Wine as referred to in the third indent of the second subparagraph of Article 2 (4) must be distilled directly to give a product with an alcoholic strength of 92 % vol or more.

3. Distillers shall send the intervention agency by the 10th day of each month at the latest, a statement of the

quantities of wine distilled and of products obtained from distillation during the previous month, itemized according to the categories specified in the first subparagraph of Article 3 (1) of Regulation (EEC) No 2179/83.

Article 5

1. Distillers may receive aid subject to the conditions set forth in paragraph 2.

The amount of the aid is hereby fixed, on the basis of the prices referred to in Article 3 (1), at, respectively:

- 1,09 and 0,59 ECU per % vol of alcohol per hectolitre of the product of distillation where the latter corresponds to the definition of natural spirits given in the Annex to Regulation (EEC) No 2179/83,
- 0,98 and 0,48 ECU per % vol of alcohol per hectolitre of the product of distillation where the latter is wine spirits having the quality characteristics provided for in the applicable national provisions,
- 0,98 and 0,48 ECU per % vol of alcohol per hectolitre of the product of distillation where the latter is a distillate or raw alcohol having an alcoholic strength of not less than 52 % vol.

2. Distillers who wish to receive the aid provided for in paragraph 1 shall, by 31 October 1988 at the latest, submit an application to the intervention agency of the Member State in which distillation took place in accordance with the provisions of Article 17 (1) of Regulation (EEC) No 2179/83.

Member States may require that the summary referred to in paragraph 1 (a) of the said Article be endorsed by a supervisory authority.

3. Payment of the aid by the intervention agency to the distiller shall be conditional upon the distiller, within two months following submission of the application referred to in paragraph 2:

- furnishing proof that he has paid the buying-in price referred to in Article 3,
- or
- providing a security in favour of the intervention agency. The security shall be equal to 110 % of the aid applied for.

In the case referred to in the second indent of the first subparagraph, the distiller shall be required to furnish the intervention agency, not later than 31 December 1988 with proof that he has paid the buying-in price referred to in Article 3.

Not later than one month after the said proof has been furnished, the intervention agency shall release the security.

If the proof is furnished after 31 December 1988 but before 1 March 1989 and the delay is not due to negligence on the part of the distiller, the intervention agency shall release 80 % of the security.

4. Where it is established that the distiller has not paid the buying-in price to the producer, the intervention agency shall pay to the producer, before 1 June 1989, a sum equal to the amount of the aid, where appropriate, through the intervention agency of the producer's Member State.

Article 6

1. Products having an alcoholic strength of 92 % vol or more shall be delivered to the intervention agency not later than 31 October 1988 or, where Article 11 (2) of Regulation (EEC) No 2179/83 is applied, by the date fixed by the competent national authority.

2. The price to be paid to the distiller by the intervention agency is hereby fixed, on the basis of the prices referred to in Article 3 (1) at, respectively, 2,05 and 1,55 % vol per hectolitre.

Where the distiller has received aid pursuant to Article 5, the price referred to in the first subparagraph shall be reduced by the amount of that aid.

Where the distiller has not received the aid referred to in second subparagraph, the provisions of Article 5 (2) shall apply.

3. The prices referred to in paragraph 2 shall apply to neutral spirits corresponding to the definition given in the Annex to Regulation (EEC) No 2179/83.

For other spirits the prices referred to in paragraph 2 shall be reduced by 0,11 ECU per % vol of pure alcohol per hectolitre.

4. The intervention agency shall pay the distiller for the alcohol not later than three months after the day on which it was delivered.

Article 5 (3) shall apply, subject to the necessary adjustments.

Article 7

The Guarantee Section of the European Agricultural Guidance and Guarantee Fund shall contribute to intervention agencies' expenditure on the taking over of alcohol.

The abovementioned contribution is hereby fixed at a flat rate, on the basis of the prices referred to in Article 3 (1), of, respectively, 1,09 and 0,59 ECU per % vol per hectolitre of alcohol taken over.

However, no contribution shall be paid in respect of alcohol taken over pursuant to Article 11 (2) of Regulation (EEC) No 2179/83.

Article 4 and 5 of Regulation (EEC) No 729/70 shall apply to this contribution.

Article 8

1. In the cases referred to in Article 26 (1) of Regulation (EEC) No 2179/83, the contract or declaration relating to deliveries of wine to be fortified for distillation shall be submitted for approval to the competent intervention agency not later than 31 January 1988.

The intervention agency shall inform the producer of the outcome of the approval procedure within 15 days of the date on which the contract or declaration was submitted.

2. Fortification of wine for distillation shall not be carried out after 31 July 1988.

3. Wine fortified for distillation may not be distilled until the contract or declaration has been approved, and at the latest by 31 August 1988.

4. The fortifier shall send the intervention agency, not later than the 10th day of each month, a statement of the quantities of wine delivered to him during the previous month.

5. For wine fortified for distillation, the fortifier shall receive aid, which is hereby fixed, on the basis of the prices referred to in Article 5 (1), at, respectively, 0,96 and 0,46 ECU per hectolitre and per % vol of actual alcoholic strength before the wine is fortified for distillation.

In order to receive the aid, the fortifier shall submit to the competent intervention agency, not later than 30 November 1988, an application together with copies of the accompanying documents relating to the transport of the wine for which aid is requested or a summary thereof.

Member States may require that the copies or summary referred to in the second subparagraph be endorsed by a supervisory authority.

The aid shall be paid at the latest three months after the date of submission of evidence that the security referred to in Article 26 (4) of Regulation (EEC) No 2179/83 has been lodged and, in any event, after the date on which the contract or declaration is approved.

6. Subject to Article 23 of Regulation (EEC) No 2179/83 the security shall be released only if evidence has been provided by 31 March 1989 at the latest:

- that the total quantity of wine specified in the contract or declaration has been fortified for distillation and distilled,
- that the buying-in price for the wine has been paid to the producer within the period specified in Article 3 (2).

If the evidence referred to in the first subparagraph is not provided by 1 July 1989 at the latest, the total amount of the security shall be forfeited.

However, if such evidence is provided after the deadline stipulated but before 1 September 1989, 80 % of the amount of the security shall be released.

If it is established that the fortifier of wine for distillation has not paid the buying-in price to the producer, the intervention agency shall pay the producer, before 1 August 1989, a sum equal to the amount of the aid, where appropriate through the intervention agency of the producer's Member State.

Article 9

By way of derogation from Article 36 (1) and (2) of Regulation (EEC) No 822/87, the wine referred to therein may be transported :

- to a customs office, so that customs export formalities may be completed and the wine may leave the customs territory of the Community,
- to the premises of an approved fortifier of wine for distillation, so that the wine may be fortified for distillation.

Article 10

1. Without prejudice to the application of Article 47 of Regulation (EEC) No 822/87, and except in cases of *force majeure*, where a producer or distiller does not fulfil one of the obligations incumbent on him under this Regulation, the competent authorities shall take the action they judge necessary in the light of the reasons given.

2. The Member State shall inform the Commission in cases where paragraph 1 is applied and of the action taken where *force majeure* has been invoked.

Article 11

1. By the 20th day of each month at the latest, Member States shall send the Commission a statement specifying in respect of the previous month :

- the quantity of wine and fortified wine distilled,
- the quantity of alcohol delivered to the intervention agencies under the distillation arrangements provided for in Article 36 of Regulation (EEC) No 822/87,
- the quantity of wine spirits produced and the quantity of alcohol contained therein,
- the quantity of other products with an alcoholic strength of 52 % vol or more for which aid has been requested.

2. Member States shall, in respect of alcohol taken over by their intervention agencies, notify the Commission before 1 October 1987 of the selling prices obtaining through the 1986/87 wine year and of the characteristics and quantities of the products sold at those prices.

3. Member States shall inform the Commission not later than 31 March 1989 of cases in which distillers of wine or fortifiers of wine for distillation have not fulfilled their obligations and of the measures taken in consequence.

Article 12

The amounts referred to in this Regulation shall be converted into national currency at the representative rate applying in the wine sector on 1 September 1987.

Article 13

For the obligations laid down in Article 47 of Regulation (EEC) No 822/87, the reference period referred to in Article 6 (1) thereof shall run from 1 September 1987 to 31 July 1988.

Article 14

This Regulation shall enter into force on 1 September 1988.

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

Done at Brussels, 31 July 1987.

For the Commission

Frans ANDRIESEN

Vice-President

COMMISSION REGULATION (EEC) No 2353/87

of 31 July 1987

laying down for the 1987/88 wine year detailed rules for the application of Article 35 of Regulation (EEC) No 822/87

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 822/87 of 16 March 1987 on the common organization of the market in wine ⁽¹⁾, as last amended by Regulation (EEC) No 1972/87 ⁽²⁾, and in particular Articles 47 (3), 35 (8) and 81 thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ⁽³⁾, as last amended by Regulation (EEC) No 1636/87 ⁽⁴⁾,

Having regard to Council Regulation (EEC) No 1678/85 of 11 June 1985 fixing the conversion rates to be applied in agriculture ⁽⁵⁾, as last amended by Regulation (EEC) No 1953/87 ⁽⁶⁾,

Whereas the operations referred to in Article 35 of Regulation (EEC) No 822/87 are to be carried out in accordance with the provisions of Council Regulation (EEC) No 2179/83 of 25 July 1983 laying down general rules for distillation operations involving wine and the by-products of wine-making ⁽⁷⁾, as amended by Regulation (EEC) No 3805/85 ⁽⁸⁾;

Whereas it is necessary to determine both the conditions for the fulfilment by producers of the obligations laid down in Article 35 (2) and (3) of Regulation (EEC) No 822/87, and the obligations incumbent on distillers;

Whereas wine producers are required to deliver for distillation a quantity of product with an alcohol content which corresponds to a percentage of the volume of alcohol naturally contained in the grapes used to produce the wine; whereas the Commission is required to fix that percentage within a given upper limit;

Whereas it is particularly difficult in practice to calculate the quantity of product to be delivered in relation to the

alcohol content of the grapes used, primarily on account of the significant fluctuations in the relation between the grapes used and the wine obtained, depending on the grape varieties; whereas by contrast, these difficulties are obviated and checks made simpler and more efficient if the same calculation is carried out in relation to the alcohol contained in the wine; whereas this method of calculation also enables the economic objective of the measure to be met without producers being required to deliver larger quantities;

Whereas, in accordance with Article 13 (3) of Regulation (EEC) No 2179/83, producers who deliver their grape marc for the manufacture of oenocyanin qualify for a reduced percentage; whereas, taking into account the fact that the alcohol contained in the marcs represents a substantial proportion of the quantity of alcohol to be delivered, the reduced percentage should be fixed at 3 %; whereas, pursuant to the same provision, producers of white quality wines *psr* qualify for a reduced rate; whereas experience in preceding wine-growing years suggests that this rate should be fixed at 5 %;

Whereas, if the must used to produce the sparkling wines has undergone a stabilization treatment, it is separated from its lees; whereas, moreover, the lees that form when secondary fermentation occurs cannot be re-used; whereas the producers in question should not therefore be subjected to the obligation specified in Article 35 (2) of Regulation (EEC) No 822/87 for these by-products;

Whereas, for the purpose of determining the quantity of alcohol to be contained in the products to be delivered, it is also necessary to fix, in accordance with Article 35 (2) of Regulation (EEC) No 822/87, a standard natural alcoholic strength for each wine-growing year and each wine-growing zone; whereas, however, by virtue of Article 35 (4) of Regulation (EEC) No 822/87, producers in certain zones are not subject to the obligation in question; whereas, in the absence of precise information on the alcoholic strength of wines for the coming wine-growing year, this determination may be undertaken by reference to the average strengths recorded in the wine-growing zones concerned in previous wine-growing years, taking into account improvements in quality; whereas, however, it is necessary to allow for the possibility of altering the alcoholic strength referred to above before the date on which distillation of the wine commences in order to take account of the quality of the vintage; whereas, moreover, experience has shown that provisions should be made for the adoption of different alcoholic strengths for administrative units which, having suffered from exceptionally bad weather conditions, are recognized as disaster areas by Member States;

⁽¹⁾ OJ No L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ No L 184, 3. 7. 1987, p. 26.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 11.

⁽⁶⁾ OJ No L 185, 4. 7. 1987, p. 68.

⁽⁷⁾ OJ No L 212, 3. 8. 1983, p. 1.

⁽⁸⁾ OJ No L 367, 31. 12. 1985, p. 39.

Whereas the fixing of the buying-in price for by-products of wine-making should take account, on the one hand, of the need to ensure that all producers fulfil the obligation to distil in every respect and, on the other hand, of the level of the market price for alcohol distilled from wine ;

Whereas as far as the by-products of wine-making in Spain are concerned, a price should be fixed which takes account of the guide price level in that country ;

Whereas, in order to ensure that the arrangements are as effective as possible, provision should be made for certain time limits on the operations to be carried out by producers and distillers ;

Whereas the need to improve the quality of wine requires that all marc and lees be distilled ; whereas the distillation of wine at the beginning of the wine-growing year should therefore be prohibited ;

Whereas distillers may, in accordance with Article 35 (6) of Regulation (EEC) No 822/87, either qualify for aid in respect of the product to be distilled or deliver to the intervention agency the product obtained by distillation ;

Whereas the amount of the aid should be fixed according to the criteria laid down in Article 16 of Regulation (EEC) No 2179/83 ; whereas, since the buying-in price fixed for Spain is lower than the price fixed for the Community of Ten, the amount of aid in that Member State should be adjusted accordingly ;

Whereas, in order to avoid the production of poor-quality potable spirits, it should be stipulated, in the absence of Community provisions on this matter, that the potable spirits produced must comply with the national provisions in force ;

Whereas, to qualify for the aid, the parties concerned must lodge an application accompanied by a number of supporting documents ; whereas, to ensure that the system operates uniformly in all Member States, time limits should be laid down for the lodging of applications ;

Whereas, in order to avoid the risk of unjustified payments, it should be laid down that payment of the aid or the payment for the alcohol supplied to the intervention agency is not to take place unless the distiller furnishes the said agency with proof of payment of the buying-in price to the producer or provides a guarantee in its favour ;

Whereas a standard price should be fixed, to be paid by the intervention agencies for the products delivered to them ; whereas this price must be fixed in accordance with the criteria laid down in Article 18 (2) of Regulation (EEC) No 2179/83 ;

Whereas, in Spain, for the reasons given above, this price is fixed at a level below that in the Community of Ten ;

Whereas, in the absence of an organized Community market in ethyl alcohol, the intervention agencies responsible for marketing such alcohol are obliged to resell it at less than the buying-in price ; whereas it is necessary to

make provision for the difference between the buying-in price and selling price for such alcohol to be borne, at a standard rate, by the EAGGF Guarantee Section ;

Whereas the provisions on the financing of intervention laid down in Council Regulation (EEC) No 729/70 ⁽¹⁾, as last amended by Regulation (EEC) No 2788/72 ⁽²⁾, should be extended to cover the taking-over by the intervention agencies of products derived from distillation ;

Whereas some of the wines to be delivered for distillation in order to discharge the obligation laid down in Article 35 (2) of Regulation (EEC) No 822/87 may be made into fortified wine ; whereas the provisions concerning distillation operations should therefore be amended in consequence, in accordance with the rules laid down in Articles 25 and 26 of Regulation (EEC) No 2179/83 ;

Whereas, pursuant to the second subparagraph of Article 35 (3) of Regulation (EEC) No 822/87, the minimum characteristics those by-products must have should be laid down ;

Whereas the potential alcoholic strength of by-products obtained from wine grapes is on average higher than that of by-products obtained from table grapes and grapes intended for the production of wine spirits ; whereas account should be taken of this difference in the description of minimum characteristics ;

Whereas, in order that the Commission may keep a general watch on compliance with the obligation to distil the by-products of wine-making, the Member States concerned must notify it regularly, on the basis of reports from distillers, of the progress and outcome of distillation operations ;

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

HAS ADOPTED THIS REGULATION :

Article 1

This Regulation lays down, for the 1987/88 wine year, detailed rules for the application of Article 35 of Regulation (EEC) No 822/87.

Article 2

Producers subject to the obligation laid down in Article 35 (2) and (3) of Regulation (EEC) No 822/87 shall discharge that obligation by delivering, in accordance with Article 3 and not later than 31 July 1988 :

- the totality of marcs and lees, to an approved distiller,
- any wine to an approved distiller or an approved processor fortifying wine for distillation.

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽²⁾ OJ No L 295, 30. 12. 1972, p. 1.

Article 3

1. The amount of alcohol contained in the products delivered for distillation shall be at least:

- 8 % of the volume of alcohol contained in the wine, when the wine is obtained by direct vinification of grapes,
- 3 % of the volume of alcohol contained in the wine, when the wine is obtained by vinification of grape must, partially fermented grape must or new wines still in fermentation.

2. The percentage referred to in the first indent of paragraph 1 shall be reduced to:

- 3 % for producers delivering marc for the manufacture of oenocyanin,
- 5 % for producers of white quality wines *psr*, for that part of their production which qualifies as such,
- 0 % for producers of quality sparkling wines of the aromatic type or of quality sparkling wines of the aromatic type produced in specific regions, as described in the first paragraph of Article 18 (1) of Council Regulation (EEC) No 358/79⁽¹⁾, who have produced their wine from grape must or bought-in, partially fermented grape must that has undergone stabilization treatment to eliminate the lees.

Article 4

For the purpose of determining the volume of alcohol contained in products delivered for distillation pursuant to Article 35 of Regulation (EEC) No 822/87, the standard natural alcoholic strength by volume shall be:

- 8,5 % for zone B,
- 9,0 % for zones C I,
- 9,5 % for zone C II,
- 10,0 % for zones C III.

However, the alcoholic strengths given above may be altered before the wine-distilling operations referred to in Article 7 begin, if the quality of the vintage so requires. Such strengths may also be altered for administrative units or parts thereof which are recognized as disaster areas by the Member States within the meaning of national law.

Article 5

1. The price to be paid by the distiller to the producer for marc, lees, the liquid product obtained by the over-pressing of grape marc and wine lees, and any wine delivered for distillation, hereinafter called 'the buying-in price for wine delivered for distillation', shall be 1,03 ECU per % vol per hectolitre of alcohol contained in the products. Where the products delivered were obtained

from grapes produced in Spain, the price shall be 0,70 ECU.

2. Not later than three months after the producer has delivered the products, the distiller shall pay the producer an advance of at least 80 % of the price referred to in paragraph 1.

However, the producer and distiller may agree that the advance is to be paid after delivery of the products, but not more than one month after presentation of the invoice to be drawn up for them before 1 September 1988.

The balance shall be paid to the producer not later than 30 November 1988.

Article 6

Not later than the 10th day of each month, distillers shall communicate to the intervention agencies, for the previous month, a statement of quantities of products distilled, as referred to in Article 2 (1), and of products obtained from distillation, broken down into the categories referred to in the first subparagraph of Article 3 (1) of Regulation (EEC) No 2179/83.

Article 7

1. Subject to Article 11, the distillation operations referred to in Article 35 of Regulation (EEC) No 822/87 shall not take place after 31 August 1988.

2. Any wine delivered in order to discharge the obligation laid down in Article 35 (2) of Regulation (EEC) No 822/87 may be distilled only from 1 January 1988.

Article 8

1. The distiller may receive aid under the conditions laid down in paragraph 2.

The amount of the aid is hereby fixed, on the basis of the prices referred to in Article 5 (1) at respectively:

- 0,56 ECU and 0,22 ECU per % vol per hectolitre of product produced by distillation, where the latter is a neutral alcohol complying with the definition given in the Annex to Regulation (EEC) No 2179/83,
- 0,47 ECU and 0,13 ECU per % vol per hectolitre of product produced by distillation, where the latter is a marc spirit meeting the national quality requirements applicable,
- 0,45 ECU and 0,11 ECU per % vol per hectolitre of product produced by distillation, where the latter is a wine spirit meeting the national quality requirements applicable,
- 0,45 ECU and 0,11 ECU per % vol per hectolitre of product produced by distillation, where the latter is a distillate or raw alcohol with an alcoholic strength of not less than 52 % vol.

⁽¹⁾ OJ No L 54, 5. 3. 1979, p. 130.

2. A distiller who wishes to receive the aid referred to in paragraph 1 shall by 31 October 1988 submit an application to the intervention agency of the Member State in which distillation took place, in accordance with the provisions of Article 17 (1) of Regulation (EEC) No 2179/83.

Member States may require that the summary referred to in paragraph 1 (a) of the said Article be endorsed by a supervisory authority.

3. Payment of the aid by the intervention agency to the distiller shall be conditional upon the distiller, within two months following submission of the application referred to in paragraph 2:

- furnishing proof that he has paid the advance referred to in Article 5 (2), or
- providing a security in favour of the intervention agency. The security shall be equal to 110 % of the amount of the aid requested.

4. In the case referred to in the first indent of paragraph 3, the distiller shall be required to provide the intervention agency, not later than 31 December 1988, with proof that he has paid the balance referred to in the third subparagraph of Article 5 (2). If such proof is furnished after 31 December 1988 but before 1 March 1989 and the delay is not due to serious negligence on the part of the distiller, the intervention agency shall recover an amount equal to 20 % of the aid paid. If the proof is not furnished by 1 March 1989, the aid shall be recovered in its entirety.

5. In the case referred to in the second indent of paragraph 3, the distiller shall be required to provide the intervention agency:

- not later than four months after the entry into the distillery of the by-products of wine-making, with proof that he has paid the advance referred to in the first subparagraph of Article 5 (2),
- not later than 31 December 1988, with proof that he has paid the balance referred to in the third subparagraph of Article 5 (2).

Proof that he has paid the balance referred to in the third subparagraph of Article 5 (2) shall be provided to the intervention agency by 31 December 1988 at the latest.

Not later than one month after proofs of payment of the advance and the balance have been furnished, the intervention agency shall release 80 % and 20 % respectively of the security referred to in paragraph 3.

If the proof is furnished after expiry of the time limits specified but within two months of those time limits and the delay is not due to serious negligence on the part of the distiller, the intervention agency shall release 64 % and 16 % of the security respectively.

6. If it is found that the distiller has not paid the producer the buying-in price for wine delivered for distillation, the intervention agency shall pay the producer,

before 1 June 1989, an amount equal to the aid, if necessary through the intervention agency of the producer's Member State.

Article 9

1. The delivery by the distiller to the intervention agency of products with an alcoholic strength of not less than 92 % vol shall be effected not later than 31 October 1988, or, in the event of application of Article 11 (2) of Regulation (EEC) No 2179/83, at a date fixed by the competent national authority.

2. The price to be paid to the distiller by the intervention agency is hereby fixed, on the basis of the prices referred to in Article 5 (1), at, respectively, 1,72 ECU and 1,31 ECU per % vol of alcohol per litre.

If the distiller has received aid as provided for in Article 8, this price shall be reduced by the amount of that aid.

If the distiller has not received the aid, the provisions of Article 8 (2) shall apply.

3. Where Article 18 (3) of Regulation (EEC) No 2179/83 is applied, the differentiated prices are hereby fixed, on the basis of the prices referred to in Article 5 (1), at, respectively:

- 1,80 ECU and 1,46 ECU per % vol of pure alcohol per hectolitre, for alcohol derived from the distillation of marc,
- 1,52 ECU and 1,18 ECU per % vol of pure alcohol per hectolitre, for alcohol derived from the distillation of wine and lees.

4. The prices referred to in paragraph 2 and 3 shall apply to neutral alcohol complying with the definition given in the Annex to Regulation (EEC) No 2179/83. For other alcohols, the prices laid down in paragraphs 2 and 3 shall be reduced by 0,11 ECU per % vol of pure alcohol per hectolitre.

5. The intervention agency shall pay the distiller for the alcohol not later than three months after the day on which it was delivered.

Article 8 (3) to (6) shall apply, subject to the necessary adjustments.

Article 10

1. The Guarantee Section of the European Agricultural Guidance and Guarantee Fund shall contribute to intervention agencies' expenditure on the taking-over of alcohol.

The contribution is hereby fixed, on the basis of the prices referred to in Article 5 (1) at a standard rate of, respectively, 0,74 ECU and 0,40 ECU per % vol of alcohol per hectolitre of alcohol taken over.

However, for alcohol taken over under Article 11 (2) of Regulation (EEC) No 2179/83, the contribution shall be 0,18 ECU per % vol of alcohol per hectolitre.

2. Articles 4 and 5 of Regulation (EEC) No 729/70 shall apply to this contribution.

Article 11

1. In the case referred to in Article 26 (1) of Regulation (EEC) No 2179/83, the contract or declaration of delivery of wine to be fortified for distillation shall be submitted for approval by the competent intervention agency not later than 31 January 1988.

The intervention agency shall inform the producer of the result of the approval procedure within 15 days following the date of submission of the contract or declaration.

2. Wine may be fortified for distillation only from 1 January 1988 and until 31 August 1988, and in any event not until the contract or declaration has been approved.

3. The distillation of wine fortified for distillation may not take place after 31 October 1988.

4. The processor shall send to the intervention agency, not later than the 10th of each month, a statement of the quantities of wine delivered to him during the previous month.

5. For wine fortified for distillation, the processor shall be entitled to an aid, which is hereby fixed, on the basis of the prices referred to in Article 5 (1) at, respectively, 0,43 ECU and 0,10 ECU per hectolitre per % vol of actual wine alcohol before fortification for distillation.

In order to receive the aid, the processor shall, not later than 30 November 1988, submit a request to the competent intervention agency, attaching a copy of the accompanying documents relating to the transport of the wine for which the aid is being requested or a summary of those documents.

Member States may require that the copies or summary referred to in the second subparagraph be endorsed by a supervisory authority.

The aid shall be paid not more than three months after the date of submission of proof that the security referred to in Article 26 (4) of Regulation (EEC) No 2179/83 has been lodged, but not in any event before the date on which the contract or declaration has been approved.

6. Subject to Article 23 of Regulation (EEC) No 2179/83, the shall be released only if, by 31 March 1989, proof is provided that :

— the total quantity of wine stipulated in the contract or declaration has been fortified for distillation and distilled,

— the buying-in price for wine delivered for distillation has been paid to the producer within the time limits laid down in Article 5 (2).

However, if this proof is presented after expiry of the time limit but before 1 July 1989, 80 % of the security shall be released.

If the proofs referred to in the first subparagraph are not provided by 1 July 1989, all of the security shall be forfeit.

If it is found that the processor has not paid the producer the buying-in price for wine delivered for distillation, the intervention agency shall pay the producer, before 1 August 1989, an amount equal to the aid, if necessary through the intervention agency of the producer's Member State.

Article 12

1. Except for the products referred to in paragraph 2, the minimum characteristics of by-products of wine-making shall be as follows :

— grape marc :

- in wine-growing zone B : 2 litres of pure alcohol/100 kilograms,
- in wine-growing zone C : 2 litres of pure alcohol/100 kilograms where they are obtained from varieties listed in the classification of varieties of wines for the administrative unit in question as table grape varieties or as varieties intended for the production of wine spirits ; 3,2 litres of pure alcohol/100 kilograms where they are obtained from varieties listed in the classification for the administrative unit in question solely as wine grape varieties.

— wine lees :

- in wine-growing zone B : 3 litres of pure alcohol/100 kilograms, 40 % humidity,
- in wine-growing zone C : 4 litres of pure alcohol/100 kilograms, 40 % humidity.

2. The average minimum pure alcoholic strength of the by-products of wine-making withdrawn under supervision as referred to in Article 35 (4) or (5) of Regulation (EEC) No 822/87 shall be :

- in wine-growing zone A : 1,8 litres/100 kilograms of by-product,
- in wine-growing zone B : 2 litres/100 kilograms of by-product,
- in wine-growing zone C : 2 litres of pure alcohol/100 kilograms where they are obtained from varieties listed in the classification of varieties of wines for the administrative unit in question as table grape varieties or as varieties intended for the production of wine spirits ; 3,2 litres of pure alcohol/100 kilograms where they are obtained from varieties listed in the classification for the administrative unit in question solely as wine grape varieties.

3. Where, in view of the special characteristics of the harvest, application of the levels referred to in paragraphs 1 and 2 does not permit or threatens not to permit adequate supervision of compliance with the obligation laid down in the first subparagraph of Article 35 (1) of Regulation (EEC) No 822/87, Member States may fix, for one or more administrative units or parts of administrative units, levels higher than those referred to in the first subparagraph.

4. Member States shall notify the Commission of measures taken under paragraph 3.

Article 13

1. Without prejudice to Article 47 of Regulation (EEC) No 822/87 and except in cases of *force majeure*, where a producer or a distiller does not fulfil one of the obligations incumbent on him under this Regulation, the responsible authorities shall take the action they judge necessary in the light of the reasons given.

2. The Member States shall inform the Commission of cases in which paragraph 1 is applied and the action taken where *force majeure* has been invoked.

Article 14

1. By the 20th of each month at the latest, Member States shall communicate the following information to the Commission for the previous month:

- the quantity of wine and fortified wine distilled,
- the quantity of alcohol delivered to intervention agencies following distillation under Article 35 of Regulation (EEC) No 822/87,
- the quantity of grape marc spirits and wine spirits produced and the quantity of alcohol contained therein,

- the quantity of other products of a strength of 52 % vol or more for which aid has been requested.

2. Member States shall, for alcohol taken over by their intervention agencies, notify the Commission before 1 October 1987 of the selling prices obtaining throughout the 1986/87 wine year and of the characteristics and quantity of the products sold at those prices.

3. Member States shall inform the Commission before 1 March 1989 of cases in which distillers of wine have not fulfilled their obligations and of the measures taken in consequence.

Article 15

The amounts referred to in Articles 5, 8 and 9 shall be converted into national currency at the representative rate applying in the wine sector on 1 September 1987.

Article 16

The reference period referred to in Article 47 (1) of Regulation (EEC) No 822/87 shall, for the purposes of the obligations referred to in Article 39 of that Regulation, be the period 1 September 1987 to 31 July 1988.

Article 17

This Regulation shall enter into force on 1 September 1987.

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

Done at Brussels, 31 July 1987.

For the Commission

Frans ANDRIESEN

Vice-President

COMMISSION REGULATION (EEC) No 2354/87
of 31 July 1987

re-establishing the levying of customs duties on woven fabrics of synthetic textile fibres, unbleached or bleached, products of category No ex 3 (code 40.0033), originating in Brazil to which the preferential tariff arrangements set out in Council Regulation (EEC) No 3925/86 apply

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

Having regard to Council Regulation (EEC) No 3925/86 of 16 December 1986 applying generalized tariff preferences for 1987 in respect of textile products originating in developing countries⁽¹⁾, and in particular Article 4 thereof,

Whereas Article 2 of Regulation (EEC) No 3925/86 provides that preferential tariff treatment shall be accorded, for each category of products subjected to individual ceilings not allocated among the Member States, within the limits of the quantities specified in column 7 of its Annexes I or II, in respect of certain or each of the countries or territories of origin referred to in column 5 of the same Annexes; whereas Article 3 of that Regulation provides that the levying of customs duties may be re-established at any time in respect of import of the products in question once the relevant individual ceilings have been reached at Community level;

Whereas, in respect of woven fabrics of synthetic textile fibres, unbleached or bleached category No ex 3 the relevant ceiling amounts to 12 500 tonnes; whereas on 15 July 1987 imports of the products in question into the Community, originating in Brazil, a country covered by preferential tariff arrangements, reached and were charged against that ceiling;

Whereas it is appropriate to re-establish the levying of customs duties for the products in question with regard to Brazil,

HAS ADOPTED THIS REGULATION:

Article 1

As from 7 August 1987 the levying of customs duties, suspended pursuant to Council Regulation (EEC) No 3925/86, shall be re-established in respect of the following products, imported into the Community and originating in Brazil:

Code	Category	CCT heading No	NIMEXE code (1987)	Description
	(1)	(2)	(3)	(4)
40.0033	ex 3	ex 56.07 A	56.07-04, 10, 20, 30, 39, 45	Woven fabrics of man-made fibres (discontinuous or waste): A. Of synthetic textile fibres: Woven fabrics of synthetic fibres (discontinuous or waste) other than narrow woven fabrics, pile fabrics (including terry fabrics) and chenille fabrics: — Unbleached or bleached

Article 2

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

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

Done at Brussels, 31 July 1987.

For the Commission

Manuel MARÍN

Vice-President

⁽¹⁾ OJ No L 373, 31. 12. 1986, p. 68.

COMMISSION REGULATION (EEC) No 2355/87

of 31 July 1987

re-establishing the levying of customs duties on other vitamins falling within heading 29.38 B V, originating in China, to which the preferential tariff arrangements set out in Council Regulation (EEC) No 3924/86 apply

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3924/86 of 16 December 1986 applying generalized tariff preferences for 1987 in respect of certain industrial products originating in developing countries⁽¹⁾, and in particular Article 15 thereof,

Whereas, pursuant to Articles 1 and 12 of Regulation (EEC) No 3924/86 suspension of customs duties shall be accorded to each of the countries or territories listed in Annex III other than those listed in column 4 of Annex I, within the framework of the preferential tariff ceiling fixed in column 9 of Annex I;

Whereas, as provided for in Article 13 of that Regulation, as soon as the individual ceilings in question are reached at Community level, the levying of customs duties on

imports of the products in question originating in each of the countries and territories concerned may at any time be re-established;

Whereas, in the case of other vitamins, falling within heading 29.38 originating in China, the individual ceiling was fixed at 821 300 ECU; whereas, on 17 July 1987, imports of these products into the Community originating in China reached the ceiling in question after being charged thereagainst; whereas it is appropriate to re-establish the levying of customs duties in respect of the products in question against China,

HAS ADOPTED THIS REGULATION:

Article 1

As from 7 August 1987, the levying of customs duties, suspended pursuant to Regulation (EEC) No 3924/86, shall be re-established on imports into the Community of the following products originating in China:

Order No	CCT heading No and NIMEXE-code	Description
10.0360	29.38 B V 29.38-60	Other vitamins

Article 2

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

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

Done at Brussels, 31 July 1987.

For the Commission

Manuel MARÍN

Vice-President

⁽¹⁾ OJ No L 373, 31. 12. 1986, p. 1.

COMMISSION REGULATION (EEC) No 2356/87

of 3 August 1987

introducing a countervailing charge on pears originating in Spain (except the Canary Islands)

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⁽¹⁾, as last amended by Regulation (EEC) No 1926/87⁽²⁾, 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 1727/87 of 22 June 1987 fixing for the 1987/88 marketing year the reference prices for pears⁽³⁾ fixed the reference price for products of class I at 46,12 ECU per 100 kilograms net for the month of July 1987;

Whereas the entry price for a given exporting country is equal to the lowest representative 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 Commission Regulation (EEC) No 2118/74⁽⁴⁾, as last amended by

Regulation (EEC) No 3811/85⁽⁵⁾, the prices to be taken into consideration must be recorded, on the representative markets or, in certain circumstances, on other markets;

Whereas, for pears originating in Spain (except the Canary Islands) 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 pears;

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 corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁶⁾, as last amended by Regulation (EEC) No 1636/87⁽⁷⁾;
- 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, pursuant to Article 136 (2) of the Act of Accession of Spain and Portugal⁽⁸⁾, the arrangements applicable to trade between, on the one hand, a new Member State and, on the other, the Community as constituted at 31 December 1985, must be those which were applicable before accession;

Whereas Article 140 (1) provides for a 4 % reduction in the countervailing charges applicable under Regulation (EEC) No 1035/72 during the second year after accession,

HAS ADOPTED THIS REGULATION:

Article 1

A countervailing charge of 1,15 ECU per 100 kilograms net is applied to pears (subheading 08.06 B II of the Common Customs Tariff) originating in Spain (except the Canary Islands).

Article 2

This Regulation shall enter into force on 5 August 1987.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 183, 3. 7. 1987, p. 24.

⁽³⁾ OJ No L 163, 28. 6. 1987, p. 19.

⁽⁴⁾ OJ No L 220, 10. 8. 1974, p. 20.

⁽⁵⁾ OJ No L 368, 31. 12. 1985, p. 1.

⁽⁶⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁷⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁸⁾ OJ No L 302, 15. 11. 1985, p. 9.

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

Done at Brussels, 3 August 1987.

For the Commission

Frans ANDRIESEN

Vice-President

COUNCIL REGULATION (EEC) No 2357/87

of 31 July 1987

amending Regulation (EEC) No 1282/81 imposing a definitive anti-dumping duty on imports of vinyl acetate monomer originating in the United States of America

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⁽¹⁾, and in particular Article 12 thereof,

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

Whereas :

A. Procedure

- (1) In November 1980 the Commission accepted by Regulation (EEC) No 2999/80⁽²⁾ a price undertaking offered by US Industrial Chemical Company of the United States of America in the course of the anti-dumping procedure initiated in June 1980 concerning vinyl acetate monomer originating in the United States of America. In May 1981 the Council imposed by Regulation (EEC) No 1282/81⁽³⁾ a definitive anti-dumping duty on imports of vinyl acetate monomer originating in the United States of America exported by other producers.

In November and December 1985, the Commission gave notice of the impending expiry of the undertaking⁽⁴⁾ and the duty⁽⁵⁾ pursuant to Article 15 of Council Regulation (EEC) No 2176/84.

- (2) Subsequently, the Commission received a review request from the Conseil européen des fédérations de l'industrie chimique (CEFIC) representing the totality of Community production of the product concerned.

In July 1986 the Commission, having decided that there was sufficient evidence to warrant a review, published a notice of re-opening of the anti-dumping proceeding concerning imports of vinyl acetate monomer falling within subheading 29.14 A II c) 1 of the Common Customs Tariff — corres-

ponding to NIMEXE code 29.14-32 — and originating in the United States of America⁽⁶⁾ and commenced an investigation.

- (3) The Commission officially so advised the exporters and importers known to be concerned, the representatives of the exporting countries and the Community producers and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.
- (4) All Community producers, a number of US exporters and certain importers replied to the Commission's questionnaire. Certain Community producers and all the exporters and importers who replied to the questionnaires have requested and have been granted hearings.

In addition, submissions were made and hearings were requested by and were granted to processors of the product in question.

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

(a) *Community producers*

France : Rhône Poulenc (Paris),
Germany : Hoechst AG (Frankfurt/Main),
Wacker-Chemie GmbH (München),
Italy : Montedipe (Milano),
United Kingdom : BP Chemicals Ltd (London) ;

(b) *American producers/exporters*

Celanese Chemical Co., Dallas, Texas,
Gantrade Corp., Montvale, New Jersey,
Phillips Petroleum Chemicals SA, Bartlesville, Oklahoma,
US Industrial Chemicals Co., Cincinnati, Ohio ;

(c) *Community importers*

Belgium : Celanese SA (Brussels), Phillips Petroleum Chemicals (Overijse),
Netherlands : U.S.I. Chemicals Europe BV (Breda),
Portugal : Resiquimica (Mem Martins),
Spain : Hoechst Iberica SA Barcelona).

- (6) The investigation of dumping and prices on the Community market covered the period from 1 January to 30 June 1986.

⁽¹⁾ OJ No L 201, 30. 7. 1984, p. 1.

⁽²⁾ OJ No L 311, 21. 11. 1980, p. 13.

⁽³⁾ OJ No L 129, 15. 5. 1981, p. 1.

⁽⁴⁾ OJ No C 300, 23. 11. 1985, p. 4.

⁽⁵⁾ OJ No C 338, 31. 12. 1985, p. 6.

⁽⁶⁾ OJ No C 164, 2. 7. 1986, p. 2.

B. Normal value

- (7) Normal value was determined on the basis of the domestic prices of those producers who exported to the Community and provided sufficient evidence, since these were considered to be representative of the domestic market concerned.

C. Export prices

- (8) Since all exports were made to subsidiary companies in the Community, export prices were constructed on the basis of the prices at which the imported product was first resold to an independent buyer, suitably adjusted to take account of all costs incurred between importation and resale, including customs duty and anti-dumping duty, and of a profit margin of 5 %. This profit margin was considered appropriate in the light of the profit margin of independent traders of the product concerned who cooperated in the course of the investigation and provided sufficient evidence.
- (9) Two of the related importers concerned, Celanese SA, Brussels Belgium, and U.S.I. Chemicals Europe BV, Breda, the Netherlands, have put forward arguments against the 5 % profit margin. They submitted evidence showing lower profit margins of certain traders. In addition, they provided statistics of certain national banks.

The Commission, however, was unable to verify the evidence put forward by the two importers concerned relating to certain traders since these traders refused to cooperate. The statistics of certain national banks reflect an average profit margin of independent importers for a range of industrial chemical products for which the profit margins may differ widely. Consequently, the profit margin of 5 % found is to be used for the purpose of constructing the export price.

D. Comparison

- (10) In comparing normal value with export prices the Commission took account, where appropriate, of differences affecting price comparability. These covered mainly the conditions and terms of sales (direct sales expenses, commissions, discounts, payment terms, etc.) All comparisons were made on an ex-works basis. The exporters did not contest these adjustments.

E. Margin

- (11) Normal value, on a monthly weighted average basis, was compared with export prices during the corresponding months on a transaction by transaction basis.

The above examination of the facts shows the continuous existence of dumping in respect of imports of vinyl acetate monomer originating in the United States of America, the margin of dumping being equal to the amount by which the normal value as established exceeds the price for export to the Community.

These margins vary according to the exporter concerned, the weighted average margin for each of the exporters investigated being as follows:

— Celanese Chemical Company	15,06 %
— Gantrade Corporation	5,97 %
— Phillips, Petroleum Chemicals SA	17,41 %
— US Industrial Chemicals Co.	5,88 %

- (12) For those exporters who neither replied to the Commission's questionnaire nor made themselves known otherwise in the course of the investigation, dumping was determined on the basis of the facts available. In this connection it is considered that the results of its investigation provide the most appropriate basis for determination of the dumping margin and that it would constitute a bonus for non-cooperation and would create an opportunity for circumvention of the duty to hold that the dumping margin for these exporters was any lower than the highest dumping margin of 17,41 % determined with regard to an exporter who had cooperated in the investigation. For these reasons it is considered justified to use this latter dumping margin for this group of exporters.

F. Injury

- (13) With regard to the injury caused by the dumped imports the evidence available shows that imports into the Community from the United States of America of vinyl acetate monomer increased from 32 996 tonnes in 1983 to 39 926 tonnes in 1985 and to 33 021 tonnes during the first half of 1986 with a consequent increase in market share held by the exporters concerned from 11,7 % to 12,6 % and to 21,5 % in the same periods.
- (14) The resale prices of these imports undercut the prices of the Community producers during the investigation period; the extent of undercutting varies from 0,7 % to 11,3 % of Community prices.

The resale prices of these imports were lower than those required to cover the costs of Community producers and provide a reasonable profit, the differences being (per exporter investigated):

— Celanese Chemical Company	19,14 %
— Gantrade Corporation	6,89 %
— Phillips Petroleum Chemicals SA	10,56 %
— US Industrial Chemicals Co.	7,35 %

- (15) The consequent impact on the Community industry has been a reduction of the sales other than sales for captive use from 243 133 tonnes in 1983 to 117 160 tonnes during the first half of 1986 with a consequent decrease in market share from 86,4 % to 76,1 % in the same period.

Sales prices have decreased substantially in the Community market and at a higher rate than the costs of production of vinyl acetate monomer, thus reducing the profits of the Community industry.

- (16) The Commission has considered whether injury has been caused by other factors. It was found, though, that imports of the product in question originating in other countries have decreased from 15 517 tonnes in 1983 to 3 733 tonnes during the first half of 1986. Free market consumption in the Community has increased by approximately 10 % between 1983 and the first half of 1986; this increased consumption has been entirely taken up by the US exporters.

In view of the substantial increase in dumped imports and the prices at which they are offered for sale in the Community, the effects of the dumped imports of vinyl acetate monomer originating in the United States of America, taken in isolation, have to be considered as constituting material injury to the Community industry concerned.

- (17) Certain exporters argued that the impact of their individual exports should be looked at in isolation and considered not to have caused material injury in view of the low level of their market share in the Community.

The Commission considered the comparability of the imported product in terms of physical characteristics, the increase in volume of imports from a previous comparable period and the low level of prices attributable to the products of all supplying companies and the extent to which each of the imported products competed in the Community with the like product of the Community industry. The Commission concluded that no persuasive arguments have been submitted showing that the dumped imports from the companies concerned could not be considered as contributing to the material injury suffered. Should any company be treated in isolation, the rest would be discriminated against. Accordingly, the Commission concluded that for the purposes of establishing the level of injury sustained by the Community industry, regard should be paid to the cumulative effect of the

dumped imports from all exporting companies concerned.

The Council confirms the Commission's conclusion.

- (18) One American exporter, US Industrial Chemical Co., argued that sales in Spain should not be taken into account in the calculation of the dumping margin. The company alleged that although sales were made at prices below price levels in the Community of Ten, these prices were consistent with market patterns in Spain, and the four sales made in the Spanish market during the reference period did not injure the Community industry because

- (a) the Spanish market was insulated from the Community for many years by strict government controls, import licences and duties;
- (b) Community producers did not suffer injury merely because an isolated market became politically part of the Community;
- (c) Community producers are working at full capacity, exports of the Community of Ten to Spain of vinyl acetate monomer have increased substantially in absolute and relative terms while US exports to Spain have increased by a smaller percentage, and the French producer has about 50 % of the Spanish market.

- (19) The Commission examined these arguments and it was found on the basis of the facts available that

- (a) the four export sales to Spain made by US Industrial Chemicals Co. represented about one quarter of their exports to the Community and 12 % of total US exports to Spain;
- (b) American exporters provide more than 50 % of the total imports into the Spanish market and almost doubled their exports in the first half of 1986, i.e. during the investigation period. During 1985, 8 870 tonnes were exported compared to 8 040 tonnes exported during the first half of 1986. This increase was maintained in the second half of 1986 (12 807 tonnes imported from January 1986 to September 1986 into Spain from the United States) following the cessation of production by the Spanish producer in May 1986;

Finally, the argument that sales into Spain should not be taken into account, on the ground that in the past, before accession, Spain favoured low prices, does not take into account that as of 1 January 1986 the Community includes a new market and this market must be treated in the same way as the rest of the Community.

- (20) Furthermore, the Commission examined in the light of the criteria laid down in Article 4 (3) of Regulation (EEC) No 2176/84 whether further injury would be threatened if the duty on these imports was to be removed. In this connection account was taken of the fact that imports of vinyl acetate monomer originating in the United States have increased substantially even though they were subject to anti-dumping measures. In addition, it was found that the US industry had sufficient capacity to increase its exports and that there was a likelihood that the exports would be directed to the Community since US exports to other traditional markets may be expected to decline as a result of new capacity which has been established in Brazil and Taiwan. Moreover, the trend towards increased exports is likely to be reinforced by the substantial fall which has occurred in the value of the US dollar.

In view of these facts, the Commission considers that the expiry of the existing measures would lead to even more severe injury for the Community industry than has already occurred and that anti-dumping duties should therefore continue to apply.

The Council confirms the Commission's conclusion.

G. Community interest

- (21) Community processing industries have argued that the maintenance of protective measures would not be in the Community interest because it would make them less competitive with regard to imported derivatives of vinyl acetate monomer.

In view of the relatively low incidence of a price increase on the costs of the processing industry the Council has, however, come to the conclusion that it is in the Community's interest that action be taken.

- (22) In these circumstances, a definitive anti-dumping duty on imports of vinyl acetate monomer origina-

ting in the United States of America should be maintained and fixed at a rate corresponding to the results of this investigation.

H. Amendment of the duty

- (23) In the light of the above determination the existing anti-dumping duties should be modified, account being taken of the dumping margins established during the investigation period. Since, however, the difference between the resale prices of the US imports and the price required to cover the costs of Community producers and provide a reasonable profit in one case is lower than the dumping margin found, the duty should be limited to that lesser amount, the modified duties being as follows:

— Celanese Chemical Company	15,0 %,
— Gantrade Corporation	6,0 %,
— Phillips Petroleum Chemicals SA	10,5 %,
— US Industrial Chemicals Co.	5,9 %,
— Others	15,0 %.

HAS ADOPTED THIS REGULATION:

Article 1

Article 1 (2) and (3) of Regulation (EEC) No 1282/81 are hereby replaced by the following:

2. The rate of the anti-dumping duty shall be 15 %.

3. Notwithstanding paragraph 2, the rate of the anti-dumping duty shall be:

- 6 % for Gantrade Corporation
- 10,5 % for Phillips Petroleum Chemicals SA, and
- 5,9 % for US Industrial Chemicals Co.'

Article 2

This Regulation shall enter into force on the day following that 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, 31 July 1987.

For the Council,

The President

K.E. TYGENSEN

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 23 July 1987

on the conclusion of an arrangement between the European Economic Community and the Republic of Austria concerning reciprocal trade in cheese

(87/399/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas the arrangements which were the result of the Temporary Arrangement for a concerted discipline between the European Economic Community and the Republic of Austria concerning reciprocal trade in cheese, signed on 21 October 1981 and last amended by the agreement in the form of an Exchange of Letters of 20 March 1984 ⁽¹⁾, were maintained on a unilateral basis by Regulation (EEC) No 4053/86 ⁽²⁾ until the entry into force of a new arrangement on 31 December 1987, whichever was the later; whereas experience shows that it is appropriate to conclude a new arrangement;

Whereas the Commission has conducted negotiations on this question with the Republic of Austria and has reached a satisfactory arrangement with that country; whereas, therefore, that arrangement should be approved,

Article 1

The Arrangement between the European Economic Community and the Republic of Austria concerning reciprocal trade in cheese is hereby approved on behalf of the Community.

The text of the Arrangement is attached to this Decision.

Article 2

The President of the Council is hereby authorized to appoint the person empowered to sign the Arrangement referred to in Article 1 in order to bind the Community.

Done at Brussels, 23 July 1987.

For the Council

The President

K. E. TYGESEN

⁽¹⁾ OJ No L 72, 15. 3. 1984, p. 29.

⁽²⁾ OJ No L 377, 31. 12. 1986, p. 34.

ARRANGEMENT

between the European Economic Community and the Republic of Austria concerning reciprocal trade in cheese

With the aim of fostering the harmonious development of trade in agricultural products, under the terms of Article 15 of the Agreement between Austria and the European Economic Community, signed on 22 July 1972⁽¹⁾, the two parties held negotiations on their reciprocal trade in cheese.

During these negotiations, they established that it would be advisable, in the light of experience, to conclude a new arrangement from 1 September 1987, the provisions of this new arrangement being as follows :

1. Austria and the Community agree that, for the annual quantities of cheese indicated below, the duties to be levied on importation may not exceed the following levels :

A. On importation into Austria :

Cheese manufactured from cows' milk, falling within subheading 04.04 A of the Austrian Customs Tariff, originating in and coming from the Community, and accompanied by an approved certificate of quality and origin :

	<i>Annual quantity</i>	<i>Import duty</i>
(a) — Processed cheese	2 000 t	760 S/100 kg
(b) — Blue-veined cheese		560 S/100 kg
— Danbo, Edam, Elbo, Fynbo, Fontal, Gouda, Havarti, Malbo, Maribo, Mimolette, Samsø, Tybo		560 S/100 kg
— Tilsit		460 S/100 kg
— Emmentaler, Gruyère		460 S/100 kg
— Butterkäse, Esrom, Italico, Kernheim, Saint-Nectaire, Saint-Paulin, Taleggio, Cheddar and the other cheeses not included above, of a water content in the non-fatty matter not exceeding 62 %, with the exception of those falling within tariff subheading 04.04 A I a), b) or c) of the Austrian Customs Tariff	3 000 t	560 S/100 kg

The above cheeses of Community origin may not be imported into Austria unless accompanied by the approved certificate of quality and origin.

B. On importation into the Community :

Cheese falling within heading No 04.04 of the Common Customs Tariff originating in and coming from Austria, accompanied by an approved certificate :

	<i>Annual quantity</i>	<i>Import duty</i>
(a) — Emmentaler, Gruyère, Sbrinz, Bergkäse, not grated or powdered, of a minimum fat content of 45 % by weight, in the dry matter, matured for at least three months, falling within subheading 04.04 A of the Common Customs Tariff :		
— whole cheeses	8 000 t	18,13 ECU/100 kg
— pieces packed in vacuum or in inert gas with rind on at least one side, of a net weight of not less than 1 kg		
— pieces packed in vacuum or in inert gas, of a net weight not exceeding 450 g		

⁽¹⁾ OJ No L 300, 31. 12. 1972, p. 1.

	<i>Annual quantity</i>	<i>Import duty</i>
(b) — Processed cheese, not grated or powdered, in the blending of which only Emmentaler, Bergkäse or similar hard cheeses have been used, put up for retail sale and of a fat content, by weight, in the dry matter, not exceeding 56 %, falling within subheading 04.04 D of the Common Customs Tariff	3 750 t	36,27 ECU/100 kg
(c) — Blue-veined cheese falling within subheading 04.04 C of the Common Customs Tariff	3 950 t	60 ECU/100 kg
— Tilsit, matured for not less than one month, and Butterkäse, falling within subheading 04.04 E I b) 2 of the Common Customs Tariff		
— Mondseer, of a fat content, by weight, in the dry matter, of not less than 40 % and less than 48 %, falling within subheading 04.04 E I b) 2 of the Common Customs Tariff		
— Alpentaler, of a fat content, by weight, of 45 % in the dry matter and a water content, by weight, greater than 40 %, but less than 45 % falling within subheading 04.04 E I b) 2 of the Common Customs Tariff		
— Whole Edam cheeses of a fat content, by weight in the dry matter, of not less than 40 % and less than 48 %, of a net weight not exceeding 350 g 'Geheimratskäse', falling within subheading 04.04 E I b) 2 of the Common Customs Tariff		
— 'Tiroler Graukäse' of a fat content, by weight, in the dry matter, of less than 1 % and a water content, by weight, greater than 60 % but less than 66 %, falling within 04.04 E I b) 2 of the Common Customs Tariff		
— 'Weisskäse nach Balkanart' and 'Kefalo-Tyri', made from cow's milk of a fat content, by weight, in the dry matter, of less than 48 %, falling within subheading 04.04 E I b) 2 of the Common Customs Tariff		

2. Austria undertakes to take the necessary measures to ensure that :

- the quantities it has agreed to export to the Community, as laid down in B., will not be exceeded ;
- the licences for import into Austria will be granted on a regular basis and in such a way that the quantities agreed for import into Austria from the Community can actually be imported.

The provisions concerning this matter and in particular the procedures for the distribution of licences, and any possible changes, will be brought to the notice of the Commission of the European Communities and of exporters and/or importers.

The Community and Austria will take steps to ensure that the benefits which they grant each other will not be jeopardized by other import measures.

3. Austria and the Community undertake, each on its own behalf, to ensure that the prices charged by their exporters are not such as to create difficulties on the importing country's market.

They agree, in this connection, to set up the system for cooperation and the exchange of information described in the Annex to this Arrangement.

Should difficulties arise concerning the prices charged, consultations will be held at the request of either party, as promptly as possible, with a view to the adoption of appropriate corrective measures.

4. The two parties may consult each other at any stage concerning the operation of this Arrangement, and, where necessary, change it, by common accord, in the light, in particular, of market price trends, production, marketing and consumption of domestic and imported cheese.

In particular, if a substantial increase in imports of cheese into the Community and/or Austria is observed, particularly of cheeses not covered by this Arrangement, the two parties will hold consultations, at the request of either party, in order to examine whether the quantities laid down by this Arrangement may be changed.

5. This Arrangement may be cancelled by one year's notice in writing.

If recourse is had to this provision, each party will retain the rights it had before 1 September 1987.

6. This Agreement shall replace the Temporary Arrangement for a concerted discipline between the Republic of Austria and the European Economic Community concerning reciprocal trade in cheese, signed on 21 October 1981 and last amended by the Exchange of Letters of 20 March 1984.

*For the Government of the
Republic of Austria*

*On behalf of the Council
of the European Communities*

ANNEX

With a view to preventing the prices charged by exporters from being such as to create difficulties on the importing country's market, the following information and co-operation system is hereby set up:

Exchange of information

- (a) Austria will provide the Commission of the European Communities with the following information on each category of cheese covered by the Arrangement:
 - two weeks before the beginning of each quarter, prospective Austrian exports to the Community for the next quarter (anticipated quantities, free-at-Austrian-frontier prices, probable markets);
 - two weeks following the end of each quarter, actual Austrian exports to the Community during the past quarter (quantities and free-at-Austrian-frontier prices, importing Member States);
 - (b) The Commission of the European Communities will at regular intervals provide price quotations and any other useful information concerning the market in domestic and imported cheeses.
-

COUNCIL DECISION

of 23 July 1987

authorizing the United Kingdom to apply an optional measure derogating from Article 17 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes

(87/400/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Sixth Council Directive (77/388/EEC) of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment⁽¹⁾, hereafter referred to as the 'Sixth Directive', and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas, under the terms of Article 27 (1) of the Sixth Directive, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measures for derogation from the provisions of that Directive in order to simplify the procedure for charging the tax of to prevent certain types of tax evasion or avoidance;

Whereas the United Kingdom, by means of a letter to the Commission dated 17 March 1987 from its Permanent Representation to the Communities requested authorization to introduce a specific measure derogating from the provisions of paragraph 1 of Article 17 the Sixth Directive; whereas that measure, considered as a simplification measure, forms part of an optional system for enterprises having an annual turnover of less than 340 000 Ecus based on the third subparagraph of paragraph 2 of Article 10 of the Sixth Directive;

Whereas this request can be accepted subject to certain conditions;

Whereas the measure in question should be temporary in order to allow an evaluation after a certain period of application;

Whereas the authorization will run until 30 September 1990, with the Commission presenting before that date a report to the Council on the application of this authorization;

Whereas the Council will determine, on the basis of a proposal for a Decision submitted if appropriate by the Commission and accompanying the abovementioned report, whether to extend the authorization beyond that date;

Whereas the specific measure in question does not have a negative effect on the own resources of the European Communities accruing from VAT;

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from the provisions of paragraph 1 of Article 17 of the Sixth Directive, the United Kingdom shall be authorized, until 30 September 1990, to provide within an optional scheme that enterprises with an annual turnover of less than 340 000 Ecus, must postpone the right of deduction of tax until it has been paid to the supplier.

Article 2

On the basis of a report by the Commission on the application of the authorization cited, in Article 1, accompanied if appropriate by a proposal for a decision, the Council shall determine on the basis of that proposal, before 30 September 1990, whether the said authorization will be extended.

Article 3

This Decision is addressed to the United Kingdom.

Done at Brussels, 23 July 1987.

For the Council

The President

K. E. TYGESEN

⁽¹⁾ OJ No L 145, 13. 6. 1977, p. 1.