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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 3056/87

of 13 October 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 12 October 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 14 October 1987.

⁽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.

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

Done at Brussels, 13 October 1987.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX

to the Commission Regulation of 13 October 1987 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CCT heading No	Description	Levies	
		Portugal	Third country
10.01 B I	Common wheat, and meslin	—	182,88
10.01 B II	Durum wheat	41,18	243,52 ⁽¹⁾ ⁽²⁾
10.02	Rye	30,05	155,24 ⁽³⁾
10.03	Barley	17,51	181,63
10.04	Oats	82,52	135,08
10.05 B	Maize, other than hybrid maize for sowing	—	166,09 ⁽²⁾ ⁽³⁾ ⁽⁴⁾
10.07 A	Buckwheat	17,51	105,03
10.07 B	Millet	17,51	114,14 ⁽⁴⁾
10.07 C II	Grain sorghum, other than hybrid sorghum for sowing	17,89	170,40 ⁽⁴⁾ ⁽⁵⁾
10.07 D I	Triticale	⁽⁷⁾	⁽⁷⁾
10.07 D II	Canary seed ; other cereals	17,51	37,39 ⁽³⁾
11.01 A	Wheat or meslin flour	3,32	270,44
11.01 B	Rye flour	55,73	231,00
11.02 A I a)	Durum wheat groats and meal	77,08	390,66
11.02 A I b)	Common wheat groats and meal	2,86	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 3057/87

of 13 October 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 12 October 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 coming from third countries shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 14 October 1987.

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

Done at Brussels, 13 October 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 13 October 1987 fixing the premiums to be added to the import levies on cereals, flour and malt from third countries

A. Cereals and flour

(ECU/tonne)

CCT heading No	Description	Current 10	1st period 11	2nd period 12	3rd period 1
10.01 B I	Common wheat, and meslin	0	8,52	8,52	8,65
10.01 B II	Durum wheat	0	0	0	0
10.02	Rye	0	0	0	0
10.03	Barley	0	0	0	0
10.04	Oats	0	0	0	0
10.05 B	Maize, other than hybrid maize for sowing	0	0	0	0
10.07 A	Buckwheat	0	0	0	0
10.07 B	Millet	0	8,56	8,57	8,65
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	11,93	11,93	11,93

B. Malt

(ECU/tonne)

CCT heading No	Description	Current 10	1st period 11	2nd period 12	3rd period 1	4th period 2
11.07 A I a)	Unroasted malt, obtained from wheat, in the form of flour	0	15,17	15,17	15,40	15,40
11.07 A I b)	Unroasted malt, obtained from wheat, other than in the form of flour	0	11,33	11,33	11,50	11,50
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 3058/87

of 13 October 1987

opening and providing for the administration of a Community tariff quota for strawberries falling within subheading ex 08.08 A II of the Common Customs Tariff and originating in the African, Caribbean and Pacific States or the overseas countries and territories (1987/88)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 486/85 of 26 February 1985 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States or the overseas countries and territories⁽¹⁾, as last amended by Regulation (EEC) No 1821/87⁽²⁾, and in particular Articles 13 and 22 thereof,

Whereas Article 13 of Regulation (EEC) No 486/85 provides for the opening by the Community of a Community tariff quota of 1 100 tonnes of strawberries falling within subheading ex 08.08 A II of the Common Customs Tariff and originating in the countries in question; whereas the quota period runs from 1 November to 29 February; whereas the customs duty applicable within the limit of this quota is set at 5,6 %; whereas this Community tariff quota should be opened for the period 1 November 1987 to 29 February 1988;

Whereas by virtue of the provisions of Council Regulation (EEC) No 1820/87 of 25 June 1987 concerning the application of Decision No 2/87 of the ACP-EEC Council of Ministers on the advance implementation of the Protocol to the Third ACP-EEC Convention consequent on the Accession of the Kingdom of Spain and the Portuguese Republic to the European Community⁽³⁾, Spain and Portugal shall postpone implementation of the preferential arrangements for fruit and vegetables covered by Regulation (EEC) No 1035/72⁽⁴⁾, as last amended by Regulation (EEC) No 2275/87⁽⁵⁾ until 31 December 1989 and 31 December 1990 respectively; whereas, consequently, the abovementioned tariff concession is not currently applicable in Spain or Portugal;

Whereas it is possible that during the period of validity of the quota the nomenclature used in the Common Customs Tariff will be replaced by the Combined Nomenclature based on the International Convention on

the Harmonized Commodity Description and Coding System; whereas this Regulation must take account of that possibility by indicating the Combined Nomenclature codes and, where appropriate, the TARIC code numbers of the products in question;

Whereas equal and continuous access to the quota should be ensured for all Community importers and the rates laid down for the quota should be applied consistently to all imports of the products in question into all the Member States until the quota is exhausted; whereas, however, since the period of application of the quota is very short, it should not be allocated among the Member States, without prejudice to the drawing against the quota volume of such quantities as they may need, under the conditions and in accordance with the procedure determined in Article 1 (2); whereas this method of administration requires close cooperation between the Member States and the Commission and the latter must in particular be able to monitor the rate at which the quota is used and inform the Member States accordingly;

Whereas since the Kingdom of Belgium, the Kingdom of the Netherlands and the Grand Duchy of Luxembourg are united within and jointly represented by the Benelux Economic Union, any operation concerning the administration of the quota shares allocated to that economic union may be carried out by any one of its members;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 November 1987 to 29 February 1988 the customs duty applicable to imports into the Community as constituted on 31 December 1985 of the following products shall be suspended at the level indicated and within the limits of a Community tariff quota as shown below⁽⁶⁾:

⁽¹⁾ OJ No L 61, 1. 3. 1985, p. 4.

⁽²⁾ OJ No L 172, 30. 6. 1987, p. 102.

⁽³⁾ OJ No L 172, 30. 6. 1987, p. 1.

⁽⁴⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽⁵⁾ OJ No L 209, 31. 7. 1987, p. 4.

⁽⁶⁾ The numbers appearing in the column headed 'Combined Nomenclature Code' will replace those appearing in the column headed 'CCT No' from the date on which the International Convention on the Harmonized Commodity Description and Coding System enters into force.

Serial No	CCT heading No	Combined Nomenclature No	Description	Amount of tariff quota (tonnes)	Rate of duty (%)
09.0602	ex 08.08 A II	ex 0810 10 90	Strawberries, originating in the African, Caribbean and Pacific States and the overseas countries and territories	1 100	5,6

2. If an importer gives notification of imminent imports of the product in question into a Member State and applies to take advantage of the quota, the Member State concerned shall inform the Commission and draw an amount corresponding to its requirements to the extent that the available balance of the reserve so permits.

3. The shares drawn pursuant to paragraph 2 shall be valid until the end of the quota period.

Article 2

1. Member States shall take all appropriate measures to ensure that their drawings pursuant to Article 1 (2) enable imports to be charged without interruption against their accumulated shares of the quota.

2. Each Member State shall ensure that importers of the product concerned have free access to the quota for such time as the residual balance of the quota volume so permits.

3. Member States shall charge imports of the said goods against their drawings as and when the goods are entered with the customs authorities for free circulation.

4. The extent to which the quota has been used up shall be determined on the basis of the imports charged in accordance with paragraph 3.

Article 3

At the request of the Commission, Member States shall inform it of imports actually charged against the quota.

Article 4

The Member States and the Commission shall cooperate closely to ensure that this Regulation is complied with.

Article 5

This Regulation shall enter into force on 1 November 1987.

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

Done at Brussels, 13 October 1987.

For the Commission

COCKFIELD

Vice-President

COMMISSION REGULATION (EEC) No 3059/87

of 13 October 1987

opening and providing for the administration of a Community tariff quota for fresh or chilled tomatoes falling within subheading ex 07.01 M I of the Common Customs Tariff and originating in the African, Caribbean and Pacific States or the overseas countries and territories (1987/88)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 486/85 of 26 February 1985 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States or the overseas countries and territories ⁽¹⁾, as last amended by Regulation (EEC) No 1821/87 ⁽²⁾, and in particular Articles 13 and 22 thereof,

Whereas Article 13 of Regulation (EEC) No 486/85 provides for the opening by the Community of a Community tariff quota of 2 000 tonnes of fresh or chilled tomatoes falling within subheading ex 07.01 M I of the Common Customs Tariff and originating in the countries in question; whereas the quota period runs from 15 November to 30 April; whereas the customs duty applicable within the limit of this quota is set at 4,4 %, subject to a minimum of 0,8 ECU per 100 kilograms net weight; whereas this Community tariff quota should be opened for the period 15 November 1987 to 30 April 1988;

Whereas by virtue of the provisions of Council Regulation (EEC) No 1820/87 of 25 June 1987 concerning the application of Decision No 2/87 of the ACP-EEC Council of Ministers on the advance implementation of the Protocol to the third ACP-EEC Convention consequent on the Accession of the Kingdom of Spain and the Portuguese Republic to the European Community ⁽³⁾, Spain and Portugal shall postpone implementation of the preferential arrangements for fruit and vegetables covered by Regulation (EEC) No 1035/72 ⁽⁴⁾, as last amended by Regulation (EEC) No 2275/87 ⁽⁵⁾, until 31 December 1989 and 31 December 1990 respectively; whereas, consequently, the abovementioned tariff concession is not currently applicable in Spain or Portugal;

Whereas it is possible that during the period of validity of the quota the nomenclature used in the Common Customs Tariff will be replaced by the Combined

Nomenclature based on the International Convention on the Harmonized Commodity Description and Coding System; whereas this proposal must take account of that possibility by indicating the Combined Nomenclature codes and, where appropriate, the TARIC code numbers of the products concerned;

Whereas equal and continuous access to the quota should be ensured for all Community importers and the rates laid down for the quota should be applied consistently to all imports of the products in question into the Member States until the quota is exhausted; whereas, however, since the period of application of the quota is very short, it should not be allocated among the Member States, without prejudice to the drawing against the quota volume of such quantities as they may need, under the conditions and in accordance with the procedure determined in Article 1 (2); whereas this method of administration required close cooperation between the Member States and the Commission and the latter must in particular be able to monitor the rate at which the quota is used and inform the Member States accordingly;

Whereas since the Kingdom of Belgium, the Kingdom of the Netherlands and the Grand Duchy of Luxembourg are united within and jointly represented by the Benelux Economic Union, any operation concerning the administration of the quota shares allocated to that economic union may be carried out by any one of its members;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. From 15 November 1987 to 30 April 1988 the customs duty applicable to imports into the Community as constituted on 31 December 1985 of the following products shall be suspended at the level indicated and within the limits of a Community tariff quotas as shown below ⁽⁶⁾:

⁽¹⁾ OJ No L 61, 1. 3. 1985, p. 4.

⁽²⁾ OJ No L 172, 30. 6. 1987, p. 102.

⁽³⁾ OJ No L 172, 30. 6. 1987, p. 1.

⁽⁴⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽⁵⁾ OJ No L 209, 31. 7. 1987, p. 4.

⁽⁶⁾ The numbers appearing in the column headed 'Combined Nomenclature Code' will replace those appearing in the column headed 'CCT No' from the date on which the International Convention on the Harmonized Commodity Description and Coding Systems enters into force.

Serial No	CCT heading No	Combined Nomenclature No	Description	Amount of tariff quota (tonnes)	Rate of duty (%)
09.0600	ex 07.01 M I	ex 0702 00 10	Fresh or chilled tomatoes, originating in the African, Caribbean and Pacific States or the overseas countries and territories	2 000	4,4 subject to a minimum of 0,8 ECU per 100 kg net

2. If an importer gives notification of imminent imports of the product in question into a Member State and applies to take advantage of the quota, the Member State concerned shall inform the Commission and draw an amount corresponding to its requirements to the extent that the available balance of the reserve so permits.

3. The shares drawn pursuant to paragraph 2 shall be valid until the end of the quota period.

Article 2

1. Member States shall take all appropriate measures to ensure that their drawings pursuant to Article 1 (2) enable imports to be charged without interruption against their accumulated shares of the quota.

2. Each Member State shall ensure that importers of the product concerned have free access to the quota for such time as the residual balance of the quota volume so permits.

3. Member States shall charge imports of the said goods against their drawings as and when the goods are entered with the customs authorities for free circulation.

4. The extent to which the quota has been used up shall be determined on the basis of the imports charged in accordance with paragraph 3.

Article 3

At the request of the Commission, Member States shall inform it of imports actually charged against the quota.

Article 4

The Member States and the Commission shall cooperate closely to ensure that this Regulation is complied with.

Article 5

This Regulation shall enter into force on 15 November 1987.

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

Done at Brussels, 13 October 1987.

For the Commission

COCKFIELD

Vice-President

COMMISSION REGULATION (EEC) No 3060/87

of 13 October 1987

fixing the amounts of the production levies in the sugar sector for the 1986/1987 marketing year

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EEC) No 229/87⁽²⁾, and in particular Article 28 (7) thereof,

Whereas Article 7 (1) of Commission Regulation (EEC) No 1443/82 of 8 June 1982 laying down detailed rules for the application of the quota system in the sugar sector⁽³⁾, as last amended by Regulation (EEC) No 3819/85⁽⁴⁾, provides that the basic production levy and the B levy on sugar and isoglucose shall be fixed before 15 October in respect of the preceding marketing year;

Whereas Council Regulation (EEC) No 1987/86⁽⁵⁾ increased, for the 1986/87 marketing year, the maximum amount referred to in the first indent of the second subparagraph of Article 28 (4) of Regulation (EEC) No 1785/81 to 37,5 % of the intervention price for white sugar;

Whereas the estimated total loss recorded in accordance with Article 28 (1) and (2) of Regulation (EEC) No 1785/81 necessitates the retention, in respect of the amounts of the production levies applicable for the 1986/87 marketing year, of the maximum amounts referred to in Article 28 of the said Regulation adjusted, where applicable, by Regulation (EEC) No 1987/86;

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

HAS ADOPTED THIS REGULATION:

Article 1

The amounts of the production levies in the sugar sector for the 1986/87 marketing year are hereby fixed as follows:

- (a) 1,0836 ECU per 100 kilograms of white sugar as the basic production levy on A sugar and B sugar;
- (b) 20,3175 ECU per 100 kilograms of white sugar as the B levy on B sugar;
- (c) 0,4528 ECU per 100 kilograms of dry matter as the basic production levy on A isoglucose and B isoglucose;
- (d) 8,5252 ECU per 100 kilograms of dry matter as the B levy on B isoglucose.

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, 13 October 1987.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 25, 28. 1. 1987, p. 1.

⁽³⁾ OJ No L 158, 9. 6. 1982, p. 17.

⁽⁴⁾ OJ No L 368, 31. 12. 1985, p. 25.

⁽⁵⁾ OJ No L 171, 28. 6. 1986, p. 6.

COMMISSION REGULATION (EEC) No 3061/87

of 13 October 1987

fixing the coefficient for the calculation of the special elimination levy in the sugar sector for the 1986/87 marketing year

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

Having regard to Council Regulation (EEC) No 1914/87 of 2 July 1987 introducing a special elimination levy in the sugar sector for the 1986/87 marketing year⁽¹⁾, and in particular Article 1 (4) thereof,

Whereas Article 1 (2) of Regulation (EEC) No 1914/87 provides for the calculation of the special elimination levy applicable to the 1986/87 marketing year for each sugar-producing undertaking and for each isoglucose-producing undertaking by multiplying the amount owed by the undertaking as a production levy for the 1986/87 marketing year by a coefficient to be determined; whereas the relevant available data indicates the adoption of a coefficient of 0,38873;

Whereas the second subparagraph of Article 1 (2) of Regulation (EEC) No 1914/87 provides that the special elimination levy shall be paid before 15 December 1987, that is to say within the same period as the basic production levy and the B levy provided for in Article 7 (2) of Commission Regulation (EEC) No 1443/82 of 8 June 1982 laying down detailed rules for the application of the quota system in the sugar sector⁽²⁾, as last amended by Regulation (EEC) No 2682/84⁽³⁾; whereas to ensure that all Member States determine in good time the balance of the special elimination levy outstanding against each sugar-producing undertaking and each isoglucose-producing undertaking, it is appropriate to provide for a similar timetable to this effect;

Whereas the measure provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

Article 1

The coefficient provided for in Article 1 (3) of Regulation (EEC) No 1914/87 is hereby fixed at 0,38873.

Article 2

1. Member States shall collect the special elimination levy at the same time as the balance of the production levies provided for in Article 28 of Council Regulation (EEC) No 1785/81⁽⁴⁾.

2. For the collection referred to in paragraph 1, Member States shall draw up, for each sugar-producing undertaking and each isoglucose-producing undertaking, the statement of the balance outstanding within the meaning of Article 1 (2) of Regulation (EEC) No 1914/87, before 1 November 1987 for the 1986/87 marketing year.

Article 3

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

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

Done at Brussels, 13 October 1987.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 183, 3. 7. 1987, p. 5.

⁽²⁾ OJ No L 158, 9. 6. 1982, p. 17.

⁽³⁾ OJ No L 254, 22. 9. 1984, p. 9.

⁽⁴⁾ OJ No L 177, 1. 7. 1981, p. 4.

COMMISSION REGULATION (EEC) No 3062/87**of 13 October 1987****amending Regulation (EEC) No 2765/87 authorizing certain intervention agencies to put up for sale by tender 450 000 tonnes of common wheat for export in the form of flour**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EEC) No 1900/87 ⁽²⁾, and in particular Article 7 (5) thereof,Whereas Commission Regulation (EEC) No 2765/87 ⁽³⁾ authorizes the French and German intervention agencies to issue, between 15 September and 15 October 1987, invitations to tender for 450 000 tonnes of common wheat to traders who had, before 1 August, undertaken to export flour to third countries for delivery after that date ;

Whereas, under Regulation (EEC) No 2765/87, common wheat for which a tender is awarded must be milled into flour for human consumption and exported to third countries ; whereas there are sufficient grounds for allowing traders to take part in the invitation to tender who meanwhile, in line with the undertakings they gave before 1 August, have exported the products in question after obtaining their supplies on the Community market on exceptionally unfavourable terms ;

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

HAS ADOPTED THIS REGULATION :

Article 1

Article 2 of Regulation (EEC) No 2765/87 is replaced by the following :

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

Done at Brussels, 13 October 1987.

Article 2

1. The invitation to tender shall be open from 15 September to 15 October 1987.
2. Tenders shall not be valid unless :
 - (a) submitted by an operator designated before 1 August 1987 successful tenderer for a Community or national supply of flour as food aid ;
 - (b) submitted by an operator holding before 1 August 1987 an export licence, with advance fixing of the refund, for the same quantity as that for which the tender is made ;
 - (c) submitted by an operator who provides proof, to the satisfaction of the competent authorities, that he exported the product in question on or after 1 August onwards in respect of an export licence, with advance fixing of the refund, issued prior to that date ; the tender must in such cases be submitted for the same quantity as that which was exported ;
 - (d) accompanied by evidence that the tenderer has lodged a security of 10 ECU per tonne.

*Article 2*This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

It shall apply with effect from 15 September 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 266, 17. 9. 1987, p. 11.

COMMISSION REGULATION (EEC) No 3063/87

of 13 October 1987

authorizing the French intervention agency to put up for sale by tender 110 000 tonnes of common wheat for export as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 1900/87⁽²⁾, and in particular Article 7 (5) thereof,

Whereas Article 3 of Council Regulation (EEC) No 1581/86 of 23 May 1986 laying down general rules for the intervention on the market in cereals⁽³⁾, provides that the sale of cereals held by intervention agencies must be by invitation to tender;

Whereas Commission Regulation (EEC) No 1836/82⁽⁴⁾, as last amended by Regulation (EEC) No 2418/87⁽⁵⁾, lays down the procedure and conditions for the disposal of cereals held by intervention agencies;

Whereas in part of the Community the 1987 common wheat harvest has been affected by exceptional weather conditions that could not have been anticipated by operators who undertook before 1 August 1987 to export wheat as food aid; whereas these operators should be enabled to draw supplies from intervention stocks by means of a sale of these stocks by tender;

Whereas, to ensure that the operation is carried out smoothly, it should be stipulated that securities may be released only after completion of customs export formalities to avoid any disturbance of the market;

Whereas the member States are to take all additional measures compatible with the provisions in force to ensure that the scheme operates smoothly and that the Commission is kept informed;

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

HAS ADOPTED THIS REGULATION:

Article 1

The French intervention agency is hereby authorized to issue an invitation to tender for the sale on the Commu-

nity market of 110 000 tonnes of common wheat in accordance with Article 4 of Regulation (EEC) No 1836/82.

Article 2

1. The invitation to tender shall be open from 15 to 30 October 1987.
2. Tenders shall not be valid unless
 - (a) submitted by an operator designated between 1 June and 1 August 1987 successful tenderer for supply after 1 August 1987, of wheat as food aid;
 - (b) accompanied by evidence that the tenderer has lodged security of 10 ECU per tonne.

Article 3

1. The security referred to at (b) of Article 2 (3) shall be released:
 - for the quantities for which the tender has not been accepted, or
 - in all other cases, in accordance with Title V of Commission Regulation (EEC) No 2220/85⁽⁶⁾.
2. The primary requirement within the meaning of Article 20 of Regulation (EEC) No 2220/85 shall be payment of the selling price and export within the time limit laid down under the export licence.

Evidence to be furnished shall be that applicable for the security for the export licence issued following award of the contract.

Article 4

The intervention agencies concerned shall take all necessary steps to ensure compliance with the provisions of this Regulation. They shall provide each other with all necessary information and shall inform the Commission weekly, within the Management Committee for Cereals, of progress of the invitation to tender.

Article 5

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

It shall apply with effect from 15 October 1987.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 182, 3. 7. 1987, p. 40.

⁽³⁾ OJ No L 139, 24. 5. 1986, p. 36.

⁽⁴⁾ OJ No L 202, 9. 7. 1982, p. 23.

⁽⁵⁾ OJ No L 223, 11. 8. 1987, p. 5.

⁽⁶⁾ OJ No L 205, 3. 8. 1985, p. 5.

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

Done at Brussels, 13 October 1987.

For the Commission

Frans ANDRIESSEN

Vice-President

COMMISSION REGULATION (EEC) No 3064/87

of 13 October 1987

fixing the amount by which the variable component of the levy applicable to
bran and sharps originating in Algeria, Morocco and Tunisia must be reduced

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 1512/76
of 24 June 1976 concluding the Agreement in the form
of an exchange of letters relating to Article 22 of the
Cooperation Agreement and Article 15 of the Interim
Agreement between the European Economic Community
and the Republic of Tunisia and concerning the import
into the Community of bran and sharps originating in
Tunisia⁽¹⁾, and in particular the second subparagraph of
paragraph 3 of the exchange of letters,

Having regard to Council Regulation (EEC) No 1518/76
of 24 June 1976 concluding the Agreement in the form
of an exchange of letters relating to Article 21 of the
Cooperation Agreement and Article 14 of the Interim
Agreement between the European Economic Community
and the People's Democratic Republic of Algeria and
concerning the import into the Community of bran and
sharps originating in Algeria⁽²⁾, and in particular the
second subparagraph of paragraph 3 of the exchange of
letters,

Having regard to Council Regulation (EEC) No 1525/76
of 24 June 1976 concluding the Agreement in the form
of an exchange of letters relating to Article 23 of the
Cooperation Agreement and Article 16 of the Interim
Agreement between the European Economic Community
and the Kingdom of Morocco and concerning the import
into the Community of bran and sharps originating in

Morocco⁽³⁾, and in particular the second subparagraph of
paragraph 3 of the exchange of letters,

Whereas the Agreement in the form of an exchange of
letters annexed to Regulations (EEC) No 1512/76, (EEC)
No 1518/76 and (EEC) No 1525/76 provides that the
variable component of the levy calculated in accordance
with Article 2 of Council Regulation (EEC) No 1906/87
of 3 July 1987 on the import and export system for
products processed from cereals and from rice⁽⁴⁾ is to be
reduced by an amount fixed by the Commission each
quarter; whereas this amount must be equal to 60 % of
the average of the variable components of the levies in
force during the three months preceding the month
during which the amount is fixed;

Whereas the variable components applicable to the
products falling within subheading 23.02 A II of the
Common Customs Tariff during July, August and
September 1987 have been taken into consideration,

HAS ADOPTED THIS REGULATION:

Article 1

The amount referred to in the second subparagraph of
paragraph 3 of the exchange of letters forming the Agree-
ment annexed to Regulations (EEC) No 1512/76, (EEC)
No 1518/76 and (EEC) No 1525/76 to be deducted from
the variable component applicable to bran and sharps
originating in Tunisia, Algeria and Morocco respectively,
shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 November
1987.

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

Done at Brussels, 13 October 1987.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 169, 28. 6. 1976, p. 19.

⁽²⁾ OJ No L 169, 28. 6. 1976, p. 37.

⁽³⁾ OJ No L 169, 28. 6. 1976, p. 53.

⁽⁴⁾ OJ No L 182, 3. 7. 1987.

ANNEX

to the Commission Regulation of 13 October 1987 fixing the amount by which the variable component of the levy applicable to bran and sharps originating in Algeria, Morocco and Tunisia must be reduced

CCT heading No	ECU/tonne
23.02 A II a)	48,53
23.02 A II b)	99,89

COMMISSION REGULATION (EEC) No 3065/87

of 13 October 1987

fixing the amount by which the variable component of the levy applicable to
bran and sharps originating in Egypt must be reduced

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 1030/77 of 17 May 1977 concluding the Interim Agreement between the European Economic Community and the Arab Republic of Egypt⁽¹⁾, and in particular the second subparagraph of paragraph 3 of the exchange of letters relating to Article 13 of the Agreement,

Whereas the exchange of letters covered by Regulation (EEC) No 1030/77 provides that the variable component of the levy calculated in accordance with Article 2 of Council Regulation (EEC) No 1906/87 of 3 July 1987 on the import and export system for products processed from cereals and rice⁽²⁾ is to be reduced by an amount fixed by the Commission each quarter; whereas this amount must be equal to 60 % of the average of the levies in force during the three months preceding the month during which the amount is fixed;

Whereas the variable components applicable during July, August and September 1987 to the products falling within subheading 23.02 A of the Common Customs Tariff are to be taken into consideration,

HAS ADOPTED THIS REGULATION:

Article 1

The amounts referred to in the second subparagraph of paragraph 3 of the exchange of letters covered by Regulation (EEC) No 1030/77 to be deducted from the variable component applicable to bran and sharps originating in Egypt shall be as shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 November 1987.

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

Done at Brussels, 13 October 1987.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 126, 23. 5. 1977, p. 1.

⁽²⁾ OJ No L 182, 3. 7. 1987, p. 49.

ANNEX

CCT heading No	ECU/tonne
23.02 A I a)	48,53
23.02 A I b)	99,89
23.02 A II a)	48,53
23.02 A II b)	99,89

COMMISSION REGULATION (EEC) No 3066/87

of 13 October 1987

fixing the amount by which the levy on imports of rice from the Arab Republic of Egypt must be reduced

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 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EEC) No 1907/87 ⁽²⁾, and in particular Article 11 thereof,

Having regard to Council Regulation (EEC) No 1250/77 of 17 May 1977 on imports of rice from the Arab Republic of Egypt ⁽³⁾, and in particular Article 1 thereof,

Whereas Regulation (EEC) No 1250/77 provides that the levy calculated in accordance with Article 11 of Regulation (EEC) No 1907/87 is to be reduced by an amount to be fixed by the Commission each quarter; whereas this amount must be equal to 25 % of the average of the levies applied during a reference period;

Whereas, under Commission Regulation (EEC) No 2942/73 of 30 October 1973 laying down detailed rules

for the application of Regulation (EEC) No 2412/73 ⁽⁴⁾, as amended by Regulation (EEC) No 3817/85 ⁽⁵⁾, the reference period is to be the quarter preceding the month in which the amount is fixed;

Whereas the levies to be taken into consideration are therefore those applicable during July, August and September 1987,

HAS ADOPTED THIS REGULATION:

Article 1

The amount referred to in Article 1 of Regulation (EEC) No 1250/77 by which the levy on imports of rice originating in and coming from the Arab Republic of Egypt is to be reduced shall be as shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 November 1987.

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

Done at Brussels, 13 October 1987.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 166, 29. 6. 1976, p. 1.

⁽²⁾ OJ No L 182, 3. 7. 1987, p. 51.

⁽³⁾ OJ No L 146, 14. 6. 1977, p. 9.

⁽⁴⁾ OJ No L 302, 31. 10. 1973, p. 1.

⁽⁵⁾ OJ No L 368, 31. 12. 1985, p. 16.

ANNEX

to the Commission Regulation of 13 October 1987 fixing the amount by which the levy on imports of rice from the Arab Republic of Egypt must be reduced

CCT heading No	Description	(ECU/tonne) Amounts to be deducted
ex 10.06	Rice : B. Other : I. Paddy rice ; husked rice : a) Paddy rice : 1. Round grain 2. Long grain b) Husked rice : 1. Round grain 2. Long grain II. Semi-milled or wholly milled rice : a) Semi-milled rice : 1. Round grain 2. Long grain b) Wholly milled rice : 1. Round grain 2. Long grain III. Broken rice	87,03 89,00 108,79 111,25 134,55 160,65 143,30 172,22 50,40

COMMISSION REGULATION (EEC) No 3067/87

of 12 October 1987

concerning the stopping of fishing for cod by vessels flying the flag of Belgium

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

Having regard to Council Regulation (EEC) No 2241/87 of 23 July 1987 establishing certain control measures for fishing activities⁽¹⁾, and in particular Article 11 (3) thereof,

Whereas Council Regulation (EEC) No 4034/86 of 22 December 1986 fixing, for certain fish stocks and groups of fish stocks, total allowable catches for 1987 and certain conditions under which they may be fished⁽²⁾, as last amended by Regulation (EEC) No 1880/87⁽³⁾, provides for cod quotas for 1987;

Whereas, in order to ensure compliance with the provisions relating to the quantitative limitations on catches of stocks subject to quotas, it is necessary for the Commission to fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated;

Whereas, according to the information communicated to the Commission, catches of cod in the waters of ICES division III a, Skagerrak, by vessels flying the flag of

Belgium or registered in Belgium have reached the quota allocated for 1987,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of cod in the waters of ICES division III a, Skagerrak, by vessels flying the flag of Belgium or registered in Belgium are deemed to have exhausted the quota allocated to Belgium for 1987.

Fishing for cod in the waters of ICES division III a, Skagerrak, by vessels flying the flag of Belgium or registered in Belgium is prohibited, as well as the retention on board, the transshipment and the landing of such stock captured by the abovementioned vessels after the date of application of this Regulation.

Article 2

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

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

Done at Brussels, 12 October 1987.

For the Commission

António CARDOSO E CUNHA

Member of the Commission

⁽¹⁾ OJ No L 207, 29. 7. 1987, p. 1.

⁽²⁾ OJ No L 376, 31. 12. 1986, p. 39.

⁽³⁾ OJ No L 179, 3. 7. 1987, p. 4.

COMMISSION REGULATION (EEC) No 3068/87
of 13 October 1987
fixing the import levies on white sugar and raw sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

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

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 2054/87⁽³⁾, as last amended by Regulation (EEC) No 3025/87⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2054/87 to the infor-

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

HAS ADOPTED THIS REGULATION :

Article 1

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

Article 2

This Regulation shall enter into force on 14 October 1987.

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

Done at Brussels, 13 October 1987.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 25, 28. 1. 1987, p. 1.

⁽³⁾ OJ No L 192, 11. 7. 1987, p. 38.

⁽⁴⁾ OJ No L 286, 9. 10. 1987, p. 19.

ANNEX

to the Commission Regulation of 13 October 1987 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)		
CCT heading No	Description	Levy
17.01	Beet sugar and cane sugar, in solid form :	
	A. White sugar : flavoured or coloured sugar	52,10
	B. Raw sugar	43,64 ⁽¹⁾

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

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 25 March 1987

concerning aid granted by the French Government to two steel groups

(Only the French text is authentic)

(87/506/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the first paragraph of Article 93 (2) thereof;

Having given the parties concerned an opportunity to submit their comments, in accordance with Article 93 (2), and having regard to those comments:

Whereas:

I

By letter dated 30 September 1982 from its Permanent Representation, the French Government notified the Commission, under Article 8 (1) of Commission Decision No 2320/81/ECSC⁽¹⁾, of certain government funding of investment by two large steel groups.

Noting that almost 20 % of the funding was for businesses not coming within the ECSC Treaty, although no details were given, the Commission informed the French Government by letter of 26 November 1982 that the part of the funds to be provided for investment in these businesses would have to be considered under the EEC Treaty.

However, the French Government proceeded to provide the funds without notifying them under Article 93 (3) of

the EEC Treaty, so that the Commission was unable to assess beforehand whether the transfers were compatible with the EEC Treaty provisions on state aid.

Not having any details of the purposes of the funding which potentially distorted competition, the Commission decided to open the Article 93 (2) procedure against the transfers, which totalled FF 5 481 million. It gave the French Government notice by letter dated 20 December 1984 to submit its observations. The other Member States were invited to comment on 3 May 1985 and interested parties on 8 May 1985⁽²⁾.

By letter of 31 October 1985, supplemented by letter of 14 November 1985, the French Government let the Commission have 'further information' about the amount of additional funding intended for non-ECSC businesses of the two steel groups in the 1985 financial year. This additional funding, on top of the FF 5 481 million already covered by the Article 93 (2) procedure, came to FF 2 176 million.

As too little information had been supplied about the new funding to judge whether Article 92 (3) of the EEC Treaty was applicable, and the new transfers, which the French Government later confirmed by letter of 27 March 1986 had already taken place, were also likely to cause distortions of competition, the Commission decided to extend the Article 93 (2) procedure to them. By letter dated 28 January 1986 it therefore gave the French Government notice to submit its observations. The other Member States were invited to comment on 4 March 1986 and other interested parties on 1 March 1986⁽³⁾.

⁽¹⁾ OJ No L 228, 13. 8. 1981, p. 14.

⁽²⁾ OJ No C 114, 8. 5. 1985, p. 5.

⁽³⁾ OJ No C 47, 1. 3. 1986, p. 3.

After a preliminary scrutiny of the funding against which the Article 93 (2) procedure had been opened, the Commission found that FF 1 649 million had in fact been used for businesses coming under the ECSC Treaty, so that these sums fell to be considered under Decisions No 2320/81/ECSC and No 1018/85/ECSC⁽¹⁾.

After deduction of the abovementioned FF 1 649 million, the funding of Community subsidiaries of the steel groups remaining to be considered under the EEC procedure opened on 20 December 1984 and 28 January 1986 totals FF 6 008 million. This total comprises the following individual cases or groups of cases:

- Case No 1: Funding of a company in the steel construction sector of the engineering industry engaged in the design and manufacture of drilling platforms for the oil industry, and steel and aluminium façades, walls and curtain walls (FF 942 million),
- Case No 2: Funding of two wire-drawing businesses (FF 1 333 million),
- Case No 3: Funding of the acquisition of pipe- and tubemaking facilities by one of the steel groups (Case No 3.1 — FF 85 million), and funding of the operations of a tubemaking company (Case No 3.2 — FF 40 million) and a pipe and cold-rolled sections producer (Case No 3.3 — FF 126 million),
- Case No 4: Funding of the acquisition of a special steel stockholding and international trading company by one of the steel groups (FF 150 million) and of the losses of two steel stockholders and trading companies (FF 89 million and FF 54 million, respectively),
- Case No 5: Funding of a sheet-metalworking firm (FF 87 million),
- Case No 6: Funding of various operations involving sums of less than FF 50 million by the steel groups either to acquire or

increase their stakes in non-steel businesses or to cover the losses of such businesses, *viz*: special steels stockholding (FF 14 million); industrial fasteners (FF 3 million), railway wagons (FF 10 million); mechanical handling equipment (FF 15 million); pipes and tubes (FF 10 million); scrap-metal dealing (FF 30 million); machine tools (FF 18 million); primary processing (FF 36 million); sheet-metalworking and assembly (FF 20 million); engineering (FF 50 million); cold rolling (FF 35 million),

- Case No 7: Funding of a construction company involved in construction projects in non-Community countries (Case No 7.1 — FF 1 499 million) and of an engineering company (Case No 7.2 — FF 106 million),
- Case No 8: Funding of various forging and foundry businesses (FF 472 million),
- Case No 9: Funding of operations in connection with the acquisition of a company producing stainless steel and nickel and cobalt alloy rolled products, wire and forgings (FF 210 million),
- Case No 10: Funding of local industrial investment subsidiaries set up to attract new industry to steel areas (FF 574 million). This case will be dealt with in a separate decision.

All the above funding was provided without prior authorization by the Commission, in disregard of the French Government's obligations under Article 93 (3) of the EEC Treaty. The Commission therefore considered it to be illegal.

II

The French Government submitted its observations under the Article 93 (2) procedure by letters dated 24 April 1985 and 27 March 1986. It argued that, in providing funding in the form of new capital to the two state-owned steel groups to finance, directly or through subsidiaries, busi-

⁽¹⁾ OJ No L 110, 23. 4. 1985, p. 5.

nesses falling outside the ECSC steel sector, the state was merely fulfilling its responsibilities as shareholder. None of the funding had involved aid under Article 92 or was likely to affect the normal rules of competition within the Community. Indeed :

- part of it was to pay for financial investment by the state-owned steel groups in existing businesses and thus involved an investment of risk capital,
- another part was to enable the steel groups to discharge their responsibilities as parent companies to lossmaking subsidiaries. With this financing the subsidiaries had been able to undertake rationalization measures (especially in the wire-drawing sector); they had not used the funds to engage in unfair competition.

Moreover, some of the subsidiaries (engineering, construction) carried on business mainly outside the Community.

Three other Member States, two trade associations and one individual company also made representations to the Commission under the procedure.

III

The financial transfers under consideration here fall into two categories :

- those intended to fund acquisitions by the steel groups of various businesses not in particular difficulty outside their mainstream ECSC steel business, so extending the range of their activities.

In its notice to the Member States on government provisions of capital to companies ⁽⁹⁾, the Commission reiterated the principle that the investment of public dividend capital in companies in circumstances where such investment would not be forthcoming from private investors operating under normal market conditions was state aid. It added that this was the case where the financial position of the company, and particularly the structure and volume of its debt, was such as to preclude a normal return on the investment within a reasonable period of time or where, because of inadequate cash-flow, the company would be

unable to raise the funds required for an investment programme on the capital market.

In the present case, the steel groups which received government funding to acquire financially-sound Community businesses or to increase their stakes in such businesses were, at the time the funding was provided, in a financial position such that on the above criteria the funding must be considered aid,

- those (the majority) intended to keep lossmaking Community subsidiaries of the steel groups in business by writing off their losses or increasing their capital or, in one case, to rescue an independent company in distress by taking it into one of the steel groups; in these cases the Community companies were the ultimate beneficiaries of the funds.

The funding of such businesses with a long record of losses (see section IV) must also be considered aid for the same reasons, even where the funding took the form of recapitalization of the companies.

IV

With regard to Case 7.1 in section I (FF 1 499 million for a construction company), the funding was provided in connection with the winding-up of the company. The company had run up extremely heavy losses on major construction projects as a result of poor costing and inadequate risk assessment. The parent company therefore decided to wind it up. However, before this was done, the Government furnished it with the necessary funds to complete its current contracts. Being provided after the contracts had been entered into, the funding did not help the company to win the contracts in competition with other Community construction firms nor can it harm other Community construction firms in the future as the company is no longer trading.

Consequently, the funding in this case is not aid falling within Article 92 of the EEC Treaty. This is especially the case as the business of the company was carried on only in non-Community countries in an industry not in serious recession.

All the other companies in respect of which the government funding covered by this Decision was provided carry on business in the Community in industries in which there is significant intra-Community trade and hence competition. Moreover, all the industries are, in the Community, in varying degrees of difficulty.

⁽⁹⁾ Bulletin of the European Communities, 9/1984, point 3.5.1.

Their difficulties are due to falling Community consumption and a slowing in the growth of world demand for their products, and in some cases also to increasing import penetration of the Community market by third countries. As a result, overcapacity has grown up in the industries, depressing prices and squeezing margins, and preventing modernization.

The situation is especially marked in the wire-drawing sector. Between 1974 and 1984 production of simple drawn wire in the Community's main producing countries (Germany, France, the United Kingdom and Belgium) declined by almost 25 % (from 5,3 million to 4 million tonnes). Notwithstanding some stabilization of output levels in 1984/85 and the increasing specialization of producers in higher value-added products, the industry is still dogged with problems and has recently lost competitiveness, causing a rise in imports much greater than the increase in exports (28 % and 7,7 %, respectively, over the period 1980 to 1985).

Similarly, the steel construction sector of the engineering industry, over half of whose output used to be exported outside the Community until 1970 to 1973, has since been affected in turn by a fall in Community demand, the collapse of Middle Eastern markets, and competition from third countries (especially Japan and Korea) on other markets.

As a result, the exports from this sector in the Community fell by 27 % between 1981 and 1984 (from 1,6 million to 1,1 million tonnes). This was reflected in a drop in production by the three main producing countries (Germany, the United Kingdom and France), from almost 4,8 million tonnes in 1979/80 to 3,8 million tonnes in 1985, putting most firms in an extremely precarious position.

Furthermore, there is substantial intra-Community trade both in wire products and in the products of the forging, foundry and steel construction sectors. In 1984, for example, nearly 700 000 tonnes, or 17,5 % of the 4 million tonnes of wire products made in the Community in that year was traded between Member States. Homogeneous statistics are more difficult to obtain for the steel construction sector because of the diversity of the products involved. Nevertheless, here too there is considerable

intra-Community trade, though the level varies with the type of product.

As a result, there is also fierce competition among Community firms operating in the sectors. This means that any support given to one firm in a given sector is bound to affect the competitive position of the other firms. Considering the state of the market for the various products, it is even possible that the support of the firm will cause other Community firms to go out of business or to close part of their business.

In the present case, the government support of the various companies, with the sole purpose of reconstituting their working capital after absorbing losses, was running in most cases at 10 to 20 % of turnover over the relevant period (1982 to 1985).

By reducing the costs normally faced by the firms, the support accordingly conferred a specific financial benefit on them which distorted or threatened to distort competition between Member States, contrary to Article 92 (1) of the EEC Treaty.

V

Article 92 (1) of the EEC Treaty provides that aid having the above features is in principle incompatible with the common market.

The exceptions provided for in Article 92 (2) are inapplicable in the present case, in view of the nature and purpose of the aid.

The exceptions provided for in Article 92 (3) are available only after consideration of the case in a Community context, and not just in that of a single Member State. In order to maintain a properly operating common market and uphold the principles enshrined in Article 3 (f) of the EEC Treaty, it is also essential to interpret the Article 92 (3) exceptions restrictively in relation to any particular aid scheme or individual aid award.

In particular, the exceptions may only be invoked when the Commission is satisfied that the activity for which it is proposed to grant the aid serves one of the objectives specified in the exception clauses and that the aid is necessary to cause the aid recipient to undertake that activity.

To invoke the exceptions in cases where the aided activity does not serve one of the objectives, or where the aid is at any rate not necessary for it to be undertaken, would be to allow Member States to give their industries or firms undue pecuniary advantages which would artificially strengthen their financial position, affect trade between Member States and distort competition, without any justification on the grounds of the wider Community interest as is required by Article 92 (3).

In the light of the foregoing, the aid here in question does not qualify for any of the exceptions provided for in Article 92 (3). With regard to the exception provided for in subparagraph (a) of Article 92 (3), which is available for 'aid which promotes the economic development of areas where the standard of living is abnormally low or where there is serious underemployment', it is true that the businesses which received the aid are direct users of the products of the steel industry and some are located near steel plants in areas that have suffered large-scale redundancies in the steel industry.

Nevertheless, the areas do not have an abnormally low standard of living or serious underemployment, within the meaning of subparagraph (a) of Article 92 (3).

As to the exception provided for in subparagraph (b) of Article 92 (3), it is clear that the aid was not to promote the execution of a project of common European interest or to remedy a serious disturbance in the economy of a Member State.

The exception provided for in subparagraph (c) of Article 92 (3) is available for 'aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest'. As none of the aid concerned by this Decision was granted under regional aid schemes, and the French Government has not attempted to justify it on regional policy grounds, only the possible exception for 'aid to develop certain economic activities' needs to be considered. Taking first the FF 942 million of funding provided to the company in the steel construction sector of the engineering industry (Case No 1 in the list in section I), this support

allowed the company to continue a heavily lossmaking business which without this funding would have had to be closed down. The company specialized in metal goods for industrial investment and in drilling platforms and other metal modules for the offshore oil industry. The sharp fall in demand from this sector and later than industrial investment caused the company's turnover to collapse from close on FF 2 500 million in 1982 to under FF 900 million in 1985, leaving its plant vastly underutilized, as is clear from the information furnished by the French Government.

The deterioration in the company's profitability was equally dramatic, with losses (not including redundancy costs) rising to 30 % of turnover. In 1986, however, even after shedding a large number of employees, with the market further deteriorating the company had no alternative but to close down its offshore division.

The other divisions, which now employ 430 (excluding management), compared with the company's total workforce of 1 350 in 1985, have been restructured and are expected to have made a profit in 1986.

It emerges that the aid received by the company was used to cover the losses of the offshore business and so put off its closure until 1986. Such an artificial preservation of capacity in a depressed industry clearly affects trading conditions to an extent contrary to the common interest.

Consequently, the aid in this case is ineligible for application of the exception provided for in Article 92 (3) (c).

The FF 1 333 million of aid granted to two wire-drawing groups (Case No 2 in the list in section I) also kept going two heavily lossmaking businesses.

Despite some reduction in capacity and substantial cuts in their workforce, the groups do not seem, from the information supplied to the Commission, to have undertaken restructuring programmes that give them a chance of becoming profitable again in the foreseeable future and which might thus justify the vast amounts of aid provided. In fact, a major effect of the aid was probably to delay the more drastic rationalization required if the businesses were to survive. Without such rationalization to help turn the businesses round and contribute towards the rationalization of the Community industry as a whole, there can be no justification from the Community's point of view for the adverse effect on trading caused by the aid.

The aid in this case, too, is therefore ineligible for application of the exception provided for in Article 92 (3) (c).

The aid in Case No 3 in the list in section I, totalling FF 251 million, was provided partly to support a tube producer and a producer of welded pipe and cold-rolled sections (FF 40 million and FF 126 million, respectively), and partly to finance the acquisition of two pipe businesses by the steel group (FF 85 million).

The effect of the operations was thus in part to prop up lossmaking businesses and in part to increase the vertical integration of the French pipe and tube industry.

Although some efforts have apparently been made to reduce the operating losses of the companies, the aid was not provided as part of a thorough rationalization programme capable of turning the businesses round and helping to shake out some of the excess capacity hanging over the European pipes and tubes market. The French Government has said such additional measures were planned, but has not been able to give any details of actual decisions.

Consequently, on the facts known to the Commission, the aid in this case also is ineligible for the exception provided for in Article 92 (3) (c).

The aid in Case No 4 in the list in section I, totalling FF 293 million, was provided partly to cover the losses and reconstitute the working capital of two steel stockholding and trading businesses (FF 89 million and 54 million, respectively), and partly to pay for the acquisition of a special-steels stockholding and trading company (FF 150 million). The operations thus enabled the parent groups to maintain and extend, respectively, their presence in the steel stockholding sector.

However, they do not appear from the information the French Government has supplied to have been accompanied by any rationalization such as might have allowed the public funding for them to be regarded as in the Community interest and hence eligible for application of the exception provided for in Article 92 (3) (c).

Consequently, the aid is ineligible for application of this exception.

The aid of FF 87 million to a sheet metalworking firm (Case No 5 in the list in section I), equivalent to 11 to

12 % of its annual turnover, was not accompanied by commensurate rationalization measures. The French Government has failed to submit any rationalization programme that might justify the aid under Article 92 (3) (c).

The aid in this case, too, is therefore ineligible for the exception.

The same is true, finally, of the various amounts of public funding ranging from FF 3 million to FF 50 million, and totalling FF 241 million, provided to 11 primary processing and engineering firms (Case No 6 in the list in section I), as, from the information the Commission has received on these operations, it does not appear that any rationalization is being undertaken, apart from workforce reductions, which seem unlikely by themselves to turn the businesses round.

Hence, this aid, too, is ineligible for the exception provided for in Article 92 (3) (c).

It is concluded that all the aid referred to in this section, totalling FF 3 147 million, is ineligible for application of Article 92 (2) or (3) of the EEC Treaty. The aid was moreover granted unlawfully by the French Government in breach of its obligations under Article 93 (3) of the EEC Treaty.

The aid should therefore be withdrawn and recovered.

VI

The aid (Case No 7.2 in the list in section I) to an engineering company which has a turnover of FF 150 million a year and was formerly in the same group as the construction company referred to in Case No 7.1 accompanied a rationalization of the business which had for many years been losing money. As a result of the rationalization, during which the workforce was cut from 612 in 1982 to 340 in 1986 and part of the production of a factory closed down in 1986 was transferred to the remaining facilities, significantly improving their capacity utilization, the company was able to report a profit in 1986.

Consequently, the aid, although on a large scale, has contributed, chiefly by removing excess capacity, to a rationalization and hence development of the industry, and is therefore eligible for application of the exception provided for in Articles 92 (3) (c).

The aid of FF 472 million provided for forging and foundry businesses (Case No 8 in the list in section I) was mainly intended to cover losses and reconstitute working capital. The firms have a turnover of about FF 1 500 million. In the face of a depressed market, the French foundry industry has embarked on a rationalization programme which has already reduced the capacity of the industry (from 270 000 tonnes in 1983 to about 200 000 tonnes in 1985) and has made the remaining facilities more specialized.

As a result, operating rates in the industry have risen (from 57 % in 1983 to 70 % in 1985) and the losses of the businesses concerned here have been cut from FF 250 million in 1984 to an estimated FF 25 million, or 0,7 % of their turnover, in 1986.

The aid in this case has thus facilitated the restructuring and hence development of the industry, which is now on the way to recovery.

It is therefore eligible for application of the exception provided for in Article 92 (3) (c).

Finally, the aid in Case No 9 in the list in section I (FF 210 million) was granted to restore the finances of a company making stainless steel and nickel and cobalt alloy rolled products, wire and forgings, after the company had been taken over by one of the steel groups.

The operation was accompanied by major restructuring of the company involving specialization in profitable segments of the market in which supply did not exceed demand (supplying materials for the aerospace and electronics industries) and a reduction of the workforce by 600 in two years (from 3 543 initially).

This restructuring undertaken with the help of the aid is of sufficient benefit to the Community to justify application of the exception provided for in Article 92 (3) (c).

Hence, the aid totalling FF 788 million granted in the cases dealt with in this section is eligible for the exception of Article 92 (3) (c) of the EEC Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The aid totalling FF 3 147 million listed under Cases 1, 2, 3, 4, 5 and 6 in section I, which was provided in breach of Article 93 (3) of the EEC Treaty to two French steel groups for certain non-steel subsidiaries, was granted unlawfully. The aid is also incompatible with the common market under Article 92 of the EEC Treaty.

The French Republic shall withdraw and recover this aid.

Article 2

The French Republic shall inform the Commission, within two months of the date of notification of this Decision, of the measures it has taken to comply therewith.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 25 March 1987.

For the Commission

Peter SUTHERLAND

Member of the Commission

COMMISSION DECISION

of 28 September 1987

on the sale of olive oil residues held by the Portuguese intervention agency

(Only the Portuguese text is authentic)

(87/507/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 1915/87⁽²⁾, and in particular Article 12 thereof,

Whereas Article 2 of Council Regulation (EEC) No 2754/78⁽³⁾ provides that olive oil held by the intervention agencies shall be put up for sale by tender except when particular conditions necessitate recourse to other procedures;

Whereas, during the marketing years from 1985/1986 to 1986/1987, approximately 4 500 tonnes of olive oil of all qualities held by the Portuguese intervention agency were sold by tender; whereas following these sales the intervention agency still holds in stock a quantity of vat bottom residues; whereas these residues contain a considerable percentage of oil; whereas correct management of the intervention agency's purchases of olive oil requires that these residues should therefore be sold;

Whereas, for commercial reasons based chiefly on the fact that there is no well-defined market or price system for the product in question, it is not advisable to use the sale by tender procedure previously adopted for the olive oil; whereas the intervention agency should therefore sell the product for the best price it can obtain;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Management Committee for Oils and Fats,

HAS ADOPTED THIS DECISION:

Article 1

1. The Portuguese intervention agency, Instituto Regulador e Orientador de Mercados Agrícolas, hereinafter called IROMA, shall sell for the best price it can obtain, all vat bottom residues which it is holding as a result of its purchases on the olive oil market until the 1986/1987 marketing year.

2. The notice of sale shall be displayed by IROMA at its head office at 1, Rua Padre António Vieira, Lisbon, Portugal, for at least 10 days before the date set for the sale.

3. Sale of the product referred to in paragraph 1 shall be effected before 31 October 1987. Delivery of the product sold must take place before 31 December 1987.

IROMA shall inform the Commission as soon as possible of the outcome of the sale.

Article 2

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 28 September 1987.

For the Commission

Frans ANDRIESEN

Vice-President

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

⁽²⁾ OJ No L 183, 3. 7. 1987, p. 7.

⁽³⁾ OJ No L 331, 28. 11. 1978, p. 13.