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I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EEC) No 3730/87
of 10 December 1987**

laying down the general rules for the supply of food from intervention stocks to designated organizations for distribution to the most deprived persons in the Community

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament⁽¹⁾,

Whereas in the wake of the exceptionally cold winter of 1986/1987 the Community applied, during several months in 1987, measures involving the supply of various foods to charitable organizations for distribution to the most deprived persons in the Community;

Whereas reports from the Member States and from various of the charitable organizations involved in these measures show that they were of considerable value to the beneficiaries, but also that they give rise to financial and distributive difficulties for several of the organizations in question;

Whereas the Community has through its intervention stocks of various agricultural products the potential means to make a significant contribution towards the well-being of its most deprived citizens; whereas it is in the Community interest, and in line with the objectives of the common agricultural policy, to exploit this potential on a durable basis until the stocks have been run down to a normal level by introducing appropriate measures; whereas experience gained from the application of the measures referred to above should help in the organization of any subsequent action of a similar nature; whereas it is appropriate to consolidate in one text the legal basis for the implementation of such measures,

HAS ADOPTED THIS REGULATION:

Article 1

Provisions shall be made for goods which are in intervention stocks to be made available to certain designated organizations to enable food to be distributed to the most

deprived persons in the Community. Such persons shall receive the food free of charge or at a price which in no case is greater than that justified by the costs incurred by the designated organizations in implementing the action. The distribution shall be made in accordance with an annual plan established by the Commission on the basis of the information supplied by the Member States.

Article 2

1. The organizations referred to in Article 1 shall be designated by the Member State concerned.
2. Those Member States wishing to apply this scheme shall notify the Commission in due time each year.

Article 3

Goods referred to in Article 1 shall be released free of charge to the designated organizations. The accounting value of such goods shall be the intervention price, adjusted by coefficients where necessary to take account of quality differences.

Article 4

Subject to the detailed rules of application referred to in Article 6, the expenditure arising from operations applied in conformity with this Regulation is to be considered as forming part of the expenditure to stabilize agricultural markets as provided for in Article 1 (2) (b) of Regulation (EEC) No 729/70⁽²⁾. Thus, the goods made available under the provisions of Article 1 of this Regulation shall be financed by appropriations in the relevant budgetary heading within the European Agricultural Guidance and Guarantee Fund, Guarantee Section, of the budget of the European Communities. Provision may also be made for this financing to contribute towards the costs of transport of produce from intervention centres and for administrative costs for the designated organizations generated by the implementation of this scheme, excluding any costs which may be borne by the beneficiaries within the framework of the application of Article 1.

⁽¹⁾ OJ No C 318, 30. 11. 1987.

⁽²⁾ OJ No L 94, 28. 4. 1970, p. 14.

Article 5

The Commission shall submit to the European Parliament and to the Council a report on the operation of this scheme as soon as possible after information on its first two years of operation is available.

Article 6

The detailed rules of application of this Regulation shall be adopted in accordance with the procedure provided for in Article 26 of Regulation (EEC) No 2727/75 ⁽¹⁾ and with

the corresponding provisions of the other Regulations setting up a common organization of the market for agricultural products.

Article 7

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, 10 December 1987.

For the Council

The President

L. TØRNÆS

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

COUNCIL REGULATION (EEC) No 3731/87**of 10 December 1987****fixing for the 1988/89 milk year the guideline figure for the fat content of standardized whole milk imported into Ireland and the United Kingdom**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1411/71 of 29 June 1971 laying down additional rules on the common organization of the market in milk and milk products falling within heading No 04.01 of the Common Customs Tariff⁽¹⁾, as last amended by Regulation (EEC) No 566/76⁽²⁾, and in particular Article 3 (6) (b) thereof,

Having regard to the proposal from the Commission,

Whereas, pursuant to Article 3 (5) of Regulation (EEC) No 1411/71, Ireland and the United Kingdom apply within their territories the formula of non-standardized whole milk within the meaning of the second indent of Article 3 (1) (b) of that Regulation;

Whereas, pursuant to Article 3 (6) and (7), a guideline figure must be fixed for the 1988/89 milk year for the fat which standardized whole milk coming from another Member State must contain to be able to be marketed within the territories of the two abovementioned Member

States; whereas this guideline figure must be the weighted average fat content of the whole milk produced and marketed in the importing Member State during the previous year,

HAS ADOPTED THIS REGULATION:

Article 1

For the 1988/89 milk year, the guideline figure referred to in Article 3 (6) (b) of Regulation (EEC) No 1411/71 shall be:

- 3,60 % for Ireland,
- 3,90 for the United Kingdom.

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, 10 December 1987.

For the Council

The President

L. TØRNÆS

⁽¹⁾ OJ No L 148, 3. 7. 1971, p. 4.

⁽²⁾ OJ No L 67, 15. 3. 1976, p. 23.

COUNCIL REGULATION (EEC) No 3732/87

of 10 December 1987

setting for the 1987/88 marketing year the percentages mentioned in Article 3 (1a) of Regulation (EEC) No 426/86 in connection with aid for products processed from tomatoes

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 426/86 of 24 February 1986 on the common organization of the market in products processed from fruit and vegetables ⁽¹⁾, as last amended by Regulation (EEC) No 1928/87 ⁽²⁾, and in particular Article 3 (3) thereof,

Having regard to the proposal from the Commission,

Whereas, in order to encourage the conclusion of contracts between groups of tomato producers and processors and groups of processors, Regulation (EEC) No 426/86 made provision for the granting on certain terms of an additional processing premium;

Whereas in order to permit payment of the said premium in respect of the 1987/88 marketing year the 'significant specific percentage' for the total quantity of processed tomatoes covered by contracts concluded with producers' groups must be set;

Whereas a specific percentage should be set for Spain and for Portugal, since the role of producers' groups in these two Member States is still limited,

HAS ADOPTED THIS REGULATION:

Article 1

For the 1987/88 marketing year, the percentages mentioned in Article 3 (1a) of Regulation (EEC) No 426/86 shall be:

- for the Community as constituted on 31 December 1985: 60 %
- for Spain and for Portugal: 15 %.

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, 10 December 1987.

For the Council

The President

L. TØRNÆS

⁽¹⁾ OJ No L 49, 22. 2. 1986, p. 1.

⁽²⁾ OJ No L 183, 3. 7. 1987, p. 32.

COMMISSION REGULATION (EEC) No 3733/87

of 14 December 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 11 December 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 15 December 1987.

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

Done at Brussels, 14 December 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 14 December 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	6,33	194,97
10.01 B II	Durum wheat	46,27	256,61 ⁽¹⁾ ⁽²⁾
10.02	Rye	42,27	166,75 ⁽³⁾
10.03	Barley	32,63	183,50
10.04	Oats	89,99	143,30
10.05 B	Maize, other than hybrid maize for sowing	3,24	169,98 ⁽²⁾ ⁽³⁾
10.07 A	Buckwheat	32,63	120,68
10.07 B	Millet	32,63	126,72 ⁽⁴⁾
10.07 C II	Grain sorghum, other than hybrid sorghum for sowing	27,08	175,36 ⁽⁴⁾
10.07 D I	Triticale	⁽⁷⁾	⁽⁷⁾
10.07 D II	Canary seed; other cereals	32,63	60,00 ⁽⁵⁾
11.01 A	Wheat or meslin flour	22,97	287,06
11.01 B	Rye flour	73,28	247,55
11.02 A I a)	Durum wheat groats and meal	85,14	411,17
11.02 A I b)	Common wheat groats and meal	23,60	308,82

⁽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).

COMMISSION REGULATION (EEC) No 3734/87

of 14 December 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 11 December 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 15 December 1987.

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

Done at Brussels, 14 December 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 14 December 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 12	1st period 1	2nd period 2	3rd period 3
10.01 B I	Common wheat, and meslin	0	0	0	0
10.01 B II	Durum wheat	0	0	0	0
10.02	Rye	0	0	0	0
10.03	Barley	0	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	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 12	1st period 1	2nd period 2	3rd period 3	4th period 4
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 3735/87
of 14 December 1987
fixing the import levies on milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (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 2998/87 ⁽²⁾, and in particular Article 14 (8) thereof,

Whereas the import levies on milk and milk products were fixed by Commission Regulation (EEC) No 3087/87 ⁽³⁾, as last amended by Regulation (EEC) No 3553/87 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 3087/87 to the prices

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

1. The import levies referred to in Article 14 (2) of Regulation (EEC) No 804/68 shall be as set out in the Annex hereto.

2. There shall be no levy for imports from Portugal, including the Azores and Madeira, for milk and milk products listed in Article 1 of Regulation (EEC) No 804/68.

Article 2

This Regulation shall enter into force on 16 December 1987.

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

Done at Brussels, 14 December 1987.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 285, 8. 10. 1987, p. 1.

⁽³⁾ OJ No L 293, 16. 10. 1987, p. 28.

⁽⁴⁾ OJ No L 337, 27. 11. 1987, p. 45.

ANNEX

to the Commission Regulation of 14 December 1987 fixing the import levies on milk and milk products

(ECU/100 kg net weight, unless otherwise indicated)

CCT heading No	Code	Import levy
04.01 A I a)	0110	30,07
04.01 A I b)	0120	27,66
04.01 A II a) 1	0130	27,66
04.01 A II a) 2	0140	34,32
04.01 A II b) 1	0150	26,45
04.01 A II b) 2	0160	33,11
04.01 B I	0200	72,72
04.01 B II	0300	153,84
04.01 B III	0400	237,75
04.02 A I	0500	34,40
04.02 A II a) 1	0620	131,59
04.02 A II a) 2	0720	204,66
04.02 A II a) 3	0820	207,08
04.02 A II a) 4	0920	243,16
04.02 A II b) 1	1020	124,34
04.02 A II b) 2	1120	197,41
04.02 A II b) 3	1220	199,83
04.02 A II b) 4	1320	235,91
04.02 A III a) 1	1420	30,88
04.02 A III a) 2	1520	41,69
04.02 A III b) 1	1620	153,84
04.02 A III b) 2	1720	237,75
04.02 B I a)	1820	36,27
04.02 B I b) 1 aa)	2220	per kg 1,2434 (*)
04.02 B I b) 1 bb)	2320	per kg 1,9741 (*)
04.02 B I b) 1 cc)	2420	per kg 2,3591 (*)
04.02 B I b) 2 aa)	2520	per kg 1,2434 (*)
04.02 B I b) 2 bb)	2620	per kg 1,9741 (*)
04.02 B I b) 2 cc)	2720	per kg 2,3591 (*)
04.02 B II a)	2820	53,76
04.02 B II b) 1	2910	per kg 1,5384 (*)
04.02 B II b) 2	3010	per kg 2,3775 (*)
04.03 A	3110	279,71
04.03 B	3210	341,25
04.04 A	3300	260,63 (*)
04.04 B	3900	401,76 (*)
04.04 C	4000	157,44 (*)
04.04 D I a)	4410	217,00 (*)
04.04 D I b)	4510	222,41 (*)
04.04 D II	4610	319,13
04.04 E I a)	4710	401,76
04.04 E I b) 1	4800	256,29 (*)

(ECU/100 kg net weight, unless otherwise indicated)

CCT heading No	Code	Import levy
04.04 E I b) 2	5000	238,65 ⁽¹¹⁾
04.04 E I c) 1	5210	178,99
04.04 E I c) 2	5250	335,37
04.04 E II a)	5310	401,76
04.04 E II b)	5410	335,37
17.02 A II	5500	42,54 ⁽¹²⁾
21.07 F I	5600	42,54
23.07 B I a) 3	5700	95,68
23.07 B I a) 4	5800	124,27
23.07 B I b) 3	5900	117,06
23.07 B I c) 3	6000	98,00
23.07 B II	6100	124,27

- (¹) For the purposes of this tariff subheading, 'special milk for infants' means products free from pathogenic toxicogenic germs and containing per gram less than 10 000 revivifiable aerobic bacteria and less than two coliform bacteria.
- (²) Inclusion under this tariff subheading is subject to conditions to be laid down by the competent authorities.
- (³) In calculating the fat content the weight of any added sugar shall be disregarded.
- (⁴) The levy on 100 kg of product falling within this subheading is equal to the sum of the following components:
- (a) the amount per kg shown, multiplied by the weight of milk and cream contained in 100 kg of product;
 - (b) 7,25 ECU; and
 - (c) 26,28 ECU.
- (⁵) The levy on 100 kg of product falling within this subheading is equal to the sum of the following components:
- (a) the amount per kg shown, multiplied by the weight of milk and cream contained in 100 kg of product; and
 - (b) 26,28 ECU.
- (⁶) The levy is limited to:
- 18,13 ECU per 100 kg net weight for products listed under (a) in Annex I to Regulation (EEC) No 1767/82 imported from Switzerland and for products listed under (c) of that Annex imported from Finland and for products listed under (d) of that Annex imported from Austria,
 - 9,07 ECU per 100 kg net weight for products listed under (b) of Annex I to Regulation (EEC) No 1767/82 imported from Switzerland.
- (⁷) The levy is limited to 6 % of the customs value for imports from Switzerland, in accordance with Article 1 (3) of Regulation (EEC) No 1767/82.
- (⁸) The levy is limited to 60 ECU per 100 kg net weight for products listed under (p) of Annex I to Regulation (EEC) No 1767/82 imported from Austria.
- (⁹) The levy is limited to 36,27 ECU per 100 kg net weight for products listed under (h) of Annex I to Regulation (EEC) No 1767/82 imported from Switzerland and for products listed under (i) of that Annex imported from Finland and for products listed under (k) of that Annex imported from Austria.
- (¹⁰) The levy per 100 kg net weight is limited to:
- 12,09 ECU for products listed under (e) of Annex I to Regulation (EEC) No 1767/82 imported from Canada,
 - 15,00 ECU for products listed under (f) and (g) of that Annex imported from Australia or New Zealand.
- (¹¹) The levy is limited to:
- 77,70 ECU per 100 kg net weight for products listed under (l) of Annex I to Regulation (EEC) No 1767/82 imported from Romania or Switzerland,
 - 60 ECU for products listed under (p) of that Annex imported from Austria and for products listed under (s) of that Annex imported from Finland. However, the levy is limited to 55 ECU per 100 kg net weight for products listed under (p) of that Annex imported into Spain from Austria,
 - 101,88 ECU per 100 kg net weight for products listed under (m) of that Annex imported from Romania or Switzerland,
 - 65,61 ECU per 100 kg net weight for products listed under (n) of that Annex imported from Bulgaria, Hungary, Israel, Romania, Turkey or Yugoslavia and for products listed under (o) of that Annex imported from Bulgaria, Hungary, Israel, Romania, Turkey, Cyprus or Yugoslavia,
 - 55 ECU per 100 kg net weight for products listed under (r) of that Annex imported from Norway,
 - 18,13 ECU per 100 kg net weight for products listed under (q) of that Annex imported from Finland,
 - 15,00 ECU for products listed under (g) of that Annex imported from Australia and New Zealand.
- (¹²) Lactose and lactose syrup falling within subheading 17.02 A I are, in pursuance of Regulation (EEC) No 2730/75, subject to the same levy as that applicable to lactose and lactose syrup falling within subheading 17.02 A II.
- (¹³) For the purposes of tariff subheading ex 23.07 B 'milk products' means the products falling within tariff headings and subheadings 04.01, 04.02, 04.03, 04.04, 17.02 A and 21.07 F I.
-

COMMISSION REGULATION (EEC) No 3736/87

of 11 December 1987

amending Regulation (EEC) No 2736/87, (EEC) No 2735/87, (EEC) No 2938/87, (EEC) No 3150/87, (EEC) No 3519/87, (EEC) No 2734/87, (EEC) No 3329/87, (EEC) No 2939/87, (EEC) No 2937/87 (EEC) No 2941/87 and (EEC) No 2942/87 opening standing invitations to tender for the export of cereals held by the intervention agencies

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 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,

Having regard to Commission Regulation (EEC) No 1836/82 of 7 July 1982 laying down the procedure and conditions for the disposal of cereals held by the intervention agencies⁽³⁾, as last amended by Regulation (EEC) No 2418/87⁽⁴⁾,

Whereas the last partial invitation to tender under Regulations (EEC) No 2736/87⁽⁵⁾, (EEC) No 2735/87⁽⁶⁾, (EEC) No 2938/87⁽⁷⁾, (EEC) No 3150/87⁽⁸⁾, (EEC) No 3519/87⁽⁹⁾, (EEC) No 2734/87⁽¹⁰⁾, (EEC) No 3329/87⁽¹¹⁾, (EEC) No 2939/87⁽¹²⁾, (EEC) No 2937/87⁽¹³⁾, (EEC) No 2941/87⁽¹⁴⁾ and (EEC) No 2942/87⁽¹⁵⁾ should be postponed;

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 4 (3) of Regulations (EEC) No 2736/87, (EEC) No 2735/87, (EEC) No 2938/87, (EEC) No 3150/87, (EEC) No 3519/87, (EEC) No 2734/87, (EEC) No 3329/87, (EEC) No 2939/87, (EEC) No 2937/87, (EEC) No 2941/87, and (EEC) No 2942/87 is replaced by the following:

'3. The last partial invitation to tender shall expire on 23 March 1988.'

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, 11 December 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 202, 9. 7. 1982, p. 23.

⁽⁴⁾ OJ No L 223, 11. 8. 1987, p. 5.

⁽⁵⁾ OJ No L 262, 12. 9. 1987, p. 13.

⁽⁶⁾ OJ No L 262, 12. 9. 1987, p. 11.

⁽⁷⁾ OJ No L 278, 1. 10. 1987, p. 55.

⁽⁸⁾ OJ No L 300, 23. 10. 1987, p. 13.

⁽⁹⁾ OJ No L 335, 25. 11. 1987, p. 5.

⁽¹⁰⁾ OJ No L 262, 12. 9. 1987, p. 9.

⁽¹¹⁾ OJ No L 316, 6. 11. 1987, p. 15.

⁽¹²⁾ OJ No L 278, 1. 10. 1987, p. 57.

⁽¹³⁾ OJ No L 278, 1. 10. 1987, p. 53.

⁽¹⁴⁾ OJ No L 278, 1. 10. 1987, p. 61.

⁽¹⁵⁾ OJ No L 278, 1. 10. 1987, p. 63.

COMMISSION REGULATION (EEC) No 3737/87
of 11 December 1987
on the supply of various consignments of cereals to non-governmental organizations (NGOs) 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 3972/86 of 22 December 1986 on food-aid policy and food-aid management ⁽¹⁾, and in particular Article 6 (1) (c) thereof,

Whereas Council Regulation (EEC) No 1420/87 of 21 May 1987 laying down implementing rules for Regulation (EEC) No 3972/86 on food-aid policy and food-aid management ⁽²⁾, lays down the list of countries and organizations eligible for food-aid operations and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, by its Decision of 19 March 1987 on the supply of food aid to NGOs the Commission allocated to the latter organization 2 800 tonnes of cereals;

Whereas it is necessary to provide for the carrying-out of this measure in accordance with the rules laid down by Commission Regulation (EEC) No 2200/87 of 8 July

1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid ⁽³⁾; whereas it is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

A tendering procedure is hereby initiated for the award of a contract for the supply of cereals to the NGOs in accordance with the provisions of Regulation (EEC) No 2200/87 and with the conditions laid down in the Annexes hereto.

Article 2

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

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

Done at Brussels, 11 December 1987.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1 and corrigendum OJ No L 42, 12. 2. 1987, p. 54.

⁽²⁾ OJ No L 136, 26. 5. 1987, p. 1.

⁽³⁾ OJ No L 204, 25. 7. 1987, p. 1.

ANNEX I

1. **Operation Nos⁽¹⁾**: 1012 to 1017/87
2. **Programme**: 1987
3. **Recipient**: Euronaid, Rhijnegeesterstraatweg 40, PO Box 77, 2340 AB Oegstgeest, Holland
4. **Representative of the recipient⁽²⁾**: see *Official Journal of the European Communities* No C 103 of 16 April 1987
5. **Place or country of destination**: El Salvador, Egypt, Senegal
6. **Product to be mobilized**: Milled long-grain rice (not parboiled)
7. **Characteristics and quality of the goods⁽³⁾**:
See list published in *Official Journal of the European Communities* No C 216 of 14 August 1987, page 3 (under II.A.10)
8. **Total quantity**: 895 tonnes (2 148 tonnes cereals)
9. **Number of lots**: 2
 - A in 3 parts: I: 305 tonnes; II: 50 tonnes; III: 100 tonnes
 - B in 3 parts: I: 370 tonnes; II: 35 tonnes; III: 35 tonnes
10. **Packaging and marking⁽⁴⁾**:
See list published in *Official Journal of the European Communities* No C 216 of 14 August 1987, page 3 (under II.B.1.C)
marking on the bags in letters at least 5 cm high:
Part A: 455 tonnes:
 - I. 305 tonnes: 'ACCIÓN Nº 1012/87 / ARROZ / EL SALVADOR / CATHWELL / 70124 / SAN SALVADOR VÍA ACAJUTLA / DESTINADO A LA DISTRIBUCIÓN GRATUITA / DONACIÓN DE LA COMUNIDAD ECONÓMICA EUROPEA'
 - II. 50 tonnes: 'ACTION No 1013/87 / RICE / EGYPT / CARITAS GERMANY / 70480 / ALEXANDRIA / FOR FREE DISTRIBUTION / GIFT OF THE EUROPEAN ECONOMIC COMMUNITY'
 - III. 100 tonnes: 'ACTION No 1014/87 / RICE / EGYPT / CARITAS GERMANY / 70479 / CAIRO VIA ALEXANDRIA / FOR FREE DISTRIBUTION / GIFT OF THE EUROPEAN ECONOMIC COMMUNITY'
Part B: 440 tonnes (in 20-foot-containers 'FCL/LCL Shipper's count-load and stowage'):
 - I. 370 tonnes: 'ACTION Nº 1015/87 / RIZ / SÉNÉGAL / CATHWEL / 70127 / DAKAR / POUR DISTRIBUTION GRATUITE / DON DE LA COMMUNAUTÉ ÉCONOMIQUE EUROPÉENNE'
 - II. 35 tonnes: 'ACTION Nº 1016/87 / RIZ / SÉNÉGAL / AATM / 71756 / BAMBEY VIA DAKAR / POUR DISTRIBUTION GRATUITE / DON DE LA COMMUNAUTÉ ÉCONOMIQUE EUROPÉENNE'
 - III. 35 tonnes: 'ACTION Nº 1017/87 / RIZ / SÉNÉGAL / AATM / 71758 / SAINT LOUIS VIA DAKAR / POUR DISTRIBUTION GRATUITE / DON DE LA COMMUNAUTÉ ÉCONOMIQUE EUROPÉENNE'
11. **Method of mobilization**: Community market
12. **Stage of supply**: free at port of shipment
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment**: 1 to 29 February 1988
18. **Deadline for the supply**: —
19. **Procedure for determining the costs of supply**: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 12 January 1988 at 12 noon (Brussels time)

21. In the case of a second invitation to tender :

- (a) deadline for the submission of tenders : 26 January 1988 at 12 noon (Brussels time)
- (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage : 15 February to 15 March 1988
- (c) deadline for the supply : —

22. Amount of the tendering security : 5 ECU/tonne**23. Amount of the delivery security : 10 % of the amount of the tender in ECU****24. Address for submission of tenders ⁽⁵⁾ :**

Bureau de l'aide alimentaire, à l'attention de Monsieur N. Arend, bâtiment Berlaymont, bureau 6/73, 200, rue de la Loi, B-1049 Bruxelles, Telex : AGREC 22037 B.

25. Refund payable on request by the successful tenderer ⁽⁶⁾ :

Refund applicable on 15 December 1987 fixed by Regulation (EEC) No 3573/87 in *Official Journal of the European Communities* No L 338 of 28 November 1987, p. 21.

ANNEX II

1. **Operation No** ⁽¹⁾: 1003/87, 1004/87, 388/87
2. **Programme**: 1987
3. **Recipient**: Euronaid, Rhijngeesterstraatweg 40, PO Box 77, 2340 AB Oegstgeest Holland
4. **Representative of the recipient** ⁽²⁾: see *Official Journal of the European Communities* No C 103 of 16 April 1987
5. **Place or country of destination**: Peru, Uruguay, Honduras
6. **Product to be mobilized**: rolled oats
7. **Characteristics and quality of the goods** ⁽³⁾:
See list published in *Official Journal of the European Communities* No C 216 of 14 August 1987, page 3 (under II. A. 9)
8. **Total quantity**: 76 tonnes (131 tonnes of cereals)
9. **Number of lots**: one (in 3 parts: I: 40 tonnes; II: 12 tonnes; III: 24 tonnes)
10. **Packaging and marking** ⁽⁴⁾:
See list published in *Official Journal of the European Communities* No C 216 of 14 August 1987, page 3 (under II. B. 3)
— marking on the bags in letters at least 5 cm high (in 20-foot containers 'FCL/LCL Shipper's countload and stowage'):
 - I. 40 tonnes: 'ACCIÓN N° 1003/87 / COPOS DE AVENA / PERÚ / AATM / 71739 / AREQUIPA VÍA PUERTO MATARANI / DESTINADO A LA DISTRIBUCIÓN GRATUITA / DONACIÓN DE LA COMUNIDAD ECONÓMICA EUROPEA'
 - II. 12 tonnes: 'ACCIÓN N° 1004/87 / COPOS DE AVENA / URUGUAY / AATM / 71763 / MONTEVIDEO / DESTINADO A LA DISTRIBUCIÓN GRATUITA / DONACIÓN DE LA COMUNIDAD ECONÓMICA EUROPEA'
 - III. 24 tonnes: 'ACCIÓN N° 388/87 / COPOS DE AVENA / HONDURAS / WCC / 70712 / TEGUCIGALPA VÍA PUERTO CORTÉS / DESTINADO A LA DISTRIBUCIÓN GRATUITA / DONACIÓN DE LA COMUNIDAD ECONÓMICA EUROPEA'
11. **Method of mobilization**: the Community market
12. **Stage of supply**: free at port of shipment
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment**: 1 to 29 February 1988
18. **Deadline for the supply**: —
19. **Procedure for determining the costs of supply**: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 12 noon (Brussels time) on 12 January 1988
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 26 January 1988 at 12 noon (Brussels time)
 - (b) period for making the goods available at the port of shipment: 15 February to 15 March 1988
 - (c) deadline for the supply:
22. **Amount of the tendering security**: 5 ECU/tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ECU
24. **Address for submission of tenders** ⁽⁵⁾:
Bureau de l'aide alimentaire, à l'attention de Monsieur N. Arend, bâtiment Berlaymont, bureau 6/73, 200, rue de la Loi, B-1049 Bruxelles, Telex: AGREC 22037 B.
25. **Refund payable on request by the successful tenderer** ⁽⁶⁾:
Refund applicable on 15 December 1987 fixed by Regulation (EEC) No 3573/87 in *Official Journal of the European Communities* No L 338 of 28 November 1987, p. 21.

ANNEX III

1. **Operation Nos⁽¹⁾:** 1 010 and 1 011/87
2. **Programme:** 1987
3. **Recipient:** Euronaid, Rhijngeesterstraatweg 40, PO Box 77, 2340 AB Oegstgeest, Holland
4. **Representative of the recipient⁽²⁾:** see *Official Journal of the European Communities* No C 103 of 16 April 1987
5. **Place or country of destination:** Tanzania, Chile
6. **Product to be mobilized:** common wheat flour
7. **Characteristics and quality of the goods⁽³⁾:**
See list published in *Official Journal of the European Communities* No C 216 of 14 August 1987, page 3 (under II.A.6) Specific characteristics: Hagberg falling number of at least 160
8. **Total quantity:** 380 tonnes (521 tonnes of cereals)
9. **Number of lots:** 2
Part A: 200 tonnes
Part B: 180 tonnes
10. **Packaging and marking⁽⁴⁾:**
See list published in *Official Journal of the European Communities* No C 216 of 14 August 1987, page 3 (under II.B.2.a)
marking on the bags in letters at least 5 cm high:
Part A: 200 tonnes: (in 20-foot containers 'FCL/LCL Shipper's count-load and stowage'):
'ACTION No 1010/87 / WHEAT FLOUR / TANZANIA / CARITAS NEERLANDICA / 70357 / DAR-ES-SALAAM / FOR FREE DISTRIBUTION / GIFT OF THE EUROPEAN ECONOMIC COMMUNITY'
Part B: 180 tonnes:
'ACCIÓN No 1011/87 / HARINA DE TRIGO / CHILE / AAIM / 71752 / COYAHIQUE VÍA VALPARAÍSO / DESTINADO A LA DISTRIBUCIÓN GRATUITA / DONACIÓN DE LA COMUNIDAD ECONÓMICA EUROPEA'
11. **Method of mobilization:** Community market
12. **Stage of supply:** free at port of shipment
13. **Port of shipment:** —
14. **Port of landing specified by the recipient:** —
15. **Port of landing:** —
16. **Address of the warehouse and, if appropriate, port of landing:** —
17. **Period for making the goods available at the port of shipment:** 1 to 29 February 1988
18. **Deadline for the supply:** —
19. **Procedure for determining the costs of supply:** tendering
20. **Date of expiry of the period allowed for submission of tenders:** 12 January 1988 not later than 12 noon (Brussels time)
21. **In the case of a second invitation to tender:**
(a) deadline for the submission of tenders: 26 January 1988 at 12 noon (Brussels time)
(b) period for making the goods available at the port of shipment: 15 February to 15 March 1988
(c) deadline for the supply: —
22. **Amount of the tendering security:** 5 ECU/tonne
23. **Amount of the delivery security:** 10 % of the amount of the tender in ECU
24. **Address for submission of tenders⁽⁵⁾:**
Bureau de l'aide alimentaire, à l'attention de Monsieur N. Arend, bâtiment Berlaymont, bureau 6/73, 200, rue de la Loi, B-1049 Bruxelles, Telex: AGREC 22037 B.
25. **Refund payable on request by the successful tenderer⁽⁶⁾:**
Refund applicable on 15 December 1987 fixed by Regulation (EEC) No 3573/87 in *Official Journal of the European Communities* No L 338 of 28 November 1987, page 21.

Notes :

- (¹) The operation number is to be quoted in all correspondence.
- (²) Commission delegate to contact by the successful tenderer :
see list published in *Official Journal of the European Communities* No C 227 of 7 September 1985, page 4.
- (³) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded.
The radioactivity certificate must indicate the caesium 134 and 137 level.
The successful tenderer shall supply to the beneficiary or its representative, on delivery, the following documents :
— phytosanitary certificate,
— certificate of origin.
The supplier should send a duplicate of the original invoice to : M. De Keyzer and Schütz BV, Postbus 1438, Blaak 16, NL-3000 BK Rotterdam.
- (⁴) Since the goods may be rebagged, the successful tenderer must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
- (⁵) In order not to overload the telex, tenderers are requested to provide, before the date and time laid down in point 20 of this Annex, evidence that the tendering security referred to in Article 7 (4) (a) of Regulation (EEC) No 2200/87 has been lodged, preferably :
— either by porter at the Office referred to in point 24 of this Annex,
— or by telecopier on one of the following numbers in Brussels :
235 01 32,
236 10 97,
235 01 30,
236 20 05.
- (⁶) Regulation (EEC) No 2330/87 (OJ No L 210, 1. 8. 1987) is applicable as regards the export refund and, where appropriate, the monetary and accession compensatory amounts, the representative rate and the monetary coefficient. The date referred to in Article 2 of the abovementioned Regulation is that referred to in point 25 of this Annex.
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COMMISSION REGULATION (EEC) No 3738/87

of 14 December 1987

re-establishing the levying of customs duties on butanol and isomers thereof other than normal butyl alcohol, falling within subheading 29.04 A III ex b), originating in Romania, 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 butanol and isomers thereof other than normal butyl alcohol, falling within subheading 29.04 A III ex b), originating in Romania, the individual ceiling was fixed at 650 000 ECU; whereas on 9 December 1987, imports of these products into the Community originating in Romania 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 Romania,

HAS ADOPTED THIS REGULATION:

Article 1

As from 18 December 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 Romania:

Order No	CCT heading No and NIMEXE code	Description
10.0135	29.04 A III ex b) (29.04.18)	Butanol and isomers thereof other than normal butyl alcohol

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, 14 December 1987.

For the Commission
COCKFIELD
Vice-President

⁽¹⁾ OJ No L 373, 31. 12. 1986, p. 1.

COMMISSION REGULATION (EEC) No 3739/87

of 14 December 1987

amending the standing invitation to tender Regulation (EEC) No 1092/87 as regards the time limits for the submission of tenders for the export of sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 229/87 ⁽²⁾, and in particular Articles 13 (2), 18 (5) and 19 (4) and (7) thereof,

Having regard to Council Regulation (EEC) No 608/72 of 23 March 1972 laying down rules to be applied in cases of considerable price rises on the world sugar market ⁽³⁾, and in particular Article 1 (1) thereof,

Whereas, pursuant to Commission Regulation (EEC) No 1092/87 ⁽⁴⁾, the Member States have been issuing partial invitations to tender for exports of sugar; whereas for administrative reasons the dates of certain partial invitations to tender should be changed;

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 following fourth subparagraph is hereby added to Article 4 (3) of Regulation (EEC) No 1092/87:

‘— Wednesday 6 January 1988 is replaced by Thursday 7 January 1988 at 10.30 a.m.’

Article 2

This Regulation shall enter into force on 15 December 1987.

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

Done at Brussels, 14 December 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 75, 28. 3. 1972, p. 5.

⁽⁴⁾ OJ No L 106, 22. 4. 1987, p. 9.

COMMISSION REGULATION (EEC) No 3740/87

of 11 December 1987

on the supply of various consignments of cereals and rice to Mozambique 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 3972/86 of 22 December 1986 on food-aid policy and food-aid management ⁽¹⁾, and in particular Article 6 (1) (c) thereof,

Whereas Council Regulation (EEC) No 1420/87 of 21 May 1987 laying down implementing rules for Regulation (EEC) No 3972/86 on food-aid policy and food-aid management ⁽²⁾ lays down the list of countries and organizations eligible for food-aid operations and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, by its Decision of 30 July 1987 on the supply of food aid to Mozambique the Commission allocated to the latter country 30 000 tonnes of cereals;

Whereas it is necessary to provide for the carrying-out of this measure in accordance with the rules laid down by Commission Regulation (EEC) No 2200/87 of 8 July

1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid ⁽³⁾; whereas it is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

A tendering procedure is hereby initiated for the award of a contract for the supply of milled long-grain rice and cereals to Mozambique in accordance with the provisions of Regulation (EEC) No 2200/87 and with the conditions laid down in the Annexes hereto.

Article 2

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

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

Done at Brussels, 11 December 1987.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1 and corrigendum OJ No L 42, 12. 2. 1987, p. 54.

⁽²⁾ OJ No L 136, 26. 5. 1987, p. 1.

⁽³⁾ OJ No L 204, 25. 7. 1987, p. 1.

ANNEX I

1. **Operation No** ⁽¹⁾: 1040/87
2. **Programme**: 1987
3. **Recipient**: IMBEC — EE, CP 4229 Maputo — Telex 6-206 IMBEC MO MAPUTO
4. **Representative of the recipient** ⁽²⁾: Imbec — Maputo
5. **Place or country of destination**: Mozambique
6. **Product to be mobilized**: Milled long-grain rice (not parboiled)
7. **Characteristics and quality of the goods** ⁽³⁾:
See list published in *Official Journal of the European Communities* No C 216 of 14 August 1987, page 3 (under II A 10)
8. **Total quantity**: 6 250 tonnes (15 000 tonnes cereals)
9. **Number of lots**: 2 (Part A: 4 250 tonnes; Part B: 2 000 tonnes)
10. **Packaging and marking** ⁽⁴⁾:
See list published in *Official Journal of the European Communities* No C 216 of 14 August 1987, page 3 (under II. B. 1. a)
— marking on the bags in letters at least 5 cm high:
‘ACÇÃO Nº 1040/87 / ARROZ / DONATIVO DA COMUNIDADE ECONÓMICA EUROPEIA’
11. **Method of mobilization**: Community market
12. **Stage of supply**: free at port of landing — landed
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: Part A — Maputo; Part B — Nacala
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage**: 20 January to 20 February 1988
18. **Deadline for the supply**: 15 March 1988
19. **Procedure for determining the costs of supply**: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 5 January 1988 at 12 noon (Brussels time)
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 19 January 1988 at 12 noon (Brussels time)
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 5 February to 5 March 1988
 - (c) deadline for the supply: 31 March 1988
22. **Amount of the tendering security**: 5 ECU/tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ECU
24. **Address for submission of tenders** ⁽⁵⁾:
Bureau de l'aide alimentaire, à l'attention de Monsieur N. Arend, bâtiment Berlaymont, bureau 6/73, 200, rue de la Loi, B-1049 Bruxelles, Telex: AGREC 22037 B.
25. **Refund payable on request by the successful tenderer** ⁽⁶⁾:
Refund applicable on 15 December 1987 fixed by Regulation (EEC) No 3573/87 in *Official Journal of the European Communities* No L 338 of 28 November 1987, p. 21.

ANNEX II

1. **Operation No (¹):** 1042/87
2. **Programme :** 1987
3. **Recipient :** IMBEC EE, CP 4229 Maputo — Telex 6-206 IMBEC MO MAPUTO
4. **Representative of the recipient (²):** Imbec — Maputo
5. **Place or country of destination :** Mozambique
6. **Product to be mobilized :** common wheat
7. **Characteristics and quality of the goods (³):**
See list published in *Official Journal of the European Communities* No C 216 of 14 August 1987, page 3 (under II A 1) — Hagberg falling number of at least 160
8. **Total quantity :** 15 000 tonnes
9. **Number of lots :** 3
A : 9 500 tonnes
B : 3 500 tonnes
C : 2 000 tonnes
10. **Packaging :** in bulk, plus
Part A : 200 000 }
Part B : 73 500 } new woven-polypropylene bags for food use, weighing not less than 120 grams,
Part C : 42 000 } which have been specially treated against the effects of ultraviolet light,
Part A : 150 }
Part B : 50 } needles and sufficient twine
Part C : 50 }
— marking on the bags in letters at least 5 cm high :
'ACÇÃO Nº 1042/87 / TRIGO / DONATIVO DA COMUNIDADE ECONÓMICA EUROPEIA'
11. **Method of mobilization :** the Community market
12. **Stage of supply :** free at port of landing — landed
13. **Port of shipment :** —
14. **Port of landing specified by the recipient :** —
15. **Port of landing :** Part A : Maputo ; Part B : Beira ; Part C : Nacala
16. **Address of the warehouse and, if appropriate, port of landing :** —
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage :** 20 January to 20 February 1988
18. **Deadline for the supply :** 15 March 1988
19. **Procedure for determining the costs of supply :** tendering
20. **Date of expiry of the period allowed for submission of tenders :** 12 noon (Brussels time) on 5 January 1988
21. **In the case of a second invitation to tender :**
(a) deadline for the submission of tenders : 12 noon on 19 January 1988
(b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage : 5 February to 5 March 1988
(c) deadline for the supply : 31 March 1988
22. **Amount of the tendering security :** 5 ECU/tonne
23. **Amount of the delivery security :** 10 % of the amount of the tender in ECU
24. **Address for submission of tenders (⁴):**
Bureau de l'aide alimentaire, à l'attention de Monsieur N. Arend, bâtiment Berlaymont, bureau 6/73, 200, rue de la Loi, B-1049 Bruxelles, Telex : AGREC 22037 B.
25. **Refund payable on request by the successful tenderer (⁵):**
Refund applicable on 15 December 1987 fixed by Regulation (EEC) No 3573/87 in *Official Journal of the European Communities* No L 338 of 28 November 1988, p. 21.

Notes:

- (¹) The operation number is to be quoted in all correspondence.
- (²) Commission delegate to contact by the successful tenderer:
M.A. Marongiu, CP 1306 Maputo — Telex 6-146 CCE MO
- (³) At the request of the beneficiary the successful tenderer shall deliver a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded.
- (⁴) Since the goods may be rebagged, the successful tenderer must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
- (⁵) In order not to overload the telex, tenderers are requested to provide, before the date and time laid down in point 20 of this Annex, evidence that the tendering security referred to in Article 7 (4) (a) of Regulation (EEC) No 2200/87 has been lodged, preferably:
- either by porter at the Office referred to in point 24 of this Annex,
 - or by telecopier on one of the following numbers in Brussels:
235 01 32
236 10 97
235 01 30
236 20 05.
- (⁶) Regulation (EEC) No 2330/87 (OJ No L 210, 1. 8. 1987) is applicable as regards the export refund and, where appropriate, the monetary and accession compensatory amounts, the representative rate and the monetary coefficient. The date referred to in Article 2 of the abovementioned Regulation is that referred to in point 25 of this Annex.
-

COMMISSION REGULATION (EEC) No 3741/87

of 14 December 1987

amending Regulation (EEC) No 3540/85 laying down detailed rules for the application of the special measures for peas, field beans and sweet lupins

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1431/82 of 18 May 1982 laying down special measures for peas, field beans and sweet lupins ⁽¹⁾, as last amended by Regulation (EEC) No 3127/86 ⁽²⁾, and in particular Article 3 (7) thereof,

Having regard to Council Regulation (EEC) No 2036/82 of 19 July 1982 adopting general rules concerning special measures for peas, field beans and sweet lupins ⁽³⁾, as last amended by Regulation (EEC) No 1958/87 ⁽⁴⁾, and in particular Article 12a (4) thereof,

Whereas Article 31a of Commission Regulation (EEC) No 3540/85 ⁽⁵⁾, as last amended by Regulation (EEC) No 2889/87 ⁽⁶⁾, provides for a system of control for peas, field beans and sweet lupins which are the subject of trade between Member States; whereas, in order to avoid ambiguity, the endorsement referred to in paragraph 2 thereof should be entered in section 104 of the control copy;

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 31a (2) of Regulation (EEC) No 3540/85 is hereby amended as follows:

1. Point (b) is replaced by the following:

'(b) section 104 by deleting those entries which are not applicable and by inserting one of the following:

— Destinado a ser objeto de una declaración de recepción para ser utilizado con arreglo al apartado 3 del artículo 16 del Reglamento (CEE) n° 3540/85 o a ser exportado hacia terceros países

— Bestemt til at blive omfattet af en erklæring om ankomst som omhandlet i artikel 16, stk. 3, i forordning (EØF) nr. 3540/85 eller til udførsel til tredjelande

— Zur Verwendung gemäß Artikel 16 Absatz 3 der Verordnung (EWG) Nr. 3540/85 oder zur Ausfuhr nach Drittländern in eine Eingangs-erklärung einzutragen

— Προοριζόμενο να αποτελέσει αντικείμενο δηλώσεως αποδοχής για να χρησιμοποιηθεί κατά την έννοια του άρθρου 16 παράγραφος 3 του κανονισμού (ΕΟΚ) αριθ. 3540/85 ή να εξαχθεί προς τρίτες χώρες

— To be the subject of a declaration of products received to be used as defined in Article 16 (3) of Regulation (EEC) No 3540/85 or to be exported to third countries

— Destiné à faire l'objet d'une déclaration de réception pour être utilisé au sens de l'article 16 paragraphe 3 du règlement (CEE) n° 3540/85 ou à être exporté vers les pays tiers

— Destinato ad essere oggetto di una dichiarazione di ricevimento per essere utilizzato a norma dell'articolo 16, paragrafo 3 del regolamento (CEE) n. 3540/85 o ad essere esportato verso i paesi terzi

— Bestemd om, met het oog op het gebruik ervan, te worden vermeld in een opgave van de binnengekomen hoeveelheden in de zin van artikel 16, lid 3, van Verordening (EEG) nr. 3540/85 of voor uitvoer naar derde landen

— Destinado a ser objecto de uma declaração de recepção para ser utilizado na aceção do n° 3 do artigo 16° do Regulamento (CEE) n° 3540/85 ou a ser exportado para países terceiros.'

2. The last subparagraph is replaced by the following:

'The "Control of use and/or destination" section on the back of the copy under "Remarks" must mention the recorded net weight of the checked product and details of the declaration of products received referred to in Article 16 (3) relating to the product.'

Article 2

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

⁽¹⁾ OJ No L 162, 12. 6. 1982, p. 28.

⁽²⁾ OJ No L 292, 16. 10. 1986, p. 1.

⁽³⁾ OJ No L 219, 28. 7. 1982, p. 1.

⁽⁴⁾ OJ No L 184, 3. 7. 1987, p. 3.

⁽⁵⁾ OJ No L 342, 19. 12. 1985, p. 1.

⁽⁶⁾ OJ No L 275, 29. 9. 1987, p. 23.

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

Done at Brussels, 14 December 1987.

For the Commission

Frans ANDRIESEN

Vice-President

COMMISSION REGULATION (EEC) No 3742/87
of 14 December 1987
fixing the aid for cotton

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 the Act of Accession of Greece, and in particular paragraphs 3 and 10 of Protocol 4 thereto, as amended by Protocol 14 annexed to the Act of Accession of Spain and of Portugal,

Having regard to Council Regulation (EEC) No 2169/81 of 27 July 1981 laying down the general rules for the system of aid for cotton ⁽¹⁾, as last amended by Regulation (EEC) No 2276/87 ⁽²⁾, and in particular Article 5 (1) thereof,

Whereas the amount of the additional aid referred to in Article 5 (1) of Regulation (EEC) No 2169/81 was fixed by Commission Regulation (EEC) No 2636/87 ⁽³⁾, as last amended by Regulation (EEC) No 3633/87 ⁽⁴⁾;

Whereas it follows from applying the rules and other provisions contained in Regulation (EEC) No 2636/87 to the information at present available to the Commission that the amount of the aid at present in force should be altered as shown in Article 1 to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The aid for unginned cotton referred to in Article 5 of Regulation (EEC) No 2169/81 shall be 63,344 ECU per 100 kilograms.

Article 2

This Regulation shall enter into force on 15 December 1987.

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

Done at Brussels, 14 December 1987.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 211, 31. 7. 1981, p. 2.

⁽²⁾ OJ No L 209, 31. 7. 1987, p. 5.

⁽³⁾ OJ No L 248, 1. 9. 1987, p. 46.

⁽⁴⁾ OJ No L 341, 3. 12. 1987, p. 34.

COMMISSION REGULATION (EEC) No 3743/87

of 14 December 1987

amending Council Regulation (EEC) No 3033/80 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 15 thereof,

Whereas the Community is a signatory to the International Convention on the Harmonized Commodity Description and Coding System, hereinafter called the 'Harmonized System', which is to replace the Convention of 15 December 1950 on Nomenclature for the Classification of Goods in Customs Tariffs;

Whereas a combined nomenclature of goods is to be introduced with effect from 1 January 1988 based on the harmonized system nomenclature which will satisfy simultaneously the requirements both of the Common Customs Tariff and of the statistics of the Community's external trade and of trade between Member States;

Whereas the tariff nomenclature resulting from the application of Regulation (EEC) No 3033/80 of 11 November 1980 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products⁽²⁾ is contained in the Common Customs Tariff; whereas, consequently it is necessary to draw up the descriptions of goods and the tariff numbers appearing in that Regulation in accordance with terms of the combined nomenclature based on the harmonized system,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3033/80 is hereby amended as follows:

1. In the last recital, '35.01 A' and '35.01 C' are replaced by '3501 10' and '3501 90 90'.

⁽¹⁾ OJ No L 256, 7. 9. 1987, p. 1.

⁽²⁾ OJ No L 323, 29. 11. 1980, p. 1.

2. Article 2 is replaced by the following:

Article 2

The following shall be considered basic products:

CN code	Description of the basic products
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter
0405	Butter and other fats and oils derived from milk
Chapter 10	Cereals
1701	Cane or beet sugar and chemically pure sucrose, in solid form
1703	Molasses resulting from the extraction or refining of sugar

3. In Article 3,

— point (a) is replaced by the following:

'(a) goods made from potato starch (subheading 1108 13), from the starches of roots and tubers falling within heading No 0714 (subheadings 1108 14 and 1108 19 90) and from flour and meal falling within subheading 1106 20 of the combined nomenclature shall be considered to be manufactured from cereals';

— the beginning of point (b) is amended as follows:

'(b) goods made from milk, not concentrated or sweetened with sugar or other sweetening agents, having a milk fat content ...';

— the beginning of point (c) is amended as follows:

'(c) goods made from milk or cream, not concentrated or sweetened with sugar or other sweetening agents, having a milk fat content ...';

— point (d) is replaced by the following:

'(d) goods made from isoglucose (subheadings 1702 30 10, 1702 40 10, 1702 60 10 and 1702 90 30) shall be considered to be made from sugar.'

4. In Article 4, paragraph 2, the last reference becomes 'procedure laid down in Article 9 of Regulation (EEC) No 2658/87.'
 5. In Article 8, paragraph 1, the last reference becomes 'procedure referred to in Article 11 (1) of Regulation (EEC) No 2658/87.'
 6. In Article 16 :
 - subheading '35.01 A' of the Common Customs Tariff is replaced by '3501 10' of the combined nomenclature,
 7. The Annex is replaced by the Annex to this Regulation.
- Article 2*
- This Regulation shall enter into force on 1 January 1988.

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

Done at Brussels, 14 December 1987.

For the Commission

COCKFIELD

Vice-President

ANNEX

ANNEX

CN code	Description
ex 0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa :
0403 10 51 to 0403 10 99	— Yoghurt, flavoured or containing added fruit or cocoa
0403 90 71 to 0403 90 99	— Other, flavoured or containing added fruit or cocoa
0710 40 00	Sweet corn (uncooked or cooked by steaming or boiling in water), frozen
0711 90 30	Sweet corn provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption
ex 1517	Margarine ; edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, other than edible fats or oils or their fractions of heading No 1516 :
1517 10 10	— Margarine, excluding liquid margarine containing more than 10 % but not more than 15 % by weight of milk fats
1517 90 10	— Other, containing more than 10 % but not more than 15 % by weight of milk fats
ex 1704	Sugar confectionery (including white chocolate), not containing cocoa ; excluding liquorice extract containing more than 10 % by weight of sucrose but not containing other added substances, falling within subheading No 1704 90 10
1806	Chocolate and other food preparations containing cocoa
1901	Malt extract ; food preparations of flour, meal, starch or malt extract, not containing cocoa powder or containing cocoa powder in a proportion by weight of less than 50 %, not elsewhere specified or included ; food preparations of goods of heading Nos 0401 to 0404, not containing cocoa powder or containing cocoa powder in a proportion by weight of less than 10 %, not elsewhere specified or included
ex 1902	Pasta, whether or not cooked or otherwise prepared excluding stuffed pasta falling within subheadings 1902 20 10 and 1902 20 30
1903	Tapioca and substitutes therefor, prepared from starch in the form of flakes, grains, pearls, siftings or similar forms
1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example corn flakes) ; cereals, other than maize (corn), in grain form, pre-cooked or otherwise prepared
1905	Bread, pastry, cakes, biscuits and other bakers'wares, whether or not containing cocoa, communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products
2001 90 30	Sweet corn prepared or preserved by vinegar or acetic acid
2001 90 40	Yams, sweet potatoes and similar edible parts of plants containing 5 % or more by weight of starch, prepared or preserved by vinegar or acetic acid
2004 90 10	Sweet corn prepared or preserved otherwise than by vinegar or acetic acid ; frozen
2005 80 00	Sweet corn (<i>Zea mays</i> var. <i>saccharata</i>) prepared or preserved otherwise than by vinegar or acetic acid ; not frozen

CN code	Description
ex 2005 90 90	Sweet corn (other than <i>Zea mays</i> var. <i>saccharata</i>) prepared or preserved otherwise than by vinegar or acetic acid; not frozen
2008 99 85	Sweet corn, otherwise prepared or preserved, not containing added spirit or added sugar
2008 99 91	Yams, sweet potatoes and similar edible parts of plants containing 5 % or more by weight of starch, otherwise prepared or preserved, not containing added spirit or added sugar
2101 30 19	Roasted coffee substitutes excluding roasted chicory
2101 30 99	Extracts, essences and concentrates of roasted coffee substitutes excluding those of roasted chicory
2102 10 31 to 2102 10 39	Bakers' yeast
2105	Ice cream and other edible ice, whether or not containing cocoa
ex 2106	Food preparations not elsewhere specified or included other than those falling within subheadings 2106 10 10 and 2106 90 91 and other than flavoured or coloured sugar syrups
2202 90 91	Non-alcoholic beverages, not including fruit or vegetable juices of heading No 2009, containing products of Nos 0401 to 0404 or obtained from products of heading Nos 0401 to 0404
2202 90 95	
2202 90 99	
2905 43	Mannitol
2905 44	D-Glucitol (sorbitol)
ex 3501	Caseins caseinates and other casein derivatives
ex 3505 10	Dextrins and other modified starches, excluding esterified or etherified starches of subheading 3505 10 50
3505 20	Glues based on starches or on dextrins or other modified starches
3809 10	Prepared glazings and prepared dressings with a basis of amylaceous substances
3823 60	Sorbitol other than of subheading 2905 44'

COMMISSION REGULATION (EEC) No 3744/87

of 14 December 1987

laying down the detailed rules for the supply of food from intervention stocks to designated organizations for distribution to the most deprived persons in the Community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3730/87 of 10 December 1987 laying down the general rules for the supply of food from intervention stocks to the most deprived persons in the Community⁽¹⁾, and in particular Article 6 thereof,

Whereas in order to implement a scheme for the supply of such food to those sections of the population it is necessary to lay down detailed implementation rules, whereas it is desirable for implementation to begin as soon as possible;

Whereas the Management Committees concerned have not delivered an opinion within the time limit laid down by their Chairmen,

HAS ADOPTED THIS REGULATION:

Article 1

1. Before the end of March each year the Commission shall draw up a draft annual plan for the distribution of:

- (a) products from intervention stocks;
- (b) food contained by processing products from intervention stocks;
- (c) food obtained by the commercial exchange of products from intervention stocks for food the main component of which is of the same nature as that obtained from these stocks,

to the most deprived persons in the Community. The plan shall cover the following calendar year and be broken down by Member State. The division of resources between Member States shall take account of the best estimates of the numbers of the most deprived persons in each Member State.

2. The Commission shall establish and forward to the Member States a list of the intervention products which are available for distribution and the location, by Member State of these products. The Commission may revise that list to take account of new circumstances. It shall forward all revisions immediately to the Member States.

3. In order to draw up the draft annual plan referred to in paragraph 1 the Member States wishing to apply the scheme shall forward to the Commission:

- (a) by no later than the end of February the quantities of each type of product (expressed in tonnes) required to implement the plan on their territory for the year in question;

(b) by no later than the end of August:

- an indicative calendar on a monthly basis of the quantities of product to be withdrawn from intervention and the periods over which distribution to the recipients would take place;
- the form in which the products are to be distributed as food to the recipients. Where the products are to be processed or replaced by other products the main component of which must be of the same nature, all such arrangements shall be specified;
- the criteria for eligibility of the recipients;
- the rate of charges (if any) which may be imposed on the recipients for then to acquire the food;
- the way in which and extent (if any) to which recipients would contribute to the preparation and distribution of the food.

4. The Commission shall seek the advice of major organizations familiar with the problems of the most deprived persons in the Community before drawing up the draft annual plan.

Article 2

1. The plan shall be adopted by the Commission in accordance with the appropriations available following the procedure provided for in Article 26 of Council Regulation (EEC) No 2727/75⁽²⁾ and to the corresponding provisions of the other Regulations of the common organization of the agricultural markets. At the same time and in accordance with the same procedure, the level of the appropriations to be reserved to cover costs of intra-Community transport of intervention products as referred to in Article 7 shall be determined.

2. The plan shall indicate in particular:

- the quantity of products by type that may be withdrawn from intervention stock for distribution in each Member State, and
- the financial resources made available to implement the plan in each Member State

Article 3

The Commission shall notify the Member States as soon as practicable of the plan. Each Member State shall communicate the pertinent information to the organization or organizations designated to implement the plan on its territory.

⁽¹⁾ See page 1 of this Official Journal.

⁽²⁾ OJ No L 281, 1. 11. 1975, p. 1.

Article 4

1. During the course of implementation of the plan Member States may submit duly motivated requests to the Commission for significant changes as regards its application on their territory. The Commission may authorize such changes provided they do not entail an increase in expenditure in that Member State. The Commission shall determine its position on such requests and notify the Member State concerned within one month of their receipt.

2. Member States shall inform the Commission as soon as it is evident that the application of the plan on their territory will fall short of the planned level. The Commission may reallocate the resources that would consequently be unused to other Member States.

Article 5

Without prejudice to the provisions of Article 8 of Council Regulation (EEC) No 1883/78⁽¹⁾, the accounting value of the products made available from intervention and referred to in Article 3 of Regulation (EEC) No 3730/87 shall be the intervention price applicable at 31 December of the preceding year and shall be converted into national currencies at the representative rates applicable at that date. In the case of beef, supplies shall be subject to the coefficients set out in Annex I.

Article 6

1. Transport costs from intervention stores within the national territory may on application to the relevant authority in each Member State be reimbursed at the rates set out in Annex II.

2. Administrative costs of the implementing organizations generated by the implementation of this scheme, excluding those costs covered by the provisions of Article 1 of Regulation (EEC) No 3730/87 may, on application to the relevant authority in each Member State, be reimbursed subject to a limit of 1 % of the value of the finance made available to the Member State in question.

The costs referred to in paragraphs 1 and 2 shall be reimbursed within the resources referred to in Article 2 (2) available for the plan in each Member State.

Article 7

1. Whenever products included in the plan are not available from intervention stock on the territory of a Member State where such products are required, the cost of transport may be reimbursed at the rates set out in Annex II. Provided such expenditure is authorized by the Commission in accordance with the provisions of paragraph 2, it shall be charged to the reserve referred to in Article 2 (1). Once these appropriations have been fully allocated any additional Community finance for intra-

Community movement shall be charged in accordance with the provisions of Article 6 (3).

2. Member States wanting to benefit from the provisions of paragraph 1 shall inform the Commission giving details of the location, distances and quantities involved. The Commission shall reply as soon as possible to any such requests. If the Commission rejects a request it shall give reasons for its refusal.

Article 8

Member States shall forward to the Commission by no later than the end of March each year a report on the implementation of the plan on their territory during the previous year. That report shall include :

- (a) information which could be relevant for inclusion in the report referred to in Article 5 of Regulation (EEC) No 3730/87 and especially that concerning the extent to which the action :
 - has provided effective help for the recipients,
 - has contributed to a net increase in consumption of the products involved,
 - has encountered difficulties associated with control and management.
- (b) a reconciliation by the Member State concerned of the amounts distributed for use on its territory and the final distribution to the recipients ;
- (c) a statement indicating the control measures that have been carried out, especially with respect to the designated implementing organizations.

Article 9

Member States shall take all steps necessary to ensure that :

- the intervention products made available are subject to the use and destination provided for in Article 1 of Regulation (EEC) No 3730/75,
- the designated implementing organizations maintain appropriate accounts and supporting documents. They shall also provide access to such material so that the competent authorities may carry out the controls they consider necessary.

Article 10

By way of a derogation from Article 1 (1) and (3) and Article 2, distribution measures relating to the 1988 budget year shall be decided by the Commission at the request of the Member State on the basis of relevant information supplied by it. Those measures shall be subject to a limit for all Member States of a global quantity of product of a value of 100 million ECU, including administration and transport costs.

Article 11

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

⁽¹⁾ OJ No L 216, 5. 8. 1978, p. 1.

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

Done at Brussels, 14 December 1987.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX I

A. Coefficients referred to in Article 5 — Unboned intervention stocks

— Forequarters	0,775
— Hindquarters	1,225

B. Coefficients referred to in Article 5 — Boneless intervention stocks

Coefficient	Member State						
	Denmark	Germany	France	Ireland	Italy	The Netherlands	United Kingdom
4,1	Mørbrad	Filet	Filet	Fillet	Filetto	Haas	Fillet
2,4	Fillet	Roastbeef	Faux-filet	Striploin	Roastbeef	—	Striploin
1,4	Inderlår	Oberschalen	Tende de tranche	Insides	Fesa interna	—	Topsides
1,4	Tykstegsfilet	Unterschalen	Tranche grasse	Outsides	Girello	—	Silversides
1,4	Klump	Kugeln	Rumpsteak	Knuckles	Fesa esterna	—	Thick flank
1,4	Yderlår	Hüfte	Entrecôte	Rumps	Scamone	—	Rumps
1,4	—	—	Gîte à la noix	Cube rolls	Noce	—	—
1,1	Others	Others	Others	Others	Others	Others	Others

ANNEX II

Transport costs

Beef and butter

— For the first 200 kilometres	20,00 ECU/tonne
— For each additional kilometre over 200	0,05 ECU/tonne

Cereals

— For the first 200 kilometres	5,50 ECU/tonne
— For each additional kilometre over 200	0,04 ECU/tonne

Olive oil

— For the first 200 kilometres	20,00 ECU/tonne
— For each additional kilometre over 200	0,04 ECU/tonne

COMMISSION REGULATION (EEC) No 3745/87

of 14 December 1987

introducing a countervailing charge on lemons 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 2275/87⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Article 25a (1) of Regulation (EEC) No 1035/72 provides that, if the entry price of a product imported from a non-member country is alternatively above and below the reference price for five to seven consecutive market days a countervailing charge is introduced in respect of that non-member country, save in exceptional cases; whereas that charge is introduced when three entry prices fall below the reference price and one of those entry prices is at least 0,6 ECU below the reference price; whereas that charge is equal to the difference between the reference price and the last available entry price by at least 0,6 ECU below the reference price;

Whereas Commission Regulation (EEC) No 1426/87 of 25 May 1987 fixing for the 1987/88 marketing year the reference prices for lemons⁽³⁾ fixed the reference price for products of class I for the period 1 November 1987 to 30 April 1988 at 46,95 ECU per 100 kilograms net;

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 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 lemons originating in Spain (except the Canary Islands) the entry prices calculated in this way have for five consecutive market days been alternatively above and below the reference price; whereas two of these entry prices are at least 0,6 ECU below the reference prices; whereas a countervailing charge should therefore be introduced for these lemons;

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 Regulation (EEC) No 1676/85⁽⁶⁾,
- 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⁽⁷⁾, 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,

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 209, 31. 7. 1987, p. 4.

⁽³⁾ OJ No L 136, 26. 5. 1987, p. 13.

⁽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 302, 15. 11. 1985, p. 9.

HAS ADOPTED THIS REGULATION :

Article 2

Article 1

A countervailing charge of 0,74 ECU per 100 kilograms net is applied to lemons (subheading 08.02 C of the Common Customs Tariff) originating in Spain (except the Canary Islands).

This Regulation shall enter into force on 16 December 1987.

Subject to the provisions of the second subparagraph of Article 26 (2) of Regulation (EEC) No 1035/72, this Regulation shall be applicable until 21 December 1987.

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

Done at Brussels, 14 December 1987.

For the Commission

Frans ANDRIESEN

Vice-President

COMMISSION REGULATION (EEC) No 3746/87

of 14 December 1987

altering the export refunds on cereals and on wheat or rye flour, groats and meal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 1900/87⁽²⁾, and in particular the fifth subparagraph of Article 16 (2) thereof,

Whereas the export refunds on cereals and on wheat or rye flour, groats and meal were fixed by Regulation (EEC) No 3702/87⁽³⁾, as amended by Regulation (EEC) No 3726/87⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Commission Regulation (EEC) No 3702/87 to the information known to the Commission that the

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 2727/75, exported in the natural state, as fixed in the Annex to amended Regulation (EEC) No 3702/87 are hereby altered as shown in the Annex to this Regulation in respect of the products set out therein.

Article 2

This Regulation shall enter into force on 15 December 1987.

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

Done at Brussels, 14 December 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 347, 11. 12. 1987, p. 56.

⁽⁴⁾ OJ No L 349, 12. 12. 1987, p. 41.

ANNEX

to the Commission Regulation of 14 December 1987 altering the export refunds on cereals
and on wheat or rye flour, groats and meal

CCT heading No	Description	Refund (ECU/tonne)
10.01 B I	Common wheat and meslin for exports to : — Switzerland, Austria and Liechtenstein — zone II b) — Ceuta, Melilla, the Canary Islands and Tunisia — the USSR — other third countries	110,00 115,00 122,00 131,75 119,00
10.01 B II	Durum wheat for exports to : — zones II and III — Algeria — other third countries	30,00 ⁽³⁾ 25,00 ⁽³⁾ 20,00 ⁽³⁾
10.02	Rye for exports to : — Switzerland, Austria and Liechtenstein — Japan — South Korea — other third countries	10,00 20,00 15,00 25,00
10.03	Barley for exports to : — Switzerland, Austria and Liechtenstein — zone II b) — the USSR — other third countries	110,00 115,00 131,75 119,00
10.04	Oats for exports to : — Switzerland, Austria and Liechtenstein — other third countries	— —
10.05 B	Maize, other than hybrid maize for sowing for exports to : — Switzerland, Austria and Liechtenstein — Canary Islands — other third countries	110,00 116,00 0
10.07 B	Millet	—
10.07 C II	Grain sorghum, other than hybrid sorghum for sowing	—
ex 11.01 A	Wheat flour : — of an ash content of 0 to 520 — of an ash content of 521 to 600 — of an ash content of 601 to 900 — of an ash content of 901 to 1 100 — of an ash content of 1 101 to 1 650 — of an ash content of 1 651 to 1 900	168,00 168,00 151,00 142,00 133,00 122,00

(ECU/tonne)		
CCT heading No	Description	Refund
ex 11.01 B	Rye flour :	
	— of an ash content of 0 to 700	168,00
	— of an ash content of 701 to 1 150	168,00
	— of an ash content of 1 151 to 1 600	168,00
	— of an ash content of 1 601 to 2 000	168,00
11.02 A I a)	Durum wheat groats and meal	
	— of an ash content of 0 to 1 300 ⁽¹⁾	297,00
	— of an ash content of 0 to 1 300 ⁽²⁾	281,00
	— of an ash content of 0 to 1 300	250,00
	— of an ash content of more than 1 300	236,00
ex 11.02 A I b)	Common wheat groats and meal :	
	— of an ash content of 0 to 520	168,00

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

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

⁽³⁾ The refund cannot be granted if the quality of durum wheat exported corresponds to less than the quality defined in paragraph 2 of Article 2 of Regulation (EEC) No 1569/77 with the exception of impurities constituted by grain (other than mottled grains and grains affected with fusariosis); 7 % maximum of which 5 % of soft wheat or other cereals.

N.B. The zones are those defined in Regulation (EEC) No 1124/77 (OJ No L 134, 28. 5. 1977), as last amended by Regulation (EEC) No 1548/87 (OJ No L 144, 4. 6. 1987).

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 15 July 1987

on aid granted by the French Government to a producer of textiles, clothing and paper products — Boussac Saint Frères

(Only the French text is authentic)

(87/585/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having given notice to the parties concerned to submit their comments as provided for in the said Article 93, and having regard to those comments,

Whereas :

I

Upon repeated requests from the Commission, the French Government belatedly informed the Commission by telex of 22 March 1984 and letter of 23 August 1984 that financial assistance had been granted to the third largest textile, clothing and paper producer in France.

The aids had been granted between June 1982 and August 1984, taking the following forms :

— a participation in the firm's capital amounting to FF 100,1 million by IDI (Institut de Développement Industriel) which later had been transferred to Sopari (Société de Participation et de Restructuration Industrielle), a 99,4 % subsidiary of IDI, which itself is State-owned,

— capital advances (*comptes courants d'actionnaire*) by Sopari amounting to FF 380 million, granted as loans with reduced interest rate and State guarantee.

According to the French Government's initial statements, these financial injections had been considered necessary for the financing of investments which, however, were not quantified nor described as to their substance.

On the basis of the information available to the Commission at the time, additional aids were about to be paid.

Following an initial scrutiny, the Commission considered that the aid, which had already been granted between 1982 and 1984 and which had not been notified to the Commission beforehand, was illegal as the French Government had failed to fulfil its obligations under Article 93 (3) of the EEC Treaty. The Commission also took the view that the interventions by IDI/Sopari in favour of the firm in question were to be considered as rescue aid in view of the company's financial record and situation. As it is the Commission's well-established policy that rescue aid pending a restructuring plan can only be granted for a short period and in the form of credit or loans at market rate, of which all Member States had been informed by letter of 24 January 1979, the aid in question in this case did not meet the conditions set out by the Commission.

The Commission also considered that the aid which had already been paid was granted in contravention of the conditions set by itself when accepting on 21 December 1983 the French sectoral aid scheme in favour of the textile and clothing industry (reduction of social charges).

The Commission took the view that, in the situation the whole of the Community textile and clothing industry was in at the time, all the aid in question, including the aids already granted and also that envisaged, would not promote a development which from the Community point of view would be adequate to counteract their trade-distorting effects and that the aid — by favouring the undertaking in question in a sector where there is a high volume of trade and where competition is very keen — was liable to affect trade between Member States and was, thus, incompatible with the common market.

Therefore, the Commission took the view that all the aid would not meet the conditions which must be fulfilled for one of the exceptions laid down in Article 92 to apply and initiated the procedure provided for in the first subparagraph of Article 93 (2) of the EEC Treaty.

By letter of 3 December 1984, it gave the French Government notice to submit its comments. The other Member States were informed on 4 January 1985 and interested parties on 19 January 1985.

II

The French Government, in submitting its comments under the procedure provided for in Article 93 (2) of the EEC Treaty by letters of 4 February, 4 June, 11 October 1985, 5 February, 19 June and 21 July 1986, 27 March and 21 May 1987, and during several bilateral meetings, namely on 18 October 1985, 14 May and 4 July 1986, and 27 February, 13 and 19 March, and 30 April 1987, pointed to the restructuring efforts undertaken by the company which had led to the closure of several production sites, a considerable reduction in employment, the elimination of several product lines and the transfer of certain production sites to independent producers. The French Government also mentioned a so-called strategic plan which was being pursued by the firm.

By letter of 21 July 1986, confirmed by letter of 27 March 1987, the French Government informed the Commission that, beyond the financial assistance mentioned in its letter of 23 August 1984, additional aids had been granted in the meantime. A total sum of FF 999,9 million had been paid taking the following forms:

- capital injections of FF 333,1 million by Sopari in July 1982, after transfer from IDI, in order to restore and increase the company's capital,
- further capital injections of FF 300 million (FF 110 million in June 1984 and FF 190 million in January 1985) by Sopari for the same purpose and carrying a right to dividends to be paid during the years 1991 to 2005,

- advances by Sopari of FF 36,8 million which were granted in June 1984 and are to be reimbursed from the end of 1986 onwards,
- low-interest loans of FF 100 million (December 1982), FF 60 million (December 1983), FF 35 million (December 1984), and FF 100 million (January 1985),
- a reduction in social charges amounting to FF 35 million granted in June 1983.

It was also pointed out that several investment projects in the paper sector undertaken at the production sites Roanne and Saint-Ouen benefited from a regional planning premium (*prime d'aménagement du territoire — PAT*) amounting to FF 30 million.

In contrast to its initial statements of 22 March 1984 and 23 August 1984, the French Government indicated under the procedure that, apart from the interventions which were required to restore the finances of the firm (FF 633,1 million) and which are to be characterized as normal, market economy behaviour not falling under Article 92 (1) of the EEC Treaty, the other interventions were not granted for specific purposes but in general to rationalize the company as far as its textile business is concerned. This effort to rationalize included textile investments, dismissal and early retirement of workers, retraining of workers, closure and transfer of production sites.

Four other Member States, six federations and one individual firm commented under the procedure.

III

The interventions by Sopari in favour of the firm in question took place at the explicit request of, and were subsequently specifically and directly compensated by, the French Government by way of reimbursement. Where it is apparent that a public authority which injects capital by acquiring a holding in a company is not merely providing equity capital under normal market economy conditions, the case has to be assessed in the light of Article 92. This position has again been made clear in the Commission's letter of 17 September 1984 to Member States. From the Commission approach to public holdings in company capital, which was annexed to this letter, it is obvious that the injections in issue here are State aid. The aid granted to the company in question prevented forces at work in the market economy from having their normal consequences — the disappearance of this uncompetitive firm — kept this firm in business artificially and encumbered the structure of Community industries facing adaptation difficulties. Capital was contributed in circumstances that would not be acceptable to a private investor operating under normal market economy conditions as, in the present case, the financial position of the company, and

particularly the volume of its debts (FF 3 682 million in 1981), was such that a normal return in dividends or capital gains could not be expected within a reasonable time for the capital invested and, because of its inadequate cash-flow resulting from long-term operating losses and for other reasons, namely old machinery, over-manning, market and company overcapacity, the company was not able to raise the funds needed on the capital market.

It was only after FF 633,1 million in capital injection and the other abovementioned aid had been granted that a private investor was prepared to step in. The fact that this investor took over the company for a symbolic sum of FF 1 demonstrates the aid character *ex post*.

Furthermore, the French Government itself had at least implicitly recognized the aid character of all interventions by calculating, in the letter dated 21 July 1986 as submitted under the procedure, a net grant equivalent for all interventions except the reduction in social charges.

Finally, it should be noted that the Court of Justice clarified the application of Article 92 (1) to the acquisition of public holdings (see judgment of 14 November 1984 in case 323/82, Intermills, and judgements of 10 July 1986 in case 234/84, Meura, and case 40/85, Boch). In order to determine if a contribution to capital is State aid, the Court held that it is necessary to see whether the company in question could have obtained the finance on the private capital market. Where the evidence suggests that the beneficiary of the aid could not have survived without public funds because it could not have raised the capital required on the open market from a private investor, it is right to conclude that the payment constitutes State aid.

In the case in question here, and on the basis of the facts outlined above, it is unlikely that the company concerned could have obtained sufficient capital to ensure its survival on the private capital market, as no private company, basing its decision on the foreseeable possibility of profit, and disregarding any social considerations or considerations of regional or sectoral policy, would have made such a capital subscription. In consequence, the interventions of FF 633,1 million constitute State aid within the meaning of Article 92 (1).

Equally, the low-interest advances and loans and the reduction in social security charges are State aid under Article 92 (1) because they also enabled the recipient to be relieved, from public funds, of costs which it normally would have had to bear.

Therefore, all this aid had to be notified to the Commission as provided for by Article 93 (3). Since the French Government failed to notify the aids in question in this

case in advance, the Commission was unable to state its views on the measures before they were implemented. Thus, the aid is illegal in relation to Community law from the time that it came into operation. The situation produced by this failure to fulfil obligations is particularly serious since the aid has already been paid to the recipient. Furthermore, as confirmed by the French Government, FF 290 million had been granted even after the Commission had initiated the formal examination and procedure under Article 93 (2) on 21 November 1984. Here, all the aid is regarded as being illegal under Community law. In this respect it has to be recalled that, in view of the imperative character of the rules of procedure as laid down in Article 93 (3) which also are of importance as regards public order, the direct effect of which the Court of Justice has recognized in its ruling of 19 June 1973 in case 77/72, the illegality of the aids at issue here cannot be remedied *a posteriori*.

The illegal character of all aid at issue here results from the failure to respect the rules of procedure as laid down in Article 93 (3). At the same time, this aid is incompatible with the common market under Article 92 of the EEC Treaty.

Moreover, in cases of aid incompatible with the common market the Commission making use of a possibility given it by the Court of Justice in its judgment of 12 July 1973 in Case 70/72 confirmed in the judgment of 24 February 1987 in Case 310/85, can require Member States to recover aid granted illegally from recipients.

IV

In the textile, clothing and paper sectors there is trade between Member States — as sufficiently documented by statistical evidence — and competition is very keen. The French textile, clothing and paper industry as such, producing about 20 % of value added in these sectors in the Community, participates very actively in intra-Community trade by exporting up to 40 % of its total production output to other Member States. The company in question in this case is the third largest producer of textiles and clothing in France with a 1986 turnover of FF 4 700 million, of which 56 % is in textiles/clothing and highly diversified interests in many different textile product groups. It is also the fifth largest textile firm in the Community. The company participates actively in intra-Community trade by exporting 16 % of its textile production to other Member States and a further 9 % elsewhere. In the period between 1982 and the end of 1984, that is when the aid was granted, textile exports to other Member States increased by 32 %.

The aid in issue in the present case distorts competition because it calculably improved the recipient's financial position and its return on investment and reduced other costs, thereby giving him a competitive advantage over other manufacturers who have completed or intend to complete similar actions at their own expense. Moreover, parts of the aids restored the finances of the company which, under normal circumstances, would have disappeared in 1981. The distortion of competition is appreciable. Financial assistance amounting to FF 999,9 million, without taking into account regional planning premiums (PAT) of FF 30 million, destined to restore the firm's finances, to cover rationalization costs including certain textile investments reduced the costs this company faced by such a margin as to give the assisted firm a very considerable advantage over its unaided competitors.

When State financial aid strengthens the position of an undertaking compared with other undertakings competing in intra-Community trade, the latter must be regarded as affected by that aid. In this case the aid, which enabled the company in question to survive after having been put into receivership in 1981 and also reduced considerably rationalization and modernization costs which the firm would normally have to bear itself, is liable to affect trade and distort or threaten to distort competition between Member States by favouring the said enterprise within the meaning of Article 92 (1) of the Treaty. Article 92 (1) lays down the principle that aid having the features there described is incompatible with the common market.

The exceptions from the principle of incompatibility as set out in Article 92 (2) are not applicable in this case because of the character of the aid which was not intended for such purposes.

Article 92 (3) sets out which aid may be considered to be compatible with the common market. Compatibility with the Treaty must be determined in the context of the Community and not of a single Member State. In order to safeguard the proper functioning of the common market, and taking into account the principles of Article 3 (f) of the Treaty, the exceptions from the principle of Article 92 (1) as set out in Article 92 (3) must be construed narrowly when an aid scheme or any individual award is scrutinized.

To apply the exceptions to cases not contributing to one of the objectives set out in Article 92 (3), or where an aid is not necessary to that end, would be to give unfair advantages to certain industries or undertakings, the financial positions of which would merely be bolstered, and could allow trading conditions between Member States to be affected and competition to be distorted

without any justification on grounds of Community interest as set out in Article 92 (3).

The French Government has been unable to give, or the Commission to discover, any justification for a finding that the aid falls within one of the categories of exceptions in Article 92 (3).

V

In the period during which the company benefited from the above aids, the majority of its interests was in the textile and clothing field and the French Government described the company as 'the number one textile group in France'. In fact, the company is the third largest textile group in France and the fifth largest in the Community. Therefore, and because the French Government informed the Commission that investments in the paper sector did not benefit from the aid except for a PAT of FF 30 million granted under a regional aid scheme approved by the Commission, the remaining financial assistance of FF 999,9 million is subject in full to the conditions for aid to the textile and clothing industry, as defined in the Community guidelines for aid to this sector of 1971 and 1977 and communicated to Member States by letters of 30 July 1971 and 4 February 1977.

These guidelines contain a number of criteria worked out by the Commission with the aid of national experts in order to guide the governments of the Member States on interventions they may possibly wish to make in this sector. In the 1971 guidelines the Commission points out that aid in the textile and clothing sector, which is marked by a very high degree of competition at Community level, involve a risk of causing distortion of competition which is unacceptable to competitors who do not benefit from such measures. This applies in particular to aid for modernization and rationalization, which generally have very marked repercussions on competitiveness. Subsequent developments confirmed the Commission's concern so that it specified the guidelines in 1977, most particularly with regard to rationalization and modernization investment aid.

The Community textile and clothing industry has undergone an extremely rapid progress of change over the last 10 years. Production has declined under the pressure of outside competition both on traditional export markets and on the Community market. One million jobs, representing nearly 40 % of total employment in these industries, have been lost between 1975 and 1985. Both the severity and length of the crisis have forced undertakings in this sector to make great efforts to restructure and to modernize their production plants. As a result, the industry has been able to adapt and to re-establish progressively its competitiveness and profitability. The important role played by the Community guidelines for aid to this sector in restoring a certain balance and in

maintaining or re-establishing a true market economy has been widely recognized. As, however, the industry remains very vulnerable, not least because it continues to be subject to extremely strong international competition, the Commission takes the view that uncoordinated State intervention would conflict with the Community interest, particularly by putting at serious risk the past and, indeed, present efforts undertaken by the Community textile and clothing producers to adapt to changing market conditions. Therefore, the Commission continues to attach the greatest value to the taking into account by Member States of the abovementioned guidelines.

The aid in issue here does not meet several of the conditions set out in the guidelines. Firstly, these guidelines contain no provision for the granting of aid for the purpose of maintaining a company in business. On the contrary, the rescue of ailing textile companies has always been rightly regarded as not bringing about any lasting improvement in the industry either at national or at Community level, but would instead affect conditions of competition in the common market without facilitating an improvement in the industry's competitive position which is a prerequisite for its recovery and success on the international textile market.

Secondly, the guidelines require aid to textiles to apply for a short period only. This condition is not fulfilled in the case at issue here as aid was granted from July 1982 to January 1985. Furthermore, under the guidelines the aim of aid must be to provide the beneficiary in the short term with a level of competitiveness sufficient to ensure success on the international textile market. The firm at issue, however, continued to suffer substantial losses, which from July 1982 until the end of 1986 alone amounted to FF 1 161 million, so that this condition equally is not fulfilled.

Thirdly, under the guidelines there must be a direct connection between the grant of the aid and the operations benefiting from it. In this case, however, the French Government informed the Commission that parts of the financial interventions were generally intended to restore the finances of the firm in question whereas the remaining aid was granted to serve the purpose of rationalizing the company without being directed to any specific project.

In such a situation a further condition set in the guidelines also is not met. As there is no direct link between the aid and individual operations, an appraisal of the impact of the aid on the benefiting operations is difficult.

Finally, the guidelines require that aid must not affect competition and trade more than is absolutely necessary.

In this respect, it has to be pointed out that in the three-year period during which the aid was granted, that is July 1982 to January 1985, the firm increased its textile exports to other Member States by 32 %, which is a clear indication that trade did not remain unaffected by the aid. A later downturn of export, fully in line with a generally poorer export performance by the French textile industry as such in 1985 and 1986, cannot change this assessment.

In view of the foregoing considerations, it is concluded that all the aid in question was granted in contravention of the Community guidelines on aid to the textile and clothing industry.

VI

On 21 December 1983, the Commission decided to withdraw its objections to the implementation of a sectoral aid scheme in favour of the textile and clothing industry in France through relief of social security costs. By letter of 3 January 1984, it informed the French Government that following the modifications proposed by the latter the measures could be regarded as compatible with the common market. Aid granted to an individual undertaking within the context of this sectoral aid scheme could benefit from the exception in Article 92 (3) (c) only if all the conditions of this scheme as accepted by the Commission were fulfilled. Of particular importance for the case in question here are the following conditions linked to the reduction in social charges scheme :

- Companies with a ratio of less than 1 : 2 between own capital and long- and short-term debts are not considered viable and may not benefit from aid under the programme nor from any other aid, be it general, regional or specific.

This condition was not fulfilled by the firm in question, which in 1981 had filed for bankruptcy with long- and short-term debts exceeding FF 3 682 million and with a capital fully utilized to cover losses. In 1985 it was still in a situation of financial crisis.

Therefore, the company should have benefit neither of the aid under the textile and clothing aid scheme nor of any other aid.

- The maximum aid intensity per firm, taking into account aid granted under the textile and clothing scheme and any other general, regional or specific scheme, may not exceed 25 % in net grant equivalent in relation to the investments undertaken.

In the present case, however, FF 999,9 million were granted for the benefit of textile and clothing investments totalling FF 675 million in the period 1981 to 1986.

The grant equivalent in this case stands at 121,25 %. The net grant equivalent, which, however, is meaningless because of the continued losses of the firm during the years under consideration, would amount to 66,69 %. Thus, both figures exceed considerably the maximum fixed at 25 %.

Therefore, the company was granted aid in contravention of the conditions linked to the textile aid scheme.

- Aid may only be granted for investment purposes and if companies are able to raise at least 50 % of the investment costs from own resources.

In this case the company received FF 999,9 million and undertook textile investments of FF 675 million until 1986, so that the required ratio is not reached. Aid even surpassed investments by 48 %.

Therefore, the company was granted the aid in contravention of the conditions linked to the aid scheme.

- Aid may only be granted for genuine restructuring investment.

In this case, however, it has to be concluded from information concerning the investments undertaken by the firm, provided by the French Government under the procedure, that a simple modernization of production facilities for the purpose of keeping them in business without affecting any fundamental change was financed. The investments concerned the replacement of totally out-of-date equipment in order to regain competitiveness which had been lost many years before. Even several examples given by the French Government for investments with an alleged high technological content demonstrate no more than a very belated adaptation to changes in production techniques and processes which have taken place elsewhere in the Community textile industry some five to ten years earlier.

Consequently, such investments cannot be described as genuine restructuring and they therefore should have been carried out using the financial resources of the company without State aid.

Furthermore, the Commission has always considered that, particularly in the textiles and clothing sector, investment made by an enterprise for the purpose of keeping it in business or maintaining its level of business without effecting any basic change does not qualify for assistance.

Besides pointing to investment efforts by the firm, the French Government also underlines in its comments under the procedure the importance of reductions in the number of jobs offered as part of the rationalization process.

While it is correct that very considerable reductions were undertaken by way of dismissals, early retirement and transfer of workers to other, independent, producers continuing production at manufacturing sites equally transferred to them, it must not be forgotten that such reductions were necessary for its survival as the company had been very considerably overstaffed in virtually all its departments. This was confirmed by the French Government on several occasions. In addition, while not increasing capacity in investing in textile machinery as claimed by France, quite considerable reductions in personnel are a direct result of the installation of up-to-date equipment.

In relation to workforce reductions, it must also be kept in mind that over the past 10 years the textile and clothing industry in the Community, under the auspices of a Community aid discipline, has carried out a major restructuring effort with the loss of over one million jobs, which represents a heavy social and regional burden of adjustment. In addition, these reductions had to be financed by the industry itself as the Community guidelines do not provide for state aid for this purpose. The severity and length of the textile crisis in the Community have forced other undertakings themselves to make great efforts to adjust without the use of state aid, despite the financial difficulties from which so many of them suffered and despite the difficulties which they had in reducing their workforce as demanded by the essential restructuring measures.

In this case, however, the aid at issue enabled the firm to grant comparatively generous severance pay to its workers which had the effect of a more far-reaching rationalization and productivity increase than elsewhere and than would have been possible had the company been required to finance the settlements itself.

Finally, the French Government claims that a considerable reduction in capacity has taken place. In this respect it has to be pointed out that, firstly, the notion of capacity has little meaning when looking at the textile and clothing industry with its extremely large range of different articles. This view has always been held by the Commission and national experts. The same holds true for the firm at issue here where, in view of its vast range of products, capacity changes can at best broadly indicate an underlying trend.

Secondly, certain reductions are solely due to recent market developments as in some subsectors of textiles, e.g. linen and cotton fabric, which are of great importance for the firm in question here, demand has fallen considerably so that firms throughout the Community have had to adapt to this new situation.

Thirdly, certain other reductions result from the scrapping of totally out-of-date machinery partly dating from before the First World War, which in recent years had not been used for production purposes anyway.

Fourthly, when relating the capacity reduction figures to actual turnover of the firm (at constant 1982 prices), the real reduction is much less spectacular. Taking into account that a large number of production sites (27 sites with a total employment of 4 730 workers) was transferred to other producers continuing textile production, practically no real internal decrease in output can be claimed. However, even if a certain real decrease in production remains at the company in issue here, it must be kept in mind that, following a marked slowing-down of the increase in consumption of textiles in the Community (and even at times a decrease) combined with an increase in the rate of exports from developing countries to the Community, activity in the textile industry in Europe today is some 15 % below 1973 levels. Compared to this development, the evolution of production in the firm in question here is by no means spectacular so that it cannot be claimed that the company made any particular efforts in terms of restructuring.

Moreover, it should be noted that the firm recently officially announced considerable capacity increases particularly in linen for September 1987. Such action jeopardizes the alleged capacity reductions referred to above and makes the information concerning such reductions as communicated by the French Government even more doubtful.

In view of all the foregoing considerations, it is concluded that the aid was granted to the firm in contravention of the conditions linked to the textile and clothing industry aid scheme in force in France at the time. This is the case irrespective of the French Government's comment under the procedure according to which certain aid had been granted in order to restore the finances of the firm. As aid other than under the reduction of social charges scheme was also covered by the Commission's decision concerning the reduction of social charges aid scheme, this other aid cannot be exempted from the conditions linked to this scheme.

It must be added that FF 35 million were explicitly paid to the firm in June 1983 under the reduction in social charges scheme. This means that the aid was granted under a scheme in respect of which the Commission had

taken a final negative Decision 83/245/EEC⁽¹⁾, notified to the French Government by letter of 21 January 1983.

That Decision required France, from the date of notification, no longer to grant any aid under the scheme in question, and, within a period of one month, to abolish the scheme. However, it is common ground for which this case is again conclusive evidence that France continued to pay the aid for which the scheme provided, and that the French Government took no steps to abolish the aid scheme within the period prescribed by the Decision. This has been recognized in full by the Court of Justice in its judgment of 15 November 1983 in case 52/83.

VII

In respect of aid paid in order to restore the finances of the company, it has to be pointed out that the Commission had informed the Member States by letter of 24 January 1979 of the conditions under which rescue aid could be regarded as compatible with the common market. Rescue aid which may merely be granted to keep a firm in business while the causes of its difficulties are discovered and a remedy is worked out, must observe *inter alia* the following conditions:

- It must consist of cash aid in the form of loan guarantees or loans bearing normal commercial interest rates.

None of the aid received by the company in question in this case meets this condition.

- It must be paid only for the time needed (generally not exceeding six months) to draw up the necessary and feasible recovery measures.

In this case, the rescue aid which took the form of an injection of capital was not granted for a short period and neither a duration nor a selling-price were fixed in advance. The aid was granted without any conditions to be met by the firm. The only aim was to keep the bankrupt company in business and the aid has not been recovered: it was granted without the necessary and feasible recovery measures being drawn up.

- It must not have any adverse effects on the industrial situation in other Member States.

In this case, however, the company in question participates very actively in intra-Community trade. The margins by which the aid has reduced the firm's costs are, as documented above, very substantial. The aid

⁽¹⁾ OJ No L 137, 26. 5. 1983, p. 24.

enabled it to increase its exports to other Member States between 1982 and the end of 1984 by 32 % which, in view of the fact that the firm was at the time (1984) the third largest textile producer in France and the fifth largest in the Community, corroborates the presumption that competition has been distorted.

- It must be notified to the Commission in advance in significant individual cases.

As the case of this company — in view of the scale of the aid and in view of the size of the firm — is clearly significant, the French Government did not fulfil its obligation under Article 93 (3) to notify the aid in sufficient time to enable the Commission to submit its comments and, if necessary, initiate in respect of it the administrative procedure provided for in Article 93 (2) of the EEC Treaty. It should be recalled that a considerable part of the aid was paid to the firm after the opening of this procedure.

Finally, it is clear from the judgments of the Court of Justice in cases 234/84 and 40/85, already referred to above, that rescue aid will not qualify for one of the exceptions under Article 92 where it does not help a firm to recover, i.e. where the firm cannot be expected to be operating on a viable basis without further assistance in a reasonable time, particularly where there is excess production capacity in the industry concerned in the Community. In this case considerable further assistance was granted.

In view of all the above arguments, it has to be concluded that the financial injections did not meet several conditions linked to rescue aids, as set out in the Commission's letter of 24 January 1979 to Member States and as defined by the Court of Justice in the abovementioned judgments.

VIII

In view of all the foregoing considerations in respect of the aid, it must be observed that it artificially lowered the costs the textiles, clothing and paper producer in issue in the present case would normally have to bear. It gave unfair advantages to this undertaking and its financial position was bolstered compared to other firms in the sectors concerned which, during recent years, had to rationalize and modernize their production without financial assistance to this end.

With regard to the exemption provided for in subparagraph 3 (c) of Article 92 of the Treaty in favour of 'aid to facilitate the development of certain economic activities', it must be observed that the aid, while facilitating the development of the firm in issue, affected at the same time trading conditions to an extent contrary to the common interest. It artificially kept the firm in business in a sector where there is a high level of trade in the Community and competition is very keen. It lowered the costs of the undertaking in question, weakened the

competitive position of other producers in the Community and therefore had the effect of further increasing the pressure on these firms and depressing market prices, leading to difficulties for, or even withdrawal from the market of producers that have hitherto survived owing to restructuring, productivity and quality improvements undertaken from their own resources. Thus, the aid to the undertaking in question, which was artificially saved from bankruptcy and whose market position is no longer solely determined by its own efficiency, merits and powers, cannot be considered as contributing to a development which, from the Community point of view, would be adequate to counteract the trade-distorting effects of the aids.

With regard to the exemptions provided for in Article 92 (3) (a) and (c) relating to aids intended to promote or facilitate the development of certain areas, it must be observed that the standard of living in the areas concerned is not abnormally low nor is there serious underemployment within the meaning of the exemption specified in subparagraph (a). Furthermore, the exemption set out in subparagraph (a) has not been put forward by the French Government. Because the aid applied to an individual firm in given economic sectors irrespective of its location, it was not intended nor suited for the development of certain areas as provided for in the exemption specified in subparagraph (c). Aid granted to the firm in the form of a regional planning premium (PAT) for the purpose of developing certain areas is not concerned by this Decision.

As regards the exemptions provided for in Article 92 (3) (b), it is evident that the aid in question was not intended to promote the execution of an important project of common European interest, nor to remedy a serious disturbance in the French economy. Specific aid in favour of only one textile, clothing and paper company is not suited to remedying the kind of situation described in Article 92 (3) (b).

In view of all the foregoing considerations, the aid in question is illegal because the French Government did not fulfil its obligations under Article 93 (3) of the Treaty. Moreover, it does not meet the conditions for one of the exceptions in Article 92 (2) and (3) of the Treaty to apply.

IX

As pointed out above, the Commission can in such cases require Member States to recover illegally granted aid from recipients.

In the case at issue here, the amount of aid awarded to the company was a large amount in relation to the investment undertaken and to the size of the firm, and it even exceeds the amount of other national aid scheme proposals rejected by the Commission on the grounds of potential distortion of competition, such as the French parafiscal levies scheme for the textile and clothing industry

(final negative Decision 85/380/EEC ⁽¹⁾), the textile and clothing industry aid scheme put forward by the United Kingdom (final negative Decision 85/305/EEC ⁽²⁾) and the 1984 Belgian textile and clothing industry aid scheme (final negative Decision 84/564/EEC ⁽³⁾).

Furthermore, the seriousness and scale of the breach of Community legislation in this case requires appropriate measures.

Therefore, having found no justification for the aid at issue here, repayment of the benefits received by the company is required. On the basis of the conditions attached to the aid, i.e. dates of granting, and, where applicable, interest rates charged, periods of reimbursement, dividends, etc., as communicated by the French Government to the Commission, the real economic benefit of the aid amounts to:

- FF 333,1 million for the capital injections of 1982,
- FF 207,16 million for the capital injections made later,
- FF 7,04 million for the advances,
- FF 103,56 million for the various low-interest loans,
- FF 35,0 million for the reduction in social charges.

The total economic benefit therefore stands at FF 685,86 million.

Under the procedure, by letter dated 21 May 1987, the French Government claims that there is no ground for imposing any additional recovery in excess of the substantial amounts, approximately FF 1 000 million which already remain to be reimbursed to Sopari and the French authorities.

In this respect, it firstly has to be pointed out that, when bankruptcy proceedings were initiated against the firm in 1981, public-sector claims amounting to FF 450 million constituted a considerable portion of the company's liabilities. The judicial settlement (*concordat*) reached in 1985 contained the obligation for a reimbursement of 84,4 % of these claims, that is FF 380 million. Reimbursement of such other previous debts is totally independent from the State aid in question here and the Commission cannot take such debts into account.

Secondly, concerning the low-interest loans granted to the firm between 1982 and 1985, it is obvious that the principal amount of FF 336,8 million (including the advances

of FF 36,8 million) will have to be reimbursed. Finally, the right to dividends linked to the grant of a capital injection by Sopari will collect FF 300 million between 1991 and 2005. Both these facts have naturally been taken fully into account when calculating the grant equivalent and the economic benefit of the aid.

X

Within the rationalization programme 27 production sites with a total workforce of 4 730 were transferred to independent companies for the purpose of maintaining the jobs involved and continuing textile production. These independent firms were only prepared to take over the plants provided they received financial assistance per job maintained to be paid by the company wishing to dispose of these sites and workers. In order to rationalize production and increase productivity, the firm at issue paid a total amount of FF 521 million for this purpose. The average payment for each worker was very high and amounted to approximately FF 110 000. Although not granted directly to this end, aid benefited this operation, as declared by the French Government under the procedure.

It must be observed that the aid artificially lowered costs the company in question would normally have to bear itself. Such payments have been made on a large scale, out of their own resources, by the firm's Community competitors in recent years, and are a necessary and normal commercial cost of rationalizing. When the French State took on such obligations, additional funds were then freed in the company for investment and other purposes. Thus, the aid also affected trading conditions to an extent contrary to the common interest and, therefore, should be recovered.

However, shortly after take-over, 13 sites with a total workforce of 3 153, that is 66,66 % of the total number of jobs transferred, had to close and textile production was stopped for good. The amount of FF 347,3 million paid to Boussac Saint Frères to facilitate these transfers did confer a benefit on the company by relieving it of costs it would otherwise have had to bear. However, as these sites are no longer in production, the aid can be considered to have been abolished. Therefore there is no need to recover this aid, amounting to FF 347,3 million i.e. 66,66 % of the total amount paid for transfers, and the amount can be deducted from the aid of FF 685,86 million received by the company.

As a result, from the total amount of aids illegally granted, carrying economic benefits of FF 685,86 million, the sum of FF 338,56 million must be withdrawn by recovery,

⁽¹⁾ OJ No L 217, 14. 8. 1985, p. 20.

⁽²⁾ OJ No L 155, 14. 6. 1985, p. 55.

⁽³⁾ OJ No L 312, 30. 11. 1984, p. 27.

HAS ADOPTED THIS DECISION :

Article 1

The capital injections of FF 633,1 million provided by Sopari, after transfer from IDI, loans of FF 331,8 million at reduced interest rates and reductions in social security charges of FF 35 million granted under the respective textile and clothing aid scheme, all awarded to Boussac Saint-Frères, a major producer of textiles, clothing and paper products, during the period between 1982 and 1985, and of which the French Government belatedly informed the Commission by telex of 22 March and letter of 23 August 1984, and under the procedure of Article 93 (2) by letters of 4 February, 4 June, and 11 October 1985, 5 February, 19 June and 21 July 1986, 27 March and 21 May 1987, are illegal as they were provided in violation of the provisions of Article 93 (3) of the EEC Treaty. Moreover, they are incompatible with the common market within the meaning of Article 92 of the Treaty.

Article 2

Of the said amounts which carry economic benefits amounting to FF 685,86 million, a total sum of FF 338,56 million shall be withdrawn by recovery.

Article 3

The French Government shall inform the Commission within two months of the date of notification of this Decision of the measures taken to comply herewith.

Article 4

This Decision is addressed to the French Republic.

Done at Brussels, 15 July 1987.

For the Commission

Peter SUTHERLAND

Member of the Commission
