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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 499/88

of 22 February 1988

opening and providing for the administration of a Community tariff quota for certain types of concentrated grape juice falling within code 2009 60 51, 2009 60 71, ex 2009 60 90 or ex 2204 30 91 of the combined nomenclature and originating in Cyprus (1988)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Whereas Article 19 of the Protocol laying down the conditions and procedures for the implementation of the second stage of the Agreement establishing an Association between the European Economic Community and the Republic of Cyprus and adapting certain provisions thereof⁽¹⁾ stipulates that certain types of concentrated grape juice falling within code 2009 60 51, 2009 60 71, ex 2009 60 90 or ex 2204 30 91 of the combined Nomenclature and originating in Cyprus shall be imported into the Community at reduced rates of duty within the limits of an annual Community tariff quota of 3 000 tonnes; whereas, under the said Article 19, this volume is subject to an annual increase of 5 % from the entry into force of the Protocol, and will therefore be 3 150 tonnes in 1988; whereas, within the limits of the tariff quota, the duty applicable is to be abolished progressively according to the same timetable and under the same conditions as laid down in Articles 5 and 16 of the said Protocol; whereas, however, the Protocol to the Association Agreement between the European Economic Community and the Republic of Cyprus consequent on the accession of the Kingdom of Spain and of the Portuguese Republic to the Community⁽²⁾ stipulates that from the date of its entry into force, the Kingdom of Spain will apply a duty reducing the gap between the rates of basic duty and of preferential duty, whereas the Portuguese Republic will postpone

implementation of the preferential arrangements for the products in question until the start of the second stage;

Whereas the Community tariff quota should therefore be opened for the period from 1 March to 31 December 1988;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 March to 31 December 1988 the customs duty applicable to imports into the Community, with the exception of Portugal, of the following products originating in Cyprus shall be suspended at the level indicated and within the limits of a Community tariff quota as shown below:

⁽¹⁾ OJ No L 393, 31. 12. 1987, p. 2.

⁽²⁾ OJ No L 393, 31. 12. 1987, p. 37.

Onder No	CN code	Description	Volume of quota (tonnes)	Rate of duty (%)
09.1421	2009	Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter :	3 150	25,4 + ads from 1 March to 31 December
		— Grape juice (including grape must) :		
		— — Of a density not exceeding 1,33 g/cm ³ at 20 °C		
		— — — Of a value exceeding 18 ECU per 100 kg net weight :		
	2009 60 51	— — — — Concentrated		
		— — — — Of a value not exceeding 18 ECU per 100 kg net weight :		
		— — — — With an added sugar content exceeding 30 % by weight :		
	2009 60 71	— — — — — Concentrated		
	ex 2009 60 90	— — — — — Other		
		— — — — — Concentrated, within the meaning of additional note 6 (combined nomenclature) to Chapter 20		
	2204	Wine of fresh grapes, including fortified wines ; grape must other than that of code 2009 :		
		— Other grape must :		
		— — Other :		
		— — — Of a density of 1,33 g/cm ³ or less at 20 °C and of an actual alcoholic strength by volume not exceeding 1 % vol :		
	ex 2204 30 91	— — — — Concentrated, within the meaning of additional note 6 (combined nomenclature) to Chapter 20		

Within the limits of this tariff quota the Kingdom of Spain shall apply customs duties calculated in accordance with the relevant provisions of the Protocol to the Association Agreement between the European Economic Community and the Republic of Cyprus consequent on the accession of the Kingdom of Spain and of the Portuguese Republic to the Community.

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

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

Article 2

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

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

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

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

Article 3

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

Article 4

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

Article 5

This Regulation shall enter into force on 1 March 1988.

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

Done at Brussels, 22 February 1988.

For the Council

The President

H.-D. GENSCHER

COUNCIL REGULATION (EEC) No 500/88

of 22 February 1988

opening and providing for the administration of a Community tariff quota for certain wines of fresh grapes in containers holding more than two litres falling within code 2204 29 25, 2204 29 29, 2204 29 35 or 2204 29 39 of the combined nomenclature and originating in Cyprus (1988)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Whereas Article 19 of the Protocol laying down the conditions and procedures for the implementation of the second stage of the Agreement establishing an Association between the European Economic Community and the Republic of Cyprus and adapting certain provisions thereof⁽¹⁾ stipulates that certain wines of fresh grapes in containers holding more than two litres, falling within code 2204 29 25, 2204 29 29, 2204 29 35 or 2204 29 39 of the combined nomenclature and originating in Cyprus shall be imported into the Community at reduced rates of duty within the limits of an annual Community tariff quota of 26 000 hectolitres; whereas, within the limits of the tariff quota, the customs duty applicable is to be abolished progressively according to the same timetable and under the same conditions as laid down in Articles 5 and 16 of the said Protocol; whereas, however, the Protocol to the Association Agreement between the European Economic Community and the Republic of Cyprus consequent on the accession of the Kingdom of Spain and of the Portuguese Republic to the Community⁽²⁾ stipulates that, from the date of its entry into force, the Kingdom of Spain will apply a duty reducing the gap between the rates of basic and of preferential duty, whereas the Portuguese Republic will postpone implementation of the preferential arrangements for the products in question until the start of the second stage;

Whereas the wines in question are subject to compliance with the free-at-frontier reference price; whereas, in order that such wines may benefit from this tariff quota, Article 54 of Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine⁽³⁾, as last amended by Regulation (EEC) No 3390/87⁽⁴⁾, must be complied with; whereas the Community tariff quota should therefore be open for the period from 1 March to 31 December 1988;

Whereas, equal and continuous access to the quota should be ensured for all Community importers and the rate laid down for the quota should be applied consistently to all imports of the products in question into all the Member States until the quota is exhausted; whereas, in the light of these principles, allocation of the tariff quota among the Member States would seem to preserve the Community nature of the quota; whereas, in order to correspond as closely as possible to the real trend of the market for the products in question the allocation should reflect the requirements of the Member States based on statistics of imports of the said products from Cyprus during a representative reference period and on the economic outlook for the quota period in question;

Whereas, during the last three years for which statistics are available, imports into each of the Member States were as follows:

(b1)

Member States	1984	1985	1986
Benelux	—	—	—
Denmark	—	—	—
Germany	323	178	5 755
Greece	—	—	—
Spain	—	—	—
France	—	—	—
Ireland	—	—	2
Italy	—	—	—
Portugal	—	—	—
United Kingdom	42 404	21 351	17 776

Whereas in the last three years the products in question were imported regularly only by two Member States and not at all by the other Member States; whereas, under these circumstances, in the first phase, initial shares should be allocated to the genuine importing Member States and the other Member States should be guaranteed access to the benefit of the tariff quota when imports actually take place in those Member States; whereas these allocation arrangements will equally ensure the uniform of the Common Customs Tariff;

Whereas, to allow for the trend of imports of the products concerned in the various Member States, the quota volume should be divided into two parts, the first being allocated among those two Member States and the second held as a reserve to cover any subsequent requirements of Member States which have used up their initial share and

⁽¹⁾ OJ No L 393, 31. 12. 1987, p. 2.

⁽²⁾ OJ No L 393, 31. 12. 1987, p. 37.

⁽³⁾ OJ No L 84, 27. 3. 1987, p. 1.

⁽⁴⁾ OJ No L 133, 27. 5. 1987, p. 3.

any requirements which might arise in the other Member States; whereas, to afford importers in each Member State some degree of certainty, an appropriate level for the first part of the tariff quota would, in the present circumstances, be 30 % of the quota volume;

Whereas the initial shares of the Member States may be used up at different rates; whereas, in order to avoid any break in the continuity of supplies on this account, it should be provided that any Member State which has almost used up its initial share should draw an additional share from the corresponding reserve; whereas each time its additional share is almost used up a Member State should draw a further share and so on as many times as the reserve allows; whereas each of the initial and additional shares must be valid until the end of the quota period; whereas this form of administration requires close cooperation between the Member States and the Commission and the latter must be able to monitor the extent to which the quota volume has been used up and inform the Member States accordingly;

Whereas if at a given date in the quota period a considerable quantity of a Member State's initial share remains

unused, it is essential that the Member State concerned should return a significant proportion thereof to the corresponding reserve in order to prevent part of the Community tariff quota from unused in one Member State when it could be used in others;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 March to 31 December 1988 the customs duty applicable to imports into the Community, with the exception of Portugal, of the following products originating in Cyprus shall be suspended at the level indicated and within the limits of a Community tariff quota as shown below:

Order No	CN code	Description	Volume of quota (hl)	Quota duty (%)
09.1423	2204 29 25 2204 29 29	Wine of fresh grapes, including fortified wines, grape must other than that of code 2009:	26 000	9,9 ECU/hl
		— Other wine; grape must with fermentation prevented or arrested by the addition of alcoholic:		
		— — Other:		
		— — — Other:		
		— — — — Of an actual alcoholic strength by volume not exceeding 13 % vol:		
		— — — — — Other:		
	2204 29 35 2204 29 39	— — — — — White		12,1 ECU/hl
		— — — — — Other		
		— — — — — Of an actual alcoholic strength by volume exceeding 13 % vol but not exceeding 15 % vol:		
		— — — — — Other:		
		— — — — — White		
		— — — — — Other		

Within the limits of this tariff quota the Kingdom of Spain apply customs duties calculated in accordance with the relevant provisions of the Protocol to the Association Agreement between the European Economic Community and the Republic of Cyprus consequent on the accession of the Kingdom of Spain and of the Portuguese Republic of the Community.

2. The wines in question shall be subject to compliance with the free-at-frontier reference price. In order that they may benefit from the tariff quota mentioned in paragraph 1, Article 54 of Regulation (EEC) No 822/87 must be complied with.

Article 2

1. The first part, amounting to 7 800 hectolitres of the Community tariff quota referred to in Article 1 shall be allocated among the Member States; the quota shares, valid until 31 December 1988; shall be as follows:

Germany	560 hl,
United Kingdom	7 240 hl.

2. The second part of the quota, amounting to 18 200 hectolitres shall constitute the reserve.

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

Article 3

1. If a Member State has used 90 % or more of its initial share as specified in Article 2 (1), it shall forthwith, by notifying the Commission and to the extent that the reserve so permits, draw a second share equal to 15 % of its initial share, rounded up where necessary to the next whole number.

2. If, after its initial quota share has been used up, a Member State has used 90 % or more of its second share as well, it shall forthwith, using the procedure provided for in paragraph 1, draw a third share equal to 7,5 % of the initial share, rounded up where necessary to the next whole number.

3. If, after its second share has been used up, a Member State has used 90 % or more of its third share, it shall, using the same procedure, draw a fourth share equal to the third.

This process shall continue until the reserve is used up.

4. By way of derogation from paragraphs 1, 2 and 3, Member States may draw smaller shares than those specified in the said paragraphs if there is reason to believe that they might not be used in full. They shall inform the Commission of their reasons for applying this paragraph.

Article 4

The additional shares drawn pursuant to Article 3 shall be valid until 31 December 1988.

Article 5

By 1 October 1988 at the latest Member States must return to the reserve the unused portion of their initial share which, on 15 September 1988, is in excess of 20 % of the initial volume. They may return a greater portion if there is reason to believe that it might not be used.

By 1 October 1988 at the latest Member States must notify the Commission of the total quantities of the

products concerned imported on or before 15 September 1988 and charged against the Community quota and of any portion of their initial share that they are returning to the reserve.

Article 6

The Commission shall keep account of the shares drawn by Member States pursuant to Articles 2 and 3 and shall inform each Member State of the extent to which the reserve has been used up as soon as it has been notified.

It shall inform the Member States not later than 5 October 1988 of the state of the reserve following any return of quota shares pursuant to Article 5.

It shall ensure that the drawing which exhausts the reserve does not exceed the balance available, and to this end shall notify the amount of that balance to the Member State making the final drawing.

Article 7

1. Member States shall take all appropriate measures to ensure that additional drawings of shares pursuant to Article 3 enable imports to be charged without interruption against their accumulated shares of the Community tariff quota.

2. Member States shall ensure that importers of the products concerned have free access to the quota shares allocated to them.

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

4. The extent to which a Member State has used up its shares shall be determined on the basis of the imports charged in accordance with paragraph 3.

Article 8

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

Article 9

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

Article 10

This Article shall enter into force on 1 March 1988.

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

Done at Brussels, 22 February 1988.

For the Council

The President

H.-D. GENSCHER

COMMISSION REGULATION (EEC) No 501/88

of 25 February 1988

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) 3989/87 ⁽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 4047/87 ⁽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 24 February 1988;

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 4047/87 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 26 February 1988.

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

Done at Brussels, 25 February 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 377, 31. 12. 1987, p. 1.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 378, 31. 12. 1987, p. 99.

ANNEX

to the Commission Regulation of 25 February 1988 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Levies	
	Portugal	Third country
0709 90 60	10,36	167,15
0712 90 19	10,36	167,15
1001 10 10	65,54	251,66 ⁽¹⁾ ⁽²⁾
1001 10 90	65,54	251,66 ⁽¹⁾ ⁽²⁾
1001 90 91	5,23	185,38
1001 90 99	5,23	185,38
1002 00 00	45,58	161,49 ⁽³⁾
1003 00 10	39,26	172,96
1003 00 90	39,26	172,96
1004 00 10	95,79	137,32
1004 00 90	95,79	137,32
1005 10 90	10,36	167,15 ⁽²⁾ ⁽³⁾
1005 90 00	10,36	167,15 ⁽²⁾ ⁽³⁾
1007 00 90	33,88	175,96 ⁽⁴⁾
1008 10 00	39,26	95,46
1008 20 00	39,26	118,98 ⁽⁴⁾
1008 30 00	39,26	57,94 ⁽⁵⁾
1008 90 10	(7)	(7)
1008 90 90	39,26	57,94
1101 00 00	21,87	274,08
1102 10 00	78,36	241,53
1103 11 10	115,18	403,66
1103 11 90	21,93	295,05

⁽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 1008 90 10 (triticale).

COMMISSION REGULATION (EEC) No 502/88

of 25 February 1988

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 3989/87⁽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 4048/87⁽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 24 February 1988;

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 26 February 1988.

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

Done at Brussels, 25 February 1988.

For the Commission

Frans ANDRIESSEN

Vice-President⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.⁽²⁾ OJ No L 377, 31. 12. 1987, p. 1.⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.⁽⁵⁾ OJ No L 378, 31. 12. 1987, p. 102.

ANNEX

to the Commission Regulation of 25 February 1988 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

CN code	(ECU/tonne)			
	Current 2	1st period 3	2nd period 4	3rd period 5
0709 90 60	0	0	0	1,35
0712 90 19	0	0	0	1,35
1001 10 10	0	0	0	0
1001 10 90	0	0	0	0
1001 90 91	0	0	0	0
1001 90 99	0	0	0	0
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	0	0	0
1004 00 90	0	0	0	0
1005 10 90	0	0	0	1,35
1005 90 00	0	0	0	1,35
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	0

B. Malt

CN code	(ECU/tonne)				
	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6
1107 10 11	0	0	0	0	0
1107 10 19	0	0	0	0	0
1107 10 91	0	0	0	0	0
1107 10 99	0	0	0	0	0
1107 20 00	0	0	0	0	0

COMMISSION REGULATION (EEC) No 503/88

of 25 February 1988

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 3994/87⁽²⁾, and in particular Article 16 (2) thereof,Having regard to Council Regulation (EEC) No 1514/76 of 24 June 1976 on imports of olive oil originating in Algeria⁽³⁾, as last amended by Regulation (EEC) No 798/87⁽⁴⁾, and in particular Article 5 thereof,Having regard to Council Regulation (EEC) No 1521/76 of 24 June 1976 on imports of olive oil originating in Morocco⁽⁵⁾, as last amended by Regulation (EEC) No 799/87⁽⁶⁾, and in particular Article 5 thereof,Having regard to Council Regulation (EEC) No 1508/76 of 24 June 1976 on imports of olive oil originating in Tunisia⁽⁷⁾, as last amended by Regulation (EEC) No 413/86⁽⁸⁾, and in particular Article 5 thereof,Having regard to Council Regulation (EEC) No 1180/77 of 17 May 1977 on imports into the Community of certain agricultural products originating in Turkey⁽⁹⁾, as last amended by Regulation (EEC) No 800/87⁽¹⁰⁾, and in particular Article 10 (2) thereof,Having regard to Council Regulation (EEC) No 1620/77 of 18 July 1977 laying down detailed rules for the importation of olive oil from Lebanon⁽¹¹⁾;Whereas by Regulation (EEC) No 3131/78⁽¹²⁾ the Commission decided to use the tendering procedure to fix levies on olive oil;Whereas Article 3 of Council Regulation (EEC) No 2751/78 of 23 November 1978 laying down general rules for fixing the import levy on olive oil by tender⁽¹³⁾ specifies that the minimum levy rate shall be fixed for each of the products concerned on the basis of the situation on the world market and the Community market and of the levy rates indicated by tenderers;

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

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

Whereas application of the rules recalled above to the levy rates indicated by tenderers on 22 and 23 February 1988 leads to the minimum levies being fixed as indicated in Annex I to this Regulation;

Whereas Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁴⁾ introduces from 1 January 1988 a new combined nomenclature meeting the requirements of both the Common Customs Tariff and the Community's statistics of foreign trade and replacing the previous nomenclature;

Whereas the import levy on olives falling within subheadings 0709 90 39 and 0711 20 90 and on products falling within subheadings 1522 00 31, 1522 00 39 and 2306 90 19 of the combined nomenclature must be calculated from the minimum levy applicable on the olive oil contained in these products; whereas, however, the levy charged for olive oil may not be less than an amount equal to 8 % of the value of the imported product, such amount to be fixed at a standard rate; whereas application of these provisions leads to the levies being fixed as indicated in Annex II to this Regulation,

⁽¹⁾ OJ No 172, 30. 9. 1966, p. 3025/66.⁽²⁾ OJ No L 377, 31. 12. 1987, p. 30.⁽³⁾ OJ No L 169, 28. 6. 1976, p. 24.⁽⁴⁾ OJ No L 79, 21. 3. 1987, p. 11.⁽⁵⁾ OJ No L 169, 28. 6. 1976, p. 43.⁽⁶⁾ OJ No L 79, 21. 3. 1987, p. 12.⁽⁷⁾ OJ No L 169, 28. 6. 1976, p. 9.⁽⁸⁾ OJ No L 48, 26. 2. 1986, p. 1.⁽⁹⁾ OJ No L 142, 9. 6. 1977, p. 10.⁽¹⁰⁾ OJ No L 79, 21. 3. 1987, p. 13.⁽¹¹⁾ OJ No L 181, 21. 7. 1977, p. 4.⁽¹²⁾ OJ No L 370, 30. 12. 1978, p. 60.⁽¹³⁾ OJ No L 331, 28. 11. 1978, p. 6.⁽¹⁴⁾ OJ No L 256, 7. 9. 1987, p. 1.

HAS ADOPTED THIS REGULATION:

Article 2

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

Article 1

Article 3

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

This Regulation shall enter into force on 26 February 1988.

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

Done at Brussels, 25 February 1988.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX I

Minimum import levies on olive oil

(ECU/100 kg)	
CN code	Non-member countries
1509 10 10	62,00 ⁽¹⁾
1509 10 90	62,00 ⁽¹⁾
1509 90 00	73,00 ⁽²⁾
1510 00 10	62,00 ⁽¹⁾
1510 00 90	100,00 ⁽²⁾

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

- (a) Lebanon: 0,60 ECU/100 kg;
- (b) Turkey: 11,48 ECU/100 kg ⁽¹⁾ provided that the operator furnishes proof of having paid the export tax applied by that country; however, the repayment may not exceed the amount of the tax in force;
- (c) Algeria, Tunisia and Morocco: 12,69 ECU/100 kg ⁽¹⁾ provided that the operator furnishes proof of having paid the export tax applied by that country; however, the repayment may not exceed the amount of the tax in force.
- ⁽¹⁾ These amounts may be increased by an additional amount to be determined by the Community and the third countries in question.

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

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

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

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

ANNEX II

Import levies on other olive oil sector products

(ECU/100 kg)	
CN code	Non-member countries
0709 90 39	13,64
0711 20 90	13,64
1522 00 31	31,00
1522 00 39	49,60
2306 90 19	4,96

COMMISSION REGULATION (EEC) No 504/88

of 25 February 1988

fixing for Great Britain the level of the variable slaughter premium for sheep
and the amounts to be charged on products leaving region 5

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 1837/80
of 27 June 1980 on the common organization of the
market in sheepmeat and goatmeat ⁽¹⁾, as last amended by
Regulation (EEC) No 3908/87 ⁽²⁾,

Having regard to Commission Regulation (EEC) No
1633/84 of 8 June 1984 laying down detailed rules for
applying the variable slaughter premium for sheep and
repealing Regulation (EEC) No 2661/80 ⁽³⁾, as last
amended by Regulation (EEC) No 1860/86 ⁽⁴⁾, and in
particular Articles 3 (1) and 4 (1) thereof,

Whereas the United Kingdom is the only country which
grants the variable slaughter premium, in region 5, within
the meaning of Article 3 (5) of Regulation (EEC) No
1837/80; whereas it is necessary therefore for the
Commission to fix, for the week beginning 1 February
1988, the level of the premium and the amount to be
charged on products leaving that region;

Whereas Article 3 (1) of Regulation (EEC) No 1633/84
stipulates that the level of the variable slaughter premium
is to be fixed each week by the Commission;

Whereas Article 4 (1) of Regulation (EEC) No 1633/84
lays down that the amount to be charged on products
leaving region 5 shall be fixed weekly by the Commis-
sion;

Whereas Council Regulation (EEC) No 2658/87 ⁽⁵⁾ intro-
duced from 1 January 1988 a new combined nomencla-
ture meeting the requirements of both the Common
Customs Tariff and the Community's statistics of foreign
trade and replacing the previous nomenclature;

Whereas, pursuant to the provisions of Article 9 (1) of
Regulation (EEC) No 1837/80, for the week beginning 1
February 1988, the variable slaughter premium for sheep
certified as eligible in the United Kingdom is to be in
accordance with the amounts fixed in the Annexes
hereto; whereas, for that week, in the light of the Judg-
ment of the Court of Justice of 2 February 1988 in Case
61/86, the provisions of Article 9 (3) of Regulation (EEC)
No 1837/80 and of Article 4 of Regulation (EEC) No
1633/84 lead to the amounts to be charged on products,
leaving region 5, being fixed in accordance with those
Annexes;

Whereas, as regards the controls necessary for the appli-
cation of the provisions relating to the said amounts, the
system of controls provided for by Regulation (EEC) No
1633/84 should be maintained without prejudice to the
preparation of any more specific provisions following the
abovementioned Judgment of the Court of Justice,

HAS ADOPTED THIS REGULATION:

Article 1

For sheep or sheepmeat certified as eligible in the United
Kingdom in region 5, within the meaning of Article 3 (5)
of Regulation (EEC) No 1837/80, for the variable
slaughter premium during the week beginning 1 February
1988, the level of the premium is fixed at 172,577
ECU/100 kilograms of estimated or actual dressed carcass
weight within the limits laid down by Article 1 (1) (b) of
Regulation (EEC) No 1633/84.

Article 2

For products referred to in Article 1 (a) and (c) of Regula-
tion (EEC) No 1837/80 which left the territory of region 5
during the week beginning 1 February 1988, the amounts
to be charged shall be equivalent to those fixed in the
Annexes hereto.

Article 3

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

It shall apply with effect from 1 February 1988.

⁽¹⁾ OJ No L 183, 16. 7. 1980, p. 1.

⁽²⁾ OJ No L 370, 30. 12. 1987, p. 16.

⁽³⁾ OJ No L 154, 9. 6. 1984, p. 27.

⁽⁴⁾ OJ No L 161, 17. 6. 1986, p. 25.

⁽⁵⁾ OJ No L 256, 7. 9. 1987, p. 1.

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

Done at Brussels, 25 February 1988.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX

Amount to be charged for products leaving region 5 during the week commencing
1 Februari 1988

(ECU/100 kg)

CN code	Amounts	
	A. Products qualifying for the premium specified in Article 9 of Regulation (EEC) No 1837/80	B. Products specified in Article 4 (4) of Regulation (EEC) No 1633/84 (1)
	Live weight	Live weight
0104 10 90	81,111	0
0104 20 90		0
	Net weight	Net weight
0204 10 00	172,577	0
0204 21 00	172,577	0
0204 50 11		0
0204 22 10	120,804	
0204 22 30	189,835	
0204 22 50	224,350	
0204 22 90	224,350	
0204 23 00	314,090	
0204 30 00	129,433	
0204 41 00	129,433	
0204 42 10	90,603	
0204 42 30	142,376	
0204 42 50	168,263	
0204 42 90	168,263	
0204 43 00	235,568	
0204 50 13		0
0204 50 15		0
0204 50 19		0
0204 50 31		0
0204 50 39		0
0204 50 51		0
0204 50 53		0
0204 50 55		0
0204 50 59		0
0204 50 71		0
0204 50 79		0
0210 90 11	224,350	
0210 90 19	314,090	
1602 90 71		
— unboned (bone-in)	224,350	
— boned or boneless	314,090	

(1) Eligibility for these reduced amounts is subject to compliance with the conditions laid down in the second subparagraph of Article 5 (3) of Regulation (EEC) No 1633/84.

COMMISSION REGULATION (EEC) No 505/88

of 25 February 1988

amending Regulation (EEC) No 2183/81 laying down rules implementing the system of aid for cotton

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

Having regard to Council Regulation (EEC) No 2169/81 of 27 July 1981 fixing general rules with regard to the system of aid for cotton ⁽¹⁾, as last amended by Regulation (EEC) No 2276/87 ⁽²⁾, and in particular Article 11 thereof,

Whereas Article 5 (2) of Regulation (EEC) No 2169/81 provides that the amount of aid to be paid is to be that valid on the day on which the aid application is submitted;

Whereas, pursuant to Article 6 (1) of Commission Regulation (EEC) No 2183/81 ⁽³⁾, as last amended by Regulation (EEC) No 2618/87 ⁽⁴⁾, aid applications might be submitted before the beginning of the marketing year concerned, which would lead to aid being granted on the basis of a guide price different from that for the marketing year in question, thereby distorting the market; whereas provision should therefore be made, pending an adaptation of Article 5 (2) of Regulation (EEC) No 2169/81, for aid applications for 1988/89 not to be submitted before the beginning of the marketing year concerned;

Whereas transitional provisions should be laid down concerning aid applications submitted before the date of entry into force of this Regulation; whereas it should therefore be specified that applications submitted before that date are to be regarded as having been submitted on the date of commencement of the 1988/89 marketing year;

Whereas the Management Committee for Flax and Hemp has not delivered an opinion within the period limit set by its Chairman

HAS ADOPTED THIS REGULATION:

Article 1

The last subparagraph of Article 6 (1) of Regulation (EEC) No 2183/81 is hereby replaced by the following:

'However, for the 1988/89 marketing year, applications for aid shall be lodged from the date of commencement of the marketing year concerned.'

Article 2

Aid applications as referred to in Article 6 (1) of Regulation (EEC) No 2183/81 concerning cotton harvested during the 1988/89 marketing year which are submitted before the date of entry into force of this Regulation shall be regarded as having been submitted on the day of commencement of the marketing year in question.

Article 3

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

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

Done at Brussels, 25 February 1988.

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 211, 31. 7. 1981, p. 35.

⁽⁴⁾ OJ No L 248, 1. 9. 1987, p. 17.

COMMISSION REGULATION (EEC) No 506/88

of 25 February 1988

derogating for the first quarter of 1988 from Regulation (EEC) No 2377/80 in respect of the issue of import licences under certain special arrangements in the beef and veal sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EEC) No 3905/87 ⁽²⁾,

Whereas certain special import arrangements for products in the beef and veal sector, referred to in Articles 9 to 11 of Commission Regulation (EEC) No 2377/80 ⁽³⁾, as last amended by Regulation (EEC) No 3988/87 ⁽⁴⁾, have only been decided in February 1988 for 1988; whereas consequently it is necessary to derogate from Regulation (EEC) No 2377/80 with regard to the periods for lodging applications and for the granting of licences within the framework of these special systems;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the first quarter of 1988, notwithstanding Article 15 of Regulation (EEC) No 2377/80 and in respect of the

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

- (a) applications may only be lodged from 29 February until 7 March 1988;
- (b) the information provided for in Article 15 (4) (a) and (b) of the said Regulation shall be provided on 14 March 1988;
- (c) the licences provided for in Article 15 (5) (a) of the said Regulation shall be issued on 28 March 1988.

Article 2

Commission Regulation (EEC) No 3893/87 ⁽⁵⁾ is hereby replaced.

Article 3

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

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

Done at Brussels, 25 February 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.
⁽²⁾ OJ No L 370, 30. 12. 1987, p. 7.
⁽³⁾ OJ No L 241, 13. 9. 1980, p. 5.
⁽⁴⁾ OJ No L 376, 31. 12. 1987, p. 31.

⁽⁵⁾ OJ No L 365, 24. 12. 1987, p. 48.

COMMISSION REGULATION (EEC) No 507/88

of 25 February 1988

amending Regulation (EEC) No 1481/86 on the determination of prices of fresh or chilled sheep carcasses on representative Community markets and the survey of prices of certain other qualities of sheep carcasses 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 1837/80 of 27 June 1980 on the common organization of the market in sheepmeat and goatmeat ⁽¹⁾, as last amended by Regulation (EEC) No 3908/87 ⁽²⁾, and in particular Article 4 thereof,

Whereas Commission Regulation (EEC) No 1481/86 ⁽³⁾, as last amended by Regulation (EEC) No 3679/87 ⁽⁴⁾, provides that the price recorded on the representative market or markets of each Member State is established using weighting coefficients reflecting the relative importance of each category coming onto each market;

Whereas in Belgium the category 'agneaux extra' should be replaced by the category 'agneaux de boucherie — slachtlammeren' which is more representative of production;

Whereas in Ireland the representative market at Nenagh has closed; whereas many of the lambs which would normally have come onto the Nenagh market are now sent to Camolin; whereas, in the light of the volume of transactions recorded there, Camolins should be recognized as a representative market;

Whereas in the Netherlands, the representative market at Harlingen has closed; whereas due to the level of transactions recorded there, the market at Sluis should be recognized as a representative market; whereas due to the low

level of transactions recorded at the representative markets at Bodegraven and Nieuwekerk a/d IJssel and to the level of transactions recorded at the market at Amsterdam these markets should be grouped together for the purposes of price reporting as the representative market Kleinere Slachterijen;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. In Annex II A and Annex III A to Regulation (EEC) No 1481/86 'agneaux extra' is replaced by 'agneaux de boucherie — slachtlammeren';
2. In Annex II (G) (a) to Regulation (EEC) No 1481/86, 'Nenagh' is replaced by 'Camolin'.
3. In Annex II 1 to Regulation (EEC) No 1481/86 Harlingen, Bodegraven and Nieuwekerk a/d IJssel are replaced by Sluis and Kleinere Slachterijen.

Article 2

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

It shall apply with effect from 7 March 1988.

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

Done at Brussels, 25 February 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 183, 16. 7. 1980, p. 1.

⁽²⁾ OJ No L 370, 30. 12. 1987, p. 16.

⁽³⁾ OJ No L 130, 16. 5. 1986, p. 12.

⁽⁴⁾ OJ No L 346, 10. 12. 1987, p. 14.

COMMISSION REGULATION (EEC) No 508/88

of 25 February 1988

fixing the export refunds 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 3904/87 ⁽²⁾, and in particular Article 17 (5) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas Article 17 of Regulation (EEC) No 804/68 provides that the difference between prices in international trade for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Council Regulation (EEC) No 876/68 of 28 June 1968 laying down general rules for granting export refunds on milk and milk products and criteria for fixing the amount of such refunds ⁽³⁾, as last amended by Regulation (EEC) No 1344/86 ⁽⁴⁾, provides that when the refunds on the products listed in Article 1 of Regulation (EEC) No 804/68, exported in the natural state, are being fixed account must be taken of:

- the existing situation and the future trend with regard to prices and availabilities of milk and milk products on the Community market and prices for milk and milk products in international trade,
- marketing costs and the most favourable transport charges from Community markets to ports or other points of export in the Community, as well as costs incurred in placing the goods on the market of the country of destination,
- the aims of the common organization of the market in milk and milk products which are to ensure equilibrium and the natural development of prices and trade on this market,
- the need to avoid disturbances on the Community market, and
- the economic aspect of the proposed exports;

Whereas Article 3(1) of Regulation (EEC) No 876/68 provides that when prices within the Community are

being determined account should be taken of the ruling prices which are most favourable for exportation, and that when prices in international trade are being determined particular account should be taken of:

- (a) prices ruling on third country markets;
- (b) the most favourable prices in third countries of destination for third country imports;
- (c) producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries; and
- (d) free-at-Community-frontier offer prices;

Whereas Article 4 of Regulation (EEC) No 876/68 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund on the products listed in Article 1 of Regulation (EEC) No 804/68 according to destination;

Whereas Article 5(1) of Regulation (EEC) No 876/68 provides that the list of products on which export refunds are granted and the amount of such refunds should be fixed at least once every four weeks; whereas the amount of the refund may, however, remain at the same level for more than four weeks;

Whereas, in accordance with Article 2 of Commission Regulation (EEC) No 1098/68 of 27 July 1968 on detailed rules for the application of export refunds on milk and milk products ⁽⁵⁾, as last amended by Regulation (EEC) No 3812/85 ⁽⁶⁾, the refund granted for milk products containing added sugar is equal to the sum of the two components, one of which is intended to take account of the quantity of milk products and the other is intended to take account of the quantity of added sucrose; whereas, however, the latter component is applied only if the added sucrose was produced from sugar beet or cane harvested in the Community;

Whereas, for products falling within subheadings ex 0402 99 11, ex 0402 99 19, ex 0404 90 51, ex 0404 90 53, ex 0404 90 91 and ex 0404 90 93 of the combined nomenclature, with a fat content by weight not exceeding 9,5 % and a non-fatty milk content in the dry matter equal to or greater than 15 % by weight, the former abovementioned component is fixed for 100 kilograms of the whole product; whereas, for the other products containing added sugar falling within headings 0402 and

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 370, 30. 12. 1987, p. 1.

⁽³⁾ OJ No L 155, 3. 7. 1968, p. 1.

⁽⁴⁾ OJ No L 119, 8. 5. 1986, p. 36.

⁽⁵⁾ OJ No L 184, 29. 7. 1968, p. 10.

⁽⁶⁾ OJ No L 368, 31. 12. 1985, p. 3.

0404, that component is calculated by multiplying the basic amount by the milk products content of the product concerned; whereas that basic amount is equal to the refund to be fixed for 1 kilogram of milk products contained in the whole product;

Whereas the second component is calculated by multiplying the sucrose content of the product by the basic amount of the refund valid on the day of exportation for the products listed in Article 1 (1) (d) of 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 3993/87⁽²⁾;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽³⁾, as last amended by Regulation (EEC) No 1636/87⁽⁴⁾;
- 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 the level of refund for cheeses is calculated for products intended for direct consumption; whereas the cheese rinds and cheese wastes are not products intended for this purpose; whereas, to avoid any confusion in interpretation, it should be specified that there will be no refund for cheeses of a free-at-frontier value less than 140 ECU/100 kg;

Whereas Commission Regulation (EEC) No 896/84⁽⁵⁾, as amended by Regulation (EEC) No 2881/84⁽⁶⁾, laid down additional provisions concerning the granting of refunds on the change from one milk year to another; whereas those provisions provide for the possibility of varying refunds according to the date of manufacture of the products;

Whereas it follows from applying these detailed rules to the present situation on the market in milk and milk

products, and in particular to prices for these products within the Community and on the world market, that the refund should be as set out in the Annex hereto;

Whereas, following the introduction of the combined nomenclature by Council Regulation (EEC) No 2658/87 the nomenclature applicable from 1 January 1988 to export refunds on agricultural products was established by Regulation (EEC) No 3846/87⁽⁷⁾;

Whereas it follows from applying the rules set out above to the present situation on the market in milk and in particular to quotations or prices for milk products within the Community and on the world market that the refund should be as set out in the Annex to this Regulation;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The export refunds referred to in Article 17 of Regulation (EEC) No 804/68 on products exported in the natural state shall be as set out in Annex I hereto. The nomenclature of agricultural products for export refunds in Part 10 of the Annex to Regulation (EEC) No 3846/87 shall be amended in accordance with Annex II.
2. There shall be no refunds for exports to Zone E for products falling within heading Nos 0401, 0402, 0403, 0404, 0405 and 2309 of the combined nomenclature.
3. There shall be no refunds for exports to 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 26 February 1988.

⁽⁷⁾ OJ No L 366, 24. 12. 1987, p. 1.

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 377, 31. 12. 1987.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 91, 1. 4. 1984, p. 71.

⁽⁶⁾ OJ No L 272, 13. 10. 1984, p. 16.

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

Done at Brussels, 25 February 1988.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX I

to the Commission Regulation of 25 February 1988 fixing the export refunds on milk and milk products

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

Product code	Destination (*)	Notes	Amount of refund
0401 10 10 000		(1)	8,95
0401 10 90 000		(1)	8,95
0401 20 11 100		(1)	8,95
0401 20 11 500		(1)	12,62
0401 20 19 100		(1)	8,95
0401 20 19 500		(1)	12,62
0401 20 91 100		(1)	16,07
0401 20 91 500		(1)	18,37
0401 20 99 100		(1)	16,07
0401 20 99 500		(1)	18,37
0401 30 11 100		(1)	22,94
0401 30 11 400		(1)	34,18
0401 30 11 700		(1)	50,23
0401 30 19 100		(1)	22,94
0401 30 19 400		(1)	34,18
0401 30 19 700		(1)	50,23
0401 30 31 100		(1)	59,40
0401 30 31 400		(1)	91,50
0401 30 31 700		(1)	100,67
0401 30 39 100		(1)	59,40
0401 30 39 400		(1)	91,50
0401 30 39 700		(1)	100,67
0401 30 91 100		(1)	114,44
0401 30 91 400		(1)	167,17
0401 30 91 700		(1)	194,68
0401 30 99 100		(1)	114,44
0401 30 99 400		(1)	167,17
0401 30 99 700		(1)	194,68
0402 10 11 000		(2)	93,00
0402 10 19 000		(2)	93,00
0402 10 91 000		(2)	0,9300
0402 10 99 000		(2)	0,9300
0402 21 11 200		(2)	93,00
0402 21 11 300		(2)	120,86
0402 21 11 500		(2)	128,89
0402 21 11 900		(2)	140,00
0402 21 17 000		(2)	93,00
0402 21 19 300		(2)	120,86
0402 21 19 500		(2)	128,89
0402 21 19 900		(2)	140,00
0402 21 91 100		(2)	141,28
0402 21 91 200		(2)	142,77
0402 21 91 300		(2)	144,88
0402 21 91 400		(2)	157,54
0402 21 91 500		(2)	161,93
0402 21 91 600		(2)	177,37
0402 21 91 700		(2)	188,07
0402 21 91 900		(2)	199,03
0402 21 99 100		(2)	141,28

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

Product code	Destination (*)	Notes	Amount of refund
0402 21 99 200		(?)	142,77
0402 21 99 300		(?)	144,88
0402 21 99 400		(?)	157,54
0402 21 99 500		(?)	161,93
0402 21 99 600		(?)	177,37
0402 21 99 700		(?)	188,07
0402 21 99 900		(?)	199,03
0402 29 15 200		(*)	0,9300
0402 29 15 300		(*)	1,2086
0402 29 15 500		(*)	1,2889
0402 29 15 900		(*)	1,4000
0402 29 19 200		(*)	0,9300
0402 29 19 300		(*)	1,2086
0402 29 19 500		(*)	1,2889
0402 29 19 900		(*)	1,4000
0402 29 91 100		(*)	1,4128
0402 29 91 500		(*)	1,5754
0402 29 99 100		(*)	1,4128
0402 29 99 500		(*)	1,5754
0402 91 11 110		(?)	8,95
0402 91 11 120		(?)	16,07
0402 91 11 310		(?)	25,68
0402 91 11 350		(?)	32,56
0402 91 11 370		(?)	40,57
0402 91 19 110		(?)	8,95
0402 91 19 120		(?)	16,07
0402 91 19 310		(?)	25,68
0402 91 19 350		(?)	32,56
0402 91 19 370		(?)	40,57
0402 91 31 100		(?)	29,59
0402 91 31 300		(?)	48,10
0402 91 39 100		(?)	29,59
0402 91 39 300		(?)	48,10
0402 91 51 000		(?)	34,18
0402 91 59 000		(?)	34,18
0402 91 91 000		(?)	114,44
0402 91 99 000		(?)	114,44
0402 99 11 110		(*)	0,0895
0402 99 11 130		(*)	0,1607
0402 99 11 150		(*)	0,2501
0402 99 11 310		(?)	29,63
0402 99 11 330		(?)	36,51
0402 99 11 350		(?)	50,07
0402 99 19 110		(*)	0,0895
0402 99 19 130		(*)	0,1607
0402 99 19 150		(*)	0,2501
0402 99 19 310		(?)	29,63
0402 99 19 330		(?)	36,51
0402 99 19 350		(?)	50,07
0402 99 31 110		(*)	0,3189
0402 99 31 150		(?)	52,27
0402 99 31 300		(*)	0,5940
0402 99 31 500		(*)	1,0067
0402 99 39 110		(*)	0,3189
0402 99 39 150		(?)	52,27
0402 99 39 300		(*)	0,5940

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

Product code	Destination (*)	Notes	Amount of refund
0402 99 39 500		(*)	1,0067
0402 99 91 000		(*)	1,1444
0402 99 99 000		(*)	1,1444
0403 10 11 100		(†)	8,95
0403 10 11 300		(†)	12,62
0403 10 13 000		(†)	16,07
0403 10 19 000		(†)	22,94
0403 10 31 100		(*)	0,0895
0403 10 31 300		(*)	0,1262
0403 10 33 000		(*)	0,1607
0403 10 39 000		(*)	0,2294
0403 90 11 000		(‡)	93,00
0403 90 13 000		(‡)	93,00
0403 90 19 000		(‡)	141,28
0403 90 31 000		(*)	0,9300
0403 90 33 000		(*)	0,9300
0403 90 39 000		(*)	1,4128
0403 90 51 100		(†)	8,95
0403 90 51 300		(†)	12,62
0403 90 53 000		(†)	16,07
0403 90 59 110		(†)	22,94
0403 90 59 140		(†)	34,18
0403 90 59 170		(†)	50,23
0403 90 59 310		(†)	59,40
0403 90 59 340		(†)	91,50
0403 90 59 370		(†)	100,67
0403 90 59 510		(†)	114,44
0403 90 59 540		(†)	167,17
0403 90 59 570		(†)	194,68
0403 90 61 100		(*)	0,0895
0403 90 61 300		(*)	0,1262
0403 90 63 000		(*)	0,1607
0403 90 69 000		(*)	0,2294
0404 90 11 100		(‡)	93,00
0404 90 11 910		(†)	8,95
0404 90 11 950		(†)	25,68
0404 90 13 120		(‡)	93,00
0404 90 13 130		(‡)	120,86
0404 90 13 140		(‡)	128,89
0404 90 13 150		(‡)	140,00
0404 90 13 911		(†)	8,95
0404 90 13 913		(†)	16,07
0404 90 13 915		(†)	22,94
0404 90 13 917		(†)	34,18
0404 90 13 919		(†)	50,23
0404 90 13 931		(†)	25,68
0404 90 13 933		(†)	32,56
0404 90 13 935		(†)	40,57
0404 90 13 937		(†)	48,10
0404 90 13 939		(†)	52,27
0404 90 19 110		(‡)	141,28
0404 90 19 115		(‡)	142,77
0404 90 19 120		(‡)	144,88
0404 90 19 130		(‡)	157,54
0404 90 19 135		(‡)	161,93

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

Product code	Destination (*)	Notes	Amount of refund
0404 90 19 150		(?)	177,37
0404 90 19 160		(?)	188,07
0404 90 19 180		(?)	199,03
0404 90 19 900		(!)	—
0404 90 31 100		(?)	93,00
0404 90 31 910		(!)	8,95
0404 90 31 950		(!)	25,68
0404 90 33 120		(?)	93,00
0404 90 33 130		(?)	120,86
0404 90 33 140		(?)	128,89
0404 90 33 150		(?)	140,00
0404 90 33 911		(!)	8,95
0404 90 33 913		(!)	16,07
0404 90 33 915		(!)	22,94
0404 90 33 917		(!)	34,18
0404 90 33 919		(!)	50,23
0404 90 33 931		(!)	25,68
0404 90 33 933		(!)	32,56
0404 90 33 935		(!)	40,57
0404 90 33 937		(!)	48,10
0404 90 33 939		(!)	50,10
0404 90 39 110		(?)	141,28
0404 90 39 115		(?)	142,77
0404 90 39 120		(?)	144,88
0404 90 39 130		(?)	157,54
0404 90 39 150		(?)	161,93
0404 90 39 900		(!)	—
0404 90 51 100		(?)	0,9300
0404 90 51 910		(?)	0,0895
0404 90 51 950		(?)	29,63
0404 90 53 110		(?)	0,9300
0404 90 53 130		(?)	1,2086
0404 90 53 150		(?)	1,3350
0404 90 53 170		(?)	1,4000
0404 90 53 911		(?)	0,0895
0404 90 53 913		(?)	0,1607
0404 90 53 915		(?)	0,2294
0404 90 53 917		(?)	0,3418
0404 90 53 919		(?)	0,5023
0404 90 53 931		(?)	29,63
0404 90 53 933		(?)	36,51
0404 90 53 935		(?)	50,07
0404 90 53 937		(?)	52,27
0404 90 53 939		(?)	—
0404 90 59 130		(?)	1,4128
0404 90 59 150		(?)	1,5754
0404 90 59 930		(?)	0,7086
0404 90 59 950		(?)	1,0067
0404 90 59 990		(?)	1,1444
0404 90 91 100		(?)	0,9300
0404 90 91 910		(?)	0,0895
0404 90 91 950		(?)	29,63
0404 90 93 110		(?)	0,9300
0404 90 93 130		(?)	1,2086
0404 90 93 150		(?)	1,2889

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

Product code	Destination (*)	Notes	Amount of refund
0404 90 93 170		(*)	1,4000
0404 90 93 911		(*)	0,0895
0404 90 93 913		(*)	0,1607
0404 90 93 915		(*)	0,2294
0404 90 93 917		(*)	0,3418
0404 90 93 919		(*)	0,5023
0404 90 93 931		(*)	29,63
0404 90 93 933		(*)	36,51
0404 90 93 935		(*)	50,07
0404 90 93 937		(*)	52,27
0404 90 93 939		(*)	—
0404 90 99 130		(*)	1,4128
0404 90 99 150		(*)	1,5754
0404 90 99 930		(*)	0,7086
0404 90 99 950		(*)	1,0067
0404 90 99 990		(*)	1,1444
0405 00 10 100		(10)	—
0405 00 10 200		(10)	159,91
0405 00 10 300		(10)	201,18
0405 00 10 500		(10)	206,34
0405 00 10 700		(10)	211,50
0405 00 90 100		(10)	211,50
0405 00 90 900		(10)	262,75
0406 10 10 000		(*) (*)	—
0406 10 90 000		(*) (*)	—
0406 20 90 100		(*) (*)	—
0406 20 90 913	028	(*) (*)	—
	032	(*) (*)	—
	400	(*) (*)	66,34
	404	(*) (*)	—
	...	(*) (*)	91,14
0406 20 90 915	028	(*) (*)	—
	032	(*) (*)	—
	400	(*) (*)	88,45
	404	(*) (*)	—
	...	(*) (*)	121,52
0406 20 90 917	028	(*) (*)	—
	032	(*) (*)	—
	400	(*) (*)	93,98
	404	(*) (*)	—
	...	(*) (*)	129,12
0406 20 90 919	028	(*) (*)	—
	032	(*) (*)	—
	400	(*) (*)	105,04
	404	(*) (*)	—
	...	(*) (*)	144,31
0406 20 90 990		(*) (*)	—
0406 30 31 100		(*) (*)	—
0406 30 31 300	028	(*) (*)	—
	032	(*) (*)	—
	036	(*) (*)	—
	038	(*) (*)	—
	400	(*) (*)	9,69
	404	(*) (*)	—
	...	(*) (*)	25,36

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

Product code	Destination (*)	Notes	Amount of refund
0406 30 31 500	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	21,07
	404	(9) (7)	—
	...	(9) (7)	55,06
0406 30 31 710	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	21,07
	404	(9) (7)	—
	...	(9) (7)	55,06
0406 30 31 730	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	30,97
	404	(9) (7)	—
	...	(9) (7)	80,13
0406 30 31 910	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	21,07
	404	(9) (7)	—
	...	(9) (7)	55,06
0406 30 31 930	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	30,97
	404	(9) (7)	—
	...	(9) (7)	80,13
0406 30 31 950	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	44,92
	404	(9) (7)	—
	...	(9) (7)	117,74
0406 30 39 100		(9) (7)	—
0406 30 39 300	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	21,07
	404	(9) (7)	20,00
	...	(9) (7)	55,06

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

Product code	Destination (*)	Notes	Amount of refund
0406 30 39 500	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	30,97
	404	(9) (7)	28,00
	...	(9) (7)	80,13
0406 30 39 700	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	44,92
	404	(9) (7)	—
	...	(9) (7)	117,74
0406 30 39 930	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	44,92
	404	(9) (7)	—
	...	(9) (7)	117,74
0406 30 39 950	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	53,45
	404	(9) (7)	—
	...	(9) (7)	139,67
0406 30 90 000	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	53,45
	404	(9) (7)	—
	...	(9) (7)	139,67
0406 40 00 100		(9) (7)	—
0406 40 00 900	028	(9) (7)	—
	032	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	55,00
	404	(9) (7)	—
	...	(9) (7)	131,51
0406 90 13 000	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	70,00
	404	(9) (7)	—
	...	(9) (7)	170,00
0406 90 15 100	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	70,00
	404	(9) (7)	—
	...	(9) (7)	170,00

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

Product code	Destination (*)	Notes	Amount of refund
0406 90 15 900		(9) (7)	—
0406 90 17 100	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	70,00
	404	(9) (7)	—
	...	(9) (7)	170,00
0406 90 17 900		(9) (7)	—
0406 90 21 100		(9) (7)	—
0406 90 21 900	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	60,00
	404	(9) (7)	—
	...	(9) (7)	177,25
0406 90 23 100		(9) (7)	—
0406 90 23 900	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	30,00
	404	(9) (7)	—
	...	(9) (7)	153,00
0406 90 25 100		(9) (7)	—
0406 90 25 900	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	30,00
	404	(9) (7)	—
	...	(9) (7)	153,00
0406 90 27 100		(9) (7)	—
0406 90 27 900	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	28,00
	404	(9) (7)	—
	...	(9) (7)	119,71
0406 90 31 111		(9) (9) (7)	—
0406 90 31 119	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	15,00
	400	(9) (7)	43,22
	404	(9) (7)	16,00
	...	(9) (7)	102,26

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

Product code	Destination (*)	Notes	Amount of refund
0406 90 31 151	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	41,41
	404	(9) (7)	14,96
	...	(9) (7)	95,58
0406 90 31 159		(9) (9) (7)	—
0406 90 31 900		(9) (9) (7)	—
0406 90 33 111		(9) (9) (7)	—
0406 90 33 119	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	15,00
	400	(9) (7)	43,22
	404	(9) (7)	16,00
	...	(9) (7)	102,26
0406 90 33 151	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	40,41
	404	(9) (7)	14,96
	...	(9) (7)	95,58
0406 90 33 159		(9) (9) (7)	—
0406 90 33 911		(9) (9) (7)	—
0406 90 33 919	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	15,00
	400	(9) (7)	43,22
	404	(9) (7)	16,00
	...	(9) (7)	102,26
0406 90 33 951	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	40,41
	404	(9) (7)	14,96
	...	(9) (7)	95,58
0406 90 33 959		(9) (9) (7)	—
0406 90 35 110		(9) (7)	—

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

Product code	Destination (*)	Notes	Amount of refund
0406 90 35 190	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	42,66
	400	(9) (7)	160,00
	404	(9) (7)	90,00
	...	(9) (7)	163,54
0406 90 35 910		(9) (7)	—
0406 90 35 990	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	60,00
	404	(9) (7)	—
	732	(9) (7)	150,00
	...	(9) (7)	139,37
0406 90 61 000	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	90,00
	400	(9) (7)	170,00
	404	(9) (7)	140,00
	...	(9) (7)	200,06
0406 90 63 100	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	105,03
	400	(9) (7)	220,00
	404	(9) (7)	160,00
	...	(9) (7)	227,18
0406 90 63 900	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	70,00
	400	(9) (7)	130,00
	404	(9) (7)	80,00
	...	(9) (7)	180,00
0406 90 69 100		(9) (7)	—
0406 90 69 910	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	70,00
	400	(9) (7)	130,00
	404	(9) (7)	80,00
	...	(9) (7)	180,00
0406 90 69 990		(9) (7)	—
0406 90 71 100		(9) (7)	—
0406 90 71 930	028	(9) (7)	13,50
	032	(9) (7)	13,50
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	42,21
	404	(9) (7)	—
	...	(9) (7)	99,96

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

Product code	Destination (*)	Notes	Amount of refund
0406 90 71 950	028	(9) (7)	20,00
	032	(9) (7)	20,00
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	46,55
	404	(9) (7)	—
	...	(9) (7)	110,21
0406 90 71 970	028	(9) (7)	24,00
	032	(9) (7)	24,00
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	52,91
	404	(9) (7)	—
	...	(9) (7)	125,21
0406 90 71 991	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	60,00
	404	(9) (7)	—
	732	(9) (7)	150,00
0406 90 71 995	...	(9) (7)	139,37
	028	(9) (7)	27,50
	032	(9) (7)	27,50
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	30,00
	404	(9) (7)	—
0406 90 71 999	...	(9) (7)	153,00
	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	42,66
	400	(9) (7)	160,00
	404	(9) (7)	120,00
	...	(9) (7)	163,54
0406 90 75 100		(9) (7)	—
0406 90 75 900	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	400	(9) (7)	30,00
	404	(9) (7)	—
	...	(9) (7)	138,50
0406 90 77 100		(9) (7)	—
0406 90 77 300	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	30,00
	404	(9) (7)	—
	...	(9) (7)	153,00

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

Product code	Destination (*)	Notes	Amount of refund
0406 90 77 500	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	45,00
	404	(9) (7)	—
	...	(9) (7)	153,00
0406 90 79 100		(9) (7)	—
0406 90 79 900	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	28,00
	404	(9) (7)	—
	...	(9) (7)	119,71
0406 90 81 100		(9) (7)	—
0406 90 81 900	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	60,00
	404	(9) (7)	—
	...	(9) (7)	139,37
0406 90 83 100		(9) (7)	—
0406 90 83 910		(9) (7)	—
0406 90 83 950	028	(9) (7)	—
	032	(9) (7)	—
	400	(9) (7)	23,65
	404	(9) (7)	—
	...	(9) (7)	55,88
0406 90 83 990	028	(9) (7)	—
	032	(9) (7)	—
	400	(9) (7)	23,65
	404	(9) (7)	—
	...	(9) (7)	55,88
0406 90 85 100		(9) (7)	—
0406 90 85 910	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	42,67
	400	(9) (7)	160,00
	404	(9) (7)	90,00
	...	(9) (7)	163,54
0406 90 85 991	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	60,00
	404	(9) (7)	—
	732	(9) (7)	150,00
	...	(9) (7)	139,37

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

Product code	Destination (*)	Notes	Amount of refund
0406 90 85 995	028	(9) (7)	27,50
	032	(9) (7)	27,50
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	30,00
	404	(9) (7)	—
	...	(9) (7)	153,00
0406 90 85 999		(9) (7)	—
0406 90 89 100	028	(9) (7)	13,50
	032	(9) (7)	13,50
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	42,21
	404	(9) (7)	—
	...	(9) (7)	99,96
0406 90 89 200	028	(9) (7)	20,00
	032	(9) (7)	20,00
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	46,55
	404	(9) (7)	—
	...	(9) (7)	110,21
0406 90 89 300	028	(9) (7)	24,00
	032	(9) (7)	24,00
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	52,91
	404	(9) (7)	—
	...	(9) (7)	125,21
0406 90 89 910		(9) (7)	—
0406 90 89 951	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	42,66
	400	(9) (7)	160,00
	404	(9) (7)	90,00
	...	(9) (7)	163,54
0406 90 89 959	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	60,00
	404	(9) (7)	—
	732	(9) (7)	150,00
0406 90 89 971	...	(9) (7)	139,37
	028	(9) (7)	27,50
	032	(9) (7)	27,50
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	30,00
	404	(9) (7)	—
	...	(9) (7)	153,00

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

Product code	Destination (*)	Notes	Amount of refund
0406 90 89 972	028	(9) (7)	—
	032	(9) (7)	—
	400	(9) (7)	23,65
	404	(9) (7)	—
	...	(9) (7)	55,88
0406 90 89 979	028	(9) (7)	27,50
	032	(9) (7)	27,50
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	30,00
	404	(9) (7)	—
	...	(9) (7)	153,00
0406 90 89 990		(9) (7)	—
0406 90 91 100		(9) (7)	—
0406 90 91 300	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	16,26
	404	(9) (7)	—
	...	(9) (7)	26,95
0406 90 91 510	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	29,08
	404	(9) (7)	—
	...	(9) (7)	40,37
0406 90 91 550	028	(9) (7)	—
	032	(9) (7)	—
	036	(9) (7)	—
	038	(9) (7)	—
	400	(9) (7)	34,76
	404	(9) (7)	—
	...	(9) (7)	49,31
0406 90 91 900		(9) (7)	—
0406 90 93 000		(9) (7)	—
0406 90 97 000		(9) (7)	—
0406 90 99 000		(9) (7)	—
2309 10 15 010		(9)	—
2309 10 15 100		(9)	—
2309 10 15 200		(9)	3,90
2309 10 15 300		(9)	5,20
2309 10 15 400		(9)	6,50
2309 10 15 500		(9)	7,80
2309 10 15 700		(9)	9,10
2309 10 15 900			—
2309 10 19 010		(9)	—
2309 10 19 100		(9)	—
2309 10 19 200		(9)	3,90
2309 10 19 300		(9)	5,20
2309 10 19 400		(9)	6,50

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

Product code	Destination (*)	Notes	Amount of refund
2309 10 19 500		(⁹)	7,80
2309 10 19 600		(⁹)	9,10
2309 10 19 700		(⁹)	9,75
2309 10 19 800		(⁹)	10,40
2309 10 19 900			—
2309 10 70 010		(⁹)	—
2309 10 70 100		(⁹)	27,90
2309 10 70 200		(⁹)	37,20
2309 10 70 300		(⁹)	46,50
2309 10 70 500		(⁹)	55,80
2309 10 70 600		(⁹)	65,10
2309 10 70 700		(⁹)	74,40
2309 10 70 800		(⁹)	81,84
2309 10 70 900			—
2309 90 35 010		(⁹)	—
2309 90 35 100		(⁹)	—
2309 90 35 200		(⁹)	3,90
2309 90 35 300		(⁹)	5,20
2309 90 35 400		(⁹)	6,50
2309 90 35 500		(⁹)	7,80
2309 90 35 700		(⁹)	9,10
2309 90 35 900			—
2309 90 39 010		(⁹)	—
2309 90 39 100		(⁹)	—
2309 90 39 200		(⁹)	3,90
2309 90 39 300		(⁹)	5,20
2309 90 39 400		(⁹)	6,50
2309 90 39 500		(⁹)	7,80
2309 90 39 600		(⁹)	9,10
2309 90 39 700		(⁹)	9,75
2309 90 39 800		(⁹)	10,40
2309 90 39 900			—
2309 90 70 010		(⁹)	—
2309 90 70 100		(⁹)	27,90
2309 90 70 200		(⁹)	37,20
2309 90 70 300		(⁹)	46,50
2309 90 70 500		(⁹)	55,80
2309 90 70 600		(⁹)	65,10
2309 90 70 700		(⁹)	74,40
2309 90 70 800		(⁹)	81,84
2309 90 70 900			—

- (¹) The code numbers for the destinations are those set out in the Annex to Regulation (EEC) No 3639/86 (OJ No L 336, 29. 11. 1986, p. 46).
For destinations other than those indicated for each 'product code', the amount of the refund applying is indicated by ***. Where no destination is indicated, the amount of the refund is applicable for exports to any destination other than those referred to in Article 1 (2) and (3).

- (²) When the product falling within this subheading is a mixture containing added whey and/or added lactose and/or casein and/or caseinates, no export refund shall be granted.

When completing customs formalities, the applicant shall state on the declaration provided for this purpose, whether or not whey and/or lactose and/or casein and/or caseinates have been added to the product.

- (³) The weight of the added non-lactic matter and/or added whey and/or added lactose and/or added casein and/or added caseinates, shall not be taken into account for the purpose of calculation of the fat content by weight. When the product falling within this subheading is a mixture containing added whey and/or added lactose and/or added casein and/or added caseinates, the added whey and/or added lactose and/or added casein and/or added caseinates shall not be taken into account in the calculation of the amount of refund.

When completing customs formalities, the applicant shall state on the declaration provided for this purpose, whether or not whey and/or lactose and/or casein and/or caseinates have been added, and where this is the case :

— the actual content by weight of whey and/or lactose and/or casein and/or caseinate added per 100 kg of finished product,

and, in particular,

— the lactose content of the added whey.

- (⁴) When the product contains casein and/or caseinates that were added before or at the time of processing, no refund shall be granted.

When completing customs formalities, the applicant shall state on the declaration provided for this purpose, whether or not whey and/or lactose and/or casein and/or caseinates have been added.

- (⁵) The weight of added non-lactic matter and/or added whey and/or added lactose and/or added casein and/or added caseinates shall not be taken into account for the purpose of calculating the fat content, by weight.

The refund per 100 kg of product falling within this subheading shall be equal to the sum of the following components :

- (a) the amount per kilogram shown, multiplied by the weight of the lactic part contained in 100 kg of product ; however, where whey and/or lactose and/or casein and/or caseinates have been added to the product, the amount per kilogram shown shall be multiplied by the weight of lactic part excluding the weight of added whey and/or added lactose and/or added casein and/or added caseinates, contained in 100 kg of product ;

- (b) a component calculated in accordance with the provisions of Article 2 (3) of Regulation (EEC) No 1098/68.

When completing customs formalities, the applicant shall state on the declaration provided for this purpose, whether or not whey and/or lactose and/or casein and/or caseinates have been added, and where this is the case :

— the actual content by weight of whey and/or lactose and/or casein and/or caseinates added per 100 kg of finished product,

and, in particular,

— the lactose content of the added whey.

- (⁶) The refund on 100 kg of product falling within this subheading is equal to the sum of the following elements :

- (a) the amount per 100 kg shown ; however, where whey and/or lactose and/or casein and/or caseinates been added to the product, the amount per 100 kg shown shall be :

— multiplied by the weight of the lactic part other than the added whey and/or added lactose and/or added casein and/or added caseinates contained in 100 kg of product, and then

— divided by the weight of the lactic part contained in 100 kg of product ;

- (b) a component calculated in accordance with the provisions of Article 2 (3) of Regulation (EEC) No 1098/68.

When completing customs formalities, the applicant shall state on the declaration provided for this purpose, whether or not whey and/or lactose and/or casein and/or caseinates have been added, and where this is the case :

— the actual content by weight of whey and/or lactose and/or casein and/or caseinate added per 100 kg of finished product,

and, in particular,

— the lactose content of the added whey.

- (⁷) No refund shall be paid in respect of exported cheese of which the free-at-frontier price, before application of the refund and the monetary compensatory amount, in the exporting Member State, is less than 140 ECU per 100 kg. This limitation to 140 ECU per 100 kilograms does not apply to cheeses falling within subheadings 0406 90 91 and 0406 90 93.

- (⁸) In the case of cheeses presented in containers which also contain conserving liquid, in particular brine, the refund is granted on the net weight, the weight of the liquid being deducted.

- (⁹) When completing customs formalities, the applicant shall state on the declaration provided for this purpose :

— the skimmed-milk powder content, by weight,

whether or not whey and/or lactose and/or casein and/or caseinates have been added, and where this is the case :

— the content by weight of the added whey and/or added lactose and/or added casein and/or added caseinates, and

— the lactose content of the added whey

per 100 kg of finished product.

(⁹) 'Special compound feedingstuffs' are compound feedingstuffs containing skimmed-milk powder and fish meal and/or more than 9 g of iron and/or more than 1,2 g of copper in 100 kg of product.

(¹⁰) On the export of such products under Regulation (EEC) No 765/86:

- the amount of the refund shall be that applying on 16 October 1986 in respect of products for which the export licence with advance fixing of the refund was issued before 1 January 1987,
 - no refund is to apply in respect of products for which the export licence was issued on or after 1 January 1987.
-

ANNEX II

CN code	Description of goods	Product code
0406 90 17	- - - Bergkäse, Appenzell, Vacherin fribourgeois, Vacherin Mont d'Or and Tête de Moine :	
	- - - - Bergkäse	0406 90 17 100
	- - - - Others	0406 90 17 900

COMMISSION REGULATION (EEC) No 509/88**of 25 February 1988****amending for the second time Regulation (EEC) No 1854/87 fixing countervailing charges on seeds**

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

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

Having regard to Council Regulation (EEC) No 2358/71 of 26 October 1971 on the common organization of the market in seeds ⁽¹⁾, as last amended by Regulation (EEC) No 3997/87 ⁽²⁾, and in particular Article 6 (5) thereof,

Whereas Commission Regulation (EEC) No 1854/87 ⁽³⁾, as amended by Regulation (EEC) No 300/88 ⁽⁴⁾, fixed countervailing charges on seeds in respect of a certain type of hybrid maize and sorghum for sowing;

Whereas, since that time, a significant variation has been recorded in the free-at-frontier offer prices which, under the terms of Article 4 (2) of Commission Regulation (EEC) No 1665/72 ⁽⁵⁾ as amended by Regulation (EEC) No 2811/86 ⁽⁶⁾, requires that these charges be amended;

Whereas Council Regulation (EEC) No 2658/87 ⁽⁷⁾, introduces with effect from 1 January 1988 a combined goods nomenclature based on the harmonized system which

meets the requirements of both the Common Customs Tariff and the nomenclature of goods for the external trade statistics of the Community;

Whereas, as a consequence, the descriptions of goods and tariff heading numbers appearing in Regulation (EEC) No 1854/87 should accordingly be expressed in terms of the combined nomenclature;

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

HAS ADOPTED THIS REGULATION:

Article 1

Annexe I to amended Regulation (EEC) No 1854/87 is replaced by Annex to this Regulation.

Article 2

This Regulation shall enter into force on 29 February 1988.

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

Done at Brussels, 25 February 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 246, 5. 11. 1971, p. 1.
⁽²⁾ OJ No L 377, 31. 12. 1987, p. 36.
⁽³⁾ OJ No L 174, 1. 7. 1987, p. 46.
⁽⁴⁾ OJ No L 30, 2. 2. 1988, p. 16.
⁽⁵⁾ OJ No L 175, 2. 8. 1972, p. 49.
⁽⁶⁾ OJ No L 260, 12. 9. 1986, p. 8.
⁽⁷⁾ OJ No L 256, 7. 9. 1987, p. 1.

ANNEX

Countervailing charge on hybrid maize for sowing

(ECU/100 kg)

CN code	Amount of countervailing charge (%)	Country of origin (2)
1005 10 11	11,4	048
	13,6	064
	13,8	404
	36,2	066
	36,2	1
1005 10 13	0,4	066
	21,8	400
	29,7	064
	29,7	048
	29,7	2
1005 10 15	16,6	400
	45,1	038
	63,2	404
	85,0	064
	116,0	066
	151,5	048
	151,5	3

(1) The countervailing charge may not exceed 4 % of the customs value.
In the case of Spain and Portugal it may not exceed the rate obtained
by alignment on the CCT in accordance with the timetable specified in
the Act of Accession.

(2) Origin identification :

- 1 With the exception of USA and Austria ;
- 2 With the exception of Canada, Chile, Japan, Austria and Argentina ;
- 3 With the exception of Bulgaria ;
- 4 Other countries ;
- 038 Austria ;
- 048 Yugoslavia ;
- 064 Hungary ;
- 066 Romania ;
- 400 USA ;
- 404 Canada.

COMMISSION REGULATION (EEC) No 510/88
of 25 February 1988
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 Regula-
tion (EEC) No 3904/87 ⁽²⁾, and in particular Article 14 (8)
thereof,

Whereas the import levies on milk and milk products
were fixed by Commission Regulation (EEC) No
4041/87 ⁽³⁾, as last amended by Regulation (EEC) No
395/88 ⁽⁴⁾;

Whereas it follows from applying the detailed rules
contained in Regulation (EEC) No 4041/87 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 1 March 1988.

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

Done at Brussels, 25 February 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 370, 30. 12. 1987, p. 1.

⁽³⁾ OJ No L 378, 31. 12. 1987, p. 82.

⁽⁴⁾ OJ No L 39, 12. 2. 1988, p. 14.

ANNEX

to the Commission Regulation of 25 February 1988 fixing the import levies on milk and milk products

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

CN code	Note	Import levy
0401 10 10		18,46
0401 10 90		17,25
0401 20 11		25,75
0401 20 19		24,54
0401 20 91		31,89
0401 20 99		30,68
0401 30 11		82,89
0401 30 19		81,68
0401 30 31		160,21
0401 30 39		159,00
0401 30 91		269,48
0401 30 99		268,27
0402 10 11		130,07
0402 10 19		122,82
0402 10 91	(¹)	1,2282/kg + 32,27
0402 10 99	(¹)	1,2282/kg + 25,02
0402 21 11		195,22
0402 21 17		189,97
0402 21 19		189,97
0402 21 91		236,50
0402 21 99		229,25
0402 29 11	(¹) (²)	1,8997/kg + 32,27
0402 29 15	(¹)	1,8997/kg + 32,27
0402 29 19	(¹)	1,8997/kg + 25,02
0402 29 91	(¹)	2,2925/kg + 32,27
0402 29 99	(¹)	2,2925/kg + 25,02
0402 91 11		30,88
0402 91 19		30,88
0402 91 31		38,60
0402 91 39		38,60
0402 91 51		160,21
0402 91 59		159,00
0402 91 91		269,48
0402 91 99		268,27
0402 99 11		53,76
0402 99 19		53,76
0402 99 31	(¹)	1,5658/kg + 28,65
0402 99 39	(¹)	1,5658/kg + 27,44
0402 99 91	(¹)	2,6585/kg + 28,65
0402 99 99	(¹)	2,6585/kg + 27,44

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

CN code	Note	Import levy
0403 10 11		28,16
0403 10 13		34,30
0403 10 19		85,30
0403 10 31	(¹)	0,2212/kg + 31,06
0403 10 33	(¹)	0,2826/kg + 31,06
0403 10 39	(¹)	0,7926/kg + 31,06
0403 90 11		130,07
0403 90 13		195,22
0403 90 19		236,50
0403 90 31	(¹)	1,2282/kg + 32,27
0403 90 33	(¹)	1,8997/kg + 32,27
0403 90 39	(¹)	2,2925/kg + 32,27
0403 90 51		28,16
0403 90 53		34,30
0403 90 59		85,30
0403 90 61	(¹)	0,2212/kg + 31,06
0403 90 63	(¹)	0,2826/kg + 31,06
0403 90 69	(¹)	0,7926/kg + 31,06
0404 10 11		24,34
0404 10 19	(¹)	0,2434/kg + 25,02
0404 10 91	(²)	0,2434/kg
0404 10 99	(²)	0,2434/kg + 25,02
0404 90 11		130,07
0404 90 13		195,22
0404 90 19		236,50
0404 90 31		130,07
0404 90 33		195,22
0404 90 39		236,50
0404 90 51	(¹)	1,2282/kg + 32,27
0404 90 53	(¹)	1,8997/kg + 32,27
0404 90 59	(¹)	2,2925/kg + 32,27
0404 90 91	(¹)	1,2282/kg + 32,27
0404 90 93	(¹)	1,8997/kg + 32,27
0404 90 99	(¹)	2,2925/kg + 32,27
0405 00 10		278,26
0405 00 90		339,48
0406 10 10		286,99
0406 10 90		333,62
0406 20 10	(³)	397,57
0406 20 90		397,57
0406 30 10	(³)	221,01
0406 30 31	(³)	215,52
0406 30 39	(³)	221,01
0406 30 90	(³)	317,73
0406 40 00	(³)	157,44
0406 90 11	(³)	254,48

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

CN code	Note	Import levy
0406 90 13	(³)	247,01
0406 90 15	(³)	247,01
0406 90 17	(³)	247,01
0406 90 19	(³)	397,57
0406 90 21	(³)	254,48
0406 90 23	(³)	236,90
0406 90 25	(³)	236,90
0406 90 27	(³)	236,90
0406 90 29	(³)	236,90
0406 90 31	(³)	236,90
0406 90 33		236,90
0406 90 35	(³)	236,90
0406 90 37	(³)	236,90
0406 90 39	(³)	236,90
0406 90 50	(³)	236,90
0406 90 61		397,57
0406 90 63		397,57
0406 90 69		397,57
0406 90 71		286,99
0406 90 73		236,90
0406 90 75		236,90
0406 90 77		236,90
0406 90 79		236,90
0406 90 81		236,90
0406 90 83		236,90
0406 90 85		236,90
0406 90 89	(³)	236,90
0406 90 91		286,99
0406 90 93		286,99
0406 90 97		333,62
0406 90 99		333,62
1702 10 90	(⁴)	42,54
2106 90 51		42,54
2309 10 15		94,54
2309 10 19		122,78
2309 10 39		115,67
2309 10 59		96,87
2309 10 70		122,78
2309 90 35		94,54
2309 90 39		122,78
2309 90 49		115,73
2309 90 59		97,06
2309 90 70		122,78

-
- (1) The levy on 100 kg of product falling within this subheading is equal to the sum of the following:
- (a) the amount per kilogram shown, multiplied by the weight of milk and milk cream contained in 100 kg of product; and
 - (b) the other amount indicated.
- (2) The levy on 100 kg of product falling within this subheading is equal to:
- (a) the amount per kilogram shown, multiplied by the weight of the dried milk contained in 100 kg of product plus, where appropriate,
 - (b) the other amount indicated.
- (3) Products falling within this subheading imported from a third country under special arrangements concluded between that country and the Community for which an IMA 1 certificate issued under the conditions provided for in Regulation (EEC) No 1767/82 is issued are subject to the levies in Annex I to that Regulation.
- (4) Lactose and lactose syrup falling within subheading 1702 10 10 are subject, pursuant to Regulation (EEC) No 2730/75, to the same levy as that applicable to lactose falling within subheading 1702 10 90.
-

COMMISSION REGULATION (EEC) No 511/88
of 25 February 1988
fixing the import levies on white sugar and raw sugar

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

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EEC) No 3993/87⁽²⁾, and in particular Article 16 (8) thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 2054/87⁽³⁾, as last amended by Regulation (EEC) No 498/88⁽⁴⁾;

Whereas Council Regulation (EEC) No 2658/87⁽⁵⁾ introduced from 1 January 1988 a new combined nomenclature meeting the requirements of both the Common Customs Tariff and the Community's statistics of foreign trade and replacing the previous nomenclature;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2054/87 to the information known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 26 February 1988.

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

Done at Brussels, 25 February 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 377, 31. 12. 1987, p. 23.

⁽³⁾ OJ No L 192, 11. 7. 1987, p. 38.

⁽⁴⁾ OJ No L 51, 25. 2. 1988, p. 18.

⁽⁵⁾ OJ No L 256, 7. 9. 1987, p. 1.

ANNEX

to the Commission Regulation of 25 February 1988 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy
1701 11 10	41,82 ⁽¹⁾
1701 11 90	41,82 ⁽¹⁾
1701 12 10	41,82 ⁽¹⁾
1701 12 90	41,82 ⁽¹⁾
1701 91 00	50,20
1701 99 10	50,20
1701 99 90	50,20

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

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 22 December 1987

relating to a proceeding under Article 85 of the EEC Treaty
(IV/32.306 — Olivetti/Canon)

(Only the English and Italian texts are authentic)

(88/88/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17 of 6 February 1962, First Regulation implementing Articles 85 and 86 of the Treaty ⁽¹⁾, as last amended by the Act of Accession of Spain and Portugal, and in particular Articles 4, 6 and 8 thereof,

Having regard to the application for negative clearance and notification by Ing. C. Olivetti & C, SpA, on the one hand, and Canon Inc., on the other hand, of joint venture agreements and related agreements, concerning mainly designing, developing and manufacturing certain copying machine products, laser beam products and facsimile products,

Having regard to the summary of the application and notification published ⁽²⁾ pursuant to Article 19 (3) of Regulation No 17,

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

Whereas :

I. THE FACTS

A. The notification

- (1) On 1 April 1987 the companies Ing. C. Olivetti & C, SpA and Canon Inc. requested the Commission

to give negative clearance for, or, alternatively, to exempt under Article 85 (3) of the EEC Treaty certain agreements between them concerning the formation of Olivetti-Canon Industriale SpA ('OCI'), a joint venture incorporated in Italy.

- (2) The scope of OCI is to develop, design and manufacture copying machine products, laser beam printer products and facsimile products. The activities of OCI are to develop in two phases. During Phase I it will mainly manufacture copying machine products in the speed-range of 10 to 20 copies per minute. In Phase II, the parties may decide to produce, in addition to copying machine products, other office automation products such as laser beam printer products and facsimile products. The production of higher-speed copying machines may also be considered. Phase II is expected to start in early 1989.

B. The parties

- (3) Ing. C. Olivetti & C SpA, Ivrea, Italy heads the Olivetti Group ('Olivetti'). This is a multinational group whose activities include data processing and office automation (word processors, personal computers, terminals, printers, telecommunications equipment) and office products such as typewriters and copying machines.

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No C 282, 20. 10. 1987, p. 2.

In 1985 its turnover was Lit 6 140 billion, the net profit Lit 503 billion, and the R&D expenditure 284 billion (4,6 % of the turnover). The workforce was 48 944 people.

In 1985, the trend of the previous years had been confirmed, i.e. the proportion of data processing and office automation in total turnover had increased (84,8 %; 1984: 80,6 %) especially for personal computers (29,5 %; 1984: 16,9 %) and printers (7,2 %; 1984: 4,9 %). The R&D proportion had increased some 24 % compared with 1984. Copying machines represented 2,3 % in 1985 (2,4 % in 1984).

- (4) Canon Inc., Tokyo, is the head of a multinational group ('Canon'). The group's turnover in 1986 was Yen 889 billion (—7 % compared with 1985). Its main activities are business machines (*circa* 74 % of the turnover) (copying machines *circa* 42 %, other business machines *circa* 32 %), cameras and optical products. R&D expenditure represented 6,2 % of turnover in 1986 (5,2 % in 1985). The workforce is 35 498 people (10 % fully employed in R&D activities). 70 % of Canon sales are outside Japan.

C. The markets affected by the joint venture

- (5) For all the products involved the EEC represents an area in which the conditions of competition are similar for all suppliers. National laws do not make trade between Member States difficult, nor do costs of transport or consumer preferences. The EEC market is situated in the context of a worldwide market with a high number of competitors mainly from third countries.

(a) Copying machines

- (6) For the customers, copiers are not all sufficiently interchangeable to compete with each other in terms of price, speed (copies per minute), physical characteristics and additional facilities (sorter, etc.). Manufacturers and suppliers use some forms of market segmentation.
- (7) Dataquest analysis of the plain-paper copier market⁽¹⁾, which is the most widely-used, breaks down the sector into seven ranges, according to the number of copies per minute which the machine can produce: personal copiers (PC) (1 to 12 cpm)

⁽¹⁾ Only plain-paper copying process machines are considered, as this process has practically replaced all the others.

and segments 1 to 6 (the latter from 91 cpm upwards). Between PC products and segment 6 products average prices vary between roughly \$1 000 and \$130 000. For the purposes of this proceeding three representative relevant markets may be considered, each of them embracing substantially interchangeable copiers: low-end range (PC to segment 2: up to 30 cpm), mid-end range (segments 3 and 4: 31 to 75 cpm) and high-end range (segments 4 to 6: from 70 cpm upwards). This does not preclude a certain interchangeability between these three segments.

- (8) The copying machines currently manufactured by OCI (10 to 20 cpm) belong to segment 1 (1 to 20) and to the low range market. In the EEC market there are many competitors.
- (9) In the low-end range market the number of units sold and market shares for Western Europe were as follows⁽²⁾:

1986		
	Units sold (000)	Market shares (%)
Canon	196,0	23,7
Rank Xerox	74,5	9,0
Minolta	64,3	7,8
Olivetti, Triumph Adler	60,8	7,3
Mita	54,2	6,6
Toshiba	54,0	6,5
Sharp	45,0	5,3
Nashua	39,1	4,6
Ricoh	37,0	4,3

Source: Dataquest, September 1987.

More than 10 manufacturers followed with market shares varying down to less than 1 %.

As to the products sold on an OEM basis (i.e. to Original Equipment Manufacturers), they are included in the market shares of the OEM vendors and not in those of the OEM manufacturers.

- (10) In the mid- and high ranges, to which the joint venture activity may be extended in the future, Olivetti has had no significant activity except a sale of 3 000 units many years ago. Canon has a market share of 6,7 % for mid-range and 1,4 % for high-range machines.

⁽²⁾ No data for EEC is available but the main areas of sale are all in the EEC, to such an extent that for the purposes of this proceeding Europe's market shares can be taken into account in the place of EEC ones.

(11) From the 1970s, when plain paper copiers started to be manufactured in the EEC, the number of EEC manufacturers has progressively diminished. The main producers Rank Xerox (United Kingdom) and Océ (Netherlands) apart, some of the smaller companies in terms of number of models manufactured were unable to keep pace with innovation and reducing prices in office copying, which have mainly come from Japanese companies. Most converted their business (totally or partially) to Original Equipment Manufacturers' (OEM) distribution of Japanese machines (distributors under their own brand name of OEM products). Olivetti and Develop (Germany) continued to manufacture, in the low range only. In addition, Olivetti's subsidiary Triumph Adler (Germany) currently distributes, on an OEM basis, copiers of the Japanese company Mita.

(12) Japanese companies have progressively set up manufacturing points in the EEC. As to their sales of imports from outside the EEC an anti-dumping duty⁽¹⁾ under Council Regulation (EEC) No 2176/84⁽²⁾ was imposed. Canon had previously set up two plants, one in Germany in 1972 (for high speed machines) and the other in France in 1984 (for PCs). Toshiba has formed a 60/40 % joint venture with Rhône-Poulenc. Minolta has acquired the control of the German company Develop. Ricoh has set up a plant in the United Kingdom, and subsequently decided to add a new production facility.

Olivetti's OEM sales represented about 60 % of its turnover for copiers in 1986 and 46 % in the first half of 1987 (as an effect of the joint venture which started operating in March 1987). The two remaining major manufacturers in Europe are Rank Xerox (United Kingdom, Netherlands and France) and Océ (Netherlands). Rank Xerox manufactures the full range and Océ the upper range.

(13) Canon in the past has introduced major innovations in the field of copying machines. In 1986 it launched the largest number of new products in its 20 years' activity in that field: in every segment at least one new model was introduced. A new model (NP-8000) has strengthened its position in the high-speed copiers. Canon has also introduced new products in the three major fields where it is a leader: personal copiers, colour and digital technologies (full colour copiers).

⁽¹⁾ This was imposed provisionally on 21 August 1986, and definitively on 23 February 1987 (OJ No L 54, 24. 2. 1987, p. 12) on copiers of up to 75 cpm. An antidumping duty of 20 % was imposed on Canon.

⁽²⁾ OJ No L 201, 30. 7. 1984, p. 1.

(b) *Facsimile*

(14) The facsimile market is expanding greatly in the EEC. The units sold in 1986 were 200 000. The growth rate in 1986 and 1987 ranged from 9 to 17 % in the various countries. The compound annual growth rate forecast for 1987 to 1991 is 46 %. The market shares of the main suppliers in 1986 were as follows:

1986	Market shares (%)
Panasonic	21,4
Canon	19,7
Telic Alcatel	10,1
NEC	11,5
Kalle-Infotec	8,6
Toshiba	5,5
Olivetti	2,5

Source: Dataquest.

(15) The Olivetti group's facsimile sales of 5 050 units in 1986 were limited to Italy and Spain. In 1985 sales of the Olivetti group in Italy represented 24 % of all sales in that country (Canon 7,9 %). All sales of the Olivetti group are on an OEM basis, from Sharp Co. of Japan. By virtue of the joint venture agreement, the Olivetti group is prepared to switch from Sharp to Canon equipment.

(16) Canon has a full line of products, from desk-top models to sophisticated broadcasting facsimile and G4 machines, which makes it one of the EEC leaders in this field. In 1986/87 Canon introduced the G4 machines to serve the digital telecommunication systems which are used in certain countries not only for their pilot project of Integrated Services Digital Network (ISDN) but also for existing digital networks, and the Multimedia Phone MMP-10, a telephone which can transmit images from PC computers and word processors to facsimile transceivers.

(c) *Laser beam printers*

(17) The laser beam printer is considered as the ideal computer printer for today, and especially for the future. It presents many advantages over the traditional computer printer in terms of the variety of functions it can fulfil, speed, print quality, ease of use and cost. Sales are growing very rapidly everywhere (in Europe 4 400 units in 1984 and 26 300 units in 1985; average annual growth in units sold 1988 to 1990, 48 %; 1985 to 1991, 69,7 %). Prices are diminishing. Many companies are entering the market, including most of the main computer companies. Laser printers vary in speed from six to 120 pages' per minute.

- (18) Despite the number of competitors (mostly Japanese companies, Ricoh, Hitachi, Kyocera, Fujitsu, Toshiba and Mita), the two most significant laser printer manufacturers in the world are Canon for the low-end range and Xerox for the medium and high range. Canon has now the basic technology to produce the colour laser printer which has been introduced in 1986. Canon has sold for OEM resale in Europe and in North America (to Hewlett-Packard, Apple and others).

- (19) The estimated market shares (in value) of the main vendors of non-impact printers under 20 pages per minute in Western Europe (EEC data is not available) are as follows:

1985		
Vendor	Turnover (\$ million)	Share (%)
Hewlett-Packard (Canon engine)	41,5	30
Canon	25,0	18
Apple	16,2	12
Ricoh	14,8	11
Xerox	13,3	10

Source: International Data Corporation.

- (20) The Olivetti group only sold a few units in 1984 and 1985, procured from Hitachi Co. Ltd (a machine with an Olivetti proprietary interface for Olivetti's captive market). The Olivetti subsidiary concerned has recently started procuring laser printer engines from Canon on an OEM basis.

D. The main issues of the cooperation

- (21) The Canon-Olivetti joint venture company, OCI (hereafter 'the JVC'), is a manufacturing operation owned by Olivetti as to 50 % plus one share and by Canon as to 50 % minus one share. It is based at Olivetti's reprographic factory in Aglié (Italy), which employs 350 people and which currently produces 42 000 copiers yearly. It is planned to treble this amount in two years. The products manufactured by the joint venture are sold independently by the two partners, mainly through their own distribution networks. Olivetti is transferring both its copier research and production activities to the JVC. Canon will make a substantial investment in the JVC over 1987 and 1988 and will transfer technology to the joint company. A large majority of components for the products

manufactured by the joint venture are currently supplied by Olivetti; the rest are supplied by Canon and by third companies.

E. The content of the agreements

- (22) The agreements notified are as follows:

- Master business agreement,
- Licence agreement for copying machines (Olivetti),
- Technical assistance and licence agreement for copying machines (Canon),
- Non-disclosure agreement,
- Subscription agreement,
- Shareholders' agreement and by-laws.

- (23) The main content of those agreements is as follows.

- (a) *Master business agreement* (dated 17 December 1986)

This is the principal agreement which sets up the principles of the joint venture, its scope and functioning. Its main provisions are as follows:

- the scope of the JVC is to develop, design and manufacture copying machine products, laser beam printer products and facsimile products (section 2.1),
- in phase I, the JVC shall manufacture the models of copying machines manufactured by Olivetti copiers division and certain Canon models with a speed of 10 to 20 cpm. Such manufacture will be covered by licences from Olivetti and Canon. Currently, the JVC has exclusive manufacturing rights for Europe with respect to the copying machines which will be manufactured by the joint venture (sections 2.2 and 4.1.1),
- in phase II it is envisaged that the JVC shall manufacture, in addition to copying machines, the other products within its scope, as determined by the parties. Higher-speed copiers may also be considered (sections 2.2 and 4.2.1). The PC segment is not within the scope of the JVC,
- the parties give to the JVC their respective development expertise in the field covered by the company that is necessary to achieve the best results in terms of product specifications and quality and price (section 4.1.1),

- the parties shall cause the JVC to maintain a close cooperative relationship between the Olivetti Group and the Canon Group in order to reduce, to the largest possible extent, the purchase cost of the parts and components for the products manufactured by the JVC (section 4.2.3),
 - components for the products will be procured by the JVC from the parties or external sources and the JVC shall give preference to components purchased from the parties if the parties' terms and conditions of sales are competitive. Sales by the parties to the JVC of components for the products, and price and other terms and conditions of sales, shall be on an 'arm's-length' basis (preliminary master business plan attached to the agreement),
 - each party shall use its best endeavours (i) to promote and sell the products manufactured by the JVC through its respective sale channels and (ii) to purchase from the JVC at least the volumes of products indicated in a master business plan, provided that they are competitive with those sold by other vendors (section 4.3.1),
 - the products manufactured by the JVC and marketed in the EEC and elsewhere shall be differentiated in their appearance and other features that the parties may agree to (section 4.3.2),
 - the products manufactured by the JVC (i) developed by Canon or based on Canon's technology, and (ii) developed by Olivetti or the JVC, can be provided respectively by Olivetti and Canon under trademarks designated by them to designated companies outside their groups only by mutual agreement (section 4.3.3),
 - except for the products sold under the foregoing paragraph with the prior consent of the licensor party, the trademarks used in the products to be distributed through the Olivetti and Canon networks shall be brand names belonging respectively to Olivetti and Canon (section 4.3.4),
 - the Agreement shall continue as long as each of the parties owns a share interest in the JVC, unless terminated by agreement of the parties (section 6.1).
- (b) *Licence agreement for copying machine (Olivetti)* (dated 26 February 1987) and
- (c) *Technical assistance and licence agreement for copying machines (Canon)* (dated 26 February 1987)
- (24) Under these agreements, the parties grant to the JVC a personal, non-transferable, non-sub-licensable licence under their patents and technical information and know-how relating to the manufacture of copying machines to be manufactured in Italy and to use, sell or lease such machines in all countries of the world.
- The Canon licence is limited to certain copying machines in the 10 to 20 cpm speed range (section 2.2).
 - Those licences are exclusive for manufacturing in respect of the EEC countries and non-exclusive for using, selling or leasing (section 2.1 of both agreements).
 - Under the Canon agreement, Canon also provides a training programme within the scope of the agreement (3.2). From time to time, Canon shall expose its product plans to the JVC, so that the JVC's manufacturing plans and related investments for the purpose of extending the agreement to other copying machines of 10 to 20 cpm or of a higher speed may be made timeously (section 2.2).
 - Under the Canon agreement, each party (Canon and the JVC) shall promptly disclose to the other any improvement made by it to the licensed products. The JVC shall have the right to use such disclosure as a part of the information, know-how or patent rights covered by the licence agreement and subject to the terms of that agreement. Canon shall have a royalty-free licence to utilize the JVC's improvements in its own production, outside the licensed territory, of licensed products (section 3.3).
 - The agreements contain provisions for the differentiation of the products (respectively sections 3.2 and 4.2) and the use of brand names (respectively sections 3.1 and 4.1) similar to those of the master business agreement aforementioned.
 - Both agreements contain an obligation for the licensee not to disclose the confidential technical information and know-how covered by the agreements, before or after the termination of the agreements (respectively sections 2.2 and 2.3).
- (d) *Non-disclosure agreement* (dated 5 November 1986)
- Canon and Olivetti agree not to disclose to third parties any confidential information to which they have had access in the course of the discussions

regarding the formation of Olivetti-Canon and in the course of the implementation of the joint venture agreement.

Committee of European Copier Manufacturers ('CECOM').

- (e) *Subscription agreement* (dated 17 December 1986)
- (25) The main provisions of this agreement concern the schedule of the different phases of the formation of the joint venture, the capitalization, funding and initial capital of the joint venture. The joint venture initially had a share capital of Lit 200 million, consisting of 200 000 shares of Lit 1 000, 100 001 subscribed by Olivetti and 99 999 by Canon.
- (f) *Shareholders' agreement and by-laws* dated 17 December 1986)
- (26) The board of directors of the JVC is composed of six members. The board of auditors is composed of three regular auditors and two alternate auditors. The president of the JVC is designated by Olivetti. The executive vice-president is designated by Canon. Olivetti and Canon agree to each designating three members of the board of directors and one member and one alternate member of the board of auditors (Article II of the shareholder agreement).
- (27) The shareholders' meeting acts by absolute majority of shares on all the matters (*inter alia* approval of balance sheet, election of director and auditors, resolution on matters pertaining to the management and submitted to it by the board) except sales of all or almost all the assets and the acquisition of its own shares by the joint venture, merger or consolidation, dissolution of the JVC, or disposition of profit, where it acts by more than 70 % of the shares (articles 13 and 14 of by-laws). The board of directors is granted the broadest powers for the ordinary and extraordinary administration of the JVC. It acts by the majority vote of the directors in office.
- (29) (a) The export-import undertakings took the view that the cooperation in question between Olivetti and Canon brings restrictions of competition which outweigh its benefits for the Community competition policy, if any. They put forward several views, *inter alia*:
- the creation of the joint venture will lead to an oligopoly between OCI and Rank Xerox as to the relevant photocopiers,
 - there is and will be no price competition between the partners and the joint venture will lead to a sharing of the markets between them,
 - the OEM competition which plays an important role in moderating the price level is unduly restricted, especially by the clause requiring the agreement of partners for OEM sales of the joint venture products,
 - the partners carry out restrictive practices which prevent the independent traders from purchasing on non-discriminatory conditions, competing in prices and trading between Member States.
- (b) The Commission has taken these comments into account in assessing the risk that OEM competition by third parties is excessively restricted. At its request the parties have stated that the consent of one partner to the OEM sales of JVC products by the other is meant to be required only for a product based essentially on the technology of the former.
- (c) Other allegations of the undertakings were considered as not relevant in this proceeding and/or at present substantiated. They therefore cannot alter the Commission's appreciation of the notified agreements in this proceeding, although the Commission reserves the possibility of examining those matters should this be justified by changes in the facts; such an examination could be made in, *inter alia*, the context of Article 8 of Regulation No 17.

F. Third parties' observations

- (28) Further to the publication in the *Official Journal of the European Communities* of a notice pursuant to Article 19 (3) of Regulation No 17, the Commission received comments (a) jointly from two export-import undertakings, VIHO-Europe (the Netherlands) and ISA (France), and (b) from the
- (30) The CECOM, whilst not contesting the definition of the relevant product markets adopted by the Commission in the context of this proceeding, has emphasized that that definition should not prejudice the appropriate market definition for other purposes.

II. LEGAL ASSESSMENT

A. Article 85 (1)

(31) The agreements notified have to be considered as a whole and not separately. They are agreements within the meaning of Article 85 (1). They are caught by that Article as they are restrictive of competition and likely to affect trade between Member States.

(32) The restrictions in question are those resulting from the formation of the joint venture in itself and from other restrictive provisions contained in several agreements notified.

Restrictions resulting from the formation of a joint venture

(33) These agreements have set up a joint venture, OCI, i.e. an undertaking which is jointly controlled by the two parents Olivetti and Canon.

(a) OCI is an undertaking, i.e. a set of staff and material resources organized to carry on the business of designing, developing and manufacturing certain products.

(b) OCI is controlled jointly by the parent companies. Neither of the parents can take important decisions on its business without the participation of the other. The board of directors, which is granted the broadest powers for the administration of OCI, is composed of an equal number of members from Olivetti and Canon and acts by the majority vote of directors in office. There is no casting vote. In the shareholders' meeting Olivetti has 50 % plus one share; however, (i) this meeting has the power to deal with matters of management only if they are submitted by the board of directors, and (ii) important matters pertaining to the life of OCI and the disposition of profits are decided by more than 70 % of the shares.

(34) It is considered that the products within the scope of the joint venture pertain to different relevant product markets: copying machines respectively of low, medium and high-speed ranges, facsimile and laser beam printers. As to copying machines, although a certain amount of interchangeability can sometimes be found also for machines in non-adjointing segments, a substantial interchangeability in terms of characteristics, use and price exists between machines belonging to adjoining segments. It is appropriate to consider three rele-

vant markets, which, in spite of the inevitable arbitrariness inherent to the tracing of boundaries, are sufficiently representative for the purpose of evaluating Olivetti's and Canon's market positions and the impact on competition of their cooperation: low, medium and high-range (see paragraph 7). Within each of those ranges, one can consider that a broad interchangeability exists, and that copying machines meet different reproduction needs in speed, other features (e.g. sorting), and robustness according to those three ranges. The conversion of manufacturing plants from one to another of those ranges requires financial resources and a certain amount of time. The structure of the supply is different according to the three ranges. In the low-end range the number of suppliers is high whereas it is lower in the medium-end range and goes down to six in the high-end range.

Taking these markets into account for the purpose of the present proceedings does not prejudice the definition of 'like product' in the anti-dumping Regulation referred to in the footnote to paragraph 12. It was not the purpose of that Regulation to determine whether there are different relevant markets within the copiers sector and to define them, but merely to establish what could be considered a like product as defined in Article 2 (12) of Regulation (EEC) No 2176/84 mentioned in paragraph 12.

(35) Facsimile products, because of their characteristics and price, are clearly a separate group of products for separate needs. Laser printers can be considered to constitute already (and in the near future) a separate product market, presumably split into three different markets according to size (low, medium and high range). The advantages they present in price and number of uses effectively make them little interchangeable with other printers.

(36) The geographical market is the EEC market. Within it, the conditions of competition are similar. Demand is mobile and the supply can move across the national frontiers. National laws, transport costs and customer habits constitute no obstacles.

(37) The joint venture has been formed between competitors for copying machines of low and medium range and facsimile, and non-competitors for high-range copying machines and laser printers.

(38) Olivetti and Canon are actual competitors for copying machines of the low-end speed range. Both manufacture and sell these machines.

(39) They are potential competitors in copying machines of the medium range. Canon is already on that market. Olivetti which long ago had an insignificant activity on that market, which is adjacent to that of the low range for a short time, could re-enter it and stay there alone. Olivetti's skills and technology for coping machines could be extended to higher-range models. The input products are largely the same. Demand is sufficient to support such business and mid-range machines permit higher revenues and higher profits. Olivetti is a profitable and healthy group (as shown by its turnover and profits for 1985). It could, therefore, bear alone the technical and financial risks associated with the production of mid-range machines.

(40) In the market for facsimile products, Olivetti and Canon are actual competitors. Canon is an important manufacturer. Olivetti is a supplier on an OEM basis with an important volume in Italy (24 % of all sales there).

(41) By contrast, Olivetti and Canon are not competitors for high-range copying machines. Canon has a negligible market share and Olivetti no activity. This range is very far from that in which Olivetti is currently doing business.

Neither are the parent companies competitors in the laser printer market. Canon is a main manufacturer on that market; but Olivetti is neither an actual nor potential competitor. Olivetti would need a certain amount of time to reach the necessary skills and technology and to convert plants. The conversion would need substantial investments in machines and plant extension. At the speed of the technological progress in this sector, Olivetti could not reasonably risk entering the market with an out-of-date product, while many competitors are already well established in that market and in a position to keep pace with the technology. In spite of its financial means, it does not appear that Olivetti could reasonably bear alone the high financial risks associated with the production of laser printers.

(42) The setting-up of the joint venture restricts competition between the parent companies. These will no longer compete at the production stage (a) as to copying machines, for a segment which accounts for more than one-half of the low-range market, and (b) in future possibly also for the mid range and facsimile. This will result in identical production costs for both, with an inevitable influence at the sales stage. The products sold will be substantially the same, in spite of a cosmetic and trademark differentiation. Each party will have less autonomy in determining its sale prices than it would have if its

production costs were different from those of the other parent company. The scope for competition at the sales stage is thus limited as a result of the joint venture.

Competition in terms of investment is also appreciably reduced. It is most unlikely that either of the parties, after having put substantial financial resources into the joint venture, will undertake costly investments in capacities competing with those of the joint venture.

Moreover, the joint venture restricts competition in terms of development and designing of the relevant products. Because of the common development and design within the joint venture, the parties no longer have any interest in investing financial, manpower and time resources independently in the same matter.

Other restrictions of competition contained in the agreements

Master business agreement

(43) The obligation on the parties to endeavour to promote and sell the products of the joint venture, and even more to purchase a minimum volume from the latter, (a) reduce the independence of the parties in their sales policy and their possibility to compete with each other with products other than those manufactured by the joint venture, and (b) distorts competition of third manufacturers who supply or could supply the parties on an OEM basis. These restrictions are appreciable. Olivetti's sales of copying machines were OEM as to a majority and still as to a substantial proportion after the start of the joint venture and sales of facsimile are totally OEM. Apart from its production outside the EEC, Canon has two plants in the EEC manufacturing copying machines, one in direct competition with the production of the joint venture.

(44) The requirement of mutual agreement for supplies of each partner outside its group and under trademarks designated by it with joint venture products based on the technology of the other partner or of the joint venture (if Canon is the supplier), constitutes a two-fold restriction. It limits the competition (i) of the supplier *vis-à-vis* the other partner and (ii) of third undertakings which could be interested in purchasing the joint venture products from the partners in order to sell them on an OEM basis. This effect is already tangible in the case of Canon, which has such OEM relationships.

(45) The obligation on each partner to sell the joint venture products under its brand name and in its own network (apart from on an OEM basis) limits the independence of its sales and trademark policy.

It also eliminates the possibility for third companies to obtain the distribution of the joint venture products from partners or for these to grant licences to them for their trademarks.

tions of competition: (i) the obligation not to assign or to sublicense the licence, and, (ii) the obligation of confidentiality in respect of the technical information and know-how even after the termination of the agreement.

- (46) The obligation on the parties to differentiate the image of their products also limits the independence of their sales policy and their ability to compete by offering a product as similar as possible to each other's. However, to the extent that this differentiation can also result in competition, there is little evidence that the obligation in question has appreciable negative effects on competition.

- (50) Finally, the licence agreements contain similar provisions to those of the master business agreement concerning sales outside the groups of the partners, trademark and differentiation of the products.

The restrictions are appreciable

- (47) The preference the joint venture has to give to the parent companies in purchasing its components could be considered a restriction of the competition of third suppliers of those components. However, this restriction is not appreciable, as the preference will be given only if the components supplied by the parent companies are competitive with those of third suppliers.

- (51) All the restrictions of competition mentioned in paragraphs 42, 43, 44, 45 and 48 above have an appreciable affect on most of the markets involved. For low-range copying machines, Canon is the leader in the EEC market with a 23,7 % market share and Olivetti has a 7,3 % market share.

Licence agreements

- (48) The exclusivity for manufacturing in the licensed territory limits competition *vis-à-vis* the joint venture from each licensor, which cannot manufacture there, and from third companies which cannot be licensed in the same territory. In a highly competitive and large EEC market, there could be some undertakings interested in manufacturing in the licensed territory in order to sell there or in other parts of the EEC. This assessment extends to the obligation on the parties to the technical assistance and licence agreement (Canon) to communicate to one another improvements of their licensed technology, to the extent that this communication to the joint venture is made under the terms of the licence agreement, i.e. under an exclusivity of manufacturing.

In mid-range machines Canon has a market share of 6,7 %, which is not negligible. Olivetti is currently only a potential competitor in that market, but it could be expected that if it re-entered it would rapidly acquire a market share of a few points, on the strength of the name it already has in this sector.

In the facsimile market Canon is the second supplier with 19,7 % (Panasonic 21,4 %) and Olivetti has a 2,5 % market share.

Finally, the parties are both large in size and main suppliers of office automation products. Because of the tight link between the products involved in that sector the formation of a joint venture between them has an impact in the several markets involved irrespective of the parties' shares in each of these markets.

The limitation of the licensed products and territory restricts the competition that the joint venture could bring at the production stage.

The effect on trade between Member States

- (49) The following obligations pursuant to the licensing agreements do not constitute appreciable restrictions

- (52) The agreements in question are likely to affect trade between Member States. The products manufactured by the joint venture are for marketing *inter alia* throughout the EEC. The licence agreements also concern the EEC territory.

B. Article 85 (3)

- (53) The notified agreements qualify for an exemption under Article 85 (3) as they offer benefits for the Community competition policy which outweigh the effects restrictive of competition.

The benefits of the cooperation

- (54) The joint venture contributes to improving technical and economic progress for the following reasons :

- (a) on all the markets involved, and in which the parties are competing, the technology is fast-moving and the degree of competition high. In order to compete efficiently, the undertakings on those markets have to offer products which are the result of the most up-to-date technology, at competitive prices. Up-to-date technologies, however, require large investments in research and development. The expansion of production in the EEC which is the effect of the joint venture enables the parties to spread the costs of these investments over a larger number of products : otherwise the costs of those products would be too high for producers to be able to sell them at a competitive price.

The joint venture is therefore apt to avoid duplication in costs of development.

Research does not fall directly within the scope of the joint venture. However, by virtue of the obligation on the partners to communicate to the JVC the continuing flow of their expertise, and on Canon the improvements of the research carried out independently, this research is tightly linked to the activity of the joint venture. Research will also be stimulated by avoiding the duplication of its costs.

- (b) The joint venture enables a transfer of the benefit of advanced technology to Olivetti, a Community undertaking, in markets where technology is of crucial importance. An important part of the transferred technology comes from an undertaking, Canon, which is a leader of innovation and whose policy is R&D-oriented, as is shown by the percentage of the turnover and work force involved in R&D and its significant past and present achievements. It is within the scope of the joint venture that this transfer be extended to such

highly sophisticated products as facsimile and, even more, laser printers (which are considered products for the future). It is reasonable to expect that the combination of this technology with that of an also R&D-oriented EEC undertaking will contribute to improving the technological patterns of the EEC industry and ultimately its competitiveness. This will result in improving production and distribution and technical progress.

Consumers' share of the benefits of the agreements

- (55) Consumers will benefit from the introduction into the markets involved of new products which are the result of the improvement of the technology excepted from the joint venture will finally be passed on to the consumers in terms of competing prices, as the markets involved are highly competitive.

Indispensability of the agreements to achieve those benefits

- (56) The benefits of the increase of research and development, the improvement of technology and the strengthening of the competitiveness of the European industry through the transfer of technology could not be achieved without the joint venture. Without that cooperation, costs of R&D and production would be spread over a smaller number of units, and this would result in either an insufficient improvement of the products manufactured by one or both of the companies, or higher prices of those products. The grant of a licence would not have allowed the transfer of technology to the same extent as in allowed by a joint venture. The major involvement of the partners inherent in a manufacturing joint venture permits a permanent and intense flow of technology.

- (57) The following restrictions are economically connected with the joint venture and therefore indispensable for its correct functioning :

- (a) the obligation to endeavour to promote and sell the products of the joint venture and to purchase a minimum volume from the latter. The investments in development and production capacities in the framework of a joint venture and the transfer of technology to it would not be conceivable if the partners themselves could, by purchasing substantially elsewhere, hamper the necessary return on capital ;

(b) the obligation of mutual agreement for each partner's sales outside its group and under trademarks designated by it and essentially based on the other's technology. This obligation is intended to prevent the technology developed by a partner being used in manufacturing a product which through the other partner would be sold by a third undertaking in competition with the former. As the joint venture is set up to manufacture 'captive' products for the parties, it would be against its purpose for it to manufacture products for the partners' competitors;

(c) the obligation on each partner to sell under its brand name and in its own network. It has the purpose of making the identification of the product coincide with that of the partner's network and therefore to maintain the distinction between the production within the joint venture and the separate distribution by the partners. It is also apt to avoid the linkage of joint venture products with third competitors through any distribution or trademark licence agreement;

(d) the exclusive nature of the licence to the joint venture for manufacturing. The risks of setting up the joint venture along with the financial investments and transfer of technology could not be reasonably undertaken if the parties could not rely on that exclusivity;

(e) the limitation of the licensed products and territory. Such restriction should enable the joint venture to concentrate its manufacturing efforts on those products and its exclusive territory.

No elimination of competition

(58) Competition is restricted to an appreciable extent by the notified agreements which bring together a leader in the EEC relevant market and another important supplier. However, they do not eliminate competition in respect of a substantial part of the products in question. As to the low-range copiers market, in which the partners' market shares are important, the partners' production structures other than those related to the segment jointly manufac-

tured are not affected, especially those for the PC segment. (This segment accounts for a substantial part of the relevant market and thus influences considerably the partners' market shares, especially Canon's). More than half of Olivetti's sales were on an OEM basis. As to facsimile, Olivetti is an OEM supplier, not a manufacturer. The markets involved are competitive in the EEC because of the number and size of suppliers who cannot be deemed to cease being a sufficient counterweight. As the parties are independent in regard to sales, there is no significant risk of an appreciable increase of the degree of concentration.

Duration of the exemption

(59) In accordance with Article 8 (1) of Regulation No 17, a decision in application of Article 85 (3) of the Treaty is issued for a specified period.

(60) In the case of production joint ventures requiring substantial long-term investments and concerning a new product not yet fully established on the market, a period of 12 years appears indispensable to enable the parties to rely on the enforceability of the agreements and to obtain a satisfactory return on their capital.

(61) Due to the fact that an important benefit expected for the purpose of exemption is the transfer of advanced technology as indicated in paragraph 54 and that as to some of the products covered by the exemption the joint venture will operate only in a second phase, it is appropriate to enable the Commission to satisfy itself that the conditions of Article 85 (3) continue to be fulfilled.

For that purpose, in application of Article 8 (1) of Regulation No 17, the present decision will impose on its addressees an obligation.

(a) to provide the Commission, at the latest on 30 March every two years of the exemption period starting from 30 March 1988, with a report on the overall activities of the joint venture and the overall application of the exempted agreements;

(b) to inform the Commission of any new agreement in relation to the exempted agreements and of any modification or extension of those exempted agreements,

HAS ADOPTED THIS DECISION:

Article 1

1. The provisions of Article 85 (1) of the EEC Treaty are hereby declared inapplicable, by virtue of Article 85 (3), to the joint venture agreement and related agreements concluded between Ing C. Olivetti & C, SpA and Canon Inc. and notified by them.

2. Paragraph 1 shall apply in respect of each agreement from the date of its notification (1 April 1987) to 1 April 1999.

Article 2

The following obligations are hereby imposed on the addressees of this Decision:

1. to provide the Commission, at the latest on 30 March every two years of the exemption period starting from 30 March 1988, with a report on the overall activities

of the joint venture and the overall application of the exempted agreements,

2. to inform the Commission of any new agreement in relation to the exempted agreements and of any modification or extension of those exempted agreements.

Article 3

This Decision is addressed to:

- (i) Ing. C. Olivetti & C, SpA, Via G. Jervis 77, I-10015 Ivrea,
- (ii) Canon Inc., 30-2 Shimomaruka 3 — Chome, Ohta-ku, Tokio, Japan.

Done at Brussels, 22 December 1987.

For the Commission

Peter SUTHERLAND

Member of the Commission
