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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 591/88**of 3 March 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 2 March 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 4 March 1988.

⁽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.

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

Done at Brussels, 3 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX

to the Commission Regulation of 3 March 1988 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CN code	Levies	
	Portugal	Third country
0709 90 60	12,29	168,36
0712 90 19	12,29	168,36
1001 10 10	68,97	254,08 ⁽¹⁾ ⁽²⁾
1001 10 90	68,97	254,08 ⁽¹⁾ ⁽²⁾
1001 90 91	7,16	190,91
1001 90 99	7,16	190,91
1002 00 00	47,51	164,65 ⁽³⁾
1003 00 10	41,19	174,74
1003 00 90	41,19	174,74
1004 00 10	97,72	139,55
1004 00 90	97,72	139,55
1005 10 90	12,29	168,36 ⁽²⁾ ⁽³⁾
1005 90 00	12,29	168,36 ⁽²⁾ ⁽³⁾
1007 00 90	35,81	175,90 ⁽⁴⁾
1008 10 00	41,19	97,74
1008 20 00	41,19	154,53 ⁽⁴⁾
1008 30 00	41,19	59,57 ⁽⁵⁾
1008 90 10	(7)	(7)
1008 90 90	41,19	59,57
1101 00 00	26,15	282,04
1102 10 00	81,28	245,27
1103 11 10	120,58	406,72
1103 11 90	26,31	302,67

⁽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 592/88

of 3 March 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 2 March 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 4 March 1988.

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

Done at Brussels, 3 March 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. 102.

ANNEX

to the Commission Regulation of 3 March 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 3	1st period 4	2nd period 5	3rd period 6
0709 90 60	0	1,49	1,49	1,49
0712 90 19	0	1,49	1,49	1,49
1001 10 10	0	0	0	0
1001 10 90	0	0	0	0
1001 90 91	0	0,36	0,36	0,36
1001 90 99	0	0,36	0,36	0,36
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	1,49	1,49	1,49
1005 90 00	0	1,49	1,49	1,49
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	0,50	0,50	0,50

B. Malt

CN code	(ECU/tonne)				
	Current 3	1st period 4	2nd period 5	3rd period 6	4th period 7
1107 10 11	0	0,64	0,64	0,64	0,64
1107 10 19	0	0,48	0,48	0,48	0,48
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 593/88

of 3 March 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 29 February and 1 March 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 1

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

Article 2

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

Article 3

This Regulation shall enter into force on 4 March 1988.

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

Done at Brussels, 3 March 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 ^(*) 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 ^(*) 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.

^(*) 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 594/88**of 3 March 1988****amending Regulation (EEC) No 1678/85 as regards the agricultural conversion rates for the pigmeat sector in Greece**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture ⁽¹⁾, as last amended by Regulation (EEC) No 1889/87 ⁽²⁾, and in particular Article 12 thereof,

Whereas Article 6a of Regulation (EEC) No 1677/85 lays down that the agricultural conversion rates of a Member State should, in accordance with the procedure provided for in Article 12 of that Regulation, be adjusted so as to avoid the creation of new monetary compensatory amounts ;

Whereas the movement of the market rate for the drachma during the reference period 24 February to 1 March 1988 should, given the adjustment of the agricultural conversion rate determined by Council Regulation (EEC) No 1678/85 ⁽³⁾, as last amended by Regulation (EEC) No 1890/87 ⁽⁴⁾, in the version published in Regulation (EEC) No 57/88 ⁽⁵⁾, entail, in accordance with Article 2 of Commission Regulation (EEC) No 3153/85 ⁽⁶⁾, an increase in the monetary compensatory amounts applicable in the pigmeat sector in Greece, effective from 7 March 1988 ; whereas in order to prevent this it is necessary to adjust the agricultural conversion rate so as to avoid the creation of these new monetary compensatory amounts ;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the relevant Management Committees,

HAS ADOPTED THIS REGULATION :

Article 1

In Annex IV to Regulation (EEC) No 1678/85, as amended by Regulation (EEC) No 56/88, the line relating to pigmeat is hereby replaced by the following :

Products	Agricultural conversion rates			
	1 ECU = ... Dra	Applicable until	1 ECU = ... Dra	Applicable for
Pigmeat	133,321	6 March 1988	134,328	7 March 1988

Article 2

This Regulation shall enter into force on 7 March 1988.

⁽¹⁾ OJ No L 164, 24. 6. 1985, p. 6.⁽²⁾ OJ No L 182, 3. 7. 1987, p. 1.⁽³⁾ OJ No L 164, 24. 6. 1985, p. 11.⁽⁴⁾ OJ No L 182, 3. 7. 1987, p. 4.⁽⁵⁾ OJ No L 6, 9. 1. 1988, p. 24.⁽⁶⁾ OJ No L 310, 21. 11. 1985, p. 4.

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

Done at Brussels, 3 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

**COMMISSION REGULATION (EEC) No 595/88
of 3 March 1988**

fixing the monetary coefficient applicable on imports of dried grapes

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 426/86 of 24 February 1986 on the common organization of the market in products processed from fruit and vegetables ⁽¹⁾, as last amended by Regulation (EEC) No 3909/87 ⁽²⁾, and in particular Article 9 (6) thereof,

Having regard to Commission Regulation (EEC) No 2237/85 of 30 July 1985 laying down detailed rules for the application of the minimum import price system for dried grapes ⁽³⁾, and in particular Article 4 thereof,

Whereas Article 4 (1) of Regulation (EEC) No 2237/85 provides that the Commission shall fix a monetary coefficient equal to the real monetary gap between the agricultural conversion rate for the currency of a Member State and the central rate, or, where applicable, the market rate when that gap is equal to or more than 2,5 percentage points;

Whereas there is a mistake in the coefficient for the pound sterling for the preceding two periods; whereas account should be taken of that situation for the future and the correct basis for calculation should accordingly be reestablished;

Whereas Article 4 (2) of Regulation (EEC) No 2237/85 provides that the monetary coefficient shall be fixed before the commencement of the marketing year and,

subsequently, on the first Monday of the months of November, January, March, May and July;

Whereas Commission Regulation (EEC) No 2184/87 ⁽⁴⁾, fixes the minimum import price applicable to dried grapes during the marketing year 1987/88 as well as the countervailing charges to be imposed where that price is not observed; whereas the import prices as set out in Annex II of that Regulation are calculated as specific percentages of the minimum import price; whereas as a result the monetary coefficient should apply both to the minimum import prices and the import prices,

HAS ADOPTED THIS REGULATION:

Article 1

After having converted the minimum import prices and the import prices as set out in Annexes I and II of amended Regulation (EEC) No 2184/87 into one of the following national currencies by applying the agricultural conversion rate, the resulting amount shall be multiplied by the following coefficient:

— for the Greek drachma:	1,438
— for the pound sterling:	1,200
— for the Portuguese escudo:	1,109
— for the French franc:	1,050
— for the Irish pound:	1,051
— for the Italian lira:	1,050

Article 2

This Regulation shall enter into force on 7 March 1988.

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

Done at Brussels, 3 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 49, 27. 2. 1986, p. 1.

⁽²⁾ OJ No L 370, 30. 12. 1987, p. 20.

⁽³⁾ OJ No L 209, 6. 8. 1985, p. 24.

⁽⁴⁾ OJ No L 203, 24. 7. 1987, p. 16.

COMMISSION REGULATION (EEC) No 596/88

of 1 March 1988

modifying the accession compensatory amounts applicable to trade in goods
covered by Regulations (EEC) No 3033/80 and No 3035/80

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 3033/80 of 11 November 1980 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products ⁽¹⁾, as last amended by Regulation (EEC) No 3743/87 ⁽²⁾,Having regard to Council Regulation (EEC) No 3035/80 of 11 November 1980 laying down general rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, and the criteria for fixing the amount of such refunds ⁽³⁾ as last amended by Regulation (EEC) No 4055/87 ⁽⁴⁾,Whereas the accession compensatory amounts applicable from 1 March 1986 to trade in goods covered by Regulations (EEC) No 3033/80 and No 3035/80 were determined by Commission Regulation (EEC) No 623/83 ⁽⁵⁾ as last amended by Regulation (EEC) No 2574/86 ⁽⁶⁾;

Whereas Regulation (EEC) No 623/86 and the Regulations amending it do not provide for the application of accession compensatory amounts to exports from Spain and Portugal to the Community of Ten in the case of trade in goods covered by Regulation (EEC) No 3035/80 but not by Regulation (EEC) No 3033/80;

Whereas this situation arises from misinterpretation of Articles 53 and 213 of the Act of Accession and has created an abnormal situation; whereas it is therefore

necessary to rectify, and as a result to amend the Regulations in question;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The accession compensatory amounts provided for in the first paragraph of Article 3 of Regulation (EEC) No 623/86 and set out in column 3 of Annex III to that Regulation and the Regulations amending it shall also apply to exports from the Kingdom of Spain to the Community of Ten of goods covered by Regulation (EEC) No 3035/80 but not by Regulation (EEC) No 3033/80.

2. The accession compensatory amounts provided for in the second paragraph of Article 3 of Regulation (EEC) No 623/86 and set out in column 4 of Annex III to that Regulation and the Regulations amending it shall also apply to exports from the Portuguese Republic to the Community of Ten of goods covered by Regulation (EEC) No 3035/80 but not by Regulation (EEC) No 3033/80.

Article 2

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

Nevertheless, on request by an interested party within a period of six months from the date of publication of this Regulation, the Regulation shall apply to transactions carried out since 1 March 1986.

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

Done at Brussels, 1 March 1988.

For the Commission

COCKFIELD

Vice-President

⁽¹⁾ OJ No L 323, 29. 11. 1980, p. 1.
⁽²⁾ OJ No L 352, 15. 12. 1987, p. 29.
⁽³⁾ OJ No L 323, 29. 11. 1980, p. 27.
⁽⁴⁾ OJ No L 379, 31. 12. 1987, p. 1.
⁽⁵⁾ OJ No L 59, 1. 3. 1986, p. 1.
⁽⁶⁾ OJ No L 229, 15. 8. 1986, p. 30.

COMMISSION REGULATION (EEC) No 597/88

of 3 March 1988

amending Regulation (EEC) No 2409/86 on the sale of intervention butter
intended in particular for incorporation in compound feedingstuffs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,Having regard to Council Regulation (EEC) No 985/68 of
15 July 1968 laying down general rules for intervention
on the market in butter and cream ⁽¹⁾, as last amended by
Regulation (EEC) No 222/88 ⁽²⁾, and in particular Article
7a thereof,

Whereas Article 1 of Commission Regulation (EEC) No
2409/86 ⁽³⁾, as last amended by Regulation (EEC) No
25/88 ⁽⁴⁾, fixes the date on which butter offered for sale by
the intervention agency must have been taken into
storage; whereas, in order to enable the programme to be
continued, the date of entry into storage of the butter
should be postponed; whereas that provision must,
however, apply from 2 March 1988 only so that the sale at
a predetermined price provided for in Article 25 of Regu-
lation (EEC) No 2409/86 may involve the oldest butter
until that date;

Whereas the second indent of the first subparagraph of
Article 9 (1) of Regulation (EEC) No 2409/86 was
amended by Regulation (EEC) No 3658/87 ⁽⁵⁾ to clarify its
provisions; whereas, in order to avoid any ambiguity,
Article 10 of Regulation (EEC) No 2409/86 should be
amended accordingly; whereas, in view of experience
gained, the period of manufacture of the compound
feedingstuffs should be extended under the special case
provided for in the second indent of the first subpara-
graph of Article 9 (1);

Whereas it is not worthwhile and it is costly to continue,
in the present situation, trials involving the utilization of
butter at a reduced price for industrial purposes in the
absence of convincing results; whereas sales of butter
under Title VIIa of Regulation (EEC) No 2409/86 should
accordingly be suspended;

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

Regulation (EEC) No 2409/86 is hereby amended as
follows:

1. In the first subparagraph of Article 1, '1 April 1985'
and '1 October 1985' are replaced by '1 March 1986'.

2. Article 10 is replaced by the following:

'Article 10

'The provisions of Article 9 (2) shall not apply to
compound feedingstuffs delivered by tanker or
container to a farm or a fattening concern which uses
such compound feedingstuffs under the conditions laid
down in Article 11.'

3. The introductory phrase in the first subparagraph of
Article 14 (4) is replaced by the following:

'In the special case referred to in the second indent of
the first subparagraph of Article 9 (1), the period
provided for in Article 4 shall be 180 days and the
inspection provided for in point 2 (a) shall also be
deemed to have been carried out and the processing
security referred to in Article 21 (2) shall be released
where the successful tenderer submits.'

4. The application of Article 27a is suspended.

Article 2

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

Article 1 (1) shall apply with effect from 2 March 1988.

⁽¹⁾ OJ No L 169, 18. 7. 1968, p. 1.

⁽²⁾ OJ No L 28, 1. 2. 1988, p. 1.

⁽³⁾ OJ No L 208, 31. 7. 1986, p. 29.

⁽⁴⁾ OJ No L 4, 7. 1. 1988, p. 11.

⁽⁵⁾ OJ No L 343, 5. 12. 1987, p. 18.

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

Done at Brussels, 3 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

COMMISSION REGULATION (EEC) No 598/88
of 3 March 1988
terminating buying-in for sunflower seed in Portugal

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the markets in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 3994/87⁽²⁾, and in particular Article 26 (3) thereof,

Having regard to Commission Regulation No 282/67/EEC of 11 June 1967 on detailed rules for intervention for oilseeds⁽³⁾, as last amended by Regulation (EEC) No 2933/87⁽⁴⁾, and in particular Article 2 (3) thereof,

Whereas Commission Regulation (EEC) No 3193/87 of 26 October 1987⁽⁵⁾ opens buying-in for sunflower seed in Portugal;

Whereas Article 2 of Regulation No 282/67/EEC lays down the conditions permitting buyin-in of sunflower seed to be terminated; whereas special conditions relating to Portugal are laid down in Article 2 (7) thereof;

Whereas the market prices recorded in Portugal for sunflower seed during three consecutive weeks have been

higher than intervention prices; whereas a decision should be taken to terminate buying-in of such seed in that Member State pursuant to Article 2 of Regulation No 282/67/EEC;

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

HAS ADOPTED THIS REGULATION:

Article 1

The Portuguese intervention agency shall terminate buying-in of sunflower seed harvested in Portugal.

Article 2

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

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

Done at Brussels, 3 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No 172, 30. 9. 1966, p. 3021/66.

⁽²⁾ OJ No L 377, 31. 12. 1987, p. 31.

⁽³⁾ OJ No L 151, 1. 7. 1967, p. 1.

⁽⁴⁾ OJ No L 278, 1. 10. 1987, p. 46.

⁽⁵⁾ OJ No L 304, 27. 10. 1987, p. 20.

COMMISSION REGULATION (EEC) No 599/88

of 3 March 1988

fixing the amounts to be levied in the beef sector on products which left the United Kingdom during the week 15 to 21 February 1988

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1347/86 of 6 May 1986 on the granting of a premium for the slaughter of certain adult bovine animals in the United Kingdom ⁽¹⁾, as amended by Regulation (EEC) No 467/87 ⁽²⁾,Having regard to Commission Regulation (EEC) No 1695/86 of 30 May 1986 laying down detailed rules for the application of the premium for the slaughter of certain adult bovine animals for slaughter in the United Kingdom ⁽³⁾, and in particular Article 7 (1) thereof,

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

Whereas, under Article 7 (1) of Regulation (EEC) No 1695/86 the amounts to be charged on departure from the territory of the United Kingdom of the products listed in the Annex to the said Regulation must be fixed each week by the Commission;

Whereas Council Regulation (EEC) No 2658/87 ⁽⁴⁾ introduces 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, accordingly, the amounts to be levied on products which left the United Kingdom during the week 15 to 21 February 1988 should be fixed,

HAS ADOPTED THIS REGULATION:

Article 1

Pursuant to Article 3 of amended Regulation (EEC) No 1347/86, the amounts to be levied on the products referred to in Article 7 (1) of Regulation (EEC) No 1695/86 which left the territory of the United Kingdom during the week 15 to 21 February 1988 shall be those set out in the Annex.

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

It shall apply with effect from 15 February 1988.

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

Done at Brussels, 3 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President⁽¹⁾ OJ No L 119, 8. 5. 1986, p. 40.⁽²⁾ OJ No L 48, 17. 2. 1987, p. 1.⁽³⁾ OJ No L 146, 31. 5. 1986, p. 56.⁽⁴⁾ OJ No L 256, 7. 9. 1987, p. 1.

ANNEX

Amounts to be levied on products which left the territory of the United Kingdom during
the week 15 to 21 February 1988

(ECU/100 kg net weight)	
CN code	Amount
0201 10 10	26,26474
0201 10 90	26,26474
0201 20 11	26,26474
0201 20 19	26,26474
0201 20 31	21,01179
0201 20 39	21,01179
0201 20 51	31,51769
0201 20 59	31,51769
0201 20 90	21,01179
0201 30	35,98269
0202 10 00	26,26474
0202 20 10	26,26474
0202 20 30	21,01179
0202 20 50	31,51769
0202 20 90	21,01179
0202 30 10	35,98269
0202 30 50	35,98269
0202 30 90	35,98269
0206 10 95	35,98269
0206 29 91	35,98269
0210 20 10	21,01179
0210 20 90	29,94180
0210 90 41	29,94180
1602 50 10 ⁽¹⁾	29,94180
1602 90 61 ⁽²⁾	21,01179

⁽¹⁾ Containing 80 % or more by weight of beef meat.

⁽²⁾ Other.

COMMISSION REGULATION (EEC) No 600/88
of 3 March 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 579/88 ⁽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 4 March 1988.

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

Done at Brussels, 3 March 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 56, 2. 3. 1988, p. 28.

⁽⁵⁾ OJ No L 256, 7. 9. 1987, p. 1.

ANNEX

to the Commission Regulation of 3 March 1988 fixing the import levies on white sugar and raw sugar

<i>(ECU/100 kg)</i>	
CN code	Levy
1701 11 10	41,45 ⁽¹⁾
1701 11 90	41,45 ⁽¹⁾
1701 12 10	41,45 ⁽¹⁾
1701 12 90	41,45 ⁽¹⁾
1701 91 00	50,23
1701 99 10	50,23
1701 99 90	50,23

⁽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.

COMMISSION REGULATION (EEC) No 601/88

of 3 March 1988

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

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75
of 29 October 1975 on the common organization of the
market in cereals⁽¹⁾, as last amended by Regulation (EEC)
No 3989/87⁽²⁾, and in particular the fourth subparagraph
of Article 16 (2),

Having regard to the opinion of the Monetary Committee,

Whereas Article 16 of Regulation (EEC) No 2727/75
provides that the difference between quotations or prices
on the world market for the products listed in Article 1 of
that Regulation and prices for those products in the
Community may be covered by an export refund;

Whereas Article 2 of Council Regulation (EEC) No
2746/75 of 29 October 1975 laying down general rules for
granting export refunds on cereals and criteria for fixing
the amount of such refunds⁽³⁾, provides that when
refunds are being fixed, account must be taken of the
existing situation and the future trend with regard to
prices and availabilities of cereals on the Community
market on the one hand, and prices for cereals and cereal
products on the world market on the other; whereas the
same Article provides that it is also important to ensure
equilibrium and the natural development of prices and
trade on cereal markets and, furthermore, to take into
account the economic aspect of the proposed exports and
the need to avoid disturbances on the Community
market;

Whereas Article 3 of Regulation (EEC) No 2746/75
defines the specific criteria to be taken into account when
the refund on cereals is being calculated;

Whereas these specific criteria are defined, as far as wheat
and rye flour, groats and meal are concerned, in Article 4
of Regulation (EEC) No 2746/75; whereas furthermore,
when the refund on these products is being calculated,
account must be taken of the quantities of cereals

required for their manufacture; whereas these quantities
were fixed in Commission Regulation No 162/67/EEC⁽⁴⁾,
as amended by Regulation (EEC) No 1607/71⁽⁵⁾;

Whereas the world market situation or the specific
requirements of certain markets may make it necessary to
vary the refund for certain products according to destina-
tion;

Whereas the refund must be fixed once a month;
whereas it may be altered in the intervening period;

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

- in the case of currencies which are maintained in rela-
tion 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 Regula-
tion (EEC) No 1676/85⁽⁶⁾, as last amended by Regula-
tion (EEC) No 1636/87⁽⁷⁾;
- for other currencies, an exchange rate based on the
arithmetic mean of the spot market rates of each of
these currencies recorded over a given period in rela-
tion to the Community currencies referred to in the
previous indent and the aforesaid coefficient;

Whereas, following the introduction of the "combined
nomenclature" by Council Regulation (EEC) No
2658/87⁽⁸⁾, the nomenclature applicable from 1 January
1988 to export refunds on agricultural products was esta-
blished by Regulation (EEC) No 3846/87⁽⁹⁾;

Whereas it follows from applying the detailed rules set
out above to the present situation on the market in
cereals, and in particular to quotations or prices for these
products within the Community and on the world
market, that the refunds should be as set out in the
Annex hereto;

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

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 377, 31. 12. 1987, p. 1.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

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

⁽⁵⁾ OJ No L 168, 27. 7. 1971, p. 16.

⁽⁶⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁷⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁸⁾ OJ No L 256, 7. 9. 1987, p. 1.

⁽⁹⁾ OJ No L 366, 24. 12. 1987, p. 1.

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

The refund on export to Portugal has not been fixed.

HAS ADOPTED THIS REGULATION :

Article 1

The export refunds on the products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 2727/75, exported in the natural state, shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 4 March 1988.

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

Done at Brussels, 3 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX

to the Commission Regulation of 3 March 1988 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

Product code	Destination (1)	Amount of refund
0709 90 60 000	—	—
0712 90 19 000	—	—
1001 10 10 000	01	80,00
1001 10 90 000	04	30,00 (?)
	05	25,00 (?)
	11	24,00 (?)
	02	20,00 (?)
1001 90 91 000	01	80,00
1001 90 99 000	03	88,00
	02	0
	08	98,00
	10	100,00
1002 00 00 000	03	88,00
	06	20,00
	07	15,00
	02	25,00
	09	95,00
1003 00 10 000	01	80,00
1003 00 90 000	03	90,00
	02	25,00
	12	103,00
1004 00 10 000	01	50,00
1004 00 90 000	—	—
1005 10 90 000	—	—
1005 90 00 000	03	100,00
	02	0
	10	110,00
1007 00 90 000	—	—
1008 20 00 000	—	—
1101 00 00 110	01	140,00
1101 00 00 120	01	140,00
1101 00 00 130	01	121,00
1101 00 00 150	01	112,00
1101 00 00 170	01	103,00
1101 00 00 180	01	92,00
1101 00 00 190	—	—
1101 00 00 900	—	—
1102 10 00 100	01	140,00
1102 10 00 200	01	140,00
1102 10 00 300	01	140,00
1102 10 00 500	01	140,00
1102 10 00 900	—	—
1103 11 10 100	01	296,00
1103 11 10 200	01	280,00
1103 11 10 500	01	250,00
1103 11 10 900	01	236,00
1103 11 90 100	01	140,00
1103 11 90 900	—	—

(¹) The destinations are identified as follows:

- 01 All third countries,
- 02 Other third countries,
- 03 Switzerland, Austria and Liechtenstein,
- 04 Zones II and III,
- 05 Algeria,
- 06 Japan,
- 07 South Korea,
- 08 Ceuta and Melilla,
- 09 Zone II (b),
- 10 Zone VIII,
- 11 Tunisia,
- 12 Iceland

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

N.B. The zones are those defined in Regulation (EEC) No 1124/77 (OJ No L 134, 28. 5. 1977), as last amended by Regulation (EEC) No 296/88 (OJ No L 30, 2. 2. 1988).

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 29 February 1988

amending Decision 85/196/EEC concerning a multiannual research and development programme of the European Economic Community in the fields of basic technological research and the applications of new technologies (Brite) (1985 to 1988)

(88/108/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130 Q (2) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Article 130 K of the Treaty provides that the framework programme is to be implemented through specific programmes developed within each activity and whereas the Council, by deciding on a framework programme of Community activities in the field of research and technological development (1987 to 1991), recognizes the interest of an action aimed at science and technology for the modernization of manufacturing industries;

Whereas Decision 85/196/EEC ⁽⁴⁾ decided on the multiannual research and development programme for the European Economic Community in the fields of basic technological research and the applications of new technologies (Brite) (1985 to 1988); whereas in particular Article 3 provided that the Brite programme should be reviewed during 1986;

Whereas the review which it has undertaken, the conclusions of which were forwarded to the Council on 21 May

1986, led the Commission to present a proposal for the revision of the Brite programme in order to ensure an adequate fulfilment of its objective;

Whereas it is necessary to react adequately to the interest shown by the industry in transnational cooperation;

Whereas Council Decision 87/516/Euratom, EEC of 28 September 1987 concerning the framework programme for Community activities in the field of research and technological development (1987 to 1991) ⁽⁵⁾, provides that a particular aim of Community research shall be to strengthen the scientific and technological basis of European industry and to encourage it to become more competitive at the international level and that Community action is justified where research contributes *inter alia* to the strengthening of the economic and social cohesion of the Community and the promotion of its overall harmonious development, while being consistent with the pursuit of scientific and technical quality; whereas it is intended that the Brite programme should contribute to the achievement of these objectives;

Whereas it is necessary to involve small and medium-sized enterprises to the maximum extent possible in the development of industrial technologies by taking into account their particular and specific requirements while respecting the objective of the scientific and technical quality of the programme;

Whereas it is necessary to ensure an adequate coverage of the technical areas as defined in Decision 85/196/EEC;

⁽¹⁾ OJ No C 238, 4. 9. 1987, p. 2.

⁽²⁾ OJ No C 345, 21. 12. 1987, p. 84 and Decision of 10 February 1988 (not yet published in the Official Journal).

⁽³⁾ OJ No C 356, 31. 12. 1987, p. 5.

⁽⁴⁾ OJ No L 83, 25. 3. 1985, p. 8.

⁽⁵⁾ OJ No L 302, 24. 10. 1987, p. 1.

Whereas it is necessary to underline the industrial nature of the programme by giving priority to projects with at least two industrial partners from two different Member States;

Whereas the participation of organizations from EFTA countries in Brite projects, under appropriate conditions, may contribute to the competitiveness of manufacturing industry as a whole;

Whereas it is in the Community's interest to consolidate the scientific and financial basis of European research by means of involvement to a greater extent of the EFTA countries in certain Community programmes, particularly in programmes involving cooperation in research and development of basic industrial technologies;

Whereas the implementation of concerted actions in the COST framework is an essential element to complement industrially-oriented R & D projects;

Whereas the Scientific and Technical Research Committee was consulted on the following measures,

HAS DECIDED AS FOLLOWS:

Sole Article

Decision 85/196/EEC is hereby amended as follows:

1. Article 1 (2) is amended as follows:

(a) The following is added to the second subparagraph:

'Where Framework Agreements for scientific and technical cooperation between non-Community European countries and the European Communities have been concluded, organizations and enterprises established in those countries may, under appropriate conditions to be defined by the Commission, become partners in a project undertaken within the programme. For each such project

the Committee mentioned in Article 5 shall assist the Commission in defining those conditions.'

(b) The following is added to the third subparagraph:

'Research institutes which are funded entirely or mainly by industrial organizations shall be considered as industrial organizations. As far as possible, priority will be given to projects involving at least two independent industrial organizations established in different Member States.'

(c) The following is added to the fourth subparagraph:

'No contractor established outside the Community who participates as a partner in a project undertaken within the programme shall be entitled to Community financing intended for the programme. The contractor will contribute to general administrative expenses.'

2. Article 2 is replaced by the following:

Article 2

The funds estimated as necessary for the execution of the programme (1985 to 1988) amount to 185 million ECU including expenditure on staff whose costs shall not exceed 4,5 % of the Community's contribution.'

3. The following Article is added:

Article 4 (a)

The Commission shall ensure that procedures are set up to allow for appropriate cooperation with COST activities related to the areas of research covered by the programme, by ensuring regular exchanges of information between the Committee referred to in Article 5 and the relevant COST Management Committees.'

Done at Brussels, 29 February 1988.

For the Council

The President

W. von GELDERN

COMMISSION

COMMISSION DECISION

of 18 December 1987

relating to a proceeding under Article 85 of the EEC Treaty

(IV/31.735 — New potatoes)

(Only the French text is authentic)

(88/109/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 26 of 4 April 1962 applying certain rules of competition to production of and trade in agricultural products⁽¹⁾, as amended by Regulation No 49⁽²⁾,

Having regard to the request for the application of Article 2 of Regulation No 26 submitted on 17 October 1985 by the French Government⁽³⁾,

After consulting the Member States and hearing the parties concerned,

Whereas :

A. THE FACTS

I. Procedure

On 17 October 1985 the French authorities submitted to the Commission, at the same time as a request for the extension of the scope of the rules adopted by four regional agricultural economic committees in the fruit and vegetables sector to cover non-members, a request that Article 2 of Regulation No 26 be applied to decisions taken by seven economic committees in the field of the production and marketing of new potatoes.

II. The French legislation governing fruit and vegetables

- (1) The French Law of 8 August 1962 aims, in the sphere of the economic organization of agricultural

markets, at adjusting price levels and bringing the production and marketing of the products concerned into line with the requirements of the market.

To this end, the French Government has entrusted, under its supervision, implementation of the organization of the markets in the fruit and vegetables sector to producer groups recognized and economic committees authorized by the Ministry of Agriculture.

Article 14 of the Law provides that these producer groups may adopt rules to organize and regulate production and marketing and to adjust price levels, *inter alia* by fixing a withdrawal price should the need arise.

Article 15 states that, with a view to organizing and regulating production and marketing, recognized producer groups in a given region may merge to form an agricultural economic committee.

- (2) The Decree of 22 November 1962 lays down the procedure for recognizing producer groups and authorizing economic committees, and it also contains detailed rules on how the Ministry of Agriculture should supervise such bodies.

- (a) Applications from producer groups for recognition must be sent to the Ministry of Agriculture via the 'Prefect' concerned, who is responsible for examining them.

The Minister reaches a decision on such applications after considering the opinion of the technical committee set up at national level by Article 14 of the Law of 8 August 1962.

The recognition of a group is deemed equivalent to approval of its rules as notified in advance.

⁽¹⁾ OJ No 30, 20. 4. 1962, p. 993/62.

⁽²⁾ OJ No 53, 1. 7. 1962, p. 1571/62.

⁽³⁾ See the summary of the request published in OJ No C 159, 17. 6. 1987, p. 2.

The Minister for Agriculture may withhold approval for certain rules.

A recognized producer group may not adopt new rules or amend rules which have already been approved without the express approval of the Minister for Agriculture acting on the advice of the national technical committee. The application for approval sent via the 'Prefect' must be submitted not later than six weeks before the date on which the rules are scheduled to enter into force;

- (b) The authorization of agricultural economic committees and the approval of the rules they adopt are governed by a procedure similar to that applicable to producer groups:

- transmission to the Ministry of Agriculture via the 'Prefect';
- opinion of the national technical committee,
- possibility of withholding approval for certain rules,
- approval of the Minister for Agriculture necessary for the adoption of new rules.

In addition, a ministerial delegate is attached to each economic committee where he acts as technical adviser and attends management board and general meetings. He may consult on the spot or have sent to him all documents relating to the activities of the committee or its organs;

- (c) Lastly, the decree provides that agricultural economic committees in the same product area may unite to form a federation.

- (3) The basic decree of 22 November 1962 was supplemented by two other decrees adopted on 2 August 1963 which allowed producer organizations to:

- (a) collect contributions (Decree No 63.786); and
- (b) impose fines for breaches of the rules (Decree No 63.787).

- (4) On the basis of the legislature described at points 1 to 3 above:

- (a) The French Ministry for Agriculture has authorized by ministerial order and in accordance with Articles 14 and 15 of the Law of 8 August 1962:

- the Comité Economique Agricole Fruits et Légumes d'Aquitaine by Order of 6 July 1965,
- the Comité Economique Agricole Régional Fruits et Légumes de Bretagne (Cerafel) by Order of 27 July 1966,

- the CEAFL Languedoc-Roussillon by Order of 30 December 1966,
- the CEAFL Nord de la France and the CEAFL Provence by Order of 4 January 1967,
- the CEAFL Val de Loire by Order of 10 January 1967,
- the CEAFL Basse-Normandie by Order of 6 October 1971, and the producer groups affiliated thereto (see Annex);

- (b) Pursuant to Article 28 of the Decree of 22 November 1962, the abovementioned seven authorized economic committees have united to form a federation, the Association française des comités économiques agricoles de fruits et légumes (Afcofel), whose statutes were submitted on 6 July 1971. This federation coordinates the various committees' market management activities. The following agricultural economic committees, which do not carry on any specific activities in the new potatoes sector, also belong to Afcofel:

- Est de la France et Bourgogne,
- Ile de France,
- Midi-Pyrénées,
- Rhône-Alpes,
- Corse.

III. The rules laid down in the new potato sector

The rules and decisions designed to organize and regulate the production and marketing of new potatoes which were adopted or implemented by the seven economic committees in question during the last three seasons are as follows:

- (1) *General rules* of the producer groups and economic committees laying down an obligation to supply the produce to be marketed to the group alone and an obligation to sell it solely within the markets organized by the economic committees.

- (2) *Specific rules* adopted by the recognized economic committees while the season is in progress. These rules, which are applied by all the committees with one or two regional variations, may be classified as follows:

- (a) Rules on harvest forecasts and the provision of information. These rules require the communication, at the start of the season, of a list of areas planted. During the season lifting forecasts, quantities unsold that day and the day before and the destinations of produce are communicated on a daily basis;

- (b) Setting of quotas for quantities lifted, fixed according to market conditions and sales possibilities. As far as production is concerned, guidelines may be issued on seed potatoes and varieties;

(c) Grading and sizing rules.

Compliance with a minimum size (30 or 32 mm);

(d) Fixing of a withdrawal price and the related daily minimum price;

(e) Financial contributions towards:

- administrative and monitoring costs,
- promotion of the region's image,
- experimentation.

The contributions vary from one region to another depending on the measures taken, ranging from FF 38/tonne in Aquitaine and FF 40/tonne in the Loire region to FF 80/tonne in Brittany, where a special regional potato promotion campaign is under way;

(f) Monitoring rules.

Obligation on the part of producers and the market preparation stations they supply to mark containers so as to indicate the product's origin and its conformity with the rules laid down. Failure to do so is punishable by a fine.

All these rules have been approved by the Minister for Agriculture within the framework of the Ministerial Orders authorizing the economic committees concerned.

per kilogram to FF 0,60 and sometimes even to FF 0,40 per kilogram.

The quantities placed daily on the markets are, however, influenced by the application of certain rules laid down by the economic committees: fixing of a minimum size, setting of quotas for quantities lifted, fixing of a withdrawal price and a daily minimum support price. These rules are applied only where prices fall sharply in times of glut which generally occurs from the month of June onwards.

Throughout the season, only new potatoes of a size greater than 30 or 32 mm may be marketed. From mid-June, when a surplus tends to build up, the minimum size may be increased to 35 mm.

It is around this time also that limits are generally placed on quantities lifted in the form of a maximum tonnage per hectare.

Lastly, to slow down or even stop the fall in prices, notably at sales by auction dial, these measures are supplemented by the fixing of a withdrawal price and a minimum support price.

Except in very exceptional circumstances, the withdrawal price is fixed for a season at a level well below the cost of production. In 1987, the season's withdrawal price was set at FF 0,58 per kilogram for Brittany, the main new potato producing region of France.

At the beginning of June, a minimum support price is also fixed to prevent an accidental fall in market prices. Its level is initially fixed at around twice the withdrawal price and then gradually reduced, in three or four steps (10 June, 20 June, 30 June), until at the end of June it is down to the level of the withdrawal price. This gradual fall in support price broadly reflects the fall in production costs due to the higher yields per hectare as the season progresses.

At times when support prices prevail, produce which has found no buyer at prices higher than this minimum price is put up for sale again the next day, except on those rare occasions when it is used for processing or for cattle feed or is, in the last resort, destroyed. Produce which cannot be sold at prices higher than the withdrawal price is withdrawn once and for all from the market and destroyed. The producers concerned are indemnified out of an equalization fund for the losses thus incurred. In 1987, the support and withdrawal price mechanism led to about 1 % of supplies being definitively withdrawn from the market.

IV. Economic consequences of the implementation of the rules laid down in the new potato sector

All members of the producer groups affiliated to the seven authorized economic committees are required to market their new potato crop within the markets organized in the region by the economic committees concerned. On these organized markets there are therefore concentrated, on the one hand, all the marketable supplies of the producers concerned and, on the other, all the demands expressed through dealer-shippers having access to those markets.

Prices are fixed freely on these markets according to supply and demand. From the start of the season during the first fortnight in May and until the end of May, they fluctuate on average between FF 4 and FF 2 per kilogram. During the first two weeks of June, prices fall from FF 2

The system introduced therefore has the effect of controlling, by limiting the quantities placed on the market, the supply of new potatoes in the regions concerned when there is apt to be a glut. Owing to the particular method of marketing and the low level at which the withdrawal prices, whose object is to avoid the risk of accidental fluctuations inherent in sale by auction dial, are set, the prices actually paid continue to be determined normally on these markets in the light of supply and demand. The system is no barrier to competition from other Community producers, who continue to compete freely on the markets, their supplies being in no way affected by the measures in question.

V. Economic structure of the new potatoes sector

As a general rule, France produces over 400 000 tonnes a year of new potatoes, or some 13 % of the Community crop (3 million tonnes).

The production managed by the abovementioned recognized producer groups and economic committees amounts to approximately 250 000 tonnes.

The breakdown of this tonnage between the principal regions is approximately as follows: Brittany (150 000 tonnes), Aquitaine (30 000 to 35 000 tonnes), Lower Normandy (20 000 tonnes), Languedoc-Roussillon (15 000 tonnes), Provence (15 000 tonnes) and the Loire Valley (13 000 tonnes).

France imports each year about 100 000 tonnes of new potatoes (mainly from Morocco, Spain and Italy) and exports between 40 000 and 60 000 tonnes, mostly to the United Kingdom, the Federal Republic of Germany and Benelux.

The new potato season starts in May and ends in late July. Prices are generally high in May and early June, but fall sharply from mid-June onwards. Besides being affected by the abundant supplies from Mediterranean countries (Morocco, Greece, Cyprus, etc), prices are also influenced as soon as the season starts in May by the amount of ware potatoes left over from the previous crop.

B. LEGAL ASSESSMENT

Article 2 (1) of Regulation No 26 provides that Article 85 (1) of the Treaty shall not apply to such of the agreements, decisions and practices relating to the production of or trade in the products listed in Annex II to the Treaty as form an integral part of a national market organization.

I. French organization of the new potato market

(1) Definition

Although no formal definition of national or common market organization is given either in Regulation No 26 or in the Treaty, the latter nevertheless contains various pointers to what the term means.

Pursuant to Articles 43 (3) and 45 (1), the common organization replaces the national organization if it offers, for the product in question, equivalent safeguards for the employment and standard of living of the producers concerned, if it has arrangements designed to guarantee the latter a market for their products and if it ensures conditions for trade within the Community similar to those existing in a national market.

The objectives of the national market organization are therefore similar at the national level to those pursued by the common organization at the Community level, which are set out in Article 39 of the Treaty.

The national organization can thus be defined as a totality of legal devices placing the regulation of the market in the products in question under the control of the public authority, with a view to ensuring, by means of an increase in productivity and of optimum utilization of the factors of production, in particular of manpower, a fair standard of living for producers, the stabilization of markets, the assurance of supplies and reasonable prices to consumers (Court of Justice, Judgment of 10 December 1974, Case 48/74, Charmasson v. Minister for Economic Affairs and Finance (1974) ECR 1383).

(2) Application

On the basis of the French legislation described at A.II above, the regulation of the French new potato market is entrusted to producer groups recognized by the Ministry for Agriculture and to authorized economic committees.

These private-law bodies implement the regulation of the market in question by means of the decisions and agreements listed at A. III above. Although the attainment of the objectives which the French legislation has in view, that is to say *inter alia* to adjust price levels and bring the production and marketing of the products concerned into line with the market's requirements — such objectives being similar to those of Article 39 of the Treaty — is entrusted to professional organizations, the organization of the French new potato market takes the form of a national organi-

zation within the meaning of Article 2 of Regulation No 26 because both the constitution of the professional organizations in question and their relevant decisions and agreements are placed under the control of the French public authority.

II. Nature of the decisions and agreements

The decisions and agreements of the producer groups recognized and the economic committees authorized under the French legislation in question concern the production of and trade in potatoes. These are products which are mentioned in Annex II to the EEC Treaty and which are therefore subject to the provisions of Articles 39 to 46 of the Treaty.

These decisions and agreements implement the regulation of the market concerned; they therefore form an integral part of the national market organization in question.

Because they place restrictions on the freedom to produce and market products, the basic agreements and decisions listed above may be caught by Article 85 (1) of the EEC Treaty in so far as they are likely to affect trade between Member States.

However, these agreements and decisions forming an integral part of the French national organization of the new potato markets do not jeopardize implementation of the fundamental principles of the Treaty, including the institution of a system ensuring that competition in the common market is not distorted. They do not exclude competition, and in particular price competition⁽¹⁾, either between the producers and producer groups participating

in the system in question, or with other Community producers, who, as stated in A. IV above, continue to supply their products to all the markets.

Consequently, in accordance with Article 2 of Regulation No 26, Article 85 (1) does not apply to them,

HAS ADOPTED THIS DECISION:

Article 1

Pursuant to Article 2 (1) of Regulation No 26, the provisions of Article 85 (1) of the EEC Treaty are hereby declared inapplicable to the agreements and decisions of the type mentioned in the Annex to this Decision which have been concluded or adopted by the producer groups and economic committees likewise mentioned in the Annex.

Article 2

This Decision is addressed to the economic committees and producer groups listed in the Annex.

Done at Brussels, 18 December 1987.

For the Commission

Peter SUTHERLAND

Member of the Commission

⁽¹⁾ Case 6/72, *Europemballage-Continental Can*, Judgment of 21. 2. 1973, (1973) ECR 215, point 24; Case 26/76 *Metro SB*, Judgment of 25. 10. 1977, (1977) ECR 1875, point 21.

ANNEX**I. List of the regional agricultural economic committees and producer groups referred to in Article 1 of the Decision**

1. Comité Economique Agricole Régional Fruits et Légumes de Bretagne (CERAFEL) to which are affiliated the following producer groups :
 - SICA de Saint-Pol-de-Léon,
 - Socoprim,
 - SYPA,
 - Coopérative des agriculteurs de Bretagne,
 - Union des coopératives Saint Pol,
 - Syndicat de Pont l'Abbé,
 - Union des coopératives Paimpol Tréguier,
 - Coopérative la Paimpolaise,
 - Sipefel,
 - APPRM,
 - GAARM,
 - SICA des producteurs de légumes du Morbihan.
2. CEAFL Aquitaine, to which are affiliated the following producer groups :
 - Bassin de l'Adour,
 - Ucofel,
 - Apucmin,
 - Sicoma,
 - Uniprovend,
 - Sicafel.
3. CEAFL Basse-Normandie, to which are affiliated the following producer groups :
 - Coopérative légumière du Val de Saire,
 - Union des producteurs de légumes du Nord Cotentin,
 - Coopérative La Normandie,
 - Union des producteurs de légumes du Nord-Ouest Cotentin.
4. CEAFL Val de Loire, to which are affiliated the following producer groups :
 - Coopérative agricole des producteurs de pommes de terre de Noirmoutiers,
 - Coopérative maraîchère de l'île de Ré.
5. CEAFL Languedoc-Roussillon, to which are affiliated the following producer groups :
 - Union des coopératives,
 - SOPRO,
 - Syndicat de Meynes,
 - Sica Covial,
 - Coopérative Aramon.
6. CEAFL Nord de la France, to which are affiliated the following producer groups :
 - Essor agricole,
 - Copaixor.
7. CEAFL Provence, to which are affiliated the following producer groups :
 - Syndicat de défense des producteurs de pommes de terre de Chateaufort,
 - SOREP,
 - Fruitcoprovince,
 - Groupement des producteurs du Sud-Est Orange,
 - Sica l'Avignonnaise,
 - Cavaillon Provence Primeur.

II. The rules and decisions designed to organize and regulate the production and marketing of new potatoes which were adopted or implemented by the seven economic committees in question and their affiliated producer groups during the last three seasons are as follows :

1. General rules of the producer groups and economic committees laying down an obligation to supply the produce to be marketed to the group alone and an obligation to sell it solely within the markets organized by the economic committees.
2. Specific rules adopted by the recognized economic committees while the season is in progress. These rules, which are applied by all the committees with one or two regional variations, may be classified as follows :

- (a) Rules on harvest forecasts and the provision of information. These rules require the communication at the start of the season of a list of areas planted. During the season lifting forecasts, quantities unsold that day and the day before and the destinations of produce are communicated on a daily basis ;
- (b) Setting of quotas for quantities lifted, fixed according to market conditions and sales possibilities. As far as production is concerned, guidelines may be issued on seed potatoes and varieties ;
- (c) Grading and sizing rules.
Compliance with a minimum size (30 or 32 mm) ;
- (d) Fixing of a withdrawal price and the related daily minimum price ;
- (e) Financial contributions towards :
 - administrative and monitoring costs,
 - promotion of the region's image,
 - experimentation.The contributions vary from one region to another depending on the measures taken, ranging from FF 38 per tonne in Aquitaine and FF 40 per tonne in the Loire region to FF 80 per tonne in Brittany, where a special regional potato promotion campaign is under way ;
- (f) Monitoring rules.
Obligation on the part of producers and the market preparation stations they supply to mark containers so as to indicate the product's origin and its conformity with the rules laid down. Failure to do so is punishable by a fine.

All these rules have been approved by the Minister for Agriculture within the framework of the French fruit and vegetables legislation.

COMMISSION DECISION

of 22 December 1987

relating to a proceeding under Article 85 of the EEC Treaty

(IV/27.093 — De Laval-Stork)

(Only the Dutch and English texts are authentic)

(88/110/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

WHEREAS:

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 6 and 8 thereof,

Having regard to the notification made on 2 March 1973 pursuant to Article 4 of Regulation No 17 by Stork Roterende Werktuigen BV of Assen, the Netherlands, (Stork) regarding the set of agreements (j.v.a.) it had concluded on 1 September 1971 with De Laval Turbine International Inc. of Princeton, New Jersey, USA (De Laval) for the creation of a joint venture, De Laval-Stork v.o.f. (the j.v.); Stork's parent company, Koninklijke Machinefabriek Stork BV of Hengelo, the Netherlands, (KMS) was also party to the agreements, which concern the design, development, manufacture and marketing of certain types of steam turbines, centrifugal compressors and pumps,

Having regard to Decision 77/543/EEC ⁽²⁾ in which the Commission granted an exemption pursuant to Article 85 (3) in favour of the above parties, for a period ending on 1 September 1986,

Having regard to the application for renewal of that exemption filed by the undertakings on 2 July 1986 pursuant to Article 8 (2) of Regulation No 17,

Having regard to the publication pursuant to Article 19 (3) of Regulation No 17 of a summary of the agreements and relevant changes which have occurred since Decision 77/543/EEC was adopted ⁽³⁾,

Having consulted the Advisory Committee on Restrictive Practices and Dominant Positions pursuant to Article 10 (3) of Regulation No 17,

I. THE FACTS

- (1) Since the 1977 exemption Decision, De Laval's corporate ownership has undergone a number of changes. At that time, it was a wholly-owned subsidiary of De Laval Turbine Incorporated of Trenton, New Jersey, USA, which in its turn was controlled by the Transamerica Corporation of San Francisco, California, one of the largest conglomerates in the USA. In 1979 the name of the parent company was changed to Transamerica Delaval Inc. Then, in December of 1986, all ties were broken between the parent company and the Transamerica Corporation, accompanied by another change of name to Imo Delaval Inc., a fully independent company whose shares are quoted on the stock market. De Laval, previously of Princeton and now of Lawrenceville, New Jersey, remains a wholly-owned subsidiary of Imo Delaval Inc. As for KMS, which owned Stork (previously of Assen and now of Hengelo, the Netherlands), its parent company was known until 1978 as Verenigde Machinefabrieken NV (VMF) of Amsterdam, Netherlands, and thereafter as Verenigde Machinefabrieken Stork NV (VMF Stork), likewise of Amsterdam. In 1978 the ownership of Stork was transferred from KMS to VMF Stork.

Sine the exemption Decision of 1977, the following circumstances have changed in the arrangements between the parties:

- (a) while the original j.v.a. was concluded for five years (renewable), the term is now indefinite, with a more flexible provision for termination, namely upon 18 months' notice by either party;
- (b) De Laval's option to extend its participation in the j.v. to 80 % has been deleted;
- (c) the machines and equipment, which were on hire-purchase, now belong fully to the j.v.;
- (d) the parent company of De Laval, which has continued its independent activities with respect to the products covered by the j.v. on markets outside the EEC and Eastern Europe, has expanded its activities on the European market to include the manufacture and sale of equipment relating to temperature, pressure,

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No L 215, 23. 8. 1977, p. 11.

⁽³⁾ OJ No C 255, 25. 9. 1987, p. 3.

and other types of electronic control; these products are not in competition with those produced by the j.v. or by the other parent company or the group to which it belongs;

- (e) since 1976, the group to which Stork belongs has gradually withdrawn from the market of manufacturing and selling heavy equipment. Apart from activities it has as a result of a minority participation by the parent company in a corporation involving cooperation for producing turbines of a type not covered by the j.v., it has since 1982 concentrated on manufacturing and selling advanced light machinery for the food, paper and textile processing and graphic industries. However, the group's activities relating to the assembling and servicing of turbines and compressors have continued as at the time of the initial exemption decision, and its involvement in the market of pumps for all types of purposes has been extended. The parties have stated that the Dutch partner could assume the activities of the j.v. if the American partner due to unforeseen circumstances should wish to withdraw;

- (f) at the time of the 1977 exemption Decision, the j.v. had 11 competitors in the turbine sector, 11 in the compressor sector and six in the pump sector, while four competitors were capable of making both turbines and compressors. Since then, the number of competitors has remained the same or risen: more than 20 manufacturers of turbines, nearly 20 manufacturers of compressors, 10 manufacturers of pumps and a dozen competitors producing both compressors and pumps;

- (g) at the time of the 1977 exemption Decision, the j.v.'s market share in the Community was estimated at being between 10 and 15 %. Since then, the market share has not risen: even in the Member States where the j.v. was the most successful, the market share for each product has not gone beyond 10 %, and in the rest of the world, the j.v.'s market shares for each product concerned have been modest. The American company, which has not sold j.v. products directly in the Community since the j.v. was launched, has had moderate to medium-sized market shares outside the Community and Eastern Europe, again not surpassing 10 % for any one product;

- (h) not only the modest market shares, but also other factors indicate that the j.v. has not flourished: due to the drop in demand, the number of employees has been reduced by 20 % since 1977 (from 400 to 310) and after several years

of suffering losses or making minimal profits, it was only in 1984 that enough profits were made to justify a distribution thereof to the partners. Several reasons are cited for these results: a worldwide recession in the sectors concerned, production overcapacity, the presence of fierce and growing competition from Japan, an otherwise growing tendency in and outside the Community to 'buy domestic' and, finally, the fall of the US dollar. The j.v., which also suffered a set-back due to a serious fire which destroyed part of the factory area in 1978, has endeavoured to find new markets for its products, and since 1982 the profits have slowly been increasing. In this connection, the parties have emphasized that entry into a capital goods business is a long-term commitment.

- (2) Following the publication pursuant to Article 19 (3) of Regulation No 17 of the above facts, in which the Commission announced its intention to renew Decision 77/543/EEC, no observations were received.

II. LEGAL ASSESSMENT

A. Article 85 (1)

- (3) For the same reasons as those stated in the Decision 77/543/EEC, the j.v.a. is still deemed to fall within the scope of Article 85 (1), notably because:
- (a) the j.v.a. has the object and effect of coordinating, in the common market, the research, production and marketing activities of the two parents, who in 1977 were considered to be and remain actual or at least potential competitors. Although the group to which Stork belongs has since then gradually withdrawn from the heavy equipment market as far as manufacturing and selling are concerned, its activities relating to the industrial servicing of turbines and compressors have continued and it has extended its involvement, including manufacturing and selling, in the market for pumps of all types. These considerations and the fact that the Netherlands partner could without any problem assume the operation of the j.v. — in other words, retains an access to the market in question if the American partner were for whatever reason to withdraw — lead to the conclusion that at present the parent companies remain actual competitors for part of the activities and products covered by the joint venture and at least potential competitors with respect to the remainder;

- (b) the supply structure on the market continues to be changed due to the j.v.a., because customers are not in a position to choose, albeit potentially, between two independent suppliers;
- (c) given the size and the international activities of both companies, as described in Decision 77/543/EEC, the arrangements between them must still be deemed to alter the normal flow of trade, thus resulting in the effect on trade between Member States which is necessary for the application of Article 85 (1).

B. Article 85 (3)

- (4) In view of the beneficial effects which resulted from the cooperation between the parties, the Commission was able to grant an exemption with respect to the notified arrangements. In particular, the j.v.a. made it easier for De Laval to enter the European market and enabled the Netherlands partner to reorganize and expand its turbine and compressor business, while substantial competition was found to persist on the markets in question. For further details, reference can be made to subsection III, points 9 to 14 of Decision 77/543/EEC.
- (5) In deciding whether a decision granting exemption can be renewed pursuant to Article 8 (2) of Regulation No 17, the Commission must as certain whether the requirements of Article 85 (3) continue to be fulfilled, whereby particular attention must be paid to any material changes which have occurred in the facts or circumstances of a given case since the initial exemption was granted.
- (6) The beneficial effects which the j.v.a. has brought about in terms of improved production and distribution of the goods concerned and the promotion of technical and economic progress continue to be supported by the arguments presented in subsection III, point 10 of the initial exemption Decision. In this context, taking into account the fact that the arrangements between the parties have been hampered by several external circumstances described above under point 1 and that the j.v. has thus only relatively recently started functioning on a fully fledged basis, a further period of exemption is necessary to provide a substantial source of supply of the goods in question, to accrue.
- (7) Taking into consideration the market shares involved in this case as well as the other market conditions described above, users will as before enjoy a fair share of these benefits. Also, under the present circumstances, the companies concerned are even less capable than before of eliminating competition in respect of a substantial part of the products concerned.
- (8) The agreements have not been modified in any way so as to impose any restrictions which are not indispensable to the attainment of the beneficial effects. In this connection it should be noted, however, that when the exemption was granted in 1977, the parties were obliged to amend certain restrictive provisions in their arrangements which were not deemed to be indispensable for the attainment of the objectives of Article 85 (3), namely those relating to the exclusivity which each partner granted to the j.v. and those relating to the industrial independence of the parties in the event of the termination of the j.v. (see subsection III, point 14 of the exemption Decision). In a restated version of the agreement, the parties had sought to comply with the conditions for exemption set out in Article 1 of the 1977 Decision by adding a saving clause to the objectionable provisions, namely a statement indicating that if any part thereof was found to be inconsistent with an 'outstanding ruling of the EEC', the latter would prevail. At the Commission's request, the parties subsequently amended the relevant provisions so as to comply textually with the conditions imposed. In any event, they confirmed that the question of exclusivity had never arisen in practice, as the j.v. had always been in a position to meet the orders of any customers, and the question of the post-termination obligations has been immaterial, as the agreement is still in force.
- (9) In view of the above considerations, the Decision granting exemption to the j.v.a. can be renewed pursuant to Article 8 (2) of Regulation No 17.

C. Article 8 of Regulation No 17

- (10) Pursuant to Article 8 (1) of Regulation No 17, the exemption granted in Decision 77/543/EEC was made subject to two conditions indicated in Article 1 of that Decision, which can be considered to have been fulfilled by virtue of the necessary modifications made by the parties to the j.v.a., as indicated above under point 8.
- (11) Furthermore, pursuant to Article 8 (2) of Regulation No 17 which requires the Commission to ensure that the requirements of Article 85 (3) continue to be satisfied, the undertakings were obliged to inform the Commission any changes or additions to the agreements on an *ad hoc* basis and to submit a report every two years on the activities of the j.v. These reporting requirements have been fulfilled throughout the period of exemption and can be imposed again for the duration of the renewal. Given the fact that the two-yearly reports have indicated that developments which fall under the Commission's surveillance have not been particularly rapid, that reporting requirement can be

reduced from every two to every four years. Furthermore, given the present market situation and the position which the parties occupy, the *ad hoc* reporting requirement can now be limited to any changes regarding the agreements between the parties or in any of their independent business activities which are relevant for the present purposes.

- (12) Pursuant to Article 8 (1) of Regulation No 17, a Commission Decision in application of Article 85 (3) must be issued for a specified period. In the present case, a long-term commitment has proved to be necessary in order for the full benefits of the cooperation to accrue in a capital-goods business such as this one. Also, the ten years which have elapsed since the initial exemption was granted have shown that competitive structures in this sector have a tendency to remain stable and healthy. Under these circumstances, Decision 77/543/EEC can be renewed for a period of 20 years.

HAS ADOPTED THIS DECISION:

Article 1

Decision 77/543/EEC is hereby renewed until 1 September 2006.

Article 2

Exemption is granted subject to the following obligations:

1. The undertakings to which this Decision is addressed shall without delay inform the Commission of any amendment or addition to the abovementioned agreements, and of all matters affecting their interpretation or application, including any arising as a result of arbitration.
2. The undertakings referred to shall furnish the Commission every four years with a full report on the activities of the joint venture.
3. Each of the undertakings to which this Decision is addressed shall without delay inform the Commission of any new activity in the turbine, compressor or boiler-feed pump industry other than purely occasional business, engaged in by it independently of the others.

Article 3

This Decision is addressed to:

- De Laval Turbine International Incorporated, 3450 Princeton Pike, PO Box 6550, 08048 Lawrenceville, New Jersey, USA,
- Koninklijke Machinefabriek Stork BV and Stork Roterende Werktuigen BV, Industriestraat 1, Postbus 2079, 7550 CB Hengelo, Netherlands,
- De Laval-Stork VOF, Lansinkesweg 1, Postbus 329, 7550 AH Hengelo, Netherlands.

Done at Brussels, 22 December 1987.

For the Commission

Peter SUTHERLAND

Member of the Commission