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I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EEC) No 1666/88
of 15 June 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) 1097/88⁽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 15 June 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 16 June 1988.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 110, 29. 4. 1988, p. 7.

⁽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, 15 June 1988.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX

to the Commission Regulation of 15 June 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	16,55	159,96
0712 90 19	16,55	159,06
1001 10 10	73,91	226,63 ⁽¹⁾ ⁽²⁾
1001 10 90	73,91	226,63 ⁽¹⁾ ⁽²⁾
1001 90 91	11,45	183,28
1001 90 99	11,45	183,28
1002 00 00	51,75	143,13 ⁽³⁾
1003 00 10	45,43	163,23
1003 00 90	45,43	163,23
1004 00 10	101,89	135,50
1004 00 90	101,89	135,50
1005 10 90	16,55	159,96 ⁽²⁾ ⁽³⁾
1005 90 00	16,55	159,96 ⁽²⁾ ⁽³⁾
1007 00 90	40,05	165,66 ⁽⁴⁾
1008 10 00	45,43	99,02
1008 20 00	45,43	149,42 ⁽⁴⁾
1008 30 00	45,43	60,41 ⁽⁵⁾
1008 90 10	(7)	(7)
1008 90 90	45,43	60,41
1101 00 00	31,23	271,80
1102 10 00	87,65	215,59
1103 11 10	128,41	365,12
1103 11 90	31,32	291,13

⁽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 1667/88

of 15 June 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 1097/88⁽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 14 June 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 16 June 1988.

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

Done at Brussels, 15 June 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 110, 29. 4. 1988, p. 7.

⁽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 15 June 1988 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

(ECU/tonne)

CN code	Current 6	1st period 7	2nd period 8	3rd period 9
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
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	0
1005 90 00	0	0	0	0
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

(ECU/tonne)

CN code	Current 6	1st period 7	2nd period 8	3rd period 9	4th period 10
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 1668/88
of 15 June 1988
fixing the aid for soya beans

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 1491/85 of 23 May 1985 laying down special measures in respect of soya beans ⁽¹⁾, as amended by Regulation (EEC) No 4002/87 ⁽²⁾, and in particular Article 2 (7) thereof,

Whereas the amount of the aid referred to in Article 2 (1) of Regulation (EEC) No 1491/85 was fixed by Commission Regulation (EEC) No 2946/87 ⁽³⁾, as last amended by Regulation (EEC) No 1510/88 ⁽⁴⁾;

Whereas it follows from applying the rules and other provisions contained in Regulation (EEC) No 2946/87 to

the information at present available to the Commission that the amount of the aid at present in force should be altered as set out in this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The aid referred to in Article 2 of amended Regulation (EEC) No 1491/85 is hereby fixed in the Annex.

Article 2

This Regulation shall enter into force on 16 June 1988.

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

Done at Brussels, 15 June 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 151, 10. 6. 1985, p. 15.
⁽²⁾ OJ No L 377, 31. 12. 1987, p. 44.
⁽³⁾ OJ No L 278, 1. 10. 1987, p. 75.
⁽⁴⁾ OJ No L 135, 1. 6. 1988, p. 41.

ANNEX

Aid for soya beans

(ECU/100 kg)

	Seed harvested in		
	Spain	Portugal	another Member State
Seed processed in:			
— Spain	0,000	26,279	26,279
— Portugal	14,453	0,000	26,279
— another Member State	14,453	26,279	26,279

COMMISSION REGULATION (EEC) No 1669/88

of 15 June 1988

fixing the amount of aid for peas, field beans and sweet lupins

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1431/82 of 18 May 1982 laying down special measures for peas, field beans and sweet lupins⁽¹⁾, as last amended by Regulation (EEC) No 1104/88⁽²⁾, and in particular Article 3 (6) point (a) thereof,

Having regard to Commission Regulation (EEC) No 3540/85 of 5 December 1985 laying down detailed rules for the application of the special measures for peas, field beans and sweet lupins⁽³⁾, as last amended by Regulation (EEC) No 3741/87⁽⁴⁾, and in particular Article 26a (7) thereof,

Whereas, as provided for in Article 3 (1) of Regulation (EEC) No 1431/82, aid is granted for peas, field beans and sweet lupins harvested in the Community and used in the manufacture of feedingstuffs where the world market price of soya cake is lower than the activating price; whereas this aid is equal to a proportion of the difference between these prices; whereas this proportion of the price difference was fixed in Article 3a of Council Regulation (EEC) No 2036/82⁽⁵⁾, as last amended by Regulation (EEC) No 1958/87⁽⁶⁾;

Whereas, in accordance with Article 3 (2) of Regulation (EEC) No 1431/82, aid is granted for peas and field beans harvested in the Community when the world market price for these products is lower than the guide price; whereas this aid is equal to the difference between the two prices;

Whereas the threshold price activating the aid for peas, field beans and sweet lupins for the 1987/88 marketing year was fixed by Council Regulation (EEC) No 1957/87⁽⁷⁾; whereas, as provided for in Article 2a of

Regulation (EEC) No 1431/82 the activating price for the aid for peas, field beans and sweet lupins is increased monthly as from the beginning on the third month of the marketing year; whereas the amount of the monthly increases in the threshold price was fixed by Council Regulation (EEC) No 1959/87⁽⁸⁾;

Whereas, under Article 4 of Regulation (EEC) No 1431/82, the world market price for soya cake must be determined on the basis of the most favourable purchase possibilities, excepting offers and quotations which cannot be considered representative of the real market trend; whereas account must be taken both of all offers on the world market and of the prices quoted on exchanges that are important for international trade; whereas this price may be adjusted under the conditions and in the manner specified in Article 1 (2) of Regulation (EEC) No 2036/82, in order to take account of the prices of competing products;

Whereas, under Article 1 of Commission Regulation (EEC) No 2049/82⁽⁹⁾, as last amended by Regulation (EEC) No 1238/87⁽¹⁰⁾, the price must be determined per 100 kilograms of bulk soya cake of the standard quality defined in Article 1 (2) of Council Regulation (EEC) No 1464/86⁽¹¹⁾ delivered to Rotterdam; whereas the necessary adjustments, notably those referred to in Article 2 of Regulation (EEC) No 2049/82, must be made for offers and quotations not of the type referred to above;

Whereas, if the aid 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 moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the correcting factor provided for in the last subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽¹²⁾, as last amended by Regulation (EEC) No 1636/87⁽¹³⁾,
- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of

⁽¹⁾ OJ No L 162, 12. 6. 1982, p. 28.

⁽²⁾ OJ No L 110, 29. 4. 1988, p. 16.

⁽³⁾ OJ No L 342, 19. 12. 1985, p. 1.

⁽⁴⁾ OJ No L 352, 15. 12. 1987, p. 26.

⁽⁵⁾ OJ No L 219, 28. 7. 1982, p. 1.

⁽⁶⁾ OJ No L 184, 3. 7. 1987, p. 3.

⁽⁷⁾ OJ No L 184, 3. 7. 1987, p. 1.

⁽⁸⁾ OJ No L 184, 3. 7. 1987, p. 5.

⁽⁹⁾ OJ No L 219, 28. 7. 1982, p. 36.

⁽¹⁰⁾ OJ No L 117, 5. 5. 1987, p. 9.

⁽¹¹⁾ OJ No L 133, 21. 5. 1986, p. 21.

⁽¹²⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽¹³⁾ OJ No L 153, 13. 6. 1987, p. 1.

these currencies recorded over a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid correcting factor ;

Whereas pursuant to Articles 121 (2) and 307 (2) of the Act of Accession of Spain and Portugal the amount of the aid for products harvested and processed in either of these Member States should be reduced by the customs duty charged on importation of products from third countries ; whereas, moreover, in the case of sweet lupins harvested in Spain it must be reduced by the difference between the activating threshold price applied in Spain and the common price ;

Whereas the world market price for peas and field beans and the amount of aid referred to in Article 3 (2) of Regulation (EEC) No 1431/82 were fixed by Regulation (EEC) No 1935/87 ⁽¹⁾ ; whereas in terms of Article 2a of Regulation (EEC) No 1431/82 the guide price is increased monthly as from the beginning of the third month of the marketing year ; whereas the amount of the monthly increases in the threshold price was fixed by Council Regulation (EEC) No 1959/87 ;

Whereas, pursuant to Article 26a of Regulation (EEC) No 3540/85, the gross aid expressed in ECU that results from Article 3 of Regulation (EEC) No 1431/82 shall be weighted by the differential amount referred to in Article 12a of Regulation (EEC) No 2036/82 and then converted into the final aid in the currency of the Member State in which the products are harvested using the agricultural conversion rate of that Member State ;

Whereas, since there are no valid activating threshold or guide prices for the 1988/89 marketing year for peas, field

beans and sweet lupins or intervention price for barley, the amount of the subsidy in the case of advance fixing for this marketing year for peas, field beans and sweet lupins has only been calculated provisionally on the basis of the prices valid for the 1987/88 marketing year ; whereas that amount must be applied provisionally only and will have to be confirmed or replaced when the prices and related measures for the 1988/89 marketing year are known,

HAS ADOPTED THIS REGULATION :

Article 1

1. The amounts of aid provided for in Article 3 of Regulation (EEC) No 1431/82 is indicated in the Annexes hereto.

2. However, the amount of the subsidy in the case of advance fixing for the 1988/89 marketing year for peas, field beans and sweet lupins will be confirmed or replaced as from 16 June 1988 to take into account, where appropriate, the effects of the application of the activating price for these products for the 1988/89 marketing year and, particularly those concerning maximum guaranteed quantities.

Article 2

This Regulation shall enter into force on 16 June 1988.

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

Done at Brussels, 15 June 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 185, 4. 7. 1987, p. 21.

ANNEX I

Gross aid in ECU per 100 kilograms

Products intended for human consumption

	Current 6	1st period 7 (°)	2nd period 8 (°)	3rd period 9 (°)	4th period 10 (°)	5th period 11 (°)	6th period 12 (°)
Peas used :							
— in Spain	13,599	12,159	12,159	12,339	12,519	12,699	12,879
— in Portugal	13,641	12,201	12,201	12,381	12,561	12,741	12,921
— in another Member State	13,960	12,520	12,520	12,700	12,880	13,060	13,240
Field beans used :							
— in Spain	13,960	12,520	12,520	12,700	12,880	13,060	13,240
— in Portugal	13,641	12,201	12,201	12,381	12,561	12,741	12,921
— in another Member State	13,960	12,520	12,520	12,700	12,880	13,060	13,240

Products used in animal feed

	Current 6	1st period 7 (°)	2nd period 8 (°)	3rd period 9 (°)	4th period 10 (°)	5th period 11 (°)	6th period 12 (°)
A. Peas and field beans used :							
— in Spain	10,694	9,254	9,254	9,434	9,614	9,794	9,974
— in Portugal	10,288	8,848	8,848	9,028	9,208	9,388	9,568
— in another Member State	10,835	9,395	9,395	9,575	9,755	9,935	10,115
B. Sweet lupins harvested in Spain and used :							
— in Spain	9,741	9,741	9,741	9,741	9,741	9,741	9,741
— in Portugal	9,199	9,199	9,199	9,199	9,199	9,199	9,199
— in another Member State	9,928	9,928	9,928	9,928	9,928	9,928	9,928
C. Sweet lupins harvested in another Member State and used :							
— in Spain	11,313	11,313	11,313	11,313	11,313	11,313	11,313
— in Portugal	10,771	10,771	10,771	10,771	10,771	10,771	10,771
— in another Member State	11,500	11,500	11,500	11,500	11,500	11,500	11,500

ANNEX II

Final aid in national currency per 100 kilograms

Products intended for human consumption

	Current 6	1st period 7 (°)	2nd period 8 (°)	3rd period 9 (°)	4th period 10 (°)	5th period 11 (°)	6th period 12 (°)
Products harvest in :							
— BLEU (Bfrs/Lfrs)	671,00	601,78	601,78	610,44	619,09	627,74	636,39
— Denmark (Dkr)	122,22	109,61	109,61	111,19	112,76	114,34	115,92
— Federal Republic of Germany (DM)	33,30	29,56	29,56	29,99	30,41	30,84	31,26
— Greece (Dr)	1 005,31	816,02	816,02	839,68	863,34	887,00	910,66
— Spain (Pta)	2 152,81	1 930,75	1 930,75	1 958,51	1 986,26	2 014,02	2 041,78
— France (FF)	104,33	93,56	93,56	94,91	96,26	97,60	98,95
— Ireland (£ Irl)	11,592	10,394	10,394	10,544	10,694	10,843	10,993
— Italy (Lit)	22 041	19 716	19 716	20 006	20 297	20 588	20 879
— Netherlands (Fl)	37,33	33,14	33,14	33,62	34,09	34,57	35,05
— Portugal (Esc)	2 249,72	2 001,60	2 001,60	2 032,61	2 063,63	2 094,64	2 125,66
— United Kingdom (£)	8,249	7,299	7,299	7,417	7,536	7,655	7,774

Amounts to be deducted in the case of :

- peas used in Spain (Pta) 55,67
- peas and field beans used in Portugal (Esc) 54,78

ANNEX III

Partial aids in the national currency per 100 kilograms

Peas and field beans intended for animal feed

	Current 6	1st period 7 (°)	2nd period 8 (°)	3rd period 9 (°)	4th period 10 (°)	5th period 11 (°)	6th period 12 (°)
Products harvested in :							
— BLEU (Bfrs/Lfrs)	520,79	451,58	451,58	460,23	468,88	477,53	486,19
— Denmark (Dkr)	94,86	82,25	82,25	83,83	85,40	86,98	88,56
— Federal Republic of Germany (DM)	25,84	22,18	22,18	22,61	23,03	23,46	23,88
— Greece (Dr)	441,97	252,68	252,68	276,34	300,00	323,66	347,33
— Spain (Pta)	1 670,90	1 448,83	1 448,83	1 476,59	1 504,35	1 532,11	1 559,86
— France (FF)	80,96	70,20	70,20	71,54	72,89	74,23	75,58
— Ireland (£ Irl)	8,990	7,793	7,793	7,943	8,093	8,242	8,392
— Italy (Lit)	16 902	14 577	14 577	14 868	15 158	15 449	15 740
— Netherlands (Fl)	28,97	24,87	24,87	25,35	25,82	26,30	26,77
— Portugal (Esc)	1 682,63	1 434,50	1 434,50	1 465,52	1 496,54	1 527,55	1 558,57
— United Kingdom (£)	6,010	5,060	5,060	5,179	5,298	5,417	5,535
Amounts to be deducted in the case of use :							
— Spain (Pta)	21,74	21,74	21,74	21,74	21,74	21,74	21,74
— Portugal (Esc)	93,93	93,93	93,93	93,93	93,93	93,93	93,93

ANNEX IV

Corrective amount in national currency to be added to the amounts in Annex III, per 100 kilograms (°)

Use of the products :	BLEU	DK	DE	EL	ESP	FR	IRL	IT	NL	PT	UK
Products harvested in :											
— BLEU (Bfrs/Lfrs)	0,00	0,00	0,00	129,82	0,00	0,13	0,52	8,62	0,00	24,20	37,85
— Denmark (Dkr)	0,00	0,00	0,00	23,65	0,00	0,02	0,09	1,57	0,00	4,41	6,89
— Federal Republic of Germany (DM)	0,00	0,00	0,00	6,44	0,00	0,01	0,03	0,43	0,00	1,20	1,88
— Greece (Dr)	0,00	0,00	0,00	486,87	0,00	0,49	1,94	32,32	0,00	90,76	141,96
— Spain (Pta)	0,00	0,00	0,00	416,50	0,00	0,42	1,66	27,65	0,00	77,64	121,44
— France (FF)	0,00	0,00	0,00	20,20	0,00	0,02	0,08	1,34	0,00	3,76	5,89
— Ireland (£ Irl)	0,000	0,000	0,000	2,248	0,000	0,002	0,009	0,149	0,000	0,419	0,655
— Italy (Lit)	0	0	0	4 441	0	4	18	295	0	828	1 295
— Netherlands (Fl)	0,00	0,00	0,00	7,22	0,00	0,01	0,03	0,48	0,00	1,35	2,11
— Portugal (Esc)	0,00	0,00	0,00	490,11	0,00	0,49	1,95	32,54	0,00	91,36	142,91
— United Kingdom (£)	0,000	0,000	0,000	1,935	0,000	0,002	0,008	0,128	0,000	0,361	0,564

ANNEX V

Partial aid in national currency per 100 kilograms

Sweet lupins intended for use in animal feed

	Current 6	1st period 7 (1)	2nd period 8 (1)	3rd period 9 (1)	4th period 10 (1)	5th period 11 (1)	6th period 12 (1)
Products harvested in :							
— BLEU (Bfrs/Lfrs)	552,76	552,76	552,76	552,76	552,76	552,76	552,76
— Denmark (Dkr)	100,68	100,68	100,68	100,68	100,68	100,68	100,68
— Federal Republic of Germany (DM)	27,43	27,15	27,15	27,15	27,15	27,15	27,15
— Greece (Dr)	479,36	479,36	479,36	479,36	479,36	479,36	479,36
— Spain (Pta)	1 773,45	1 773,45	1 773,45	1 773,45	1 773,45	1 773,45	1 773,45
— France (FF)	85,93	85,93	85,93	85,93	85,93	85,93	85,93
— Ireland (£ Irl)	9,542	9,542	9,542	9,542	9,542	9,542	9,542
— Italy (Lit)	17 946	17 946	17 946	17 946	17 946	17 946	17 946
— Netherlands (Fl)	30,75	30,44	30,44	30,44	30,44	30,44	30,44
— Portugal (Esc)	1 787,83	1 787,83	1 787,83	1 787,83	1 787,83	1 787,83	1 787,83
— United Kingdom (£)	6,391	6,391	6,391	6,391	6,391	6,391	6,391
Amounts to be deducted in the case of use in :							
— Spain (Pta)	28,84	28,84	28,84	28,84	28,84	28,84	28,84
— Portugal (Esc)	125,19	125,19	125,19	125,19	125,19	125,19	125,19

ANNEX VI

Corrective amount in the national currency to be added to amounts in Annex V, per 100 kilograms (1)

Use of products :	BLEU	DK	DE	EL	ESP	FR	IRL	IT	NL	PT	UK
Products harvested in :											
— BLEU (Bfrs/Lfrs)	0,00	0,00	0,00	94,41	0,00	0,10	0,38	6,27	0,00	17,60	27,53
— Denmark (Dkr)	0,00	0,00	0,00	17,20	0,00	0,02	0,07	1,14	0,00	3,21	5,01
— Federal Republic of Germany (DM)	0,00	0,00	0,00	4,68	0,00	0,00	0,02	0,31	0,00	0,87	1,37
— Greece (Dr)	0,00	0,00	0,00	354,09	0,00	0,36	1,41	23,51	0,00	66,01	103,24
— Spain (Pta)	0,00	0,00	0,00	302,91	0,00	0,30	1,21	20,11	0,00	56,47	88,32
— France (FF)	0,00	0,00	0,00	14,69	0,00	0,01	0,06	0,98	0,00	2,74	4,28
— Ireland (£ Irl)	0,000	0,000	0,000	1,635	0,000	0,002	0,007	0,109	0,000	0,305	0,477
— Italy (Lit)	0	0	0	3 230	0	3	13	214	0	602	942
— Netherlands (Fl)	0,00	0,00	0,00	5,25	0,00	0,01	0,02	0,35	0,00	0,98	1,53
— Portugal (Esc)	0,00	0,00	0,00	356,45	0,00	0,36	1,42	23,67	0,00	66,45	103,93
— United Kingdom (£)	0,000	0,000	0,000	1,407	0,000	0,001	0,006	0,093	0,000	0,262	0,410

ANNEX VII

Exchange rate of the ECU to be used

	BLEU	DK	DE	EL	ESP	FR	IRL	IT	NL	PT	UK
In national currency, 1 ECU =	42,4582	7,85212	2,05853	164,150	135,702	6,90403	0,768411	1 516,86	2,31943	167,792	0,658692

(1) Subject in the case of advance fixing for the 1988/89 marketing year to the adoption of prices and related measures for that marketing year.

COMMISSION REGULATION (EEC) No 1670/88**of 15 June 1988****altering the export refunds on white sugar and raw sugar exported in the natural state**

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 the second subparagraph of Article 19 (4) thereof,

Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EEC) No 1591/88 ⁽³⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1591/88 to the information known to the Commission that the export refunds

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EEC) No 1591/88 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 16 June 1988.

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

Done at Brussels, 15 June 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 142, 9. 6. 1988, p. 8.

ANNEX

to the Commission Regulation of 15 June 1988 altering the export refunds on white sugar and raw sugar exported in the natural state

(ECU)

Product code	Amount of refund	
	per 100 kg	per percentage point of sucrose content and per 100 kg net of the product in question
1701 11 90 100	37,82 ⁽¹⁾	0,4111
1701 11 90 300		
1701 11 90 500	34,69 ⁽¹⁾	
1701 11 90 900	⁽²⁾	0,4111
1701 12 90 100	37,82 ⁽¹⁾	
1701 12 90 300		
1701 12 90 500	34,69 ⁽¹⁾	0,4111
1701 12 90 900	⁽²⁾	
1701 91 00 000		
1701 99 10 100	41,11	40,22
1701 99 10 900	40,22	

⁽¹⁾ Applicable to raw sugar with a yield of 92 % ; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 5 (3) of Regulation (EEC) No 766/68.

⁽²⁾ Fixing suspended by Commission Regulation (EEC) No 2689/85 (OJ No L 255, 26. 9. 1985, p. 12), as amended by Regulation (EEC) No 3251/85 (OJ No L 309, 21. 11. 1985, p. 14).

COMMISSION REGULATION (EEC) No 1671/88

of 14 June 1988

re-establishing the levying of customs duties on singlets, slips, pyjamas, dressing gowns, petticoats, etc. other than knitted or crocheted products of category 18 (order No 40.0180), originating in Brazil to which the preferential tariff arrangements Council Regulation (EEC) No 3783/87 apply

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3783/87 of 3 December 1987 concerning the administration of the generalized tariff preferences for 1988 in respect of textile products originating in developing countries⁽¹⁾, and in particular Article 4 thereof,

Whereas Article 2 of Regulation (EEC) No 3783/87 provides that preferential tariff treatment shall be accorded, for each category of products subjected in Annexes I and II of Council Regulation (EEC) No 3782/87⁽²⁾ to individual ceilings, within the limits of the quantities specified in column 7 of its Annexes I or II, in respect of certain or each of the countries or territories of origin referred to in column 5 of the same Annexes;

Whereas Article 3 of Regulation (EEC) No 3783/87 provides that the levying of customs duties may be re-established at any time in respect of imports of the products in question once the relevant individual ceilings have been reached at Community level;

Whereas, in respect of singlets, slips, pyjamas, dressing gowns, petticoats etc. other than knitted or crocheted,

products of category 18, (order No 40.0180), the relevant ceiling amounts to 79 tonnes;

Whereas on 7 June 1988 imports of the products in question into the Community originating in Brazil, a country covered by preferential tariff arrangements, reached and were charged against that ceiling;

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

HAS ADOPTED THIS REGULATION:

Article 1

As from 19 June 1988 the levying of customs duties, suspended pursuant to Regulation (EEC) No 3782/87, shall be re-established in respect of the following products, imported into the Community and originating in Brazil:

Order No	Category	CN code	Description
40.0180	18 (tonnes)	6207 11 00 6207 19 00 6207 21 00 6207 22 00 6207 29 00 6207 91 00 6207 92 00 6207 99 00	Men's or boys' singlets and other vests, underpants, briefs, nightshirts, pyjamas, bathrobes, dressing gowns and similar articles, other than knitted or crocheted
		6208 11 00 6208 19 10 6208 19 90 6208 21 00 6208 22 00 6208 29 00 6208 91 10 6208 91 90 6208 92 10 6208 92 90 6208 99 00	Women's or girls' singlets and other vests, slips, petticoats, briefs, panties, nightdresses, pyjamas, negligés, bathrobes, dressing gowns and similar articles, other than knitted or crocheted

⁽¹⁾ OJ No L 367, 28. 12. 1987, p. 58.

⁽²⁾ OJ No L 367, 28. 12. 1987, p. 1.

Article 2

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

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

Done at Brussels, 14 June 1988.

For the Commission

COCKFIELD

Vice-President

COMMISSION REGULATION (EEC) No 1672/88

of 14 June 1988

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

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

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

Whereas Council Regulation (EEC) No 3806/87⁽²⁾ and Council Regulation (EEC) No 930/88⁽³⁾, allocating, for 1988, catch quotas between Member States for vessels fishing in Swedish waters, provide for cod quotas for 1988;

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

Whereas, according to the information communicated to the Commission, catches of cod in the waters of ICES division III d (Swedish waters) by vessels flying the flag of Denmark or registered in Denmark have reached the quota allocated for 1988; whereas Denmark has

prohibited fishing for this stock as from 21 May 1988; whereas it is therefore necessary to abide by that date,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of cod in the waters of ICES division III d (Swedish waters) by vessels flying the flag of Denmark or registered in Denmark are deemed to have exhausted the quota allocated to Denmark for 1988.

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

Article 2

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

It shall apply with effect from 21 May 1988.

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

Done at Brussels, 14 June 1988.

For the Commission

António CARDOSO E CUNHA,

Member of the Commission

⁽¹⁾ OJ No L 207, 29. 7. 1987, p. 1.

⁽²⁾ OJ No L 357, 19. 12. 1987, p. 3.

⁽³⁾ OJ No L 92, 9. 4. 1988, p. 1.

COMMISSION REGULATION (EEC) No 1673/88

of 15 June 1988

derogating from Regulation (EEC) No 2729/81 with regard to securities lodged in cases where the refund is fixed in advance in connection with an invitation to tender in a non-member country in the milk and milk products sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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 1109/88⁽²⁾, and in particular Articles 13 (3) and 17 (4) thereof,

Whereas Commission Regulation (EEC) No 2729/81 of 14 September 1981 laying down special rules implementing the system of import and export licences and the advance fixing of refunds in respect of milk and milk products⁽³⁾, as last amended by Regulation (EEC) No 222/88⁽⁴⁾, was amended by Commission Regulation (EEC) No 3034/82⁽⁵⁾, which replaced Article 15 (3) in order to make provision for the operator to inform the competent authority within a certain period of the result of the invitation to tender; whereas failure to respect this time limit was penalized by total loss of the security; whereas paragraph 3 was subsequently deleted by Commission Regulation (EEC) No 1994/84⁽⁶⁾;

Whereas certain operators who were in breach of the provisions of the said paragraph 3 during its period of application are liable to be penalized in a disproportionate manner by total loss of their security because of a

failure to provide information in good time; whereas this penalty should be made non-applicable on request by operators whose cases are still under consideration on the date of entry into force of this Regulation;

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

In cases of failure to respect the time limit specified in the first subparagraph of Article 15 (3) of Regulation (EEC) No 2729/81 as amended by Regulation (EEC) No 3034/82 still under consideration on the date of entry into force of this Regulation, the provision in the second subparagraph of that paragraph on forfeiture of the security shall not be applicable provided that the operator so requests.

Article 2

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

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

Done at Brussels, 15 June 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 110, 29. 4. 1988, p. 27.

⁽³⁾ OJ No L 272, 26. 9. 1981, p. 19.

⁽⁴⁾ OJ No L 28, 1. 2. 1988, p. 1.

⁽⁵⁾ OJ No L 320, 17. 11. 1982, p. 5.

⁽⁶⁾ OJ No L 186, 13. 7. 1984, p. 17.

COMMISSION REGULATION (EEC) No 1674/88

of 15 June 1988

amending Regulation (EEC) No 2262/87 laying down rules applying to the exportation of intervention butter for social use in developing countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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 1109/88 ⁽²⁾, and in particular Article 6 (7) thereof,

Whereas Commission Regulation (EEC) No 2262/87 ⁽³⁾, as last amended by Regulation (EEC) No 3089/87 ⁽⁴⁾, provided for exportation on special terms by 15 January 1988, exclusively to Algeria and Egypt, of certain quantities of intervention butter;

Whereas the economic and social situation in their countries has led the Algerian, Egyptian and Tunisian authorities to request that exceptionally they be permitted to import certain quantities of butter on similar terms to those offered in 1987; whereas part of the intervention butter stock to be disposed of under the programme now launched should be assigned for export to these countries so that their needs in basic food products can be met at least in part;

Whereas the Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2262/87 is hereby amended as follows:

1. Article 1 is replaced by the following:

'Article 1

1. Butter purchased pursuant to Article 6 (1) of Regulation (EEC) No 804/68 shall be sold at a fixed price on the terms set out in this Regulation. It must be at least 18 months old on the day of conclusion of the sales contract.

2. The butter, shall be sold for export exclusively to:

- Algeria, up to a maximum of 6 000 tonnes,
- Egypt, up to a maximum of 6 000 tonnes,
- Tunisia up to a maximum of 4 000 tonnes, either as it is or processed into butter oil.'

2. In Article 5 (2) 'in the Annex' is replaced by 'in Article 1'.

3. The third subparagraph of Article 6 (2) is deleted.

4. In Article 7a:

- the words 'and intended for Egypt' in paragraph 1 are deleted,
- in the second indent in paragraph 2 'registered' is replaced by 'approved',
- paragraph 7 is deleted.

5. The following Article 7b is inserted.

'Article 7b

1. The butter be taken over by the intermediary before 16 September 1988, from which date storage costs shall fall to the intermediary. These shall be paid before removal of the butter.

2. The price stated in Article 2 (1), shall be paid by intermediary and the security specified in Article 6 (2) lodged by him with the intervention agency, before removal of the butter and by 15 September at the latest, for each lot that he intends to remove.

3. Acceptance of the declaration of export to one of the countries mentioned in Article 1 must have occurred by 31 December 1988 at the latest.'

6. Article 9 is deleted.

7. The Annex is replaced by the following:

'ANNEX

Competent authorities as mentioned in the second subparagraph of Article 11 (1):

- Algeria: the Directorate-General of Customs and ENAPAL,
- Egypt: the Directorate-General of Customs and ESTRAM,
- Tunisia: the Directorate-General of Customs and STIL.'

Article 2

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

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 110, 29. 4. 1988, p. 27.

⁽³⁾ OJ No L 208, 30. 7. 1987, p. 18.

⁽⁴⁾ OJ No L 293, 16. 10. 1987, p. 37.

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

Done at Brussels, 15 June 1988.

For the Commission

Frans ANDRIESEN

Vice-President

COMMISSION REGULATION (EEC) No 1675/88
of 15 June 1988

derogating, in regard to the period of validity of import documents, from Regulation (EEC) No 1184/86 laying down detailed rules for the mechanisms for controlling the quantities of certain products in the oils and fats sector released for consumption in Portugal

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 476/86 of 25 February 1986 laying down general rules for the mechanism for controlling the prices and the quantities of certain products in the oils and fats sector released for consumption in Portugal⁽¹⁾, as last amended by Regulation (EEC) No 1920/87⁽²⁾, and in particular Article 16 thereof,

Whereas Article 6 (2) of Commission Regulation (EEC) No 1184/86⁽³⁾, as last amended by Regulation (EEC) No 1726/87⁽⁴⁾, stipulates that in the case of compensated imports the period of validity of the import document shall be six months; whereas in view of the difficulties at present faced by Portuguese operators because of unusual market conditions the period of validity of documents issued in the last part of 1987 should be extended;

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

In derogation from Article 6 (2) of Regulation (EEC) No 1184/86 the period of validity of import documents issued during December 1987 shall be nine months.

Article 2

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

It shall be applicable with effect from 1 June 1987.

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

Done at Brussels, 15 June 1988.

For the Commission
Frans ANDRIESEN
Vice-President

⁽¹⁾ OJ No L 53, 1. 3. 1986, p. 51.

⁽²⁾ OJ No L 183, 3. 7. 1987, p. 18.

⁽³⁾ OJ No L 107, 24. 4. 1986, p. 23.

⁽⁴⁾ OJ No L 163, 23. 6. 1987, p. 17.

COMMISSION REGULATION (EEC) No 1676/88

of 15 June 1988

amending Regulation (EEC) No 2657/87 derogating from the prohibition on the use of equivalent compensation for durum wheat

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

Having regard to Council Regulation (EEC) No 1999/85 of 16 July 1985 on inward processing relief arrangements ⁽¹⁾,

Having regard to Council Regulation (EEC) No 3677/86 of 24 November 1986 laying down provisions for the implementation of Regulation (EEC) No 1999/85 on inward processing relief arrangements ⁽²⁾, as last amended by Regulation (EEC) No 4151/87 ⁽³⁾, and in particular Annex IV thereto,

Whereas Commission Regulation (EEC) No 2657/87 of 1 September 1987 derogating from the prohibition on the use of equivalent compensation for durum wheat ⁽⁴⁾, as last amended by Regulation (EEC) No 4151/87, provides for the use of a 'Certificate P 1' which enables holders of an inward processing authorization (equivalent compensation) for durum wheat to provide evidence that the pasta products have been cleared for home use in the United States of America; whereas the said certificate endorsed by the competent customs authorities of the United States of America must be presented to the Community customs office which endorsed it not later than three months after the date on which the export declaration was accepted;

Whereas practical experience has shown that there should be provision for extending this time limit where circumstances so warrant;

Whereas consultations have been held with a group of experts made up of representative from the Member States,

HAS ADOPTED THIS REGULATION:

Article 1

Article 3 (3) of Regulation (EEC) No 2657/87 is hereby replaced by the following:

'3. The original of the 'Certificate P 1', endorsed by the competent customs authorities of the United States of America, shall be presented to the customs office in the Community which endorsed it no later than three months after the date on which the export declaration for the pasta products was accepted. Where circumstances so warrant the customs authority may extend the time limit at the request, duly documented, of the holder of the authorization, provided that the total period does not exceed 12 months. Where exceptional circumstances, duly documented, so warrant, the prolongation may be granted even after expiry of the initial time limit of three months indicated above.'

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, 15 June 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 188, 20. 7. 1985, p. 1.

⁽²⁾ OJ No L 351, 12. 12. 1986, p. 1.

⁽³⁾ OJ No L 391, 31. 12. 1987, p. 1.

⁽⁴⁾ OJ No L 251, 2. 9. 1987, p. 14.

COMMISSION REGULATION (EEC) No 1677/88
of 15 June 1988
laying down quality standards for cucumbers

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 1117/88⁽²⁾, and in particular Article 2 (3) thereof,

Whereas Council Regulation No 183/64/EEC⁽³⁾ lays down quality standards for cucumbers;

Whereas a change has occurred in the production and marketing of those products, particularly as regards the requirements of consumer and wholesale markets; whereas the common quality standards for cucumbers should therefore be changed to take those new requirements into account;

Whereas such changes entail alteration of the definition of the supplementary quality class as laid down by Council Regulation (EEC) No 1194/69⁽⁴⁾ as last amended by Regulation (EEC) No 79/88⁽⁵⁾; whereas account should be taken, in defining that class, of the economic importance to producers of the products concerned and of the need to meet consumer requirements;

Whereas the standards are applicable at all stages of marketing; whereas transportation over a long distance, storage for a certain length of time or the various handling operations may bring about deterioration due to the biological development of the products or their tendency to perish; whereas, therefore, account should be taken of such deterioration when applying the standards of marketing stages following dispatch;

Whereas in the interests of clarity and certainty as to legal requirements and for ease of use the standards thus changed should be consolidated in a single text;

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

HAS ADOPTED THIS REGULATION:

Article 1

The quality standards for cucumbers, falling within subheading 0707 00 11 and 0707 00 19 of the combined nomenclature shall be as set out in the Annex hereto.

Those standards shall apply at all marketing stages, under the conditions laid down in Regulation (EEC) No 1035/72.

However, at stages following dispatch the products may show, in relation to the standards prescribed a slight lack of freshness and turgescence and slight alteration due to their biological development and their tendency to perish.

Article 2

Regulation No 183/64/EEC is hereby amended as follows:

- the second indent of Article 1 (2) is deleted,
- Annex I/2 is deleted.

Article 3

Regulation (EEC) No 1194/69 is hereby amended as follows:

- in Article 1, the words 'and cucumbers' are deleted,
- Annex VII is deleted.

Article 4

This Regulation shall enter into force on 1 January 1989.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 107, 28. 4. 1988, p. 1.

⁽³⁾ OJ No 192, 25. 11. 1964, p. 3217/64.

⁽⁴⁾ OJ No L 157, 28. 6. 1969, p. 1.

⁽⁵⁾ OJ No L 10, 14. 1. 1988, p. 8.

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

Done at Brussels, 15 June 1988.

For the Commission

Frans ANDRIESSEN

Vice-President

ANNEX

QUALITY STANDARDS FOR CUCUMBERS

I. DEFINITION OF PRODUCE

This standard applies to cucumbers grown from varieties (*cultivars*) of *Cucumis sativus* L. to be supplied fresh to the consumer, cucumbers for processing and gherkins being excluded.

II. PROVISIONS CONCERNING QUALITY

The purpose of the standard is to define the quality requirements for cucumbers after preparation and packaging.

A. Minimum requirements

In all classes, subject to the special provisions for each class and the tolerances allowed, cucumbers must be :

- intact,
- sound ; produce affected by rotting or deterioration such as to make it unfit for consumption is excluded,
- fresh in appearance,
- firm,
- clean, practically free of any visible foreign matter,
- practically free from pests,
- practically free from damage caused by pests,
- free of bitter taste (subject to the special provisions for classes II and III under the heading 'Tolerances'),
- free of abnormal external moisture,
- free of foreign smell and/or taste.

Cucumbers must be sufficiently developed but their seeds must be soft.

The condition of the produce must be such as to enable it :

- to withstand transport and handling, and
- to arrive in satisfactory condition at the place of destination.

B. Classification

Cucumbers are classed into the four classes defined below :

(i) 'Extra' class

Cucumbers in this class must be of superior quality. They must have all the characteristics of the variety.

They must :

- be well developed
- be well shaped and practically straight (maximum height of the arc : 10 mm per 10 cm of length of the cucumber)
- have a typical colouring for the variety
- be free of defects, including all deformations and particularly those caused by seed formation.

(ii) Class I

Cucumbers in this class must be of good quality. They must :

- be reasonably developed
- be reasonably well shaped and practically straight (maximum height of the arc : 10 mm per 10 cm of the length of cucumber).

The following defects are allowed :

- a slight deformation, but excluding that caused by seed formation
- a slight defect in colouring, especially the light coloured part of the cucumber where it touched the ground during growth
- slight skin blemishes due to rubbing and handling or low temperatures, provided that such blemishes have healed and do not affect the keeping quality.

(iii) *Class II*:

This class includes cucumbers which do not qualify for inclusion in the higher classes but satisfy the minimum requirements specified above. However, they may have the following defects:

- deformations other than serious seed development,
- defects in colouring up to one-third of the surface; in the case of cucumbers grown under protection, considerable defects in colouring in the affected part are not allowed,
- healed cracks,
- slight damage caused by rubbing and handling which does not seriously affect the keeping quality and appearance.

All the defects listed above are allowed for straight and slightly crooked cucumbers.

On the other hand, crooked cucumbers are allowed only if they have no more than slight defects in colouring and have no defects or deformation other than crookedness.

Slightly crooked cucumbers may have a maximum height of the arc of 20 mm per 10 cm of length of the cucumber.

Crooked cucumbers may have a greater arc and must be packed separately.

(iv) *Class III* ⁽¹⁾:

This class includes cucumbers which do not qualify for inclusion in the higher classes but satisfy the requirements specified for Class II. However, crooked cucumbers may have all the defects allowed in Class II for straight and slightly crooked cucumbers and they must be packed separately.

III. PROVISIONS CONCERNING SIZING

Sizing is determined by the weight of the cucumber.

- (i) Cucumbers grown in the open must weigh 180 g or more. Cucumbers grown under protection must weigh 250 g or more.

- (ii) Moreover, 'Extra' Class and Class I cucumbers grown under protection weighing:

- 500 g or more must be not less than 30 cm long,
- between 250 and 500 g must be not less than 25 cm long.

- (iii) Sizing is compulsory for classes 'Extra' and I.

The difference in weight between the heaviest and lightest cucumbers in the same package must not exceed:

- 100 grams where the lightest piece weighs between 180 and 400 grams,
- 150 grams where the lightest piece weighs 400 grams or more.

- (iv) The provisions concerning sizing are not applicable to 'short cucumbers'.

IV. PROVISIONS CONCERNING TOLERANCES

Tolerances in respect of quality and size are allowed in each package for produce not satisfying the requirements for the class indicated.

A. Quality tolerances:

- (i) *'Extra' Class*:

5 % by number of cucumbers not satisfying the requirements for the class but meeting the requirements for Class I, or exceptionally coming within the tolerances for that class.

- (ii) *Class I*:

10 % by number of cucumbers not satisfying the requirements for the class but meeting the requirements for Class II, or exceptionally coming within the tolerances for that class.

- (iii) *Class II*:

10 % by number of cucumbers satisfying neither the requirements for the class nor the minimum requirements, to the exclusion of produce affected by rotting or deterioration such as to make it unfit for consumption. Within this tolerance a maximum of 2 % by number of cucumbers may have tips with a bitter taste.

⁽¹⁾ Additional class within the meaning of Article 2 (1) of Regulation (EEC) No 1035/72. The use of this quality class or some of its specifications is subject to a decision to be taken on the basis of Article 4 (1) of the same Regulation.

(iv) *Class III*:

15 % by number of cucumbers satisfying neither the requirements for the class nor the minimum requirements, to the exclusion of produce affected by rotting or deterioration such as to make it unfit for consumption. Within this tolerance a maximum of 4 % by number of cucumbers may have tips with a bitter taste.

B. Size tolerances :

For all classes : 10 % by number of cucumbers not satisfying the size requirements. However, this tolerance is applicable to produce which differs by not more than 10 % from the size and weight limits specified.

V. PROVISIONS CONCERNING PRESENTATION**A. Uniformity :**

The contents of each package must be uniform and contain only cucumbers of the same origin, variety or type, quality and size (where required). For cucumbers in Class III, uniformity may be limited to origin and variety or type.

The visible part of each package must be representative of the entire contents.

B. Packaging :

The cucumbers must be packed in such a way as to protect them properly.

The cucumbers must be packed sufficiently tightly as to avoid damage during transport.

The materials used inside the package must be new, clean and of a quality such as to avoid causing any external or internal damage to the produce. The use of materials and particularly of paper or stamps bearing trade specifications is allowed provided that the printing or labelling has been done with a non-toxic ink or glue.

The packages must be free of any foreign matter.

VI. PROVISIONS CONCERNING MARKING

Each package must bear the following particulars in letters grouped on the same side, legibly and indelibly marked and visible from the outside :

A. Identification :

Packer and/or Despatcher	}	Name and address or officially issued or accepted code mark.
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B. Nature of produce :

- 'Cucumbers' if the contents are not visible from the outside,
- 'under protection', where appropriate, or an equivalent expression,
- 'short cucumbers' or 'mini-cucumbers', as appropriate.

C. Origin of produce :

Country of origin and, optionally, district where grown, or national, regional or local trade name.

D. Commercial specifications :

- Class and, as appropriate, for Classes II and III, 'crooked cucumbers',
- Size (if the produce is sized) expressed in minimum and maximum weight of the cucumbers,
- Number of units (optional).

E. Official crate marking (optional)

COMMISSION REGULATION (EEC) No 1678/88

of 15 June 1988

altering the Annex to Regulation (EEC) No 1365/88 in the matter of packaging and marking

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management⁽¹⁾, as amended by Regulation (EEC) No 3785/87⁽²⁾, and in particular Article 6 (1) (c) thereof,Whereas, by Regulation (EEC) No 1365/88⁽³⁾, the Commission invited tenders for the supply of 300 tonnes of vitaminized skimmed-milk powder as food aid to the Republic of Cape Verde (Lot D in Annex I); whereas

certain requirements on the marking of the products supplied should be altered,

HAS ADOPTED THIS REGULATION:

Article 1

At point 10 under the heading Lot D in Annex I to Regulation (EEC) No 1365/88 the words 'Supplementary markings on the packaging' are replaced by 'Supplementary markings on the packaging and on each bag'.

*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, 15 June 1988.

For the Commission

Frans ANDRIESEN

Vice-President⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.⁽²⁾ OJ No L 356, 18. 12. 1987, p. 8.⁽³⁾ OJ No L 126, 20. 5. 1988, p. 15.

COMMISSION REGULATION (EEC) No 1679/88

of 15 June 1988

introducing a countervailing charge on peaches including nectarines originating in Spain (except the Canary Islands)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 1117/88⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Article 25 (1) of Regulation (EEC) No 1035/72 provides that, if the entry price of a product imported from a third country remains at least 0,6 ECU below the reference price for two consecutive market days, a countervailing charge must be introduced in respect of the exporting country concerned, save in exceptional circumstances; whereas this charge is equal to the difference between the reference price and the arithmetic mean of the last two entry prices available for that exporting country;

Whereas Commission Regulation (EEC) No 829/88 of 29 March 1988 fixing for the 1988 marketing year the reference prices for peaches including nectarines⁽³⁾ fixed the reference price for products of class I for the period from 11 to 20 June 1988 at 1,10 ECU per 100 kilograms net;

Whereas the entry price for a given exporting country is equal to the lowest representative prices recorded for at least 30 % of the quantities from the exporting country concerned which are marketed on all representative markets for which prices are available less the duties and the charges indicated in Article 24 (3) of Regulation (EEC) No 1035/72; whereas the meaning of representative price is defined in Article 24 (2) of Regulation (EEC) No 1035/72;

Whereas, in accordance with Article 3 (1) of Regulation (EEC) No 2118/74⁽⁴⁾, as last amended by Regulation

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

Whereas, for apricots originating in Spain (except the Canary Islands) the entry price calculated in this way has remained at least 0,6 ECU below the reference price for two consecutive market days; whereas a countervailing charge should therefore be introduced for these apricots;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁶⁾, as last amended by Regulation (EEC) No 1636/87⁽⁷⁾,
- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded over a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient,

Whereas, pursuant to Article 136 (2) of the Act of Accession of Spain and Portugal⁽⁸⁾, the arrangements applicable to trade between, on the one hand, a new Member State and, on the other, the Community as constituted at 31 December 1985, must be those which were applicable before accession;

Whereas Article 140 (1) provides for a 6 % reduction in the countervailing charges applicable under Regulation (EEC) No 1035/72 during the third year after accession,

HAS ADOPTED THIS REGULATION:

Article 1

A countervailing charge of 13,92 ECU per 100 kilograms net is applied to peaches including nectarines (CN code 0809 30 00) originating in Spain (except the Canary Islands).

Article 2

This Regulation shall enter into force on 17 June 1988.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 107, 28. 4. 1988, p. 1.

⁽³⁾ OJ No L 85, 30. 3. 1988, p. 14.

⁽⁴⁾ OJ No L 220, 10. 8. 1974, p. 20.

⁽⁵⁾ OJ No L 368, 31. 12. 1985, p. 1.

⁽⁶⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁷⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁸⁾ OJ No L 302, 15. 11. 1985, p. 9.

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

Done at Brussels, 15 June 1988.

For the Commission

Frans ANDRIESEN

Vice-President

COMMISSION REGULATION (EEC) No 1680/88

of 15 June 1988

amending for the third time Regulation (EEC) No 1467/88 introducing a countervailing charge on fresh lemons originating in Spain (except the Canary Islands)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 1117/88⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Commission Regulation (EEC) No 1467/88⁽³⁾, as last amended by Regulation (EEC) No 1650/88⁽⁴⁾, introduced a countervailing charge on fresh lemons originating in Spain (except the Canary Islands);

Whereas Article 26 (1) of Regulation (EEC) No 1035/72 laid down the conditions under which a charge introduced in application of Article 25 of that Regulation is amended; whereas if those conditions are taken into consideration the countervailing charge on the import of fresh lemons originating in Spain (except the Canary Islands) must be altered;

Whereas, pursuant to Article 136 (2) of the Act of Accession of Spain and Portugal⁽⁵⁾, the arrangements applicable to trade between, on the one hand, a new Member State and, on the other, the Community as constituted at 31 December 1985 must be those which were applicable before accession;

Whereas Article 140 (1) provides for a 6 % reduction in the countervailing charges applicable under Regulation (EEC) No 1035/72 during the third year after accession,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 of Regulation (EEC) No 1467/88, '10,11 ECU' is hereby replaced by '5,93 ECU'.

Article 2

This Regulation shall enter into force on 16 June 1988.

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

Done at Brussels, 15 June 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 107, 28. 4. 1988, p. 1.

⁽³⁾ OJ No L 132, 28. 5. 1988, p. 64.

⁽⁴⁾ OJ No L 147, 14. 6. 1988, p. 70.

⁽⁵⁾ OJ No L 302, 15. 11. 1985, p. 9.

COMMISSION REGULATION (EEC) No 1681/88**of 15 June 1988****on the issuing of import licences for dessert apples originating in South Africa**

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

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 1117/88⁽²⁾, and in particular Article 29 (2) thereof,

Whereas Council Regulation (EEC) No 2707/72⁽³⁾ lays down the conditions for applying protective measures for fruit and vegetables;

Whereas Commission Regulation (EEC) No 346/88⁽⁴⁾, as last amended by Regulation (EEC) No 1515/88⁽⁵⁾, introduces special surveillance of imports of dessert apples from third countries;

Whereas Commission Regulation (EEC) No 1040/88⁽⁶⁾ in particular fixes quantities of imports of dessert apples originating in third countries which may not be exceeded without a serious risk of disruption of the market in question;

Whereas, at present, quantities in applications for import licences for dessert apples originating in South Africa exceed the quantities fixed by Regulation (EEC) No

1040/88, even taking into account quantities made available by the total or partial non-utilization of licences; whereas, therefore, the issuing of certificates should be suspended until 31 August 1988;

Whereas the term of validity of import licences was fixed so as amply to cover the time required to ship the dessert apples to the Community and to enable the operators to obtain import licences before the products are loaded; whereas goods being shipped to the Community other than those for which import licences have been issued should not be exempted from this suspensory measure,

HAS ADOPTED THIS REGULATION:

Article 1

1. For imports of dessert apples covered by CN codes 0808 10 91, 0808 10 93 and 0808 10 99 originating in South Africa, the issuing of import licences requested after 8 June 1988 is suspended until 31 August 1988.

Article 2

This Regulation shall enter into force on 16 June 1988.

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

Done at Brussels, 15 June 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 107, 28. 4. 1988, p. 1.

⁽³⁾ OJ No L 291, 28. 12. 1972, p. 3.

⁽⁴⁾ OJ No L 34, 6. 2. 1988, p. 21.

⁽⁵⁾ OJ No L 135, 1. 6. 1988, p. 52.

⁽⁶⁾ OJ No L 102, 21. 4. 1988, p. 23.

COMMISSION REGULATION (EEC) No 1682/88

of 15 June 1988

concerning applications for STM licences for cereals submitted during the first 10 days of June 1988

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 Commission Regulation (EEC) No 574/86 of 28 February 1986 laying down detailed rules for the application of the supplementary trade mechanism (STM) ⁽¹⁾, as last amended by Regulation (EEC) No 2159/87 ⁽²⁾, and in particular Article 6 (4) thereof,Whereas Commission Regulation (EEC) No 598/86 of 28 February 1986 on the application of the supplementary trade mechanism to imports into Spain of common wheat of bread-making quality from the Community as constituted at 31 December 1985 ⁽³⁾, as amended by Regulation (EEC) No 3592/86 ⁽⁴⁾, lays down that STM licences issued during any one month may not be issued for quantities totalling more than 50 % of the guide quantity;

Whereas, pursuant to Article 6 (3) of Regulation (EEC) No 574/86, the Commission has been notified of the admis-

sible applications for STM licences for imports of common wheat of bread-making quality into Spain during the first 10 days of June 1988; whereas the necessary provisions regarding the acceptance of the said applications should be adopted,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for STM licences for common wheat of bread-making quality falling within subheading 1001 90 99 of the combined nomenclature submitted during the first 10 days of June 1988 and notified to the Commission shall be accepted for the tonnages applied for adjusted by a coefficient of 0,99058.

Article 2

This Regulation shall enter into force on 16 June 1988.

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

Done at Brussels, 15 June 1988.

For the Commission

Frans ANDRIESSEN

Vice-President⁽¹⁾ OJ No L 57, 1. 3. 1986, p. 1.⁽²⁾ OJ No L 202, 23. 7. 1987, p. 30.⁽³⁾ OJ No L 58, 1. 3. 1986, p. 16.⁽⁴⁾ OJ No L 334, 27. 11. 1986, p. 19.

COMMISSION REGULATION (EEC) No 1683/88
of 15 June 1988

fixing the maximum export refund for white sugar for the seventh partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EEC) No 1035/88

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 the first subparagraph of Article 19 (4) (b) thereof,

Whereas Commission Regulation (EEC) No 1035/88 of 18 April 1988 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar⁽³⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 1035/88, a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the seventh partial invitation to tender, the provisions set out in Article 1 should be adopted;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the seventh partial invitation to tender for white sugar issued pursuant to Regulation (EEC) No 1035/88 the maximum amount of the export refund is fixed at 42,329 ECU/100 kilograms.

Article 2

This Regulation shall enter into force on 16 June 1988.

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

Done at Brussels, 15 June 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 102, 21. 4. 1988, p. 14.

COMMISSION REGULATION (EEC) No 1684/88
of 15 June 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 1663/88 ⁽⁴⁾;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 16 June 1988.

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

Done at Brussels, 15 June 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 148, 15. 6. 1988, p. 18.

ANNEX**to the Commission Regulation of 15 June 1988 fixing the import levies on white sugar and raw sugar***(ECU/100 kg)*

CN code	Levy
1701 11 10	38,18 ⁽¹⁾
1701 11 90	38,18 ⁽¹⁾
1701 12 10	38,18 ⁽¹⁾
1701 12 90	38,18 ⁽¹⁾
1701 91 00	47,39
1701 99 10	47,39
1701 99 90	47,39

⁽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 5 May 1988

relating to a proceeding under Article 85 of the EEC Treaty
(IV/32.075 - Bayer/BP Chemicals)

(Only the English and German texts are authentic)

(88/330/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 6 and 8 thereof,

Having regard to the application for negative clearance and the notification for exemption, submitted under Articles 2 and 4 of Regulation No 17 on 3 October 1986 by Bayer AG, Leverkusen, BP Chemicals International Limited, London, and Erdölchemie GmbH, Köln, concerning the agreements between them signed on 10 November 1987,

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

After consultation with the Advisory Committee for Restrictive Practices and Dominant Positions,

Whereas :

I. THE FACTS

A. Subject of the Decision

- (1) This Decision relates to the agreements between Bayer AG (Bayer), BP Chemicals International

Limited (BPCL) and Erdölchemie GmbH (EC) concerning the polyethylene sector, under which, *inter alia*, technical cooperation is established between BPCL and EC and BPCL is appointed as distributor for EC's production, and which entered into force on 1 March 1988.

B. The undertakings

- (2) Bayer is a German group dealing in chemicals and pharmaceuticals. Its turnover in 1986 was DM 40,7 billion (approximately 19,2 billion ECU). Bayer is active in the thermoplastic sector through its shares in EC (50 % of the ownership and 100 % of the dealership, prior to the present agreements) and its production of ABS (acrylonitrile-butadienestyrene), which was 20 % of the Western European market in 1986, making it the principal producer on the market.
- (3) BPCL is a British wholly-owned subsidiary of the British Petroleum Company plc (BP). BPCL's turnover in 1986 was £1,7 billion (approximately 2,5 billion ECU). BPCL is a major LdPE/LLdPE manufacturer, also producing other thermoplastics, including polystyrene (6 to 7 %) of 1986 EEC capacity), polypropylene (3 %), and high-density polyethylene (8 %). BPCL has three LdPE plants in Europe, at Grangemouth, (capacity 100 000 tonnes in 1985), Wilton, (70 000 tonnes in 1985) and Antwerp, (120 000 tonnes in 1985) and one LLdPE plant in France, Lavera, (capacity 20 000 tonnes in 1985).

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No C 253, 23. 9. 1987, p. 5.

- (4) EC is a German company jointly owned by Deutsche BP AG, a subsidiary of BP, and Bayer AG, established in 1957 and based in Cologne. Its turnover in 1986 was DM 2,2 billion (approximately 1 billion ECU). EC's production involves the cracking of naphtha and its derivatives (e.g.: polyethylene, propylene, butadiene, cracked gasoline) and synthetic gas production. EC has a cracker unit in Dormagen (Cologne) with a capacity of 380 000 tonnes; another cracker unit (350 000 tonnes) has been on stand-by since 1985. EC has two LdPE plants in Cologne-Worringen with a total capacity of 300 000 tonnes. All EC's products are currently distributed by Bayer AG; LdPE is traded under Bayer's registered trademark 'Baylon'.

C. The products

- (5) The product concerned by the agreements is polyethylene, a thermoplastic produced either from ethylene, a monomer derived from naphtha cracking, or from ethane and oil-gas cracking. In Western Europe naphtha constitutes the basic raw material; ethane is used more in the Middle Eastern countries. Polyethylene is traded as low-density polyethylene (LdPE), linear low density polyethylene (LLdPE) and high-density polyethylene (HdPE). LdPE and LLdPE, which are more specifically considered in the agreements, are mainly (67 %) used for low-cost flexible-film packaging (including garbage sacks, agricultural film for mulching/greenhouses, fertilizer bags and shrink-wrapping). Of the remaining market, the most important (6 % in 1986) is extrusion coating (coated board for making drink and milk cartons); the other applications are cables, pipes and profiles, toys and household items.
- (6) LLdPE is superior in performance to LdPE and offers cost savings to manufacturers of low-density resin. Rapid market growth (20 % per year until 1990) is envisaged for LLdPE, but it will be at the expense of LdPE: the traditional LdPE market is being increasingly penetrated by LLdPE, to the production of which LdPE plants can now - using the latest available technology - be converted.

D. The market

- (7) The relevant geographical market for LdPE and LLdPE is the whole Community, as the products in question are safely and easily transportable. In 1987 there were 14 producers (the available figures consider LdPE and LLdPE together); as for

production capacity, BPCL is joint number three with a share of 8,5 % of EEC capacity and EC has a share of 6,5 % of EEC capacity. The largest LL/LdPE producer in the Community has a share of 13 % and there are five other manufacturers (including BPCL) with a share of between 8,5 % and 11 %.

- (8) The LdPE industry began its major growth in the early 1960s. Western European production reached over-capacity during the 70s; like the rest of the petrochemical industry, the LdPE sector was adversely affected by the first and second oil price shocks: as a result, capacity utilization fell to 74 % in 1978 and to 65 % in 1982. Capacity utilization of LdPE in Western Europe started growing in 1983 (76 %; 85 % in 1986); it is expected to decline in the near future (until 1990). One factor influencing this decline is the increase in imports from third countries, due to the absence of barriers to entry in the common market and to the low cost of raw materials.

The LLdPE market is growing at the expense of the LdPE market because West European producers are increasingly turning their attention to special grades of LLdPE for film and moulding applications which exploit the superior toughness and stress crack resistance of narrow molecular weight spread linear resins. In 1986/87 the following producers installed, or are about to install, LLdPE capacity in the Community: Atochem, Alcudia, BP, CdF (Copenor: 60 % CdF, 40 % Qatar), Dow, DSM and Enichem. The consumption of LLdPE in Western Europe increased from 320 000 tonnes to 440 000 tonnes in 1985; continuous growth of about 20 % per year is expected with a demand of more than 1 million tonnes by 1990.

- (9) As mentioned above, the transportation of LL/LdPE does not present any particular difficulties. Consequently there is a considerable inter-state trade in the products in the common market. Even with excess capacity, imports from other Member States supply a significant part of each Member State's market.

- (10) All of today's technologies convert ethylene into LdPE by causing a reaction at very high pressure in the presence of oxygen as an initiator. Approximately 20 % of the ethylene passing through the reactor is converted to LdPE, the unreacted ethylene being recycled for re-use with fresh ethylene. After this processing, LdPE is pelletized for shipment to customers, either bagged or in bulk.

The processing system currently used by EC in its LdPE plants has high costs (electricity, additives) because of limitations in the special autoclave reactors and the complexity of the process. BPCL's updated processes should reduce these costs. BPCL's technology also allows the starting of LLdPE production (according to the agreements, BPCL and Bayer are to set up an LLdPE plant) in order to modernize EC's production and extend its product range.

E. The agreement

- (11) The purposes of the agreements are to appoint BPCL as distributor of EC's products in place of Bayer and to grant to EC BPCL's latest-generation process technology for polyethylene (LdPE and LLdPE). Of the five agreements, the so-called 'principal agreement' is between BPCL and Bayer; the others, between BPCL and EC, repeat and extend some provisions of the 'principal agreement'. They may be summarized as follows:

- (a) Principal agreement 'Grundsätze über Polyethylen der EC Erdölchemie GmbH'.

According to this agreement, BPCL takes over, in the capacity of dealer, the resale to third parties of the polyethylene produced at EC. BPCL undertakes to acquire a minimum quantity, or alternatively, to take from EC, at a market price defined in the agreement, the quantity of ethylene corresponding to the quantity of polyethylene which was not purchased. BPCL guarantees that it will resell a specified minimum quantity of EC's polyethylene in the Western European market; EC is, therefore, obliged to make available to BPCL such a quantity of polyethylene; if EC is prevented, on technical or economic grounds, from making that quantity available, special arrangements apply.

The other clauses deal with the procedure for establishing the purchase price for the polyethylene obtained by BPCL from EC; they provide both for product development and technical cooperation establishing 'permanent exchange of technical information between BPCL and EC' and specify the duration of the agreement, i.e. for as long as EC produces polyethylene at Cologne-Worringen.

In return for the agreement relating to the distribution, BPCL and Bayer also agree to build, at Cologne-Worringen, a new LLdPE plant (of which the capacity *per annum* is known to the Commission) using the latest

BPCL technology; a specific undertaking in that sense has also been given to the Commission. Consequently, a 'Technology Licence Agreement' is under negotiation between the parties, a draft of the text of which has been submitted to the Commission. The new plant will be run by EC and the starting up of its activity is envisaged for early 1991. The parties, although there is no express clause in the agreement, are also committed, on the basis of current perceptions of future demand trends, to closing down the older of EC's two present LdPE plants, after the starting up of the new LLdPE unit and following an examination of the polyethylene market situation at that time.

- (b) Polyethylene supply contract between EC and BPCL.

This agreement provides again for BPCL's obligation to purchase every year a minimum quantity. Furthermore, certain rules are established for governing the marketing of EC polyethylene by BPCL.

- (c) Agreement for the supply of ethylene between EC and BPCL.

This agreement sets out the provisions for the implementation of certain clauses of the principal agreement.

- (d) Agreement on technical services and product development for polyethylene between EC and BPCL.

According to this agreement BPCL will, as regards polyethylene, continue to handle its own technical services in its laboratories on its own account. BPCL is responsible (using its own personnel and equipment) for product classification and for a number of technical tasks described in the agreement. EC is responsible for quality control of the product.

EC and BPCL, acting in agreement, are to take decisions concerning the inclusion or deletion of the production programme, special formulations and product specifications. Any inventions made by BPCL employees in the framework of the agreement are to belong to EC; EC is prepared to grant BPCL a non-exclusive licence in respect of such inventions.

- (e) Cooperation agreement on polyethylene between EC and BPCL.

This agreement provides for an exchange of technical information between BPCL and EC in the field of polyethylene, including confidential information, with an obligation of secrecy.

F. Economic and structural impact of the agreement

(12) The agreements between Bayer, BPCL and EC reflect the individual strategies adopted by the three companies to reorganize and rationalize their respective petrochemical businesses, particularly in the polyethylene sector, in order to modernize, regain competitiveness and progressively reduce losses. BPCL is now in the second round of restructuring, having already rationalized capacity through the swap deal with ICI, which was approved by the Commission (1).

(13) The impact of the agreements on the market environment should be examined at both production and distribution level:

(a) At production level there is an impact on the structure of facilities due, in particular, to the undertaking to construct a new LLdPE plant and commitment to close the older of EC's two present LdPE units. Further effects at production level derive from the arrangements for the exchange of technical information and on technical cooperation between BPCL and EC. As a consequence, EC will be able to introduce BPCL's latest technology in its existing LdPE plants and will obtain from BPCL all existing and future technical information. As mentioned above, EC will set up the new LLdPE unit using BPCL's know-how.

(b) As far as distribution is concerned, prior to the agreements in question, Bayer had (since 1957) always distributed the whole of EC's production on the LdPE market. Its sales are mainly concentrated in Germany, its second and third markets being Italy and France. Moreover, BPCL is already present on the LdPE market, selling its own LdPE production, with sales mainly concentrated in the United Kingdom, its second and third markets being Germany and France.

As a result of the agreement, on the one hand, Bayer (keeping 50 % of the ownership of EC) ceases to act as an independent distributor on the LdPE market. On the other hand, BPCL distributes the production of both EC's and BPCL's units, thus increasing its market share and becoming the principal undertaking on the Community market.

(c) The global consequence of the agreements is a division of labour between the parties leading to *de facto* specialization. Bayer will concentrate more on fine chemicals and BPCL on basic chemicals, particularly on certain thermoplastic products (e.g. polyethylene).

(14) The agreements in question and the subsequent rationalization and industrial operations affect the market environment in the Community. Their relevance to competition and trade between Member States is mainly in the LdPE/LLdPE sector. The situation resulting from the arrangements has been examined both in relation to the wider EEC market and to the national markets where the impact is greatest. The figures available to the Commission show that, in 1987, a substantial proportion of the common market was supplied by competitors of BPCL and Bayer/EC; moreover, the market position of competitors is significant in those Member States where the parties own production facilities.

G. Comments of interested parties

(15) No comments opposing the present agreements were received from interested third parties in response to the Commission's Notice pursuant to Article 19 (3) of Regulation No 17.

II. LEGAL ASSESSMENT

(16) The agreements between Bayer, BPCL and EC fall within Article 85 (1) since they restrict competition and affect trade between Member States. They cannot therefore be given negative clearance as the parties request in their primary application. They can, however, be exempted under Article 85 (3).

A. Article 85 (1)

(17) Bayer, BPCL and EC are undertakings within the meaning of Article 85 (1), and the arrangements between them constitute agreements and concerted practices falling within the scope of that article.

(a) Object and effect of restricting competition

(18) The agreements between Bayer, BPCL and EC must be analysed as a whole with particular consideration of their economic and industrial consequences. In the circumstances of the case, the agreements must be regarded as having the object and effect of restricting competition within the common market for the following reasons.

(19) Previous to the agreements, BPCL already had its own production and distribution activities in the polyethylene sector, whereas Bayer's only business was its participation in EC, which corresponded to a 50/50 joint control at the production level, and its presence on the Community market as sole distributor of EC's products.

According to the parties' declarations and to the results of the Commission's enquiry, there was actual competition both at production and distribu-

(1) OJ No L 212, 8. 8. 1984, p. 1.

tion level between BPCL and EC and between BPCL and Bayer, respectively, notwithstanding the fact that BP controls 100 % of BPCL and owns (through its subsidiary Deutsche BP) 50 % of EC.

- (20) The agreements do not provide for any transfer of assets between the parties; the agreements provide that EC shall appoint another polyethylene producer and seller, BPCL, as distributor of EC's polyethylene production; consequently, BPCL and EC remain actual competitors at production level. However, such an appointment eliminates Bayer from the Community polyethylene market, as actual competitor at distribution level.

Agreements between competitor producers for joint selling by their very nature restrict competition.

- (21) The agreements provide for cooperation between the parties in the technological field; in particular, BPCL licenses its advanced technology to EC. The consequence at the industrial level will be the construction of a new LLdPE plant and the commitment to reduce LdPE capacity, by closing down the older of EC's two present LdPE units.

Agreements between competitors designed to control or limit production capacity or investments have a direct effect on competition.

- (22) The continual cooperation between BPCL and EC in the technological field is an integral and basic part of the whole arrangement and is necessary for its effective operation.

Continual cooperation between competitors at the R&D level is bound to have a direct impact on competition between them.

- (23) BPCL and Bayer remain potential competitors at the distribution level. For a group as large as Bayer, with its expertise in trading polyethylene and its 50 % participation in EC, it would be comparatively easy and cheap to re-enter the polyethylene market if, for example, EC should decide to re-appoint Bayer as its distributor. Consequently, Bayer's position cannot be compared to that of any other firm desiring to enter the polyethylene market for the first time without strong experience as a distributor and close financial links with EC.

(b) Effect on trade between Member States

- (24) The agreements between Bayer, BPCL and EC concern products in which there is substantial trade

within the EEC. The products are easily and safely transportable; both BPCL and Bayer exported them to other Member States and significant quantities are imported by competitors from other Member States into the countries in which their production units are located. In addition, a certain volume of imports from third countries enters the common market.

Therefore, the agreements have an effect on intra-Community trade, as they bring about a substantial change in the whole structure of competition.

B. Article 85 (3)

- (25) The agreements between Bayer, BPCL and EC meet the conditions for exemption laid down in Article 85 (3). They contribute to improving the production and distribution of goods and to promoting technical and economic progress, while allowing customers a fair share of the resulting benefit. They neither impose restrictions which are not indispensable to the attainment of these objectives on the undertakings concerned, nor do they afford the undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

- (26) The exemption is essentially justified because the agreements allow the parties to rationalize and modernize EC's polyethylene business, which is a part of an industry needing serious restructuring in the whole Community, more quickly and radically than would have been possible individually. The agreements thus produce benefits, notably through the industrial investments envisaged, which outweigh the abovementioned restrictions on competition.

Improvement in production and distribution, promotion of technical and economic progress

- (27) Through the strict technical cooperation provided by the agreements, EC will be able to introduce in its plants BPCL's latest-generation technology in the field of polyethylene. This will allow major progress in rationalizing EC's production activities, improving technical efficiency and product quality in an industrial sector which is particularly threatened by imports from outside the Community.

- (28) Bilateral arrangements leading to radical restructuring in sectors suffering from structural crisis are in line with current Commission policy, especially in the petrochemical sector. In this respect, the agreements provide in particular for EC's access to BPCL's specific know-how in the sector of LLdPE, thus allowing EC to enter that market through the construction of a net unit; the result will be the modernization and extension of EC's product range. Therefore, such an industrial investment which enables EC to enter the market of a product that is superior in performance (i.e. LLdPE), leads, within the meaning of Article 85 (3), to essential improvements in production.
- (29) Furthermore, given the current perception of future demand trends, it will allow the closure of the older of the two LdPE plants currently owned by EC. The closure of an obsolete LdPE plant will reduce the overcapacity which, since the end of the 1970s, has characterized this sector in the Community as a whole.
- (30) The agreements also provide for BPCL's appointment as the new distributor of EC's polyethylene production. This change virtually integrates EC's polyethylene business into BPCL's organization, allowing EC to have access to a larger sales network which performs particularly well and is dedicated to polyethylene as one of its primary strategic products.
- (31) This will also allow, in the framework of global restructuring, a reallocation of production between BPCL's and EC's facilities, with respect to the natural markets for the different types and grades of polyethylene. Furthermore, the new distribution structure will facilitate decisions on plant rationalization in order to concentrate production on the most modern plants, which will be utilized at a higher level of their nameplate capacity.

Advantage for customers

- (32) The agreements between Bayer, BPCL and EC allow customers, who are mainly in the downstream polyethylene processing industry, a fair share of the resulting benefits, provided that workable competition is maintained, as is the case here.
- (33) More specifically, the technical cooperation agreements will grant EC's customers a wider range of products, including in particular LLdPE, which is

more modern and gives superior performance; this would not have been possible without the arrangements. The agreement on distribution strengthens this rationalization and ensures customers a continued supply of the products and adherence to the specifications required.

- (34) Customers will also benefit, in the medium to long term, from the cost savings achieved at the production level because of the abovementioned reallocations of production and the higher utilization of capacities. Higher plant loadings are particularly important in the polyethylene business, as for the other thermoplastics, where high fixed production costs have a direct impact on unit costs. By allowing fixed costs to be spread over a larger output in this way, unit costs will be reduced.

Indispensability of the restrictions

- (35) The agreements between Bayer, BPCL and EC, with the restrictions of competition that they entail, are indispensable to the attainment of the abovementioned benefits. The restructuring and rationalization which the agreements make possible could not be achieved so quickly and to the same extent if left entirely to market forces without cooperation between the parties.
- (36) As for the indispensability of the technical cooperation agreements, it should be noted that these arrangements are the basis of the whole industrial operation and are essential for obtaining and reinforcing the expected benefits of the rationalization. EC is not capable of carrying out individually the necessary investments for its restructuring and modernization, a fundamental step of which consists in the construction of the new LLdPE plant.

- (37) The appointment of BPCL as distributor of EC's polyethylene represents the essential condition for the effective operation of EC's units on the basis of BPCL's technology, the reason being the need for very close cooperation between distribution activities and technical service and research and development activities. Polyethylene of each main type is sold in different grades; every customer has its own needs and it is frequently necessary for a manufacturer to produce a special grade for an individual customer. Therefore, the information about clients' needs received by the sales forces in the market, if transmitted quickly and effectively to the R&D centres, facilitates further developments in both technology and products.

Elimination of competition

(38) The agreements between Bayer, BPCL and EC do not afford the parties the possibility of eliminating competition in a substantial part of the market for the products in question.

(39) As shown above, partly because of low transport costs, there is a substantial trade in polyethylene within the Community and within Western Europe, markets characterized by insignificant barriers to the entry of either new producers or importers. Although the common market is not perfectly integrated, the whole Community, taking account of the impact of imports, corresponds to the definition of the relevant geographical market.

(40) In this respect, the impact of the agreements must be analysed particularly at the level of distribution of the products. As a consequence of the acquisition of the distributorship of EC's production, BPCL becomes the principal seller of polyethylene in the EEC. Therefore in terms of structure, conduct and performance, the anti-competitive impact of the agreements could be significant. However, a workable competition structure is still maintained both in the whole common market and in the national markets of Member States (subject to the verification of the existence of possible restrictions consequent upon concerted actions among undertakings at a multilateral level).

(41) The continuation of workable competition is especially guaranteed by the presence of a significant number of strong competitors among European manufacturers and, insofar as the Community is an open market, by the increase in imports from third countries. Moreover, whilst BPCL will be able to offer an extensive grade range, many other producers supply comparable ranges of polyethylene and/or other substitutable thermoplastic products for the same end users. As to Member State national markets, BPCL's market share after the agreements will significantly increase only in Germany; however, on this market the aggregation of the previously separate market shares of BPCL and Bayer (as seller of EC's production) makes only a relatively slight difference to the competitive situation in that country.

Duration of the exemption, conditions and obligations

(42) Article 8. (1) of Regulation No 17 provides that exemptions under Article 85 (3) may be granted only for a specific period and that conditions and obligations may be attached to them.

(43) In view of the specific nature of the agreements between Bayer, BPCL and EC, and the short and medium-term outlook of the polyethylene sector and in view particularly of the need to grant customers the cost-saving benefits which are possible only in the medium to long term, the appropriate duration of the exemption, which serves the objectives listed in Article 85 (3), is considered to be 12 years from the date of the notification of the agreements, that is until 2 October 1998. In fixing such a duration, account has been taken of the fact that the exemption granted by the Commission to the first step of BPCL restructuring (i.e. the abovementioned swap deal with ICI) also expires in 1998.

(44) However, since the construction and starting-up of a new LLdPE plant is of fundamental importance for the exemption provided by this Decision, the duration of the exemption should be subject to the condition that Bayer, BPCL and EC shall fully implement it within the first six months of 1991.

(45) In respect of the closure of the older of EC's two LdPE units the Commission considers that, on the basis of current perceptions of future demand trends, the parties are committed to implementing it. Therefore the duration of the exemption should be subject to the condition that Bayer, BPCL and EC shall close down the older of EC's two LdPE units by the end of 1991, unless the Commission states that the situation of the polyethylene sector objectively justifies, with respect to the requirement of Article 85 (3) and the purposes of this Decision, a postponement of implementation of this second industrial intervention.

(46) To enable the Commission to check that Bayer, BPCL and EC abide by the present Decision and that competition is not unduly or further restricted, the parties shall each be required to submit a report on an individual to basis to the Commission. The report shall deal with the activities concerning the products in question in this Decision and give specific details of the implementation of the industrial interventions and the progress achieved. It shall state, *inter alia*, the production and sales by the parties or by subsidiaries or companies they control, in the common market as a whole and in each Member State, the amount of output consumed internally by each of the parties, giving the name and business activity of the producer and consumer, and full particulars of each company's total output of the products concerned in the Community and in third countries. The report shall also state all variations in the production capacity of Bayer, BPCL and EC in the polyethylene sector, and give details of all changes in the production and distribution of the products in question.

Until 2 January 1992, each party shall send a report to the Commission every six months, two weeks before the end of the period to which it refers. However, the first report shall cover the period from 3 October 1987 to 2 January 1989. Starting from 3 January 1992, if the exemption is still in force, the reports shall be sent to the Commission every two years, within four weeks before the end of the period to which they refer. A final report shall cover the period from 3 January to 2 October 1998.

- (47) The agreements between Bayer, BPCL and EC lead to an increase in BPCL's share of sales of the relevant products in the Community. In view of the dangers which such an increase of market power can represent for the maintenance of free competition within the EEC, the Commission has a duty to monitor closely all developments in these sectors. Therefore, each party individually must be required to inform the Commission in advance of any initiative or further operation in which they or their subsidiaries or associated companies will take part, with reference to the products and sectors envisaged by this Decision or to products of the upstream and/or downstream markets.
- (48) To enable the Commission to monitor the exempted agreements as required by Article 8 (2) of Regulation No 17, Bayer, BPCL and EC shall also be required to inform the Commission in advance of any renewals of, or extension in the scope or nature of, or amendments or additions to the agreements.
- (49) In addition, the Commission reserves the right to ask the parties to supply any other information it deems necessary to check that competition is not restricted more than this Decision allows.

HAS ADOPTED THIS DECISION:

Article 1

Pursuant to Article 85 (3), the provisions of Article 85 (1) of the EEC Treaty are hereby declared inapplicable for the period 3 October 1986 to 2 October 1998 to the agreements between Bayer AG (Bayer), BP Chemicals International Limited (BPCL) and Erdölchemie GmbH (EC), under which, *inter alia*, technical cooperation is established between BPCL and EC, and BPCL is appointed as distributor for EC's production.

Article 2

The exemption declared in Article 1 shall be subject to the following conditions:

1. That Bayer, BPCL and EC fully implement within the first six months of 1991 the construction and the start-up of a new LDPE plant;
2. That Bayer, BPCL and EC close down, by the end of 1991, the older of the two LDPE units currently run by EC, unless the Commission states that the situation of the polyethylene sector objectively justifies, with respect to the requirement to Article 85 (3) and the purposes of this Decision, a postponement.

Article 3

The declaration of exemption contained in Article 1 shall be subject to the following obligations:

1. Bayer, BPCL and EC shall each submit a report on an individual basis to the Commission during the period of the exemption. Each report shall deal with all the activities concerning the products in question and give details on the implementation of the operations provided for in Article 2 and of the progress achieved. It shall state, in particular, the production and sales by the parties or by subsidiaries or companies they control in the common market as a whole and in each Member State, the amount of output consumed internally by each of the parties, giving the name and business activity of the producer and consumer, and full particulars of each company's total output of the products concerned in the Community and in third countries. The report shall also state all variation as to the production capacity of Bayer, BPCL and EC in the polyethylene sector and give details of all changes in the production and distribution of the products in question.

Until 2 January 1992, each party shall send a report to the Commission every six months, within two weeks of the end of the period to which it refers. However, the first report shall cover the period from 3 October 1987 to 2 January 1989. Starting from 3 January 1992, if the exemption is still in force, the reports shall be sent to the Commission every two years, within four weeks before the end of the period to which they refer. A final report shall cover the period from 3 January to 2 October 1998.

2. Bayer, BPCL and EC shall each inform the Commission individually in advance of any initiative or further operation in which they or their subsidiaries or associated companies will take part with reference to the products referred to by this Decision or to other products of the upstream and/or downstream markets.
3. Bayer, BPCL and EC shall individually inform the Commission in advance of any renewals, or extensions in the scope or nature of, or amendments or additions to, the agreements referred to in Article 1.

Article 4

This Decision is addressed to the following undertakings :

- Bayer AG,
Bayerwerk,
D-5090 Leverkusen,
- BP Chemicals International Ltd,
Belgrave House,
76, Buckingham Palace Road,
UK-London SW1 OSU,

— Erdölchemie GmbH,
Köln-Worringen,
Postfach 75-20-02,
D-5000 Köln 71.

Done at Brussels, 5 May 1988.

For the Commission

Peter SUTHERLAND

Member of the Commission
