

Official Journal

of the European Communities

ISSN 0378-6978

L 33

Volume 32

4 February 1989

English edition

Legislation

Contents

I Acts whose publication is obligatory

Commission Regulation (EEC) No 278/89 of 3 February 1989 fixing the import levies on cereals and on wheat or rye flour, groats and meal	1
Commission Regulation (EEC) No 279/89 of 3 February 1989 fixing the premiums to be added to the import levies on cereals, flour and malt	3
Commission Regulation (EEC) No 280/89 of 3 February 1989 fixing the import levies on rice and broken rice	5
Commission Regulation (EEC) No 281/89 of 3 February 1989 fixing the premiums to be added to the import levies on rice and broken rice	7
Commission Regulation (EEC) No 282/89 of 3 February 1989 amending Regulation (EEC) No 1787/87 introducing the buying in of beef in respect of certain Member States and qualities and fixing the buying-in prices for beef	9
★ Commission Regulation (EEC) No 283/89 of 2 February 1989 concerning the stopping of fishing for cod, haddock, whiting, plaice, common sole, hake, anglerfish and sprat by vessels flying the flag of the Netherlands	11
Commission Regulation (EEC) No 284/89 of 3 February 1989 on the supply of various lots of skimmed-milk powder as food aid	13
Commission Regulation (EEC) No 285/89 of 3 February 1989 on the supply of various lots of skimmed-milk powder as food aid	16
Commission Regulation (EEC) No 286/89 of 3 February 1989 amending Regulation (EEC) No 2444/88 on the opening of an invitation to tender for the refund for the export of barley	21
★ Commission Regulation (EEC) No 287/89 of 3 February 1989 suspending Regulation (EEC) No 732/78 on detailed rules for the sale to the armed forces of Member States of beef held by the intervention agencies	22

Price : ECU 10,50 :

(Continued overleaf)

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other Acts are printed in bold type and preceded by an asterisk.

* Commission Regulation (EEC) No 288/89 of 3 February 1989 on determining the origin of integrated circuits	23
* Commission Regulation (EEC) No 289/89 of 3 February 1989 fixing, for the period 1 January to 31 December 1989, the maximum quantity of certain products of the oils and fats sector to be released for consumption and imported into Spain and Portugal	25
* Commission Regulation (EEC) No 290/89 of 3 February 1989 establishing ceilings and Community surveillance for imports of certain products originating in the African, Caribbean and Pacific States or in the overseas countries and territories (1989)	27
* Commission Regulation (EEC) No 291/89 of 3 February 1989 fixing for the 1989 marketing year the reference prices for cucumbers	29
Commission Regulation (EEC) No 292/89 of 3 February 1989 fixing the amounts to be levied in the beef sector on products which left the United Kingdom during the week 16 to 22 January 1989	31
Commission Regulation (EEC) No 293/89 of 3 February 1989 adopting certain provisions on the issuing of STM licences for olive oil	33
Commission Regulation (EEC) No 294/89 of 3 February 1989 fixing the amount of the subsidy on oil seeds	34
* Council Regulation (EEC) No 295/89 of 3 February 1989 amending Regulation (EEC) No 4194/88 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1989 and certain conditions under which they may be fished	38
* Council Regulation (EEC) No 296/89 of 3 February 1989 amending Regulation (EEC) No 4197/88 laying down for 1989 certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of Sweden	40
* Council Regulation (EEC) No 297/89 of 3 February 1989 allocating additional catch quotas among Member States for vessels fishing in Swedish waters ...	42

II Acts whose publication is not obligatory

Commission

89/93/EEC:

* Commission Decision of 7 December 1988 relating to a proceeding under Articles 85 and 86 of the EEC Treaty (IV/31. 906, flat glass)	44
---	----

Corrigenda

Corrigendum to Commission Regulation (EEC) No 3665/88 of 24 November 1988 fixing the export refunds on baled tobacco from the 1988 harvest (OJ No L 318 of 25.11.1988) ...	74
* Corrigendum to Commission Regulation (EEC) No 4177/88 of 30 December 1988 amending Regulation (EEC) No 756/70 on granting aid for skimmed milk processed into casein and caseinates (OJ No L 367 of 31.12.1988)	74
Corrigendum to Commission Regulation (EEC) No 126/89 of 19 January 1989 fixing the amounts to be levied in the beef sector on products which left the United Kingdom during the week 2 to 8 January 1989 (OJ No L 16 of 20.1.1989)	74
Corrigendum to Commission Regulation (EEC) No 249/89 of 31 January 1989 fixing the maximum export refunds on olive oil for the fifth partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3421/88 (OJ No L 30 of 1.2.1989) ...	75

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 278/89**of 3 February 1989****fixing the import levies on cereals and on wheat or rye flour, groats and meal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 166/89⁽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 2401/88⁽⁵⁾ and subsequent amending Regulations;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central

rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Regulation (EEC) No 1676/85,

- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded for a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient;

Whereas these exchange rates being those recorded on 2 February 1989;

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 2401/88 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies to be charged on products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 2727/75 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 4 February 1989.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 20, 25. 1. 1989, p. 16.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 205, 30. 7. 1988, p. 96.

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

Done at Brussels, 3 February 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 3 February 1989 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	20,50	123,98
0712 90 19	20,50	123,98
1001 10 10	53,13	166,90 ⁽¹⁾ ⁽²⁾
1001 10 90	53,13	166,90 ⁽¹⁾ ⁽²⁾
1001 90 91	14,94	115,40
1001 90 99	14,94	115,40
1002 00 00	58,63	110,93 ⁽³⁾
1003 00 10	49,19	118,07
1003 00 90	49,19	118,07
1004 00 10	40,25	71,75
1004 00 90	40,25	71,75
1005 10 90	20,50	123,98 ⁽²⁾ ⁽³⁾
1005 90 00	20,50	123,98 ⁽²⁾ ⁽³⁾
1007 00 90	43,84	135,97 ⁽⁴⁾
1008 10 00	49,19	21,18
1008 20 00	49,19	72,71 ⁽⁴⁾
1008 30 00	49,19	0,00 ⁽²⁾
1008 90 10	(7)	(7)
1008 90 90	49,19	0,00
1101 00 00	35,10	175,75
1102 10 00	96,27	169,18
1103 11 10	95,80	272,14
1103 11 90	36,65	188,54

⁽¹⁾ Where durum wheat originating in Morocco is transported directly from that country to the Community, the levy is reduced by ECU 0,60/tonne.

⁽²⁾ In accordance with 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 ECU 1,81/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 ECU 0,60/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 (OJ No L 142, 9. 6. 1977, p. 10) and Commission Regulation (EEC) No 2622/71 (OJ No L 271, 10. 12. 1971, p. 22).

⁽⁷⁾ The levy applicable to rye shall be charged on imports of the product falling within CN code 1008 90 10 (tritica).

COMMISSION REGULATION (EEC) No 279/89

of 3 February 1989

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 Regulation (EEC) No 2727/75 of the Council of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 166/89⁽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 2402/88⁽⁵⁾ and subsequent amending Regulations;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Regulation (EEC) No 1676/85,

- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded for a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient;

Whereas these exchange rates being those recorded on 2 February 1989;

Whereas, on the basis of today's cif prices and cif forward delivery prices, the premiums at present in force, which are to be added to the levies, should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

1. The premiums referred to in Article 15 of Regulation (EEC) No 2727/75 to be added to the import levies fixed in advance in respect of cereals and malt coming from Portugal shall be zero.
2. The premiums referred to in Article 15 of Regulation (EEC) No 2727/75 to be added to the import levies fixed in advance in respect of cereals and malt coming from third countries shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 4 February 1989.

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

Done at Brussels, 3 February 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.⁽²⁾ OJ No L 20, 25. 1. 1989, p. 16.⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.⁽⁵⁾ OJ No L 205, 30. 7. 1988, p. 99.

ANNEX

to the Commission Regulation of 3 February 1989 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

CN code	(ECU/tonne)			
	Current 2	1st period 3	2nd period 4	3rd period 5
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	0	0	7,96
1001 10 90	0	0	0	7,96
1001 90 91	0	0	0	2,21
1001 90 99	0	0	0	2,21
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	3,09

B. Malt

CN code	(ECU/tonne)				
	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6
1107 10 11	0	0	0	3,93	3,93
1107 10 19	0	0	0	2,94	2,94
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 280/89**of 3 February 1989****fixing the import levies on rice and broken rice**

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

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

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice⁽¹⁾, as last amended by Regulation (EEC) No 2229/88⁽²⁾, and in particular Article 11 (2) thereof,

Having regard to Commission Regulation (EEC) No 883/87 of 23 March 1987 laying down detailed rules for the application of Council Regulation (EEC) No 3877/86 on imports of the long-grain aromatic Basmati variety falling within CN code 1006 10, 1006 20 and 1006 30⁽³⁾, as amended by Regulation (EEC) No 1546/87⁽⁴⁾, and in particular Article 8 thereof,

Whereas the import levies on rice and broken rice were fixed by Commission Regulation (EEC) No 2699/88⁽⁵⁾, as last amended by Regulation (EEC) No 200/89⁽⁶⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2699/88 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 the products listed in Article 1 (1) (a) and (b) of Regulation (EEC) No 1418/76 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 6 February 1989.

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

Done at Brussels, 3 February 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 197, 26. 7. 1988, p. 30.

⁽³⁾ OJ No L 80, 24. 3. 1987, p. 20.

⁽⁴⁾ OJ No L 144, 4. 6. 1987, p. 10.

⁽⁵⁾ OJ No L 241, 1. 9. 1988, p. 27.

⁽⁶⁾ OJ No L 25, 28. 1. 1989, p. 30.

ANNEX

to the Commission Regulation of 3 February 1989 fixing the import levies on rice and broken rice

(ECU/tonne)				
CN code	Portugal	Third countries (except ACP or OCT) (¹)	ACP or OCT (¹) (²)	Arrangement in Regulation (EEC) No 3877/86
1006 10 21	—	299,46	146,13	—
1006 10 92	—	299,46	146,13	—
1006 10 23	—	300,78	146,79	225,59
1006 10 94	—	300,78	146,79	225,59
1006 10 25	—	300,78	146,79	225,59
1006 10 96	—	300,78	146,79	225,59
1006 10 27	—	300,78	146,79	225,59
1006 10 98	—	300,78	146,79	225,59
1006 20 11	—	374,33	183,56	—
1006 20 92	—	374,33	183,56	—
1006 20 13	—	375,97	184,38	281,98
1006 20 94	—	375,97	184,38	281,98
1006 20 15	—	375,97	184,38	281,98
1006 20 96	—	375,97	184,38	281,98
1006 20 17	—	375,97	184,38	281,98
1006 20 98	—	375,97	184,38	281,98
1006 30 21	13,05	498,15	237,15	—
1006 30 42	13,05	498,15	237,15	—
1006 30 23	12,97	585,66	280,94	439,25
1006 30 44	12,97	585,66	280,94	439,25
1006 30 25	12,97	585,66	280,94	439,25
1006 30 46	12,97	585,66	280,94	439,25
1006 30 27	12,97	585,66	280,94	439,25
1006 30 48	12,97	585,66	280,94	439,25
1006 30 61	13,90	530,53	252,91	—
1006 30 92	13,90	530,53	252,91	—
1006 30 63	13,90	627,83	301,56	470,87
1006 30 94	13,90	627,83	301,56	470,87
1006 30 65	13,90	627,83	301,56	470,87
1006 30 96	13,90	627,83	301,56	470,87
1006 30 67	13,90	627,83	301,56	470,87
1006 30 98	13,90	627,83	301,56	470,87
1006 40 00	0	107,27	50,63	—

(¹) Subject to the application of the provisions of Articles 10 and 11 of Regulation (EEC) No 486/85 and of Regulation No 551/85.

(²) In accordance with Regulation (EEC) No 486/85, the levies are not applied to imports into the overseas department of Réunion of products originating in the African, Caribbean and Pacific States or in the 'overseas countries and territories'.

(³) The import levy on rice entering the overseas department of Réunion is specified in Article 11a of Regulation (EEC) No 1418/76.

N.B. The levies are to be converted into national currencies using the specific agricultural conversion rates fixed in Commission Regulation (EEC) No 3294/86 (OJ No L 304, 30. 10. 1986, p. 25).

COMMISSION REGULATION (EEC) No 281/89**of 3 February 1989****fixing the premiums to be added to the import levies on rice and broken rice**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EEC) No 2229/88 ⁽²⁾, and in particular Article 13 (6) thereof,Whereas the premiums to be added to the levies on rice and broken rice were fixed by Commission Regulation (EEC) No 2700/88 ⁽³⁾, as last amended by Regulation (EEC) No 201/89 ⁽⁴⁾;

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 shown in the Annex hereto,

Article 1

1. The premiums to be added to the import levies fixed in advance in respect of rice and broken rice originating in Portugal shall be zero.

2. The premiums to be added to the import levies fixed in advance in respect of rice and broken rice originating in third countries shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 6 February 1989.

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

Done at Brussels, 3 February 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.⁽²⁾ OJ No L 197, 26. 7. 1988, p. 30.⁽³⁾ OJ No L 241, 1. 9. 1988, p. 30.⁽⁴⁾ OJ No L 25, 28. 1. 1989, p. 32.

ANNEX

to the Commission Regulation of 3 February 1989 fixing the premiums to be added to the import levies on rice and broken rice

CN code	(ECU/tonne)			
	Current 2	1st period 3	2nd period 4	3rd period 5
1006 10 21	0	0	0	—
1006 10 92	0	0	0	—
1006 10 23	0	0	0	—
1006 10 94	0	0	0	—
1006 10 25	0	0	0	—
1006 10 96	0	0	0	—
1006 10 27	0	0	0	—
1006 10 98	0	0	0	—
1006 20 11	0	0	0	—
1006 20 92	0	0	0	—
1006 20 13	0	0	0	—
1006 20 94	0	0	0	—
1006 20 15	0	0	0	—
1006 20 96	0	0	0	—
1006 20 17	0	0	0	—
1006 20 98	0	0	0	—
1006 30 21	0	0	0	—
1006 30 42	0	0	0	—
1006 30 23	0	0	0	—
1006 30 44	0	0	0	—
1006 30 25	0	0	0	—
1006 30 46	0	0	0	—
1006 30 27	0	0	0	—
1006 30 48	0	0	0	—
1006 30 61	0	0	0	—
1006 30 92	0	0	0	—
1006 30 63	0	0	0	—
1006 30 94	0	0	0	—
1006 30 65	0	0	0	—
1006 30 96	0	0	0	—
1006 30 67	0	0	0	—
1006 30 98	0	0	0	—
1006 40 00	0	0	0	0

COMMISSION REGULATION (EEC) No 282/89**of 3 February 1989****amending Regulation (EEC) No 1787/87 introducing the buying in of beef in respect of certain Member States and qualities and fixing the buying-in prices for beef**

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

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

Having regard to Council Regulation No 805/68 of 27 June 1968 on the common organization of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EEC) No 4132/88 ⁽²⁾, and in particular Article 6a ⁽⁴⁾ thereof,

Whereas Commission Regulation (EEC) No 1787/87 ⁽³⁾, as last amended by Regulation (EEC) No 203/89 ⁽⁴⁾, introduced the buying in of beef in respect of certain Member States or regions thereof and quality groups, and fixed the buying-in prices in the beef sector;

Whereas, pursuant to the abovementioned Article 6a ⁽⁴⁾ and to Article 3 ⁽²⁾ of Commission Regulation (EEC) No 2226/78 ⁽⁵⁾, as last amended by Regulation (EEC) No

3492/88 ⁽⁶⁾, the table of Member States or regions of Member States and of quality groups eligible for intervention, as well as the buying-in prices, should be replaced, on the basis of the data and prices available to the Commission, by the table and the prices annexed to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to amended Regulation (EEC) No 1787/87 are hereby replaced by the Annexes hereto.

Article 2

This Regulation shall enter into force on 13 February 1989.

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

Done at Brussels, 3 February 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 362, 30. 12. 1988, p. 4.

⁽³⁾ OJ No L 168, 27. 6. 1987, p. 22.

⁽⁴⁾ OJ No L 25, 28. 1. 1989, p. 36.

⁽⁵⁾ OJ No L 261, 26. 9. 1978, p. 5.

⁽⁶⁾ OJ No L 306, 11. 11. 1988, p. 20.

ANNEX I

Member States or regions within a Member State and groups of qualities

Member State/Region	Groups of qualities (category and class)
Belgium	AR, AO
Denmark	CR, CO
Germany	AR
Spain	—
France	—
Ireland	CU
Italy	—
Luxembourg	AR, AO, CO
Netherlands	—
Great Britain	—
Northern Ireland	CU

ANNEX II

Buying-in price in ECU per 100 kg carcase weight

Quality (category and class)	Equivalent carcase price	Forequarter price	
		straight cut (1)	pistola cut (2)
AR2	291,497	233,198	218,623
AR3	287,321	229,857	215,491
AO2	283,782	227,026	212,837
AO3	279,469	223,575	209,602
CU2	312,926	250,341	234,695
CU3	308,628	246,902	231,471
CU4	300,031	240,025	225,023
CR3	296,434	237,147	222,326
CR4	287,817	230,254	215,863
CO3	273,942	219,154	205,457

(1) Conversion coefficient 0,80.

(2) Conversion coefficient 0,75.

COMMISSION REGULATION (EEC) No 283/89

of 2 February 1989

concerning the stopping of fishing for cod, haddock, whiting, plaice, common sole, hake, anglerfish and sprat by vessels flying the flag of the Netherlands

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community,

Article 1

Having regard to Council Regulation (EEC) No 2241/87 of 23 July 1987 establishing certain control measures for fishing activities⁽¹⁾, as amended by Regulation (EEC) No 3483/88⁽²⁾, and in particular Article 11 (3) thereof,

Whereas Council Regulation (EEC) No 4194/88 of 21 December 1988 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1989 and certain conditions under which they may be fished⁽³⁾ provides for cod, haddock, whiting, plaice, common sole, hake, anglerfish and sprat quotas for 1989;

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 the quotas allocated to the Netherlands for cod and in the waters of ICES divisions III a Skagerrak and VII a, and VII b, c, d, e, f, g, h, j and k, VIII, IX and X; CECAP 34. 1. 1 (EC zone), for haddock in the waters of ICES divisions III a and III b, c and d (EC zone), for whiting in the waters of ICES divisions III a and VII a and VII b, c, d, e, f, g, h, j and k, for plaice in the waters of ICES divisions III a Skagerrak and VII a, and VII h, j and k, for sole in the waters of ICES divisions III a and III b, c and d (EC zone) and VII a, and VII h, j and k and VIII a and b, for hake in the waters of ICES divisions V b (EC zone), VI, VII, XII and XIV, for anglerfish in the waters of ICES divisions V b (EC zone), VI, XII, XIV and VII and for sprat in the waters of ICES division VII d and e by vessels flying the flag of the Netherlands or registered in the Netherlands have been exhausted by exchanges of quotas; whereas the Netherlands have prohibited fishing for these stocks as from 1 January 1989; whereas it is therefore necessary to abide by that date,

The quotas for cod in the waters of ICES divisions III a Skagerrak and VII a, and VII b, c, d, e, f, g, h, j and k, VIII, IX and X; CECAP 34. 1. 1 (EC zone), for haddock in the waters of ICES divisions III a and III b, c and d (EC zone), for whiting in the waters of ICES divisions III a and VII a and VII b, c, d, e, f, g, h, j and k, for plaice in the waters of ICES divisions III a Skagerrak and VII a, and VII h, j and k, for sole in the waters of ICES divisions III a and III b, c and d (EC zone) and VII a, and VII h, j and k and VIII a and b, for hake in the waters of ICES divisions V b (EC zone), VI, VII, XII and XIV, for anglerfish in the waters of ICES divisions V b (EC zone), VI, XII, XIV and VII and for sprat in the waters of ICES division VII d and e allocated to the Netherlands for 1989 are deemed to be exhausted.

Fishing for cod and in the waters of ICES divisions III a Skagerrak and VII a, and VII b, c, d, e, f, g, h, j and k, VIII, IX and X; CECAP 34. 1. 1 (EC zone), for haddock in the waters of ICES divisions III a and III b, c and d (EC zone), for whiting in the waters of ICES divisions III a and VII a and VII b, c, d, e, f, g, h, j and k, for plaice in the waters of ICES divisions III a Skagerrak and VII a, and VII h, j and k, for sole in the waters of ICES divisions III a and III b, c and d (EC zone) and VII a, and VII h, j and k and VIII a and b, for hake in the waters of ICES divisions V b (EC zone), VI, VII, XII and XIV, for anglerfish in the waters of ICES divisions V b (EC zone), VI, XII, XIV and VII and for sprat in the waters of ICES division VII d and e by vessels flying the flag of the Netherlands or registered in the Netherlands is prohibited, as well as the retention on board, the transshipment and the landing of such stocks captured by the abovementioned vessels after the date of application of this Regulation.

Article 2

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

It shall apply with effect from 1 January 1989.

⁽¹⁾ OJ No L 207, 29. 7. 1987, p. 1.

⁽²⁾ OJ No L 306, 11. 11. 1988, p. 2.

⁽³⁾ OJ No L 369, 31. 12. 1988, p. 3.

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

Done at Brussels, 2 February 1989.

For the Commission

Manuel MARÍN

Vice-President

COMMISSION REGULATION (EEC) No 284/89

of 3 February 1989

on the supply of various lots of skimmed-milk powder as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management⁽¹⁾, as last amended by Regulation (EEC) No 1870/88⁽²⁾, and in particular Article 6 (1) (c) thereof,

Whereas Council Regulation (EEC) No 1420/87 of 21 May 1987 laying down implementing rules for Regulation (EEC) No 3972/86 on food-aid policy and food-aid management⁽³⁾ lays down the list of countries and organizations eligible for food-aid operations and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, following the taking of a decision on the allocation of food aid, the Commission has allocated to Sudan 150 tonnes of skimmed-milk powder;

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

1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid⁽⁴⁾; whereas it is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

Milk products shall be mobilized in the Community, as Community food aid for supply to the recipients listed in the Annex, in accordance with Regulation (EEC) No 2200/87 and under the conditions set out in the Annex. Supplies shall be awarded by the tendering procedure.

Article 2

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

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

Done at Brussels, 3 February 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.

⁽²⁾ OJ No L 168, 1. 7. 1988, p. 7.

⁽³⁾ OJ No L 136, 26. 5. 1987, p. 1.

⁽⁴⁾ OJ No L 204, 25. 7. 1987, p. 1.

ANNEX

LOT A

1. **Operation No⁽¹⁾**: 1316/88 — Commission Decision of 16. 3. 1988
2. **Programme**: 1988
3. **Recipient**: Euronaid, PO box 77, 2340 AB Oegstgeest, Netherlands
4. **Representative of the recipient⁽²⁾**: see OJ No C 103, 16. 4. 1987
5. **Place or country of destination**: Sudan
6. **Product to be mobilized**: vitaminized skimmed-milk powder
7. **Characteristics and quality of the goods⁽³⁾⁽⁴⁾⁽⁵⁾⁽⁶⁾**: see OJ No C 216, 14. 8. 1987, p. 4 (under I.1.B.1 to I.1.B.3)
8. **Total quantity**: 150 tonnes
9. **Number of lots**: one
10. **Packaging and marking**: 25 kilograms
See OJ No C 216, 14. 8. 1987, pp. 4 and 6 (under I.1.B.4 and I.1.B.4.3)
Supplementary markings on the packaging:
'80833 / Port Sudan / Sudan'
See OJ No C 216, 14. 8. 1987, p. 6 (under I.1.B.5)
11. **Method of mobilization⁽⁷⁾**: the Community market
The manufacture of the skimmed-milk powder and the incorporation of vitamins must be carried out after the award of the tender
12. **Stage of supply**: free at port of shipment
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment**: 25. 2. 1989 to 10. 3. 1989
18. **Deadline for the supply**: —
19. **Procedure for determining the costs of supply**: invitation to tender
20. **In the case of an invitation to tender, date of expiry of the period allowed for submission of tenders⁽⁸⁾**: 20. 2. 1989 at 12 noon
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 6. 3. 1989 at 12 noon
 - (b) period for making the goods available at the port of shipment: 11. 3. 1989 to 25. 3. 1989
 - (c) deadline for the supply: —
22. **Amount of the tendering security**: ECU 20 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders**:
Bureau de l'aide alimentaire, à l'attention de Monsieur N. Arend, Bâtiment Loi 120, bureau 7/58, 200 rue de la Loi, B-1049 Bruxelles; telex AGREC 22037 B
25. **Refund payable on request by the successful tenderer⁽⁹⁾**: refund applicable on 13. 1. 1989, fixed in Commission Regulation (EEC) No 59/89 (OJ No L 10, 13. 1. 1989, p. 10)

Notes :

- (1) The operation number is to be quoted in all correspondence.
- (2) At the request of the beneficiary the successful tenderer shall deliver a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded.
- (3) Commission delegate to be contacted by the successful tenderer : see list published in *Official Journal of the European Communities* No C 227 of 7 September 1985, page 4.
- (4) In order not to overload the telex, tenderers are requested to provide, before the date and time laid down in point 20 of this Annex, evidence that the tendering security referred to in Article 7 (4) (a) of Regulation (EEC) No 2200/87 has been lodged, preferably :
 - either by porter at the office referred to in point 24 of this Annex ;
 - or by telecopier on one of the following numbers in Brussels :
 - 235 01 32
 - 236 10 97
 - 235 01 30
 - 236 20 05
- (5) Commission Regulation (EEC) No 2330/87 (OJ No L 210, 1. 8. 1987, p. 56) is applicable as regards the export refund and, where appropriate, the monetary and accession compensatory amounts, the representative rate and the monetary coefficient. The date referred to in Article 2 of the abovementioned Regulation is that referred to in point 25 of this Annex.
- (6) The successful tenderer shall give the beneficiaries' representatives, at the time of delivery, a health certificate.
- (7) The successful tenderer shall give the beneficiaries' representatives, at the time of delivery, a certificate of origin.
- (8) The supplier should send a duplicate of the original invoice to :

MM De Keyzer and Schütz BV,
Postbus 1438,
Blaak 16,
NL-3000 BK Rotterdam.
- (9) Radiation certificate must indicate the caesium-134 and -137, and iodine 131-levels.

COMMISSION REGULATION (EEC) No 285/89

of 3 February 1989

on the supply of various lots of skimmed-milk powder as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management ⁽¹⁾, as last amended by Regulation (EEC) No 1870/88 ⁽²⁾, and in particular Article 6 (1) (c) thereof,

Whereas Council Regulation (EEC) No 1420/87 of 21 May 1987 laying down implementing rules for Regulation (EEC) No 3972/86 on food-aid policy and food-aid management ⁽³⁾ lays down the list of countries and organizations eligible for food-aid operations and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, following the taking of a decision on the allocation of food aid, the Commission has allocated to India 5 000 tonnes of skimmed-milk powder;

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

1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid ⁽⁴⁾; whereas it is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

Milk products shall be mobilized in the Community, as Community food aid for supply to the recipients listed in Annex I, in accordance with Regulation (EEC) No 2200/87 and under the conditions set out in the Annexes. Supplies shall be awarded by the tendering procedure.

Article 2

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

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

Done at Brussels, 3 February 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.

⁽²⁾ OJ No L 168, 1. 7. 1988, p. 7.

⁽³⁾ OJ No L 136, 26. 5. 1987, p. 1.

⁽⁴⁾ OJ No L 204, 25. 7. 1987, p. 1.

ANNEX I**LOTS A and B**

1. **Operation Nos⁽¹⁾**: 13 and 14/89 — Commission Decision of 11. 12. 1987 (operation Flood III)
2. **Programme**: 1989
3. **Recipient**: India
4. **Representative of the recipient⁽²⁾**: Embassy of India, Chaussée de Vleurgat 217, B-1050 Bruxelles, Mr Banerjee, Counsellor; tel. 640 97 34, telex 22510. INDEM B
5. **Place or country of destination**: India
- 5a. **Address of destinee**:
A: National Dairy Development Board, Rajmahal 84, veer Nariman Road, Bombay 400220; telex 0113437 / 01174409 NDDB IN, tel. 204 85 32/204 89 69
B: National Dairy Development Board, Block DK-I, Sector 2, Salt Lake City, Calcutta-700064; telex 0215526, tel. 37 06 40/1/2/3/4)
6. **Product to be mobilized**: skimmed-milk powder
7. **Characteristics and quality of the goods⁽³⁾⁽⁴⁾⁽⁵⁾**: see OJ No C 216, 14. 8. 1987, p. 3 (under I.1.A.1 and I.1.A.2)
8. **Total quantity**: 5 000 tonnes
9. **Number of lots**: two (A: 3 000 tonnes; B: 2 000 tonnes)
10. **Packaging and marking**: 25 kilograms in 20-foot containers
see OJ No C 216, 14. 8. 1987, p. 3 (under I.1.A.3)
Supplementary markings on the packaging: see Annex II and see OJ No C 216, 14. 8. 1987, p. 3 (under I.1.A.4)
11. **Method of mobilization⁽⁶⁾**: Community market
The manufacture of the skimmed-milk powder must be carried out within the six-month period preceeding the period for making the goods available at the port of shipment
12. **Stage of supply**: free at destination
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: A: Bombay; B: Calcutta
16. **Address of the warehouse and, if appropriate, port of landing**: see Annex III
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage**: 11 to 18. 3. 1989
18. **Deadline for the supply**: A: 15. 4. 1989; B: 30. 4. 1989
19. **Procedure for determining the costs of supply**: invitation to tender
20. **In the case of an invitation to tender, date of expiry of the period allowed for submission of tenders⁽⁷⁾**: 21. 2. 1989 at 12 noon
21. **In the case of a second invitation to tender**:
(a) deadline for the submission of tenders: 28. 2. 1989 at 12 noon
(b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 18 to 25. 3. 1989
(c) deadline for the supply: A: 22. 4. 1989; B: 7. 5. 1989
22. **Amount of the tendering security**: ECU 20 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders**:
Bureau de l'aide alimentaire,
à l'attention de Monsieur N. Arend,
Bâtiment Loi 120, bureau 7/58,
200 rue de la Loi,
B-1049 Bruxelles;
telex AGREC 22037 B
25. **Refund payable on request by the successful tenderer⁽⁸⁾**: refund applicable on 13. 1. 1989, fixed by Commission Regulation (EEC) No 59/89 (OJ No L 10, 12. 1. 1989, p. 10)

Notes :

- (¹) The operation number is to be quoted in all correspondence.
- (²) At the request of the beneficiary the successful tenderer shall deliver :
- (a) a certificate, legalized by an Indian Embassy, from an official entity, certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded ;
 - (b) a certificate legalized by an Indian Embassy, issued by the monitoring company for an additional radioactivity analysis at the port of shipment.
- (³) Commission delegate to be contacted by the successful tenderer : see list published in *Official Journal of the European Communities* No C 227 of 7 September 1985, page 4.
- (⁴) In order not to overload the telex, tenderers are requested to provide, before the date and time laid down in point 20 of this Annex, evidence that the tendering security referred to in Article 7 (4) (a) of Regulation (EEC) No 2200/87 has been lodged, preferably :
- either by porter at the office referred to in point 24 of this Annex,
 - or by telecopier on one of the following numbers in Brussels :
 - 235 01 32
 - 236 10 97
 - 235 01 30
 - 236 20 05
- (⁵) Commission Regulation (EEC) No 2330/87 (OJ No L 210, 1. 8. 1987, p. 56) is applicable as regards the export refund and, where appropriate, the monetary and accession compensatory amounts, the representative rate and the monetary coefficient. The date referred to in Article 2 of the abovementioned Regulation is that referred to in point 25 of this Annex.
- (⁶) The radioactivity certificate must indicate the caesium-134 and -137 and strontium-90 levels.
- (⁷) Skimmed-milk powder must be free of off-flavours, neutralizers and foreign materials and be of good, uniform and long-life quality.
- (⁸) The bill of lading will be to the order of the representative who must be designated by the successful tenderer to act on his behalf in the port of landing.
- Moreover the suppliers' representative will also be the consignee of the goods and the bill of lading will be endorsed by the successful tenderer in favour of the beneficiary to enable customs formalities to be carried out ; customs duties, if any, are to be paid by the beneficiary while customs clearance costs are to be paid by the successful tenderer.

ANEXO II — BILAG II — ANHANG II — ΠΑΡΑΡΤΗΜΑ II — ANNEX II — ANNEXE II — ALLEGATO II — BIJLAGE II — ANEXO II

Designación del lote Parti Bezeichnung der Partie Χαρακτηρισμός της παρτίδας Lot Désignation du lot Designazione della partita Aanduiding van de partij Designação do lote	Cantidad total del lote (en toneladas) Totalmængde (tons) Gesamtmenge der Partie (in Tonnen) Συνολική ποσότητα της παρτίδας (σε τόνους) Total quantity (in tonnes) Quantité totale du lot (en tonnes) Quantità totale della partita (in tonnellate) Totale hoeveelheid van de partij (in ton) Quantidade total (em toneladas)	Cantidades parciales (en toneladas) Delmængde (tons) Teilmengen (in Tonnen) Μερικές ποσότητες (σε τόνους) Partial quantities (in tonnes) Quantités partielles (en tonnes) Quantitativi parziali (in tonnellate) Deelhoeveelheden (in ton) Quantidades parciais (em toneladas)	Beneficiario Modtager Empfänger Δικαιούχος Beneficiary Bénéficiaire Beneficiario Begunstigde Beneficiário	País destinatario Modtagerland Bestimmungsland Χώρα προορισμού Recipient country Pays destinataire Paese destinatario Bestemmingsland País destinatário	Inscripción en el embalaje Emballagens påtegning Aufschrift auf der Verpackung Ένδειξη επί της συσκευασίας Markings on the packaging Inscription sur l'emballage Iscrizione sull'imballaggio Aanduiding op de verpakking Inscrição na embalagem
A	3 000		India	India	Action No 13/89 / Food aid to India from the European Economic Community / Recipient NDDB Bombay / For Operation Flood II
B	2 000		India	India	Action No 14/89 / Food aid to India from the European Economic Community / Recipient NDDB Calcutta / For Operation Flood III

ANEXO III — BILAG III — ANHANG III — ΠΑΡΑΡΤΗΜΑ ΙΙΙ — ANNEX III — ANNEXE III — ALLEGATO III — BIJLAGE III
— ANEXO III

Designación del lote Parti Bezeichnung der Partie Χαρακτηρισμός της παρτίδας Lot Désignation du lot Designazione della partita Aanduiding van de partij Designação do lote	Cantidad total del lote (en toneladas) Totalmængde (tons) Gesamtmenge der Partie (in Tonnen) Συνολική ποσότητα της παρτίδας (σε τόνους) Total quantity (in tonnes) Quantité totale du lot (en tonnes) Quantità totale della partita (in tonnellate) Totale hoeveelheid van de partij (in ton) Quantidade total (em toneladas)	Cantidades parciales (en toneladas) Delmængde (tons) Teilmengen (in Tonnen) Μερικές ποσότητες (σε τόνους) Partial quantities (in tonnes) Quantités partielles (en tonnes) Quantitativi parziali (in tonnellate) Deelhoeveelheden (in ton) Quantidades parciais (em toneladas)	Beneficiario Modtager Empfänger Δικαιούχος Beneficiary Bénéficiaire Beneficiario Begunstigde Beneficiário	País destinatario Modtagerland Bestimmungsland Χώρα προορισμού Recipient country Pays destinataire Paese destinatario Bestemmingsland País destinatário	Dirección del almacén Adresse på lageret Anschrift des Lagers Διεύθυνση της αποθήκης Address of the warehouse Adresse du magasin Indirizzo del magazzino Adres van de opslagplaats Endereço do armazém
A	3 000		Indie	Indie	National Dairy Development Board (NDDB), Unit No 12, Aarey Milk Colony, Western Express Highway, Coregaon (E) Bombay 400 063
B	2 000		Indie	Indie	NDDB Godown Complex, Dankuni, c/o Calcutta Mother Dairy, Gate No 111 (Beside Delhi Road), PO Chakundi District Hooghly (WB)

COMMISSION REGULATION (EEC) No 286/89

of 3 February 1989

amending Regulation (EEC) No 2444/88 on the opening of an invitation to tender
for the refund for the export of barley

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,Having regard to Regulation (EEC) No 2727/75 of the
Council of 29 October 1975 on the common organization
of the market in cereals ⁽¹⁾, as last amended by Regulation
(EEC) No 166/89 ⁽²⁾,Having regard to Regulation (EEC) No 2746/75 of the
Council of 29 October 1975 laying down general rules for
granting export refunds on cereals and criteria for fixing
the amount of such refunds ⁽³⁾, and in particular Article 5
thereof,Whereas Commission Regulation (EEC) No 2444/88 ⁽⁴⁾,
Regulation as amended by Regulation (EEC) No
3616/88 ⁽⁵⁾, opened an invitation to tender for the refund
for the export of barley;Whereas, in the present situation, it is appropriate to
increase the quantity delivered to tender and to extend
the period during which this invitation to tender remains
open;Whereas the measures provided for in this Regulation are
in accordance with the opinion of the Management
Committee for Cereals,

HAS ADOPTED THIS REGULATION:

*Article 1*Article 1 (1) of Regulation (EEC) No 2444/88 is hereby
amended as follow:'1. A special intervention measure in the form of an
export refund shall be applied in respect of 1 000 000
tonnes of barley produced in Spain.'*Article 2*Article 2 (3) of Regulation (EEC) No 2444/88 is hereby
replaced by the following:'3. The invitation shall remain open until 25 May
1989. During the period of its validity, weekly awards
shall be made for which the time limits for the
submission of tenders shall be as prescribed in the
notice of invitation to tender.'*Article 3*This Regulation shall enter into force on the day of
publication in the *Official Journal of the European
Communities*.This Regulation shall be binding in its entirety and directly applicable in all Member
States.

Done at Brussels, 3 February 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.⁽²⁾ OJ No L 20, 25. 1. 1989, p. 16.⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.⁽⁴⁾ OJ No L 211, 4. 8. 1988, p. 15.⁽⁵⁾ OJ No L 315, 22. 11. 1988, p. 20.

COMMISSION REGULATION (EEC) No 287/89**of 3 February 1989****suspending Regulation (EEC) No 732/78 on detailed rules for the sale to the armed forces of Member States of beef held by the intervention agencies**

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

Having regard to Regulation (EEC) No 805/68 of the Council of 27 June 1968 on the common organization of the market in beef and veal⁽¹⁾, as last amended by Regulation (EEC) No 4132/88⁽²⁾, and in particular Article 7 (3) thereof,

Whereas, by Regulation (EEC) No 732/78⁽³⁾, as last amended by Regulation (EEC) No 1809/87⁽⁴⁾, the Commission made provision for sales of beef to the armed forces in the framework of special disposal measures; whereas, in view of the current situation of intervention stocks, the said Regulation should be suspended;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 732/78 is hereby suspended.

Article 2

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

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

Done at Brussels, 3 February 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 362, 30. 12. 1988, p. 4.

⁽³⁾ OJ No L 99, 12. 4. 1978, p. 14.

⁽⁴⁾ OJ No L 170, 30. 6. 1987, p. 23.

COMMISSION REGULATION (EEC) No 288/89

of 3 February 1989

on determining the origin of integrated circuits

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Regulation (EEC) No 802/68 of the Council of 27 June 1968 on the common definition of the concept of origin of goods⁽¹⁾, as last amended by Regulation (EEC) No 3860/87⁽²⁾, and in particular Article 14 thereof,

Whereas Article 5 of Regulation (EEC) No 802/68 lays down that a product in the production of which two or more countries were concerned shall be regarded as originating in the country in which the last substantial process or operation that is economically justified was performed, having been carried out in an undertaking equipped for the purpose, and resulting in the manufacture of a new product or representing an important stage of manufacture;

Whereas, for integrated circuits, the variety of operations which come within the scope of manufacture makes it necessary to establish the last substantial process or operation for the application of Article 5 of Regulation (EEC) No 802/68;

Whereas the diffusion stage of manufacture is technically highly sophisticated, requires great precision and presupposes a large research investment; whereas, in the context of the totality of the operations necessary for the manufacture of integrated circuits, it is considered that the manufacturing operations following diffusion (such as assembly and testing) are so significantly less important

than diffusion that they cannot individually or collectively constitute a substantial operation and thus cannot meet the requirement of being the last substantial operation in the manufacture of integrated circuits; whereas diffusion by means of which the intelligent contribution to the integrated circuit is completed and the integrated circuit is given all its functional capabilities has to be designated for the purposes of Article 5 of Regulation (EEC) No 802/68 as the last substantial operation in the manufacture of integrated circuits; whereas diffusion in this context shall be defined as the process whereby integrated circuits are formed on a semiconductor substrate by the selective introduction of an appropriate dopant;

Whereas the provisions of this Regulation are in accordance with the opinion of the Committee of Origin,

HAS ADOPTED THIS REGULATION:

Article 1

The manufacture of integrated circuits only confers on the said product the origin of the country where it was carried out in the case where the conditions laid down in the Annex to this Regulation are fulfilled.

Article 2

This Regulation shall enter into force three days 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, 3 February 1989.

For the Commission

Christiane SCRIVENER

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 1.

⁽²⁾ OJ No L 363, 23. 12. 1987, p. 30.

ANNEX

CN code	Description of product	Process or operation carried out on non-originating materials that confers that status of originating products
(1)	(2)	(3)
ex 8542	Integrated circuits	The operation of diffusion (where integrated circuits are formed on a semiconductor substrate by the selective introduction of an appropriate dopant)

COMMISSION REGULATION (EEC) No 289/89

of 3 February 1989

fixing, for the period 1 January to 31 December 1989, the maximum quantity of certain products of the oils and fats sector to be released for consumption and imported into Spain and 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 475/86 of 25 February 1986 laying down general rules for the system for controlling the prices and the quantities of certain products in the oils and fats sector released for consumption in Spain ⁽¹⁾, as amended by Regulation (EEC) No 1930/88 ⁽²⁾, and in particular Article 16 thereof,

Having regard to Council Regulation (EEC) No 476/86 of 25 February 1986 laying down the 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 ⁽³⁾, as amended by Regulation (EEC) No 1920/87 ⁽⁴⁾, and in particular Article 14 thereof,

Whereas Article 2 (2) of Commission Regulation (EEC) No 1183/86 of 21 April 1986 laying down detailed rules for the system for controlling the prices and the quantities of certain products in the oils and fats sector released for consumption in Spain ⁽⁵⁾, as last amended by Regulation (EEC) No 3729/88 ⁽⁶⁾, provides for the fixing of the quantities of oils and fats to be released for consumption in Spain and the maximum annual volume of imports of such products; whereas Regulation (EEC) No 3419/88 ⁽⁷⁾ fixed the maximum quantity of sunflower oil to be released for consumption and exported to Spain for the 1988/1989 marketing year; whereas the maximum quantities for the other products or groups of products listed in Article 1 (1) of Regulation (EEC) No 1183/86 should be fixed; whereas the overall forecast supply balance provided for in Article 4 of Regulation (EEC) No 475/86 has been drawn up;

Whereas Article 2 (2) of Commission Regulation (EEC) No 1184/86 of 21 April 1986 laying down detailed rules for the system for controlling the prices and the quantities of certain products in the oils and fats sector released for consumption in Portugal ⁽⁸⁾, as last amended by Regulation (EEC) No 1726/87 ⁽⁹⁾, provides for the fixing of the quantities of oils and fats to be released for

consumption in Portugal and the maximum annual volume of imports of such products; whereas the maximum quantities should be fixed in accordance with the criteria defined in Article 292 of the Act of Accession; whereas the overall forecast supply balance provided for in Article 4 of Regulation (EEC) No 476/86 has been drawn up;

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

1. For the period 1 January to 31 December 1989, the quantities to be released for consumption in Spain are hereby fixed at the following levels:

- (a) 135 000 tonnes of the oils referred to in Annex I to Regulation (EEC) No 1183/86 intended for human consumption, including 100 000 tonnes of soya oil;
- (b) 65 000 tonnes of other oils and fats intended for human consumption;
- (c) — 12 000 tonnes of linseed oil, castor oil and China-wood oil,
— 12 000 tonnes of soya oil,
— 25 000 tonnes of other oils intended for purposes other than human consumption.

2. For the period 1 January to 31 December 1989, the quantities to be released for consumption in Portugal are hereby fixed at the following levels:

- (a) 85 000 tonnes of soya oil;
- (b) 126 000 tonnes of the oils referred to in Annex I to Regulation (EEC) No 1184/86;
- (c) 35 000 tonnes of other oils and fats intended for human consumption.

Article 2

1. For the period 1 January to 31 December 1989, the maximum quantities which may be imported into Spain are hereby fixed at the following levels:

⁽¹⁾ OJ No L 53, 1. 3. 1986, p. 47.

⁽²⁾ OJ No L 170, 2. 7. 1988, p. 3.

⁽³⁾ OJ No L 53, 1. 3. 1986, p. 51.

⁽⁴⁾ OJ No L 183, 3. 7. 1987, p. 18.

⁽⁵⁾ OJ No L 107, 24. 4. 1986, p. 17.

⁽⁶⁾ OJ No L 326, 30. 11. 1988, p. 21.

⁽⁷⁾ OJ No L 301, 4. 11. 1988, p. 33.

⁽⁸⁾ OJ No L 107, 24. 4. 1986, p. 23.

⁽⁹⁾ OJ No L 163, 23. 6. 1987, p. 17.

- (a) 0 tonnes of the oils referred to in Annex I to Regulation (EEC) No 1183/86;
- (b) 57 500 tonnes of other oils and fats intended for human consumption;
- (c) — 12 000 tonnes of linseed oil, castor oil and China-wood oil,
— 0 tonnes of soya oil,
— 25 000 tonnes of other oils intended for purposes other than human consumption.

2. For the period 1 January to 31 December 1989, the maximum quantities which may be imported into Portugal are hereby fixed at the following levels:

- (a) 85 000 tonnes of soya oil;
- (b) 114 000 tonnes of the oils referred to in Annex I to Regulation (EEC) No 1184/86;
- (c) 35 000 tonnes of other oils and fats intended for human consumption.

Article 3

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

It shall apply with effect from 1 January 1989.

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

Done at Brussels, 3 February 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 290/89

of 3 February 1989

establishing ceilings and Community surveillance for imports of certain products originating in the African, Caribbean and Pacific States or in the overseas countries and territories (1989)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Whereas Article 13a of Regulation (EEC) No 486/85 stipulates that products listed there, originating in the African, Caribbean and Pacific States or in the overseas countries and territories, are subject on importation into the Community to progressively reduced rates of duty; whereas such reduction of duties applies only up to ceilings above which the customs duties actually applied in respect of third countries may be re-established;

Whereas, within the limits of these tariff ceilings, customs duties are reduced progressively by the percentage specified in that Article, during the same period and in accordance with the same timetable as provided for in Articles 75 and 268 of the Act of Accession of the Kingdom of Spain and the Portuguese Republic; whereas for 1989 the preferential duties as to garlic are equal to 63,6 % of the duties applicable and as to iceberg lettuce 60 % of the duties applicable;

Whereas by Commission Regulation (EEC) No 1450/88 of 27 May 1988 concerning duties applicable to imports of iceberg lettuce from Spain and Portugal into the Community as constituted on 31 December 1985 (3), a partial suspension of customs duties to these Member States has been adopted for the period 1 July to 30 September 1989; whereas the same rates of duties should be applied to the imports of these products originating in the African, Caribbean and Pacific States or in the overseas countries and territories;

Whereas, by virtue of Council Regulation (EEC) No 1820/87 of 25 June 1987 concerning the application of Decision No 2/87 of the ACP-EEC Council of Ministers on the advance implementation of the Protocol to the Third ACP-EEC Convention consequent on the Accession of the Kingdom of Spain and the Portuguese

Republic to the European Communities (4), Spain and Portugal are to postpone implementation of the preferential arrangements for fruit and vegetables falling within Regulation (EEC) No 1035/72 (5), as last amended by Council Regulation (EEC) No 2238/88 (6), until 31 December 1989 and 31 December 1990 respectively; whereas consequently, the abovementioned tariff concession does not apply at present in Spain or Portugal;

Whereas the application of ceilings requires the Community to be regularly informed of the trend of imports of the relevant products originating in these countries; whereas imports should, therefore, be made subject to a system of surveillance;

Whereas this objective may be achieved by means of an administrative procedure based on offsetting imports of the products in question against the ceilings at Community level as and when these products are entered with customs authorities for free circulation; whereas this administrative procedure must make provision for the possible re-establishment of tariff duties as soon as the ceilings are reached at Community level;

Whereas this administrative procedure requires close and particularly swift cooperation between the Member States and the Commission; whereas the latter must, in particular, be able to follow the progress of quantities charged against the ceilings and keep the Member States informed; whereas this cooperation has to be particularly close since the Commission must be able to take the appropriate measures to re-establish the customs tariff duties if the ceilings are reached;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. Imports of products listed in the Annex originating in the African, Caribbean and Pacific States or in the overseas countries and territories shall, in the Community as constituted at 31 December 1985, be subject to ceilings and to Community surveillance.

(1) OJ No L 61, 1. 3. 1985, p. 4.

(2) OJ No L 172, 30. 6. 1987, p. 102.

(3) OJ No L 132, 28. 5. 1988, p. 25.

(4) OJ No L 172, 30. 6. 1987, p. 1.

(5) OJ No L 118, 20. 5. 1972, p. 1.

(6) OJ No L 198, 26. 7. 1988, p. 1.

The products referred to in the first paragraph, their CN codes, the customs duties applicable, the period of validity, and the levels of the ceilings are set out in the Annex.

2. Quantities shall be charged against the ceiling as and when products are entered with customs authorities for free circulation, accompanied by a movement certificate.

Products may be charged against a ceiling only if the movement certificate is submitted before the date on which the collection of customs duties is re-established.

The extent to which ceilings are used up shall be determined at Community level on the basis of the imports charged against them, in the manner specified in the preceding subparagraphs.

Member States shall inform the Commission, at the intervals and within the time limits specified in paragraph

4, of imports effected in accordance with the above procedures.

3. As soon as the ceilings have been reached, the Commission may adopt a Regulation re-establishing, until the end of its period of validity, the customs duties applicable to third countries.

4. Member States shall send the Commission statements of the quantities charged for the preceding month no later than the 15th day of each month. At the Commission's request, they shall send statements of the quantities charged for periods of 10 days, to be forwarded within five clear days of the end of each 10-day period.

Article 2

This Regulation shall enter into force on 1 March 1989.

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

Done at Brussels, 3 February 1989.

For the Commission

Christiane SCRIVENER

Member of the Commission

ANNEX

Order No	CN code	Description	Customs duty applicable	Level ceiling (tonnes)
12.0040	ex 0703 20 00	Garlic, from 1 March to 31 May 1989	7,6	500
12.0050	ex 0705 11 10	Crisp head cabbage lettuce (<i>Lactuca sativa</i> L. var. <i>capitata</i>) (iceberg) from 1 July to 30 September 1989	8,2 MIN ECU 1,5/100 kg/br	1 000

COMMISSION REGULATION (EEC) No 291/89

of 3 February 1989

fixing for the 1989 marketing year the reference prices for cucumbers

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 Regulation (EEC) No 1035/72 of the Council of 18 May 1972 on the common organization of the market in fruit and vegetables ⁽¹⁾, as last amended by Regulation (EEC) No 2238/88 ⁽²⁾, and in particular Article 27 (1) thereof,

Whereas, under Article 23 (1) of Regulation (EEC) No 1035/72, reference prices valid for the whole Community are to be fixed at the beginning of the marketing year;

Whereas cucumbers are produced in such quantities in the Community that reference prices should be fixed for them;

Whereas cucumbers harvested during a given crop year are marketed from January to December;

Whereas the quantities harvested during January and the first 10 days of February and during the last 20 days of November and December are so small that there is no need to fix reference prices for all the year; whereas reference prices should be fixed only for the period 11 February up to and including 10 November;

Whereas, Article 23 (2) (b) of Regulation (EEC) No 1035/72 stipulates that reference prices are to be fixed at the same level as for the preceding marketing year, adjusted, after deducting the standard cost of transporting Community products between production areas and Community consumption centres in the preceding year, by:

- the increase in production costs for fruit and vegetables, less productivity growth, and
- the standard rate of transport costs in the current marketing year;

Whereas the resulting figure may nevertheless not exceed the arithmetic mean of producer prices in each Member State plus transport costs for the current year, after this amount has been increased by the rise in production costs less productivity growth; whereas the reference price may,

however, not be lower than in the preceding marketing year;

Whereas, to take seasonal variations into account, the year should be divided into several periods and a reference price fixed for each of these periods;

Whereas producer prices are to correspond to the average of the prices recorded on the representative market or markets situated in the production areas where prices are lowest, during the three years prior to the date on which the reference price is fixed, for a home-grown product with defined commercial characteristics, being a product or variety representing a substantial proportion of the production marketed over the year or over part thereof and satisfying specified requirements as regards market preparation; whereas, when the average of prices recorded on each representative market is being calculated, prices which could be considered excessively high or excessively low in relation to normal price fluctuations on that market are to be disregarded;

Whereas, in accordance with Articles 140 (2) and 272 (3) of the Act of Accession, the prices of Spanish and Portuguese products will not be used for the purpose of calculating reference prices, during the first phase in the case of Spain and during the first stage in the case of Portugal;

Whereas Community-produced cucumbers are grown mainly under glass; whereas the reference prices for the marketing year must therefore be fixed for a product of that type; whereas cucumbers imported from certain third countries during the same period will have been grown in the open; whereas, although such cucumbers may be classed in class I, their quality and price are not comparable with those of products grown under glass; whereas the prices for cucumbers not grown under glass should therefore be adjusted by a conversion factor;

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

HAS ADOPTED THIS REGULATION:

Article 1.

1. For the 1989 marketing year, the reference prices for cucumbers (CN code 0707 00 11, 19), expressed in ecus per 100 kilograms net of packed products of class I, of all sizes, shall be as follows:

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 198, 26. 7. 1988, p. 1.

— February (from 11 to 20):	143,36
— February (from 21 to 28):	122,42
— March:	112,14
— April:	92,76
— May:	76,12
— June:	63,76
— July:	47,97
— August:	48,34
— September:	57,25
— from 1 October to 10 November:	81,62

from third countries shall, after deduction of customs duties, be multiplied by the following conversion factors:

- from 11 February to 30 September: 1,30,
- from 1 October to 10 November: 1,00.

Article 2

2. For the purpose of calculating the entry price, the prices for cucumbers, not produced under glass, imported

This Regulation shall enter into force on 11 February 1989.

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

Done at Brussels, 3 February 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 292/89**of 3 February 1989****fixing the amounts to be levied in the beef sector on products which left the United Kingdom during the week 16 to 22 January 1989**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1347/86 of 6 May 1986 on the granting of a premium for the slaughter of certain adult bovine animals in the United Kingdom ⁽¹⁾, as amended by Regulation (EEC) No 467/87 ⁽²⁾,

Having regard to Commission Regulation (EEC) No 1695/86 of 30 May 1986 laying down detailed rules for the application of the premium for the slaughter of certain adult bovine animals for slaughter in the United Kingdom ⁽³⁾, as amended by Regulation (EEC) No 3988/87 ⁽⁴⁾, and in particular Article 7 (1) thereof,

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

Whereas, under Article 7 (1) of Regulation (EEC) No 1695/86 the amounts to be charged on departure from the territory of the United Kingdom of the products listed

in the Annex to the said Regulation must be fixed each week by the Commission;

Whereas, accordingly, the amounts to be levied on products which left the United Kingdom during the week 16 to 22 January 1989 should be fixed,

HAS ADOPTED THIS REGULATION:

Article 1

Pursuant to Article 3 of amended Regulation (EEC) No 1347/86, the amounts to be levied on the products referred to in Article 7 (1) of Regulation (EEC) No 1695/86 which left the territory of the United Kingdom during the week 16 to 22 January 1989 shall be those set out in the Annex.

Article 2

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

It shall apply with effect from 16 January 1989.

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

Done at Brussels, 3 February 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 119, 8. 5. 1986, p. 40.

⁽²⁾ OJ No L 48, 17. 2. 1987, p. 1.

⁽³⁾ OJ No L 146, 31. 5. 1986, p. 56.

⁽⁴⁾ OJ No L 376, 31. 12. 1987, p. 31.

ANNEX

to the Commission Regulation of 3 February 1989 fixing the amounts to be levied in the beef sector on products which left the United Kingdom during the week 16 to 22 January 1989

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

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

⁽²⁾ Other.

COMMISSION REGULATION (EEC) No 293/89

of 3 February 1989

adopting certain provisions on the issuing of STM licences for olive oil

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, and in particular Article 252 (1) thereof,

Whereas Commission Regulation (EEC) No 3711/88 of 28 November 1988 fixing the target ceiling for imports of olive oil into Portugal in the 1988/89 marketing year⁽¹⁾ fixes the ceiling at 1 500 tonnes for each quarter;

Whereas Article 252 of the Act of Accession stipulates that should the trend of intra-Community trade show that a significant increase in imports has occurred or is likely to occur and if this results in the target ceiling for imports of the product in question for the marketing year in progress being reached or exceeded, suitable measures may be decided;

Whereas the detailed rules for issuing STM licences are set out in Commission Regulation (EEC) No 574/86 of 28 February 1986 laying down detailed rules for the application of the supplementary trade mechanism (STM)⁽²⁾, as last amended by Regulation (EEC) No 3296/88⁽³⁾;

Whereas application for licences for olive oil covered by CN codes 1509 and 1510 00 for the quarter 1 February to 30 April 1989 are well over the ceiling; whereas, in view of the situation, imports of the products in question into Portugal should be limited; whereas, pending the adoption of definitive measures pursuant to Article 252 (3)

of the Act of Accession, licences should be issued in proportion to the quantities still available in the framework of the quarterly ceiling; whereas the coefficient to applications applied to licences to be issued takes account of application notified up to and including 2 February 1989;

Whereas the issuing of further licences for the product in question should also be suspended; whereas this measure entails rejecting applications submitted on or after 2 February 1989,

HAS ADOPTED THIS REGULATION:

Article 1

1. STM licences applied for and notified to the Commission up to and including 2 February 1989 for olive oil covered by CN codes 1509 and 1510 00 shall be issued in respect of 2,98 % of the quantity applied for.
2. The issuing of STM licences in response to applications submitted from 2 February 1989 onwards is hereby suspended.

Article 2

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

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

Done at Brussels, 3 February 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 325, 29. 11. 1988, p. 40.

⁽²⁾ OJ No L 57, 1. 3. 1986, p. 1.

⁽³⁾ OJ No L 293, 27. 10. 1988, p. 7.

COMMISSION REGULATION (EEC) No 294/89
of 3 February 1989
fixing the amount of the subsidy on oil seeds

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Regulation No 136/66/EEC of the Council of 22 September 1966 on the establishment of a common organization of the market in oils and fats ⁽¹⁾, as last amended by Regulation (EEC) No 2210/88 ⁽²⁾, and in particular Article 27 (4) thereof,

Having regard to Council Regulation (EEC) No 1678/85 of 11 June 1985 fixing the conversion rates to be applied in agriculture ⁽³⁾, as last amended by Regulation (EEC) No 275/89 ⁽⁴⁾,

Having regard to Regulation (EEC) No 1569/72 of the Council of 20 July 1972 laying down special measures for colza, rape and sunflower seed ⁽⁵⁾, as last amended by Regulation (EEC) No 2216/88 ⁽⁶⁾, and in particular Article 2 (3) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the amount of the subsidy referred to in Article 27 of Regulation No 136/66/EEC was fixed by Commission Regulation (EEC) No 250/89 ⁽⁷⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 250/89 to the information known to the Commission that the amount of the subsidy at present in force should be altered to the amount set out in the Annexes hereto,

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

Done at Brussels, 3 February 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

Article 1

1. The amount of the subsidy and the exchange rate referred to in Article 33 (2) and (3) of Commission Regulation (EEC) No 2681/83 ⁽⁸⁾ are as set out in the Annexes hereto.

2. The amount of the compensatory aid referred to in Article 14 of Council Regulation (EEC) No 475/86 ⁽⁹⁾ is as set out in Annex III for sunflower seed harvested in Spain.

3. The amount of the special subsidy provided for by Council Regulation (EEC) No 1920/87 ⁽¹⁰⁾ for sunflower seed harvested and processed in Portugal is as set out in Annex III.

4. However, the amount of the subsidy in the case of advance fixing for the 1989/90 marketing year for colza and rape will be confirmed or replaced as from 6 February 1989 to take into account the target price, and where appropriate, the effects of the application of the system of maximum guaranteed quantities for colza and rape seed.

Article 2

This Regulation shall enter into force on 6 February 1989.

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

⁽²⁾ OJ No L 197, 26. 7. 1988, p. 1.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 11.

⁽⁴⁾ OJ No L 32, 3. 2. 1989, p. 8.

⁽⁵⁾ OJ No L 167, 25. 7. 1972, p. 9.

⁽⁶⁾ OJ No L 197, 26. 7. 1988, p. 10.

⁽⁷⁾ OJ No L 30, 1. 2. 1989, p. 33.

⁽⁸⁾ OJ No L 266, 28. 9. 1983, p. 1.

⁽⁹⁾ OJ No L 53, 1. 3. 1986, p. 47.

⁽¹⁰⁾ OJ No L 183, 3. 7. 1987, p. 18.

ANNEX I

Aids to colza and rape seed other than 'double zero'

(amounts per 100 kg)

	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6	5th period 7 ⁽¹⁾
1. Gross aids (ECU):						
— Spain	0,580	0,580	0,580	0,580	0,580	1,170
— Portugal	0,000	0,000	0,000	0,000	0,000	0,000
— Other Member States	19,811	19,892	20,051	20,290	20,132	17,827
2. Final aids:						
(a) Seed harvested and processed in:						
— Federal Republic of Germany (DM)	47,17	47,37	47,75	48,31	47,94	42,65
— Netherlands (Fl)	52,62	52,84	53,26	53,89	53,48	47,54
— BLEU (Bfrs/Lfrs)	956,61	960,52	968,20	979,74	972,11	860,81
— France (FF)	144,94	145,50	146,67	148,47	147,23	130,29
— Denmark (Dkr)	173,41	174,11	175,50	177,61	176,20	156,00
— Ireland (£ Irl)	16,120	16,182	16,312	16,512	16,374	14,491
— United Kingdom (£)	12,697	12,744	12,847	13,000	12,888	11,329
— Italy (Lit)	30 867	30 984	31 172	31 454	31 182	27 308
— Greece (Dr)	2 365,08	2 369,53	2 370,91	2 383,11	2 352,35	2 006,68
(b) Seed harvested in Spain and processed:						
— in Spain (Pta)	89,44	89,44	89,44	89,44	89,44	180,43
— in another Member State (Pta)	3 148,78	3 163,46	3 185,11	3 211,25	3 188,39	2 872,66
(c) Seed harvested in Portugal and processed:						
— in Portugal (Esc)	0,00	0,00	0,00	0,00	0,00	0,00
— in another Member State (Esc)	4 299,08	4 313,52	4 337,13	4 370,22	4 339,79	3 877,34

⁽¹⁾ Subject in the case of advance fixing for the 1989/90 marketing year to the adoption of prices and measures and where appropriate, the effects of the application of the system of maximum guaranteed quantities.

ANNEX II

Aids to colza and rape seed 'double zero'

(amounts per 100 kg)

	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6	5th period 7 ⁽¹⁾
1. Gross aids (ECU):						
— Spain	3,080	3,080	3,080	3,080	3,080	3,670
— Portugal	2,500	2,500	2,500	2,500	2,500	2,500
— Other Member States	22,311	22,392	22,551	22,790	22,632	22,327
2. Final aids:						
(a) Seed harvested and processed in:						
— Federal Republic of Germany (DM)	53,07	53,27	53,65	54,21	53,84	48,55
— Netherlands (Fl)	59,24	59,46	59,88	60,51	60,10	54,16
— BLEU (Bfrs/Lfrs)	1 077,33	1 081,24	1 088,92	1 100,46	1 092,83	981,53
— France (FF)	163,90	164,46	165,63	167,43	166,19	149,25
— Denmark (Dkr)	195,51	196,21	197,60	199,71	198,30	178,10
— Ireland (£ Irl)	18,230	18,292	18,422	18,622	18,484	16,600
— United Kingdom (£)	14,384	14,432	14,535	14,688	14,576	13,016
— Italy (Lit)	34 955	35 071	35 259	35 541	35 269	31 396
— Greece (Dr)	2 755,13	2 759,58	2 760,96	2 773,16	2 742,40	2 396,73
(b) Seed harvested in Spain and processed:						
— in Spain (Pta)	474,98	474,98	474,98	474,98	474,98	565,96
— in another Member State (Pta)	3 534,31	3 548,99	3 570,65	3 596,79	3 573,93	3 258,19
(c) Seed harvested in Portugal and processed:						
— in Portugal (Esc)	470,02	470,02	470,02	470,02	470,02	470,02
— in another Member State (Esc)	4 769,10	4 783,54	4 807,15	4 840,24	4 809,81	4 347,36

⁽¹⁾ Subject in the case of advance fixing for the 1989/90 marketing year to the adoption of prices and measures and where appropriate, the effects of the application of the system of maximum guaranteed quantities.

ANNEX III

Aids to sunflower seed

(amounts per 100 kg)

	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6
1. Gross aids (ECU):					
— Spain	5,170	5,170	5,170	5,170	5,170
— Portugal	0,000	0,000	0,000	0,000	0,000
— Other Member States	24,507	25,052	25,596	25,642	25,642
2. Final aids:					
(a) Seed harvested and processed in (1):					
— Federal Republic of Germany (DM)	58,27	59,55	60,83	60,94	60,94
— Netherlands (Fl)	65,06	66,50	67,94	68,06	68,06
— BLEU (Bfrs/Lfrs)	1 183,37	1 209,68	1 235,95	1 238,17	1 238,17
— France (FF)	180,46	184,65	188,83	189,09	189,09
— Denmark (Dkr)	214,90	219,73	224,56	224,94	224,94
— Ireland (£ Irl)	20,072	20,538	21,003	21,033	21,033
— United Kingdom (£)	15,855	16,229	16,603	16,618	16,618
— Italy (Lit)	38 518	39 424	40 269	40 216	40 216
— Greece (Dr)	3 084,77	3 176,57	3 250,44	3 223,35	3 223,35
(b) Seed harvested in Spain and processed:					
— in Spain (Pta)	797,28	797,28	797,28	797,28	797,28
— in another Member State (Pta)	3 907,30	3 989,33	4 067,05	4 066,01	4 066,01
(c) Seed harvested in Portugal and processed:					
— in Portugal (Esc)	0,00	0,00	0,00	0,00	0,00
— in Spain (Esc)	6 882,55	6 988,42	7 088,46	7 084,61	7 084,61
— in another Member State (Esc)	6 707,64	6 810,82	6 908,32	6 904,56	6 904,56
3. Compensatory aids:					
— in Spain (Pta)	3 855,24	3 939,21	4 018,85	4 018,78	4 018,78
4. Special aid:					
— in Portugal (Esc)	6 707,64	6 810,82	6 908,32	6 904,56	6 904,56

(1) For seed harvested in the Community as constituted at 31 December 1985 and processed in Spain, the amounts shown in 2 (a) to be multiplied by 1,0260760.

ANNEX IV

Exchange rate of the ECU to be used for converting final aids into the currency of the processing country when the latter is a country other than the country of production

(value of 1 ECU)

	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6	5th period 7
DM	2,089540	2,086070	2,082680	2,079530	2,079530	2,069860
Fl	2,354950	2,350930	2,347820	2,344760	2,344760	2,334410
Bfrs/Lfrs	43,699600	43,693700	43,683699	43,677100	43,677100	43,647700
FF	7,097460	7,103100	7,108400	7,112460	7,112460	7,126400
Dkr	8,096000	8,097430	8,098660	8,099430	8,099430	8,105320
£Irl	0,779786	0,779246	0,779106	0,779514	0,779514	0,779614
£	0,637068	0,638328	0,639455	0,640543	0,640543	0,644336
Lit	1 524,50	1 529,84	1 534,95	1 539,77	1 539,77	1 553,92
Dr	172,92400	173,81000	174,82500	176,08600	176,08600	180,01200
Esc	170,83200	171,34300	171,95000	172,47900	172,47900	174,47300
Pta	129,29800	129,66800	130,12100	130,58700	130,58700	132,02300

COUNCIL REGULATION (EEC) No 295/89**of 3 February 1989****amending Regulation (EEC) No 4194/88 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1989 and certain conditions under which they may be fished**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 170/83 of 25 January 1983 establishing a Community system for the conservation and management of fishery resources ⁽¹⁾, as amended by the Act of Accession of Spain and Portugal, and in particular Article 11 thereof,

Having regard to the proposal from the Commission,

Whereas under the terms of Article 3 of Regulation (EEC) No 170/83 it is incumbent upon the Council to establish the total allowable catches (TACs) by stock or group of stocks, the share available for the Community and the specific conditions under which these catches must be taken; whereas the share available to the Community is allocated among the Member States, under Article 4 of that Regulation;

Whereas Regulation (EEC) No 4194/88 ⁽²⁾, fixes, for certain fish stocks and groups of fish stocks, the TACs for 1989 and certain conditions under which they may be fished;

Whereas, in accordance with the procedure provided for in Article 2 of the Fisheries Agreement between the

European Economic Community and the Government of Sweden ⁽³⁾, the parties have consulted each other on their reciprocal fishing rights for 1989;

Whereas these bilateral consultations have been successfully concluded; whereas, as a result, it is possible to fix the TACs, the Community shares and the quotas for certain joint and autonomous stocks, of which part has been allocated to Sweden,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to this Regulation shall replace the corresponding items of the Annex to Regulation (EEC) No 4194/88.

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

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

Done at Brussels, 3 February 1989.

*For the Council**The President*

C. ROMERO HERRERA

⁽¹⁾ OJ No L 24, 27. 1. 1983, p. 1.⁽²⁾ OJ No L 369, 31. 12. 1988, p. 1.⁽³⁾ OJ No L 226, 29. 8. 1980, p. 2.

[illegible]

COUNCIL REGULATION (EEC) No 296/89**of 3 February 1989****amending Regulation (EEC) No 4197/88 laying down for 1989 certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of Sweden**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 170/83 of 25 January 1983 establishing a Community system for the conservation and management of fishery resources⁽¹⁾, as amended by the Act of Accession of Spain and Portugal, and in particular Article 11 thereof,

Having regard to the proposal from the Commission,

Whereas Regulation (EEC) No 4197/88⁽²⁾ lays down, for 1989, certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of Sweden;Whereas, in accordance with the procedure provided for in Article 2 of the Fisheries Agreement between the European Economic Community and the Government of Sweden⁽³⁾ the parties have further consulted on the consequences of the extension of the Swedish fishing jurisdiction in the Baltic Sea;

Whereas these consultations have been successfully concluded and, as a result, it is possible to fix the additional quantities allocated to Sweden;

Whereas, pursuant to the terms of Article 3 of Regulation (EEC) No 170/83, it is for the Council to fix the total

catches allocated to third countries and to lay down the specific conditions under which such catches must be taken,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 3 (2) of Regulation (EEC) No 4197/88, the following indent is added:

‘— five for the fishing of salmon in ICES division III c and d.’

Article 2

Annex I to Regulation (EEC) No 4197/88 is hereby replaced by the Annex to this Regulation.

*Article 3*This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 3 February 1989.

*For the Council**The President*

C. ROMERO HERRERA

⁽¹⁾ OJ No L 24, 27. 1. 1983, p. 1.⁽²⁾ OJ No L 369, 31. 12. 1988, p. 47.⁽³⁾ OJ No L 226, 29. 8. 1980, p. 2.

ANNEX

ANNEX I

Swedish catch quotas for 1989

Species	Areas within which fishing is authorized	Quantity (tonnes)
Cod	ICES III c, d	1 500
	ICES IV	150 ⁽¹⁾
Salmon	ICES III c, d	20
Haddock	ICES IV	400
Whiting	ICES IV	20 ⁽¹⁾
Herring	ICES III c, d	4 850
	ICES IV a, b	4 450
Mackerel	ICES IV a, b	2 300 ⁽²⁾
Sprat	ICES III c, d	2 000
	ICES IV a, b	2 000
Others	ICES IV	150 ⁽²⁾

⁽¹⁾ These quotas may be interchanged.

⁽²⁾ Of which 2 000 tonnes shall be fished north of 59°N.

⁽²⁾ Out of which up to 40 tonnes may be taken as prawn (*Pandalus*).

COUNCIL REGULATION (EEC) No 297/89

of 3 February 1989

allocating additional catch quotas among Member States for vessels fishing in Swedish waters

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 170/83 of 25 January 1983 establishing a Community system for the conservation and management of fishery resources ⁽¹⁾, as amended by the Act of Accession of Spain and Portugal, and in particular Article 11 thereof,

Having regard to the proposal from the Commission,

Whereas the Community and the Kingdom of Sweden have initialled an Agreement on their mutual fishing rights for 1989 which provides *inter alia* for the allocation of certain catch quotas for Community vessels in Swedish waters; whereas those catch quotas were allocated by Regulation (EEC) No 4198/88 ⁽²⁾;

Whereas in accordance with the procedure provided for in Article 2 of the Fisheries Agreement between the European Economic Community and the Government of Sweden ⁽³⁾, the parties have further consulted on the consequences of the extension of the Swedish fishing jurisdiction in the Baltic Sea;

Whereas these consultations have been successfully concluded and, as a result, it is possible to fix the quantities of cod and salmon which may be fished by the Community in the waters concerned;

Whereas, under Article 3 of Regulation (EEC) No 170/83, it is for the Council to lay down in particular the specific conditions for taking those catches; whereas, under Article 4 of the said Regulation, the quantity available to the Community is to be distributed among the Member States;

Whereas the fishing activities covered by this Regulation are subject to the control measures provided for by Council Regulation (EEC) No 2241/87 of 23 July 1987 establishing certain control measures for fishing activities ⁽⁴⁾,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EEC) No 4198/88 is hereby replaced by the Annex to this Regulation.

Article 2

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

It shall apply until 31 December 1989.

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

Done at Brussels, 3 February 1989.

For the Council

The President

C. ROMERO HERRERA

⁽¹⁾ OJ No L 24, 27. 1. 1983, p. 1.

⁽²⁾ OJ No L 369, 31. 12. 1988, p. 54.

⁽³⁾ OJ No L 226, 29. 8. 1980, p. 2.

⁽⁴⁾ OJ No L 207, 29. 7. 1987, p. 1.

ANNEX

ANNEX

Allocation of Community catch quotas in Swedish waters for 1989

(tonnes)

Species	ICES division	Community catch quotas	Quotas allocated to Member States	
Cod	III d	8 500 ⁽¹⁾ ⁽²⁾	Denmark	6 215 ⁽³⁾
			Germany	2 285 ⁽³⁾
Herring	III d	1 500	Denmark	860
			Germany	640
Salmon	III d	210 ⁽⁴⁾	Denmark	189 ⁽⁵⁾
			Germany	21 ⁽⁷⁾

⁽¹⁾ An additional 60 tonnes (Denmark 45 tonnes : Germany 15 tonnes) may be taken either as flatfish by-catch in the cod fishery or as cod.

⁽²⁾ Of which 6 000 tonnes in the area defined by straight lines connecting the undermentioned coordinates.

⁽³⁾ Of which 170 tonnes in the area defined by straight lines connecting the undermentioned coordinates.

⁽⁴⁾ Of which 4 390 tonnes in the area defined by straight lines connecting the undermentioned coordinates.

⁽⁵⁾ Of which 1 610 tonnes in the area defined by straight lines connecting the undermentioned coordinates.

⁽⁶⁾ Of which 153 tonnes in the area defined by straight lines connecting the undermentioned coordinates.

⁽⁷⁾ Of which 17 tonnes in the area defined by straight lines connecting the undermentioned coordinates.

58° 46,836' N	20° 28,672' E
58° 29,000' N	20° 26,590' E
58° 12,000' N	20° 22,502' E
57° 54,691' N	20° 24,920' E
57° 44,000' N	20° 14,139' E
57° 33,800' N	20° 03,965' E
57° 26,717' N	20° 02,160' E
57° 14,192' N	19° 53,565' E
56° 58,000' N	19° 40,270' E
56° 45,000' N	19° 31,720' E
56° 35,000' N	19° 25,070' E
56° 27,000' N	19° 21,070' E
56° 15,000' N	19° 13,565' E
56° 02,433' N	19° 05,669' E
55° 58,863' N	19° 04,876' E
55° 57,300' N	19° 04,049' E
55° 53,482' N	18° 56,777' E
55° 53,361' N	18° 56,943' E
55° 57,300' N	19° 07,273' E
56° 17,000' N	19° 24,065' E
56° 37,000' N	19° 36,869' E
56° 57,000' N	19° 51,070' E
57° 17,000' N	20° 11,090' E
57° 27,000' N	20° 13,090' E
57° 48,000' N	20° 33,336' E
58° 00,000' N	20° 39,090' E
58° 13,000' N	20° 32,090' E
58° 29,000' N	20° 33,090' E
58° 46,514' N	20° 29,982' E
58° 46,836' N	20° 28,672' E

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 7 December 1988

relating to a proceeding under Articles 85 and 86 of the EEC Treaty (IV/31. 906,
flat glass)

(Only the Italian text is authentic)

(89/93/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Whereas :

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17 of 6 February 1962, first Regulation implementing Articles 85 and 86 of the Treaty ⁽¹⁾, as last amended by the Act of Accession of Spain and Portugal, and in particular Articles 3 and 15 thereof,

Having regard to the application within the meaning of Article 3 of Regulation No 17 made to the Commission on 31 October 1986 by Industria Vetraria Alfonso Cobelli of Reggio Calabria asking the Commission to find that Società Italiana Vetro-SIV SpA, Fabbrica Pisana SpA and Vernante Pennitalia SpA had committed infringements of the Community competition rules,

Having regard to the Decision taken by the Commission on 15 October 1987 to initiate own-initiative proceedings and proceedings upon application in this case,

Having given the undertakings concerned the opportunity of being heard on the matters to which the Commission has taken objection, in accordance with the provisions of Article 19 (1) of Regulation No 17 and with Commission Regulation No 99/63/EEC of 25 July 1963 on the hearings provided for in Article 19 (1) and (2) of Council Regulation No 17 ⁽²⁾,

Having consulted the Advisory Committee on Restrictive Practices and Dominant Positions,

I. THE FACTS

Introduction

- (1) This Decision follows on from investigations undertaken in July and October 1986, pursuant to Article 14 (2) of Regulation No 17, into three Italian flat-glass producers and one wholesaler and from investigations undertaken in January 1987, pursuant to Article 14 (3) of Regulation No 17, into the three Italian producers. Between the investigations carried out in 1986 and those carried out in 1987, Industria Vetraria Alfonso Cobelli of Reggio Calabria made application to the Commission on 31 October 1986, pursuant to Article 3 of Regulation No 17, for a finding that infringements of the competition rules had been committed by Società Italiana Vetro, Fabbrica Pisana and Vernante Pennitalia.

A. The market

1. *The product*

- (2) The product to which this Decision relates is flat glass in all its varieties. There are three types of flat glass produced using different manufacturing processes :
- drawn glass, which takes the form of a colourless, transparent sheet, used for the manufacture of window panes,
 - cast glass, which takes the form of an uneven, translucent but not transparent sheet, obtained by rolling,
 - plate glass, in the form of a transparent sheet whose surfaces are almost perfectly parallel,

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No 127, 20. 8. 1963, p. 2268/63.

which may be obtained by continuous casting or by the float-glass process. The float-glass process is the one most widely used in producing glass.

- (3) Float glass began to be produced on an industrial scale in the early 1960s; because of its characteristics and its relatively low production costs in relation to its quality, it rapidly replaced the other types of glass. At present, more than 90 % of flat glass is manufactured using the float-glass process.
- (4) Flat glass may be used unprocessed (for example, window panes) or processed (for example, automotive glass, building glass and mirror manufacturing); between 70 % and 80 % of glass produced is processed, either directly by the producers or by specialists. Flat glass intended for the motor vehicle industry, which is exclusively processed glass, is treated only by the glass producers, whereas flat glass intended for building and furnishing is processed either by the glass producers, if they are vertically integrated, or by independent processors.
- (5) Within the industry, two markets may be distinguished: the automotive, or more generally the transport, market and the non-automotive or building market. The first market comprises essentially glass for use in the motor vehicle industry and, to a lesser extent involving small quantities, glass intended for the railways, ships and travelling cranes. The second market comprises glazing for use in building, furniture glass, mirrors, glass for use in household electrical goods, etc.

The automotive market is supplied directly by the glass producers; the non-automotive market is supplied to a lesser extent by the glass producers and more usually through wholesalers, processing wholesalers and processors.

- (6) The tables in Annex 1 present figures for the Italian flat-glass market in recent years.

Italy is, together with Germany, one of the largest markets in Europe: the Italian market accounts for some 20 % of the European automotive market and roughly the same percentage of the European non-automotive market.

2. Supply

- (7) During the period under examination, an average of 79 % of Italian demand for non-automotive

glass and an average of 95 % of Italian demand for automotive glass were met by the three Italian producers to whom this Decision is addressed.

- (8) Fabbbrica Pisana SpA (FP) is a subsidiary of the Saint-Gobain Group, which is one of the largest industrial groups in the world. In Italy, through the intermediary of Fabbbrica Pisana or other group companies, Saint-Gobain owns the following companies involved in the glass industry: Luigi Fontana SpA, Balzaretti e Modigliani SpA, Home Glas SpA, Saint-Gobain Italiana Auto srl, Toscana Glas SpA and Flovetto SpA. Luigi Fontana SpA is the largest processing wholesaler on the Italian market. Through the intermediary of Toscana Glas, FP owns a float-glass plant at Pisa and a float-glass plant shared with SIV and operated by Flovetto at San Salvo and has remained the only producer of cast glass in Italy.

- (9) Società Italiana Vetro SpA (SIV) is a company controlled by the State holding company EFIM. It owns a float-glass plant at San Salvo and a float-glass plant shared with FP and operated by Flovetto at San Salvo. Since taking over control of Veneziana Vetro in 1986, SIV has closed its drawn glass furnaces and replaced them by a float-glass plant, which began production at the end of 1987.

SIV owns the following companies operating in the glass industry: Vetro Europa SpA in Italy and SIVESA in Spain, which produce automotive glass; Società Vetri Speciali at San Salvo, which produces reflective glasses; and the glass marketing companies SIV-Deutschland in Frankfurt and SIV-France in Paris. Since 1986 it has controlled the Belgian automotive glass producing company Splintex SA, a joint subsidiary of SIV and Glaverbel, and has transferred to Glaverbel control of its mirror producing company ILVED.

- (10) Vernante Pennitalia SpA is a subsidiary of the American group PPG-Industries Inc., Pittsburgh.

It owns a float-glass plant at Cuneo and another at Salerno and controls the company Pennitalia Securglass, which produces automotive glass. In 1982, PPG-Industries Inc. bought Boussois from BSN; Boussois has a long tradition in glass manufacture and a strong position on the French market for automotive and non-automotive glass.

- (11) The market shares of the three companies, calculated on the basis of the figures set out in Annex 2, are as follows:

(in %)

	1982		1983		1984		1985		1986	
	Auto-motive	Non-auto-motive	Auto-motive	Non-auto-motive	Auto-motive	Non-auto-motive	Auto-motive	Non-auto-motive	Auto-motive	Non-auto-motive
FP	[...] ⁽¹⁾	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
SIV	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
VP	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]

(¹) In the published version of the Decision, some information has hereinafter been omitted, pursuant to the provisions of Article 21 of Regulation No 17 concerning non-disclosure of business secrets.

At European level, the market shares of the three companies or of the groups to which they belong are estimated as follows:

	(%)	
	Auto- motive	Non-auto- motive
Saint-Gobain	[...]	[...]
SIV (including Splintex)	[...]	[...]
PPG-Industries	[...]	[...]

- (12) At European level, the flat-glass market is dominated by a tight oligopoly comprising the abovementioned groups together with Pilkington, Glaverbel (Asahi group) and Guardian. These are groups with integrated activities upstream from glassmaking (refractory products, siliceous sand pits, basic chemicals) and downstream (processing of glass fibre and flat glass).

The geographical spread of the six groups in Europe is as follows:

- Saint-Gobain operates in France, Belgium, Germany, Italy, Spain and Austria and owns a total of 10 ½ float-glass plants,
- Pilkington operates in the United Kingdom, Germany, Sweden and Austria and owns a total of seven float-glass plants,
- PPG operates in Italy and France and owns a total of four float-glass plants,
- Glaverbel operates in Belgium, the Netherlands and Spain and owns three float-glass plants,
- SIV operates in Italy, France, Germany and Spain and owns two-and-a-half float-glass plants,
- Guardian owns one float-glass plant in Luxembourg and another in Spain.

According to the figures of the European flat-glass producers' association, GEPVP, Community production was amply sufficient to meet demand in the period from 1980 to 1987, with exports to non-Community countries having consistently exceeded imports from outside the Community. According to the GEPVP's forecasts, drawn up in June 1986 for the Community of Ten and valid until 1996 and drawn up in June 1987 for the Community of Twelve and valid until 1989, Community demand for glass will, on the most optimistic assumptions, increase by only 1 to 3 % a year. The GEPVP thus anticipates that excess production capacity, which was high in the early

1980s, will persist in the years ahead, albeit at a lower level.

According to the information provided by FP, the average investment involved in a float-glass plant of 150 000 tonnes per year amounts to some ECU 70,5 million to 86 million on an existing site and twice that amount on a new site. The possibility of other producers entering the market in the foreseeable future can therefore be ruled out.

- (13) With regard to the automotive market, processing in all its aspects (laminated glass, vertically toughened glass and horizontally toughened glass) requires different production lines for each technique (side windows, laminated windscreens, heated rear windows), in addition to the tools needed for the initial cutting and shaping and in addition to moulding and toughening. Each production line incorporates a wide variety of operations which differ from product to product. The production lines are specially designed in the light of the shapes and technical specifications required by demand. Technical obsolescence is therefore fairly rapid and occurs after seven to eight years, according to technical developments in motor vehicle manufacturing.

The shapes and technical specifications required by motor vehicle manufacturers involve considerable investment both at production level and in terms of research and development. According to the information provided by FP, the cost of a processing line is difficult to calculate, in view of the specific character of each plant, but may be put at ECU 40 million for the manufacture of 650 000 motor vehicle fittings a year. Few firms are therefore capable of bearing the costs and risks of processing glass for motor vehicles.

3. Demand

- (14) The customer of non-automotive flat-glass producers are wholesalers and processors. Some 40 % of demand is accounted for by processors purchasing directly from producers, while the remaining 60 % is accounted for by wholesalers. Wholesalers themselves process at least half of the glass they purchase, with the bulk of the remainder being sold directly to final consumers and a smaller proportion to small processors.

Processing consists in the manufacture of safety glass, insulating glasses, mirrors, etc. Processors are often in competition with flat-glass producers who process glass themselves. Sometimes, processors are dependent on the transfer of technology from glass producers and thus manufacture processed products under licence granted by their suppliers.

- (15) The customers of automotive-glass producers are the car manufacturers. Before being sold to the motor vehicle manufacturers, the glass is processed by the glass producers or by their subsidiaries in the light of the designs and technical specifications required by the motor vehicle manufacturers. Collaboration between glass producers and motor vehicle manufacturers takes place as follows:

When a manufacturer's design department designs a new model, one or at most two glass suppliers are asked to produce individual parts. The geometry of the glass parts evolves constantly, firstly at the prototype stage, and subsequently when the model is manufactured in limited numbers in the pilot plant. At this stage, the glass suppliers are paid on the basis of a 'prototype' rate, which is independent of the model concerned and is calculated solely by reference to the type of glazed surfaces concerned.

When it is decided to launch the new model commercially, the manufacturer uses other glass suppliers, replacing in full or in part the initial glass suppliers. The new suppliers then take over the technical and quality specifications developed by the initial suppliers. It is at the stage where the new model is marketed that glass suppliers and motor vehicle manufacturers negotiate prices and quantities, normally on an annual basis.

- (16) The non-automotive glass market saw a fall in demand in the period 1979 to 1983, reflecting the recession in the European economy. As from 1984, demand picked up again, allowing producers, particularly as from the second half of 1985, to increase their prices considerably. As was stated in paragraph 12, demand for glass is expected, according to the industry's forecasts, to increase by between 1 and 3 % a year over the next decade.
- (17) The market in automotive glass is closely bound up with the trend of car production, which, following the second oil shock, went through a period of recession in Italy and the rest of Europe up to 1984. Only in 1985 did production begin to pick up again somewhat, with the recovery gathering further momentum in 1986 and 1987. According to the forecasts, the growth in demand for automotive glass over the next decade is expected to be lower than that for non-automotive glass.

B. The behaviour of the firms

4. The market in non-automotive glass

(a) Identical price

- (18) The three Italian producers communicated identical price lists to their Italian customers on dates which were close to one another and in some cases

on the same days (see Annex 3). The initiative in altering the price lists was not always taken by the same producer, but sometimes by one and sometimes by another of the three producers.

- (19) The closeness or identity of the dates on which the prices were communicated to customers was not, as claimed, fortuitous, since the three producers sent at least half of the price lists examined on the same day or within a short period of time.

The uniformity of the upward adjustments in prices is not due to the homogeneity of the products and the existence of an oligopoly situation on the market. As FP and VP have admitted in their replies, any producer deciding of its own accord to increase prices always runs the risk of not being followed by its competitors and thus of losing orders and market shares. To avoid such a risk and to avoid what happened to VP — which, in November 1981, had to withdraw the price increase announced the previous September, since FP and SIV did not apply VP's price increase — each producer takes the precaution of checking whether the others are prepared to increase prices as well. Following VP's experience in 1981, there has never again been a case of a price rise not being immediately matched by all the other producers, and this despite the fact that, at least until the end of 1983, demand was falling and that, in the years thereafter, excess production capacity continued to persist, despite the growth of the market.

(b) Identical discounts

- (20) Identical discounts on the listed prices were granted in accordance with the categories or levels in which customers were classified. Whereas prices were communicated to all customers without distinction, the classification of customers by category or level and the list of discounts were not divulged.

The percentage discounts granted on the listed prices were as follows:

— 1983:	A: 10+5+15+5
	B: 10+5+15
	C: 10+5+8
— 1984:	A: 10+5+15+5
	B: 10+5+15+3
	C: 10+5+15
— 1985 and 1986:	A: 10+5+15+5+5+4
	B: 10+5+15+5+5+2,5
	C: 10+5+15+5

- (21) The fact that the scales of the discounts granted to customers by the three producers coincide is not due to objective factors, such as, for example, the quantities bought from a producer or the terms of payment. As was admitted at the hearing, each

customer normally buys the bulk of its needs from one supplier and spreads the remainder of its requirements amongst the other producers, in the knowledge that, whatever the quantities it purchases from the various suppliers, it will always obtain the same terms. The fact that a customer which purchases large quantities from a supplier obtains the same discounts as a customer which purchases small quantities cannot be regarded as normal business practice, especially where the products in question are homogeneous and commonplace, with the only possible competition, since differences in quality or other differences are not possible, being price competition and competition in respect of terms of sale.

(c) Identical classification of the main customers by category or level.

- (22) The main customers, i.e. those which account for more than half of demand, were classified in the same category or level, whenever they obtained their supplies from any of the producers (see Annex 4⁽¹⁾). It may be seen from the table in Annex 4 that there are two exceptions amongst the first 20 customers and a number of exceptions amongst the smaller customers classified in lists A and B. The exceptions are due to the fact that some producers, such as VP, aim to give preferential treatment to processors or to the fact that each producer tries to give preferential treatment to certain customers in certain regions, as may be seen from a handwritten note on a meeting between SIV and FP on 30 January 1985 (see paragraph 27 below).

The classification of customers by category or level was not dependent on their purchases from a given producer, but on each customer's total purchases from all producers. The classification was updated several times during the period under consideration (see table in Annex 5, which it was possible to draw up only with reference to the years as from 1984).

- (23) VP denies that it classified customers into categories. The fact that there was no formal classification by categories does not mean that VP did not put the system into practice. What matters is not the form of the behaviour, but whether it actually took place. Furthermore, VP admits in its reply to the statement of objections not only that its price lists and basic discounts were the same as those of its

competitors, but also that it applied the same pricing policy to its customers as did its competitors.

The three producers argue that the classification of customers is based on objective criteria specific to each firm, such as the volume of purchases, solvency, management and development.

If each firm asserts that it has its own internal and secret criteria for classifying customers, customers cannot be the means of circulating information from one producer to another, since customers cannot know the criteria, but only the discounts granted to them. It is therefore not probable that each customer will pass on internal, secret information to each producer in order to allow the other producers to adapt their customer lists within a brief or relatively brief period of time, or the same day, as was the case with the changes in the lists of FP and VP on 1 January 1984, 1 January 1985 and 1 August 1985.

The tables contained in FP's answer to the statement of objections and VP's comment that it granted high discounts to most customers confirm what the Commission asserted in its statement of objections, namely that the differences of classification between FP and SIV are minimal (one customer out of 23 in the case of List A dating from 1985, and three customers out of 25 in the case of List A dating from 1986) and that most of the difference evident in the case of VP is due to the fact that VP, which unlike FP and SIV, does not have any processing activity, gives preferential treatment to a number of processors, whereas in the case of the main wholesalers it applies the same pricing policy as its competitors.

The table in Annex 4 shows that the main wholesalers are classified in the same category by the three producers.

FP's claim that the main classification criterion is the turnover achieved with it is contradicted by the following facts:

Comparison of the tables provided by FP in its reply shows that customers which purchased larger quantities from FP are classified in category B, whereas customers which purchased smaller quantities are classified in category A. In addition, there are nine wholesalers out of 23 in 1985 [...] and eight wholesalers out of 25 in 1986 [...] classified in category A, even though their purchases do not fall within the turnover brackets indicated by FP in the tables in its reply.

⁽¹⁾ This Annex refers to 1985 and 1986. In the case of earlier years, it was not possible to draw up tables, since not all the producers were able to provide full information.

(d) Elements of concerted practices between producers

- (24) The uniformity of prices and of discount scales and the uniform classification of the main customers by category or level are the result of concerted practices between the producers agreed on directly during talks, meetings or contacts or through the intermediary of the spokesman of the main customers.

The documentary evidence of such concerted practices, which was communicated with the statement of objections to the firms to which this Decision is addressed, is set out below.

- (25) During the meeting held on 12 July 1983 with FP, Socover complained to FP's representative that SIV and VP had not fulfilled the undertakings to wholesalers regarding discounts and terms of payment (handwritten note of Socover dated 12 July 1983). The parties have given three different interpretations of the note. According to Socover's written statement, produced by VP, Socover was complaining that SIV and VP had not fulfilled the undertakings entered into to try and obtain better terms from FP. According to FP, by contrast, it was FP which was complaining because SIV and VP had not complied with the undertakings. According to SIV, lastly, the undertakings referred to in the note are undertakings entered into by each producer *vis-à-vis* Socover.

The note clearly mentions undertakings on discounts ('discount scales and super credit') by the three producers *vis-à-vis* all wholesalers. Socover, acting as spokesman for the wholesalers, refers to non-compliance not with the undertakings given to itself, but with those given to all wholesalers, as is confirmed in FP's reply: 'Fabbrica Pisana had learned, through glass operators, that SIV had, at that time, glass in stock with its main wholesale customers: the latter were thus able to obtain glass at the old price in May and June. By way of response, Vernante Pennitalia had lowered its price for Planilux 4 mm to Lit 4 640, selling it as "second choice".'

- (26) On 30 October 1984, a meeting took place between SIV and FP in Rome. During the meeting, the following decisions were adopted: cast glass was not to be sold below FP's price; a common policy was adopted for triple glass (handwritten note by SIV dated 30 October 1984).
- (27) During the meeting held in Rome on 30 January 1985, SIV and FP mutually noted that they were complying with the agreements in substance and in particular that they were complying with the prices

for clear glass. However, as regards coloured and laminated glass, SIV accused FP of breaching the provisions of the cartel by resorting to various devices, such as supplementary discounts granted to certain wholesalers. SIV proposed that each producer should have its preferential customers to which to grant supplementary discounts (FP's handwritten note dated 30 January 1985). For its part, SIV undertook, with regard to discounts and customers classified in category 'super A', to apply the same terms and conditions as the other producers (SIV's handwritten note dated 30 January 1985).

- (28) On 28 March 1985, FP undertook, during a meeting, to sell SIV 1 000 tonnes a month of cast glass. The two firms agreed that SIV would not sell the cast glass to 16 listed customers reserved for FP (FP's handwritten note dated 28 March 1985).

These 16 reserved customers are not the Fontana affiliates, as FP claims in its reply to the statement of objections, because there are eight Fontana affiliates (Ovest, Est, Quentin, Centro, Vesuviana, Adriatica, Sud, Sarda) and not 16, and because it is illogical to reserve customers that are by definition already reserved since they are totally controlled.

- (29) On 12 April 1985, Socover discussed with FP the possibility of appointing sales agents in each region. At the same meeting, Socover and FP also discussed the apportionment of orders among the producers on the historical basis of the last two years (Socover's handwritten note dated 12 April 1985).
- (30) At the meeting between Socover and FP held on 10 July 1985, an FP manager informed Socover that FP was in the process of consulting with the other producers on a price increase of 7 to 8 % for clear glass as from October and that the prices for coloured and cast glass would not be changed (Socover's handwritten note dated 10 July 1985).

A 7,5 % price increase was indeed announced to customers by the three producers in October.

- (31) During the meeting between Socover and SIV held on 23 July 1985, SIV's commercial director informed Socover that the producers were 'in the process of deciding on' a 10 % price increase for float glass as from August and that they would grant an end-of-year premium of 3 % to a number of preferential customers (Socover's handwritten note dated 23 July 1985). An 8 % price increase was indeed notified to customers by the three producers towards the end of July. The 3 % annual premium was indeed granted by the three producers to a number of preferential customers.

- (32) On 12 March 1986, VP's commercial director and director of sales for Italy met Socover in Milan and announced that VP would also adopt the price increases envisaged by FP and SIV as from 1 April 1986 (Socover's handwritten note dated 12 March 1986).

In its reply to the statement of objections, VP produced a written statement by Socover on the interpretation of this note by Socover. According to the statement, Socover informed VP of the fact that SIV and FP had increased their prices with immediate effect and VP replied that it would probably follow suit. It should be noted, firstly, that, on 12 March 1986, Socover could perhaps have had knowledge of FP's decision, since FP had sent out the new price lists on 10 March 1986, but it could not have had knowledge of a decision that had not yet been taken by SIV, which sent out its price lists on 14 March 1986. Then again, VP could not react immediately on the basis of two pieces of information one of which could perhaps have been known and the other not: alignment can be announced only where the reference data are known.

More generally, VP argues that it is concerned only by the references contained in Socover's notes of 12 July 1983 and 12 March 1986, on which it has given its interpretations. The Commission cannot share this view. Socover's notes are explicit, since they always mention the decisions adopted by the three producers. As far as the notes of SIV and FP are concerned, SIV's note dated 30 January 1985 does not mention FP, but the others, i.e. the three producers, as a reference parameter for the discounts ('we will apply the same terms as the others'); FP's note dated 30 January 1985 does not refer to agreements between FP and SIV, but to the existence of a cartel between the producers. The only conclusion that may be drawn from the above is that VP participated less directly than FP and SIV in the concerted practices, but not that it did not take part in such practices.

- (33) As will be explained in greater detail under heading VI, the exchanges of products between the three Italian manufacturers also provide an opportunity for knowing the prices charged by competitors or for agreeing on the conduct to be pursued on the market, as may be seen from the facts set out below.

The prices of the products exchanged were always set and subsequently adjusted on the basis of the price adjustments of the transferring producers.

By letter dated 6 March 1985, FP accused SIV of not having adhered to the undertakings agreed on in Rome regarding the conditions of sale of cast glass transferred by FP to SIV.

FP's handwritten note on the meeting between SIV and FP held on 23 and 30 April 1985, during which product exchanges were discussed, contains the following statement: 'Prices which we will charge you free at customer's destination Distribution (by region) meeting on 4th for compensation'.

FP's handwritten notes on the meetings between SIV and FP held on 16 December 1985 and 3 February 1986, at which the apportionment of the production of the joint subsidiary Flovetro was discussed, contain the following statements '.... two elements: transfer prices — apportionment of profits' and 'whoever draws off more must undertake not to disrupt the market'.

- (34) The prices and discounts agreed on under the concerted practices were actually applied. Examination of certain invoices shows that one and the same customer who purchased widely differing quantities from the three producers was charged identical prices and granted identical discounts. The invoices examined were as follows:

- for 1983: SIV invoices Nos 00866, 01450, 02885, 03912, 09701; FP invoices Nos 00594, 01208, 02824, 08883, 09580; VP invoices Nos 110040, 210321, 210475, 210629,
- for 1984: SIV invoices Nos 04397, 11612, 11619, 11984, 11985; FP invoices Nos 01356, 10473, 12041; VP invoices Nos 110236, 110475, 11/3142, 11/3189, 11/3253, 11/3265,
- for 1985: SIV invoices Nos 212, 325, 1752; FP invoices Nos 508, 773; VP invoices Nos 11/0733, 11/0742, 11/0778.

(e) Relations between producers and wholesalers

- (35) The three producers took care to ensure that their prices and discounts were also applied downstream.

In the statement of objections, on the basis of the written statement of the complainant Cobelli, the Commission accused the three firms of having met on several occasions, indicating the instigators, dates and places of the meetings, with wholesalers in order to get them to accept and pass on the price increases. Since the complainant confirmed such meetings at the hearing only in general terms,

the Commission does not have any direct evidence on them except the Catania meeting held on 17 April 1986 between FP, SIV, Fontana Sud, Callipo, Tortorici and ISV, this meeting having been admitted to by FP and SIV, its purpose having been to introduce the new admitted to by FP and SIV, its purpose having been to introduce the new administrator of Fontana Sud, the presence of the SIV representative not having been anticipated.

However, certain documents show, firstly, that some meetings between wholesalers were arranged on the initiative of the producers and that, given their identical prices and discounts, the producers managed to guide the commercial choices of the wholesalers and, secondly, they confirm that the customers expected producers' prices to be identical.

- (36) Socover's handwritten note dated 12 July 1983 refers to discussions between the wholesalers' spokesman and FP on discounts and on the failure of the other producers to fulfill the undertakings given.

This note shows that Socover is the channel for passing messages from the wholesalers to the producers and from the producers to the wholesalers. Socover does not discuss with FP the terms granted it, which would have been of particular interest to it, but discusses the undertakings of the producers *vis-à-vis* all the wholesalers.

- (37) On 10 October 1984, a meeting was held between a number of wholesalers at the Sheraton Hotel in Rome. After the meeting, the following telex was sent to producers on 11 October 1984: 'The undersigned confirm the orders noted and will place new orders on the new terms taking account of all sources of supply ... The undersigned confirm their willingness to cooperate in improving prices on the market ... (the names of 28 customers follow)'.

Also on 11 October 1984, VP's director of sales met Socover in Milan, as may be seen from the FP manager's report on his mission, annexed to the reply to the statement of objections.

According to the producers, the telex simply reflected the intention of a group of customers to pursue a line of conduct imposed by circumstances.

The telex of 11 October 1984 demonstrates clearly the signatories' intention of cooperating with the producers. The telex affirms that wholesalers will not exert pressure on the producers in order to get

the date of application of the new prices postponed, that they will allocate orders in such a way as to take account of the various sources of production and that they will cooperate in improving prices on the market. Wholesalers cannot spontaneously embark on such conduct when it should be in their interest to obtain the best prices, to obtain their supplies from suppliers who grant them the best terms of sale and to achieve a good profit margin.

- (38) Socover's letter dated 19 October 1984, found in VP's offices, contains the following statement: 'At the request of the producers, we have drawn up the annexed price list, which will enter into force on 5 November. We have called a meeting to which we have invited all operators in the industry on Wednesday 7 November at 10.30 at the premises of Vetrounione in Milan ...'. By letter dated 20 November 1984, VP denied to Socover that it had requested any meetings on marketing.

With regard to the letter, the contents of which were not disputed by FP and SIV in their answers, VP claimed that it had obtained a copy through a customer, whose name was deleted, and produced a written statement from Socover which included the following statement: 'As for the letter referred to under (iii), it was sent to a number of wholesalers/distributors, but not at VP's request. As far as I can remember, the letter was never sent, even in the form of a copy, by Socover to VP, and VP did not take part in the meeting mentioned in the letter'. Since Socover states merely that the letter was not sent at VP's request, the obvious deduction is that it was sent only at the request of the other two producers, and this despite the fact that the letter states that 'at the request of the producers (without excluding any of them), we have drawn up the annexed price list, which will enter into force on 5 November'. Socover states that VP, and only VP, did not participate at the meeting held in Milan on 7 November 1984. However, in order to demonstrate that it never participated in the meetings, VP, in Annex B to its answer, produced certain monthly reports on the activities and whereabouts of its staff. One of the reports shows that VP's commercial director was on mission in Milan on 7 and 8 November 1984, i.e. on the day of the meeting called by Socover.

- (39) Socover's handwritten note dated 12 April 1985 mentions discussions between Socover and FP on the appointment of sales agents by region and on the apportionment of orders on the historical basis of the last two years.

None of the producers indicated what interpretation should be given to the phrase 'apportionment on the historical basis of the last two years' used in the note, or on the advantage to wholesalers of apportioning their orders not on the basis of the terms offered by each supplier, but solely on the basis of past statistical figures.

- (40) Socover's handwritten note dated 23 July 1985 deals with discussions between Socover and SIV on the granting of an end-of-year premium of 3 % to a number of preferential customers.

With regard to this note, on which neither FP nor VP adopted a position, SIV argued in its answer that it was 'the usual practice to grant a discount at the end of the year to customers which have attained a given level of purchases and which have been punctual in their payments'. The note itself refers to preferential customers and not customers that have purchased certain quantities and pay punctually for their purchases. In addition, it states that a customer, described by FP as the wholesalers' spokesman, is informed not of the discounts granted to it, but of the discount granted to preferential customers. Usual and normal business practice seems hardly an appropriate term to describe the fact that suppliers confide in a customer the business relationships maintained with other customers.

- (41) The report dated 16 September 1985 by Fontana Est to its parent company FP on the meeting of wholesalers held on 31 July 1985 refers to the fact that all the producers communicated the price increases and that, on the basis of such increases, the wholesalers decided on the scale of resale prices.

The report dated 23 September 1985 by Fontana Ovest to its parent company FP contains the following remarks: 'The customers seem prepared to accept the price increases The producers want the prices to be strictly complied with so as to allow greater market stability'.

The other report from Fontana Ovest, dated 31 October 1985, on the meeting of wholesalers held on 29 October 1985, deals with the wholesalers' adoption of the scale of resale prices on the basis of the new prices charged by the producers and contains the following statement: 'As far as the producers are concerned, the increase is in the process of being introduced ... In any case, everyone has communicated the new prices ... even if the terms are somewhat elastic ...'.

Far from being vague and unspecific or from revealing the wholesalers' general position, as the parties claim, the Fontana reports deal with precise facts such as the willingness of the wholesalers to accept the producers' price increases, the publication by

the producers of identical price lists, and the producers' desire that the prices be complied with so as to stabilize the market. This means that the producers directly or indirectly exert an influence over the market downstream, since destabilization of that market could have a harmful effect on their business policy.

- (42) During the meeting held on 10 April 1986, VP and Socover discussed the setting up of a club, consisting of 12 wholesalers, for the distribution of glass products. The two firms stated their intention of discussing the matter with FP and SIV the following week (VP's handwritten note dated 10 April 1986).

5. The market in automotive glass

- (43) The company documents discussed below indicate that SIV and FP agreed on prices and the allocation of quotas at least as from 1982. VP also participated in these restrictive practices from 1983 at least, albeit less strictly than the other two producers.

(a) The agreements and concerted practices concerning the Fiat group

- (44) By handwritten note dated 26 October 1982, FP forwarded to SIV an internal memo of the same date indicating the average percentage increases in prices obtained from Fiat from 1978 to 1982 and forecasts of average increases under the 1983 and 1984 contract signed between Fiat and FP on 14 June 1982.

SIV's internal memo dated 11 November 1982 shows that the average percentage increases obtained by SIV are the same as those obtained by FP. As regards SIV's quotas for 1983, the memo emphasizes that their calculation did not take account of the possible subsequent 2 % quota indirectly granted in Paris to SIV for 1983 and 1984, that a strict monitoring of actual quotas was necessary for original equipment, and that following the agreements entered into there was gradual alignment with the competition in respect of small batches.

- (45) As a result of pressure from Fiat on its suppliers for a reduction in prices, SIV's commercial director wrote the following in internal memo No 532 dated 11 May 1983: (5) Inevitable involvement of FP in the granting of these discounts and acceleration of the reduction process without any concession in terms of penetration quotas and with exacerbation of business relations with the competition ... (B) ... In order to act in this direction, we must ensure parallel, reliable and strict conduct on the part of our more qualified competitors ... The price reduction granted by the three producers FP, SIV and VP was uniform, at 8 %, and was effective from 1 January 1984.

- (46) SIV's handwritten note dated 12 October 1983 contains the following: 'Subject: IVECO — Following recent events connected with the aforementioned customer, I think it appropriate to communicate the following, which relates to the SIV-Saint-Gobain-Penny price level, on the two vehicles produced in larger quantities, i.e. Gamma S and Gamma Z (according to 1983 contract):

	Price level / % allocation		
	Saint-Gobain	Penny	SIV
Gamma S	[...] [...] %	[...] [...] %	[...] [...] %
Gamma Z	[...] [...] %	[...] [...] %	[...] [...] %

N.B. For the moment, at any rate, we have succeeded unofficially and without the knowledge of the department responsible for purchases in Turin in maintaining our quota at average levels equal to [...] of supply.'

- (47) At the beginning of 1985, discussions began on how to get price increases accepted by the Fiat group.

SIV's handwritten note on the meeting held in Rome on 30 January 1985 between SIV and FP contains the following statement: 'Fiat problem — increase in holes and brackets as Trojan horse in Fiat for increase in prices'. The problems concerning FIAT are also mentioned in point 3 of FP's handwritten note on the same meeting.

FP's handwritten note on the meeting held on 7 May 1985 between FP and SIV refers to the following agreement: 'Automobile meeting. Meeting (Chairman of SIV) — from 1 July 1985 to 31 December 1985 + 7 % real // from 1 January 1986 to 30 June, 5 % real // from 1 July 1986 ? ... ending up with the same increases + 0 — We will share 50 % of Fiat's reaction at least at the production level. Joint reduction in costs'.

This agreement between the two producers was confirmed, according to FP's handwritten note, at the meeting between SIV and FP held on 23 May 1985, at which VP's agreement was mentioned: 'Agreement Fiat + Alfa Romeo + 7 % immediately; + 5 % 1 January 1986; + X second half 1986. Agreement of Pennitalia'. During the investigation, the question was put in writing on 15 January 1987 to the director of automotive glass sales whether VP had been contacted or had had any meetings with SIV and FP to agree on or follow suit on price increases for the types of automotive glass referred to above. VP's director of automotive glass sales asked for time to think

before replying; the next day, on 16 January 1987, he replied in the negative.

FP's handwritten note dated 20 June 1985 confirms the agreement in the following terms: '(commercial director of SIV) ... Aid for Fiat — 7 % — reduction 3 % (according to him 1,5 %). Except for new models 2 %'.

SIV's internal memo No 090 dated 24 June 1985 refers indirectly to the implementation of the abovementioned agreements: 'Thursday 20 June, we concluded the negotiations with Fiat Auto for the second half of 1985 ...

We give a brief reminder of the terms of the agreements. (1) Increase of 7 % for all vehicles, increase of 2 % for new models, i.e. Y 10, Thema and 154. Since the latter models will have an impact over the next few months amounting to around 14,5 %, the theoretical weighted increase is 6,3 %. (2) Date of application of this increase: 1 July to 31 December 1985'. The average increase of 6,3 % was applied by SIV and FP, while VP applied an increase of 6 %, i.e. 0,3 % less.

Other uniform percentage increases in prices were introduced on the following dates: on 15 December 1985 by SIV and VP and 20 December 1985 by FP; on 1 May 1986 by FP, 15 May 1986 by SIV and 1 September 1986 by VP; on 1 December 1986 by SIV and FP.

With Alfa Romeo too, a uniform 2 % increase for the second half of 1985 was obtained, with subsequent uniform increases which FP and SIV applied with retroactive effect as from 1 September 1985 and which VP applied 10 months later.

- (48) The three producers carried out reciprocal sales or purchases of products (which will be discussed in greater detail under heading 6) with the objective of maintaining their respective penetration quotas or of achieving the quotas agreed with their competitors.

— *SIV-FP*. According to the figures provided by the two producers, FP sold SIV the following quantities of products not processed for the motor vehicle industry: [...] tonnes in 1982, [...] tonnes in 1983, [...] tonnes in 1984, [...] tonnes in 1985 and [...] tonnes in 1986, while SIV sold FP [...] tonnes in 1985 and [...] tonnes in 1986. In the case of products processed for the motor vehicle industry, the following transfers were made: FP sold SIV [...] tonnes in 1983, [...] tonnes in 1984, [...] tonnes in 1985 and [...] tonnes in 1986; SIV sold FP [...] tonnes in 1982, [...] tonnes in 1983, [...] tonnes in 1984 and [...] tonnes in 1985.

- FP's handwritten note dated 25 June 1985 contains the following statement: 'SIV exchanges products in particular those we purchase in France'.
 - FP's internal memo dated 31 October 1985 states the following: 'It appears that SIV might need about 500 000 side glasses preferably in the first half of 1986. The vehicles in question might be: Uno, Ritmo, Regata, Thema Croma, Alfa 33... The order might reach us in November (handwritten note in the margin: yes). I checked that there would not be any difficulties in supplying us with 40 000 rear windows a year for the Y 10'. The contents of this memo are confirmed by another internal memo by FP dated 8 November 1985. FP's internal memo dated 4 March 1986 mentions the quantities being produced in 1986 on behalf of SIV.
 - FP's handwritten note dated 17 December 1985 contains the following statement: 'Relationships with Fiat SIV hypothesis FP [...], SIV [...], others [...]. SIV has no production capacities. FP has capacities for [...] Fiat: [...] direct, [...] for SIV as subcontractor'. The main points of this note are confirmed by another handwritten note by FP dated 23 January 1986: 'Policy meeting motor vehicle sector: today us [...] SIV [...] ... FP [...] guaranteed (today [...]). The decreases are offset by sales to SIV at Fiat price free at destination...'
 - *VP-SIV*. According to the figures provided by the two producers, the exchanges involved the following quantities. VP sold SIV products not processed for the motor vehicle industry amounting to [...] tonnes in 1984, [...] tonnes in 1985 and [...] tonnes in 1986, while SIV sold VP [...] tonnes in 1983, [...] tonnes in 1984, and [...] tonnes in 1985. In the case of products processed for the motor vehicle industry, VP sold SIV [...] tonnes in 1984 and [...] tonnes in 1985.
 - VP's internal memos dated 14 February 1986, 28 April 1986, 3 June 1986, 13 June 1986 and 13 October 1986 and the telexes exchanged between VP and SIV on 28 March 1986, 15 May 1986, 20 June 1986, 25 June 1986, 11 July 1986 and 25 August 1986 refer to agreements under which VP, with the aid of its French fellow group member Boussois, was to produce for SIV [...] tonnes of green automotive glass and [...] tonnes of green plus automotive glass in 1987, and [...] tonnes of green automotive glass and [...] tonnes of green plus automotive glass in 1988.
 - *FP-VP*. The figures provided by the two producers do not tally; both producers' figures will therefore be indicated, with VP's figures being shown in brackets. FP sold VP products not processed for the motor vehicle industry amounting to [...] tonnes in 1982, [...] tonnes in 1983, [...] tonnes in 1984, [...] tonnes in 1985 and [...] tonnes in 1986. VP's internal memos dated 13 December 1985, 7 January 1986 and 18 February 1986 and the telexes exchanged between FP and VP of 19 December 1985, 20 December 1985, 7 January 1986, 9 January 1986 and 10 January 1986 refer to the agreement under which FP was to produce for VP [...] tonnes of clear 2,5 mm automotive glass, [...] tonnes of clear 2 mm automotive glass and [...] m² of standard green automotive glass.
- (49) FP has in its possession tabulations for the first and second halves of 1985, for 1986 and for 1987 showing, model by model and in overall terms, the quantities which each producer supplied in 1985 and 1986 and will supply in 1987 to the Fiat group and the percentage quotas represented by such supplies. The tables for 1985 are undated, while those for 1986 and 1987 are dated 20 October 1986. The overall percentage quotas for the years in question are as follows: first half of 1985: FP [... %], SIV [... %], PPG (VP) [... %], Splintex [... %]; second half of 1985: FP [... %], SIV [... %], PPG [... %], Splintex [... %]; 1986: FP [... %], SIV [... %], PPG [... %], Splintex [... %]; 1987: FP [... %], SIV [... %], PPG [... %], Splintex [... %].
- (50) The three producers dispute that there was any collaboration between them on prices and on quotas, claiming that the Commission's accusations are based on misinterpretations of the documents.
- The automotive-glass market in Italy, they argue, is dominated by Fiat. Like any other motor vehicle manufacturer, Fiat allocates overall supply percentages to each supplier on the basis of considerations relating to prices, its technical capacity and the service offered. Each overall percentage is reviewed bilaterally when negotiations are carried out on the updating of prices. The overall allocation percentages thus defined are converted into allocation percentages for each model of car. The confirmations sent out by Fiat to its automotive-glass suppliers explicitly mention the quota allocated by it to the supplier concerned in respect of the model in question.
- During the negotiations, Fiat is in the habit of revealing the most favourable quotation, with the aim of getting the competing suppliers to fall into line. This leads inevitably to an alignment of prices. Contrary to the Commission's supposition, Fiat

frequently informs each of its suppliers of the supply quotas allocated to competitors. All in all, the system results in total transparency of the market. Consequently, it is argued, concerted practices between the producers are not necessary.

With regard to the exchange of products, it is argued, the Commission has not provided any proof that such exchanges are deliberately arranged in order to share the market between the producers. In addition, the products exchanged are primary glass and only in exceptional cases do the exchanges involve processed products.

(51) The Commission cannot accept the arguments advanced by the producers, for the following reasons :

- (i) It is true that Fiat enjoys a position of almost total monopoly in Italy as a purchaser of glass for motor vehicles; however, its contractual power is greatly limited by the restrictive nature of alternative offers on the market. The supply of motor vehicle glass in Europe is controlled by an oligopoly comprising, as well as Saint-Gobain, PPG SIV, the present suppliers for Fiat, Pilkington and a number of small producers.
- (ii) On the allocation quotas, it is true that Fiat, like any other motor vehicle manufacturer, specifies in its confirmations of orders the quota allocated to the supplier concerned. However, the quota allocated is merely an indication and not a final allocation, it commits neither the motor vehicle manufacturer nor the supplier, and changes may be made during the period of the contract either on the initiative of the motor vehicle manufacturer or on that of the supplier. That the manufacturer is not bound is shown by two facts reported by VP in its reply to the statement of objections : when the 8 % price reduction was negotiated with Fiat, Fiat on its own initiative reduced VP's quota for the current contract (Annex P to VP's answer); Fiat's letter to VP dated 3 July 1985 confirming its order (Annex E to VP's answer) contains the following statement : '... with regard to the short-term supply programmes, as you have been informed, it is not possible to define allocation percentages which are binding on us ...'.

That the supplier is not bound is shown by FP's statement in its reply : 'The suppliers are limited by their technical processing capacities,

according to their best estimates. It may happen that their estimates are not correct, or that the glass supplier cannot supply the volumes represented by its percentage quota, where sales of a model exceed forecasts'. Moreover, if it were really the case that the motor vehicle manufacturer allocated fixed and final quotas for the period of the contract, the suppliers would not have to worry about any danger of non-compliance with the quotas allocated and would not have to feel the need to collaborate on this subject or to exchange products in order to maintain their quotas. The documents referred to in paragraphs 44 to 48 show the contrary : 'Strict monitoring of actual quotas for original equipment is necessary... we are moving towards gradual alignment with the competition in respect of small batches' (SIV's note dated 11 November 1982) : '... acceleration of the reduction process without any concession in terms of penetration quotas... we must ensure parallel, reliable and strict conduct on the part of our more qualified competitors' (SIV's note dated 11 May 1983); SIV can show that despite its higher prices it was able to maintain its quotas, without the knowledge of Fiat's purchasing department (and yet it is asserted that Fiat allocates the quotas) (SIV's note dated 12 October 1983); the exchanges of processed and unprocessed products show the concern for mutual assistance in order to maintain the quotas. As for the tabulations, referred to in paragraph 49, the Commission considers that they do not come from Fiat and that they were not compiled on the basis of the figures provided by Fiat either. As VP states in its reply, negotiations with Fiat are conducted in percentages of sets and not in square metres; even if the tabulations for 1985, undated, and for 1986, dated 20 October 1986, could conceivably have been compiled by means of an estimate which, having been carried out *ex-post*, could be fairly precise, the same could not be said for the 1987 tabulation, since, on the date it was compiled, 20 October 1986, nothing was final and definite for the following year.

- (iii) The Commission does not dispute that a buyer may, during business negotiations, claim to have had a better offer, whether real or imaginary, in an attempt to get the other suppliers to fall into line. However, this does not mean that all suppliers will apply the same terms and that all suppliers are on an equal footing *vis-à-vis* a given buyer, since each supplier's position depends on what it has to offer in terms of production and business strength (wider range, special products, better service). Nor does it mean that a dominant buyer can oblige all its suppliers to align themselves on the most favourable offer or that it can easily turn to foreign suppliers in order to force local

suppliers to reduce their prices, since, as was admitted at the hearing, motor vehicle manufacturers increasingly demand to be supplied 'just on time'; this sort of service can more easily be provided by local glass manufacturers, which have an on-the-spot structure, than by a foreign glass manufacturer, who has to set up such a structure, and, amongst the glass manufacturers having the necessary structure, this requirement confers an advantage, in terms of quantities to be supplied and prices, on those which have a more firmly established and, at the same time, more flexible structure.

At all events, whatever the types of relationships that develop between a dominant buyer and its supplier, it is established that SIV, FP and VP collaborated in order to decide on the attitude to be adopted towards the Fiat group. Thus, FP sent SIV, by note dated 26 October 1982, the forecast price increases contained in the contract signed between FP and Fiat on 14 June 1982. The 8 % price reduction referred to in the note by SIV dated 11 May 1983 was agreed on and applied by the three producers. VP claims that the statement in SIV's note to the effect that 'we must ensure parallel, reliable and strict conduct on the part of our more qualified competitors' does not concern it, since, with [...] of supplies to Fiat, it had to be regarded as a marginal and not a 'qualified' competitor.

VP's interpretation is contradicted by that of SIV, the author of the note, which does not refer to qualified or marginal competition, but simply to competition. In SIV's reply to the statement of objections, we read the following: 'Whereas the expression "ensure parallel conduct on the part of the competition" is merely a very logical resolution on the part of the commercial director reflecting the intention to resist as far as possible excessive pressures for reduction'.

The price increases for the second half of 1985 and the first and second halves of 1986 were discussed and agreed on between the three producers. According to VP, the fact that FP's handwritten note dated 23 May 1985 mentions 'Agreement of Pennitalia' does not mean anything and at any rate there is no proof that the reference is reliable. In addition, the correspondence with Fiat dated 28 June 1985 and 3 July 1985, it claims, contradicts FP's handwritten note. Lastly, the coincidence of the date of the 15 December 1985 price change with that of SIV is, it is argued, the consequence of what was agreed with Fiat through the correspondence dated 28 June 1985 and 3 July 1985.

In the Commission's opinion, the reference to 'Agreement of Pennitalia' is reliable, since VP's accession to the agreement on the price rises for the three half-years concerned was essentially put into practical effect. The letters cited by VP have a quite different content to that mentioned by VP: VP's letter to Fiat dated 28 June 1985 does not contain any undertaking on prices on the part of VP, but merely indicates a willingness to leave prices for 1985 unchanged, provided that VP can double its supplies; Fiat's letter to VP dated 3 July 1985 similarly does not contain any undertakings but Fiat on supply quotas or on prices, but simply notes the possibility for VP to keep its prices competitive (not lower); these letters do not contain any mention of the dates of price changes nor do they mention any agreement on prices between Fiat and VP.

- (iv) The facts which demonstrate that the exchanges of products are aimed at market sharing are essentially as follows:

The exchanges are considerable every year and, as shown by the documents referred to in paragraph 48, they are not simply intended to make good shortages. In the case of unprocessed products, the exchanges involved a total of [...] tonnes in 1982, [...] tonnes in 1983, [...] tonnes in 1984, [...] tonnes in 1985 and [...] tonnes in 1986, i.e. between [...] and [...] % of the three producer's total retained consumption in the automotive sector; in the case of processed products, the exchanges totalled [...] tonnes in 1982, [...] tonnes in 1983, [...] tonnes in 1984, [...] tonnes in 1985 and [...] tonnes in 1986.

The notes and documents referred to in paragraph 48 explicitly mention the fact that FP is performing subcontracting work for SIV in respect of processed products.

The exchanges relate in particular to thicknesses and colours that are not manufactured by another given producer and are intended to allow the three producers to have the whole range of products available. However, the competitive advantage for a producer of having the whole range available is annulled if the three producers act in such a way as to ensure that there is no difference between them in this respect. The fact that a fuller range confers a competitive advantage is confirmed by FP in its reply: 'The suppliers can resist this pressure (from the purchaser) only if they have an objective competitive advantage over their competitors (fuller range, special products, better service) that may be decisive for the manufacturer'.

(b) The agreements and concerted practices concerning the Piaggio group

- (52) SIV and FP reached agreement, at least as from 1983, on the sharing of supplies and on prices charged to Piaggio.

FP's internal note dated 12 December 1984, found during the investigations on the premises of FP and SIV, refers to the following agreements: 'The situation at the end of 1982 was as follows: Quotas: Saint-Gobain $\pm$ [... %], SIV $\pm$ [... %]. Prices: (there follows the table of Saint-Gobain prices and SIV prices)... following contacts with (the SIV official) at the end of that year, we had agreed to proceed along the following lines: (1) SIV would continue not to supply the 6 011 model. (2) The objective would be to share [...] the quotas for the other models. (3) Differentiated increases were agreed so as to get Piaggio to spread the orders for each part in a non-uniform manner in such a way as to achieve the objective in point (2). In short, the agreement provided for... the following situation (there follows the table of prices agreed on and to be charged as from 1 March 1983 and 1 September 1983)... The agreement was largely complied with, but the situation hardly changed (at the end of the year $\pm$ [... %] S.G., $\pm$ [... %] SIV). In view of this fact, at the end of 1983, it was agreed with (the SIV official) still with a view to the sharing of the quotas [...] that for 1984 Saint-Gobain would increase prices by 4 % as from 1 March and by 3,5 % as from 1 September, while SIV would introduce differentiated price increases as from 1 July (there follows the table showing the increases agreed)... In actual fact, this agreement was never complied with... SIV had already agreed to postpone the increase to September-October... We were thus obliged to agree to delay the 1 March increase to 1 June... It should be pointed out that I always kept SIV informed of all my initiatives *vis-à-vis* the customer...'

Evidently, FP's internal note was sent to SIV, since the SIV official concerned wrote, on 28 December 1984, the following note: 'With reference to Saint-Gobain's note dated 12 December 1984 on the same subject... (1) No particular comments on the contents of pages 1, 2 and 3, which summarize exhaustively and precisely our previous agreements, which SIV has always complied with. (2) With reference to page 4 — first paragraph — I must point out that (the SIV official)... has always been in contact with (the FP official) and has pointed out

that Piaggio pressure had forced us to agree to postpone until November 1984 the increase requested and that, in any case, the increase ($\pm$ 4 %) would have had to be considered solely as a basis for the 1985 contract. Our telex No 3048 of 6 December 1984 to Piaggio... confirms totally what has been said above... To conclude, I confirm that there have always been contacts between (two SIV officials and two FP officials). Lastly, I must point out that, during a telephone conversation at the beginning of December between (an FP official and an SIV official) the latter communicated to the former the text of our telex No 3048....'

The agreements in question were implemented, as is evident from SIV's memo. SIV and FP altered their prices: for 1983, they did so on 1 March and 1 September; for 1984, FB did so on 1 March (postponed to 1 June, as is stated in the note dated 12 December 1984) and on 1 September, SIV on 1 January (as is stated in the note dated 28 December 1984) and on 1 September, SIV on 1 November (as is stated in the note dated 28 December 1984); for 1985, FP did so on 1 March and SIV on 1 May; for 1986, FB did so on 1 April and SIV on 1 May.

6. Exchanges of glass between the producers

- (53) Large quantities of glass are exchanged under contracts between the three producers. The purpose of the exchanges is to enable each producer to have available the full range of products, even those which it does not manufacture, and to maintain its market quotas. They also provide a means of sharing markets and customers and of knowing the prices charged by competitors, as may be seen from the documents and facts described below.

- (54) *SIV-VP exchanges.* According to the information provided by the two producers, automotive and non-automotive exchanges involved the following quantities. Since the figures provided do not tally, those supplied by VP will be shown in brackets. SIV sold VP [...] tonnes in 1982, [...] tonnes in 1983, [...] tonnes in 1984, [...] tonnes in 1985 and [...] tonnes in 1986. VP sold SIV [...] tonnes in 1984, [...] tonnes in 1985 and [...] tonnes in 1986.

By letter dated 16 September 1986, following a series of meetings and telexes between SIV and VP, SIV placed the following orders with VP: for 1986, [...] tonnes of green automotive float glass, [...] of clear, thick float glass, and [...] tonnes of green plus float glass; for 1987, [...] tonnes of green

automotive float glass, [...] of green plus float glass and [...] tonnes of clear, thick float glass; for 1988, [...] of green automotive float glass and [...] tonnes of green plus float glass. As regards non-automotive glass, the letter contains the following statement: 'Prices will be readjusted on the basis of the changes in the national price list'.

- (55) *VP-FP exchanges.* According to the figures provided by the two producers, with VP's figure being shown in brackets, automotive and non-automotive exchanges involved the following quantities: VP sold FP [...] tonnes in 1983, [...] tonnes in 1984 and [...] tonnes in 1986. FP sold VP [...] tonnes in 1982, [...] tonnes in 1983 [...] tonnes in 1984, [...] tonnes in 1985 and [...] tonnes in 1986. The telexes dated 19 December 1985, 20 December 1985 and 28 February 1986 and VP's internal note dated 3 April 1986 specify exactly the exchanges for 1986: VP sold FP [...] tonnes of bronze building glass; FP sold VP [...] tonnes of grey building glass, [...] tonnes of clear automotive glass and [...] m² of green automotive glass. Prices for glass not intended for the motor vehicle industry were readjusted on the basis of the changes in the respective price lists.

- (56) *FP-SIV exchanges.* According to the figures provided, FP sold SIV the following quantities of cast glass, SIV's figures being given in brackets: [...] tonnes in 1983, [...] tonnes in 1984, [...] tonnes in 1985 and [...] tonnes in 1986.

Exchanges of automotive and non-automotive float glass involved the following quantities (SIV's figures given in brackets). FP sold SIV [...] tonnes in 1982, [...] tonnes in 1983, [...] tonnes in 1984, [...] tonnes in 1985, and [...] tonnes in 1986. SIV sold FP [...] tonnes in 1982, [...] tonnes in 1983, [...] tonnes in 1984, [...] tonnes in 1985 and [...] tonnes in 1986.

The exchanges of memos, the minutes and the handwritten notes show that the prices of the products sold are established and subsequently readjusted on the basis of the sellers' price changes, that the prices are established by reference to the destination of the products sold on the national market and on specific foreign markets and that, even in the case of sale for the national market, the destination of the products is broken down by individual regions and uses.

- Telexes of 18 October 1984 and 20 October 1984 and letter from FP to SIV dated 18

December 1984: 'Normal thick clear float glass intended for export... [...] tonnes; amber exclusively intended for silvering [...] tonnes; bronze exclusively intended for silvering [...] tonnes; foreign automotive green plus [...] tonnes...'

- The contract signed on 18 January 1985 contains the following clause: 'The abovementioned selling price will be automatically increased during the year by the same increases as those applied to selling prices and made public by Fabbrica Pisana's price lists'.
- SIV's handwritten note on a meeting between SIV and FP held on 30 October 1984: 'Problems resolved: Clear float, normal thicknesses for export [...] tonnes 1 September 1984 to 31 December 1985. Bronze for silvering... grey Italy... automotive green plus... Cast glass... Must not sell at a price lower than FP. Laminated glass (especially flashed glass) — (director-general of FP) — Wish (concerning) a policy of apportionment in the factory instead of having glass processed — in the case of triple glass, adopt a common policy'.
- FP's letter to SIV dated 6 March 1985: '... I am obliged to inform you that I am not satisfied with the way in which your firm is managing the marketing of the cast glass supplied by us. At the last meeting in Rome, you agreed that SIV's salesmen should not for any reason apply terms that could adversely affect the proper rules of normal competition...'
- Handwritten note by FP on a meeting between SIV and FP held on 28 March 1985: 'Cast glass — (1) OK for supplies. (2) Price + 3 % on the product as from 1 April. (3) [...] tonnes/month. (4) Customers — 16 customers reserved for us in accordance with list in our and their possession'.
- Following the meetings held on 23 and 30 April 1985, FP's handwritten note dated 30 April 1985 refers to the following decisions adopted by FP and SIV: 'Prices which we will charge you free at customer's destination ... Total quantity [...] tonnes/month. Distribution: Piedmont 3 %, Lombardy 1 %, Trentino 1 %, Emilia-Romagna 8 %, Tuscany 10 %, Abruzzi-Milise 3 %, Lazio 4 %, Campania 24 %, Apulia 14 %, Calabria 10 %, Sicily 5 %, Sardinia 3 %, meeting on 4th for compensation'.
- FP's handwritten note dated 4 June 1985: '(commercial director of SIV) — [...] tonnes/month — continuity — invoicing directly abroad. GV all 4 mm, price FF 84 = 209,63 —

370 Lit/kg, any thickness + 4,8 % for the FF exchange rate he will say (?) a change of 2 % we apply automatically ... Laminated glass he would like (?) + 3 % ...

- FP's handwritten note dated 16 December 1985 (meeting with SIV): '(the director-general of SIV) speaks of an extra [...] tonnes for them ... two elements: transfer price — apportionment of profits'. With reference to these transfers, FP's handwritten note on a meeting between FP and SIV held on 3 February 1986 contains the following statement: 'Whoever draws off more must undertake not to disrupt the market'.

- (57) According to the producers, supplies of primary glass are economically necessary for reasons inherent in the structure of the industry. Each producer cannot produce all colours and thicknesses, since switching from one colour to another and from one thickness to another means downtime, which costs money. It is therefore normal for producers to exchange products, so that each producer can have the full range of products available. In addition, account must be taken of the technical need to shut down and maintain furnaces periodically, which involves downtime and hence the need to buy in supplies of the primary product.

With regard to exchanges of processed products, it would be mistaken to believe that the transferor could take advantage of a shortage of products on the part of the transferee in order to place products with the consumer, since, in the event of refusal by the transferor, the transferee will try to obtain supplies from other competitors.

The exchanges are not systematic in character, since they are carried out in response to *ad hoc* requirements.

Lastly, the geographic destinations or intended uses referred to in certain documents are essential in defining the quality of the product and in setting the transferor's selling price.

- (58) (i) As it said in the statement of objections to the firms, the Commission does not intend to call into question exchanges of products to help out firms facing temporary shortages (renewal of production plant, shutdown for maintenance of furnaces, fulfilling occasional orders), but, as stated in the present case, only the systematic exchanges of products agreed over long periods

and which are the result of industrial and commercial policy decisions made by the manufacturers in the context of other agreements restricting competition.

The Commission cannot agree with the producers' view that such exchanges are economically necessary. As the producers affirm, the purpose of the exchanges is to allow each of them to have a full range of products available at any time, thus cancelling out the economic advantage deriving from each producer's specialization.

Whether the specialization relates to a given thickness or a given colour, the exchanges cancel out the advantage of specialization and artificially place all the producers on an equal footing, thus preventing customers from benefiting economically from the productive and commercial edge enjoyed by individual producers. As the uniformity of the price lists and discounts of the three producers shows, the exchanges result in practice in a flat and uniform market. Furthermore, so as to prevent customers from identifying the producer of the product transferred and thus applying directly to that producer, the transferee rarely reveals the origin of the product sold, and then only at the express request of the customer, as VP admitted at the oral hearing.

- (ii) With regard to exchanges of processed products, the argument put forward by the producers does not tally with the facts. If what the producers claim is true, namely that each processed product, notably those for the motor vehicle industry, must meet certain technical and design specifications imposed by the consumer, it is difficult to see how a producer lacking a given product could obtain the product outside the restricted circle of the suppliers of the product in question, since those which are not suppliers of the product do not have the right equipment for its manufacture. It is thus within the group of current suppliers that the exchanges are able to be carried out. Consequently, the transferor of the products gives up its ability to increase its market share and allows the transferee to maintain its share, since, as was stated in paragraph 51, the quotas allocated by the consumer are for guidance purposes and are binding neither on the suppliers nor on the consumer.

- (iii) Contrary to what the producers claim, the product exchanges are, in the Commission's view, systematic. Although alongside multiannual exchange contracts there are also annual contracts, such contracts must be seen in the context of a commercial policy which, as the producers admit, is known and is always applied. This means that a producer which requires a product can always be sure, in view of the established practice, that it will be able to obtain supplies from its competitors.

This is all the more true as the exchanges apply not to marginal quantities, but to considerable tonnages. However, such large quantities could not be exchanged unless there were an established system. A formal framework agreement is not necessary for the system to function, as the parties claim, since the fact that a business practice is current and repeated is sufficient to give the exchanges a systematic character. The significance of the exchanges of float glass by the three producers is shown by the percentage which they accounted for each year in relation to each producer's production :

(in %)

	FP		SIV		VP	
	Sales	Purchases	Sales	Purchases	Sales	Purchases
1982	[...]	[...]	[...]	[...]	[...]	[...]
1983	[...]	[...]	[...]	[...]	[...]	[...]
1984	[...]	[...]	[...]	[...]	[...]	[...]
1985	[...]	[...]	[...]	[...]	[...]	[...]
1986	[...]	[...]	[...]	[...]	[...]	[...]

Over the five years, the average for reciprocal sales by the three producers was equivalent to [...] % of their overall production, while the average for their reciprocal purchases over the five years represented [...] % of their production.

product involved is of top quality or second quality.

II. LEGAL ASSESSMENT

A. Article 85 (1)

In the case of cast glass, FP, which since the beginning of 1984 has been the only producer in Italy, sold to its Italian competitors quantities which accounted for the following percentages of its total sales of this product: [...] % in 1983, [...] % in 1984, [...] % in 1985 and [...] % in 1986.

- (iv) On the need to indicate geographical destinations or intended uses, it should be noted that glass was defined, by these very producers, as a homogeneous and commonplace product, so homogeneous that it is impossible to identify the individual manufacturer. If this is the case, and given the fact that the product is transferred to another professional who is able to detect its faults and its qualities, it is difficult to see why there should be any prior indication of a destination, all the more so since, the identification of the manufacturer being impossible on the basis of the product, the transferor need not fear any liability for the product. Furthermore, if the product, whatever the manufacturer, is always homogeneous, its transfer price cannot be dependent on the geographical destination or intended use, but solely on whether the

- (59) Article 85 (1) of the Treaty prohibits as incompatible with the common market all agreements between undertakings or concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market, and in particular those which directly or indirectly fix purchase or selling prices or any other trading conditions and those which share markets or sources of supply.

- (60) The agreements and concerted practices described below are covered by the prohibition laid down in Article 85 (1), and the undertakings in question are undertakings within the meaning of that Article, since they are engaged in economic activities in the production, processing and sale of flat glass.

7. *The agreements and concerted practices concerning glass not intended for the motor vehicle industry*

- (61) The publication of identical price lists within a short period of time, or indeed on the same date, and the existence of identical discount scales and

of identical lists of categories of customers qualifying for such terms are the result of agreements and concerted practices between the producers in question. The documents and notes on the meetings and discussions referred to under heading 4 show that FP, SIV and VP agreed or at any rate colluded, at least from 1983 and up to 1986, in charging uniform prices and applying uniform terms of sale, and that the argument that the identity of the price lists and terms of sale was merely the consequence of the homogeneity of the products and of an oligopoly situation on the market does not correspond to the facts.

- (62) The Commission cannot accept the view of certain producers on the concept of agreement.

For a restriction to constitute an agreement within the meaning of Article 85 (1), it is in no way necessary for the agreement to be legally binding on the parties. An agreement exists once the parties agree on a practice which restricts or is liable to restrict their commercial freedom by laying down the lines of their action or of their mutual abstention from action on the market. No contractual sanction is required. It is not necessary that the agreement be established in writing.

In the case in point, as was explained in paragraphs 18 to 33, Socover's notes dated 12 July 1983, 12 April 1985, 10 July 1985, 23 September 1985 and 10 March 1986 and SIV and FP's notes dated 30 January 1985 refer to agreements between the three producers on price lists and terms of sale, and SIV and FP's notes and documents dated 30 October 1984, 6 March 1985, 28 March 1985, 12 April 1985, 23 and 30 April 1985, 16 December 1985 and 3 February 1986 refer at least to agreements between SIV and FP on prices and terms of sale agreed in connection with exchanges of products, agreements whose point can be explained only in a market which is already cartelized.

- (63) The producers claim that the Commission has not provided any proof of meetings or agreements between the three producers in question intended to ensure uniform price lists or terms of sale, but solely proof of bilateral contracts between a given producer and a wholesaler. As has been evident above, the Commission has provided proof of meetings between the producers and has shown that Socover's notes and SIV's and FP's notes refer to prior agreements between the three producers. However, even if the producers' claim were true, the fact remains that the publication of identical price lists over a long period, the existence of the same discount scales and the application of uniform terms of sale to the same customers could

only be the result of concerted practices either directly between the three producers or through the intermediary of the spokesman for the wholesalers.

Although the concept of agreement is distinct from that of concerted practice, collusion may involve elements of both forms of illicit cooperation. By treating concerted practices as a separate concept, the Treaty aims to prevent undertakings from getting round the application of Article 85 (1), by reaching an understanding on anti-competitive arrangements that do not amount to an agreement, for example, by obtaining information from one another in advance on the attitude which each proposes to take, so that each undertaking can decide on its business conduct in the knowledge that its competitors will act in the same way⁽¹⁾.

In its judgment delivered on 16 December 1975⁽²⁾, the Court held that the criteria of coordination and cooperation laid down by the case law of the Court must be understood in the light of the concept inherent in the provisions of the Treaty relating to competition that each economic operator must determine independently the policy which he intends to adopt on the market. Although it is correct to say that this requirement of independence does not deprive undertakings of the right to adapt themselves intelligently to the existing and anticipated conduct of their competitors, it does however strictly preclude any direct or indirect contact between them, the object or effect whereof is either to influence the conduct on the market of a competitor or to disclose to such a competitor the course of conduct which they themselves have decided to adopt or contemplate adopting on the market.

Even if it is not wished to describe the content of SIV's and FP's notes and documents and of Socover's notes as amounting to agreements, there is no doubt that the notes and documents reflect collusion between the three producers, whatever the precise form which the collusion took, since the producers could not fail to be aware of the meaning of the words they were using when they stated 'we will apply the same terms as the others', 'we are breaching the provisions of the cartel' and '... must undertake not to disrupt the market', or that Socover, defined by the producers themselves as the spokesman of the wholesalers, could be used, as it often was, as the medium for conveying planned or anticipated conduct on the market from one producer to another.

⁽¹⁾ Case 48/69, ICI v. Commission [1972] ECR 619.

⁽²⁾ Joined Cases 40 to 48, 50, 54 to 56, 111, 113 and 114/1973 Suiker Unie v. Commission [1975] ECR 1663.

Even if the three firms were able, which they are not, to argue that they obtained knowledge of their competitors' price lists through their customers, the price lists being public, they could not legitimately rely on such an argument to justify their knowledge of documents such as the discount scales and the lists of customers qualifying for the discounts, such documents being defined by the firms themselves as being internal documents jealously kept secret. Add to this the fact that the firms changed the classification of customers by category or level sometimes on the same day and in most cases within a brief period of time, and the obvious conclusion is that the parties' argument is without foundation.

- (64) As may be seen from the facts set out in paragraphs 35 to 42, the meetings between the principal wholesalers that were instigated and/or organized by the producers are the result of agreements or concerted practices between FP, SIV and VP designed to orientate, along lines that suited their concerted interests, the purchasing and sales policies of the wholesalers, who, because of their economic dependence, are unable to assert themselves against the power and manipulations of the producers. If the wholesalers were not obliged to take their business decisions in corporate meetings in which the free choice of each wholesaler is impeded or prevented by the fact that the meetings are instigated by the producers, who wish thus to underline the fact that they are acting by common accord, and by the direct or indirect presence (the marketing companies controlled by the producers) of the producers and of the other wholesalers, who are their natural competitors, they could individually exert pressure on the producers and purchase from the producer or producers that offered the best terms of sale, thus upsetting the market equilibria desired by the producers. The purpose of the corporate meetings is precisely to avoid such pressures, to enable the producers to monitor one another and adopt uniform conduct and, consequently, to consolidate the market equilibria and structures agreed.

- (65) The fact that from time to time individual producers are accused of not complying with their undertakings and of breaching the cartel and the fact that some producers are late in applying agreed prices and terms are reflections of the existence of the abovementioned agreements or concerted practices, which, by their nature, constitute infringements of Article 85. In addition, even if the agreements are not fully complied with, this does not mean that they do not have a significant influence on the conduct of the firms.

- (66) These agreements and concerted practices between firms manufacturing identical products constitute serious restrictions of competition within the meaning of Article 85 (1). Through the agreements and concerted practices, the undertakings in question have committed themselves to restricting substantially their independence of conduct *vis-à-vis* their customers, and they have acted in such a way as to ensure that their principal customers fall into line with their decisions and are unable to take their own business decisions freely. The effects of these restrictions are all the more appreciable as FP, SIV and VP control some 79 % of the Italian home market. Through the conduct at issue, the undertakings have reduced the scope for purchasers to benefit from competition between the local producers, given their overall market share even after imports are taken into account. In addition, in view of the risks involved in not being able to rely on regular supplies, it is difficult for the main purchasers, wholesalers and processors to dispense with supplies from the producers established in Italy.

8. *The agreements and concerted practices relating to automotive glass*

- (67) The facts and documents described under heading 5 show clearly that FP and SIV, from 1982 to 1986, and FP, SIV and VP, from 1983 to 1986, entered into agreements or at least concerted their behaviour on the prices to be charged to the Fiat group and, from 1982 to 1987, on the sharing of the market, thus removing any uncertainty as to their mutual conduct.

The agreements and concerted practices between FP and SIV, which involve the setting of prices, down to the retail stage, the apportionment of supplies, even down to particular items, and the apportionment of profits or losses deriving from the customer's reaction constitute much more serious infringements than those committed through the cooperation with VP.

However, VP's conduct also constitutes an infringement. There is no doubt that VP participated in the agreements or concerted practices relating to prices, as is evident from SIV's and FP's notes and the fact that VP applied the price list changes without fail, albeit with a difference of 0,3 % less in one case and with some delay in others. Nor is there any doubt that VP participated in the agreements relating to the apportionment of supplies, as is evident from the tabulations in FP's possession and the fact that it actively produced and continues to produce non-processed and processed products on behalf of its competitors.

It is unlikely that a supplier will learn of increases in his competitors' prices through a customer, since it is in the customer's interests to communicate price reductions, but not price increases. It is in the customer's interests to break up the suppliers' common front so as to obtain different prices reflecting the contractual strength of each supplier. Even if it were true that, during negotiations with a customer, a supplier could obtain information on its competitors' terms, the fact remains that the terms applied by each supplier would depend on its contractual strength, the range of products it can supply and the service offered and that even a customer in a dominant position could not, in determining the terms of purchase, fail to take account of these objective facts. At all events, it is clear that FP, SIV and VP collaborated prior to any negotiation with the Fiat group either on price reductions or on price increases.

Lastly, it is improbable that the customers were the source of the quotas or were the means of circulating information on the quotas, since it is difficult to see how it could be in the customers' interests to pass on information on the origin and percentages of their supplies. On the contrary, such information is jealously guarded as a business secret. The fact that, in confirming orders, the customer mentions the quota allocated for the relevant model to the supplier concerned does not mean that the quota is final or that the customer will communicate to each supplier the quotas allocated to the other suppliers. The quotas allocated individually to each supplier by the customer are solely for guidance purposes and are not binding on the customer or on the supplier, changes always being possible. In addition, the percentages negotiated with the customer are expressed in terms of units, whereas the tabulations in FP's possession contain percentages expressed in terms of square metres. It follows from this that the allocation of final and detailed quotas is not the customer's doing, but the result of the apportionment of supplies agreed between the three producers.

- (68) The documents referred to under heading 5 show that FP and SIV agreed or collaborated, from the end of 1982 to 1986, on the prices to be charged to Piaggio and on the quantities and items which each of them would supply.

Through these agreements and practices, which constitute clear infringements, the two producers developed a long-term strategy designed to get the customer in question to apportion its orders in accordance with what they had decided, thus depri-

ving Piaggio, through the system of differentiated prices, of any economic scope for choosing its own sources of supply.

Such conduct is all the more serious as FP and SIV actually put their agreements into effect, adapted them to changing circumstances in the course of their implementation and extended them beyond the period initially provided for.

- (69) The above agreements and concerted practices constitute restrictions of competition within the meaning of Article 85 (1). Through these agreements and concerted practices, the producers in question created a market situation such as would exclude or, at the very least, reduce to a minimum any form of competition between them. The agreements and concerted practices allowed those concerned to seek and achieve an equilibrium in prices and outlets at a different level than that which would have occurred in a normal competitive situation and to crystallize their respective market positions. The effects of the restrictions applied by the producers in question are appreciable, since FP and SIV control more than 80 % of the Italian automotive glass market and since FP, SIV and VP control some 95 % of that market. Because of the conduct at issue, consumers were deprived of the possibility of benefiting from competition between local producers, in view of the preponderance of sales by local producers on the market in question even after imports are taken into account. In addition, it must be borne in mind that, in order to be able to rely on regular supplies, consumers are unable to dispense with supplies from producers established in Italy.

9. The agreements relating to exchanges of glass between the producers

- (70) The agreements and contracts described under heading 6 and relating to systematic exchanges of glass between the three producers constitute appreciable restrictions of competition within the meaning of Article 85 (1), since they deprive the parties of their independence of conduct and of their ability to adjust individually to circumstances. Through the agreements and contracts, each producer gives up the right to take advantage, through increased direct sales to customers, of the other manufacturers' lack of products, of its own productive capacity, its specialization and its technical processing capacity, being in turn protected from such a risk where the situation is reversed.

At the very time when it would be particularly easy for one party to encroach on the market of another, since the products are identical, or when one party

could take advantage of its specialization to establish itself more strongly in the market segments which are of particular interest to it, it must instead refrain from such types of conduct and deflect part of its production from normal sale in order to supply a competitor. Moreover, the recipient competitor is in a situation of dependence on the transferring producer which prevents him from using the products received under the agreements and contracts for any competitive activity, as certain documents specified under heading 6 show.

As may be seen from the documents referred to under heading 6, the ultimate purpose of the agreements and contracts is to share markets and customers between the producers and to prevent any change in their respective positions in the various market segments and any pressure from the consumers. In the automotive glass sector, the sharing of the market and customers is sometimes very far-reaching: certain producers perform subcontracting work for their competitors, which have the appropriate technology and processing facilities, simply in order to achieve a given apportionment of supply quotas for each customer.

10. *Affect on trade between Member States*

- (71) The restrictions of competition described under headings 7, 8 and 9 are liable to have an appreciable effect on intra-Community trade. The agreements on prices also concern products imported by SIV from other Member States, by FP from other companies belonging to the Saint-Gobain group and by VP from its fellow group member Boussois. The agreements on prices therefore also have as their object products of Community origin.

The agreements relating to exchanges of glass also involve products from the three firms intended for export. They therefore have the effect of preventing each producer from developing freely its sales within the Community.

In addition, the agreements on exchanges of products and the agreements on prices and on quota and market sharing influence sales achievable in Italy through imports of articles produced in neighbouring countries. The practices in question establish a structure of uniform business terms

differing from the structure of differentiated conditions that would normally have obtained if competition had not been restricted, and they therefore deflect flows of trade between countries from the course they would otherwise have followed. By establishing these uniform terms, the addressees of this Decision, which account for some 79 % of the Italian market for non-automotive glass and some 95 % of the market for automotive glass and which control a large part of the external sources of supply, have affected the structures of effective competition. It follows that the agreements appreciably affect trade between Member States by consolidating national compartmentalizations which obstruct the economic interpenetration desired by the Treaty.

B. Article 85 (3)

- (72) The agreements and concerted practices to which this Decision relates cannot be exempted under Article 85 (3), since they were not notified in accordance with Article 4 (1) of Regulation No 17 and since they do not fall within the exemptions provided for in Article 4 (2) of that Regulation.
- (73) The Commission considers that, even if the agreements and practices had been notified, the conditions for applying Article 85 (3) would not be met. It is difficult to see how agreements on prices and on market sharing can contribute to improving production and distribution or contribute to technical progress, or what benefit the agreements can allow consumers. In addition, the agreements afford the undertakings the possibility, on the Italian market, of eliminating competition in respect of a substantial part of the products in question.

C. Article 86

- (74) Article 86 of the EEC Treaty states that any abuse by one or more undertakings of a dominant position within the common market or in a substantial part of it shall be prohibited as incompatible with the common market in so far as it may affect trade between Member States.
- (75) FP, SIV and VP are undertakings within the meaning of Article 86.

11. *The relevant market*

- (76) The market covered by this Decision is the market in flat glass. Unlike hollow glass, which is in competition with other products such as aluminium cans, tin cans, specially treated cardboard cartons and plastic bottles and containers, flat glass is not interchangeable, except in the case of two uses, with other products in respect of the various applications for which it is intended. Leaving aside use for greenhouses and verandas, in respect of which flat glass is in competition with plastic, unless there is a particular need to avoid heat dispersion, there are no competing products for the other uses of glass. In the case of automotive glass, building glass, mirrors, reflecting glass, insulating glass, laminated glass and armoured glass, flat glass cannot be replaced by other products.

Flat glass must consequently be considered to be a specific market, since, given its mechanical, thermal, optical and decorative properties and the ratio of quality to price, it is able, in its various uses, to meet constant requirements, and it is not interchangeable with or replaceable by other products, except in the case of two uses.

- (77) Italy, which represents a substantial part of the common market, must be considered to be the relevant geographical market in which to assess competition. The geographical location of production facilities is a vital factor in the glass industry. Although the cost of transport is not an insurmountable obstacle in marketing flat glass beyond national frontiers, it is certainly a very important factor, since, the greater the distance between the production centre and the points of supply, the more the logistic system becomes critical and the more the competitiveness of the product decreases. Consequently, although each producer exports some of its production, the proportion is limited compared with the quantities sold on the home market, since, if the profitability of the firm is to be maintained, only quantities produced at marginal cost can be sold for export. Local producers are therefore aware that, while they may face some competition from abroad, such competition is quantitatively limited and that they remain the masters over most of the home market. If in addition, as in the present case, most of the sources of supply outside Italy are controlled by groups to which the local producers belong, the risk of competition in respect of the abovementioned limited quantities is further reduced.

The logistic and economic importance of the geographical location of production facilities means

that, in order to have regular supplies, consumers are essentially forced to rely on local producers. Consequently, the pressure which consumers can exert on local producers is limited either in terms of quantities or in terms of time: in terms of quantities, because, as has been pointed out, the availability of foreign products is limited; in terms of time, because, even if a consumer manages to purchase a significant proportion of the foreign products available, it will be able to dispense with national products for a very limited period of time and only if it does not need continuity of supplies, but, once the stock of foreign products is finished or if it does need regular supplies, it will be forced to turn to the home market to obtain its supplies.

It follows from the above that the Italian market is the relevant geographical market, since it is the arena of supply and demand in which at least four-fifths of domestic consumption has to be met.

12. *The collective dominant position*

- (78) FP, SIV and VP, as participants in a tight oligopoly, enjoy a degree of independence from competitive pressures that enables them to impede the maintenance of effective competition, notably by not having to take account of the behaviour of the other market participants.
- (79) The collective dominant position of FP, SIV and VP derives from the following factors.

The joint market shares of some 79 % for non-automotive glass and some 95 % for automotive glass are sufficient in themselves to give FP, SIV and VP a dominant position on the Italian market in flat glass. These market shares have been fairly stable for several years.

FP, SIV and VP form part of groups having multinational dimensions which control more than half of Community production and supply of automotive and non-automotive flat glass. They are thus to a large extent protected from the competition which, within the limits explained in paragraph 76, might come from abroad. Their direct control of domestic supply and their indirect control of supply from abroad enable the three undertakings to pursue a commercial policy that is not dependent on market trends and the conditions of competition.

The fact that the three undertakings have had to face competitive actions, even continuous ones, from some Community producers and individual competitive actions from non-Community producers does not contradict the above conclusion. As the Court of Justice held in the *United Brands and Hoffmann-La Roche* cases⁽¹⁾, a dominant position does not preclude some competition nor does it presuppose that the producer or producers holding it have eliminated any possibility of competition. Other producers can actively compete with them without such behaviour adversely affecting them and without the undertakings losing their dominant position. The fact that, despite their efforts, competing undertakings have not managed to weaken the position of the three undertakings on the Italian market and the fact that FP, SIV and VP have thus consolidated their market shares are significant indices of dominance.

The scale of the investments required in order to operate in this industry and the forecast of a small increase in demand over the next decade do not suggest that there will be any structural change in market conditions or that any new producers will enter the market.

The undertakings present themselves on the market as a single entity and not as individuals.

As may be seen from what was said in paragraphs 35 to 42, the three producers jointly maintain special links with a group of wholesalers who are the main glass distributors in Italy, they instigate the meetings, and they do everything possible to get them to accept price list changes and to ensure that the changes are passed on downstream in a consistent manner, so as to prevent any individual decisions by the wholesalers from creating commercial pressures on each producer leading to changes in market equilibria.

The business decisions taken by the three producers display a marked degree of interdependence with regard to prices and terms of sale, relations with customers and business strategies.

The three undertakings have in addition established among themselves structural links relating to production through the systematic exchange of products, as described under heading 6. The exchanges are, firstly, the result of some undertakings' structural lack of primary products or of certain processed products and, secondly, the expression and instrument of their desire to

prevent this situation from resulting in changes in their relative positions on the market and in existing relations between them.

13. *Abuse of the collective dominant position*

- (80) FP, SIV and VP have abused their collective dominant position on the Italian market in flat glass, which constitutes a substantial part of the common market.

The business conduct of FP, SIV and VP described in paragraphs 18 to 34, and paragraphs 43 to 47, 49 and 52 constitutes an abuse of a collective dominant position, because it restricts the consumers' ability to choose sources of supply and limits the market outlets of the Community's other flat-glass producers.

The conduct of the undertakings has involved methods other than those on which normal competition in products or services between economic operators is based, thus further weakening the degree of competition on a market in which, precisely because of the collective dominant position of these undertakings, the degree of competition is already reduced.

- (81) The conduct adopted by FP, SIV and VP, described in paragraphs 18 to 34 and paragraphs 43 to 47, 49 and 52 also constitutes an abuse within the meaning of Article 86 of the EEC Treaty, since it is incompatible with the objective enunciated in Article 3 (f) of the Treaty, which provides for a system of undistorted competition within the common market.

With regard in particular to Article 86 (a) and (b), the three producers prevented customers from getting the suppliers to compete with one another on prices and terms of sale and limited outlets through the setting of sales quotas for automotive glass, thus crystallizing established market positions and restricting competing producers' access to the market.

- (82) The conduct of FP, SIV and VP, which has the effect of adversely affecting the structures of competition in the flat-glass market, is, for the reasons stated under heading 10, liable to affect trade between Member States within the meaning of Article 86.

D. Article 15 (2) of Regulation No 17

- (83) On the basis of the above, the Commission considers that it must impose fines within the meaning of Article 15 (2) of Regulation No 17 on the three undertakings which have infringed Article 85 (1) through the agreements and concerted practices relating to prices and terms of sale, market sharing

⁽¹⁾ Case 27/76 *United Brands v. Commission* [1978] ECR 207.
Case 85/76 *Hoffmann-La Roche v. Commission* [1979] ECR 451.

and exchanges of products applied in Italy in respect of automotive and non-automotive glass and which at the same time, by abusing their collective dominant position, have infringed Article 86 (a) and (b).

(84) In fixing the amount of the fines, the Commission has had regard to the following factors :

(a) the simultaneous infringement of two provisions of the Treaty by the same conduct raises the problem of how fines should be imposed in such a case. In the absence of any express provision in Community law and, in particular, in Article 15 (2) of Regulation No 17, the Commission considers that the principle that fines should not be applied cumulatively in respect of the same set of facts should apply and that therefore only the fines for the more serious infringement should be imposed on the undertakings. In the case in point, in view of the fact that the concept of collective dominant position is being used for the first time under Article 86, the Commission considers that no fines should be imposed under Article 86 ;

(b) the duration of the infringements. The infringements have been of relatively long duration.

In the case of non-automotive glass, the Commission considers that the agreements and concerted practices on prices and terms of sale and those intended to influence the business decisions of the main wholesalers existed, at least in their most serious forms, from 1 June 1983 to 10 April 1986.

In the case of automotive glass, the Commission considers that : the agreements and concerted practices on prices relating to the Fiat group existed, in their most serious forms, between FP and SIV from 26 October 1982 to 1 December 1986 and between FP, SIV and VP from 11 May 1983 to 1 December 1986 ; the agreements and concerted practices on quotas relating to the Fiat group existed between FP, SIV and VP from 1 January 1982 to 30 June 1987 ; the agreements and concerted practices on prices and quotas relating to the Piaggio group existed between FP and SIV from 1 January 1983 to 1 May 1986 and, in their most serious forms, from 1 January 1983 to 28 December 1984. In the case of the exchanges of products, the Commission considers that the agreements between FP, SIV and VP existed from 1 January 1982 to 31 December 1986 ;

(c) gravity of the infringements. The nature of the infringements, which are of the traditional type and which are clearly covered by Article 85, the economic importance of the undertakings

concerned and the position which they hold on the Italian market point to the conclusion that the agreements and concerted practices must be regarded as particularly serious.

The Commission cannot be sure that the infringements have been terminated. However, even if the undertakings have put an end to the infringements, this has not happened spontaneously, but in response to the Commission's action.

Furthermore, the three undertakings have committed infringements in the past. Under Commission Decision 81/881/EEC ⁽¹⁾, they were found to have infringed Article 85 ;

(d) attenuating circumstances. As a factor making for a reduction in the amount of the fines, the Commission has taken account of the fact that from 1979 to 1983, in the case of non-automotive glass, and from 1979 to 1984, in the case of automotive glass, there were periods when demand fell and that, consequently, the undertakings suffered losses.

(85) In fixing the amount of the fines to be imposed on the various undertakings, the Commission has taken account of the role each undertaking played in the agreements and concerted practices (the role played by VP having been much less important than that played by FP and SIV), the period of time during which they participated in the infringement, their respective supplies of glass and the total turnover of each undertaking,

HAS ADOPTED THIS DECISION :

Article 1

Fabbrica Pisana SpA, Società Italiana Vetro-SIV SpA, and Vernante Pennitalia SpA have infringed the provisions of Article 85 (1) of the EEC Treaty by participating in the following agreements and restrictive practices :

- (a) Fabbrica Pisana, SIV and Vernante Pennitalia, from 1 June 1983 to 10 April 1986, in agreements and concerted practices on prices and terms of sale and in agreements and concerted practices designed to influence the purchasing and selling policies of the main wholesalers in the non-automotive flat-glass sector ;
- (b) Fabbrica Pisana and SIV, from 26 October 1982 to 1 December 1986, and Fabbrica Pisana, SIV and Vernante Pennitalia, from 11 May 1983 to 1 December 1986, in agreements and concerted practices on the prices to be charged to the Fiat group in the automotive flat-glass sector ;

⁽¹⁾ OJ No L 326, 13. 11. 1981, p. 32.

- (c) Fabbrica Pisana, SIV and Vernante Pennitalia, from 1 January 1982 to 30 June 1987, in agreements and concerted practices relating to the apportionment of quotas for supplies to the Fiat group in the automotive flat-glass sector;
- (d) Fabbrica Pisana and SIV, from 1 January 1983 to 1 May 1986, in agreements and concerted practices relating to the prices to be charged and supply quotas to be applied to the Piaggio group in the automotive flat-glass sector;
- (e) Fabbrica Pisana, SIV and Vernante Pennitalia, from 1 January 1982 to 31 December 1986, in product exchange agreements in the flat-glass sector designed to achieve market sharing.

Article 2

Fabbrica Pisana, SIV and Vernante Pennitalia have infringed the provisions of Article 86 of the EEC Treaty by abusing their collective dominant position through conduct whereby they deprived customers of the opportunity of getting suppliers to compete on prices and terms of sale and whereby they limited outlets through the setting of quotas for automotive glass:

- (a) Fabbrica Pisana, SIV and Vernante Pennitalia from 1 June 1983 to 10 April 1986 in respect of non-automotive flat glass;
- (b) Fabbrica Pisana and SIV from 26 October 1982 to 1 December 1986 and Fabbrica Pisana, SIV and Vernante Pennitalia from 11 May 1983 to 1 December 1986 in respect of prices for automotive flat-glass intended for the Fiat group;
- (c) Fabbrica Pisana, SIV and Vernante Pennitalia, from 1 January 1982 to 30 June 1987, in respect of supply quotas for automotive flat glass intended for the Fiat group;
- (d) Fabbrica Pisana and SIV, from 1 January 1983 to 1 May 1986, in respect of prices and supply quotas for automotive flat glass intended for the Piaggio group.

Article 3

Fabbrica Pisana, SIV and Vernante Pennitalia shall immediately put an end to the 6. established in Articles 1 and 2 (if they have not already done so) and shall in future refrain, in their flat-glass activities, from entering into any agreement or concerted practice that may have an identical or similar object or effect, including any exchange of information of the type generally covered by professional secrecy such as would allow them to monitor the implementation of any express or tacit agreement or any concerted practice relating to prices or to market sharing.

Article 4

The following fines are hereby imposed on the undertakings to which this Decision is addressed, on the grounds of the infringements established in Article 1:

- Fabbrica Pisana SpA, a fine of ECU 7 million,
- Società Italiana Vetro-SIV SpA, a fine of ECU 4,7 million,
- Vernante Pennitalia SpA, a fine of ECU 1,7 million.

Article 5

These fines imposed in Article 4 shall be paid into the Commission's accounts Nos:

- (a) Account No 9.130.707 — Commission of the European Communities, Brussels — ECU (for payment in ecus), Istituto Bancario S. Paolo di Torino, 156, Piazza S. Carlo, 10121 Torino
- (b) Account No 26952/018 — Commission of the European Communities, Brussels (for payment in Italian lire) Cassa di Risparmio delle Provincie Lombarde, Via Monte di Pietà, 8, 20121 Milano

within three months from the date of notification of this Decision.

After three months interest shall automatically be payable at the rate charged by the European Monetary Cooperation Fund on its ecu operations on the first working day of the month in which this Decision was adopted, plus three-and-a-half percentage points, i.e. 11 %.

Should payments be made in the national currency of the addressees, the exchange rate applicable shall be that prevailing on the day preceding payment.

Article 6

This Decision is addressed to:

- Fabbrica Pisana SpA — Direzione Generale — Via E. Romagnoli, 6 — I-20146 Milano
- Società Italiana Vetro-SIV SpA — I-66050 S. Salvo (Chieti)
- Vernante Pennitalia SpA — Corso Aurelio Saffi, 37 — I-16128 Genova

It shall be enforceable, in accordance with Article 192 of the EEC Treaty.

Done at Brussels, 7 December 1988.

For the Commission

Peter SUTHERLAND

Member of the Commission

ANNEX 1

1. Primary transparent glass

	(in tonnes)				
	1982	1983	1984	1985	1986
Output: Float glass (producers' figures)	[...]	[...]	[...]	[...]	[...]
Drawn glass (Assovetro figures)	[...]	[...]	[...]	[...]	[...]
Total	[...]	[...]	[...]	[...]	[...]
+ Imports (Istat): Float glass	121 409	103 979	124 579	107 238	105 070
Drawn glass	39 644	42 666	50 134	40 396	61 370
Total	[...]	[...]	[...]	[...]	[...]
- Exports (Istat): Float glass	124 309	134 288	122 639	155 336	158 747
Drawn glass	5 901	5 982	14 087	16 513	8 182
A. Apparent consumption	[...]	[...]	[...]	[...]	[...]
Imports (Istat) (Float glass + drawn glass)	161 053	146 645	174 713	147 634	166 440
— Imports from France (1)	44 475	37 875	29 320	22 805	16 310
— Imports from other countries by the three producers	[...]	[...]	[...]	[...]	[...]
B. Adjusted imports	[...]	[...]	[...]	[...]	[...]
B/A	[...] %	[...] %	[...] %	[...] %	[...] %

2. Primary cast glass

Output (producers' figures)	[...]	[...]	[...]	[...]	[...]
+ Imports (Istat)	39 080	34 689	57 937	58 707	66 876
- Exports (Istat)	14 484	9 831	5 370	1 542	2 320
A. Apparent consumption	[...]	[...]	[...]	[...]	[...]
Imports (Istat)	39 080	34 689	57 937	58 707	66 876
— Imports from France (1)	500	211	1 632	2 505	3 298
— Imports from other countries by the three producers	[...]	—	—	[...]	[...]
B. Adjusted imports	[...]	[...]	[...]	[...]	[...]
B/A	[...] %	[...] %	[...] %	[...] %	[...] %

3. Total flat glass (1 + 2)

Output	[...]	[...]	[...]	[...]	[...]
+ Imports	200 133	181 334	232 650	206 281	233 316
- Exports	144 694	150 101	142 096	173 391	169 249
A. Apparent consumption	[...]	[...]	[...]	[...]	[...]
Imports (Istat)	200 133	181 334	232 650	206 281	233 316
— Imports from France (1)	44 975	38 083	30 953	25 312	19 609
— Imports from other countries by the three producers	[...]	[...]	[...]	[...]	[...]
B. Adjusted imports	[...]	[...]	[...]	[...]	[...]
B/A	[...] %	[...] %	[...] %	[...] %	[...] %

(1) Imports from France have been deducted, since there are only two producers in France, namely Saint-Gobain, which is the parent company of Fabbria Pisana, and Boussois, which is an affiliate of Vernante Pennitalia. Imports from these two French companies are mostly intended for the Italian producers. When quantities are sold direct on the Italian market by one of the French companies, they cannot be considered to be sales by competitors.

ANNEX 2

1. Non-automotive market

	(in tonnes)				
	1982	1983	1984	1985	1986
Sales of float glass + drawn glass on the Italian market — GEPVP's figures ⁽¹⁾	[...]	[...]	[...]	[...]	[...]
— Automotive self-supply FP-SIV-VP	[...]	[...]	[...]	[...]	[...]
Total market float glass + drawn glass	[...]	[...]	[...]	[...]	[...]
+ Apparent consumption	[...]	[...]	[...]	[...]	[...]
Cast glass (Annex 1, point 2) ⁽²⁾	[...]	[...]	[...]	[...]	[...]
A. Total market	[...]	[...]	[...]	[...]	[...]
B. Total non-automotive sales of FP-SIV-VP	[...]	[...]	[...]	[...]	[...]
B/A	[...] %	[...] %	[...] %	[...] %	[...] %
Market shares of Vetrocok	[...] %	[...] %	[...] %	[...] %	[...] % ⁽³⁾
Market shares of the Italian producers ⁽²⁾	± 84 %	± 82 %	± 79 %	± 84 %	± 77 %

⁽¹⁾ GEPVP's figures have been used, because they are more reliable than Assovetro's figures. The GEPVP figures comprise only sales, from which market shares can be calculated, whereas Assovetro's figures comprise sales and stocks.

⁽²⁾ Since GEPVP does not published any figures on cast glass, Assovetro's figures for this product given in Annex 1 had to be used. Since the figures also include stocks, their gives rise to a number of discrepancies (though not important ones) especially for 1985 and 1986 between the share which the adjusted imports shown in this table would have had and the shares resulting from the table in Annex 1.

⁽³⁾ As from 1986, Vetrocok has been a subsidiary of SIV. Vetrocok's market shares for 1986 will therefore be included with SIV.

2. Automotive market

	(× 1 000 m ³)				
	1982	1983	1984	1985	1986
FB + SIV + VP's sales + imports	[...]	[...]	[...]	[...]	[...]
Aggregate shares of FP-SIV-VP	95 %	95 %	95 %	94,5 %	95 %

ANNEX 3

Price lists — dates sent to customers (in brackets, dates of entry into effect)

Clear building glass			Coloured building glass		
Fabbrica Pisana	STV	Vernante	Fabbrica Pisana	STV	Vernante
26. 6. 1981 (25. 7. 1981)	14. 7. 1981 (14. 9. 1981)	1. 9. 1981 (1. 10. 1981) (cancelled)	26. 6. 1981 (25. 7. 1981)	14. 7. 1981 (14. 9. 1981)	
7. 5. 1982 (15. 6. 1982)	20. 5. 1982 (30. 6. 1982)	1. 2. 1982 (1. 3. 1982)	7. 5. 1982 (15. 6. 1982)	20. 5. 1982 (30. 6. 1982)	
7. 3. 1983 (11. 4. 1983)	7. 3. 1983 (7. 4. 1983)	24. 6. 1982 (1. 9. 1982)	2. 9. 1983 (5. 9. 1983)	7. 3. 1983 (7. 4. 1983)	
26. 9. 1983 (2. 11. 1983)	19. 9. 1983 (2. 11. 1983)	17. 2. 1983 (5. 4. 1983)	27. 12. 1983 (13. 2. 1984)	19. 9. 1983 (2. 11. 1983)	
27. 12. 1983 (13. 2. 1984)	28. 12. 1983 (20. 2. 1984)	21. 7. 1983 (10. 10. 1983)	3. 7. 1984 (20. 8. 1984)	28. 12. 1983 (20. 2. 1984)	begins to sell coloured glass
3. 7. 1984 (20. 8. 1984)	7. 5. 1984 (23. 5. 1984)	16. 12. 1983 (15. 2. 1984)	12. 11. 1984 (16. 1. 1985)	7. 5. 1984 (23. 5. 1984)	27. 7. 1984 (3. 9. 1984)
12. 11. 1984 (16. 1. 1985)	3. 7. 1984 (3. 9. 1984)	20. 4. 1984 (21. 5. 1984)	00. 9. 1985 (7. 10. 1985)	15. 11. 1984 (15. 1. 1985)	22. 11. 1984 (14. 1. 1985)
13. 5. 1985 (18. 6. 1985)	15. 11. 1984 (15. 1. 1985)	27. 7. 1984 (3. 9. 1984)	February 1986 (10. 3. 1986)	28. 8. 1985 (4. 10. 1985)	8. 8. 1985 (2. 9. 1985)
28. 7. 1985 ⁽¹⁾ (1. 8. 1985)	11. 3. 1985 (11. 3. 1985)	25. 10. 1984 (9. 11. 1984)		14. 3. 1986 (17. 3. 1986)	6. 2. 1986 (1. 4. 1986)
25. 10. 1985 ⁽²⁾ (25. 10. 1985)	13. 5. 1985 (15. 6. 1985)	22. 11. 1984 (14. 1. 1985)		9. 9. 1986 (29. 9. 1986)	20. 10. 1986 (15. 11. 1986)
10. 3. 1986 (17. 3. 1986)	26. 7. 1985 (29. 7. 1985)	7. 3. 1985 (14. 3. 1985)			
17. 9. 1986 (1. 10. 1986)	21. 10. 1985 (28. 10. 1985)	31. 7. 1985 (3. 8. 1985)			
	14. 3. 1986 (24. 3. 1986)	25. 10. 1985 (4. 11. 1985)			
	9. 9. 1986 (29. 9. 1986)	21. 3. 1986 (1. 4. 1986)			
		30. 9. 1986 (31. 10. 1986)			

⁽¹⁾ On page 43 of its answer to the statement of objections, Fabbrica Pisana stated that the price increase was announced by telegram: no copy of the telegram was produced during the investigations or attached to the answer to the statement of objections.

⁽²⁾ On page 43 of its answer to the statement of objections, Fabbrica Pisana stated that the price increase was announced by telegram and attached (Item 16) the copy of the telegram. The copy of the telegram, which does not bear any stamp of the post office of departure, is dated at the top 19 October, whereas at the bottom, alongside the signature of the sender, the date indicated is 21 October and the stamp of the post office of arrival is dated 21 October 1985.

ANNEX 4

Analysis of the main Italian wholesale operators and their classification

Estimate by Fabbrica Pisana (Annex 12 to its answer to the statement of objections) of total purchases from Italian and foreign producers in 1986 : tonnes per year			Classification in categories by FP-SIV-VP					
Names of wholesalers	Total purchases	Progressive %	1985			1986		
			FP	SIV	VP	FP	SIV	VP
1. Vitarelli (W) ⁽¹⁾	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
2. Gruppo Sangalli (PW) ⁽²⁾	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
3. Socover (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
4. SAVAS (PW)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
5. Salento (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
6. Marchigiana (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
7. Laborvetro (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
8. D'Adda/Multiglass/Sacilese (PW)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
9. Checchin (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
10. Foschi (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
11. VIC (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
12. Riccardi (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
13. Co. Vetro (PW)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
14. Laziale/Vetralcomi (PW)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
15. Cilvea (PW)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
16. Vetro Brianza (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
17. IVAD (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
18. Bini Vetro (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
19. Tortorici-Fanara (PW)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
20. Covet (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
21. Barbato (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
22. ISV (PW)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
23. Camacti (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
24. IVAM (PW)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
25. ILVA (PW)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
26. D'Amico (PW)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
27. Callipo (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
28. G.V.A. Valentini (PW)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
29. Sicilglass (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
30. Marotta (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
31. Versari (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
32. VAM Restelli (PW)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
33. Marafiotti (unknown)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
34. Longoni (PW)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
35. Piavevetro (PW)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
36. Scordino (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
37. Ravera (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
38. Sardavetri (PW)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
39. Landi (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
40. Nova Vetro (PW)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
41. Rubei/Tekne (PW)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
42. Cafiero (PW)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
43. Covet (W)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Total	303 600							

⁽¹⁾ W = wholesaler.⁽²⁾ PW = processing wholesaler.

ANNEX 5

Date of changes in the classification of customers by category or level

SIV	FP	VP
?	1. 1.1984	?
?	1. 8.1984	1. 7.1984
20. 11.1984	1. 11.1984	1. 11.1984
8. 2.1985	1. 1.1985	1. 1.1985
13. 3.1985		1. 3.1985
3. 4.1985	1. 4.1985	1. 6.1985
	1. 8.1985	1. 8.1985
7. 11.1985		1. 11.1985
20. 1.1986	1. 1.1986	
8. 5.1986	1. 5.1986	6. 6.1986
		5. 9.1986

CORRIGENDA

Corrigendum to Commission Regulation (EEC) No 3665/88 of 24 November 1988 fixing the export refunds on baled tobacco from the 1988 harvest

(Official Journal of the European Communities No L 318 of 25 November 1988)

On pages 21 and 22, in Annexes I and II, in the column headed 'Product code', last digit of each product code:

for: '7',

read: '8'.

Corrigendum to Commission Regulation (EEC) No 4177/88 of 30 December 1988 amending Regulation (EEC) No 756/70 on granting aid for skimmed milk processed into casein and caseinates

(Official Journal of the European Communities No L 367 of 31 December 1988)

On page 69, in Article 1 (4) (a), last subparagraph, third line:

for: 'requirement',

read: 'possibility'.

On page 70, in Article 1 (5), third subparagraph of the new Article 4a:

for: 'Community origin',

read: 'Community status';

for: 'release for consumption',

read: 'release for home use'.

Corrigendum to Commission Regulation (EEC) No 126/89 of 19 January 1989 fixing the amounts to be levied in the beef sector on products which left the United Kingdom during the week 2 to 8 January 1989

(Official Journal of the European Communities No L 16 of 20 January 1989)

On page 44, in the Annex, in the column headed 'CN code':

for: '0201 20 11' and '0201 20 19',

read: '0201 20 21' and '0201 20 29'.

Corrigendum to Commission Regulation (EEC) No 249/89 of 31 January 1989 fixing the maximum export refunds on olive oil for the fifth partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3421/88

(Official Journal of the European Communities No L 30 of 1 February 1989)

On page 32, in the Annex, against product code 1509 90 00 100, third entry, in the column headed 'Amount of refund':

for: '70,00',

read: '70,01'.
