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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 147/90

of 22 January 1990

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 3707/89⁽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 1915/89⁽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 19 January 1990;

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 1915/89 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 23 January 1990.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 363, 13. 12. 1989, p. 1.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 187, 1. 7. 1989, p. 1.

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

Done at Brussels, 22 January 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 22 January 1990 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	32,80	131,19 ⁽²⁾ ⁽³⁾
0712 90 19	32,80	131,19 ⁽²⁾ ⁽³⁾
1001 10 10	40,11	171,45 ⁽¹⁾ ⁽²⁾
1001 10 90	40,11	171,45 ⁽¹⁾ ⁽²⁾
1001 90 91	33,59	131,85
1001 90 99	33,59	131,85
1002 00 00	58,71	124,82 ⁽⁴⁾
1003 00 10	49,88	114,48
1003 00 90	49,88	114,48
1004 00 10	41,28	119,17
1004 00 90	41,28	119,17
1005 10 90	32,80	131,19 ⁽²⁾ ⁽³⁾
1005 90 00	32,80	131,19 ⁽²⁾ ⁽³⁾
1007 00 90	49,88	136,96 ⁽⁴⁾
1008 10 00	49,88	20,20
1008 20 00	49,88	64,29 ⁽⁴⁾
1008 30 00	49,88	0,00 ⁽²⁾
1008 90 10	(7)	(7)
1008 90 90	49,88	0,00
1101 00 00	60,91	198,47
1102 10 00	96,07	188,63
1103 11 10	76,80	280,38
1103 11 90	64,84	213,40

⁽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 products imported directly into the French overseas departments, 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 (triticale).

COMMISSION REGULATION (EEC) No 148/90

of 22 January 1990

fixing the premiums to be added to the import levies on cereals, flour and malt

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 3707/89⁽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 1916/89⁽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 19 January 1990;

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 23 January 1990.

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

Done at Brussels, 22 January 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.⁽²⁾ OJ No L 363, 13. 12. 1989, p. 1.⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.⁽⁵⁾ OJ No L 187, 1. 7. 1989, p. 4.

ANNEX

to the Commission Regulation of 22 January 1990 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

CN code	(ECU/tonne)			
	Current 1	1st period 2	2nd period 3	3rd period 4
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	0	0	0
1001 10 90	0	0	0	0
1001 90 91	0	1,85	1,85	0,37
1001 90 99	0	1,85	1,85	0,37
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	14,70	14,70	14,76
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	2,59	2,59	0,52

B. Malt

CN code	(ECU/tonne)				
	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5
1107 10 11	0	3,29	3,29	0,66	0,66
1107 10 19	0	2,46	2,46	0,49	0,49
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 149/90

of 22 January 1990

on the supply of various consignments of cereals 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 of food-aid policy and food-aid management ⁽¹⁾, as last amended by Regulation (EEC) No 1750/89 ⁽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 number of decisions on the allocation of food aid the Commission has allocated to certain countries and beneficiary organizations 2 380 tonnes of cereals;

Whereas it is necessary to provide for the carrying-out of this measure in accordance with the rules laid down by

Commission Regulation (EEC) No 2200/87 of 8 July 1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid ⁽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

Cereals shall be mobilized in the Community, as Community food aid for supply to the recipients listed in the Annexes 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 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, 22 January 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.

⁽²⁾ OJ No L 172, 21. 6. 1989, p. 1.

⁽³⁾ OJ No L 136, 26. 5. 1987, p. 1.

⁽⁴⁾ OJ No L 204, 25. 7. 1987, p. 1.

ANNEX I

LOTS A, B, C

1. **Operation No** ⁽¹⁾: 823/89 to 825/89
2. **Programme**: 1989
3. **Recipient**: Euronaid, Rhijngeestersstratweg 40, PO Box 77, NL-2340 AB Oegstgeest
4. **Representative of the recipient** ⁽²⁾: see OJ No C 103, 16. 4. 1987
5. **Place or country of destination**: Haiti
6. **Product to be mobilized**: rolled oats
7. **Characteristics and quality of the goods** ⁽³⁾: see list published in OJ No C 216, 14. 8. 1987, p. 3 (under II. A. 9)
8. **Total quantity**: 594 tonnes (1 024 tonnes of cereals)
9. **Number of lots**: 3 (Lot A: 198 tonnes; Lot B: 198 tonnes; Lot C: 198 tonnes)
10. **Packaging and marking** ⁽⁴⁾ ⁽⁵⁾ ⁽⁶⁾ ⁽⁷⁾ ⁽⁸⁾ ⁽⁹⁾ ⁽¹⁰⁾ ⁽¹¹⁾: see list published in OJ No C 216, 14. 8. 1987, p. 3 (under II.B.3), in 40-foot containers
— marking on the bags in letters at least 5 cm high: see Annex II
11. **Method of mobilization**: the Community market
12. **Stage of supply**: free at port of shipment
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment**: Lot A: 1. — 15. 3. 1990; Lot B: 1. — 15. 4. 1990; Lot C: 1. — 15. 5. 1990
18. **Deadline for the supply**: —
19. **Procedure for determining the costs of supply**: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 6. 2. 1990, 12 noon
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 20. 2. 1990, 12 noon
 - (b) period for making the goods available at the port of shipment: Lot A: 15. — 31. 3. 1990; Lot B: 15. — 30. 4. 1990; Lot C: 15. — 31. 5. 1990
 - (c) deadline for the supply: —
22. **Amount of the tendering security**: ECU 5 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders** ⁽¹²⁾: 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 or 25670 B)
25. **Refund payable on request by the successful tenderer** ⁽¹³⁾: refund applicable on 15. 1. 1990, fixed by Commission Regulation (EEC) No 3929/89 (OJ No L 375, 23. 12. 1989, p. 76)

LOTS D, E, F

1. **Operation No** ⁽¹⁾: 820/89 to 822/89
2. **Programme**: 1989
3. **Recipient**: Euronaid, Rhijngeestersstratweg 40, PO Box 77, NL-2340 AB Oegstgeest
4. **Representative of the recipient** ⁽²⁾: see OJ No C 103, 16. 4. 1987
5. **Place or country of destination**: Haiti
6. **Product to be mobilized**: common wheat flour
7. **Characteristics and quality of the goods** ⁽³⁾: see list published in OJ No C 216, 14. 8. 1987, p. 3 (under II. A. 6)
8. **Total quantity**: 990 tonnes (1 356 tonnes of cereals)
9. **Number of lots**: 3 (Lot D: 330 tonnes; Lot E: 330 tonnes; Lot F: 330 tonnes)
10. **Packaging and marking** ⁽⁴⁾ ⁽⁵⁾ ⁽⁶⁾ ⁽⁷⁾ ⁽⁸⁾ ⁽⁹⁾: see list published in OJ No C 216, 14. 8. 1987, p. 3 (under II.B.2 (a), in 20-foot containers
— marking on the bags in letters at least 5 cm high: see Annex II
11. **Method of mobilization**: the Community market
12. **Stage of supply**: free at port of shipment
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment**: Lot D: 1. — 15. 3. 1990; Lot E: 1. — 15. 4. 1990; Lot F: 1. — 15. 5. 1990
18. **Deadline for the supply**: —
19. **Procedure for determining the costs of supply**: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 6. 2. 1990, 12 noon
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 20. 2. 1990, 12 noon
 - (b) period for making the goods available at the port of shipment: Lot D: 15. — 31. 3. 1990; Lot E: 15. — 30. 4. 1990; Lot F: 15. — 31. 5. 1990
 - (c) deadline for the supply: —
22. **Amount of the tendering security**: ECU 5 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders** ⁽¹⁰⁾: 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 or 25670 B)
25. **Refund payable on request by the successful tenderer** ⁽¹¹⁾: refund applicable on 15. 1. 1990, fixed by Commission Regulation (EEC) No 3929/89 (OJ No L 375, 23. 12. 1989, p. 76)

Notes:

- (¹) The operation number is to be quoted in all correspondence.
- (²) 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.
- (³) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded.

The radioactivity certificate must indicate the caesium-134 and -137 levels.

- (⁴) In order not to overload the telex, tenderers are requested to provide, before the date and time laid down in point 20 of the 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 the 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) The successful tenderer shall give the beneficiaries' representatives a health certificate at the time of delivery.
- (⁶) The successful tenderer shall give the beneficiaries' representatives a certificate of origin at the time of delivery.
- (⁷) The successful tenderer shall contact the recipient as soon as possible to establish which consignment documents are required and how they are to be distributed.
- (⁸) Commission Regulation (EEC) No 2330/87 (OJ No L 210, 1. 8. 1987, p. 56), as last amended by Regulation (EEC) No 2226/89 (OJ No L 214, 24. 7. 1989, p. 10) 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 the Annex.
- (⁹) Since the goods may be rebagged, the successful tenderer must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
- (¹⁰) The successful tenderer has to submit to the recipient's agent a complete packing list of each container, specifying the number of bags belonging to each shipping number as specified in the invitation to tender.

The successful tenderer has to seal each container with a numbered locktainer, the number of which is to be provided to the beneficiary's forwarder.

Shipment to take place in conditions FCL/LCL. The supplier shall be responsible for the cost of making the containers available in the stack position of the container terminal at the port of shipment. The recipient shall be responsible for all subsequent loading costs, including the cost of moving the containers from the container terminal. The provision of the second subparagraph of Article 13 (2) of Regulation (EEC) No 2200/87 shall not apply.

- (¹¹) The supplier should send a duplicate of the original invoice to:

MM De Keyzer & Schütz BV,
Postbus 1438,
Blaak 16,
NL-3000 BK Rotterdam.

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)	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
(1)	(2)	(3)	(4)	(5)
A	198	Euronaïd	Haïti	Action n° 823/89 / Flocons d'avoine / Haïti / Protos / 91507 / Port-au-Prince / Don de la Communauté économique européenne / Pour distribution gratuite
B	198	Euronaïd	Haïti	Action n° 824/89 / Flocons d'avoine / Haïti / Protos / 91509 / Port-au-Prince / Don de la Communauté économique européenne / Pour distribution gratuite
C	198	Euronaïd	Haïti	Action n° 825/89 / Flocons d'avoine / Haïti / Protos / 91513 / Port-au-Prince / Don de la Communauté économique européenne / Pour distribution gratuite
D	330	Euronaïd	Haïti	Action n° 820/89 / Farine de froment / Haïti / Protos / 91506 / Port-au-Prince / Don de la Communauté économique européenne / Pour distribution gratuite
E	330	Euronaïd	Haïti	Action n° 821/89 / Farine de froment / Haïti / Protos / 91512 / Port-au-Prince / Don de la Communauté économique européenne / Pour distribution gratuite
F	330	Euronaïd	Haïti	Action n° 822/89 / Farine de froment / Haïti / Protos / 91514 / Port-au-Prince / Don de la Communauté économique européenne / Pour distribution gratuite

COMMISSION REGULATION (EEC) No 150/90

of 19 January 1990

amending of 19 January 1990 Regulation (EEC) No 2537/89 laying down detailed laws for the application of the special measures for soya beans

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1491/85 of 23 May 1985 laying down special measures in respect of soya beans⁽¹⁾, as last amended by Regulation (EEC) No 2217/88⁽²⁾, and in particular Article 2 (8) and the third paragraph of Article 3 thereof,

Having regard to Council Regulation (EEC) No 2194/85 of 25 July 1985 adopting general rules concerning special measures for soya beans⁽³⁾, as last amended by Regulation (EEC) No 1231/89⁽⁴⁾, and in particular Article 9 thereof,

Whereas one of the purposes of Commission Regulation (EEC) No 2537/89 of 8 August 1989 laying down detailed rules for the application of the special measures for soya beans⁽⁵⁾ was to tighten up the definition of 'undertaking' and in particular to restrict its scope where the manufacturers of feedingstuffs and foodstuffs referred to in Article 2 (1) (b) thereof were concerned, in view of the special difficulties presented by surveillance of this type of activity; whereas, however, the entry into force of that Regulation has shown the need for more explicit provisions on the storage capacity of the establishments concerned;

Whereas, for the sake of legal clarity, amendments should be made to the detailed rules in the said Regulation (EEC) No 2537/89 covering the consequences of irregularities committed by operators; whereas it is therefore necessary to change the position of certain provisions and to improve or add to their wording;

Whereas it is also necessary to qualify the provisions on the security specified in Article 4b of Regulation (EEC) No 2194/85 in order to make it clear that the only operation giving rise to release of the security is identification of a given quantity of beans within the time limit set in that Regulation;

Whereas experience has also shown that technical adjustments and additional transitional measures are required for satisfactory operation of the scheme in the various Member States;

Whereas for reasons of legal security the amended transitional provisions should be applicable with effect from

the date on which Regulation (EEC) No 2537/89 became applicable;

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

Regulation (EEC) No 2537/89 is hereby amended as follows:

1. The following is added to Article 2 (1) (b):

'it must have, on the premises, storage facilities which are of a capacity determined by the authority responsible for control and which meet the requirements of this Regulation as regards the identification of the beans and the verification of their presence and their use by the undertaking';

2. The first subparagraph of Article 2 (2) is replaced by the following:

"Processing for other uses in human food or animal feeding", as mentioned in Article 3 of Regulation (EEC) No 2194/85, shall mean the crushing or breaking without extraction of oil or cooking, with the exception of toasting of whole beans, required for the use of the product, direct or in a mixture."

3. Article 5 is amended as follows:

— paragraph 1 is replaced by the following paragraphs:

'1. Any serious failure by a first purchaser or undertaking to comply with the provisions of Article 3 (2), (3) or (4) shall result in exclusion of that purchaser or undertaking from the benefit of the provisions of this Regulation for a period of one to five marketing years, without prejudice to any other measures applicable.

2. Any serious failure by an approved first purchaser who is not a processor to comply with the provisions of Article 4 (1) shall moreover entail withdrawal, of this approval for the period referred to in paragraph 1.'

— paragraph 2 becomes paragraph 3.

⁽¹⁾ OJ No L 151, 10. 6. 1985, p. 15.

⁽²⁾ OJ No L 197, 26. 7. 1988, p. 11.

⁽³⁾ OJ No L 204, 2. 8. 1985, p. 1.

⁽⁴⁾ OJ No L 128, 11. 5. 1989, p. 24.

⁽⁵⁾ OJ No L 245, 22. 8. 1989, p. 8.

4. In Article 6 — the words 'or any other similar grounds recognized as valid by the competent agency' are deleted from paragraph 3 and paragraph 5 is deleted.
5. The following paragraph is added to Article 7:

'5. Failure by the first purchaser to comply with the provisions on the minimum price shall oblige him to pay in compensation to the producer an amount equal to double the difference between the minimum price and that actually paid for the quantities in question.'
6. In Article 9 point (e) is replaced by the following:

'(e) the quantity actually delivered, with details of the moisture and impurity contents established, either on departure of the beans from the establishment of the first purchaser who is not a processor or on entry into the processing establishment, by the most current commercial methods recognized by the agency responsible for control;'
7. The third subparagraph of Article 20 (3) is replaced by the following:

'If the quantities identified the certificate are less than 93 % of the quantity specified on the certificate, the security referred to in Article 4b of Regulation (EEC) No 2194/85 shall be forfeit in proportion to the missing quantities. Otherwise, the security shall be released under the terms of Article 24.'
8. The first subparagraph of Article 21 (2) is replaced by following:

'Where the application for identification is submitted by an approved first purchaser who is not a processor, in accordance with Article 2 (2) of Regulation (EEC) No 2194/85, the issue of the ID part of the certificate shall, except in cases of *force majeure*, oblige the recipient to deliver the beans to a processor within a period of 150 days from the date of issue of the said ID certificate. The declaration referred to in Article 9 of this Regulation, which must be drawn up for each delivery, must refer to the ID certificates covering the beans leaving the establishment. The quantity actually delivered may not be more than 4 % less than the identified quantities specified in the ID certificates to which the sale or delivery declaration refers.

Any beans sold or delivered before identification shall no longer be eligible for aid.'
9. The following paragraph 3 is added to Article 22:

'3. Certificates must be made out on forms that conform with the provisions of Article 18 of Regulation (EEC) No 2681/83 and with Annexes IV to VI of this Regulation.'
10. In Article 23 (2) the words 'intended to guarantee completion of the operations on which entitlement to the aid is conditional' are deleted.
11. The following is added to Article 24 (3):

'once the minimum of 7 % referred to in paragraph 2, second subparagraph, is attained'.
12. In Article 26 (2) — the words 'pursuant to Article 32 (2) of this Regulation' are added after 'securities lodged'
- paragraph 5 is deleted.
13. The following Article 29a is added:

Article 29a

Should an irregularity be discovered on the occasion of a control or verification the following provisions shall apply, without prejudice to any other measures applicable.

 1. An irregularity consequent on a deliberately false declaration or serious negligence by the producer on the occasion of conclusion of the contract referred to in Article 6 of of its execution, in particular as regards the accuracy of the information referred to in Article 6 (2) or compliance with the provisions of Article 6 (3), shall render the contract invalid for the purposes of this Regulation, render the beans under the contract ineligible for aid and exclude the producer from the benefit of the provisions of this Regulation throughout the following marketing year.
 - Further, if it is established that the first purchaser was aware of the false declaration or serious negligence of the producer his approval shall be withdrawn or, if he is a first purchaser who is a provessor, he shall be otherwise debarred form the benefit of the provisions of this Regulation throughout the following marketing year.
 2. An irregularity consequent on a false declaration deliberately made or serious negligence by the first purchaser in execution of the provisions on which entitlement to aid depends shall entail loss of entitlement for the quantities in question, and the first purchaser's approval shall be withdrawn he shall, if he is a first purchaser who is a processor, be otherwise excluded from the benefit of the provisions of this Regulation throughout the following marketing year.
 3. On each occasion on which, for a given quantity of beans, entitlement to the aid is nor recognized the security lodged as required by Article 32 shall be forfeited under the terms of paragraph 4 of that Article.

4. The sanctions specified in this Regulation, and in particular the penalties laid down in Article 21 (2) and 32 (4), shall be determined on the basis of the nature and gravity of the infringement and at the level necessary to ensure proper operation of the mechanism in question.

14. Article 30 (5) is replaced by the following:

'5. When samples are taken, standard samples must be set aside for a period determined by the agency responsible for control, but no shorter than 15 days, so that they are available to that agency or to a body designated by it. The agency or body shall carry out random tests on a proportion of these samples.

Furthermore samples may be tested to determine the quality of the products resulting from the first processing of the beans, in order to check the consistency of the analyses with those carried out on the samples taken when the beans arrived for processing.'

15. The following indents are inserted after the first indent in Article 46 (2):

- the provisions of Article 36 (2), (3) and (4) shall be compulsory with effect from 1 January 1990. The provisions of paragraph 1 of this Article notwithstanding, Article 14 (1) of Regulation (EEC) No 2329/85 shall remain applicable in the interval,
- beans delivered under a contract concluded with a first purchaser who is a processor trading under

a given commercial name may be crushed by an establishment not trading under that name provided that:

- the first purchaser named in the contract is clearly a member of the same financial group as the crushing establishment,
- he is able to state clearly and definitively, at the latest at the time when the beans delivered under a contract are received in the crushing establishment, which contracts cover the beans that he intends to assign to each establishment,
- these assignments correspond to the practice following by the group during at least the previous marketing year,
- the operators concerned undertake to make arrangements to comply with the new provisions in time for the 1990/91 marketing year.'

16. The period of 'three months' in the last indent of Article 46 (2) is replaced by 'five months'.

17. The Annexes are added as Annexes IV, V and VI.

Article 2

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

Article 1 (15) and (16) shall be applicable with effect from 1 September 1989.

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

Done at Brussels, 19 January 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMUNITY SUBSIDY FOR SOYA BEANS		APPLICATION FOR A CERTIFICATE	
Please read the notes before filling in the form			
A. JOINT PART			
1. Applicant (name, full address and Member State)		2. Authority to whom application is made	
3. Description of the product		4. ☐ telex ☐ telegram ☐ telefax of 	
B. APPLICATION FOR THE AP CERTIFICATE			
5. Weight of the product on basis of 10 % moisture and 2 % impurities kg		6. Total amount of the deposit in national currency (¹)	
7. At _____, on _____ (Signature of the applicant)		8. For official use only	
C. APPLICATION FOR THE ID CERTIFICATE			
9. Net weight of the product as received kg		13. Identification to be carried out in order to obtain ☐ THE SUBSIDY OF THE DAY ☐ THE SUBSIDY FIXED IN ADVANCE by AP No _____ Issued by _____	
10. Establishment in which the product is located			
11. Lot number			
12. Date on which the product entered establishment 			
14. At _____, on _____ _____ (Signature of the applicant)		15. For official use only	

(¹) Space for indication of national currency.

NOTES

1. The applicant must complete part A, part B or part C as the case may be, and, where appropriate, part D of the form.
2. Where the application for the ID certificate refers to several lots, part D must be completed instead and in place of sections 11 and 12 of part C; the total weight of the various lots must however be shown in section 9 of part C.
3. The form must be completed by typewriter and the signature of the applicant must be in manuscript.
4. The numbers (weight and amount) which must be shown on the back of the form shall be written so that there is one figure per subdivision of the space provided for that purposes, the unused spaces being filled in with an 'O'.
5. The dates which must be shown on the back of the form are to be written in the form of a six-figure number with two figures per subdivision of the space provided for that purpose; the first two figures indicate the day (from 01 to 31) in the third subdivision, the following two figures indicate the month (from 01 to 12) in the second subdivision and the last two figures indicate the year (83 etc.) in the last subdivision.
6. The applicable wording in sections 4 and 13 is to be indicated by placing an 'X' in the small box in front of them.

D. DESCRIPTION OF THE LOTS TO BE IDENTIFIED

16. Lot Nos	17.	18.	16. Lot Nos	17.	18.
			20. Carried over		
19. To be brought forward			21. Total		

COMMUNITY SUBSIDY FOR SOYA BEANS		CERTIFICATE		DEEL AP
2	Copy for the titular holder	(¹)	No 000000	
		ADVANCE FIXING OF THE SUBSIDY		
1. Authority issuing the extract		7. Titular holder (name, full address and Member State)		
2. Description of the product		8. SUBSIDY VALID ON FIXED IN ADVANCE		
3. Weight of the product on basis of moisture and impurities content of the standard quality kg		9. Month/year 	10. Amount per 100 kilograms (²)	
4. Total amount of the deposit in national currency (²)			(²)	
5. Identification must take place, at the latest on 			(²)	
6. Certificate applied for in respect of the 19.../... marketing year 19.../19... (Article 18 (2) of Commission Regulation (EEC) No 2537/89 of 21 August 1989)			(²)	
			(²)	
			(²)	
			(²)	
			(²)	
			(²)	
			(²)	
			(²)	
		11. Issued at on Signature and stamp of the issuing authority		
IMPORTANT NOTE The amounts shown in section 10 are fixed without prejudice to the provisions of Council Regulation (EEC) No 1676/85 of 11 June 1985.		12. For official use only		

(¹) Space for indication of issuing Member State.(²) Space for indication of currency.

EUROPEAN COMMUNITIES

ANNEX VI

COMMUNITY SUBSIDY FOR SOYA BEANS		CERTIFICATE		PART I.D.
1	Copy for the titular holder	(1)	No 000000	
		IDENTIFICATION OF THE SEED		
1. Issuing authority		8. Titular holder (name, full address and Member State)		
2. Description of the product		9. IDENTIFICATION CARRIED OUT on		
3. Net weight of the product as received kg		10. Weight identified on basis of moisture and impurities content of the standard quality kg		
4. Moisture ,	5. Impurities ,	11. Amount in national currency of the subsidy per 100 kilograms (2)		
6. Establishment in which the product is located		12. If the subsidy is fixed in advance: Identified weight entered on AP No _____ issued by		
7. For official use only		13. Issued at on Signature and stamp of the issuing authority		

(1) Space for indication of issuing Member State.

(2) Space for indication of currency.

NOTES

- Sections 4, 5 and 10 are to be completed once the relevant data are available.
- Where identification refers to several lots covered by one application, the data to be entered in sections 4 and 5 must relate, respectively, to the weighted moisture and weighted impurities of the total quantity identified.

COMMISSION REGULATION (EEC) No 151/90
of 22 January 1990
on the supply of refined rape seed oil 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 1750/89 ⁽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 number of decisions on the allocation of food aid the Commission has allocated to certain countries and beneficiary organizations 300 tonnes of refined rape seed oil;

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

Refined rape seed oil 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, 22 January 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.

⁽²⁾ OJ No L 172, 21. 6. 1989, p. 1.

⁽³⁾ OJ No L 136, 26. 5. 1987, p. 1.

⁽⁴⁾ OJ No L 204, 25. 7. 1987, p. 1.

ANNEX

1. **Operation No** (1): 401/89
2. **Programme**: 1989
3. **Recipient**: UNHCR, Case Postale 2500, CH-1211 Genève 2 Dépôt; tel. 739 81 11, telex 27492 UNHCR CH
4. **Representative of the recipient** (2): Bureau du HCR, Crusader House, 3 Portal Avenue, 2nd floor, Kampala; tel. 25 75 87
5. **Place or country of destination**: Uganda
6. **Product to be mobilized**: refined rape seed oil
7. **Characteristics and quality of the goods** (3): see list published in OJ No C 216, 14. 8. 1987, p. 3 (under III.A.1)
8. **Total quantity**: 300 tonnes net
9. **Number of lots**: one
10. **Packaging and marking**: see list published in OJ No C 216, 14. 8. 1987, p. 3 (under III.B):
 - metal cans of five litres or five kilograms,
 - the cans must be packed in cartons, with four cans per carton,
 - the cans must carry the following wording:
'ACTION No 401/89 / VEGETABLE OIL / GIFT OF THE EUROPEAN ECONOMIC COMMUNITY TO UNHCR ASSISTANCE PROGRAMME / FOR REFUGEES IN UGANDA / FOR FREE DISTRIBUTION / ADJUMANI'
11. **Method of mobilization**: the Community market
12. **Stage of supply**: free at destination
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**: Oppen Zinzi Store, c/o UNHCR Field Office, Pekelle, East Moyo Sub-District, Adjumani, Uganda
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage**: 20. 3 — 17. 4. 1990
18. **Deadline for the supply**: 15. 4. 1990
19. **Procedure for determining the costs of supply** (4): tendering
20. **Date of expiry of the period allowed for submission of tenders**: 12 noon on 6. 2. 1990. Tenders shall be valid until 12 midnight on 7. 2. 1989
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 12 noon on 20. 2. 1990. Tenders shall be considered valid until 12 midnight on 21. 2. 1990
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 3. 4. — 1. 5. 1990
 - (c) deadline for the supply: 15. 5. 1990
22. **Amount of the tendering security**: ECU 15 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders** (5): 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 22037 AGREC B or 25670 B
25. **Refund payable on request by the successful tenderer**: —

Notes :

- (¹) The operation number is to be quoted in all correspondence.
 - (²) Commission delegate to be contacted by the successful tenderer : see list published in OJ No C 227, 7. 9. 1985, p. 4.
 - (³) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the products to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded.
 - (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) Point (g) of Article 7 (3) of Regulation (EEC) No 2200/87 shall not be applicable to tenders submitted.
-

COMMISSION REGULATION (EEC) No 152/90

of 22 January 1990

suspending the preferential customs duties and re-introducing the Common Customs Tariff duty on imports of large roses originating in Morocco

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco⁽¹⁾, as amended by Regulation (EEC) No 3551/88⁽²⁾, and in particular Article 5 (2) (b) thereof,

Whereas Regulation (EEC) No 4088/87 lays down the conditions for applying a preferential duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports into the Community of fresh cut flowers;

Whereas Council Regulation (EEC) No 2396/89⁽³⁾ opens and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Jordan, Morocco and Israel respectively;

Whereas Article 2 of Regulation (EEC) No 4088/87 provides, on the one hand, that for a given product of a given origin, the preferential customs duty is to be applicable only if the price of the imported product is at least equal to 85 % of the Community producer price; whereas, on the other hand, the preferential customs duty is, except in exceptional cases, suspended and the Common Customs Tariff duty introduced for a given product of a given origin:

(a) if, on two successive market days, the prices of the imported product are less than 85 % of the Community producer price in respect of at least 30 % of the quantities for which prices are available on representative import markets;

or

(b) if, over a period of five to seven successive market days, the prices of the imported product are alternatively above and below 85 % of the Community producer price in respect of at least 30 % of the quantities for which prices are available on the representative import markets and if, for three days during that period, the prices of the import product have been below that level;

Whereas Commission Regulation (EEC) No 3327/89⁽⁴⁾ fixes the Community producer prices for carnations and roses for the application of the import arrangements;

Whereas Commission Regulation (EEC) No 700/88⁽⁵⁾, as amended by Regulation (EEC) No 3556/88⁽⁶⁾, lays down the detailed rules for the application of the arrangements;

Whereas, in order to enable the arrangements to operate normally, the following should be used for the calculation of the import prices:

— for the currencies which are maintained against one another within a maximum spread at any given moment for spot rate transactions of 2,25 %, a conversion rate based on their central rate adjusted by the correcting factor provided for in the last subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁷⁾, as last amended by Regulation (EEC) No 1636/87⁽⁸⁾,

— for the other currencies, a conversion rate based on the arithmetic mean of the spot market rates for the currency, as recorded over a given period, against the Community currencies referred to in the preceding indent, and the abovementioned factor;

Whereas, on the basis of prices recorded pursuant to Regulations (EEC) No 4088/87 and (EEC) No 700/88, it must be concluded that the conditions laid down in Article 2 (2) of Regulation (EEC) No 4088/87 for suspension of the preferential customs duty are met for large-flowered roses originating in Morocco; whereas the Common Customs Tariff duty should be reintroduced,

HAS ADOPTED THIS REGULATION:

Article 1

For imports of large-flowered roses (CN codes ex 0603 10 11 and ex 0603 10 51) originating in Morocco, the preferential customs duty fixed by Council Regulation (EEC) No 2396/89 is hereby suspended and the Common Customs Tariff duty is hereby reintroduced.

Article 2

This Regulation shall enter into force on 24 January 1990.

⁽¹⁾ OJ No L 382, 31. 12. 1987, p. 22.

⁽²⁾ OJ No L 311, 17. 11. 1988, p. 1.

⁽³⁾ OJ No L 227, 4. 8. 1989, p. 9.

⁽⁴⁾ OJ No L 321, 4. 11. 1989, p. 41.

⁽⁵⁾ OJ No L 72, 18. 3. 1988, p. 16.

⁽⁶⁾ OJ No L 311, 17. 11. 1988, p. 8.

⁽⁷⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁸⁾ OJ No L 153, 13. 6. 1987, p. 1.

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

Done at Brussels, 22 January 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 153/89

of 22 January 1990

re-establishing the preferential customs duty on imports of small-flowered roses
originating in Morocco

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation (EEC) No 4088/87
of 21 December 1987 fixing conditions for the
application of preferential customs duties on imports of
certain flowers originating in Cyprus, Israel, Jordan and
Morocco⁽¹⁾, as amended by Regulation (EEC) No
3551/88⁽²⁾, and in particular Article 5 (2) (b) thereof,

Whereas Regulation (EEC) No 4088/87 fixes conditions
for the application of a preferential customs duty on
large-flowered roses, small-flowered roses, uniflorous
(bloom) carnations and multiflorous (spray) carnations
within the limit of tariff quotas opened annually for
imports of fresh cut flowers into the Community;

Whereas Council Regulation (EEC) No 2396/89⁽³⁾ opens
and provides for the administration of Community tariff
quotas for cut flowers and flower buds, fresh, originating
in Cyprus, Jordan, Morocco and Israel;

Whereas Article 2 (3) of Regulation (EEC) No 4088/87
stipulates that the preferential customs duty shall be
reintroduced for a given product of a given origin if the
prices of the imported product (full rate customs duty not
deducted) are, for at least 70 % of the quantities for which
prices are available on representative Community import
markets, not less than 85 % of the Community producer
price for a period, calculated from the actual date of
suspension of the actual preferential customs duty,

- of two successive market days, after suspension under
Article 2 (2) (a) of that Regulation,
- of three successive market days, after suspension
under Article 2 (2) (b) of that Regulation;

Whereas Commission Regulation (EEC) No 3327/89⁽⁴⁾
fixed Community producer prices for carnations and roses
for application of the arrangements for importation from
the countries in question;

Whereas Commission Regulation (EEC) No 700/88⁽⁵⁾, as
amended by Regulation (EEC) No 3556/88⁽⁶⁾, laid down
detailed rules for the application of these arrangements;

Whereas to permit the import arrangements to function
in the normal manner prices on importation should be
calculated using:

- for currencies maintained against each other within a
maximum spread at any given moment for spot rate
transactions of 2,25 % a conversion rate based on
their central rate multiplied by the correcting factor
provided for in the last subparagraph of Article 3 (1)
of Council Regulation (EEC) No 1676/85⁽⁷⁾, as last
amended by Regulation (EEC) No 1636/87⁽⁸⁾,
- for other currencies a conversion rate based on the
arithmetic mean of the spot market rate of the
currency, recorded for a given period, against the
Community currencies indicated in the preceding
indent and of the aforesaid coefficient;

Whereas the preferential customs duty fixed for small-
flowered roses originating in Morocco by Regulation
(EEC) No 2396/89 was suspended by Commission
Regulation (EEC) No 42/90⁽⁹⁾;

Whereas on the basis of price recordings made as
specified in Regulations (EEC) No 4088/87 and (EEC) No
700/88 it must be concluded that the requirement for
reintroduction of the preferential customs duty laid down
in the first indent of Article 2 (3) of Regulation (EEC) No
4088/87 is met for small-flowered roses originating in
Morocco; whereas the preferential customs duty should
be reintroduced,

HAS ADOPTED THIS REGULATION:

Article 1

For imports of small-flowered roses (CN code
ex 0603 10 51) originating in Morocco the preferential
customs duty set by Regulation (EEC) No 2396/89 is
reintroduced.

Article 2

This Regulation shall enter into force on 23 January
1990.

⁽¹⁾ OJ No L 382, 31. 12. 1987, p. 22.

⁽²⁾ OJ No L 311, 17. 11. 1988, p. 1.

⁽³⁾ OJ No L 227, 4. 8. 1989, p. 9.

⁽⁴⁾ OJ No L 321, 4. 11. 1989, p. 41.

⁽⁵⁾ OJ No L 72, 18. 3. 1988, p. 16.

⁽⁶⁾ OJ No L 311, 17. 11. 1988, p. 8.

⁽⁷⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁸⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁹⁾ OJ No L 7, 10. 1. 1990, p. 5.

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

Done at Brussels, 22 January 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 154/90

of 22 January 1990

laying down detailed rules of application to potato starch falling within CN code 1108 13 00 of Council Regulation (EEC) No 3899/89 reducing for 1990 the levies on certain agricultural products originating in developing countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3899/89 of 18 December 1989 reducing for 1990 the levies on certain agricultural products originating in developing countries⁽¹⁾, and in particular Article 3 thereof,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽²⁾, as last amended by Regulation (EEC) No 3707/89⁽³⁾, and in particular Article 12 (2) thereof,

Whereas Regulation (EEC) No 3899/89 made provision for a reduction in the import levy on potato starch falling within CN code 1108 13 00 up to a fixed amount of 5 000 tonnes per year;

Whereas detailed rules of application of that Regulation should be set; whereas it should be provided that licences for importation of the product in question as part of the said fixed amount should be issued following a review period and subject if necessary to fixing a flat-rate percentage reduction in the quantities applied for;

Whereas sound management of the arrangement demands that notwithstanding Article 12 of Commission Regulation (EEC) No 891/89 of 5 April 1989 on special detailed rules for the application of the system of import and export licences for cereals and rice⁽⁴⁾, as amended by Regulation (EEC) No 990/89⁽⁵⁾, the security for import licences issued under the arrangement be set at ECU 25 per tonne;

Whereas for the same reason the information to be shown on applications and licences should be specified, notwithstanding Articles 8 and 21 of Commission Regulation (EEC) No 3719/88 of 16 November 1988 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products⁽⁶⁾ as last amended by Regulation (EEC) No 1903/89⁽⁷⁾; whereas, however, given the period of application of Regulation (EEC) No 3899/89,

licences should not be valid after 31 December of the year of issue;

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

The arrangements set out in Article 1 of Regulation (EEC) No 3899/89 shall apply to potato starch falling within CN code 1108 13 00 and originating in developing countries. The provisions of this Regulation shall apply.

Article 2

1. Applications for import licences relating to the fixed quantity laid down by Regulation (EEC) No 3899/89 may be lodged with the competent authorities of any Member State on the first working day of the week before 1 p.m. Belgian time.

They must be for a quantity of not less than 50 tonnes product weight and may not be for more than the fixed quantity laid down by Regulation (EEC) No 3899/89.

2. Member States shall transmit import licence applications to the Commission by telex by 6 p.m. Belgian time on the day on which they were lodged.

This notification shall be made separately from that of other applications for cereal import licences.

3. If import licence applications exceed the fixed amount on which the levy reduction may be granted the Commission shall, by the fourth working day following that on which applications were lodged, set a flat-rate percentage reduction in quantities.

4. Irrespective of the application of paragraph 3 licences shall be issued on the fifth working day following that on which the application was lodged. Article 21 (1) of Regulation (EEC) No 3719/88 notwithstanding, the starting time for the period of validity of the licence shall be the day of its issue.

⁽¹⁾ OJ No L 383, 30. 12. 1989, p. 125.

⁽²⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽³⁾ OJ No L 363, 13. 12. 1989, p. 1.

⁽⁴⁾ OJ No L 94, 7. 4. 1989, p. 13.

⁽⁵⁾ OJ No L 106, 18. 4. 1989, p. 26.

⁽⁶⁾ OJ No L 331, 2. 12. 1988, p. 1.

⁽⁷⁾ OJ No L 184, 30. 6. 1989, p. 22.

The period of validity may not however extend beyond 31 December of the year of issue.

5. Article 8 (4) of Regulation (EEC) No 3719/88 notwithstanding, the quantity released for free circulation may not exceed that shown in boxes 17 and 18 of the import licence. To this end the figure 0 shall be entered in box 19 of the licence.

Article 3

For potato starch to be imported at the reduced levy rate provided for in Article 1 (1) of Regulation (EEC) No 3899/89 the import licence application and the licence shall show

(a) in box 20 the entry 'GSP product (Regulation (EEC) No 3899/89)';

(b) in box 8 the country of origin of the product.

The licence shall carry with it an obligation to import from the said country.

The licence shall also carry in box 24 the entry '50 % levy reduction'.

Article 4

Article 12 (a) and (b) of Regulation (EEC) No 891/89 notwithstanding, the security rate in the case of import licences covered by the present Regulation shall be ECU 25 per tonne.

Article 5

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

It shall apply from 1 February 1990.

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

Done at Brussels, 22 January 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 155/90**of 22 January 1990****amending Regulation (EEC) No 3856/89 laying down implementing procedures for the import arrangements applicable to products covered by CN codes 0714 10 91, 0714 10 99, 0714 90 11 and 0714 90 19 originating in the present Contracting Parties to the GATT other than Thailand**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 430/87 of 9 February 1987 concerning the import arrangements applicable to products covered by CN codes 0714 10 and 0714 90 originating in certain third countries⁽¹⁾, as last amended by Regulation (EEC) No 3846/89⁽²⁾, and in particular Article 2 thereof,Whereas a check has shown that an error was made in Annex II to Commission Regulation (EEC) No 3856/89⁽³⁾; whereas that Regulation should therefore be amended by republishing the said Annex;

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

Annex II to Regulation (EEC) No 3856/89 is 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 with effect from 1 January 1990.

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

Done at Brussels, 22 January 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission⁽¹⁾ OJ No L 43, 13. 2. 1987, p. 9.⁽²⁾ OJ No L 374, 22. 12. 1989, p. 3.⁽³⁾ OJ No L 374, 22. 12. 1989, p. 27.

SERIAL EC-A No

ORIGINAL

**DEPARTMENT OF TRADE
OF THE REPUBLIC OF INDONESIA**

EXPORT CERTIFICATE

EXPORT CERTIFICATE No	
EXPORT PERMIT No	

1. EXPORTER (NAME, ADDRESS AND COUNTRY)		2. FIRST CONSIGNEE (NAME, ADDRESS AND COUNTRY)	
NAME		NAME	
ADDRESS		ADDRESS	
COUNTRY		COUNTRY	
3. SHIPPED PER		5. COUNTRY/COUNTRIES OF DESTINATION IN EEC	
4. EXPECTED TIME OF ARRIVAL			
6. TYPE OF MANIOC PRODUCTS	7. WEIGHT (TONNES)	8. PACKING	
CN-0714 10 91 ☐ CN-0714 10 99 ☐ CN-0714 90 11 ☐ CN-0714 90 19 ☐	SHIPPED WEIGHT	☐ IN BULK ☐ BAGS ☐ OTHERS	

DEPARTMENT OF TRADE
OF THE REPUBLIC OF INDONESIA

DATE

NAME AND SIGNATURE OF AUTHORIZED OFFICIAL AND STAMP

THIS CERTIFICATE IS VALID FOR 120 DAYS FROM THE DATE OF ISSUE

FOR USE OF EEC AUTHORITIES:

COMMISSION REGULATION (EEC) No 156/89

of 22 January 1990

introducing a countervailing charge on artichokes originating in Egypt

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 1119/89⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

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

Whereas Commission Regulation (EEC) No 3102/89 of 16 October 1989 fixing for the 1989/90 marketing year the reference prices for artichokes⁽³⁾ fixed the reference price for products of class I for the period 1 January to 30 April 1990 at ECU 78,83 per 100 kilograms net;

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

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

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

Whereas, for artichokes originating in Egypt the entry price calculated in this way has remained at least ECU 0,6 below the reference price for two consecutive market days; whereas a countervailing charge should therefore be introduced for these artichokes;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

A countervailing charge of ECU 0,95 per 100 kilograms net is applied to artichokes (CN code 0709 10 00) originating in Egypt.

Article 2

This Regulation shall enter into force on 24 January 1990.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 118, 29. 4. 1989, p. 12.

⁽³⁾ OJ No L 298, 17. 10. 1989, p. 6.

⁽⁴⁾ OJ No L 220, 10. 8. 1974, p. 20.

⁽⁵⁾ OJ No L 368, 31. 12. 1985, p. 1.

⁽⁶⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁷⁾ OJ No L 153, 13. 6. 1987, p. 1.

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

Done at Brussels, 22 January 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 157/90

of 22 January 1990

fixing the import levies on white sugar and raw sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 1069/89 ⁽²⁾, and in particular Article 16 (8) thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 1920/89 ⁽³⁾, as last amended by Regulation (EEC) No 128/90 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1920/89 to the information known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 23 January 1990.

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

Done at Brussels, 22 January 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 114, 27. 4. 1989, p. 1.

⁽³⁾ OJ No L 187, 1. 7. 1989, p. 13.

⁽⁴⁾ OJ No L 15, 19. 1. 1990, p. 10.

ANNEX

to the Commission Regulation of 22 January 1990 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy
1701 11 10	30,85 ⁽¹⁾ ...
1701 11 90	30,85 ⁽¹⁾
1701 12 10	30,85 ⁽¹⁾
1701 12 90	30,85 ⁽¹⁾
1701 91 00	35,11
1701 99 10	35,11
1701 99 90	35,11 ⁽²⁾ ...

⁽¹⁾ Applicable to raw sugar with a yield of 92 % ; if the yield is other than 92 %, the levy applicable is calculated in accordance with the provisions of Article 2 of Commission Regulation (EEC) No 837/68 (OJ No L 151, 30. 6. 1968, p. 42).

⁽²⁾ In accordance with Article 16 (2) of Regulation (EEC) No 1785/81 this amount is also applicable to sugar obtained from white and raw sugar containing added substances other than flavouring or colouring matter.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 14 December 1989

relating to a proceeding under Article 85 of the EEC Treaty

(IV/32.202-APB)

(Only the French and Dutch texts are authentic)

(90/33/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17 of 6 February 1962: First Regulation implementing Articles 85 and 86 of the Treaty⁽¹⁾, as last amended by the Act of Accession of Spain and Portugal, and in particular Article 2 thereof,

Having regard to the application for negative clearance submitted on 1 December 1986 by the Association Pharmaceutique Belge, Brussels, concerning a standard agreement of indefinite duration for the distribution to pharmacies of certain parapharmaceutical products,

Having regard to the summary of the application for negative clearance published pursuant to Article 19 (3) of Regulation No 17⁽²⁾,

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

Whereas :

I. THE FACTS

- (1) The Association Pharmaceutique Belge (APB) notified a standard agreement of indefinite duration on 1 December 1986 which it has concluded or plans to conclude with Belgian or foreign manufacturers or the general representatives of foreign manufacturers in Belgium (hereinafter 'the manufacturer(s)').

The agreement was amended during the procedure. The agreement concerns the distribution to pharmacies of parapharmaceutical products in Belgium. It grants the right to affix a stamp of quality on the packaging of parapharmaceutical products which the APB has tested for conformity. Belgian and foreign manufacturers undertake in exchange to supply stamped products only to pharmacies in Belgium.

A. The parties to the agreement

1. The APB:

- (2) The APB was set up to protect the interests of pharmacists' trade associations and their members carrying out the activities of pharmacist, and to coordinate their activities. Article 5 (1) of the APB's articles of association limits membership to such associations. 28 associations are members of the APB. They represent 4 696 member-pharmacists out of a total of 5 173 pharmacies in Belgium.
- (3) The APB has a science laboratory and a number of specialized services. Among the latter is the Control of Medicaments Service (Service de Contrôle des Médicaments (SCM)), which is responsible for running the laboratory. The laboratory, which is officially recognized, chiefly analyses proprietary medicinal products. The analysis, carried out on behalf of pharmacists in Belgium, offers a guarantee to the patient that the product has been checked. This check is in addition to the statutory checks carried out at the manufacturing stage.

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No C 210, 16. 8. 1989, p. 6.

- (4) The SCM, however, also analyses parapharmaceutical products not required to undergo any specific tests. These represent some 15 % of the products analysed in SCM laboratories. Most of the checks involve pre-registration analyses of non-medicinal products which manufacturers will be authorized to distribute with the APB guarantee stamp in accordance with the provisions of the standard agreement. Registration follows a predetermined procedure. After registration, the SCM may also carry out random checks of products subject to contract. It may also, however, carry out sample checks of products not under contract.
- (5) The purpose of the SCM analysis is to establish that the product in question corresponds to the data provided by the manufacturers and that it satisfies legal and administrative requirements. Its checks are therefore conformity tests. They do not guarantee that the products analysed in its laboratories possess the beneficial qualities their manufacturers may attribute to them.
- 2. The manufacturers of parapharmaceutical products*
- (6) By the end of 1987, the APB had concluded standard agreements with [...] ⁽¹⁾ manufacturers covering [...] parapharmaceutical products. Of the [...] Belgian and foreign manufacturers, [...] also produce proprietary medicinal products.
- (7) As regards foreign manufacturers, the APB concludes standard agreements with them or with their general representatives in Belgium. The representatives are either subsidiaries or agencies of the foreign manufacturer, or independent distributors.
- (9) It should be noted, however, that such products are not sold solely through pharmacies. A large proportion is sold in Belgium through supermarkets, hardware stores (drogueries), beauty shops and other specialized shops. In addition, products sold through the different distribution networks are not always comparable and are usually aimed at different target groups. Parapharmaceutical products sold in supermarkets or grocery shops are usually priced differently from those in pharmacies and are generally aimed at a different clientele.
- (10) A pharmacist is also free to sell goods not generally regarded as parapharmaceuticals (e.g. combs, sweets, feeding bottles, etc.), if he considers that they do not affect the dignity of his profession. Furthermore, not all parapharmaceutical products sold in Belgian pharmacies are covered by APB contracts.
- (11) Thus the criterion of the pharmacist's dignity does not seem to play a decisive part in the definition of a parapharmaceutical product. The words 'parapharmaceutical products' tend to be used more to describe a mixed bag of products relating directly or indirectly to health care.
- (12) They can be divided roughly into three main categories: toiletries and cosmetics, dietary products, and special foods (baby foods and vitamins).
- (13) There are no specific rules for parapharmaceutical products as a category. They are, however, subject to various rules concerning their manufacture and marketing. The laws governing foodstuffs, cosmetics or plant-protection products may apply according to the type of parapharmaceuticals in question.

B. The market

1. Parapharmaceutical products

- (8) According to the APB, parapharmaceutical products are substances or compounds which do not correspond to the legal definition of a medicinal product. They are in any event products which, by virtue of their composition, utilization or presentation, are compatible with the dignity of the profession of pharmacist.

⁽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

2. Distribution of parapharmaceuticals in pharmacies

- (14) The number of pharmacies in Belgium, currently totalling 5 173, and their distribution throughout the country is regulated by the public authorities on the basis of the number of inhabitants. The opening or transfer of a pharmacy, or merger of two or more, requires prior authorization from the Ministry for Public Health and Family Affairs. Virtually no new authorizations to open a pharmacy are given any longer because of the stability of the population in Belgium.
- (15) In order to defend their interests, Belgian pharmacists formed a number of professional unions all of which, apart from one which represents cooperative pharmacies, are represented by the APB. The

cooperative union, l'Office des Pharmacies Coopératives de Belgique (Ophaco), has also authorized the SCM to check pharmaceutical and parapharmaceutical products.

- (16) All pharmacists in Belgium must be registered with the Ordre des Pharmaciens which exercises disciplinary authority and represents the profession. It ensures compliance with the ethical rules of the profession, which prohibit pharmacists from advertising or granting discounts and require them in general to refrain from any form of unfair competition.
- (17) In 1986, Belgian pharmacies had a turnover of Bfrs 57 500 million. Approximately 87 % of this figure was obtained from the sale of medicinal products, and 9 % from the sale of products under contract. Income in this sector has dropped in recent years.

C. The stamp agreement

1. Justification

- (18) Since 1885, pharmacists in Belgium have been legally responsible for all the products they sell. It is therefore for them to check the quality of made-up preparations and ensure that proprietary products correspond to the stated contents. All Belgian pharmacists, including those affiliated to the Ophaco, have entrusted the SCM with the task of carrying out the checks without thereby being relieved of their individual responsibility.
- (19) Legal responsibility is not, however, limited to medicinal products but covers all items sold in pharmacies. The brief given to the SCM has therefore been extended to cover parapharmaceutical products. The stamp agreement system enables the SCM to carry out prior and/or sample checks on these products.
- (20) The system, set up by and for pharmacists, does not cost the manufacturers anything, apart from the costs of the examination prior to registration (Bfrs 10 000). In exchange for the SCM checks, the authorization to affix the APB stamp and the opportunity to sell their products in pharmacies, manufacturers undertake not to sell the stamped product other than to pharmacies. The manufacturer is however free to sell the same product in the same packaging under the same name, but without a stamp, through other distribution networks.

2. The content of the agreement

- (21) Article 1 gives manufacturers the right to place the APB mark of guarantee — the stamp — on their parapharmaceutical products. Under Article 3, manufacturers have this right only if the products have been checked and approved by the SCM.
- (22) In exchange for that right, Article 2 requires manufacturers to sell the parapharmaceutical products bearing the stamp only through pharmacies.
- (23) Article 17 prohibits manufacturers from adopting conditions of sale that are discriminatory or incompatible with the normal activities of pharmacists. Manufacturers must make their products available to all pharmacists through wholesalers. According to the APB the latter obligation does not mean that the manufacturer would be prohibited to sell his products directly to pharmacists.
- (24) Article 11 lays down the procedures for affixing the APB stamp. Furthermore, under that Article, manufacturers undertake to affix the stamp in a visible place on the packaging and not to overlay or mask it under any circumstances.
- (25) The APB maintains that this clause is designed to prevent a manufacturer from selling to outlets other than pharmacies products not apparently bearing the stamp but whose packaging would indicate the presence of the stamp. Such ambiguity could mislead consumers as to the value and origin of the APB guarantee stamp and allow other distributors to benefit unduly from the SCM checks.
- (26) Pursuant to Article 16, the contract is valid for an indefinite period, unless one of the parties decides to terminate it with 12 months' notice.

D. The procedure

- (27) The original version of Article 2 (1) of the contract notified on 1 December 1986 prohibited the manufacturer from selling the product concerned (whether stamped or not) through distribution channels other than pharmacies.
- (28) The original version of the contract was the subject of a statement of objections dated 26 October 1988. In its statement, the Commission informed APB that Article 2 (1) infringed Article 85 (1) of the EEC Treaty since it prevented manufacturers from selling the products under contract through networks other than pharmacies, even if the products did not have the APB stamp. Not only did such exclusive sales in pharmacies affect the

manufacturer's freedom of choice as regards product marketing method, it also restricted competition between pharmacies and other distributors, the latter being unable to obtain supplies directly from the manufacturers bound by contract. Pharmacies were thus protected from all direct competition from other distributors in respect of the distribution of the contract product. The notified version of the agreement thus restricted competition in the distribution of parapharmaceutical products in Belgium.

(29) Furthermore, the exclusivity clause contained in the original version of the agreement prevented the agreement from qualifying for exemption under Article 85 (3). The exclusivity clause meant that consumers had no choice of distribution network for the contract product in question. The fact that consumers benefit from the improvement in distribution resulting from the SCM checks is not sufficient to compensate for the limitation placed on choice. Furthermore, exclusivity was not indispensable to the attainment of the improvement.

(30) In response to the statement of objections of 26 October 1986, the APB amended Article 2 (1). In the new version of Article 2, described above in point 22, manufacturers may sell the same product, in the same packaging and under the same name, but without a stamp, through distribution channels other than pharmacies.

(31) At the same time as it amended Article 2 (1), the APB also added to Article 11 the requirement that manufacturers place the APB stamp in a visible manner on the packaging without overlaying or masking it under any circumstances.

(32) When it notified the amendment, the APB stated that Article 11 did not affect the right of a manufacturer to sell products without a stamp or products on which the stamp is no longer visible to outlets other than pharmacies.

II. LEGAL ASSESSMENT

(33) The standard agreement concluded between manufacturers of parapharmaceuticals or their general representatives and the APB is an agreement between an undertaking and an association combining trade associations. The APB protects the interests of Belgian pharmacists. In concluding the

agreement, it is acting in the interests and on behalf of the pharmacists in question. The concluding of the agreements by the APB thus reflects the concerted wish of Belgian pharmacists to commit themselves collectively to a manufacturer.

(34) The standard agreement gives producers the right to affix the APB mark of guarantee on their parapharmaceutical products which, subject to a prior check, have received the approval of the SCM.

(35) In exchange for that right, the stamp agreement, as amended after the statement of objections of 26 October 1988, requires manufacturers 'to sell the products covered by the agreement only in pharmacies, if they bear the APB stamp.'

(36) Thus in the amended stamp agreement, manufacturers are no longer required to sell their products, which have been approved by the SCM and may therefore bear the APB stamp, exclusively in pharmacies. They are free to sell the same products in the same packaging and under the same name, but without the stamp, through distribution networks other than pharmacies.

(37) In addition, unlike the previous version of the stamp agreement in which producers undertook to sell the contracted product direct or through intermediaries only to pharmacies, the amended version no longer imposes any direct or indirect obligations on wholesalers as regards the channel through which the products in question are distributed.

(38) For these reasons, the new agreement — unlike the previous version to which the Commission objected on the ground that it established a system of exclusive distribution to pharmacies which affected the freedom of the manufacturer to choose the most appropriate marketing method — no longer requires certain products, especially pharmaceutical products checked and approved by the APB, to be distributed solely to pharmacies, since manufacturers and wholesalers are completely free to sell the products through other distribution channels.

(39) The APB represents the interests of pharmacists' trade associations and their members. The APB is an association which is statutorily open only to those associations. The effect of the statutory limitation on potential members of the APB is that only pharmacists may contribute to and benefit from the SCM checks.

(40) Consequently, all undertakings other than pharmacies are excluded *a priori* from participation in the stamp agreement system, even if an undertaking wishes to contribute financially to the smooth operation of the SCM quality testing of parapharmaceutical products. The exclusion gives pharmacies a competitive advantage. They alone may obtain the quality stamp.

(41) However, there is nothing to prevent other distributors from creating their own control system and seal of quality. Furthermore, the quality of parapharmaceutical products is only one means of competition among others. From the competition standpoint, other distributors normally have different customers from those of pharmacies and a different pricing policy.

(42) In such circumstances, the restriction of competition resulting from exclusion from the control-system control system cannot be regarded as appreciable. Thus one of the conditions for the application of Article 85 (1) is not satisfied.

(43) Publication in the *Official Journal of the European Communities* as required by Article 19 (3) of Regulation No 17 did not give rise to any representations from third parties,

HAS ADOPTED THIS DECISION:

Article 1

On the basis of the facts in its possession, the Commission has no grounds for action under Article 85 (1) of the Treaty in respect of the stamp agreement notified and amended by the Association Pharmaceutique Belge.

Article 2

This Decision is addressed to the Association Pharmaceutique Belge.

Done at Brussels, 14 December 1989.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION DECISION

of 5 January 1990

approving the varietal conversion programme for hops submitted by the Portuguese Republic pursuant to Council Regulation (EEC) No 2997/87

(Only the Portuguese text is authentic)

(90/34/EEC)

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

Having regard to Council Regulation (EEC) No 2997/87 of 22 September 1987 laying down, in respect of hops, the amount of aid to producers for the 1986 harvest and providing for special measures for certain regions of production⁽¹⁾, so amended by Regulation (EEC) No 1809/89⁽²⁾, and in particular Article 2 (5) thereof,

Whereas, pursuant to Article 2 (5) of Regulation (EEC) No 2997/87, on 23 December 1988 Portugal forwarded to the Commission a varietal conversion programme for hops; whereas amendments to that programme were forwarded by the Republic of Portugal on 11 October 1989; whereas further amendments to that programme were decided on 30 October 1989;

Whereas the programme as amended satisfies the objectives of Regulation (EEC) No 2997/87 and contains the information required pursuant to Article 2 of Commission Regulation (EEC) No 3889/87 of 22 December 1987 laying down detailed rules for the application of the special measures for certain regions of hops production⁽³⁾, as last amended by Regulation (EEC) No 2174/89⁽⁴⁾;

Whereas the financial contribution from the national budget foreseen in the programme complies with the ceiling in Article 2 (2) of Regulation (EEC) No 2997/87; whereas the actual costs referred to in that Article may include factors for assessing the net loss of income following the implementation of the conversion plan; whereas, however, only factors relating to the net loss of income suffered from the date of adoption of Regulation (EEC) No 2997/87 may be included in the calculation of

the actual costs; whereas the financial contribution from the Member State to the varietal conversion programme must be determined accordingly;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Management Committee for Hops,

HAS ADOPTED THIS DECISION:

Article 1

The varietal conversion programme for hops pursuant to Regulation (EEC) No 2997/87 by the Portuguese Republic and 23 December 1988, as last amended on 30 October 1989, is hereby approved.

The main aspects of that programme are given in the Annex hereto.

Article 2

The Portuguese Republic shall inform the Commission every six months of progress in the programme.

Article 3

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 5 January 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 284, 7. 10. 1987, p. 19.

⁽²⁾ OJ No L 177, 24. 6. 1989, p. 6.

⁽³⁾ OJ No L 365, 24. 12. 1987, p. 41.

⁽⁴⁾ OJ No L 208, 20. 7. 1989, p. 16.

*ANNEX*1. *List of producer groups covered by the programme:*

— 'Bralúpulo' — Produtores de Lúpulo de Bragança e Braga, CRL.

2. *Duration of the programme:*

From 1990 to 1992.

The last plantings must be carried out before 31 December 1992.

3. *Areas covered by the programme:*

166 hectares.

4. *Varieties to be planted and areas concerned:*

Super-alpha varieties⁽¹⁾

Eroica	}	166 ha
Galena		
Nugget		

⁽¹⁾ Within the meaning of Article 2 of Regulation (EEC) No 2997/87 and Article 1 (3) of Regulation (EEC) No 3889/87.