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Legislation

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COMMISSION

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the Federal Republic of Germany on refunds on exports to non-member countries and intervention on the internal market in respect of the 1967/68 accounting period

(Only the German text is authentic)

(78/227/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund [1], as last amended by Regulation (EEC) No 3171/75 [2], and in particular Article 10 (4) (b) thereof,

Having regard to the application for reimbursement from the Federal Republic of Germany,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (4) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1967/68 accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy [3] provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy [4]; whereas the inspections carried out show that the expenditure declared must be increased by DM 45 038·31 (11 259·58 units of account); whereas the Member State has been fully informed of these corrections and has been able to give its views thereon;

Whereas the Commission, in its Decisions of 25 July 1968 [5], 26 March 1969 [6] and 23 October 1970 [7], fixed at 115 129 294 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the Federal Republic of Germany

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 204, 14. 8. 1968.
(6) OJ No L 103, 30. 4. 1969.
(7) OJ No L 244, 7. 11. 1970.

reimbursable by the Guarantee Section in respect of the 1967/68 accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the Federal Republic of Germany on refunds on exports to non-member countries and intervention on the internal market in respect of the 1967/68 accounting period is fixed at a total of DM 553 267 156·98 (138 316 789·25 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 115 129 294 units of account, approved on 25 July 1968, 26 March 1969 and 23 October 1970 is fixed at 23 187 495·25 units of account.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the Federal Republic of Germany on refunds on exports to non-member countries and intervention on the internal market in respect of the 1968/69 accounting period

(Only the German text is authentic)

(78/228/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund (1), as last amended by Regulation (EEC) No 3171/75 (2), and in particular Article 10 (5) (b) thereof,

Having regard to the application for reimbursement from the Federal Republic of Germany,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (5) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1968/69 accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy (3) provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy (4), except in the milk and milk products sector where the sum of 70 975 000 units of account is to be borne by the Member State in accordance with Article 16 of Council Regulation (EEC) No 2306/70 of 10 November 1970 on the financing of intervention expenditure in respect of the domestic market in milk and milk products (5); whereas the inspections carried out show that a part of the expenditure declared amounting to DM 12 404 330·39 or 3 101 082·60 units of account does not satisfy the above requirements as to eligibility and therefore cannot be reimbursed for this period; whereas the Member State has been fully informed of these deductions and has been able to give its views thereon;

Whereas the Commission, in its Decisions of 27 June 1969 (6), 22 December 1969 (7) and 23 October 1970 (8), fixed at 260 395 407 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the Federal Republic of Germany reimbursable by the Guarantee Section in respect of the 1968/69 accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the Federal Republic of Germany on refunds on exports to non-member countries and intervention on the internal market in respect of the 1968/69 accounting period is fixed at a total of DM 1 186 925 380·04 (296 731 345·01 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 260 395 407 units

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 249, 17. 11. 1970, p. 4.
(6) OJ No L 173, 15. 7. 1969.
(7) OJ No L 13, 19. 1. 1970.
(8) OJ No L 244, 7. 11. 1970.

of account, approved on 27 June 1969, 22 December 1969 and 23 October 1970 is fixed at 36 335 938·01 units of account.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the Federal Republic of Germany on refunds on exports to non-member countries and intervention on the internal market in respect of the 1969 second half-year accounting period

(Only the German text is authentic)

(78/229/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund (1), as last amended by Regulation (EEC) No 3171/75 (2), and in particular Article 10 (5) (b) thereof,

Having regard to the application for reimbursement from the Federal Republic of Germany,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (5) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1969 second half-year accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy (3) provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy (4); whereas the inspections carried out show that a part of the expenditure declared amounting to DM 6 031 907·63 (1 648 062·19 units of account) does not satisfy the above requirements as to eligibility and therefore cannot be reimbursed for this period; whereas the Member State has been fully informed of these deductions and has been able to give its views thereon; whereas, however, appeal proceedings in respect of the refusal, for identical reasons, of a part of the expenditure declared for the 1971 financial year are still pending before the Court of Justice; whereas, in consequence, the abovementioned amount will be corrected, if necessary, after the judgment of the Court;

Whereas the Commission, in its Decisions of 31 July 1970 (5) and 29 December 1970 (6), fixed at 306 896 356 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the Federal Republic of Germany reimbursable by the Guarantee Section in respect of the 1969 second half-year accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the Federal Republic of Germany on refunds on exports to non-member countries and intervention on the internal market in respect of the 1969 second half-year accounting period is fixed at a total of DM 1 673 399 640·86 (457 213 016·63 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 306 896 356 units

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 195, 2. 9. 1970.
(6) OJ No L 14, 18. 1. 1971.

of account, approved on 31 July 1970 and 24 December 1970 is fixed at 150 316 660·63 units of account.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the Federal Republic of Germany on refunds on exports to non-member countries and intervention on the internal market in respect of the 1970 accounting period

(Only the German text is authentic)

(78/230/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund (1), as last amended by Regulation (EEC) No 3171/75 (2), and in particular Article 10 (5) (b) thereof,

Having regard to the application for reimbursement from the Federal Republic of Germany,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (5) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1970 accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy (3) provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy (4); whereas the inspections carried out show that a part of the expenditure declared amounting to DM 6 753 499·80 (1 845 218·52 units of account) does not satisfy the above requirements as to eligibility and therefore cannot be reimbursed for this period; whereas the Member State has been fully informed of these deductions and has been able to give its views thereon; whereas, however, appeal proceedings in respect of the refusal, for identical reasons, of a part of the expenditure declared for the 1971 financial year are still pending before the Court of Justice; whereas, in consequence, the abovementioned amount will be corrected, if necessary, after the judgment of the Court;

Whereas the Commission, in its Decisions of 28 December 1970 (5) and 30 June 1971 (6), fixed at 494 265 266 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the Federal Republic of Germany reimbursable by the Guarantee Section in respect of the 1970 accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the Federal Republic of Germany on refunds on exports to non-member countries and intervention on the internal market in respect of the 1970 accounting period is fixed at a total of DM 2 334 635 047·60 (637 878 428·30 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 494 265 266 units

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 14, 18. 1. 1971.
(6) OJ No L 161, 19. 7. 1971.

of account, approved on 28 December 1970 and 30 June 1971 is fixed at 143 613 162·30 units of account.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the Kingdom of Belgium on refunds on exports to non-member countries and intervention on the internal market in respect of the 1967/68 accounting period

(Only the French and Dutch texts are authentic)

(78/231/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund (1), as last amended by Regulation (EEC) No 3171/75 (2), and in particular Article 10 (4) (b) thereof,

Having regard to the application for reimbursement from the Kingdom of Belgium,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (4) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1967/68 accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy (3) provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy (4); whereas the inspections carried out show that a part of the expenditure declared amounting to Bfrs 19 691 821 (393 836·42 units of account) does not satisfy the above requirements as to eligibility and therefore cannot be reimbursed for this period; whereas the Member State has been fully informed of these deductions and has been able to give its views thereon;

Whereas the Commission, in its Decisions of 25 July 1968 (5), 26 March 1969 (6) and 23 October 1970 (7), fixed at 82 414 386 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the Kingdom of Belgium reimbursable by the Guarantee Section in respect of the 1967/68 accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the Kingdom of Belgium on refunds on exports to non-member countries and intervention on the internal market in respect of the 1967/68 accounting period is fixed at a total of Bfrs 4 667 291 772 (93 345 835·44 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 82 414 386 units of

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 204, 14. 8. 1968.
(6) OJ No L 103, 30. 4. 1969.
(7) OJ No L 244, 7. 11. 1970.

account, approved on 25 July 1968, 26 March 1969 and 23 October 1970 is fixed at 10 931 449·44 units of account.

Article 2

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the Kingdom of Belgium on refunds on exports to non-member countries and intervention on the internal market in respect of the 1968/69 accounting period

(Only the French and Dutch texts are authentic)

(78/232/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund (1), as last amended by Regulation (EEC) No 3171/75 (2), and in particular Article 10 (5) (b) thereof,

Having regard to the application for reimbursement from the Kingdom of Belgium,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (5) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1968/69 accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy (3) provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy (4), except in the milk and milk products sector where the sum of 4 077 115 units of account is to be borne by the Member State in accordance with Article 16 of Council Regulation (EEC) No 2306/70 of 10 November 1970 on the financing of intervention expenditure in respect of the domestic market in milk and milk products (5); whereas the inspections carried out show that the expenditure declared must be increased by Bfrs 562 970 (11 259·40 units of account); whereas the Member State has been fully informed of these corrections and has been able to give its views thereon;

Whereas the Commission, in its Decisions of 27 June 1969 (6), 22 December 1969 (7) and 23 October 1970 (8), fixed at 100 850 227 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the Kingdom of Belgium reimbursable by the Guarantee Section in respect of the 1968/69 accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the Kingdom of Belgium on refunds on exports to non-member countries and intervention on the internal market in respect of the 1968/69 accounting period is fixed at a total of Bfrs 5 727 915 302 (114 558 306·04 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 100 850 227 units

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 249, 17. 11. 1970, p. 4.
(6) OJ No L 173, 15. 7. 1969.
(7) OJ No L 13, 19. 1. 1970.
(8) OJ No L 244, 7. 11. 1970.

of account, approved on 27 June 1969, 22 December 1969 and 23 October 1970 is fixed at 13 708 079·04 units of account.

Article 2

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the Kingdom of Belgium on refunds on exports to non-member countries and intervention on the internal market in respect of the 1969 second half-year accounting period

(Only the French and Dutch texts are authentic)

(78/233/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund [1], as last amended by Regulation (EEC) No 3171/75 [2], and in particular Article 10 (5) (b) thereof,

Having regard to the application for reimbursement from the Kingdom of Belgium,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (5) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1969 second half-year accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy [3] provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy [4]; whereas the inspections carried out show that the expenditure declared must be increased by Bfrs 6 319 276 (126 385·52 units of account); whereas the Member State has been fully informed of these corrections and has been able to give its views thereon;

Whereas the Commission, in its Decisions of 31 July 1970 [5] and December 1970 [6], fixed at 69 190 284 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the Kingdom of Belgium reimbursable by the Guarantee Section in respect of the 1969 second half-year accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Section, towards the eligible expenditure of the Kingdom of Belgium on refunds on exports to non-member countries and intervention on the internal market in respect of the 1969 second half-year is fixed at a total of Bfrs 4 681 741 496 (93 634 829·92 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 69 190 284 units of

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 195, 2. 9. 1970.
(6) OJ No L 14, 18. 1. 1971.

account, approved on 31 July 1970 and 29 December 1970 is fixed at 24 444 545·92 units of account.

Article 2

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the Kingdom of Belgium on refunds on exports to non-member countries and intervention on the internal market in respect of the 1970 accounting period

(Only the French and Dutch texts are authentic)

(78/234/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund (1), as last amended by Regulation (EEC) No 3171/75 (2), and in particular Article 10 (5) (b) thereof,

Having regard to the application for reimbursement from the Kingdom of Belgium,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (5) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1970 accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy (3) provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy (4); whereas the inspections carried out show that a part of the expenditure declared amounting to Bfrs 6 916 045 (138 320·90 units of account) does not satisfy the above requirements as to eligibility and therefore cannot be reimbursed for this period; whereas the Member State has been fully informed of these deductions and has been able to give its views thereon;

Whereas the Commission, in the Decisions of 28 December 1970 (5) and 30 June 1971 (6), fixed at 131 793 351 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the Kingdom of Belgium reimbursable by the Guarantee Section in respect of the 1970 accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the Kingdom of Belgium on refunds on exports to non-member countries and intervention on the internal market in respect of the 1970 accounting period is fixed at a total of Bfrs 9 457 892 659 (189 157 853·18 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 131 793 351 units

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 14, 18. 1. 1971.
(6) OJ No L 169, 28. 7. 1971.

of account, approved on 28 December 1970 and 30 June 1971 is fixed at 57 364 502·18 units of account.

Article 2

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the French Republic on refunds on exports to non-member countries and intervention on the internal market in respect of the 1967/68 accounting period

(Only the French text is authentic)

(78/235/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund (1), as last amended by Regulation (EEC) No 3171/75 (2), and in particular Article 10 (4) (b) thereof,

Having regard to the application for reimbursement from the French Republic,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (4) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1967/68 accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy (3) provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy (4); whereas the inspections carried out show that the expenditure declared must be increased by FF 73 271 787·20 (14 841 178·19 units of account); whereas the Member State has been fully informed of these corrections and has been able to give its views thereon;

Whereas the Commission, in its Decisions of 25 July 1968 (5), 26 March 1969 (6) and 23 October 1970 (7), fixed at 362 183 549 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the French Republic reimbursable by the Guarantee Section in respect of the 1967/68 accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the French Republic on refunds on exports to non-member countries and intervention on the internal market in respect of the 1967/68 accounting period is fixed at a total of FF 2 122 440 404·49 (429 899 657·79 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 362 183 549 units

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 204, 14. 8. 1968.
(6) OJ No L 103, 30. 4. 1969.
(7) OJ No L 244, 7. 11. 1970.

of account, approved on 25 July 1968, 26 March 1969 and 23 October 1970 is fixed at 67 716 108·79 units of account.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the French Republic on refunds on exports to non-member countries and intervention on the internal market in respect of the 1968/69 accounting period

(Only the French text is authentic)

(78/236/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund (1), as last amended by Regulation (EEC) No 3171/75 (2), and in particular Article 10 (5) (b) thereof,

Having regard to the application for reimbursement from the French Republic,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (5) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1968/69 accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy (3) provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy (4), except in the milk and milk products sector where the sum of 77 031 250 units of account is to be borne by the Member State in accordance with Article 16 of Council Regulation (EEC) No 2306/70 of 10 November 1970 on the financing of intervention expenditure in respect of the domestic market in milk and milk products (5); whereas the inspections carried out show that a part of the expenditure declared amounting to FF 95 669 727·24 (19 377 874·13 units of account) does not satisfy the above requirements as to eligibility and therefore cannot be reimbursed for this period; whereas the Member State has been fully informed of these deductions and has been able to give its views thereon;

Whereas the Commission, in its Decisions of 27 June 1969 (6), 22 December 1969 (7) and 23 October 1970 (8), fixed at 614 595 101 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the French Republic reimbursable by the Guarantee Section in respect of the 1968/69 accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the French Republic on refunds on exports to non-member countries and intervention on the internal market in respect of the 1968/69 accounting period is fixed at a total of FF 3 629 394 941·94 (735 132 840·59 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 614 595 101 units

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 249, 17. 11. 1970, p. 4.
(6) OJ No L 173, 15. 7. 1969.
(7) OJ No L 13, 19. 1. 1970.
(8) OJ No L 244, 7. 11. 1970.

of account, approved on 27 June 1969, 22 December 1969 and 23 October 1970 is fixed at 120 537 739·59 units of account.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the French Republic on refunds on exports to non-member countries and intervention on the internal market in respect of the 1969 second half-year accounting period

(Only the French text is authentic)

(78/237/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund (1), as last amended by Regulation (EEC) No 3171/75 (2), and in particular Article 10 (5) (b) thereof,

Having regard to the application for reimbursement from the French Republic,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (5) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1969 second half-year accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy (3) provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy (4); whereas the inspections carried out show that a part of the expenditure declared amounting to FF 15 972 363·16 (2 875 732·22 units of account) does not satisfy the above requirements as to eligibility and therefore cannot be reimbursed for this period; whereas the Member State has been fully informed of these deductions and has been able to give its views thereon;

Whereas the Commission, in its Decisions of 31 July 1970 (5), 29 December 1970 (6), fixed at 361 346 146 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the French Republic reimbursable by the Guarantee Section in respect of the 1969 second half-year accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the French Republic on refunds on exports to non-member countries and intervention on the internal market in respect of the 1969 second half-year accounting period is fixed at a total of FF 2 644 920 434·13 (476 202 728·78 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 361 346 146 units

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 195, 2. 9. 1970.
(6) OJ No L 14, 18. 1. 1971.

of account, approved on 31 July 1970 and 29 December 1970 is fixed at 114 856 582·78 units of account.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the French Republic on refunds on exports to non-member countries and intervention on the internal market in respect of the 1970 accounting period

(Only the French text is authentic)

(78/238/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund (1), as last amended by Regulation (EEC) No 3171/75 (2), and in particular Article 10 (5) (b) thereof,

Having regard to the application for reimbursement from the French Republic,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (5) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1970 accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy (3) provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy (4); whereas the inspections carried out show that a part of the expenditure declared amounting to FF 87 990 378·57 (15 842 162·15 units of account) does not satisfy the above requirements as to eligibility and therefore cannot be reimbursed for this period; whereas the Member State has been fully informed of these deductions and has been able to give its views thereon;

Whereas the Commission, in its Decisions of 28 December 1970 (5) and 30 June 1971 (6), fixed at 537 145 850 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the French Republic reimbursable by the Guarantee Section in respect of the 1970 accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the French Republic on refunds on exports to non-member countries and intervention on the internal market in respect of the 1970 accounting period is fixed at a total of FF 4 305 704 801·63 (775 217 412·73 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 537 145 850 units

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 14, 18. 1. 1971.
(6) OJ No L 190, 24. 8. 1971.

of account, approved on 28 December 1970 and 30 June 1971 is fixed at 238 071 562·73 units of account.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the Italian Republic on refunds on exports to non-member countries and intervention on the internal market in respect of the 1967/68 accounting period

(Only the Italian text is authentic)

(78/239/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund (1), as last amended by Regulation (EEC) No 3171/75 (2), and in particular Article 10 (4) (b) thereof,

Having regard to the application for reimbursement from the Italian Republic,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (4) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1967/68 accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy (3) provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy (4); whereas the inspections carried out show that the expenditure declared must be increased by Lit 10 641 882 675 (17 027 012·28 units of account; whereas the Member State has been fully informed of these corrections and has been able to give its views thereon;

Whereas the Commission, in its Decisions of 25 July 1968 (5), 26 March 1969 (6) and 23 October 1970 (7), fixed at 177 378 666 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the Italian Republic reimbursable by the Guarantee Section in respect of the 1967/68 accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the Italian Republic on refunds on exports to non-member countries and intervention on the internal market in respect of the 1967/68 accounting period is fixed at a total of Lit 114 069 788 329 (182 511 661·33 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 177 378 666 units

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 204, 14. 8. 1968.
(6) OJ No L 103, 30. 4. 1969.
(7) OJ No L 244, 7. 11. 1970.

of account, approved on 25 July 1968, 26 March 1969 and 23 October 1970 is fixed at 5 132 995·33 units of account.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the Italian Republic on refunds on exports to non-member countries and intervention on the internal market in respect of the 1968/69 accounting period

(Only the Italian text is authentic)

(78/240/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund (1), as last amended by Regulation (EEC) No 3171/75 (2), and in particular Article 10 (5) (b) thereof,

Having regard to the application for reimbursement from the Italian Republic,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (5) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1968/69 accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy (3) provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy (4), except in the milk and milk products sector where the sum of 318 750 units of account is to be borne by the Member State in accordance with Article 16 of Council Regulation (EEC) No 2306/70 of 10 November 1970 on the financing of intervention expenditure in respect of the domestic market in milk and milk products (5); whereas the inspections carried out show that the expenditure declared must be increased by Lit 3 796 465 056 (6 074 344·09 units of account); whereas the Member State has been fully informed of these corrections and has been able to give its views thereon;

Whereas the Commission, in its Decisions of 27 June 1969 (6), 22 December 1969 (7) and 23 October 1970 (8), fixed at 239 867 335 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the Italian Republic reimbursable by the Guarantee Section in respect of the 1968/69 accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the Italian Republic on refunds on exports to non-member countries and intervention on the internal market in respect of the 1968/69 accounting period is fixed at a total of Lit 159 630 977 996 (255 409 564·80 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 239 867 335 units

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 249, 17. 11. 1970, p. 4.
(6) OJ No L 173, 15. 7. 1969.
(7) OJ No L 13, 19. 1. 1970.
(8) OJ No L 244, 7. 11. 1970.

of account, approved on 27 June 1969, 22 December 1969 and 23 October 1970 is fixed at 15 542 229·80 units of account.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the Italian Republic on refunds on exports to non-member countries and intervention on the internal market in respect of the 1969 second half-year accounting period

(Only the Italian text is authentic)

(78/241/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund (1), as last amended by Regulation (EEC) No 3171/75 (2), and in particular Article 10 (5) (b) thereof,

Having regard to the application for reimbursement from the Italian Republic,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (5) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1969 second half-year accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy (3) provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy (4); whereas the inspections carried out show that a part of the expenditure declared amounting to Lit 16 862 144 408 (26 979 431·05 units of account) does not satisfy the above requirements as to eligibility and therefore cannot be reimbursed for this period; whereas the Member State has been fully informed of these deductions and has been able to give its views thereon;

Whereas the Commission, in its Decisions of 31 July 1970 (5) and 29 December 1970 (6), fixed at 315 897 630 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the Italian Republic reimbursable by the Guarantee Section in respect of the 1969 second half-year accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the Italian Republic on refunds on exports to non-member countries and intervention on the internal market in respect of the 1969 second half-year accounting period is fixed at a total of Lit 280 488 662 976 (448 781 860·76 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 315 897 630 units

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 195, 2. 9. 1970.
(6) OJ No L 14, 18. 1. 1971.

of account, approved on 31 July 1970 and 29 December 1970 is fixed at 132 884 230·76 units of account.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the Italian Republic on refunds on exports to non-member countries and intervention on the internal market in respect of the 1970 accounting period

(Only the Italian text is authentic)

(78/242/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund [1], as last amended by Regulation (EEC) No 3171/75 [2], and in particular Article 10 (5) (b) thereof,

Having regard to the application for reimbursement from the Italian Republic,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (5) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1970 accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy [3] provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy [4]; whereas the inspections carried out show that a part of the expenditure declared amounting to Lit 3 940 089 980 (6 304 143·97 units of account) does not satisfy the above requirements as to eligibility and therefore cannot be reimbursed for this period; whereas the Member State has been fully informed of these deductions and has been able to give its views thereon;

Whereas the Commission, in its Decisions of 28 December 1970 [5] and 30 June 1971 [6], fixed at 189 987 598 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the Italian Republic reimbursable by the Guarantee Section in respect of the 1970 accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the Italian Republic on refunds on exports to non-member countries and intervention on the internal market in respect of the 1970 accounting period is fixed at a total of Lit 326 116 923 509 (521 787 077·61 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 189 987 598 units

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 14, 18. 1. 1971.
(6) OJ No L 161, 19. 7. 1971.

of account, approved on 28 December 1970 and 30 June 1971 is fixed at 331 799 479·61 units of account.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the Grand Duchy of Luxembourg on refunds on exports to non-member countries and intervention on the internal market in respect of the 1967/68 accounting period

(Only the French text is authentic)

(78/243/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund (1), as last amended by Regulation (EEC) No 3171/75 (2), and in particular Article 10 (4) (b) thereof,

Having regard to the application for reimbursement from the Grand Duchy of Luxembourg,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (4) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1967/68 accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy (3) provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy (4);

Whereas the Commission, in its Decisions of 25 July 1968 (5), 26 March 1969 (6) and 23 October 1970 (7), fixed at 288 588 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the Grand Duchy of Luxembourg reimbursable by the Guarantee Section in respect of the 1967/68 accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the Grand Duchy of Luxembourg on refunds on exports to non-member countries and intervention on the internal market in respect of the 1967/68 accounting period is fixed at a total of Lfrs 20 051 457 (401 029·14 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 288 588 units of account, approved on 25 July 1968, 26 March 1969 and 23 October 1970 is fixed at 112 441·14 units of account.

Article 2

This Decision is addressed to the Grand Duchy of Luxembourg.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 204, 14. 8. 1968.
(6) OJ No L 103, 30. 4. 1969.
(7) OJ No L 244, 7. 11. 1970.

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the Grand Duchy of Luxembourg on refunds on exports to non-member countries and intervention on the internal market in respect of the 1968/69 accounting period

(Only the French text is authentic)

(78/244/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund (1), as last amended by Regulation (EEC) No 3171/75 (2), and in particular Article 10 (5) (b) thereof,

Having regard to the application for reimbursement from the Grand Duchy of Luxembourg,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (5) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1968/69 accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy (3) provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy (4), except in the milk and milk products sector where the sum of 916 635 units of account is to be borne by the Member State in accordance with Article 16 of Council Regulation (EEC) No 2306/70 of 10 November 1970 on the financing of intervention expenditure in respect of the domestic market in milk and milk products (5);

Whereas the Commission, in its Decisions of 27 June 1969 (6) 22 December 1969 (7) and 23 October 1970 (8), fixed at 1 388 752 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the Grand Duchy of Luxembourg reimbursable by the Guarantee Section in respect of the 1968/69 accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the Grand Duchy of Luxembourg on refunds on exports to non-member countries and intervention on the internal market in respect of the 1968/69 accounting period is fixed at a total of Lfrs 34 421 698 (668 433·96 units of account).

2. The amount to be repaid to the Fund by the Grand Duchy of Luxembourg, taking into consideration the

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 249, 17. 11. 1970, p. 4.
(6) OJ No L 173, 15. 7. 1969.
(7) OJ No L 13, 19. 1. 1970.
(8) OJ No L 244, 7. 11. 1970.

advances totalling 1 388 752 units of account, approved on 27 June 1969, 22 December 1969 and 23 October 1970 is fixed at 700 318·04 units of account.

Article 2

This Decision is addressed to the Grand Duchy of Luxembourg.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the Grand Duchy of Luxembourg on refunds on exports to non-member countries and intervention on the internal market in respect of the 1969 second half-year accounting period

(Only the French text is authentic)

(78/245/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund (1), as last amended by Regulation (EEC) No 3171/75 (2), and in particular Article 10 (5) (b) thereof,

Having regard to the application for reimbursement from the Grand Duchy of Luxembourg,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (5) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1969 second half-year accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy (3) provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy (4);

Whereas the Commission, in its Decisions of 31 July 1970 (5), fixed at 901 106 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the Grand Duchy of Luxembourg reimbursable by the Guarantee Section in respect of the 1969 second half-year accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the Grand Duchy of Luxembourg on refunds on exports to non-member countries and intervention on the internal market in respect of the 1969 second half-year accounting period is fixed at a total of Lfrs 60 252 896 (1 205 057·92 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 901 106 units of account, approved on 31 July 1970 is fixed at 303 951 92 units of account.

Article 2

This Decision is addressed to the Grand Duchy of Luxembourg.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 195, 2. 9. 1970.

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the Grand Duchy of Luxembourg on refunds on exports to non-member countries and intervention on the internal market in respect of the 1970 accounting period

(Only the French text is authentic)

(78/246/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund (1), as last amended by Regulation (EEC) No 3171/75 (2), and in particular Article 10 (5) (b) thereof,

Having regard to the application for reimbursement from the Grand Duchy of Luxembourg,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (5) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1970 accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy (3) provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy (4);

Whereas the Commission, in its Decisions of 28 December 1970 (5) and 30 June 1971 (6), fixed at 1 414 440 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the Grand Duchy of Luxembourg reimbursable by the Guarantee Section in respect of the 1970 accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the Grand Duchy of Luxembourg on refunds on exports to non-member countries and intervention on the internal market in respect of the 1970 accounting period is fixed at a total of Lfrs 99 413 099 (1 988 261·98 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 1 414 440 units of account, approved on 28 December 1970 and 30 June 1971 is fixed at 573 821·98 units of account.

Article 2

This Decision is addressed to the Grand Duchy of Luxembourg.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 14, 18. 1. 1971.
(6) OJ No L 161, 19. 7. 1971.

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the Kingdom of the Netherlands on refunds on exports to non-member countries and intervention on the internal market in respect of the 1967/68 accounting period

(Only the Dutch text is authentic)

(78/247/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund (1), as last amended by Regulation (EEC) No 3171/75 (2), and in particular Article 10 (4) (b) thereof,

Having regard to the application for reimbursement from the Kingdom of the Netherlands,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (4) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1967/68 accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy (3) provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy (4);

Whereas the Commission, in its Decisions of 25 July 1968 (5), 26 March 1969 (6) and 23 October 1970 (7), fixed at 197 763 386 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the Kingdom of the Netherlands reimbursable by the Guarantee Section in respect of the 1967/68 accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the Kingdom of the Netherlands on refunds on exports to non-member countries and intervention on the internal market in respect of the 1967/68 accounting period is fixed at a total of Fl 810 277 118·54 (223 833 458·16 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 197 763 386 units of account, approved on 25 July 1968, 26 March 1969 and 23 October 1970 is fixed at 26 070 072·16 units of account.

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 204, 14. 8. 1968.
(6) OJ No L 103, 30. 4. 1969.
(7) OJ No L 244, 7. 11. 1970.

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the Kingdom of the Netherlands on refunds on exports to non-member countries and intervention on the internal market in respect of the 1968/69 accounting period

(Only the Dutch text is authentic)

(78/248/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund [1], as last amended by Regulation (EEC) No 3171/75 [2], and in particular Article 10 (5) (b) thereof,

Having regard to the application for reimbursement from the Kingdom of the Netherlands,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (5) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1968/69 accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy [3] provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy [4], except in the milk and milk products sector where the sum of 16 681 250 units of account is to be borne by the Member State in accordance with Article 16 of Council Regulation (EEC) No 2306/70 of 10 November 1970 on the financing of intervention expenditure in respect of the domestic market in milk and milk products [5]; whereas the inspections carried out show that a part of the expenditure declared amounting to Fl 707 294·05 (195 385·10 units of account) does not satisfy the above requirements as to eligibility and therefore cannot be reimbursed for this period; whereas the Member State has been fully informed of these deductions and has been able to give its views thereon;

Whereas the Commission, in its Decisions of 27 June 1969 [6], 22 December 1969 [7] and 23 October 1970 [8], fixed at 261 268 410 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the Kingdom of the Netherlands reimbursable by the Guarantee Section in respect of the 1968/69 accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the Kingdom of the Netherlands on refunds on exports to non-member countries and intervention on the internal market in respect of the 1968/69 accounting period is fixed at a total of Fl 1 071 245 770·34 (295 924 245·95 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 261 268 410 units

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 249, 17. 11. 1970, p. 4.
(6) OJ No L 173, 15. 7. 1969.
(7) OJ No L 13, 19. 1. 1970.
(8) OJ No L 244, 7. 11. 1970.

of account, approved on 27 June 1969, 22 December 1969 and 23 October 1970 is fixed at 34 655 835·95 units of account.

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the Kingdom of the Netherlands on refunds on exports to non-member countries and intervention on the internal market in respect of the 1969 second half-year accounting period

(Only the Dutch text is authentic)

(78/249/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund (1), as last amended by Regulation (EEC) No 3171/75 (2), and in particular Article 10 (5) (b) thereof,

Having regard to the application for reimbursement from the Kingdom of the Netherlands,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (5) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1969 second half-year accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy (3) provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy (4); whereas the inspections carried out show that a part of the expenditure declared amounting to Fl 61 657·27 (17 032·40 units of account) does not satisfy the above requirements as to eligibility and therefore cannot be reimbursed for this period; whereas the Member State has been fully informed of these deductions and has been able to give its views thereon;

Whereas the Commission, in its Decisions of 31 July 1970 (5), fixed at 169 918 856 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the Kingdom of the Netherlands reimbursable by the Guarantee Section in respect of the 1969 second half-year accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the Kingdom of the Netherlands on refunds on exports to non-member countries and intervention on the internal market in respect of the 1969 second half-year accounting period is fixed at a total of Fl 845 361 306·73 (233 525 222·85 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 169 918 856 units

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.
(5) OJ No L 195, 2. 9. 1970.

of account, approved on 31 July 1970 is fixed at 63 606 366·85 units of account.

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 20 December 1977

on aid from the Guidance Section of the EAGGF towards the expenditure of the Kingdom of the Netherlands on refunds on exports to non-member countries and intervention on the internal market in respect of the 1970 accounting period

(Only the Dutch text is authentic)

(78/250/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17/64/EEC of 5 February 1964 on the conditions for granting aid from the European Agricultural Guidance and Guarantee Fund (1), as last amended by Regulation (EEC) No 3171/75 (2), and in particular Article 10 (5) (b) thereof,

Having regard to the application for reimbursement from the Kingdom of the Netherlands,

After consultation with the Committee of the EAGGF,

Whereas Article 10 (5) (b) of Regulation No 17/64/EEC provides that the Commission is to decide before 31 December 1974 on aid from the Fund on the basis of the applications for reimbursement of expenditure on refunds on exports to non-member countries and intervention on the internal market submitted by the Member States in respect of the 1970 accounting period; whereas, however, as a result of the considerable delays in submitting and verifying these applications it has not been possible to take a decision on this aid before December 1977;

Whereas Article 7 (1) of Council Regulation No 130/66/EEC of 26 July 1966 on the financing of the common agricultural policy (3) provides that the contribution from the Fund is to cover all the expenditure eligible under Article 3 (1) (a), (b) and (c) of Council Regulation No 25 of 4 April 1962 on the financing of the common agricultural policy (4); whereas the inspections carried out show that a part of the expenditure declared amounting to Fl 1 522 364·72 (420 542·74 units of account) does not satisfy the above requirements as to eligibility and therefore cannot be reimbursed for this period; whereas the Member State has been fully informed of these deductions and has been able to give its views thereon; whereas, however, appeal proceedings in respect of the refusal, for identical reasons, of a part of the expenditure declared for the 1971 financial year are still pending before the Court of Justice; whereas, in consequence, the abovementioned amount will be corrected, if necessary, after the judgment of the Court;

Whereas the Commission, in its Decisions of 28 December 1970 (5) and 30 June 1971 (6), fixed at 300 597 196 units of account the total of the advances to be set against aid from the Fund towards the expenditure of the Kingdom of the Netherlands reimbursable by the Guarantee Section in respect of the 1970 accounting period; whereas this should be taken into account when establishing the amount to be reimbursed by way of such aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Aid from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, towards the eligible expenditure of the Kingdom of the Netherlands on refunds on exports to non-member countries and intervention on the internal market in respect of the 1970 accounting period is fixed at a total of Fl 1 458 093 740·19 (402 788 326·02 units of account).

2. The sum to be reimbursed by the Fund as aid, after deduction of the advances, totalling 300 597 196 units

(1) OJ No 34, 27. 2. 1964, p. 586/64.
(2) OJ No L 315, 5. 12. 1975, p. 1.
(3) OJ No 165, 21. 9. 1966, p. 2965/66.
(4) OJ No 30, 20. 4. 1962, p. 991/62.

(5) OJ No L 14, 18. 1. 1971.
(6) OJ No L 161, 19. 7. 1971.

of account, approved on 28 December 1970 and 30 June 1971 is fixed at 102 191 130·02 units of account.

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 20 December 1977.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 21 December 1977

relating to a proceeding under Article 85 of the EEC Treaty (IV/29.236 — Sopelem/ Vickers)

(Only the French and English texts are authentic)

(78/251/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 85 thereof,

Having regard to Council Regulation No 17 [1] of 6 February 1962, and in particular Articles 4, 6 and 8 thereof,

Having regard to the notification submitted on 26 February 1976 pursuant to Article 4 of Regulation No 17 by 'Société d'optique, précision, électronique et mécanique' (Sopelem), Paris, of three contracts (hereinafter referred to as 'the agreement') concluded on 17 April 1975 between Sopelem, Vickers Ltd (Vickers), London and Microscopes Nachet SA (Nachet), Paris,

Having regard to the publication in Official Journal No C 248 of 15 October 1977 of a summary of the notification, as required by Article 19 (3) of Regulation No 17,

Having regard to the opinion obtained of the Advisory Committee on Restrictive Practices and Dominant Positions on 24th November 1977 pursuant to Article 10 of Regulation No 17,

Whereas:

I. The facts

1. The products covered by the agreement are microscopes, stereo-microscopes and microdensitometers manufactured by Sopelem and Vickers as well as all spare parts and accessories for these instruments.

2. In connection with the notified agreement Vickers has acquired 49% of the shares in Nachet, which until then had been a wholly controlled subsidiary of Sopelem in charge of marketing and distribution of Sopelem's products. Thus Nachet has been turned into a joint-venture company of Sopelem and Vickers.

3. The system set up by Sopelem and Vickers aims at establishing the basis for a progressive technical cooperation between the two companies in the field of microscopy as well as establishing a future common means of distribution, Nachet, although this has not yet taken full effect.

4. The main provisions of the agreement as it stands are as follows:

A. *Technical cooperation and manufacture*

(a) The parties will cooperate and coordinate their activities by regular contacts between their research and development teams and by means of comprehensive exchange of expertise and know-how in the field of microscopy.

(b) Each of the parties continues carrying out concurrently its own research and development activities as well as manufacture in this field.

(c) The parties have not anticipated a common production to be undertaken by their joint venture company Nachet for the time being.

(d) The parties have, however, established a technical cooperation in this field with a view to reaching a standardization of components so that Sopelem parts may be fitted into Vickers instruments and vice versa.

(e) Furthermore they envisage a specialized division of their production between their respective factories in order to avoid irrational double production. Thus Sopelem may undertake to supply Vickers with certain parts of its microscopes and vice versa. This specialization will take into account the particular knowledge and expertise of each of the parties in relation to the production of particular features or components. Initially each will concentrate on the production it was carrying out prior to the agreement and only after some time will they decide the exact guidelines for future specialization.

B. *Distribution*

(a) Nachet has been appointed the sole distributor of all Sopelem and certain Vickers microscopes (M 17 and microdensitometers M 85 and M 86) in the common market with the exception of Ireland and the United Kingdom.

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[1] OJ No 13, 21. 2. 1962, p. 204/62.

(b) Vickers has been appointed the sole distributor of certain Sopelem microscopes (NS 800, NS 400 with all accessories and stereo-microscopes NS 50) in Ireland and the United Kingdom and also retains the distribution of its own microscopes in these countries.

(c) Nachet has been appointed the exclusive distributor of Sopelem and Vickers microscopes and accessories in a number of other European countries (Switzerland and Spain) and in certain, mainly French speaking, African countries.

(d) Vickers has also been appointed the exclusive distributor of Sopelem microscopes in all countries of the world except those attributed to Nachet under (c). In the USA and South Africa the distribution is carried out by local subsidiaries of Vickers.

(e) The relationship between the principal and the distributor according to the agreement is that of buyer and seller; the distributor shall purchase from the principal all its requirements of the products for sale in its territory; the distributor is free to determine his own sales prices and he undertakes all after-sales servicing of the products he has sold in his territory.

(f) The distributor is not permitted to be concerned with any products which shall or may compete with those of the principal's microscopes which fall under the agreement (see I, 1).

(g) Nothing prevents Sopelem or Vickers from fulfilling unsolicited orders from any part of the common market where Vickers or Nachet has been appointed sole distributor but they may not maintain stocks nor advertise the products in those countries.

The distributor shall not directly or through any intermediary endeavour to obtain orders for the products outside his distribution territory. He is not allowed to establish any branch or to maintain distribution depots outside his territory to handle the products.

(h) The agreement came into force on 17 April 1975 for a period of three years and thereafter continues in force until determined by six months notice.

5. The other main points emerging from the investigation are as follows:

A. *The products and the technical cooperation*

(a) The microscopes covered by the agreement range from a more elementary level over an intermediary level to highly sophisticated instruments. The instruments cover several sectors (e.g. the metallurgical and the biological as well as others). They are sold to industry, universities, research institutes, laboratories and hospitals at prices ranging from FF 2 000 to about FF 60 000. It is, however, possible to produce instruments which are even more expensive depending on the devices and accessories attached to them. It should be noted, however, that even the more elementary microscopes manufactured by the parties, from a technical point of view are superior to mere toy instruments which none of the parties manufacture. The elementary models are the so called 'student' instruments used in universities and laboratories for basic research work. The intermediary level instruments and the sophisticated ones are used for more demanding advanced technological and medical research and practice.

(b) Sopelem and Vickers are producing a wide range of microscopes although Sopelem for the time being is alone in manufacturing stereo-microscopes.

(c) The more elementary level of microscope is numerically the biggest range for both Sopelem and Vickers. Sopelem's microscope at this level is the NS 200 and Vickers' is the M 15. These two microscopes are very similar from a consumer point of view and may appeal to the same customers.

(d) As far as the more advanced and sophisticated instruments are concerned, there is only a little similarity and overlapping between Sopelem and Vickers microscopes. Instruments at these levels are more individually adapted to the customer's needs and use.

Due to the individual research results, expertise and manufacture of Sopelem and Vickers, their instruments at these levels are rather more complementary than competing in that together they make up a complete range of instruments and not two ranges of identical and competing microscopes.

There is, therefore, no actual interchangeability between the final products of each party but only between a number of parts of the parties' microscopes and it is one of the aims of the agreement to increase this interchangeability.

(e) The general trends on the market for microscopes are towards the more sophisticated individually adapted instruments. It is the intention of Sopelem and Vickers to use their cooperation in the technical research and development to move out of the routine area of microscopes towards the more specialized and sophisticated levels of instruments.

In this sense the first result of the parties' cooperation under the agreement has already been achieved. They have introduced a new microscope, the M 17. From a technical point of view this instrument is at the intermediary level of microscopes. It has been developed on the basis of experience and designs exchanged between the parties and Vickers are carrying out the manufacture. Prior to the agreement the emphasis of the Vickers range of microscopes had been on elementary and sophisticated instruments.

B. *Market positions and competitors*

(a) In the wide range of products manufactured by Sopelem and Vickers the microscopes falling under the agreement are of minor importance to both companies. In 1975 Sopelem's sales of the microscopes in the EEC countries were about ..... or less than 3% of the total sales of Sopelem. The sales of the microscopes in the EEC countries outside France counted for about .....

In the same year Vickers sales of microscopes in the EEC countries were about ..... which was a little more than 0·5% of the total sales of Vickers Ltd. The sales in the EEC countries outside Ireland and the United Kingdom were about .....

(b) Both Sopelem and Vickers are engaged in a wide range of other activities in the technical field.

Sopelem's major activity is in armaments, optical instruments and hydraulic equipment which account for about 75% of its total sales, which in 1975 were about .....

Vickers are active in shipbuilding, aeronautical products, aircrafts, armaments and several other technological fields. In 1975 the total sales of Vickers Ltd exceeded ..... and in 1976 ..... The total sales of Vickers Instruments, the division which is manufacturing the microscopes, were in the same years ..... and .....

(c) Competition in the common market for the products concerned (see I, 1) is strong and neither Sopelem nor Vickers have been able to obtain appreciable market shares outside France (Sopelem), Ireland and the United Kingdom (Vickers). Sopelem hold an overall market share of about 1·5% of all sales of these products on the common market and a share of about 20% of the sales in France. Vickers' overall market share in the common market is about 2% and their market shares in Ireland and the United Kingdom are respectively 25% and 16%.

(d) The most important competitors for the products in question (see I, 1) are Zeiss, Leitz and W. Will of the Federal Republic of Germany, the Swiss company Wild which controls Leitz and the Japanese manufacturers Nikon, Kyowa and Olympus.

There is also some competition from East European and American manufacturers but it is not of the same importance as those mentioned above.

Leitz is the largest and most important manufacturer of microscopes in the world with a market share of about 35 to 40% of all sales in the world of more advanced microscopes and with a similar importance in the common market.

The three large manufacturers (Zeiss, Leitz and Will) are currently holding a market share of approximately 50% of all sales of microscopes in the common market. Their influence and market position are strong on all technical levels of these instruments. On their home market they count for more than 80% of the sales of microscopes. Also in the other EEC countries they have a strong market position. In the United Kingdom they are believed to be supplying about 60 to 70% of all microscopes on the intermediary and advanced levels, and in France their sales are about the same level.

The Japanese manufacturers mentioned above are believed to hold an overall market share of 30 to 35% of all sales of the microscopes concerned in the common market with a particular emphasis on elementary levels and advanced stereo-microscopes.

(e) Prior to the agreement the parties were selling their microscopes in the EEC countries outside their traditional markets (France, Ireland and the United Kingdom) mainly via agents. In general the costs related to marketing and distribution of specialized precision instruments such as microscopes (at least above elementary levels) are high because it is important to have specialized distributors who possess the necessary technical skill to handle the instruments and also to provide a satisfactory after-sales service. Furthermore, it is important to maintain a sufficient stock of the instruments as well as having adequate facilities to demonstrate them to possible customers.

6. The Commission has received no comments from third parties following publication of the summary of the notification.

II. Applicability of Article 85 (1)

Under Article 85 (1) of the Treaty all agreements between undertakings, decisions by associations of undertakings and 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 are prohibited as incompatible with the common market.

1. In the time preceding the establishment of a joint venture company and the conclusion of the distributorship agreements Sopelem and Vickers were both manufacturing a wide range of microscopes, of which some were competing with each other but with most of them being only complementary. Although there is only an overlapping of the parties' instruments at the elementary level and although only Sopelem is manufacturing stereo-microscopes, both parties have a certain amount of expertise and skill in producing the products con-

cerned. Thus, when the extent and quality of their research and development work in this field is also taken into consideration, they would have been able to extend as part of their respective activities their ranges of products, thus becoming direct competitors in the production of microscopes for similar purposes. Apart from being actual competitors for elementary microscopes, they were, at least to a certain extent, potential competitors on other levels in microscopy and the agreement has therefore been concluded between competing manufacturers.

2. The agreement has as its object and effect the restriction of competition within the common market:

(a) the technical cooperation and exchange of expertise in research and development will eliminate competition between the parties in research and development;

(b) standardization of various parts of the microscopes and specialization in their production, taking into account each party's special knowledge and expertise, will affect the ability of both parties to remain active on the market as an independant developer and manufacturer of microscopes or parts. This will be even more so if completely new instruments, such as the M 17, are developed and manufactured on a common basis;

(c) the distribution arrangement whereby Vickers has been appointed the sole distributor of both parents' products in Ireland and the United Kingdom and the establishment of a single sales joint-venture (Nachet) the sole distributor of Sopelem and Vickers microscopes in the rest of the common market will imply a common price policy and consultation between the parties. Although their products are treated without differences in the sales organization, it will deprive each of the parties of an autonomous marketing activity in certain parts of the common market, which would have been possible were they acting separately. Thus the fact that Sopelem and Vickers refrain from soliciting orders in the countries where Nachet or Vickers have been appointed the sole distributor will affect the level of inter-brand competition in such countries. The number of active suppliers of the microscopes concerned has been reduced on each of the abovementioned parts of the common market; thus the products of Sopelem and Vickers will be marketed on each of those parts by one supplier only, Nachet or Vickers.

3. In view of the existing competition on the relevant market, where there is a number of large and important manufacturers of these microscopes (see I, 1) operating within the common market, the effects of the restrictions are limited but still appreciable although the significance of some of them can only be properly appraised after some time. In fact neither Sopelem nor Vickers are among the large manufacturers of microscopes but they are both economically and technically important companies which have now established a cooperation in research and development and distribution of these microscopes involving also a standardization of parts and specialized division of these instruments for which they both have sizeable market shares in their home countries.

4. The agreement involves competing undertakings from two different Member States which have previously been operating independently on the various Community markets. It covers research and development as well as distribution of products manufactured in two Member States and which can be, and are, dealt with in trade between all Member States. Nachet, as well as Sopelem itself, is prevented from actively marketing Sopelem products in Ireland and the United Kingdom. Likewise, Vickers is prevented from marketing its products in the continental Member States of the common market. Thus marketing will proceed in a different manner and also from different places than it would have done if the joint distribution arrangement had not been set up.

The agreement therefore affects trade between Member States since it will have a direct impact on inter-State trade.

5. The agreement comes within the terms of Article 85 (1) of the Treaty.

III. Applicability of Article 85 (3)

Under Article 85 (3) of the Treaty the provisions of Article 85 (1) may be declared inapplicable in the case of any agreement or concerted practice between undertakings which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

(a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;

(b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

1. The technical cooperation and the exchange of research expertise and know-how will enable both Sopelem and Vickers to secure the development and

maintenance of a more comprehensive and technically advanced range of microscopes than they have been able to offer before the agreement was made because they can avoid carrying out concurrently the same research and development work and put an emphasis on the fields in which they each had achieved the better results. But, at the same time, their knowledge of research and technical expertise will not be reduced since they will currently be informed by the other party to the agreement of experience gained by him.

In connection with the specialized division of production they will also be able to concentrate on the production of the microscopes and accessories for which their expertise, technical skill and equipment is best suited.

The standardization of various parts of the parties' microscopes will increase the interchangeability of these parts and will enable the parties to save costs because they avoid having identical production facilities, tools and machines for the manufacture of the same parts.

It should also be taken into account that Sopelem would have abandoned the production of microscopes completely if the agreement with Vickers had not been set up. The reason for this was that Sopelem found its research and development costs too high for this minor part of its production to be reasonably profitable. The agreement has, therefore, contributed to maintaining a competitor on the market for microscopes, and makes it likely that Sopelem will have a stronger position in the future as an independent manufacturer. By virtue of offering the possibility of an extended and more comprehensive range of microscopes as well as by the specialization, the agreement furthermore offers each of the parties to it the possibility to improve his technical competence and therefore improves their individual competitive situation after a termination of the agreement. Thus the agreement helps to improve production and also to promote technical progress.

2. The distribution system envisaged by the agreement is likely to enable Sopelem, Nachet and Vickers to increase their sales in the other's territory because of the access to the other's sales and distribution network which will be more efficient and better geared to that particular market.

In view of the very small market shares which the parties have achieved outside their home markets the costs of maintaining efficient and satisfactory independent distribution systems in the various Member States were disproportionately high.

The common distribution system set up under the agreement reduces these high costs because the parties avoid setting up or maintaining concurrent individual distribution networks in the same country.

The efficiency of the distribution system will be increased because the distributor appointed for the various countries will be the one who previously had the better sales network and the most well established business relations in those particular countries.

Furthermore, the after-sales service, which according to the agreement is carried out by the distributor, will be more rational because the parties avoid expensive concurrent service organizations in the same countries.

The agreement ensures that both parties' instruments will be present at the same time on markets other than the parties' traditional ones, which will enable customers to see them together. Prior to the agreement this was not the case.

The agreement, therefore, contributes to improving the distribution in the common market of the microscopes falling under the agreement.

3. The technical cooperation will enable both Sopelem and Vickers to offer a more satisfactory range of microscopes and services which is important for precision instruments. The reduction of costs arising from the uniting of their distribution network as well as from the specialization and concentration in their research and development work will furthermore enable both to supply such instruments and after-sales service at lower costs than before the agreement was made. The existence in the common market of several technically advanced, larger and economically stronger competitors will ensure that the consumers will have at least a large part of the advantages of the reduced costs transferred to them. The technical cooperation, the standardization of the parties' instruments and the subsequent greater interchangeability of certain parts and accessories for the instruments concerned will also allow the consumers an increased use of these instruments without increased purchasing costs, because they can add a greater number of accessories and special devices manufactured by both Sopelem and Vickers to the standardized instruments.

Because of the competitiveness, the economic strength and the production capacity of their major competitors,

Sopelem and Vickers are bound to transfer the economic advantages to the consumers and the latter are therefore assured benefits from the agreement.

4. The agreement contains no restrictions which are not indispensable to the attainment of the abovementioned objectives.

Technical cooperation, coordination and exchange of expertise in research and development are necessary for Sopelem and Vickers to maintain a sufficiently comprehensive and continuously competitive range of microscopes at reasonable costs which are competitive in particular with those of their Japanese competitors and also to enable them to maintain and expand their market position which might increase competition on the relevant product market. These arrangements were indispensable too in retaining Sopelem as a developer and manufacturer in the field of microscopy.

Because of their small market shares and not very competitive products both parties found it difficult to achieve sufficient sales to make a technically sufficient independent distribution system economic outside their traditional markets.

Therefore and in order to obtain fully the advantages of the technical cooperation it has been necessary for the parties to cooperate in their sales and distribution activities too, and at the same time to make sure that the distributor was technically competent to manage the distribution and after-sales service even of the most complicated instruments.

Nachet has been appointed the sole distributor in the continental countries of the common market where this company also had the better network before the agreement. For the same reason Vickers has been appointed the sole distributor in Ireland and the United Kingdom. This system, however, is operated very flexibly in that Vickers is temporarily handling distribution in the Federal Republic of Germany where it had the best business relations of the parties.

Furthermore, common sales and distribution are necessary for Sopelem and Vickers not only to maintain their present market positions but, in particular, to create the commercial background necessary to penetrate and expand their business in those parts of the common market where their individual and even combined positions are insignificant and where German and particularly Japanese competitors constantly have been increasing their market shares.

The restrictive effects of the distribution system on intra-brand competition and inter-brand competition between Sopelem and Vickers will only be minimal and will be counterbalanced by the advantages flowing from it, because the two parties' microscopes are far more complementary than competitive and because, although some of the component parts of their microscopes are interchangeable the microscopes as such, at least above the elementary level, are not and are not considered to be so by the consumers either. Furthermore, the users of the microscopes are universities, hospitals, research institutes and research departments in the industry which are all technically competent and qualified to appraise the instruments offered and to choose the one which has the necessary quality and meets their specific requirements no matter what is the name of the instrument.

During the investigation carried out by the Commission, the parties explained that, in view of the particular character of their other activities, they do not envisage any extension of their cooperation beyond the field of microscopy as covered by the agreement and, in fact, such extension would be difficult because of various differences in their production, in particular in the armaments field.

It should also be noted that the two parents have not been excluded from carrying out individual research and development. Furthermore, they will be free to exploit the results of research and development, both their own and those of the other party, without restriction after the termination of the agreement.

Consequently, all the provisions of the agreement falling under Article 85 (1) have been necessary to bring about the abovementioned advantages.

5. Neither Sopelem nor Vickers, although important companies, is among the major manufacturers of microscopes operating in the common market. Their competitors in this field are numerous and important, several of them holding market shares by far exceeding not only the individual, but also the combined shares of Sopelem and Vickers even in their home markets. In particular the position of German and Japanese manufacturers prevents a situation arising in which Sopelem and Vickers could eliminate competition in respect of a substantial part of the relevant products.

6. Accordingly, all the conditions necessary for a Decision pursuant to Article 85 (3) are fulfilled.

IV. Applicability of Articles 6 (1) and 8 (1) of Regulation No 17

1. The agreement came into force on 17 April 1975 and was notified on 26 February 1976. According to

Article 6 (1) of Regulation No 17, a Decision pursuant to Article 85 (3) cannot take effect from an earlier date than the date of notification. Thus this Decision may take effect from 26 February 1976.

2. In view of the time it takes to develop new instruments in this field the period of validity of the Decision, which must be fixed pursuant to Article 8 (1) of Regulation No 17, should be long enough to enable the agreement to procedure the benefits reasonably to be expected therefrom. In this respect a period of five years seems reasonable.

3. In view of the general market strength of the undertakings involved, as well as the nature of the restrictions on competition flowing from the agreement, the Commission should have the opportunity to assess the development on the market for the products in question as a result of the agreement.

Sopelem, Vickers and Nachet should therefore be placed under the obligation to send annual reports to the Commission on their activities in the field covered by the agreement during the period of validity of the Decision. However, the first report shall only be submitted after the expiry of the first three year period of the agreement.

The reports shall give the Commission all the information necessary to appraise the operation of the agreement, its practical results and its effects on the relevant market with particular reference to the maintenance of effective competition the EEC.

HAS ADOPTED THIS DECISION:

Article 1

The provisions of Article 85 (1) of the Treaty establishing the European Economic Community are hereby declared pursuant to Article 85 (3) thereof to be inapplicable to the agreement concluded on 17 April 1975 between Société d'optique, précision, électronique et mécanique (Sopelem) S.A., Vickers Ltd and Microscopes Nachet S.A.

Article 2

This Decision shall have effect from 26 February 1976 and shall apply until 26 February 1981.

Article 3

The undertakings named in Article 1 shall every year before the end of February send a report to the Commission covering the preceding year. The first of these reports shall be submitted before the end of April 1978 and shall cover the period from 17 April 1975.

The reports shall contain detailed information about:

(a) the practical results in respect of the parties' cooperation and exchange of expertise in research and development of the instruments covered by the agreement;

(b) the developments in the production, sales and market shares of each of the parties in each of the Member States of the EEC for each these instruments;

(c) the development of trade in these instruments between the Member States in particular in those Member States where prior to the agreement the sales of the parties had been minimal;

(d) price movements, in particular the prices charged by the parties for the instruments covered by the agreement;

(e) any changes in the nature of the agreement or extension of the parties cooperation to other fields of activity.

Article 4

This Decision is addressed to the following undertakings:

— Société d'optique, précision, électronique et mécanique (Sopelem) SA of Levallois-Perret,

— Vickers Ltd of London,

— Microscopes Nachet SA of Levallois-Perret.

Done at Brussels, 21 December 1977.

For the Commission

Raymond VOUEL

Member of the Commission

COMMISSION DECISION

of 23 December 1977

relating to a proceeding under Article 85 of the EEC Treaty (IV/29.176 — Vegetable parchment)

(Only the English, French, German and Italian texts are authentic)

(78/252/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 85 thereof,

Having regard to Council Regulation No 17 of 6 February 1962 [1], and in particular Articles 3 and 15 thereof,

Having regard to the Decision taken by the Commission on 25 April 1977 to open proceedings of its own initiative in this matter under Article 3 of Regulation No 17,

Having heard the undertakings concerned in accordance with Article 19 (1) of Regulation No 17 and with Regulation No 99/63/EEC [2],

Having regard to the opinion delivered on 9 November 1977 pursuant to Article 10 of Regulation No 17 by the Advisory Committee on Restrictive Practices and Dominant Positions,

Whereas:

I. THE FACTS

A. THE MARKET

1. Production

(1) Vegetable parchment is obtained by immersing high-quality paper in sulphuric acid. This gives translucent paper which is far stronger than the original and is impermeable to fatty substances and, to a substantial extent, water and gas.

(2) Vegetable parchment is used as a protective wrapper for fatty substances (such as butter and lard), other foodstuffs and even dynamite. It is used as a membrane for osmosis and dialysis, as paper for diplomas, as drawing paper, and for greeting cards, etc. There is also a variety of parchment paper which has been processed on one side only and is used in the manufacture of certain wallpapers. However, all these uses represent only secondary, or even marginal uses. The main market is a wrapper for fatty foods, especially butter, and it is with this market only that this Decision is concerned.

(3) Vegetable parchment is often rendered more supple and more translucent by adding small quantities of glycerine, glucose, etc., in the final stages of production. Before it can be used for wrapping butter or other foodstuffs, it has to undergo a number of other processes (coating, printing, cutting, etc.) which are generally carried out by processing companies, printers or wrapping manufacturers.

(4) The most important competitor of vegetable parchment is greaseproof paper, which is obtained by a particular method of refinement of the pulp (normally bisulphite). This paper is also translucent and to a large extent impermeable to fatty substances. It resembles vegetable parchment, but is less water-resistant. It is used for the same purposes but, since it is cheaper, it is particularly popular as a wrapper for greasy foodstuffs.

(5) Official statistics do not give specific figures on vegetable parchment output, which is aggregated with output of other wrapping papers, such as greaseproof and crystal paper [3]. However, output figures can be obtained from national or international trade associations. The table below, showing production trends in Community countries between 1967 and 1973, was produced by the Genuine Vegetable Parchment Association (GVPA) [4].

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[1] OJ No 13, 21. 2. 1962, p. 204/62.
[2] OJ No 127, 20. 8. 1963, p. 2268/63.

[3] Crystal paper is a transparent paper used chiefly for wrapping flowers.
[4] See paragraph 16 below.

Vegetable parchment output for packaging

(tonnes)

	1967	1968	1969	1970	1971	1972	1973
Belgium	862	—	—	—	—	—	—
Germany	18 540	19 616	19 836	18 336	16 259	15 570	16 357
France	11 890	12 700	12 802	12 378	11 600	12 849	14 305
United Kingdom	15 128	15 086	14 010	13 864	7 475	5 599	6 028
Italy (1)	3 273	2 803	3 563	3 375	3 032	3 935	3 902
Total EEC	49 693	50 205	50 211	47 953	38 366	37 953	40 592
Australia	—	—	—	—	2 476	2 542	2 536
Finland	5 464	6 260	6 249	7 017	7 026	6 876	6 738
Total (GVPA)	55 157	56 465	56 460	54 970	47 868	47 371	49 866

(1) As regards Italy, these figures concern only Burgo, a member of the GVPA, until 1975; they do not include the output of the two other Italian producers (CIMA and CRDM) which have never been GVPA members and whose combined output is 3 000 tonnes.

(*Source:* GVPA)

(6) From 1966 to 1969 the output of vegetable parchment for packaging in the Community remained stable at about 50 000 tonnes. After 1970, Community production decreased gradually, largely because of competition from other wrapping products (greaseproof and polyethylene films, used for certain products hitherto wrapped in vegetable parchment). The increase in production recorded in 1973 was due entirely to the special economic circumstances at that time. From the incomplete facts so far available since 1973 it is nevertheless possible to conclude that this tendency towards a decline in the market is persisting.

(7) Only four Community countries produce vegetable parchment, France, Germany, Italy and the United Kingdom. In 1973 Germany produced some 16 000 and France some 14 000 tonnes of vegetable parchment for wrapping food products. Italy produced some 7 000 tonnes, while the United Kingdom produced only 6 000 tonnes. It can also be seen that after 1967 Belgium ceased producing altogether and that in 1971 British production fell sharply from 13 864 to 7 475 tonnes (see table above).

2. Trade within the Community

(8) The foreign trade statistics published by the Statistical Office of the European Communities (Annexes A 1 to A 3) give a reasonably representative view of trade within the Community in vegetable parchment intended for wrapping food products, even if these statistics do not distinguish between the various kinds of paper and board treated with sulphuric acid. From these tables it can be seen that only the two most important manufacturing countries in the Community, France and Germany, export significant quantities of vegetable parchment. The bulk of these exports is to certain Community countries (Belgium, Denmark, the Netherlands and the United Kingdom) whereas there is virtually no trade between France, Germany and Italy.

3. The undertakings

(9) The description given below of the undertakings concerned is accompanied by an indication of the production of vegetable parchment for packaging. Owing to the statistical difficulties presented by the distinction between various types of parchment, the figures are based on estimates (average production of 1974 and 1975).

(10) In Germany there are four producers of vegetable parchment: Feldmühle AG, 4 P Nicolaus Kempten GmbH, 4 P Rube Göttingen and Schleipen & Erkens AG (hereinafter respectively: Feldmühle, Nicolaus, Rube, Schleipen & Erkens). These undertakings are members of a national trade association which they themselves created: the 'Vereinigung Echt Pergament'.

(11) Output is divided among these manufacturers as follows: Feldmühle: 5 000 tonnes; Nicolaus: 5 000 tonnes; Rube: 2 000 tonnes; Schleipen & Erkens: 8 000 tonnes. Henkel was also manufacturing vegetable parchment before 1973 but is no longer doing so.

(12) Until 1970 there were four vegetable parchment manufacturers in France: Canson & Montgolfier, Dalle & Lecomte, Les Papeteries Alamigeon & Lacroix (hereinafter Alamigeon) and Vizille. Vizille ceased to produce vegetable parchment in 1970. In 1974 Canson & Montgolfier, which only produced about 1 000 tonnes a year, likewise ceased production. Accordingly there are now only two vegetable parchment manufacturers in France — Alamigeon, with an annual output of between 2 000 and 3 000 tonnes, and Dalle & Lecomte, with an output of around 10 000 tonnes.

(13) The French manufacturers have also formed a trade association, the Syndicat des Fabricants de Papiers Sulfurisés, to which they have all belonged in the past; the two remaining producers are still members.

(14) In the United Kingdom there is currently only one manufacturer of vegetable parchment, Wiggins Teape Ltd. Its annual output is around 6 000 tonnes. Before 1971 the Inveresk group also produced vegetable parchment, and the two firms were producing similar quantities. In 1971 Inveresk abandoned production of vegetable parchment.

(15) In Italy three undertakings manufactured vegetable parchment up to 1975. They were CIMA and CRDM, which together produce around 2 000 tonnes and Cartiere Burgo, which ceased production in 1975, when its annual output was no more than 1 500 to 1 800 tonnes.

(16) All manufacturers, except CIMA and CRDM and since 12 February 1975 Wiggins Teape are members of the Genuine Vegetable Parchment Association (GVPA) or were members until they stopped producing vegetable parchment. This international trade association has its headquarters in Sweden and its members also include the Finnish firm G. A. Serlachius OY, whose Kangas factory produces some 7 000 tonnes of vegetable parchment, and, since 1971, the Australian undertaking Associated Pulp and Paper Mills Ltd., which has an annual output of some 2 500 tonnes.

B. THE CONDUCT OF THE MANUFACTURERS

1. **Supply to the British market**

(17) On February 4, 1971 a general meeting of GVPA members was held in Paris at the request of the British manufacturers. Page 2, paragraph 3 of the record of the meeting drawn up by the GVPA Secretariat states:

(18) 'The Chairman informed the meeting of the background for this meeting, which had been called upon a request from British members. It was reported that British Vegetable Parchment Mills Ltd (Inveresk) will cease the production of vegetable parchment at the Northfleet mill in March 1971. Wiggins Teape will thereafter service the entire markets in the UK as well as in the Irish Republic. From May 1971 and onwards Wiggins Teape will need to supplement their own production by quantities acquired from other producers of vegetable parchment'.

(19) On 22 March 1971, a month-and-a-half after the Paris meeting, Wiggins Teape sent all its customers and Inveresk's former customers a letter informing them that following Inveresk's decision to cease production Wiggins Teape accepted the responsibility of ensuring continuity of supplies to all users in the United Kingdom and had secured adequate additional supplies from other European producers. The letter further states that the 18% import duty [1] would be averaged across all UK supplies, including those from Wiggins Teape's own mill.

(20) In this connection, consideration of the import statistics drawn up by Wiggins Teape, which were obtained in the course of investigations into the firm, shows that since January 1972 Wiggins Teape has received vegetable parchment from the following manufacturers: Alamigeon, Dalle & Lecomte, Feldmühle, Nicolaus, Schleipen & Erkens, Serlachius (Kangas). This last producer made one single delivery of only six tonnes in

[1] At Wiggins Teape's request these customs duties were suspended on 1 January 1972.

1972. The total tonnage supplied to Wiggins Teape was 1 240 in 1972, 1 374 in 1973 and 1 168 in 1974. The breakdown of these figures by country of origin gives the following table:

(tonnes)

	France	Germany	Finland	Total
1972	542	691·7	6·3	1 240
1973	792·6	581	—	1 373·6
1974	695	473·2	—	1 168·2

(21) Apart from the quantities delivered to Wiggins Teape, French and German manufacturers imported no other vegetable parchment into the UK. (It should be stated that the GVPA does not consider deliveries to Wiggins Teape by other European countries as genuine exports and therefore does not enter them in its export records (see paragraph 38 below)). This absence of other purchasers than Wiggins Teape is not contradicted by European external trade statistics (Annexes A 1 to A 3); the differences in the statistics may be accounted for by deliveries by French and German distributors or processors.

(22) On the Irish market, as can be seen from GVPA export statistics, roughly 90% of the vegetable parchment used in 1973 and 1974 came from Wiggins Teape, the remaining 10% being supplied by Schleipen & Erkens.

(23) As far as access to the British market is concerned it should be noted that a duty of 18% on imported vegetable parchment and different manufacturing standards could be regarded as obstacles to the direct supply of this market by continental producers.

2. The absence of trade between national markets

(24) On 6 September 1966 the GVPA held an extraordinary general meeting in Hamburg to consider Wiggins Teape's proposal to abandon production of vegetable parchment at the Nivelles Mill in Belgium, belonging to Wiggins Teape Belgium, in return for compensation for the market share thus released for other member producers.

(25) The record of this meeting, drawn up by the Burgo representative, states that, following a review of the situation in the Belgian and Dutch markets, the GVPA members reached agreement on the following points:

(26) 1. With the closure of production at Wiggins Teape's Belgian mill, the Belgian market, hitherto reserved for Wiggins Teape Belgium, was henceforth a free export market, open to all other producers on the following terms:

— for three years, sales to Belgian customers would have to be made through Wiggins Teape Belgium's sales organization,

— for three years, firms exporting to Belgium would be required to pay 15 % commission to Wiggins Teape;

(27) 2. The Dutch market, which had been shared until 1966 between Belgian and German manufacturers, was to become a free export market and no compensation was payable to Wiggins Teape; the same applied to Wiggins Teape Belgium's quota on the other export markets;

(28) 3. GVPA would calculate price schedules for Belgium and the Netherlands as had already been done for the other export markets (see below, paragraphs 40 to 52).

(29) The export tables drawn up by the GVPA showing all quantities of vegetable parchment exported by member manufacturers to the various countries (see below, paragraph 38) mention no exports by member producers to their respective competitors' countries (France, Germany, and Italy).

(30) The fact that, with the exception of supplies to Wiggins Teape from other European producers, there is no trade in vegetable parchment between the four Community manufacturing countries is generally confirmed by official external trade statistics (Appendix A1 to A3), bearing in mind the fact that the latter also include the exports of processors and distributors which are not members of the GVPA.

(31) On 27 March 1972 the GVPA wrote to Burgo informing it that, at the request of the German manufacturers, an extraordinary meeting of the French and German members of the GVPA would be held in Düsseldorf on 19 April 1972 to consider a problem arising from increased vegetable parchment sales to Germany, apparently from a non-member French undertaking (Papeteries de Montévrain).

(32) On 19 June 1973 the French and German manufacturers informed the 25th GVPA general meeting that 63 tonnes of vegetable parchment had been exported from Italy to France in April that year and that there also appeared to have been exports from Italy to Germany. Samples had indicated that the vegetable parchment may have been manufactured by CIMA, and therefore 'the members concerned asked that action be taken, if possible, against CIMA so as to prevent these exports or at least to have them notified to the countries concerned' (1).

(33) Trade between the four countries in the Community which produce vegetable parchment is also characterized by the following factors:

(a) More exacting German standrads (DIN standards and the particular requirements of the Deutsches Milch-Kontor);

(b) In France and Italy the price levels for this product are generally lower than the German producers' cost price.

3. The exchange of information on export quantities and prices

(June 1973 to end of 1974)

(34) Article 1 (c) of the most recent version of the statutes of the GVPA, dated 26 September 1962, requires members to exchange 'information on production, research, development, consumption and terms of sale relating to genuine vegetable parchment'.

(35) In practice information is exchanged in two stages: first, individual information is supplied by each company to the GVPA Secretariat; second, the same information, whether collated or not, is then sent to all member undertakings.

(a) *Notification of export quantities and prices to the GVPA*

(36) GVPA members regularly sent copies of all invoices for export sales to the GVPA secretariat. This practice is mentioned at Item 1 (c) of the record of the GVPA meeting of 6 September 1966 drawn up by the Burgo representative, where it is indicated that: 'as the export invoices of all members have been sent to the GVPA it will be easy to do the necessary accounts' (2). It is also mentioned in the annex to the minutes of the 25th GVPA general meeting held at Evian on 19 June 1973, drawn up by the GVPA Secretariat, the text of which reads: 'Ref. 19 June 1973:

(1) As hitherto copies of invoices and a monthly report of the tonnage exported are to be sent to the secretariat.

(2) Copies of order confirmations are to be sent personally to Mr H. Wittefeldt without any accompanying letter'

(37) Furthermore, member manufacturers who are traditional 'price leaders' in those markets described by the GVPA as 'free export markets' (see below, paragraphs 40 to 52) sent price schedules which they applied in those markets to the GVPA secretariat. Nicolaus, for instance, calculated and sent the schedules applicable in the Netherlands each time a decision to raise prices was taken within the GVPA, while Dalle & Lecomte did the same for Belgium, as did Serlachius for Denmark and the other Scandinavian countries.

(1) Translated from the minutes of the meeting on 19 June 1973. The original reads: 'I partecipanti interessati hanno chiesto se è possibile intervenire presso la CIMA per fermare queste esportazioni o almeno per ottenere che le stesse vengano segnalate ai paesi interessati'.

(2) *Original text:* 'Poiché copia delle singole fatture di esportazione di tutte le cartiere associate vengono da sempre già inviate regolarmente alla GVPA, sarà agevole fare in conteggi relativi'.

(b) *The sending of this information to member undertakings*

(38) From export invoices regularly sent to it, the GVPA secretariat established statistical tables setting out the tonnages exported by each producer. More particularly the tables set out the monthly tonnages of vegetable parchment exported to the various countries by each member manufacturer and the aggregates for each year beginning on 1 January. They were sent regularly to all member manufacturers by the GVPA secretariat.

(39) In addition, as soon as the GVPA secretariat received the price schedules established by manufacturers and described in paragraph 37 above, it sent them to the other member manufacturers, as can be seen from the actual examples enumerated below in relation to the export price-fixing procedure.

4. Export price-fixing

(40) An increase in prices for 'free export markets', i.e. for countries in which no member manufacturer is established, was generally effected in two stages. First, the GVPA members at their general meeting fixed the rate of increase and the date on which the new prices were to become applicable; secondly, the price-leaders in each market would send to the GVPA secretariat for circulation to the other members the price schedules based on the rate of increase previously decided.

(41) Although certain manufacturers (Alamigeon, Burgo and Wiggins Teape) participated in the meetings where it was decided to increase prices for certain Community export markets, they made hardly any sales to such markets either because of insufficient capacity or because their product was too poor a quality for customers in Belgium, Luxembourg, Denmark or the Netherlands.

(42) At the 25th GVPA general meeting held at Evian on 19 June 1973 the members of the association informed each other of the prices in each of their countries; they agreed the percentage increases that would apply from 2 July that year to export prices for Community markets. These increases are mentioned in the minutes of the meeting drawn up by the Burgo representative and are 6 % for Belgium, 8 % for Denmark and 8 % for the Netherlands.

(43) On 5 and 9 July 1973 the GVPA sent all members price lists applying in European markets and dollar markets (countries of Eastern Europe and overseas); these lists, from Dalle &Lecomte (for BLEU), from Nicolaus (for the Netherlands), from Serlachius (for Denmark) and the GVPA itself (for the other markets), incorporated the increases decided at the meeting of 19 June, the rates of which were indicated in the minute made by the Burgo representative, being moreover clearly marked on the flyleaf of the forwarding document.

(44) The GVPA members, at a meeting in Copenhagen on 20 September 1973, according to the minute made by the Burgo representative, decided after a long discussion of price levels to increase their dollar export prices by 10% with immediate effect and all export prices by a further 10% with effect from 1 January 1974.

(45) The price-lists sent by the GVPA to its members confirm these increases:

(a) a note dated 20 September 1973 transmitted the Nicolaus price list applicable in the Netherlands, incorporating with effect from 1 January 1974 the 10 % increase which had been decided at the meeting of 20 September 1973;

(b) a note dated 27 September 1973 transmitted:

— the price lists applicable in the dollar area, including those European countries which quoted their exports in dollars; this list included the 10% increase decided upon in Copenhagen on 20 September and an additional 10% increase to take effect from 1 January 1974,

— the price lists applicable in Northern Europe, Austria, Switzerland and the franc area, the latter two of which incorporated the 10% increase decided on

in Copenhagen to take effect from 1 January 1974;

(c) a note dated 16 November 1973 gave the price list of Dalle & Lecomte for Belgium, incorporating an increase of approximately 9%. Here it should be mentioned that, as can be seen from the minutes of the meeting drawn up by the Burgo representative, Mr Dalle was not entirely in agreement with the 10% increase for Belgium and reserved his right to make a smaller increase;

(d) the price list of Serlachius applicable in Denmark was transmitted on 2 April 1974. It also incorporated the 10% increase decided on 20 September 1973.

(46) At the meeting in Copenhagen on 31 January 1974 the delegates, after informing each other of the prices charged in their respective countries, decided to apply a surcharge of $ 79 per tonne to offset the rise in energy costs. It was also recommended that supplies be restricted so that maximum advantage could be taken of the increases which were due to be decided at the meeting of 1 March and put into effect in April. The GVPA's covering note of 4 February drew attention to the decision to apply the surcharge and specified 1 April as the effective date.

(47) At the meeting in Copenhagen on 1 March 1974 the decision to apply the $ 79 surcharge from 1 April was confirmed and it was further decided that export prices would be raised by 5%.

(48) The price list of Serlachius of 1 March 1974 for Denmark incorporated these increases. Similarly the price lists transmitted by GVPA on 8 March for markets outside the EEC, on 15 March for the franc area, and on 18 March for the BLEU incorporated the increases decided at the meeting of 1 March 1974. The price schedule calculated by Nicolaus for the Netherlands included, in addition to the above surcharge, an increase of 8% in price rather than the 5% which had been agreed. In this connection Nicolaus indicated at the top of its new list for prices applicable to the Netherlands from 1 April 1974 which was sent to GVPA that, owing to the increase in raw material and manpower costs, it had been forced to raise its prices to the present levels.

(49) At the general meeting held on 16 May 1974 in Cascais, Portugal, GVPA members informed each other of the prices charged on their domestic markets and decided that prices on all export markets would be raised by 15% plus an additional increase averaging between 7 and 8%, with a minimum of 5% for those countries where prices were lowest.

(50) These increases are confirmed by the GVPA note dated 27 May 1974 to its members and by the price lists drawn up by:

— Serlachius on 16 May 1974 for Denmark,

— Dalle & Lecomte on 1 July 1974 for Belgium,

— Nicolaus on 28 May 1974 for the Netherlands.

(51) Finally, at the Promotion Committee meetings in Munich on 30 October 1974 it was decided that export prices would be raised from 1 January 1975 by:

— $ 125 per tonne for overseas countries,

— 10% for Scandinavian countries,

— 8% for other countries in Europe.

(52) These increases are confirmed by notes and price lists sent out by GVPA dated:

— 4 November 1974, in a note transmitting the Serlachius price lists for Denmark, the other Scandinavian countries, Austria and Switzerland,

— 19 November 1974, in a note transmitting the price lists for the Netherlands,

— 26 November 1974, in a note transmitting the price lists for Belgium and the franc area.

II. APPLICABILITY OF ARTICLE 85 (1) OF THE EEC TREATY

(53) Article 85 (1) of the EEC Treaty prohibits, as incompatible with the common market, all agreements between undertakings, decisions by associations of undertakings and 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.

(54) Some of the facts outlined above relate to past acts in respect of which the limitation period for the imposition of fines has lapsed. Furthermore,

the Commission can only find that there have been infringements where the facts in its possession furnish sufficient proof. The Commission has accordingly confined itself to those infringements considered below:

1. The conduct of GVPA members in relation to the British market

(55) The extract from the record of the GVPA meeting of 4 February 1971 cited above (paragraph 18) makes it clear that, following the ending of production at Inveresk, Wiggins Teape wished to reserve the entire British and Irish markets for itself and proposed making up for any shortfalls in its own output by placing orders with other GVPA member manufacturers.

(56) The letter dated 22 March 1971 from Wiggins Teape to all its customers and to former customers of Inveresk shows that other European manufacturers agreed to supply Wiggins Teape with the quantities of vegetable parchment which it required in order fully to meet British demand.

(57) Consideration of the official external trade statistics (see above, paragraphs 20 and 21) indicates that, although Wiggins Teape failed to maintain control over the entire Irish market, since certain customers there were supplied direct by Schleipen & Erkens, on the British market European manufacturers supplied only Wiggins Teape and refrained from supplying users directly.

(58) Even on the assumption that the 18% duty on vegetable parchment imports into Britain could make the task harder for continental manufacturers desiring to sell in the British market, the fact remains that British users were bound to obtain a large part of their requirements from abroad. In any event, the existence of this customs duty is no longer a valid argument after its suspension on 1 January 1972. Moreover, continental manufacturers delivering relatively large quantities of vegetable parchment to Wiggins Teape over several years were easily able to meet British technical standards and the specifications of British users.

(59) These facts confirm therefore that from May 1971 to December 1974 there was a concerted practice between Wiggins Teape and the member manufacturers of the GVPA, who delivered vegetable parchment regularly to the British undertaking. The concerted practice consisted in the continental manufacturers (Alamigeon, Dalle & Lecomte, Feldmühle, Nicolaus and Schleipen & Erkens) refraining from supplying other United Kingdom users while at the same time agreeing to supply Wiggins Teape with the quantities of the product it needed to fill its production gap and thus meet the entire British demand for vegetable parchment.

(60) The object and effect of a concerted practice of this nature was, at any rate from 1 January 1973 (the date of the accession of the United Kingdom to the EEC) to restrict competition within the common market, for it prevented Wiggins Teape's competitors in the Community from supplying vegetable parchment direct to British distributors and users.

(61) In thus restricting the freedom of French, German and Italian producers to export to the British market, the practice is also liable to affect trade between Member States.

(62) The fact that around 20% of its customers needs could not be supplied by Wiggins Teape because of insufficient capacity (6 000 tonnes) shows that continental producers had the opportunity to make substantial deliveries directly to British customers. It is therefore evident that this concerted practice restricted competition and did affect intra-Community trade to an appreciable extent.

2. Exchange of information on exports and prices

(63) (a) The collection and analysis of figures with the object of preparing output and sales statistics within an industry may be a task properly assigned to statistical offices and trade associations working together with undertakings. There is therefore no objection where

national or European trade associations representing the same interests but in different countries organize the exchange of statistical information giving a picture of the output and sales of the relevant industry without identifying individual undertakings.

(64) The same principles apply when statistics of a general nature are itemized in more detail than official statistics in respect of products and time. Undertakings which exchange statistics of this nature must expect that the Commission will examine the situation very closely, having regard to the limited number of competitors, should developments in that market give rise to the suspicion that, in particular, concerted practices may exist for the tacit sharing of markets of the fixing of prices.

Moreover, even at the stage of the collection of data the regular sending to the secretariat of an association of undertakings of invoices or other individual data normally regarded as business confidences would be an indication of such concerted practices. Such data are not necessary even for the preparation of monthly statistics (see paragraph 36 above) since in such cases it is sufficient to send only totals from invoices during the relevant period to the collecting agency.

(65) However, in the present case where the system of reciprocated exchange of statistical data includes the communication to competitors of information relating to individual undertakings, such a system is sufficiently characterized as a concerted practice prohibited by Article 85 (1). This sort of arrangement, which gives the exports for each member undertaking, makes it possible to establish what form of conduct the relevant firms are practising on individual markets and instals a system of solidarity and reciprocated influence between the participants leading to the coordination of their economic activities. They replace the normal risks of competition by practical cooperation leading to conditions which differ from those obtained in a normal market. Conduct such as this is contrary to Article 85 (1) and is not covered by the Commission Notice on cooperation between undertakings [1], and particularly paragraph II.1. thereof.

(66) The fact that such information agreements have the effect of making more complete market information available in no way invalidates this conclusion. The undistorted competition aimed at by the EEC Treaty is incompatible with artificially created market conditions in which, as in the present case, a distorted market transparency eliminates certain competition risks in such a way as to benefit solely the seller and not the buyer.

(67) (b) The only possible explanation for the exchange of information as to selling prices is the desire to coordinate market strategies and to create conditions of competition diverging from normal market conditions by substituting practical cooperation for price competition. In this case the undertakings concerned are naturally led to adapt their own export pricing policy to that of undertakings enjoying a pre-eminent market position in the importing country and having close ties with the resident national distributors.

(68) In the absence of such an exchange of information, producers who wish to export to these countries could, perhaps, by acting through a third party, obtain their competitors' price lists, but this would be more complicated and more time-consuming. It may therefore be assumed that the spontaneous communication of important information on prices artificially alters the conditions of

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[1] OJ No C 75, 29. 7. 1968, p. 3.

competition and tends to establish a system of solidarity and mutual influence between competitors.

(69) The practices described above, whereby GVPA member manufacturers inform each other of export quantities and prices, constitute concerted practices which have the object of distorting and restricting competition in the common market.

(70) They are liable to affect trade between Member States since each of the undertakings participating in the exchange of information about export quantities and prices will tend to work out its pricing and sales policies by reference to those of the other undertakings involved, with the result that the natural trade flows between Member States are artificially altered to an appreciable extent.

3. Export price-fixing

(71) The conduct of the GVPA and its members, described in paragraphs 40 to 52, in convening several meetings each year to set the rate of increase of the selling price of vegetable parchment in the Benelux and Danish markets constitutes a concerted practice which is clearly within Article 85 (1) (a).

(72) This practice seriously restricts competition in the common market for vegetable parchment, since it seeks to affect precisely the free export markets in the Community where, unlike the domestic markets of GVPA members, there are no special standards.

(73) The existence of the infringement is in no way affected by the fact that certain manufacturers have sometimes sold goods in these markets at prices lower than those indicated in the price lists, which were sent to all GVPA members. Every increase in price was introduced by the undertakings concerned on the same dates as those decided upon at their meetings, and the real rates of increase were very close to those which were agreed. Even if certain GVPA member manufacturers did not supply any parchment in the Benelux, Danish and Dutch markets (see paragraph 41 above) the mere fact that these undertakings took part in the discussions by which the price levels for those markets were fixed, and that they regularly received the price lists for those markets, constitutes an infringement of Article 85 (1); in effect such behaviour implies the acceptance of a restriction of competition possibilities on the part of the firms concerned.

III. INAPPLICABILITY OF ARTICLE 85 (3) OF THE TREATY

(74) Under Article 85 (3) of the EEC Treaty, the provisions of Article 85 (1) may be declared inapplicable in the case of any agreement or category of agreements between undertakings, any decision or category of decisions by associations of undertakings and any concerted practice or category of concerted practices which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives or afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

(75) The concerted practices described in paragraphs 55 to 73 and which consisted in aiding Wiggins Teape to corner the British market by delivering to that firm only and in giving information on export quantities and prices and in jointly agreeing the rates of increase in export prices, should have been notified in order to qualify for exemption under Article 85 (3). In the absence of such notification, a grant of exemption is precluded by Article 4 (1) of Regulation No 17.

(76) However, even if the concerted practices had been notified, the Commission takes the view that an exemption under Article 85 (3) could not have been given. Since the object of these practices was to refrain from competing with a

member undertaking in its domestic market, to exchange individual information on export quantities and prices and to fix uniform prices in certain export markets, they cannot bring about an improvement in production or distribution such as might benefit the consumer.

IV. APPLICABILITY OF ARTICLES 3 AND 15 (2) OF REGULATION No 17

(77) The infringements of Article 85 found by the Commission are as follows:

(78) 1. Alamigeon, Dalle & Lecompte, Feldmühle, Nicolaus and Schleipen & Erkens and Wiggins Teape, have engaged in a concerted practice which consisted of the French and German undertakings not supplying vegetable parchment to other British users while at the same time providing Wiggins Teape with the quantities it needed to meet the shortfall in its production, thereby enabling that firm to supply directly the entire British market on its own;

(79) 2. The French and German manufacturers, together with Burgo, Wiggins Teape and Selachius, have engaged in a concerted practice which consisted of regularly exchanging information on export quantities and prices and informing each other of their respective price levels;

(80) 3. The manufacturers mentioned in the preceding paragraph (Burgo, Wiggins Teape and Serlachius) have engaged in the concerted fixing at periodic intervals of selling prices in the Belgo-Luxembourg, Danish and Dutch markets.

(81) Article 15 (2) (a) of Regulation No 17 empowers the Commission by decision to impose on undertakings fines of from 1 000 to 1 000 000 units of account, or a sum in excess thereof but not exceeding 10% of the turnover in the preceding business year, where, either intentionally or negligently, they infringe Article 85 (1) of the EEC Treaty. In fixing the amount of the fine, regard is to be had both to the gravity and to the duration of the infringement.

(82) In view of the economic circumstances, the conduct of Wiggins Teape and the French and German manufacturers in the British market does not appear to have serious repercussions on supplies to customers. It is very likely that after the Inveresk factory closed, the continental manufacturers would have had great difficulty in increasing their own outlets in the British market, having regard to the tendency towards market decline and particularly if Wiggins Teape had not actively sought the suspension of the 18% customs duty. It is not necessary therefore to impose a fine on the undertakings participating in this infringement.

(83) The practice by members of the GVPA of mutually informing each other on their own export quantities and on the level of their prices is an infringement which has not necessarily been committed intentionally. At the time in question the rules of competition of the EEC Treaty had not been sufficiently developed by decisions of the Commission in this field. The conditions for imposing a fine under Article 15 (2) of Regulation No 17 are accordingly not fulfilled.

(84) However, in jointly fixing the rate of increase of the selling prices on the Belgo-Luxemburg, Danish and Dutch markets, the GVPA members could not fail to realize that they were seriously infringing the Treaty rules on competition. Manufacturers wanting to sell in these markets were able by this concerted practice to maintain their market position without fear of competition from other participants. A fine should therefore be imposed on these manufacturers — Dalle & Lecomte, Feldmühle, Nicolaus, Rube, Schleipen & Erkens and Serlachius. The position of Alamigeon, Burgo, and Wiggins Teape is not quite the same, since the latter were not directly concerned in the markets in question (see paragraph 41 above), and their role in this matter was insignificant.

(85) The period to be considered when determining the amount of the fine runs from 19 June 1973 (the 25th general meeting of the GVPA at Evian) to 30 October 1974 (meeting of the Promotion Committee in Munich). In order to decide the extent of each undertaking's participation in this concerted practice, it is necessary to consider its

sales volume in the markets concerned and their total output of vegetable parchment, described in paragraphs 9 to 16 above. In this respect it should be noted that during the period in question (1973/74) such sales exceeded 3 000 tonnes in the case of Dalle & Lecomte, 2 000 tonnes for Nicolaus and Schleipen & Erkens and were around 100 tonnes for Feldmühle and Serlachius. Sales by Rube were less than 40 tonnes. Account should also be taken of the conduct of the undertakings concerned in the fixing of prices and in particular of the moderating role assumed in 1973 by Dalle & Lecomte (see paragraph 45 above). In view of these various factors it seems appropriate to impose fines in the amounts indicated in Article 2 of this Decision.

HAS ADOPTED THIS DECISION:

Article 1

1. Alamigeon, Dalle & Lecomte, Feldmühle, Nicolaus, Schleipen & Erkens and Wiggins Teape infringed Article 85 (1) of the EEC Treaty from 1 January 1973 to the end of 1974 by engaging in a concerted practice whereby the French and German undertakings agreed to supply Wiggins Teape with vegetable parchment on the British market to the exclusion of all others.

2. Alamigeon, Burgo, Dalle & Lecomte, Feldmühle, Nicolaus, Rube, Schleipens & Erkens, Serlachius and Wiggins Teape infringed Article 85 (1) of the EEC Treaty from June 1973 to the end of 1974 by engaging in a concerted practice whereby they exchanged information on the quantities exported by each undertaking and informed each other of their price levels.

3. The vegetable parchment manufacturers listed in paragraph 2 infringed Article 85 (1) of the EEC Treaty between June 1973 and the end of 1974 by engaging in the practice of periodically meeting to fix the rates of increase in prices in the Belgo-Luxembourg, Danish and Dutch markets in concert.

Article 2

The following fines are imposed on the undertakings which have participated actively in the infringement found in Article 1 (3) hereof:

1. For Dalle and Lecomte, a fine of 25 000 (twenty-five thousand) units of account or 138 855 (one hundred and thirty-eight thousand eight hundred and fifty-five) French francs;

2. For Feldmühle, a fine of 15 000 (fifteen thousand) units of account or 54 900 (fifty-four thousand nine hundred) German marks;

3. For Nicolaus, a fine of 25 000 (twenty-five thousand) units of account or 91 500 (ninety-one thousand five hundred) German marks;

4. For Rube, a fine of 10 000 (ten thousand) units of account or 36 600 (thirty-six thousand six hundred) German marks;

5. For Schleipen & Erkens a fine of 25 000 (twenty-five thousand) units of account or 91 500 (ninety-one thousand five hundred) German marks;

6. For Serlachius a fine of 15 000 (fifteen thousand) units of account or 63 000 (sixty-three thousand) Finnish marks.

Article 3

This Decision shall be enforceable in the manner provided in Article 192 of the Treaty establishing the European Economic Community.

The fines imposed under Article 2 shall be payable to the following Commission accounts within three months following the date of notification of this Decision:

(a) For Dalle & Lecomte:

Société générale, Direction de l'étranger
29, boulevard Haussmann,
F-75454 Paris Cedex 09
Compte no. 0699.2000-00150734050
C.C.E. Bruxelles;

(b) For Feldmühle, Nicolaus, Rube and Schleipen & Erkens:

Deutsche Bank
Köningsallée 45
D-4000 Düsseldorf
Konto Nr. 2399095;

(c) For Serlachius:

Banque Bruxelles Lambert
310-0231000-32
C.C.E. Bruxelles.

Article 4

This Decision is addressed to:

Papeteries Alamigeon & Lacroix SA, Collas, France;

Papeteries Dalle & Lecomte SA, Bousbecque, France;

Cartiere Burgo SpA, Turin, Italy;

Feldmühle AG, Düsseldorf, Germany;

4 P Nicolaus Kempten GmbH, Kempten, Germany;

4 P Rube Göttingen GmbH, Göttingen, Germany;

Schleipen & Erkens AG, Jülich, Germany;

G. A. Serlachius OY, Mänttà, Finland;

Wiggins Teape Limited, London, United Kingdom.

Done at Brussels, 23 December 1977.

For the Commission

Raymond VOUEL

Member of the Commission

ANNEX A 1

EXPORTS OF VEGETABLE PARCHMENT 1972

NIMEXE 4803.10

(tonnes)

Destination	Origin								
	EUR 9	Germany	France	Italy	Netherlands	BLEU	United Kingdom	Ireland	Denmark
World	10 531 (1)	6 265	3 939	247	53	27	na	na	na
EUR 9	na	3 680	2 017	188	53	28	na	na	na
Germany	163	—	45	61	46	8	3	—	—
France	25	—	—	—	4	19	2	—	—
Italy	—	—	—	—	—	—	—	—	—
Netherlands	1 707	1 470	149	87	—	1	—	—	—
BLEU	1 496	225	1 226	40	3	—	2	—	—
United Kingdom	na	711	597	—	—	—	—	na	na
Ireland	na	24	—	—	—	—	na	—	na
Denmark	na	1 250	—	—	—	—	na	na	—

(1) Only the six countries of the former European Community.
(— = none).
(na = not available).

ANNEX A 2

EXPORTS OF VEGETABLE PARCHMENT 1973

NIMEXE 4803.10

(tonnes)

Destination	Origin								
	EUR 9	Germany	France	Italy	Netherlands	BLEU	United Kingdom	Ireland	Denmark
World	12 072 (1)	6 892	4 589	517	54	20	na	na	na
EUR 9	na	3 204	2 443	450	54	20	na	na	na
Germany	160	—	24	90	43	3	—	—	—
France	144	9	—	124	—	11	—	—	—
Italy	—	—	—	—	—	—	—	—	—
Netherlands	1 484	1 263	181	34	—	6	—	—	—
BLEU	1 689	121	1 355	202	11	—	—	—	—
United Kingdom	na	544	883	—	—	—	—	na	na
Ireland	na	—	—	—	—	—	na	—	na
Denmark	na	1 267	—	—	—	—	na	na	—

(1) Only the six countries of the former European Community.
(— = none).
(na = not available).

ANNEX A 3

EXPRTS OF VEGETABLE PARCHMENT 1974

NIMEXE 4803.10

(tonnes)

Destination	Origin								
	EUR 9	Germany	France	Italy	Netherlands	BLEU	United Kingdom	Ireland	Denmark
World	15 033	7 377	5 505	1 326	140	48	563	20	54
EUR 9	7 734	3 497	2 870	846	60	45	385	20	11
Germany	1 092	—	478	553	60	—	1	—	—
France	277	210	—	49	—	18	—	—	—
Italy	9	6	3	—	—	—	—	—	—
Netherlands	1 763	1 324	231	180	—	27	1	—	—
BLEU	1 611	139	1 409	63	—	—	—	—	—
United Kingdom	1 306	525	750	—	—	—	—	20	11
Ireland	407	24	—	—	—	—	383	—	—
Denmark	1 271	1 271	—	—	—	—	—	—	—

(— = none).

COMMISSION DECISION

of 23 December 1977

relating to proceedings under Article 85 of the EEC Treaty (IV/171, IV/856, IV/172, IV/117, IV/28.173 — Campari)

(Only the Danish, Dutch, French, German and Italian texts are authentic)

(78/253/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 85 thereof,

Having regard to Council Regulation No 17 of 6 February 1962 (1), and in particular Articles 4 to 8 thereof,

Having regard to the applications for negative clearance and notifications made on 20 and 27 October 1962 in respect of the trademark licensing agreements entered into by Davide Campari-Milano SpA, with its registered office at Milan, Italy (hereinafter Campari-Milano), on 19 September 1957 with Ognibeni & Co., Amsterdam, Netherlands, on 1 January 1960 with Hans Prang, Hamburg, Germany, on 8 January 1962 with Soval, now called Campari-France SA, Nanterre, France, and on 11 October 1962 with Sovinac SA Brussels, Belgium,

Having regard to the notification on 27 June 1973 of the trademark licensing agreement which Campari-Milano entered into on 14 April 1966 with Johs M. Klein & Co., Copenhagen, Denmark,

Having regard to the amendments made to the agreements by the parties during the proceedings, to comply with the requirements of Article 85 (3),

Having regard to the summary of the notifications published in accordance with Article 19 (3) of Regulation No 17 in Official Journal No C 198 of 19 August 1977,

Having regard to the opinion delivered on 25 November 1977 in accordance with Article 10 of Regulation No 17 by the Advisory Committee on Restrictive Practices and Dominant Positions,

Whereas:

I. The Facts

Campari-Milano is the holder of the international trademarks, Bitter Campari and Cordial Campari, which are carried by aperitifs in the manufacture of which secret concentrates (special mixtures of crushed herbs) are used.

In order to promote these brands abroad, Campari-Milano set up a network of licensees to manufacture and sell its products. The network covers all the EEC countries with the exception of the United Kingdom and Ireland. Campari-Milano granted F.S. Matta Ltd an exclusive right to import and distribute its aperitifs in these two countries; the present version of the agreement qualifies for the block exemption given by Commission Regulation No 67/67/EEC of 22 March 1967 (2).

A. Within the common market the business of the parties involved is regulated by the licensing agreements mentioned above, which have been notified to the Commission and which contain, in the version in force since 1 November 1977, the provisions described below.

1. Campari-Milano grants to the following firms an exclusive right to use its trademarks for the manufacture of its aperitifs using its secret processes and its concentrates, and for their sale in the following territories :

— Ognibeni & Co.: Netherlands,

— Hans Prang: Germany,

— Campari France SA: France, Monaco and certain French overseas territories,

— Sovinac SA: Belgium and Luxembourg,

— Johs M. Klein & Co.: Denmark.

Campari-Milano undertakes not to manufacture its aperitifs itself in these territories during the validity of the agreements.

2. The licensees undertake that during the currency of the agreements they will not handle competing pro-

(1) OJ No 13, 21. 2. 1962, p. 204/62.

(2) OJ No 57, 25. 3. 1967, p. 849/67.

ducts, notably certain beverages called Bitter and aerated drinks similar to Campari Soda.

3. The licensees and Campari-Milano undertake not to carry on any active sales policy, not to set up any branches and not to advertise, the licensees outside their respective allotted territories, and Campari-Milano within these territories.

However, the licensees and Campari-Milano will do all they can to meet unsolicited export orders for delivery within the EEC for Campari products manufactured according to the specifications as to alcoholic strength, labelling, bottle content, etc . . . applicable, in the case of a licensee in its allotted territory, and of Campari-Milano in Italy. Such sales will be at the prices and on the conditions obtaining in its own exclusive territory in the case of an exporting licensee, and on the conditions obtaining on the Italian market in the case of Campari-Milano; where Campari-Milano is exporting, its prices will be increased by the royalties and advertising costs normally borne by the licensees.

Where unsolicited orders are received for Bitter manufactured according to the specifications obtaining on the market to which the goods are to be exported, the parties are free to accept or refuse; the primary requirement is that the exclusive territories, or in Campari-Milano's case the Italian market, must not be undersupplied, and in the case of the licensees Campari-Milano must first be asked for the formulae required to manufacture the products. Campari-Milano has the right to meet orders addressed directly to it by members of the diplomatic corps or foreign armed forces.

The licensees and Campari-Milano undertake to do all they can to help buyers of their products who wish to export the products within the EEC to obtain drawback of taxes or duties on alcohol, to the extent permitted by the national fiscal regime in question.

Lastly, each licensee undertakes not to export Campari products directly or indirectly outside the EEC and in the case of Campari-France, outside those non-member countries forming part of its allotted territory.

4. All the contracts contain an obligation on the licensees to supply the original Italian product, rather than their own, to the diplomatic corps, to ships' victuallers, to foreign armed forces and in general to all bodies exempt from payment of duties.

5. The French, Belgian, Danish and Dutch licensees are to manufacture Campari products in their plant at Nanterre, Brussels, Copenhagen and Amsterdam.

Campari-Milano is to be informed of any change in plant location, and may object if the new plant is not such as to ensure that the products will be of the right quality.

6. The licensees must comply exactly with the licensor's instructions for the manufacture of products, must ensure that the quality of the raw materials used meets the licensor's specifications, must purchase certain raw materials (secret mixtures of herbs and colouring matters) from the licensor, must submit for the licensor's approval a sample of each manufacturing run giving the date of filtering and the serial number of the boxes of herbs used, and may not divulge the manufacturing processes.

7. The licensees undertake to promote sales as far as possible and, in particular, to engage in suitable advertising, each spending the same fixed amount per bottle litre of Bitter sold.

8. The licensees are required to inform Campari-Milano of any trademark infringements or passing-off which comes to their knowledge. Campari-Milano may instruct the licensees to take action against the infringers, giving the licensees the necessary power to do this.

9. In no case may the benefit of the contracts be assigned to third parties.

10. All disputes as to the interpretation and performance of the agreements are to be settled by three arbitrators, whose function is to produce an amicable settlement. As a rule arbitration will take place in Milan, but one agreement makes provision for arbitration outside the Community, in Switzerland.

11. Whereas the French agreement requires the licensee to pay royalties per bottle sold in return for use of the trademark, the other agreements provide that royalties be included in the price of raw materials supplied by Campari-Milano.

12. The contracts are automatically renewable from year to year, or every two years, unless one side or the other gives prior notice of termination.

B. In the form originally notified, the agreements contained an obligation on the licensees to manufacture only in certain plants and to purchase certain non-secret

raw materials from the licensor; there was also a ban on exports by the licensees to other EEC countries and on exports by Campari-Milano to the licensees' allotted territories. However, when the Commission informed them in its statement of objections of 27 July 1976 that it considered these obligations incompatible with Article 85 (1) of the EEC Treaty, the parties changed them so that their agreements could qualify for exemption under Article 85 (3). In particular, they replaced the ban on exports within the EEC by the undertaking to do everything possible to meet unsolicited orders inside the EEC, the Commission having stated in its objections that it would impose an obligation to that effect.

C. Other considerations which arose during examination of the case are the following:

1. The exclusive arrangements made by Campari-Milano date from before the war as regards Campari-France, Sovinac and Ognibeni and from between 1949 and 1953 as regards Hans Prang and Klein. There is no financial link between the firms concerned.

Bitter Campari is currently the only Campari product to be manufactured by the licensees. The volume of Bitter manufactured annually at present, according to the licensees, is between one and three million bottles. All the licensees have increased their production capacities considerably over the last few years by the construction of new factories and by plant extensions already carried out or in course of construction. The sale of Bitter Campari is at present the only activity carried on by the French licensee, who until recently regularly imported wine and vermouth, and accounts for the bulk of the business of the Dutch, German and Belgian licensees; these firms and the Danish licensee distribute a whole range of beverages (notably spirituous liquors, gin and wine) manufactured by themselves or imported, in general from France and Italy. Small quantities of Campari Soda and Cordial Campari are imported direct by some licensees.

2. Apart from the secret herbal mixtures, bitter orange essence and albumin, the licensees use locally bought sugar, alcohol and distilled water in manufacturing Bitter. The dosage of each of the ingredients of Bitter varies with the alcoholic strength to be given: at present this stands at 20° for Bitter manufactured and sold in France by the French licensee, 21·5° and 25° for Bitter manufactured by the Belgian licensee for sale in Belgium and Luxembourg respectively, 25° for Bitter manufactured by Dutch and Danish licensees and by Campari-Milano for sale on the Italian and British markets and 30° for bitter sold in Germany. Detailed instructions for manufacture are supplied so that the dosages for the different markets can be achieved while keeping the quality and presentation as close as possible to the original Italian product.

Campari bottles are manufactured according to Campari-Milano designs and models.

According to the Commission's information, before the manufacture can be profitable, whatever the alcoholic strength, a vat of 28 000 litres at the very least is necessary. Like the alcoholic strength, bottle sizes for Bitter vary from one Member State to another. Bottles are of one litre in Italy and France, 98 cl in Luxembourg, 70 cl in Germany, 72 cl in Denmark and 75 cl in the Netherlands, Belgium and the United Kingdom. Miniatures are also used. Finally, bottles supplied by Campari-Milano for sale to embassies and victuallers are always of 92 cl with an alcoholic strength of 28·5 degrees.

3. Up to now the licensees have sold Campari products in their respective allotted territories only. In these territories and in Italy, Bitter for ordinary consumption (i. e. with payment of duties and taxes) is sold by the manufacturers themselves or through independent distributors subject only to the general terms of sale imposed by the manufacturers. The terms of sale do not now oblige buyers to refrain from exporting. Sales in Luxembourg are carried out by an exclusive importer. The licensees were formerly required to sell a certain minimum quantity each year. This obligation ended in the course of 1977.

Campari-Milano has no say in its licensees' price policies. The prices at which the licensees supply dealers on the domestic or export market are determined on the whole by identical cost factors, notably as regards raw materials, and there are no substantial differences. There is currently no longer any resale price maintenance, retail prices being generally the same in France, Belgium and the Netherlands and somewhat higher in Germany and Denmark, where the tax burden is heavier. In Luxembourg, on the other hand, retail prices are lower in consequence of the lower tax in that country. During recent years these prices have hardly

changed, notwithstanding the considerable increases in salaries and the cost of the raw materials.

Sales of Bitter in the Community have increased steadily over recent years, as a result both of the setting-up of a wide spread distribution network, which has considerably increased the number of retailers, and of the stimulation of demand from major customers and supermarkets; between 1970 and 1977 sales doubled, in some cases trebled, in Benelux and Germany. The average cost of the advertising campaigns carried out each year by the licensees is much the the same for all of them. Campari-Milano's own expenditure on advertising, however, is lower by as much as a half.

Sales for duty- and tax-free consumption, i.e. sales to the diplomatic corps, to foreign armed forces or similar organizations enjoying extraterritorial rights, to ships and aircraft travelling abroad directly and to duty-free shops in ports and airports are for the most part carried out through victuallers. The agreements between the victuallers and the licensees or Campari-Milano have not been notified to the Commission and are not dealt with in this proceeding. Sales of duty-free products represent only a small part of the total sales of most of the licensees.

Over the last few years, Bitter Campari has been imported and sold by parallel importers, notably in Belgium and the Netherlands; these importers have paid the duties and taxes required in those countries. They have been supplied partly by victuallers and partly by wholesalers carrying on duty free sales.

4. In the common market, Bitter Campari is subject to the tax arrangements applying to alcohol and must conform to the regulations concerning the particulars which must appear on bottles, and to public health regulations.

(a) In each Member State duties and taxes are payable on Bitter Campari; these are calculated on the equivalent in pure alcohol of the product, so that the higher the alcoholic content the heavier the duty. The duties and taxes levied on imports are the same as on domestic products; for the most part they amount to slightly less than a half to two-thirds of the ex-works price. Since they are so heavy, it is not profitable to export Bitter manufactured in one Member State to another unless duty exemption or drawback is possible in the Member State of origin.

Under national regulations, if the alcohol used in the manufacture of Bitter is to be exempted from duty and tax, it must be declared for export when the manufacturer buys it. Exports are deemed to include sales for duty- and tax-free consumption.

According to the Commission's information, in all EEC countries except France and the United Kingdom, both of which have a system for suspension of consumer taxes, all duties on Bitter not declared for export are payable when it leaves the place of manufacture or when seals or bands certifying payment of duty are affixed. In general, once duty has been paid, there is no drawback for subsequent export. Only in Italy and France can duties already paid be remitted if the goods are exported, and in the latter country only through the manufacturer, to whom the Directorate-General for Taxation reimburses duty corresponding to declarations supplied by the exporter.

It is to be noted that, with a view to the elimination of obstacles to the free circulation of alcoholic products between Member States under undistorted competitive conditions, the Commission has made a proposal to the Council for a Directive to harmonize excise duties on alcohol, and notably the terms on which dealers may stock spirituous liquors [1]. According to the proposal dealers could in certain circumstances stock spirituous liquors without paying excise duties and engage in parallel exports.

(b) National regulations on public health and on the marketing of beverages subject to duties and taxes on alcohol require a number of particulars to appear on bottles when sold. These generally include the name of the product, the name and address of the manufacturer or importer, and the alcoholic strength (certain Member States further require the words 'spirituous liquor' to appear, and a statement as to the content, ingredients and added products).

(c) In certain Member States the Law requires beverages such as Bitter Campari to have an alcoholic strength of not less than a specified minimum (17° in France, 20° in Denmark and 30° in Germany).

As the alcoholic strength required by German regulations is greater than that of Bitter Campari in the other Member States, there is in effect a ban on

[1] OJ No C 43, 29. 4. 1972, p. 25.

imports to Germany, unless of course a consignment has been specially manufactured for the German market.

However, it is worth noting that following complaints from importers the Commission addressed a reasoned opinion to the Federal Republic of Germany under Article 169 of the EEC Treaty, and Germany then cancelled the provisions applying to certain imported alcoholic products with an alcoholic strength of less than 30°; the products did not include Bitter.

(d) Other national legal provisions govern advertising of alcoholic drinks, restrict the number of licensed premises, prohibit the sale of aperitifs and bitters exceeding a specified alcoholic strength (e. g. in Belgium) or specify the actual content of bottles (in France, for instance, the authorized units are 35 cl, 50 cl, 70 cl and 1 litre, the 75 cl bottles used by the Belgian and Dutch licensees not being allowed there).

5. According to the explanations provided by Campari-Milano, the obligation on licensees to inform Campari-Milano of trademark infrigements coming to their knowledge does not apply to imports into each allotted territory of the original Italian product or of products manufactured under licence in another Member State.

6. In the allotted territories, Bitter Campari is in competition with a number of substitute products, including Punt e Mes Carpano, Bitter Cinzano, Bitter Gambarotta, Bitter Negroni, Bitter Moroni, Bitter San Pellegrino, Bitter Rossi, Amer Picon, Suze, Amer Khuri, Cynar and Amer Claquesin.

It has not been possible to establish Bitter Campari's exact market share. What is clear, however, is that the brand has acquired an international reputation and that the turnover attained by Campari-Milano and its licensees is a substantial one.

7. Following publication of summaries of the notifications, no observations from third parties have been received by the Commission.

II. Applicability of Article 85 (1) of the EEC Treaty

Article 85 (1) of the EEC Treaty prohibits as incompatible with the common market all agreements between undertakings 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.

A. The agreements in question are between undertakings and include provisions (see points 1 to 4 under I A above) which have as their object and their effect an appreciable restriction of competition within the common market.

1. The exclusive rights given to the licensees prevent Campari-Milano from granting trademark licences for its products to other parties in the Netherlands, Germany, France, Belgium, Luxembourg and Denmark and also from itself manufacturing those products in these countries.

The proprietor of a trademark has the exclusive right to use the distinctive mark on first sale and to protect the product against infringement of the mark. The proprietor of the trademark may by licence authorize the use of the protected mark, by third parties. However, if he undertakes only to allow one single undertaking to use his trademark in a particular territory and to refrain himself from manufacturing products bearing his trademark there, he loses his freedom to respond to other requests for licences and the competitive advantage to be gained from manufacture by himself in this territory.

In the case in point, the exclusive nature of the licence entails a restriction upon Campari-Milano's freedom to use its marks as well as preventing third parties, particularly manufacturers of alcoholic beverages from using them as licensees, however much they may find it in their interests to do so.

2. The non-competition clause (Point I. A 2 above) prevents the licensees from manufacturing or selling products for the whole duration of the agreements. They may not buy such products, nor acquire licences to manufacture or sell them. The effect of the restriction is appreciable, since at present all the licensees, except the French one, are already distributing a whole range of beverages other than Bitter Campari and all have a substantial turnover on their total business.

3. The ban preventing Campari-Milano and its licensees from engaging in an active sales policy outside their respective territories prevents the licensees and the licensor from seeking custom in the territories of the other parties. They are therefore excluded from actively competing on those territories, while benefiting from a degree of protection within their own territory, where the only imports made must be in response to unsolicited orders. This ban must be considered as having an appreciable effect, since not only Campari-Milano but also all the licensees have considerable production capacity, which would enable them to supply other

markets in the EEC. While such deliveries would primarily be of products manufactured according to the specifications in respect of alcoholic strength, bottle content, and labelling required on the manufacturer's home market, they could also be for Bitter manufactured according to other specifications required on the export market, for manufacturers can buy the alcohol without being taxed, in order to export the finished product. Furthermore, they may change the alcoholic strength or presentation of the product where they judge that the size of an order or at any rate the possibility of steady sales makes the manufacture of such a product and the use of new labels or bottles profitable.

4. The obligation to supply the original Italian product to diplomatic corps, ship's victuallers, foreign armed forces and generally speaking all organizations with duty-free facilities prevents the licensees from supplying Bitter which they have manufactured themselves to these consumers. In view of the licensees' production capacities, this restriction also has an appreciable effect.

B. The exclusive rights granted by Campari-Milano prevent Campari-Milano from granting other licences which would enable other parties to use its trademarks in the allotted territories and to export from these territories to other parts of the common market. They also prevent Campari-Milano itself from manufacturing Bitter in these territories and consequently from exporting from such territories. The exclusion of competing products prevents the licensees from marketing such products across borders between Member States, or from making licence agreements in relation to such products with undertakings in other Member States. The ban on engaging in an active sales policy outside their respective territories prevents Campari-Milano and its licensees from freely disposing throughout the common market of the Bitter they have manufactured, restricting them to their exclusive territories, and thus affects international trade in the product. The obligation to supply certain consumers with the original Italian product rather than that which they themselves manufacture means that the licensees have to obtain supplies of Bitter Campari from Italy and thus affects international trade in the product.

These restrictions must be regarded as liable to affect trade between Member States inasmuch as their effect is that trade between Member States develops otherwise than it would have done without them, until at the same time they have a substantial degree of influence on market conditions.

The agreements are therefore caught by Article 85 (1) of the Treaty.

C. The other provisions of the agreements entered into by Campari-Milano and its licensees are not in this case covered by Article 85 (1), because they have neither the object nor the effect of appreciably restricting competition within the common market. This is so for the following provisions, in particular,

— the obligation upon each licensee to refrain from exporting Bitter Campari directly or indirectly outside the common market. It is true that this obligation not only eliminates the freedom of the licensees and their trade customers to do business in the relevant product outside the EEC, but also prevents any distributor in a non-member country from buying the product from the licensees or from a previous purchaser for resale in the common market. However, any purchaser within the Community may obtain supplies of the products covered by the agreements not only directly from the licensee on his own territory but also, directly or indirectly, from other licensees or from Campari-Milano itself. Given these possibilities, reimportation into the common market of Bitter previously exported outside the Community by licensees or their trade customers would seem unlikely, in view of supplementary economic factors such as the accumulation of trade margins and of excise duties and taxes on alcohol levied by importing countries as well as the duties charged on crossing the European Economic Community borders. This assessment also applies to States with which the EEC has entered into free trade agreements, particularly as trade between the Community and these States in alcoholic beverages such as Bitter Campari is still subject to customs duties,

— restrictions of the licence to those plants which are capable of guaranteeing the quality of the product. The effect of this restriction on the licensees' freedom of choice does not go beyond a legitimate concern for quality control; further, this obligation upon the licensees does not constitute an absolute limitation of production to any particular place, since it only gives Campari-Milano the right to oppose a change in the place of manufacture in cases where the new establishment proposed might adversely affect the quality of the products; this type of agreement as to quality control is very important for the licensor, since the maintenance of quality is referable to the existence of the trademark right,

— the licensees are obliged to follow the licensor's instructions relating to the manufacture of the product and the quality of the ingredients, and to buy certain secret raw materials from the licensor itself. Here again, control over the quality of the products manufactured under licence and over their similarity to the original Italian product is in the present case very important for the licensor, in the sense that it is again bound up with its interest in the maintenance of quality, which is referable to the existence of the trademark right. According to information provided by the parties, the standards enforced do not oblige the licensees to obtain supplies of albumin or bitter

orange essence from any particular source, but only to choose between different products on the basis of objective quality considerations. This does not, however, apply to the colouring matter and the herbal mixtures, where the licensor's legitimate concern to ensure that the product manufactured under licence has the same quality as the original product can be protected only if the licensees obtain all their supplies from it. The composition of the products in question which is the factor that determines the particular characteristics of Bitter Campari is a trade secret which the licensor cannot be required under Community law to reveal to its licensees,

— the licensees are required to refrain from divulging the manufacturing processes to third parties. This obligation is essential if secret techniques or recipes are to be passed on for use by other undertakings,

— the licensees are obliged to maintain continuous contact with customers and to spend a standard minimum sum on advertising Bitter Campari. In the present case there is nothing to suggest that the amount of the sum in question would prevent the licensees from engaging in other activities or carrying on their own advertising also,

— the licensees are prohibited from assigning the benefit of the agreement. By banning assignments, the licensor is simply safeguarding its freedom to select its licensees. When it enters into an agreement the identity of the other party is highly material to it and it must remain free to decide with whom it will deal.

III. Applicability of Article 85 (3) of the EEC Treaty

Under Article 85 (3) the provisions of Article 85 (1) may be declared inapplicable to agreements between undertakings which contribute to improving the production and distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which do not:

(a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;

(b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

A. The restrictions on competition mentioned at points 1 to 4 of item II A satisfy the tests of Article 85 (3).

1. The exclusivity granted by Campari-Milano contributes to improving the production and distribution of the products. By giving each licensee a guarantee that no other undertaking will obtain a licence within its allocated territory, and that in this territory neither Campari-Milano nor any other licensee may manufacture products bearing the licensor's trademark this commitment confers upon each licensee an advantage in its allotted territory. This territorial advantage is such as to permit a sufficient return on the investment made by each licensee for the purpose of manufacturing the product bearing the trademark under conditions acceptable to the licensor and holder of the trademark, and it enables the licensee to increase its production capacity and constantly to improve the already long established distribution network.

In practice the exclusivity granted has allowed each licensee to improve its existing plant and to build new plant. It has also enabled each licensee to strengthen its efforts to promote the brand, doubling the total volume of sales in the Benelux countries and Germany over the last six years, and, by establishing a multistage distribution network, to secure a constantly increasing number of customers and thus to ensure supplies throughout the allotted territory.

2. The ban on dealing in competing products also contributes to improving distribution of the licensed products by concentrating sales efforts, encouraging the build-up of stocks and shortening delivery times.

The restriction on the licensees' freedom to deal in other products at the same time as the products here in question prevents the licensees from neglecting Campari in the event of conflict between the promotion of Campari sales and possible interest in another product. Although a non-competition clause in a licensing agreement concerning industrial property rights based on the result of a creative activity, such as a patent, would constitute a barrier to technical and economic progress by preventing the licensees from taking an interest in other techniques and products, this is not the case with the licensing agreements under consideration here. The aim pursued by the parties, as is clear from the agreements taken as a whole, is to decentralize manufacture within

the EEC and to rationalize the distribution system linked to it, and thus to promote the sale of Campari-Milano's Bitter, manufactured from the same concentrates provided by Campari-Milano, according to the same mixing process and using the same ingredients, and bearing the same trademark, as that of the licensor.

The prohibition on dealing in competing products, therefore, makes for improved distribution of the relevant product in the same way as do exclusive dealing agreements containing a similar clause, which are automatically exempted by Regulation No 67/67/EEC (1); a declaration that the prohibition in Article 85(1) is inapplicable to this clause is accordingly justified.

3. Distribution will also be improved by the prohibition against the parties engaging in an active sales policy outside their respective territories. This restriction on the licensees will help to concentrate their sales efforts, and provide a better supply to consumers in their territories for which they have particular responsibility, without preventing buyers elsewhere in the Community from securing supplies freely from any of the licensees. Application of the same restriction to Campari-Milano encourages the efforts made by the each territory allotted; the licensees thus have the benefit of a certain protection relative to Campari-Milano's strong market position.

4. The obligation on licensees to supply the original Italian product rather than that which they themselves manufacture, when selling to diplomatic corps, ships' victuallers, foreign armed forces and generally speaking all organizations with duty-free facilities also helps to promote sales of Campari-Milano's Bitter. By restricting licensees' freedom to supply the products they manufacture themselves it makes sure that particular categories of consumers, who are deemed to be outside the licensee's territory and are usually required to move frequently from one territory to another, can always purchase the same original product with all its traditional features as regards both composition and outward appearance. Even though quality standards are observed, it is impossible in particular to avoid differences in taste between the products of the various manufacturers. This obligation is thus designed to prevent these consumers from turning to other competing products and to ensure that they continue to buy Bitter Campari, with the facility of being able to obtain stocks from their local dealer. Further, such consumers are not prevented from freely obtaining the licensees' own products even though any such purchases would be on the normal trading conditions applicable to non-duty-free purchasers.

B. The licensing agreements have increased the quantities of Bitter Campari available to consumers and improved distribution, so that consumers benefit directly. There are other producers of bitter on the market, and effective competition will be strengthened by the growing quantities produced by Campari-Milano's licensees, so that it can be assumed that the improvements resulting from the agreements and the benefits which the licensees obtain from them are shared by consumers.

As buyers may secure supplies of Bitter from other territories through unsolicited orders, they are in a position to exert pressure on the prices charged by the exclusive licensee in their territory if these should be too high.

C. The restrictions of competition imposed on the parties involved must be considered indispensable to the attainment of the benefits set out above. None of the restrictions could be omitted without endangering the parties' object of promoting sales of Bitter Campari by concentrating the activities of the licensees on this product and offering the same original product to certain customers. In particular, none of the licensees and in all probability no other undertaking in the spirituous liquors industry would have been prepared to make the investment necessary for a significant increase in sales of Bitter if it were not sure of being protected from competition from other licensees or Campari-Milano itself.

D. The licensing agreements which are the subject of this Decision do not give Campari-Milano or its licensees the possibility of eliminating competition in respect of a substantial part of the Bitter products in question. In the EEC there exists a fairly large number of other well-known brands of bitter, which are all able to compete against Bitter Campari. Campari-Milano's licensees and Campari-Milano itself are also free to sell the Campari products in question within the common market but outside their territory for which they have particular responsibility.

As things stand at present, all the tests for a Decision applying Article 85 (3) to the licensing agreements entered into by Campari-Milano with Ognibeni & Co., Hans Prang, Campari-France SA, Sovinac SA and Johs. M. Klein and Co. are satisfied.

(1) OJ No 57, 25. 3. 1967, p. 849/67.

IV. Application of Articles 6, 7 and 8 of Regulation No 17

1. In the form in which they were originally notified to the Commission and which prompted the statement of objections (see item I. B above), the five licensing agreements entered into by Campari-Milano did not satisfy the tests of Article 85 (3). The clauses listed above, contained in the agreement then in force, significantly restricted competition, and the restrictions could not be considered as being referable to the existence of the licensed trademarks, or as contributing to the production or distribution of the products or to promoting technical or economic progress. The clauses which prevented application of Article 85 (3) were deleted on 1 November 1977 at the Commission's request. It is therefore possible, under Article 6 (1) of Regulation No 17, for the Decision applying Article 85 (3) to take effect from the date on which the agreements were amended, which is to say 1 November 1977.

In determining the period of validity of the Decision, as required by Article 8 (1) of Regulation No 17, account should be taken of the fact that the restrictions on competition covered by this Decision do not prevent the free movement of the goods in question between EEC Member States, and in particular that the parties have undertaken, as from 1 November 1977, to do everything possible to meet unsolicited orders from within the EEC. The period allowed must be sufficient to permit the amended agreements to produce the effects intended; a period of nine years would seem reasonable.

2. The exclusive licensing agreements entered into by Campari-Milano with Ognibeni & Co., Hans Prang, Campari France SA, and Sovinac SA satisfy the tests of Article 7 (1) of Regulation No 17.

The agreements were in existence at the date of entry into force of Regulation No 17 on 13 March 1962, although the agreement with Sovinac SA existed in a previous version to that which was notified. The agreements were notified within the periods provided for under Article 5 (1) of Regulation No 17. They did not at that time satisfy the tests of Article 85 (3), but have since been amended so that they do satisfy those requirements, as has been explained above.

As regards the agreements in their version before amendment, the prohibition contained in Article 85 (1) applies only for a period fixed by the Commission. The Commission must take into account the fact that the parties spontaneously amended the agreements, or agreed to amend them, in accordance with suggestions made by the Commission. These circumstances justify exemption from the prohibition of Article 85 (1) for the whole of the period preceding the effective date of the Decision declaring Article 85 (1) inapplicable to all of the agreements.

The preceding observations apply also in the case of the agreement of 14 April 1966 with Johs. M. Klein and Co. An export ban imposed on a firm established in a country outside the EEC and aimed against deliveries into the EEC can constitute a restriction of competition capable of affecting trade between Member States. However, in the present case such a ban was not an appreciable restriction before Denmark joined the EEC because the difficulties of importation arising from customs and tax regulations in practice prevented exports of Bitter Campari to the Community. Accordingly, pursuant to Article 25 of Regulation 17, the agreement made between Campari-Milano and Johs. M. Klein and Co. and duly notified on 27 June 1973 also satisfies the conditions for application of Article 7 (1) of that Regulation.

3. In view of the importance and international reputation of the Campari brand, of the restrictive effects on the circulation of Bitter Campari between Member States resulting from existing national legislation, and lastly the fact that exports by manufacturers of Bitter Campari or by their customers depend ultimately on the willingness of the manufacturers themselves, the Commission should have the opportunity to assess in good time the situation resulting from the amended agreements on the relevant market. Consequently, in accordance with Article 8 (1) of Regulation No 17, Campari-Milano and each of its licensees should be required to send to the Commission annually, beginning on 15 December 1978, a report containing all information necessary for an assessment of developments resulting from the application of the agreements, especially from the point of view of the free movement of Bitter within the EEC. This applies in particular to exports within the Community.

Arrangements should also be made to ensure that the Commission is informed of any awards made under the arbitration clause, as there is a risk that the agreements might be interpreted without regard for this Decision, so that the Commission might have to amend it. There is a greater risk at arbitration than in the ordinary courts that interpretation of the agreement may go beyond the limits imposed by the exemption, particularly where the arbitrators, whose function, as in this case, is to produce an amicable settlement, are not bound by the substantive law. Furthermore, review of

arbitral awards for their compatibility with Articles 85 and 86, inasmuch as these fail to be regarded as part of EEC public policy is not necessarily available in non-Member States,

HAS ADOPTED THIS DECISION:

Article 1

The provisions of Article 85 (1) of the Treaty establishing the European Economic Community are, pursuant to Article 85 (3), declared inapplicable to the trademark licensing agreements, as amended on 1 November 1977, entered into by Davide Campari-Milano SpA, Milan, on 19 September 1957 with Ognibeni & Co., Amsterdam, on 1 January 1960 with Hans Prang, Hamburg, on 8 January 1962 with Soval, now Campari-France SA, Nanterre, on 11 October 1962 with Sovinac SA, Brussels, and on 14 April 1966 with Johs. M. Klein & Co., Copenhagen.

Article 2

This Decision shall have effect from 1 November 1977, and shall apply until 1 November 1986.

Article 3

The abovementioned undertakings shall inform the Commission immediately of all awards made under the arbitration clause. Every year, beginning on 15 December 1978, they shall notify to the Commission:

1. the volume of their exports of Bitter Campari within the EEC;
2. the cases where they have refused:
   (a) to meet export orders for delivery of Bitter Campari within the EEC;
   (b) to seek a refund of the taxes corresponding to declarations made by customers who have exported Campari products within the EEC.

Article 4

The prohibition in Article 85 (1) does not apply to the licensing agreements entered into by Davide Campari-Milano with Ognibeni & Co., Hans Prang, Soval (now Campari-France SA), Sovinac SA and Johs. M. Klein in their versions which were in force before the date, as indicated in Article 2 thereof, on which this Decision takes effect.

Article 5

This Decision is addressed to:

— Davide Campari-Milano SpA, Milan, Italy,

— Ognibeni & Co., Amsterdam, Netherlands,

— Hans Prang, Hamburg, Germany,

— Campari-France SA, Nanterre, France,

— Sovinac SA, Brussels, Belgium,

— Johs. M. Klein & Co., Copenhagen, Denmark.

Done at Brussels, 23 December 1977.

For the Commission

Raymond VOUEL

Member of the Commission