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## Legislation

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**Commission**

87/17/EEC :

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## I

*(Acts whose publication is obligatory)*

**COMMISSION REGULATION (EEC) No 85/87**

**of 14 January 1987**

**fixing the import levies on cereals and on wheat or rye flour, groats and meal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EEC) No 1579/86 <sup>(2)</sup>, and in particular Article 13 (5) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy <sup>(3)</sup>, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 2010/86 <sup>(4)</sup> and subsequent amending Regulations;

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

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

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

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

Whereas these exchange rates being those recorded on 13 January 1987;

Whereas the aforesaid corrective factor affects the entire calculation basis for the levies, including the equivalence coefficients;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2010/86 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 15 January 1987.

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 139, 24. 5. 1986, p. 29.

<sup>(3)</sup> OJ No L 164, 24. 6. 1985, p. 1.

<sup>(4)</sup> OJ No L 173, 1. 7. 1986, p. 1.

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

Done at Brussels, 14 January 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

ANNEX

to the Commission Regulation of 14 January 1987 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CCT heading No	Description	Levies (ECU/tonne)	
		Portugal	Third country
10.01 B I	Common wheat, and meslin	3,65	200,12
10.01 B II	Durum wheat	37,10	248,71 <sup>(1)</sup> <sup>(2)</sup>
10.02	Rye	33,36	172,04 <sup>(6)</sup>
10.03	Barley	31,61	185,08
10.04	Oats	90,74	154,06
10.05 B	Maize, other than hybrid maize for sowing	—	179,28 <sup>(3)</sup> <sup>(3)</sup> <sup>(8)</sup>
10.07 A	Buckwheat	18,80	18,80
10.07 B	Millet	31,61	125,94 <sup>(4)</sup>
10.07 C II	Grain sorghum, other than hybrid sorghum for sowing	17,35	181,06 <sup>(4)</sup> <sup>(8)</sup>
10.07 D I	Triticale	(7)	(7)
10.07 D II	Canary seed; other cereals	31,61	53,15 <sup>(5)</sup>
11.01 A	Wheat or meslin flour	19,73	294,78
11.01 B	Rye flour	61,32	255,47
11.02 A I a)	Durum wheat groats and meal	71,00	399,00
11.02 A I b)	Common wheat groats and meal	19,53	316,59

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

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

<sup>(3)</sup> Where maize originating in the ACP or OCT is imported into the Community the levy is reduced by 1,81 ECU/tonne.

<sup>(4)</sup> Where millet and sorghum originating in the ACP or OCT is imported into the Community the levy is reduced by 50 %.

<sup>(5)</sup> Where durum wheat and canary seed produced in Turkey are transported directly from that country to the Community, the levy is reduced by 0,60 ECU/tonne.

<sup>(6)</sup> The import levy charged on rye produced in Turkey and transported directly from that country to the Community is laid down in Council Regulation (EEC) No 1180/77 and Commission Regulation (EEC) No 2622/71.

<sup>(7)</sup> The levy applicable to rye shall be charged on imports of the product falling within subheading 10.07 D I (triticale).

<sup>(8)</sup> The levy referred to in Article 1 of Council Regulation (EEC) No 2913/86 shall be fixed on the basis of an invitation to tender in accordance with Commission Regulation (EEC) No 3140/86.

## COMMISSION REGULATION (EEC) No 86/87

of 14 January 1987

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EEC) No 1579/86 <sup>(2)</sup>, and in particular Article 15 (6) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy <sup>(3)</sup>, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 2011/86 <sup>(4)</sup> and subsequent amending Regulations;

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

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

these currencies recorded for a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient;

Whereas these exchange rates being those recorded on 13 January 1987;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 15 January 1987.

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

Done at Brussels, 14 January 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.  
<sup>(2)</sup> OJ No L 139, 24. 5. 1986, p. 29.  
<sup>(3)</sup> OJ No L 164, 24. 6. 1985, p. 1.  
<sup>(4)</sup> OJ No L 173, 1. 7. 1986, p. 4.

## ANNEX

to the Commission Regulation of 14 January 1987 fixing the premiums to be added to the import levies on cereals, flour and malt from third countries

## A. Cereals and flour

CCT heading No	Description	(ECU/tonne)			
		Current 1	1st period 2	2nd period 3	3rd period 4
10.01 B I	Common wheat, and meslin	0	0	0	0
10.01 B II	Durum wheat	0	0	0	0
10.02	Rye	0	0	0	0
10.03	Barley	0	4,04	4,04	4,04
10.04	Oats	0	0	0	0
10.05 B	Maize, other than hybrid maize for sowing	0	0	0	0
10.07 A	Buckwheat	0	97,05	97,05	97,05
10.07 B	Millet	0	0	0	0
10.07 C II	Grain sorghum, other than hybrid sorghum for sowing	0	0	0	0
10.07 D	Other cereals	0	0	0	0
11.01 A	Wheat or meslin flour	0	0	0	0

## B. Malt

CCT heading No	Description	(ECU/tonne)				
		Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5
11.07 A I a)	Unroasted malt, obtained from wheat, in the form of flour	0	0	0	0	0
11.07 A I b)	Unroasted malt, obtained from wheat, other than in the form of flour	0	0	0	0	0
11.07 A II a)	Unroasted malt, other than that obtained from wheat, in the form of flour	0	7,19	7,19	7,19	7,19
11.07 A II b)	Unroasted malt, other than that obtained from wheat, other than in the form of flour	0	5,37	5,37	5,37	5,37
11.07 B	Roasted malt	0	6,26	6,26	6,26	6,26

**COMMISSION REGULATION (EEC) No 87/87**  
**of 14 January 1987**  
**fixing the import levies on milk and milk products**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products <sup>(1)</sup>, as last amended by Regulation (EEC) No 1335/86 <sup>(2)</sup>, and in particular Article 14 (8) thereof,

Whereas the import levies on milk and milk products were fixed by Commission Regulation (EEC) No 3315/86 <sup>(3)</sup>, as last amended by Regulation (EEC) No 3997/86 <sup>(4)</sup>;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 3315/86 to the prices

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

HAS ADOPTED THIS REGULATION:

*Article 1*

1. The import levies referred to in Article 14 (2) of Regulation (EEC) No 804/68 shall be as set out in the Annex hereto.

2. There shall be no levy for imports from Portugal, including the Azores and Madeira, for milk and milk products listed in Article 1 of Regulation (EEC) No 804/68.

*Article 2*

This Regulation shall enter into force on 16 January 1987.

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

Done at Brussels, 14 January 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

<sup>(1)</sup> OJ No L 148, 28. 6. 1968, p. 13

<sup>(2)</sup> OJ No L 119, 8. 5. 1986, p. 19.

<sup>(3)</sup> OJ No L 305, 31. 10. 1986, p. 35.

<sup>(4)</sup> OJ No L 370, 30. 12. 1986, p. 65.

## ANNEX

## to the Commission Regulation of 14 January 1987 fixing the import levies on milk and milk products

*(ECU/100 kg net weight, unless otherwise indicated)*

CCT heading No	Code	Import levy
04.01 A I a)	0110	33,03
04.01 A I b)	0120	30,62
04.01 A II a) 1	0130	30,62
04.01 A II a) 2	0140	37,43
04.01 A II b) 1	0150	29,41
04.01 A II b) 2	0160	36,22
04.01 B I	0200	74,39
04.01 B II	0300	157,36
04.01 B III	0400	243,19
04.02 A I	0500	31,47
04.02 A II a) 1	0620	162,32
04.02 A II a) 2	0720	216,13
04.02 A II a) 3	0820	218,55
04.02 A II a) 4	0920	260,10
04.02 A II b) 1	1020	155,07
04.02 A II b) 2	1120	208,88
04.02 A II b) 3	1220	211,30
04.02 A II b) 4	1320	252,85
04.02 A III a) 1	1420	30,14
04.02 A III a) 2	1520	40,69
04.02 A III b) 1	1620	157,36
04.02 A III b) 2	1720	243,19
04.02 B I a)	1820	36,27
04.02 B I b) 1 aa)	2220	per kg 1,5507 (*)
04.02 B I b) 1 bb)	2320	per kg 2,0888 (*)
04.02 B I b) 1 cc)	2420	per kg 2,5285 (*)
04.02 B I b) 2 aa)	2520	per kg 1,5507 (*)
04.02 B I b) 2 bb)	2620	per kg 2,0888 (*)
04.02 B I b) 2 cc)	2720	per kg 2,5285 (*)
04.02 B II a)	2820	52,91
04.02 B II b) 1	2910	per kg 1,5736 (*)
04.02 B II b) 2	3010	per kg 2,4319 (*)
04.03 A	3110	286,11
04.03 B	3210	349,05
04.04 A	3300	225,73 (*)
04.04 B	3900	372,46 (*)
04.04 C	4000	157,44 (*)
04.04 D I a)	4410	171,16 (*)
04.04 D I b)	4510	189,33 (*)
04.04 D II	4610	286,05
04.04 E I a)	4710	372,46
04.04 E I b) 1	4800	249,57 (10)



*(ECU/100 kg net weight, unless otherwise indicated)*

CCT heading No	Code	Import levy
04.04 E I b) 2	5000	180,95 <sup>(11)</sup>
04.04 E I c) 1	5210	135,71
04.04 E I c) 2	5250	277,67
04.04 E II a)	5310	372,46
04.04 E II b)	5410	277,67
17.02 A II	5500	41,95 <sup>(12)</sup>
21.07 F I	5600	41,95
23.07 B I a) 3	5700	118,72
23.07 B I a) 4	5800	154,39
23.07 B I b) 3	5900	144,70
23.07 B I c) 3	6000	119,47
23.07 B II	6100	154,39

- (1) For the purposes of this tariff subheading, 'special milk for infants' means products free from pathogenic toxicogenic germs and containing per gram less than 10 000 revivifiable aerobic bacteria and less than two coliform bacteria.
- (2) Inclusion under this tariff subheading is subject to conditions to be laid down by the competent authorities.
- (3) In calculating the fat content the weight of any added sugar shall be disregarded.
- (4) The levy on 100 kg of product falling within this subheading is equal to the sum of the following components :
- (a) the amount per kg shown, multiplied by the weight of milk and cream contained in 100 kg of product ;
  - (b) 7,25 ECU ; and
  - (c) 25,55 ECU.
- (5) The levy on 100 kg of product falling within this subheading is equal to the sum of the following components :
- (a) the amount per kg shown, multiplied by the weight of milk and cream contained in 100 kg of product ; and
  - (b) 25,55 ECU.
- (6) The levy is limited to :
- 18,13 ECU per 100 kg net weight for products listed under (a) in Annex I to Regulation (EEC) No 1767/82 imported from Switzerland and for products listed under (c) of that Annex imported from Austria or Finland,
  - 9,07 ECU per 100 kg net weight for products listed under (b) of Annex I to Regulation (EEC) No 1767/82 imported from Switzerland.
- (7) The levy is limited to 6 % of the customs value for imports from Switzerland, in accordance with Article 1 (3) of Regulation (EEC) No 1767/82.
- (8) The levy is limited to 50 ECU per 100 kg net weight for products listed under (o) and (p) of Annex I to Regulation (EEC) No 1767/82 imported from Austria.
- (9) The levy is limited to 36,27 ECU per 100 kg net weight for products listed under (g) of Annex I to Regulation (EEC) No 1767/82 imported from Switzerland and for products listed under (h) of that Annex imported from Austria or Finland.
- (10) The levy per 100 kg net weight is limited to :
- 12,09 ECU for products listed under (d) of Annex I to Regulation (EEC) No 1767/82 imported from Canada,
  - 15,00 ECU for products listed under (e) and (f) of that Annex imported from Australia or New Zealand.
- (11) The levy is limited to :
- 77,70 ECU per 100 kg net weight for products listed under (i) of Annex I to Regulation (EEC) No 1767/82 imported from Romania or Switzerland,
  - 50 ECU for products listed under (o) and (p) of that Annex imported from Austria,
  - 101,88 ECU per 100 kg net weight for products listed under (k) of that Annex imported from Romania or Switzerland,
  - 65,61 ECU per 100 kg net weight for products listed under (l) of that Annex imported from Bulgaria, Hungary, Israel, Romania, Turkey or Yugoslavia and for products listed under (m) of that Annex imported from Bulgaria, Hungary, Israel, Romania, Turkey, Cyprus or Yugoslavia,
  - 55 ECU per 100 kg net weight for products listed under (n) of that Annex imported from Austria and for products listed under (r) of that Annex imported from Norway,
  - 60 ECU per 100 kg net weight for products listed under (s) of that Annex imported from Finland,
  - 18,13 ECU per 100 kg net weight for products listed under (q) of that Annex imported from Finland,
  - 15,00 ECU for products listed under (f) of that Annex imported from Australia and New Zealand.
- (12) Lactose and lactose syrup falling within subheading 17.02 A I are, in pursuance of Regulation (EEC) No 2730/75, subject to the same levy as that applicable to lactose and lactose syrup falling within subheading 17.02 A II.
- (13) For the purposes of tariff subheading ex 23.07 B 'milk products' means the products falling within tariff headings and subheadings 04.01, 04.02, 04.03, 04.04, 17.02 A and 21.07 F I.
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**COMMISSION REGULATION (EEC) No 88/87**  
of 14 January 1987

**fixing the maximum export refund for white sugar for the 31st partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EEC) No 1659/86**

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

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector<sup>(1)</sup>, as last amended by Regulation (EEC) No 934/86<sup>(2)</sup>, and in particular the first subparagraph of Article 19 (4) (b) thereof,

Whereas Commission Regulation (EEC) No 1659/86 of 29 May 1986 on a standing invitation to tender in order to determine levies and/or refunds on exports of white sugar<sup>(3)</sup> requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 1659/86, a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the 31st partial invitation to tender, the provisions set out in Article 1 should be adopted;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The maximum export refund for the 31st partial invitation to tender for white sugar issued under Regulation (EEC) No 1659/86 is hereby fixed at 44,502 ECU per 100 kilograms.

*Article 2*

This Regulation shall enter into force on 15 January 1987.

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

Done at Brussels, 14 January 1987.

*For the Commission*  
Frans ANDRIESEN  
*Vice-President*

<sup>(1)</sup> OJ No L 177, 1. 7. 1981, p. 4.

<sup>(2)</sup> OJ No L 87, 2. 4. 1986, p. 1.

<sup>(3)</sup> OJ No L 145, 30. 5. 1986, p. 29.

## COMMISSION REGULATION (EEC) No 89/87

of 14 January 1987

amending Regulation (EEC) No 1998/78 laying down detailed rules for the offsetting of storage costs for sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community,

## Article 1

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector <sup>(1)</sup>, as last amended by Regulation (EEC) No 3666/86 <sup>(2)</sup>, and in particular Article 8 (5) thereof,

Regulation (EEC) No 1998/78 is hereby amended as follows:

Whereas the application of the compensation system for storage costs was suspended with regard to preferential sugar for an experimental period comprising the marketing years 1982/83 to 1984/85; whereas the application of this system to preferential sugar has subsequently been discontinued on a permanent basis with effect from the 1985/86 marketing year;

1. The first indent of Article 1 (2) (b) is replaced by the following:

‘— one of whose main activities consists of wholesale dealing in sugar and who purchases in each sugar marketing year not less than 10 000 tonnes of sugar eligible for reimbursement of storage costs for resale in an unaltered state.’

Whereas in certain cases a manufacturer of sugar or a refiner has to store sugar which is eligible for reimbursement and sugar which is not so eligible together in the same warehouse without the possibility of distinguishing between them; whereas, consequently in order, to be able to apply the reimbursement to the sugar in question, it is appropriate to make use of the *pro rata* rule taking account of the respective participation of each type of sugar in the initial stock; whereas however when the quantity of sugar eligible for reimbursement included in the initial stock is relatively small, it is appropriate that this *pro rata* rule should not be applied;

2. Articles 4, 8 (4), 12 (2) and (3), 13 (4) and (5) are deleted.

3. Article 13 (1) (c) is replaced by the following:

‘(c) a breakdown, as between the various warehouses in which his sugar and syrups are stored.’

Whereas it is necessary to provide that the abovementioned *pro rata* rule should continue to be applied in cases where the sugar to which this rule has already been applied is purchased by another person entitled to reimbursement of storage costs; whereas Commission Regulation (EEC) No 1998/78 <sup>(3)</sup>, as last amended by Regulation (EEC) No 645/85 <sup>(4)</sup>, should therefore as a consequence be amended;

4. The first and second subparagraphs of Article 14 (2) are replaced by the following:

‘2. Where a manufacturer or a refiner stores at the same time and in the same warehouse both sugar eligible for reimbursement and sugar not so eligible without the possibility of distinguishing between them, then any exit of those sugars shall be regarded as constituted in the same proportions as those of the initial stock. However, where the quantity of sugar eligible for the said reimbursement is less than 150 tonnes the *pro rata* rule shall not apply for the storage month concerned. In this case the sugar eligible for reimbursement shall be considered to be the first to have left the warehouse.’

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

For purposes of the previous subparagraph, each quantity of sugar eligible for reimbursement or sugar not so eligible entering the said warehouse during a given month shall be added to the initial quantity of sugar eligible for reimbursement or sugar not so eligible, as the case may be, in store at the beginning of that month in that warehouse. The ratio between the two initial quantities, as modified by the quantities of each type of sugar entering the warehouse during the month in question, shall be applied to all sugar leaving the warehouse during that month.’

<sup>(1)</sup> OJ No L 177, 1. 7. 1981, p. 4.

<sup>(2)</sup> OJ No L 339, 2. 12. 1986, p. 10.

<sup>(3)</sup> OJ No L 231, 23. 8. 1978, p. 5.

<sup>(4)</sup> OJ No L 73, 14. 3. 1985, p. 18.

5. The following is inserted as Article 14b :

'Article 14b

When sugar to which Article 14 (2) has already been applied is purchased by a person entitled to reimbursement of storage costs, the relationship between the quantity of sugar eligible for reimbursement and the quantity not so eligible resulting from the application

of that provision shall remain applicable to the purchased sugar.'

*Article 2*

This Regulation shall enter into force on 1 February 1987.

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

Done at Brussels, 14 January 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

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## COMMISSION REGULATION (EEC) No 90/87

of 14 January 1987

amending Regulation (EEC) No 1677/85 as regards the fixing of the correcting factor to be used to calculate the monetary compensatory amounts applicable for certain agricultural products

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

Having regard to Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture <sup>(1)</sup>, as last amended by Regulation (EEC) No 2502/86 <sup>(2)</sup>, and in particular Article 6 (3) thereof,

Whereas Article 6 (3) of Regulation (EEC) No 1677/85 provides that a correcting factor is to be applied for the purposes of calculating the monetary compensatory amounts; whereas Commission Regulation (EEC) No 2502/86 fixed this coefficient at 1,097805; whereas, as provided for in the last subparagraph of the said paragraph, this factor must be altered whenever parities are realigned within the European Monetary System, on the basis of the revaluation of the central rate of that currency among the currencies maintained among themselves within a maximum spread at any given time of 2,25 %, the revaluation of which *vis-à-vis* the ECU is the highest;

Whereas a realignment of central rates under the European Monetary System has occurred with effect from 12 January 1987;

Whereas the greatest revaluation against the ECU is 2,54 %; whereas the correcting factor should be adjusted accordingly;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The coefficient referred to in the first subparagraph of Article 6 (3) of Regulation (EEC) No 1677/85 is replaced by 1,125696.

*Article 2*

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

It shall apply with effect from 15 January 1987.

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

Done at Brussels, 14 January 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

<sup>(1)</sup> OJ No L 164, 24. 6. 1985, p. 6.

<sup>(2)</sup> OJ No L 219, 6. 8. 1986, p. 8.

**COMMISSION REGULATION (EEC) No 91/87****of 14 January 1987****altering the coefficient relating to the differential amounts for colza, rape and sunflower seed**

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats<sup>(1)</sup>, as last amended by Regulation (EEC) No 1454/86<sup>(2)</sup>,

Having regard to Council Regulation (EEC) No 1569/72 of 20 July 1972 laying down special measures for colza, rape and sunflower seed<sup>(3)</sup>, as last amended by Regulation (EEC) No 1474/84<sup>(4)</sup>, and, in particular, Article 2a (2) thereof,

Whereas the central rates of the various currencies forming the European Monetary System were altered with effect from 12 January 1987; whereas the coefficient referred to in Article 2a (2) of Regulation (EEC) No 1569/72 must be altered accordingly; whereas such alteration must be applicable with effect from 15 January 1987;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The value of the coefficient referred to in Article 2a (2) of Regulation (EEC) No 1569/72 is hereby fixed at 1,125696.

*Article 2*

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

It shall apply with effect from 15 January 1987.

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

Done at Brussels, 14 January 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

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

<sup>(2)</sup> OJ No L 133, 21. 5. 1986, p. 8.

<sup>(3)</sup> OJ No L 167, 25. 7. 1972, p. 9.

<sup>(4)</sup> OJ No L 143, 30. 5. 1984, p. 4.

## COMMISSION REGULATION (EEC) No 92/87

of 14 January 1987

## altering the specific agricultural conversion rates applicable in the rice sector

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

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy<sup>(1)</sup>, and in particular Article 2 (4) thereof,

Having regard to Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture<sup>(2)</sup>, as last amended by Regulation (EEC) No 2502/86<sup>(3)</sup>, and in particular Article 9 (2) thereof,

Whereas by Commission Regulation (EEC) No 3294/86<sup>(4)</sup>, as amended by Regulation (EEC) No 3/87<sup>(5)</sup>, specific agricultural conversion rates to be applied in the rice sector were established; whereas those conversion rates must be altered pursuant to Articles 2 and 3 of Commission Regulation (EEC) No 3153/85<sup>(6)</sup>;

Whereas following the adjustment of the central rates effective on 12 January 1987 the specific conversion rates must be recalculated using the new correcting factor as

specified in Article 6 (3) of Regulation (EEC) No 1677/85 fixed by Regulation (EEC) No 90/87<sup>(7)</sup>; whereas in the case of the currencies maintained against each other within a maximum spread at any given time of 2,25 % they should, Article 2 (1) of Regulation (EEC) No 3153/85 notwithstanding, be calculated on the basis of the rates during the reference period 12 and 13 January 1987;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The Annex to Regulation (EEC) No 3294/86 is replaced by the Annex hereto.

*Article 2*

This Regulation shall enter into force on 15 January 1987.

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

Done at Brussels, 14 January 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

(1) OJ No L 164, 24. 6. 1985, p. 1.  
(2) OJ No L 164, 24. 6. 1985, p. 6.  
(3) OJ No L 219, 6. 8. 1986, p. 8.  
(4) OJ No L 304, 30. 10. 1986, p. 25.  
(5) OJ No L 1, 3. 1. 1987, p. 5.  
(6) OJ No L 310, 21. 11. 1985, p. 4.

(7) See page 12 of this Official Journal.



*ANNEX***Specific agricultural conversion rate for rice**

(Regulation (EEC) No 3294/86)

1 ECU = Bfs	47,7950
= Dkr	8,83910
= DM	2,31728
= FF	7,77184
= £ Irl	0,864997
= Fl	2,61097
= £	0,825751
= Lit	1 645,69
= Dr	167,776
= Pta	159,355

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**COMMISSION REGULATION (EEC) No 93/87**  
**of 14 January 1987**  
**fixing the import levies on rice and broken rice**

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

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

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice <sup>(1)</sup>, as last amended by Regulation (EEC) No 1449/86 <sup>(2)</sup>, and in particular Article 11 (2) thereof,

Whereas the import levies on rice and broken rice were fixed by Commission Regulation (EEC) No 2683/86 <sup>(3)</sup>, as last amended by Regulation (EEC) No 59/87 <sup>(4)</sup>;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85 <sup>(5)</sup>,
- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of

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

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2683/86 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The import levies to be charged on the products listed in Article 1 (1) (a) and (b) of Regulation (EEC) No 1418/76 shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 15 January 1987.

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

Done at Brussels, 14 January 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

<sup>(1)</sup> OJ No L 166, 25. 6. 1976, p. 1.

<sup>(2)</sup> OJ No L 133, 21. 5. 1986, p. 1.

<sup>(3)</sup> OJ No L 246, 30. 8. 1986, p. 5.

<sup>(4)</sup> OJ No L 8, 10. 1. 1987, p. 31.

<sup>(5)</sup> OJ No L 164, 24. 6. 1985, p. 1.

## ANNEX

## to the Commission Regulation of 14 January 1987 fixing the import levies on rice and broken rice

<i>(ECU/tonne)</i>				
CCT heading No	Description	Portugal	Third countries <sup>(3)</sup>	ACP or OCT <sup>(1)</sup> <sup>(2)</sup> <sup>(3)</sup>
ex 10.06	Rice :			
	B. Other :			
	I. Paddy rice ; husked rice :			
	a) Paddy rice :			
	1. Round grain	—	322,48	157,64
	2. Long grain	—	357,07	174,93
	b) Husked rice :			
	1. Round grain	—	403,10	197,95
	2. Long grain	—	446,34	219,57
	II. Semi-milled or wholly milled rice :			
	a) Semi-milled rice :			
	1. Round grain	13,05	525,73	250,94
	2. Long grain	12,97	644,89	310,56
	b) Wholly milled rice :			
	1. Round grain	13,90	559,91	267,60
	2. Long grain	72,16	691,33	333,31
	III. Broken rice	80,06	218,40	106,20

*N.B.* The levies are to be converted into national currencies using the specific agricultural conversion rates fixed in Regulation (EEC) No 3294/86.

- (<sup>1</sup>) Subject to the application of the provisions of Articles 10 and 11 of Regulation (EEC) No 486/85 and of Regulation No 551/85.  
 (<sup>2</sup>) In accordance with Regulation (EEC) No 486/85, the levies are not applied to imports into the overseas department of Réunion of products originating in the African, Caribbean and Pacific States or in the 'overseas countries and territories'.  
 (<sup>3</sup>) The import levy on rice entering the overseas department of Réunion is specified in Article 11a of Regulation (EEC) No 1418/76.

## COMMISSION REGULATION (EEC) No 94/87

of 14 January 1987

fixing the premiums to be added to the import levies on rice and broken rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice <sup>(1)</sup>, as last amended by Regulation (EEC) No 1449/86 <sup>(2)</sup>, and in particular Article 13 (6) thereof,

Whereas the premiums to be added to the levies on rice and broken rice were fixed by Commission Regulation (EEC) No 2684/86 <sup>(3)</sup>, as last amended by Regulation (EEC) No 60/87 <sup>(4)</sup>;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85 <sup>(5)</sup>,
- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of

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

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 15 January 1987.

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

Done at Brussels, 14 January 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

<sup>(1)</sup> OJ No L 166, 25. 6. 1976, p. 1.

<sup>(2)</sup> OJ No L 133, 21. 5. 1986, p. 1.

<sup>(3)</sup> OJ No L 246, 30. 8. 1986, p. 8.

<sup>(4)</sup> OJ No L 8, 10. 1. 1987, p. 33.

<sup>(5)</sup> OJ No L 164, 24. 6. 1985, p. 1.

## ANNEX

to the Commission Regulation of 14 January 1987 fixing the premiums to be added to the import levies on rice and broken rice

CCT heading No	Description	(ECU/tonne)			
		Current 1	1st period 2	2nd period 3	3rd period 4
ex 10.06	Rice :				
	B. Other :				
	I. Paddy rice ; husked rice :				
	a) Paddy rice :				
	1. Round grain	0	0	0	—
	2. Long grain	0	0	0	—
	b) Husked rice :				
	1. Round grain	0	0	0	—
	2. Long grain	0	0	0	—
	II. Semi-milled or wholly milled rice :				
	a) Semi-milled rice :				
	1. Round grain	0	0	0	—
	2. Long grain	0	0	0	—
	b) Wholly milled rice :				
	1. Round grain	0	0	0	—
	2. Long grain	0	0	0	—
	III. Broken rice	0	0	0	0

**COMMISSION REGULATION (EEC) No 95/87**  
**of 14 January 1987**  
**fixing the amount of the subsidy on oil seeds**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats<sup>(1)</sup>, as last amended by Regulation (EEC) No 1454/86<sup>(2)</sup>, and in particular Article 27 (4),

Having regard to Council Regulation (EEC) No 1678/85 of 11 June 1985 fixing the conversion rates to be applied in agriculture<sup>(3)</sup>, as last amended by Regulation (EEC) No 2332/86<sup>(4)</sup>,

Having regard to Council Regulation (EEC) No 1569/72 of 20 July 1972 laying down special measures for colza, rape and sunflower seed<sup>(5)</sup>, as last amended by Regulation (EEC) No 1474/84<sup>(6)</sup>, and in particular Article 2 (3) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the amount of the subsidy referred to in Article 27 of Regulation No 136/66/EEC was fixed by Commission Regulation (EEC) No 3776/86<sup>(7)</sup>, as last amended by Regulation (EEC) No 50/87<sup>(8)</sup>;

Whereas the target price and the monthly increments in the target price for colza, rape and sunflower seed for the

1986/87 marketing year have been fixed in Council Regulations (EEC) No 1457/86<sup>(9)</sup> and (EEC) No 1458/86<sup>(10)</sup>;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 3776/86 to the information known to the Commission that the amount of the subsidy at present in force should be altered to the amount set out in the Annexes hereto;

Whereas the period to be used for calculation of the differential amounts is 12 and 13 January 1987;

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

HAS ADOPTED THIS REGULATION :

*Article 1*

1. The amounts of the subsidy and the exchange rates referred to in Article 33 (2) and (3) of Commission Regulation (EEC) No 2681/83<sup>(11)</sup> shall be as set out in the Annexes hereto.

2. The amount of the compensatory aid referred to in Article 14 of Council Regulation (EEC) No 475/86<sup>(12)</sup> and Article 12 of Council Regulation (EEC) No 476/86<sup>(13)</sup> shall be as shown in Annex III to this Regulation for sunflower seed harvested in Spain and Portugal.

*Article 2*

This Regulation shall enter into force on 15 January 1987.

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

Done at Brussels, 14 January 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

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

<sup>(2)</sup> OJ No L 133, 21. 5. 1986, p. 8.

<sup>(3)</sup> OJ No L 164, 24. 6. 1985, p. 11.

<sup>(4)</sup> OJ No L 204, 28. 7. 1986, p. 1.

<sup>(5)</sup> OJ No L 167, 25. 7. 1972, p. 9.

<sup>(6)</sup> OJ No L 143, 30. 5. 1984, p. 4.

<sup>(7)</sup> OJ No L 349, 11. 12. 1986, p. 34.

<sup>(8)</sup> OJ No L 7, 9. 1. 1987, p. 15.

<sup>(9)</sup> OJ No L 133, 21. 5. 1986, p. 12.

<sup>(10)</sup> OJ No L 133, 21. 5. 1986, p. 14.

<sup>(11)</sup> OJ No L 266, 28. 9. 1983, p. 1.

<sup>(12)</sup> OJ No L 53, 1. 3. 1986, p. 47.

<sup>(13)</sup> OJ No L 53, 1. 3. 1986, p. 51.

## ANNEX I

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

(amounts per 100 kilograms)

	Current month	2nd month	3rd month	4th month	5th month	6th month
1. Gross aids (ECU):						
— Spain	0,610	0,610	0,610	0,610	0,610	0,610
— Portugal	0,000	0,000	0,000	0,000	0,000	0,000
— Other Member States	34,286	34,382	34,710	34,953	34,785	34,617
2. Final aids:						
(a) Seed harvested and processed in:						
— Federal Republic of Germany (DM)	80,77	81,03	81,83	82,53	82,14	82,05
— Netherlands (Fl)	91,26	91,55	92,44	93,22	92,78	92,65
— BLEU (Bfrs/Lfrs)	1 500,32	1 504,63	1 519,93	1 530,59	1 522,63	1 510,01
— France (FF)	226,91	227,41	229,43	230,59	229,32	228,71
— Denmark (Dkr)	282,23	283,03	285,82	277,89	276,45	274,67
— Ireland (£ Irl)	24,991	24,043	24,288	24,307	24,164	23,930
— United Kingdom (£)	18,039	18,032	18,209	18,319	18,185	18,930
— Italy (Lit)	50 108	50 236	50 610	50 097	50 831	50 322
— Greece (Dr)	3 117,29	3 087,49	3 090,94	3 092,79	3 064,64	3 071,97
(b) Seed harvested in Spain and processed:						
— in Spain (Pta)	88,94	88,94	88,94	88,94	88,94	88,94
— in another Member State (Pta)	3 079,60	3 090,47	3 136,97	3 141,18	3 115,05	3 083,97
(c) Seed harvested in Portugal and processed:						
— in Portugal (Esc)	0,00	0,00	0,00	0,00	0,00	0,00
— in another Member State (Esc)	3 922,31	3 924,17	3 937,84	3 958,66	3 929,37	3 855,54

## ANNEX II

## Aids to colza and rape seed 'double zero'

(amounts per 100 kilograms)

	Current month	2nd month	3rd month	4th month	5th month	6th month
1. Gross aids (ECU):						
— Spain	1,860	1,860	1,860	1,860	1,860	1,860
— Portugal	1,250	1,250	1,250	1,250	1,250	1,250
— Other Member States	35,536	35,632	35,960	36,203	36,035	35,867
2. Final aids:						
(a) Seed harvested and processed in:						
— Federal Republic of Germany (DM)	81,76	82,01	82,82	83,51	83,12	83,04
— Netherlands (Fl)	92,63	92,91	93,81	94,58	93,15	93,02
— BLEU (Bfrs/Lfrs)	1 558,91	1 563,23	1 578,52	1 589,19	1 561,23	1 568,60
— France (FF)	235,79	236,29	238,31	239,47	238,20	237,59
— Denmark (Dkr)	292,91	293,71	296,51	288,57	287,13	285,35
— Ireland (£ Irl)	24,970	24,022	24,266	24,286	24,143	24,908
— United Kingdom (£)	18,823	18,816	18,993	19,103	18,969	18,714
— Italy (Lit)	51 032	52 160	51 534	52 022	51 756	51 247
— Greece (Dr)	3 263,14	3 233,34	3 236,79	3 238,64	3 210,49	3 217,82
(b) Seed harvested in Spain and processed:						
— in Spain (Pta)	271,19	271,19	271,19	271,19	271,19	271,19
— in another Member State (Pta)	3 261,85	3 272,72	3 319,22	3 323,43	3 297,30	3 266,22
(c) Seed harvested in Portugal and processed:						
— in Portugal (Esc)	189,77	189,77	189,77	189,77	189,77	189,77
— in another Member State (Esc)	4 112,08	4 113,94	4 127,61	4 148,43	4 119,14	4 045,31



## ANNEX III

## Aids to sunflower seed

(amounts per 100 kilograms)

	Current month	2nd month	3rd month	4th month	5th month
1. Gross aids (ECU):					
— Spain	1,720	1,720	1,720	1,720	1,720
— Portugal	0,000	0,000	0,000	0,000	0,000
— Other Member States	40,173	40,764	41,355	41,355	41,355
2. Final aids:					
(a) Seed harvested and processed in (1):					
— Federal Republic of Germany (DM)	87,02	88,42	89,85	89,96	89,96
— Netherlands (Fl)	99,31	90,90	92,49	92,61	92,61
— BLEU (Bfrs/Lfrs)	1 674,86	1 602,56	1 630,26	1 629,56	1 629,56
— France (FF)	247,36	241,56	245,48	244,97	244,97
— Denmark (Dkr)	312,38	317,43	312,48	312,48	312,48
— Ireland (£ Irl)	28,424	28,887	28,346	28,168	28,168
— United Kingdom (£)	20,222	20,592	20,963	20,963	20,963
— Italy (Lit)	60 032	60 939	61 706	61 851	61 851
— Greece (Dr)	3 562,97	3 605,73	3 643,66	3 627,84	3 627,84
(b) Seed harvested in Spain and processed:					
— in Spain (Pta)	250,77	250,77	250,77	250,77	250,77
— in another Member State (Pta)	3 081,74	3 067,90	3 554,07	3 520,66	3 520,66
(c) Seed harvested in Portugal and processed:					
— in Portugal (Esc)	0,00	0,00	0,00	0,00	0,00
— in Spain (Esc)	5 408,52	5 495,22	5 548,55	5 536,11	5 536,11
— in another Member State (Esc)	5 200,57	5 284,45	5 336,05	5 324,01	5 324,01
3. Compensatory aids:					
— in Spain (Pta)	2 836,74	2 922,90	2 009,07	2 975,66	2 975,66
— in Portugal (Esc)	5 172,77	5 256,65	5 308,25	5 296,22	5 296,22

(1) For seed harvested in the Community as constituted at 31 December 1985 and processed in Spain, the amounts shown in 2 (a) to be multiplied by 1,033538.

## ANNEX IV

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

(value of 1 ECU)

	Current month	2nd month	3rd month	4th month	5th month	6th month
DM	2,060500	2,054700	2,049460	2,044470	2,044470	2,029920
Fl	2,337650	2,333750	2,329520	2,325190	2,325190	2,314210
Bfrs/Lfrs	42,895000	42,980300	42,970100	42,953000	42,953000	42,952800
FF	6,873280	6,878390	6,892110	6,906860	6,906860	6,931610
Dkr	7,846410	7,867740	7,879270	7,891680	7,891680	7,939980
£ Irl	0,770743	0,774624	0,777406	0,780372	0,780372	0,787844
£	0,736598	0,738475	0,740528	0,742405	0,742405	0,749294
Lit	1 472,50	1 477,11	1 480,47	1 483,76	1 483,76	1 495,35
Dr	149,09200	151,35700	153,60700	155,55300	155,55300	161,54500
Esc	158,48900	159,97500	160,90200	161,80000	161,80000	164,61700
Pta	142,21600	143,12100	143,68900	144,31300	144,31300	146,04800

## COMMISSION REGULATION (EEC) No 96/87

of 14 January 1987

fixing for Great Britain the level of the variable slaughter premium for sheep and the amounts to be charged on products leaving region 5

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1837/80 of 27 June 1980 on the common organization of the market in sheepmeat and goatmeat <sup>(1)</sup>, as last amended by Regulation (EEC) No 882/86 <sup>(2)</sup>,

Having regard to Commission Regulation (EEC) No 1633/84 of 8 June 1984 laying down detailed rules for applying the variable slaughter premium for sheep and repealing Regulation (EEC) No 2661/80 <sup>(3)</sup>, as last amended by Regulation (EEC) No 1860/86 <sup>(4)</sup>, and in particular Articles 3 (1) and 4 (1) thereof,

Whereas the United Kingdom is the only country which grants the variable slaughter premium, in region 5, within the meaning of Article 3 (5) of Regulation (EEC) No 1837/80; whereas it is necessary therefore for the Commission to fix, for the week beginning 22 December 1986, the level of the premium and the amount to be charged on products leaving that region;

Whereas Article 3 (1) of Regulation (EEC) No 1633/84 stipulates that the level of the variable slaughter premium is to be fixed each week by the Commission;

Whereas Article 4 (1) of Regulation (EEC) No 1633/84 lays down that the amount to be charged on products leaving region 5 shall be fixed weekly by the Commission;

Whereas it follows from the application of the rules laid down in Article 9 (1) of Regulation (EEC) No 1837/80

and in Article 4 (1), (3) and (4) of Regulation (EEC) No 1633/84 that the variable slaughter premium for sheep certified as eligible in the United Kingdom, and the amounts to be charged on products leaving region 5 of the aforesaid Member State during the week beginning 22 December 1986, shall be set out in the Annexes hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

For sheep or sheepmeat certified as eligible in the United Kingdom in region 5, within the meaning of Article 3 (5) of Regulation (EEC) No 1837/80, for the variable slaughter premium during the week beginning 22 December 1986 the level of the premium shall be equivalent to the amount fixed in Annex I.

*Article 2*

For products referred to in Article 1 (a) and (c) of Regulation (EEC) No 1837/80 which left the territory of region 5 during the week beginning 22 December 1986, the amounts to be charged shall be equivalent to those fixed in Annex II hereto.

*Article 3*

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

It shall apply with effect from 22 December 1986.

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

Done at Brussels, 14 January 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

<sup>(1)</sup> OJ No L 183, 16. 7. 1980, p. 1.

<sup>(2)</sup> OJ No L 82, 27. 3. 1986, p. 3.

<sup>(3)</sup> OJ No L 154, 9. 6. 1984, p. 27.

<sup>(4)</sup> OJ No L 161, 17. 6. 1986, p. 25.

*ANNEX I*

Level of variable slaughter premium for certified sheep in region 5 for the week commencing 22 December 1986

Description	Premium
Certified sheep or sheepmeat	3,217 ECU per 100 kilograms of estimated or actual dressed carcase weight <sup>(1)</sup>

<sup>(1)</sup> Within the weight limits laid down by Article 1 (1) (b) of Regulation (EEC) No 1633/84.

## ANNEX II

Amount to be charged for products leaving region 5 during the week commencing  
22 December 1986

(ECU/100 kg)

CCT heading No	Description	Amounts		
		A. Products qualifying for the premium specified in Article 9 of Regulation (EEC) No 1837/80	B. Products specified at the second, third and fourth indents of the first subparagraph of Article 4 (4) of Regulation (EEC) No 1633/84 (1)	C. Products specified at the first indent of the first subparagraph of Article 4 (4) of Regulation (EEC) No 1633/84 (1)
		Live weight	Live weight	Live weight
01.04 B	Live sheep and goats other than pure-bred breeding animals	1,512	0,756	0,151
		Net weight	Net weight	Net weight
02.01 A IV a)	Meat of sheep or goats, fresh or chilled :			
	1. Carcases or half-carcases	3,217	1,609	0,322
	2. Short forequarters	2,252		
	3. Chines and/or best ends	3,539		
	4. Legs	4,182		
	5. Other :			
	aa) Unboned (bone-in)	4,182		
	bb) Boned or boneless	5,855		
02.01 A IV b)	Meat of sheep or goats, frozen :			
	1. Carcases or half-carcases	2,413		
	2. Short forequarters	1,689		
	3. Chines and/or best ends	2,654		
	4. Legs	3,137		
	5. Other :			
	aa) Unboned (bone-in)	3,137		
	bb) Boned or boneless	4,392		
02.06 C II a)	Meat of sheep or goats, salted in brine, dried or smoked :			
	1. Unboned (bone-in)	4,182		
	2. Boned or boneless	5,855		
ex 16.02 B III b) 2 aa) 11)	Other prepared or preserved meat or meat offal of sheep or goats, uncooked ; mixtures of cooked meat or offal and uncooked meat or offal :			
	— unboned (bone-in)	4,182		
	— boned or boneless	5,855		

(1) Eligibility for these reduced amounts is subject to compliance with the conditions laid down in the second subparagraph of Article 5 (3) of Regulation (EEC) No 1633/84.

## COMMISSION REGULATION (EEC) No 97/87

of 14 January 1987

abolishing the countervailing charge on artichokes originating in Spain (except the Canary Islands)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables<sup>(1)</sup>, as last amended by Regulation (EEC) No 1351/86<sup>(2)</sup>, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Commission Regulation (EEC) No 7/87<sup>(3)</sup>, as amended by Regulation (EEC) No 64/87<sup>(4)</sup>, introduced a countervailing charge on artichokes originating in Spain (except the Canary Islands).

Whereas the present trend of prices for products originating in Spain (except in the Canary Islands) on the representative markets referred to in Regulation (EEC) No 2118/74<sup>(5)</sup>, as last amended by Regulation (EEC) No 3811/85<sup>(6)</sup>, recorded or calculated in accordance with the provisions of Article 5 of that Regulation, indicated that entry prices have been at least equal to the reference price for two consecutive market days; whereas the conditions

specified in the second indent of Article 26 (1) of Regulation (EEC) No 1035/72 are therefore fulfilled and the countervailing charge on imports of these products originating in Spain (except the Canary Islands) can be abolished;

Whereas, pursuant to Article 136 (2) of the Act of Accession of Spain and Portugal<sup>(7)</sup>, the arrangements applicable to trade between, on the one hand, a new Member State and, on the other, the Community as constituted at 31 December 1985, must be those which were applicable before accession,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 7/87 is hereby repealed.

*Article 2*

This Regulation shall enter into force on 15 January 1987.

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

Done at Brussels, 14 January 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

<sup>(1)</sup> OJ No L 118, 20. 5. 1972, p. 1.

<sup>(2)</sup> OJ No L 119, 8. 5. 1986, p. 46.

<sup>(3)</sup> OJ No L 1, 3. 1. 1987, p. 13.

<sup>(4)</sup> OJ No L 8, 10. 1. 1987, p. 45.

<sup>(5)</sup> OJ No L 220, 10. 8. 1974, p. 20.

<sup>(6)</sup> OJ No L 368, 31. 12. 1985, p. 1.

<sup>(7)</sup> OJ No L 302, 15. 11. 1985, p. 9.

**COMMISSION REGULATION (EEC) No 98/87**

of 14 January 1987

**abolishing the countervailing charge on lemons originating in Cyprus**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables<sup>(1)</sup>, as last amended by Regulation (EEC) No 1351/86<sup>(2)</sup>, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Commission Regulation (EEC) No 38/87<sup>(3)</sup> introduced a countervailing charge on lemons originating in Cyprus;

Whereas the present trend of prices for these products on the representative markets referred to in Commission Regulation (EEC) No 2118/74<sup>(4)</sup>, as last amended by Regulation (EEC) No 3811/85<sup>(5)</sup>, recorded or calculated in accordance with the provisions of Article 5 of that

Regulation, indicates that the application of the first subparagraph of Article 26 (1) of Regulation (EEC) No 1035/72 would result in the countervailing charge being fixed at zero; whereas the conditions specified in the second indent of Article 26 (1) of Regulation (EEC) No 1035/72 are therefore fulfilled and the countervailing charge on imports of these products originating in Cyprus can be abolished,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 38/87 is hereby repealed.

*Article 2*

This Regulation shall enter into force on 15 January 1987.

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

Done at Brussels, 14 January 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

<sup>(1)</sup> OJ No L 118, 20. 5. 1972, p. 1.

<sup>(2)</sup> OJ No L 119, 8. 5. 1986, p. 46.

<sup>(3)</sup> OJ No L 6, 8. 1. 1987, p. 20.

<sup>(4)</sup> OJ No L 220, 10. 8. 1974, p. 20.

<sup>(5)</sup> OJ No L 368, 31. 12. 1985, p. 1.

**COMMISSION REGULATION (EEC) No 99/87**  
**of 14 January 1987**  
**fixing the import levies on white sugar and raw sugar**

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

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector <sup>(1)</sup>, as last amended by Regulation (EEC) No 934/86 <sup>(2)</sup>, and in particular Article 16 (8) thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 2051/86 <sup>(3)</sup>, as last amended by Regulation (EEC) No 76/87 <sup>(4)</sup>;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2051/86 to the infor-

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

HAS ADOPTED THIS REGULATION :

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 15 January 1987.

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

Done at Brussels, 14 January 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

<sup>(1)</sup> OJ No L 177, 1. 7. 1981, p. 4.  
<sup>(2)</sup> OJ No L 87, 2. 4. 1986, p. 1.  
<sup>(3)</sup> OJ No L 173 1. 7. 1986, p. 91.  
<sup>(4)</sup> OJ No L 11, 13. 1. 1987, p. 28.

ANNEX

to the Commission Regulation of 14 January 1987 fixing the import levies on white sugar and raw sugar

CCT heading No	Description	Levy (ECU/100 kg)
17.01	Beet sugar and cane sugar, in solid form : A. White sugar : flavoured or coloured sugar B. Raw sugar	51,09 43,89 <sup>(1)</sup>

<sup>(1)</sup> Applicable to raw sugar with a yield of 92 % ; if the yield is other than 92 %, the levy applicable is calculated in accordance with the provisions of Article 2 of Regulation (EEC) No 837/68.

## COMMISSION REGULATION (EEC) No 100/87

of 14 January 1987

## altering the import levies on products processed from cereals and rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EEC) No 1579/86 <sup>(2)</sup>, and in particular Article 14 (4) thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice <sup>(3)</sup>, as last amended by Regulation (EEC) No 1449/86 <sup>(4)</sup> and in particular Article 12 (4) thereof,

Having regard to Council Regulation No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy <sup>(5)</sup> and in particular Article 3 thereof,

Having regard to the advice of the Monetary Committee,

Whereas the import levies on products processed from cereals and rice were fixed by Commission Regulation (EEC) No 4071/86 <sup>(6)</sup>, as last amended by Regulation (EEC) No 66/87 <sup>(7)</sup>;

Whereas Council Regulation (EEC) No 1588/86 <sup>(8)</sup> as amended by Council Regulation (EEC) No 2744/75 <sup>(9)</sup> as regards products falling within subheading 23.02 A of the Common Customs Tariff;

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

— in the case of currencies which are maintained in relation to each other at any given moment within a band

of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Regulation (EEC) No 1676/85,

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

Whereas these exchange rates being those recorded on 13 January 1987;

Whereas the aforesaid corrective factor affects the entire calculation basis for the levies, including the equivalence coefficients;

Whereas the levy on the basic product as last fixed differs from the average levy by more than 3,02 ECU per tonne of basic product; whereas, pursuant to Article 1 of Commission Regulation (EEC) No 1579/74 <sup>(10)</sup> the levies at present in force must therefore be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The import levies to be charged on products processed from cereals and rice covered by Regulation (EEC) No 2744/75, as last amended by Regulation (EEC) No 1588/86, as fixed in the Annex to amended Regulation (EEC) No 4071/86 are hereby altered to the amounts set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 15 January 1987.

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

Done at Brussels, 14 January 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 139, 24. 5. 1986, p. 29.

<sup>(3)</sup> OJ No L 166, 25. 6. 1976, p. 1.

<sup>(4)</sup> OJ No L 133, 21. 5. 1986, p. 1.

<sup>(5)</sup> OJ No L 164, 24. 6. 1985, p. 1.

<sup>(6)</sup> OJ No L 371, 31. 12. 1986, p. 19.

<sup>(7)</sup> OJ No L 8, 10. 1. 1987, p. 47.

<sup>(8)</sup> OJ No L 139, 24. 5. 1986, p. 47.

<sup>(9)</sup> OJ No L 281, 1. 11. 1975, p. 65.

<sup>(10)</sup> OJ No L 168, 25. 6. 1974, p. 7.



## ANNEX

## to the Commission Regulation of 14 January 1987 altering the import levies on products processed from cereals and rice

(ECU/tonne)

CCT heading No	Imports		
	Portugal	Third countries (other than ACP or OCT)	ACP or OCT
07.06 A I	30,31		
07.06 A II	33,33		
11.01 C (2)	60,60		
11.01 D (2)	171,41	282,81	276,77
11.01 E I (2)		328,26	322,22
11.01 E II (2)		185,61	182,59
11.01 F (2)	88,65	235,79	232,77
11.01 G (2)	21,94		
11.02 A II (2)		317,35	311,31
11.02 A III (2)	60,60		
11.02 A IV (2)	172,41	282,81	276,77
11.02 A V a) 1 (2)		301,26	295,22
11.02 A V a) 2 (2)		328,26	322,22
11.02 A V b) (2)		185,61	182,59
11.02 A VI (2)	88,65	235,79	232,77
11.02 A VII (2)	21,94		
11.02 B I a) 1 (2)	51,52		
11.02 B I a) 2 aa)	96,73	159,86	156,84
11.02 B I a) 2 bb) (2)	168,39	279,79	276,77
11.02 B I b) 1 (2)	51,52		
11.02 B I b) 2 (2)	168,39	279,79	276,77
11.02 B II a) (2)		267,86	264,84
11.02 B II b) (2)		233,04	230,02
11.02 B II c) (2)		289,44	286,42
11.02 B II d) (2)	32,70		
11.02 C I (2)		321,63	318,61
11.02 C II (2)		279,74	276,72
11.02 C III (2)	81,82		
11.02 C IV (2)	150,01	249,04	246,02
11.02 C V (2)		289,44	286,42
11.02 C VI (2)	32,70		
11.02 D I (2)		206,13	203,11
11.02 D II (2)		179,43	176,41
11.02 D III (2)	33,94		
11.02 D IV (2)	96,73	159,86	156,84
11.02 D V (2)		185,61	182,59
11.02 D VI (2)	21,94		
11.02 E I a) 1 (2)	33,94		
11.02 E I a) 2 (2)	96,73	159,86	156,84
11.02 E I b) 1 (2)	66,66		
11.02 E I b) 2 (2)	189,78	313,56	307,52
11.02 E II a) (2)		364,47	358,43
11.02 E II b) (2)		317,35	311,31
11.02 E II c) (2)		328,26	322,22
11.02 E II d) 1 (2)	151,44	401,30	395,26
11.02 E II d) 2 (2)	39,43		
11.02 F I (2)		364,47	358,43
11.02 F II (2)		317,35	311,31
11.02 F III (2)	60,60		
11.02 F IV (2)	171,41	282,81	276,77

(ECU/tonne)

CCT heading No	Imports		
	Portugal	Third countries (other than ACP or OCT)	ACP or OCT
11.02 F V <sup>(2)</sup>		328,26	322,22
11.02 F VI <sup>(2)</sup>	88,65	235,79	232,77
11.02 F VII <sup>(2)</sup>	21,94		
11.02 G I		155,39	149,35
11.02 G II		140,30	134,26
11.04 C I	33,33		
11.04 C II a)		284,61	260,43 <sup>(3)</sup>
11.04 C II b)		308,76	284,58 <sup>(3)</sup>
11.07 A I a)		365,33	354,45
11.07 A I b)		275,72	264,84
11.07 A II a)	64,83		
11.07 A II b)	51,19		
11.07 B	57,86		
11.08 A I		284,61	264,06
11.08 A II	153,62	337,25	306,42
11.08 A III		414,64	394,09
11.08 A IV		284,61	264,06
11.08 A V		284,61	132,03 <sup>(3)</sup>
11.09		897,86	716,52
17.02 B II a) <sup>(3)</sup>		441,14	344,42
17.02 B II b) <sup>(3)</sup>		330,55	264,06
17.02 F II a)		457,54	360,82
17.02 F II b)		317,43	250,94
21.07 F II		330,55	264,06
23.02 A I a)		84,98	78,98
23.02 A I b)		175,24	169,24
23.02 A II a)		84,98	78,98
23.02 A II b)		175,24	169,24
23.03 A I		509,36	328,02

<sup>(2)</sup> For the purpose of distinguishing between products falling within heading Nos 11.01 and 11.02 and those falling within subheading 23.02 A, products falling within heading Nos 11.01 and 11.02 shall be those meeting the following specifications:

- a starch content (determined by the modified Ewers polarimetric method), referred to dry matter, exceeding 45 % by weight,
- an ash content, by weight, referred to dry matter (after deduction of any added minerals), not exceeding 1,6 % for rice, 2,5 % for wheat, 3 % for barley, 4 % for buckwheat, 5 % for oats and 2 % for other cereals.

Germ of cereals, whole, rolled, flaked or ground, falls in all cases within heading No 11.02.

<sup>(3)</sup> Pursuant to Regulation (EEC) No 2730/75 the product falling within subheading 17.02 B I is subject to the same levy as products falling within subheading 17.02 B II.

<sup>(3)</sup> In accordance with Regulation (EEC) No 486/85 the levy shall not be charged on the following products originating in the African, Caribbean and Pacific States and in the overseas countries and territories:

- arrowroot falling within subheading ex 07.06 A,
- flours and meal of arrowroot falling within subheading 11.04 C,
- arrowroot starch falling within subheading ex 11.08 A V.

**COMMISSION REGULATION (EEC) No 101/87**  
**of 14 January 1987**  
**altering the export refunds on rice and broken rice**

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

Having regard to the Act of Accession Spain and Portugal,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice <sup>(1)</sup>, as last amended by Regulation (EEC) No 1449/86 <sup>(2)</sup>, and in particular the fifth subparagraph of Article 17 (2) thereof,

Whereas the export refunds on rice and broken rice were fixed by Regulation (EEC) No 3963/86 <sup>(3)</sup>;

Whereas it follows from applying the rules, criteria and other provisions contained in Regulation (EEC) No 3963/86 to the information at present available to the

Commission, that the export refunds at present in force should be altered as shown in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

The export refunds on the products listed in Article 1 of Regulation (EEC) No 1418/76, with the exception of those listed in paragraph 1 (c) of that Article, exported in the natural state and fixed in the Annex to Regulation (EEC) No 3963/86 are hereby altered as shown in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on 15 January 1987.

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

Done at Brussels, 14 January 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

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<sup>(1)</sup> OJ No L 166, 25. 6. 1976, p. 1.

<sup>(2)</sup> OJ No L 133, 21. 5. 1986, p. 1.

<sup>(3)</sup> OJ No L 365, 24. 12. 1986, p. 66.



## COMMISSION REGULATION (EEC) No 102/87

of 14 January 1987

extending in respect of certain agricultural products the period of validity of Regulation (EEC) No 67/87 suspending advance fixing of the monetary compensatory amounts

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

Having regard to Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture <sup>(1)</sup>, as last amended by Regulation (EEC) No 2502/86 <sup>(2)</sup>, and in particular Article 12 thereof,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals <sup>(3)</sup>, as last amended by Regulation (EEC) No 1579/86 <sup>(4)</sup>, and in particular Articles 12 (2), 15 (5) and 16 (6) thereof, and having regard to the corresponding provisions in other Regulations on the common organization of markets in agricultural products,

Whereas Commission Regulation (EEC) No 67/87 <sup>(5)</sup> suspended the advance fixing of monetary compensatory amounts for the period 12 to 14 January 1987;

Whereas in all sectors except pigmeat, eggs, poultry and albumins new monetary compensatory amounts will apply from 15 January 1987;

Whereas in the abovementioned sectors they will not apply until 22 January 1987; whereas for these sectors the period of suspension must be extended until then;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The period of suspension of advance fixing of monetary compensatory amounts introduced by Regulation (EEC) No 67/87 is, for amounts applicable in the pigmeat, egg and poultry sectors, extended to 21 January 1987.

*Article 2*

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

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

Done at Brussels, 14 January 1987.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

<sup>(1)</sup> OJ No L 164, 24. 6. 1985, p. 6.

<sup>(2)</sup> OJ No L 219, 6. 8. 1986, p. 8.

<sup>(3)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(4)</sup> OJ No L 139, 24. 5. 1986, p. 29.

<sup>(5)</sup> OJ No L 10, 12. 1. 1987, p. 1.

### INFORMATION FROM THE COMMISSION

The Commission draws the attention of interested parties to the fact that the monetary compensatory amounts will be calculated, for movements effected from

- 22 January 1987 as regards pigmeat, eggs and poultry and albumins,
- 15 January as regards the other sectors,

using the following monetary gaps determined in accordance with the provisions of Articles 5 and 6 of Regulation (EEC) No 1677/85.

<i>Belgium/Luxembourg</i> : all products	0
<i>Denmark</i> :	
— milk, beef and veal, pigmeat	— 1,5
— other products	— 2,0
<i>Germany</i> <sup>(1)</sup> :	
— wine	0
— milk	+ 2,9
— cereals	+ 2,4
— other products	+ 1,8
<i>France</i> :	
— milk	— 4,8
— beef and veal	— 1,5
— pigmeat	— 1,5
— eggs and poultry <sup>(2)</sup>	— 3,2
— wine	— 2,8
— other products	— 8,0
<i>Greece</i> :	
— wine	— 38,8
— other products	— 42,3
<i>Ireland</i> :	
— milk, beef and veal, pigmeat	— 4,3
— other products	— 9,0
<i>Italy</i> :	
— cereals	— 5,5
— wine	— 1,0
— other products	— 4,4
<i>Netherlands</i> <sup>(1)</sup> :	
— milk	+ 2,9
— cereals	+ 2,4
— other products	+ 1,8
<i>United Kingdom</i> :	
— milk	— 28,5
— beef and veal	— 22,1
— pigmeat	— 24,8
— eggs and poultry <sup>(3)</sup>	— 25,7
— other products	— 30,2
<i>Spain</i> :	
— milk, beef and veal, pigmeat	— 6,7
— wine	— 4,3
— other products	— 7,8
<i>Portugal</i> :	
— sugar	— 15,1

<sup>(1)</sup> In the pigmeat sector the monetary compensatory amounts are to be fixed on the basis of a price equal to 35 % of the basic price. However, in the case of Member States which apply positive monetary compensatory amounts and maintain their currencies, as between themselves, within a spread at any given time of a maximum of 2,25 %, the monetary compensatory amounts to be applied from 1 July 1986 must be equal to those applicable on 30 June 1986 altered according to the prices valid from 1 July 1986, subject to any alteration in the agricultural conversion rates.

<sup>(2)</sup> The monetary compensatory amounts for the eggs and poultrymeat sector are to be calculated on the basis of the monetary gap for cereals less 4,8 points.

<sup>(3)</sup> The monetary compensatory amounts for the eggs and poultrymeat sector are to be calculated on the basis of the monetary gap for cereals less 4,5 points.

**COMMISSION REGULATION (EEC) No 103/87**  
**of 14 January 1987**  
**altering the export refunds on white sugar and raw sugar exported in the natural state**

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

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector <sup>(1)</sup>, as last amended by Regulation (EEC) No 934/86 <sup>(2)</sup>, and in particular the second subparagraph of Article 19 (4) thereof,

Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EEC) No 36/87 <sup>(3)</sup>;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 36/87 to the information known to the Commission that the export refunds at

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EEC) No 36/87 are hereby altered to the amounts shown in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 15 January 1987.

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

Done at Brussels, 14 January 1987.

*For the Commission*  
Frans ANDRIESEN  
*Vice-President*

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<sup>(1)</sup> OJ No L 177, 1. 7. 1981, p. 4.  
<sup>(2)</sup> OJ No L 87, 2. 4. 1986, p. 1.  
<sup>(3)</sup> OJ No L 6, 8. 1. 1987, p. 17.

## ANNEX

to the Commission Regulation of 14 January 1987 altering the export refunds on white sugar and raw sugar exported in the natural state

(ECU)

CCT heading No	Description	Amount of refund	
		per 100 kg	per percentage point of sucrose content and per 100 kg net of the product in question
17.01	Beet sugar and cane sugar, solid :		
	A. White sugar ; flavoured or coloured sugar :		
	(I) White sugar :		
	(a) Candy sugar	44,09	
	(b) Other	42,49	
	(II) Flavoured or coloured sugar		0,4409
	B. Raw sugar :		
	II. Other :		
	(a) Candy sugar	40,56 <sup>(1)</sup>	0,4409
	(b) Sugar with added anti-caking agent		
(c) Raw sugar in immediate packing not exceeding 5 kilograms net of product	38,33 <sup>(1)</sup>		
(d) Other raw sugar	<sup>(2)</sup>		

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

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



## II

*(Acts whose publication is not obligatory)*

## COMMISSION

## COMMISSION DECISION

of 17 December 1986

in proceedings under Article 85 of the EEC Treaty

(IV/30937 — Pronuptia)

(Only the French text is authentic)

(87/17/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17, First Regulation implementing Articles 85 and 86 of the Treaty <sup>(1)</sup>, as last amended by the Act of Accession of Spain and Portugal, and in particular Articles 6 and 8 thereof,

Having regard to the application for negative clearance or exemption filed on 22 April 1983 by Pronuptia de Paris SA, Paris, of its standard form of retail franchise agreement which it proposed to sign with all its franchisees,

Having published a summary of the agreement in accordance with Article 19 (3) of Regulation No 17 <sup>(2)</sup>,

Having consulted the Advisory Committee on Restrictive Practices and Monopolies,

Whereas :

## I. FACTS

## A. Pronuptia de Paris

(1) Pronuptia de Paris (Pronuptia) is a French public limited company incorporated in 1958 which has a registered capital of FF 3,3 million. Pronuptia specializes in the sale of bridal wear and accessories. On 9 December 1985 financial difficulties

forced the company to apply to the Paris Tribunal de Commerce for temporary protection from its creditors, during which it was allowed to continue its operations.

- (2) Pronuptia carries on business mainly in France and other European countries, but is also represented outside Europe in countries such as Canada, Japan, Lebanon and the United States.
- (3) In France, its distribution network numbers 148 of which 135 are franchised, five are subsidiaries and eight are branches.
- (4) In the other Member States (Germany, Belgium, Spain, Greece, Ireland, Luxembourg and the United Kingdom) in which Pronuptia uses franchising to distribute its products, it has a little over 100 franchised outlets. In Germany, Spain and the United Kingdom it also has subsidiaries.
- (5) The total turnover of the Pronuptia network throughout the world in 1985 was about FF 250 million.
- (6) Pronuptia claims to have the biggest chain of shops offering formal wear in the world, and to be the only network specializing in bridal wear in France, where there is no similarly organized competition <sup>(3)</sup>. In France, Pronuptia holds about 30 % of the bridal wear market. Against this, it holds only more modest shares in other Member States.

<sup>(1)</sup> OJ No 13, 21. 2. 1962, p. 204/62.<sup>(2)</sup> OJ No C 178, 16. 7. 1986, p. 2.<sup>(3)</sup> Pronuptia Operations Manual, Vol. 1. Section I, p. 1, and Section II, pp. 1 and 3.

### B. The relevant products and market<sup>(1)</sup>

- (7) The Pronuptia network sells and hires not only wedding dresses but also wedding attire for attendants and guests, including men's formal wear, and a full range of accessories such as hats, veils, tights, gloves, shoes, handbags, garters, scarves, and lingerie. Its collection in any year numbers around 1 000 items of all types.
- (8) The articles offered from Pronuptia outlets fall into three categories which also differ as to their sourcing:
- (a) fashion goods, of Pronuptia's own design; which are manufactured for it by subcontractors, such as its wedding dress designs which are registered and bear the 'Pronuptia' trade mark;
  - (b) other fashion goods, not of Pronuptia's design but of designs commissioned or selected 'off-the-shelf' from other suppliers, which Pronuptia buys in and on which it also puts its trade mark;
  - (c) goods not designed by or for Pronuptia which are purchased by franchisees directly from the supplier of their choice and invoiced to them by the supplier.

The articles in categories (a) and (b) which are supplied and invoiced to franchisees by Pronuptia itself account for about two-thirds of the goods traded through the network. Pronuptia sells at the same prices to all franchisees.

- (9) There are many other manufacturers of bridal fashions in France and other EEC countries. In France, there are, to name but a few, 'Les Mariées de Christina', 'Les Mariées de Marcelle', (Maggy Rouff), 'Les Mariées de France', 'Les Mariées de Rêve', Claude Hervé, and 'Les Mariées Laura'; in Germany, there are Vera Mont, Pagels and Horn, and the Team Brantude International chain. These manufacturers generally do not use the franchising route to sell their products. There is also competition from small dressmakers' shops and from the large fashion houses, all of which also design wedding dresses.

<sup>(1)</sup> The services offered by the Pronuptia chain (honeymoons, photographers, receptions, etc.) are disregarded as they are at present only offered in France and only if the franchisee wishes. Their economic impact is therefore probably insignificant.

### C. The Pronuptia franchise agreement

- (10) Pronuptia proposes to sign the notified franchise agreement with all its franchisees both in France and in other EEC and non-EEC countries. It wishes the Commission to take a formal decision on its application for exemption of the agreement.
- (11) The main provisions of the standard form agreement are as follows:
- The franchisor, Pronuptia, grants the franchisee the exclusive right to use the 'Pronuptia de Paris' trade mark in a defined sales territory, where the franchisee agrees to run a retail outlet dealing primarily in bridal wear and accessories under the Pronuptia name and logo or a derived logo approved by the franchisor. The franchisor undertakes to credit the franchisee with 10 % of any mail-order sales it makes to customers in the territory involving products normally sold by the franchisee (clause 1).
  - The franchisor undertakes to assist the franchisee with, in particular, selecting the site and the premises, shopfitting and stocking, regular training of the franchisee and his staff, promotion and advertising (for which the franchisor will provide point-of-sale material and will check that the franchisee's advertising is consistent with the network's brand image), and with continuing information and advice on innovations, promotions, market analysis, purchasing, etc. (clause 3).
  - The franchisee undertakes not to use the Pronuptia trade mark and logo other than in conjunction with his own business name followed by the words 'Franchisee of Pronuptia de Paris' (clause 2).
  - The franchisee agrees to carry on the franchise business in the particular manner developed by the franchisor and to use the know-how and expertise the franchisor has made available (clause 4, second paragraph, first indent).
  - The franchisee is required to carry on the franchised business exclusively from the premises approved by the franchisor and fitted and decorated according to its instructions (clause 4, second paragraph, second indent).
  - The franchisee must obtain the franchisor's approval for his local advertising (clause 4, second paragraph, third indent).

- In consideration of the rights and services received, the franchisee agrees to pay the franchisor an initial non-recurring fee<sup>(1)</sup> and monthly royalties of between 4 and 5 % of his total turnover from the direct sale of the franchise goods to customers from the franchised shop (clause 5)
- The franchisee agrees to contribute a further sum, equal to his monthly royalty payment, to an advertising and promotional fund. This fund is managed by the franchisor, who however consults with franchisees on how to obtain the maximum benefit from the advertising budget (clause 6).
- The franchisee agrees to pay a minimum amount of royalties each year (clause 7).
- The franchisee agrees to order the goods traded from the franchised business exclusively from the franchisor, and may be required to obtain them exclusively from the franchisor if the franchisor is able to supply all the franchisee's requirements (clause 8, first and third paragraphs). However, the franchisee may obtain goods not connected with the essential object of the franchise business from the supplier of his choice, subject to the franchisor's right to vet such goods afterwards and to forbid the franchisee to market them from the franchised outlet if it judges them to be out of keeping with the brand image (clause 8, fourth and fifth paragraphs).

The franchisee undertakes to order at least 50 % of his estimated sales, based on those of the previous year, in advance according to a fixed timetable and to have the articles shown in the catalogue in stock (clause 8, seventh and eighth paragraphs).

The franchisee is free to obtain Pronuptia products from any other franchise in the network (clause 8, ninth paragraph).

- The franchisee is free to set his own retail prices, the prices circulated by the franchisor in internal literature being only suggestions. However, the franchisee is recommended not to exceed the maximum prices quoted by the franchisor in advertising and promotions (clause 9).

- The franchisee may not assign the franchised business in law or in fact to another person without the written consent of the franchisor. In the event of the sale or assignment of the management of the franchised business, or the death or incapacity of the franchisee, or any other circumstance which prevents the franchisee from carrying on the franchise normally, the franchisor is entitled to terminate the contract (clause 10). The contract may also be determined if the franchisee files for bankruptcy, goes into liquidation, ceases trading, or if either party breaches its obligations (clause 13).

- The agreement has a term of five years, which is automatically renewed for further one-year periods unless terminated upon at least six months' notice before the end of any period (clause 11).

- The franchisee agrees not to engage, directly or indirectly, during the currency of the agreement and for one year after its expiry or termination, in any similar business in the same area or in any other area where he would be in competition with another Pronuptia outlet. However, the franchisee may continue to carry on the business in the allotted territory after the agreement has ended if he

- (i) has exercised the franchise for more than 10 years,
- (ii) has discharged his contractual obligations, and
- (iii) does not put the know-how and experience he has accumulated at the service of a competing network (clause 12).

- (12) At the Commission's request, Pronuptia has amended the standard form agreement to put into writing certain rights which the franchisee allegedly had in practice already, namely the rights

- (a) to purchase Pronuptia products from other franchisees,
- (b) to purchase goods not connected with the essential object of the franchise business from suppliers of their choice, subject to *ex post* qualitative vetting by the franchisor, and
- (c) to set their own retail prices, the prices circulated by the franchisor being only suggestions and the franchisee merely being recommended not to exceed the maximum prices quoted by the franchisor in advertising and promotions. Pronuptia has abolished the clause which requires the franchisee not to harm the brand image of the franchisor by his pricing level.

<sup>(1)</sup> The initial entry fee depends on the population of the allotted sales territory and varies between FF 0,15 and 0,20 per resident. The average population of a territory is about 300 000. The average entry fee is thus between FF 45 000 and 60 000.

**D. The legal proceedings between Pronuptia and one of its German franchises**

(13) Following a legal proceeding in 1981, on the subject of a franchise contract and taken by Pronuptia's German subsidiary, Pronuptia GmbH, against one of its franchisees, the Federal Supreme Court asked the Court of Justice of the European Communities for a preliminary ruling on the following questions (*inter alia*):

- (i) whether, franchise agreements such as those before it fell within the scope of Article 85 (1), and, if so,
- (ii) whether such agreements could be covered by Commission Regulation 67/67/EEC (<sup>(1)</sup>), and, if so,
- (iii) whether particular clauses found in the agreements before the Court were covered by Regulation 67/67/EEC.

The Court of Justice gave judgment on 28 January 1986.

- (14) In this judgment the Court of Justice defined retail franchises, with which the case and the present proceedings are concerned, as systems whereby 'a firm which has established itself in a certain business in one market, and has developed a system for carrying on that business, licenses independent traders, in return for payment, to use its name and proven formula for the business in other markets. Rather than a method of distribution, the system is a way of exploiting a body of expertise financially without having to invest the firm's own capital' (ground 15 of the judgment).
- (15) The use of the same name and a uniform business system, and the payment of royalties for the advantages received, were typical features which set franchise agreements apart, the Court said, from exclusive distribution agreements or dealerships in a selective distribution system (ground 15).
- (16) The Court acknowledged that for such a retail franchise operation to work the franchisor had to be able to
  - (a) 'make its know-how available to the franchisees and give them the assistance they require to be

able to apply its business system', without running the risk of the know-how and assistance benefiting competitors (ground 16), and to

- (b) 'take measures to preserve the common identity and reputation of the network trading under its names' (ground 17).

- (17) After having noted in ground 15 that a retail franchise operation 'does not in itself restrict competition', the Court held in the operative part of the judgment that 'the compatibility of retail franchise contracts with Article 85 (1) is a function of the clauses such contracts contain and the economic context in which they occur.'
- (18) It further held not to be restrictions of competition falling within Article 85 (1) 'clauses that are indispensable to prevent the know-how made available and the assistance given by the franchisor from benefiting competitors' and 'clauses that provide for the control essential to preserve the common identity and reputation of the network trading under the name'.
- (19) It held on the other hand that 'clauses that involve market sharing between franchisor and franchisee or between franchisees constitute restrictions of competition within the meaning of Article 85 (1) ... and are capable of affecting trade between Member States'.
- (20) The Decision in the present proceedings is inspired by the principles established and guidance given by the Court in the above judgment.
- (21) Following the publication of a notice pursuant to Article 19 (3) of Regulation No 17, the Commission has received several comments from third parties. These ask the Commission, before adopting a favourable decision, to be particularly careful in its examination of the legal and factual background of this standard agreement. In addition, they express concern over certain clauses of the contract, notably those that concern indicative prices and the prohibition of competition, and those which result in a partitioning of the market. In this respect, it is sufficient to point out that these clauses have been considered in the light of the principles set out in the judgment of the Court in the 'Pronuptia' case, already discussed, and taking very careful account of the factual background.

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

## II. LEGAL ASSESSMENT

### A. Article 85 (1)

(22) Article 85 (1) 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.

(23) The standard form of retail franchise agreement that Pronuptia proposes to sign with all its franchisees is an agreement between business undertakings within the meaning of Article 85.

#### (a) Clauses not falling within Article 85 (1)

(24) First, the obligation on the franchisor to assist the franchisee with selecting the site and premises, shopfitting, promotion and advertising, training, news of products, innovations, etc. (clause 3 of the contract) does not fall within the scope of Article 85 (1) because it forms part of the basic services the franchisor provides to the franchisee.

(25) The clauses in the contract that serve the following purposes are also not restrictions of competition falling within Article 85 (1) according to the Court's judgement (see also paragraph 18), in which many of these clauses were specifically mentioned :

(i) clauses that are essential to prevent the know-how made available and the assistance given by the franchisor from benefitting competitors, namely (*inter alia*):

- the prohibition on the franchisee from engaging, directly or indirectly during the currency of the agreement and for one year after its expiry or termination, in any similar business in the same area or in any other area where he would be in competition with another Pronuptia outlet (clause 12).

The ban on competition during the period of the contract is necessary to protect the know-how and other assistance supplied. These benefits lend themselves to use with other products which would benefit competitors, if only indirectly. Other ways of preventing this risk might not be as effective.

The period of one year after the ending of the contract during which the franchisee continues to be bound by the non-competition covenant can in the present case be regarded as reasonable, within the meaning of the Court's judgment (ground 16), both

for the purpose stated above and to allow Pronuptia to establish a new outlet in the territory of the former franchisee, which it is unable to do during the term of the contract because of the franchisee's exclusivity. It should also be noted that the post-term competition ban is relaxed in certain circumstances (clause 12, second paragraph).

Therefore, in this particular case, it should not be considered as restricting competition within the meaning of Article 85 (1). The assessment of the clause in question does not prejudice any relief available to franchisees under national law at the end of the contract,

- the prohibition on the franchisee from selling the franchised business or assigning its management to another person, under penalty of termination by the franchisor (clause 10);

(ii) clauses that provide for the control essential to preserve the common identity and reputation of the network trading under the franchisor's name, namely (*inter alia*):

- the obligation on the franchisee to carry on the franchised business in the manner prescribed by Pronuptia and to use the know-how and expertise it makes available (clause 4, second paragraph, first indent),

- the obligation on the franchisee to carry on the franchised business from the premises approved by the franchisor and fitted and decorated according to its instructions (clause 4, second paragraph, second indent),

- the obligation on the franchisee to obtain the franchisor's approval for his local advertising (clause 4, second paragraph, third indent); it should be said that this control only concerns the nature of the advertisements with the object of ensuring conformity with the Pronuptia chain's brand image,

- the obligation on the franchisee, owing to the nature and quality of the products traded in the franchise business (fashion goods) and in order to preserve the consistency of the brand image, to order the goods connected with the essential object of the franchise business exclusively from the franchisor or suppliers nominated by the franchisor (clause 8, first paragraph). It is emphasized that the franchisee may purchase such goods from any other franchisee in the network (clause 8, ninth paragraph),

- the right of the franchisor to vet, *ex post*, the quality of products not connected with the essential object of the franchise business that the franchisee may purchase from the supplier of his choice and to forbid the franchisee to market them from the outlet if they are damaging to the brand image (clause 8, fourth and fifth paragraphs),
- the prohibition on the franchisee to assign their contract without the written agreement of the franchisor (clause 10).

(26) The Pronuptia standard form agreement also contains a number of other clauses which do not, by reason of their object, nature or effect, fall within Article 85 (1). They include :

- the prohibition on the franchisee's using the Pronuptia trade mark or logo except in combination with his own business name followed by the words 'Franchisee of Pronuptia de Paris' (clause 2), which merely serves to identify the franchise relationship,
- the obligation on the franchisee to pay the franchisor an initial non-recurring fee and monthly royalties of between 4 and 5 % of his total turnover from the direct sale of the franchise goods to customers from the franchise shop (clause 5), because this is the franchisee's consideration for the rights and services obtained from the franchisor ; it should be noted that no royalties are payable on goods that the franchisee sells to other franchisees in the Pronuptia network,
- the obligation on the franchisee to contribute a further sum, equal to his monthly royalty payment, to an advertising and promotional fund (clause 6), this obligation, while it restricts the commercial freedom of the franchisee as regards how much to spend on advertising, how to advertise and whether to advertise at all, does not appear in the present case likely appreciably to affect competition on the relevant market,
- the circulation of retail prices to franchisees and the recommendation to franchisees not to exceed the maximum prices quoted by the franchisor in his advertising and promotions (clause 9).

With regard to the circulation of retail prices by the franchisor, the Commission has no evidence of any concerted practice between the franchisor and

franchisees or between franchisees *inter se* to maintain these prices. In these circumstances the mere suggestion of prices for the guidance of franchisees cannot be regarded as restrictive of competition, as is acknowledged by the Court in its judgment (see in particular paragraph 1 (e) of the operative part of the judgment).

There is no more evidence of abuse or ground a conclusion other than that reached for the circulation of retail prices, *mutandis mutandis*, in the recommendation to franchisees not to exceed the prices quoted by the franchisor in advertising and promotions, since the recommendation to observe certain prices is not itself likely to restrict the licensee's freedom to determine his prices. The Commission reserves the right to intervene if the franchisor should seek to limit the franchisees' freedom to set their resale prices.

(27) Retail franchise agreements, as the Court acknowledged in its judgment (see paragraph 15), are different in nature and in content from the bilateral obligations accepted by the parties, both in cases of exclusive distribution contracts and dealerships in a selective distribution system.

This being so, the obligations on the franchisee

- to pay a minimum amount of royalties each year (clause 7),
- to order in advance according to a fixed timetable at least 50 % of his estimated sales, based on those of the previous year (clause 8, seventh paragraph), and
- to hold stocks (clause 8, eighth paragraph),

do not constitute in the present case, restrictions of competition falling within Article 85 (1).

In a selective distribution system, such obligations could be regarded as restricting competition when they exclude from the network firms that fulfilled the uniform qualitative selection criteria but were unwilling to accept such further obligations, and when their effect was that distributors would be forced to push certain products to the detriment of other items. It is a different matter, however, in the systems of distribution franchises operated by Pronuptia in this particular case. In effect, the characteristics of such a system are such that the franchisor grants to the franchisee the exclusive right to use his brand marks and his commercial know-how in a defined territory, and that the franchisor is free to choose his franchisees. The exclusion of any others from the territory allotted to the franchisee is therefore a consequence which is

inherent in the very system of franchising. Likewise, one may consider as a consequence inherent to this franchise system the fact that the franchisee, because of the use of the franchisor's exclusive mark and brand which identifies the franchised sales outlet, and because of the obligation not to compete, will in fact concentrate his promotional efforts on the particular products franchised.

In the circumstances, the real competitive situation in the market should not be influenced by the obligations in question as such.

(b) *Clauses falling within Article 85 (1)*

- (28) As the Court held in its judgment (ground 23 and 24 and operative part, paragraph 1 (d)), 'Clauses that involve market sharing between franchisor and franchisee or between franchisees do constitute restrictions of competition within the meaning of Article 85 (1).' This is the case with the following clauses, which were specifically mentioned by the Court :

- the exclusivity granted to the franchisee to operate under the franchisor's name in a given sales area (clause 1, first paragraph),
- the obligation on the franchisee to carry on the franchise business exclusively from the premises approved for that purpose (clause 4, second paragraph, second indent).

The combined effect of these clauses is to protect each franchisee against competition from other franchisees. Moreover, the further clause (clause 1, fifth paragraph) whereby the franchisor undertakes to pay the franchisee 10 % of any mail-order sales to customers in the franchisee's territory, on products normally sold by the franchisee, implies that the franchisor may not directly operate in the allocated territory.

- (29) The Court also held that 'retail franchise agreements containing clauses that involve market sharing between franchisor and franchisee or between franchisees are inherently likely to effect trade between Member States, even if they are between parties resident in the same Member State, because they prevent the franchisees setting up in another Member State' (ground 26). An effect on trade is all the more likely in the present case as Pronuptia holds a significant share of the French market for the relevant products and its network covers several EEC countries (see paragraphs 4 and 6).

- (30) Consequently, the clauses referred to in paragraph 28 are restrictions of competition falling within Article 85 (1) and are likely to affect trade between Member States.

B. Article 85 (3)

- (31) Article 85 (3) allows the provisions of Article 85 (1) to be declared inapplicable to any agreement or category of agreements 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.

- (32) The Court ruled in the judgment that Regulation 67/67/EEC was inapplicable to retail franchise agreements such as those concerned in the present case. After noting that retail franchise agreements displayed features which distinguished them from exclusive distribution agreements (see paragraph 15), the Court stated that Article 2 of the Regulation expressly referred only to exclusive distribution agreements and did not include among the obligations that could be imposed on the exclusive distributor either an obligation to pay royalties, obligations designed to preserve the common identity and reputation of the network, or obligations to transfer know-how and provide assistance. The standard form agreement is therefore not covered by the block exemption granted by Regulation 67/67/EEC.

- (33) On 1 July 1983 a new block exemption for exclusive distribution agreements, Commission Regulation (EEC) No 1983/83<sup>(1)</sup>, entered into force, replacing Regulation 67/67/EEC for such agreements. The content of the new Regulation is such that the same reasons as the Court gave for holding that Regulation 67/67/EEC was inapplicable to agreements like that concerned in the present case could be adduced for saying that Regulation (EEC)

<sup>(1)</sup> OJ No L 173, 30. 6. 1983, p. 1.

No 1983/83 was also not applicable. Like the old regulation, Regulation (EEC) No 1983/83 only refers to exclusive distributorships and does not mention any of the above clauses that are typical of retail franchise agreements.

There are then grounds for examination of the standard form agreement in question to see if an individual exemption under Article 85 (3) can be given.

- (34) The standard form of franchise agreement that forms the basis of the Pronuptia distribution network contributes, through the combined effect of all its provisions, to improving the production and distribution of the products concerned, for the following reasons. It enables :

— the franchisor to extend its distribution network without the level of investment it would need to open its own retail network, which for a relatively small company like Pronuptia might not be possible, at least not so quickly. The investment involved in setting up the new outlets is undertaken by the prospective franchisees, in return for which they receive the benefit not only of the franchisor's established name and reputation, but also of its expertise, commercial know-how and marketing, which enables to achieve a larger volume of business at lower cost and with less risk.

The franchise, in which the complementary interests of the franchisor and the franchisee converge, opens up the market to new competitors, intensifying inter-brand competition and increasing the competition faced by firms distributing their products through a branch network using a standard business format and product range ;

- the franchisor to set up a distribution network using a standard business format and product range ;
- the franchisor to keep in touch, thanks to its close and direct business relationship with the franchisees, with changes in consumer tastes and preferences and to reflect such changes in its production ;
- the franchisee to concentrate his sales effort on a given area and to be more active in cultivating

a clientèle there, thanks to the exclusivity which the combined effect of the clauses referred to in paragraph 28 gives him for that area, although consumers resident in the area are not prevented from purchasing the product outside the area and franchisees may freely buy and sell the products among themselves ;

— the franchisee, thanks to his enjoyment of territorial exclusivity and his closeness to the marketplace, to make confident forecasts of his future sales, which help the franchisor to plan his production better and to guarantee regular supplies of the products.

- (35) The standard form of franchise agreement which forms the basis of the Pronuptia distribution network allows consumers a fair share of the benefit resulting from these improvements in production and distribution.

Consumers may be expected to benefit, first of all, from a coherent distribution network offering uniform product quality and a comprehensive range of the articles and accessories available in the trade. Consumers will also benefit from the efficient and attentive service the franchisee will be encouraged to provide as a self-employed businessman who has a personal and direct interest in the success of his business, since he alone bears the financial risks. Consumers will further directly benefit from the continuity of supplies of products which satisfy their wants and reflect changes in tastes and fashion emerging in the market. Finally, the competitiveness of the market (see paragraph 9), and the freedom consumers have to purchase the products elsewhere in the network, will tend to force franchisees to pass a reasonable part of the benefits of the rationalization of production and distribution on to consumers. Post-finally, consumers can tell that they are dealing with independent traders (see paragraph 11 above, third indent), who can be held responsible.

- (36) The Pronuptia standard form agreement does not contain restrictions that are not indispensable to the attainment of the said benefits. The clauses referred to in paragraph 28, which restrict competition by giving the franchisee territorial exclusivity, can be considered, in the circumstances, to be indispensable in that prospective franchisees would



probably be unwilling to undertake the necessary investment and to pay a substantial initial fee to enter the franchise system if they were not provided with some protection against competition from other franchisees and from the franchisor in the allotted territory. It should be noted that franchisees are free to buy and sell the products among themselves.

- (37) Pronuptia's standard form of franchise agreement and the resulting self-contained franchising operation do not give the firms concerned the possibility of eliminating competition for a substantial part of the products in question. As noted above (paragraph 9), the Pronuptia network faces competition from a number of other manufacturers and suppliers in the EEC countries who do not use the franchising route do distribute their products.

Franchisees also compete with one another, because they can sell to any customer whether resident in the allotted territory or coming from outside it, and to any other franchisee. Furthermore, they are entirely free to determine their own sales prices.

- (38) The agreement therefore meets all the requirements for exemption laid down by Article 85 (3).

#### C. Articles 6 and 8 of Regulation No 17

- (39) Under Article 6 of Regulation No 17, the Commission is required to specify the date from which an exemption decision takes effect. This date may not be earlier than the date of notification.
- (40) Under Article 8 of Regulation No 17, the Commission is also required to state the period of exemption.

- (44) The notified standard form of Pronuptia retail franchise agreement, as it is applied, meets the requirements for exemption laid down in Article 85 (3). An exemption may therefore be granted to take effect from the date of notification, 22 April 1983. It is reasonable in this particular case, in view of the five-year term of the agreement and the date on which this decision takes effect, to grant the exemption for eight years.

HAS ADOPTED THIS DECISION :

#### *Article 1*

Pursuant to Article 85 (3) of the EEC Treaty, the provisions of Article 85 (1) are hereby declared inapplicable from 22 April 1983 until 21 April 1991 to the standard form of retail franchise agreement which Pronuptia signs with all its franchisees in the EEC.

#### *Article 2*

This Decision is addressed to Pronuptia de Paris SA, 8, Place de l'Opéra, F-75009 Paris.

Done at Brussels, 17 December 1986.

*For the Commission*

Peter SUTHERLAND

*Member of the Commission*

COUNCIL OF THE EUROPEAN COMMUNITIES

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