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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 757/88

of 23 March 1988

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) 3989/87⁽²⁾, and in particular Article 13 (5) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EEC) No 1636/87⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 4047/87⁽⁵⁾ and subsequent amending Regulations;

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

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

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

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

Whereas these exchange rates being those recorded on 22 March 1988;

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

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 4047/87 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 24 March 1988.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 377, 31. 12. 1987, p. 1.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 378, 31. 12. 1987, p. 99.

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

Done at Brussels, 23 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX

to the Commission Regulation of 23 March 1988 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Levies	
	Portugal	Third country
0709 90 60	12,29	170,67
0712 90 19	12,29	170,67
1001 10 10	68,97	257,81 ⁽¹⁾ ⁽²⁾
1001 10 90	68,97	257,81 ⁽¹⁾ ⁽²⁾
1001 90 91	7,92	186,93
1001 90 99	7,92	186,93
1002 00 00	47,51	165,83 ⁽³⁾
1003 00 10	41,19	173,02
1003 00 90	41,19	173,02
1004 00 10	97,72	146,92
1004 00 90	97,72	146,92
1005 10 90	12,29	170,67 ⁽²⁾ ⁽³⁾
1005 90 00	12,29	170,67 ⁽²⁾ ⁽³⁾
1007 00 90	35,81	175,52 ⁽⁴⁾
1008 10 00	41,19	97,37
1008 20 00	41,19	143,37 ⁽⁵⁾
1008 30 00	41,19	59,81 ⁽⁶⁾
1008 90 10	(7)	(7)
1008 90 90	41,19	59,81
1101 00 00	25,17	276,47
1102 10 00	82,12	247,01
1103 11 10	119,84	413,28
1103 11 90	25,25	296,66

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

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

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

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

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

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

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

COMMISSION REGULATION (EEC) No 758/88

of 23 March 1988

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 3989/87⁽²⁾, and in particular Article 15 (6) thereof,Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EEC) No 1636/87⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 4048/87⁽⁵⁾ and subsequent amending Regulations;

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

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

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

Whereas these exchange rates being those recorded on 22 March 1988;

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

HAS ADOPTED THIS REGULATION:

Article 1

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

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

Article 2

This Regulation shall enter into force on 24 March 1988.

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

Done at Brussels, 23 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.⁽²⁾ OJ No L 377, 31. 12. 1987, p. 1.⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.⁽⁵⁾ OJ No L 378, 31. 12. 1987, p. 102.

ANNEX

to the Commission Regulation of 23 March 1988 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

(ECU/tonne)

CN code	Current 3	1st period 4	2nd period 5	3rd period 6
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	0	0	0
1001 10 90	0	0	0	0
1001 90 91	0	0,36	0,36	0,36
1001 90 99	0	0,36	0,36	0,36
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	0	0	0
1004 00 90	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	10,76	10,76	10,76
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0,50	0,50	0,50

B. Malt

(ECU/tonne)

CN code	Current 3	1st period 4	2nd period 5	3rd period 6	4th period 7
1107 10 11	0	0,64	0,64	0,64	0,64
1107 10 19	0	0,48	0,48	0,48	0,48
1107 10 91	0	0	0	0	0
1107 10 99	0	0	0	0	0
1107 20 00	0	0	0	0	0

COMMISSION REGULATION (EEC) No 759/88

of 23 March 1988

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⁽¹⁾, as last amended by Regulation (EEC) No 3939/87⁽²⁾,

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⁽³⁾, as last amended by Regulation (EEC) No 1860/86⁽⁴⁾, 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 29 February 1988, 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 Council Regulation (EEC) No 2658/87⁽⁵⁾ introduced from 1 January 1988 a new combined nomenclature meeting the requirements of both the Common Customs Tariff and the Community's statistics of foreign trade and replacing the previous nomenclature;

Whereas, pursuant to the provisions of Article 9 (1) of Regulation (EEC) No 1837/80, for the week beginning 29 February 1988, the variable slaughter premium for sheep certified as eligible in the United Kingdom is to be in accordance with the amounts fixed in the Annexes hereto; whereas, for that week, in the light of the Judgment of the Court of Justice of 2 February 1988 in Case 61/86, the provisions of Article 9 (3) of Regulation (EEC) No 1837/80 and of Article 4 of Regulation (EEC) No 1633/84 lead to the amounts to be charged on products, leaving region 5, being fixed in accordance with those Annexes;

Whereas, as regards the controls necessary for the application of the provisions relating to the said amounts, the system of controls provided for by Regulation (EEC) No 1633/84 should be maintained without prejudice to the preparation of any more specific provisions following the abovementioned Judgment of the Court of Justice,

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 29 February 1988, the level of the premium is fixed at 155,893 ECU/100 kilograms of estimated or actual dressed carcass weight within the limits laid down by Article 1 (1) (b) of Regulation (EEC) No 1633/84.

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 29 February 1988, the amounts to be charged shall be equivalent to those fixed in the Annexes 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 29 February 1988.

⁽¹⁾ OJ No L 183, 16. 7. 1980, p. 1.

⁽²⁾ OJ No L 373, 31. 12. 1987, p. 1.

⁽³⁾ OJ No L 154, 9. 6. 1984, p. 27.

⁽⁴⁾ OJ No L 161, 17. 6. 1986, p. 25.

⁽⁵⁾ OJ No L 256, 7. 9. 1987, p. 1.

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

Done at Brussels, 23 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX

Amount to be charged for products leaving region 5 during the week commencing 29 February 1988

(ECU/100 kg)

CN code	Amounts	
	A. Products qualifying for the premium specified in Article 9 of Regulation (EEC) No 1837/80	B. Products specified in Article 4 (4) of Regulation (EEC) No 1633/84 (1)
	Live weight	Live weight
0104 10 90	73,270	0
0104 20 90		0
	Net weight	Net weight
0204 10 00	155,893	0
0204 21 00	155,893	0
0204 50 11		0
0204 22 10	109,125	
0204 22 30	171,482	
0204 22 50	202,661	
0204 22 90	202,661	
0204 23 00	283,725	
0204 30 00	116,920	
0204 41 00	116,920	
0204 42 10	81,844	
0204 42 30	128,612	
0204 42 50	151,996	
0204 42 90	151,996	
0204 43 00	212,794	
0204 50 13		0
0204 50 15		0
0204 50 19		0
0204 50 31		0
0204 50 39		0
0204 50 51		0
0204 50 53		0
0204 50 55		0
0204 50 59		0
0204 50 71		0
0204 50 79		0
0210 90 11	202,661	
0210 90 19	283,725	
1602 90 71		
— unboned (bone-in)	202,661	
— boned or boneless	283,725	

(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 760/88

of 23 March 1988

amending Regulations (EEC) No 577/86, (EEC) No 2010/87 and (EEC) No 2333/87 as regards the application of accession compensatory amounts to cereals and rice following the introduction of the combined nomenclature

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, as amended by Regulation (EEC) No 3985/87⁽²⁾, and in particular Article 15 thereof,

Whereas from 1 January 1988 Regulation (EEC) No 2658/87 introduced a new 'Combined Nomenclature' meeting the requirements of both the Common Customs Tariff and the Community's external trade statistics and replacing the existing nomenclature; whereas the combined nomenclature codes should accordingly be introduced for the accession compensatory amounts fixed by Commission Regulation (EEC) No 2010/87 of 8 July 1987 fixing the accession compensatory amounts applicable to cereals for the 1987/88 marketing year and the coefficients to be used for calculating the amounts applicable to certain processed products⁽³⁾, Commission Regulation (EEC) No 577/86 of 28 February 1986 on the application of accession compensatory amounts to certain processed cereal products in view of the accession of Spain⁽⁴⁾, as last amended by Regulation (EEC) No 4025/87⁽⁵⁾, and Commission Regulation (EEC) No 2333/87 of 29 July 1987 fixing, until the end of the 1987/88 marketing year, the accession compensatory amounts applicable to rice and the coefficients to be used for the calculation of the amounts applicable to certain processed products⁽⁶⁾, as last amended by Regulation (EEC) No 3502/87⁽⁷⁾;

Whereas, for the sake of clarity, it should be specified that the codes used are those of the combined nomenclature

⁽¹⁾ OJ No L 256, 7. 9. 1987, p. 1.

⁽²⁾ OJ No L 376, 31. 12. 1987, p. 1.

⁽³⁾ OJ No L 189, 9. 7. 1987, p. 11.

⁽⁴⁾ OJ No L 57, 1. 3. 1986, p. 16.

⁽⁵⁾ OJ No L 378, 31. 12. 1987, p. 56.

⁽⁶⁾ OJ No L 210, 1. 8. 1987, p. 61.

⁽⁷⁾ OJ No L 333, 23. 11. 1987, p. 1.

as defined in Regulation (EEC) No 2658/87; whereas the additional codes indicated in the Appendix to Annex II hereto are identical to the additional codes defined in the tables in the Appendix to Annex I to Commission Regulation (EEC) No 3938/87 of 23 December 1987 fixing the monetary compensatory amounts applicable in the agricultural sector and certain coefficients and rates required for their application⁽⁸⁾, as amended by Regulation (EEC) No 709/88⁽⁹⁾;

Whereas, in accordance with the second subparagraph of Article 15 (1) of Regulation (EEC) No 2658/87, technical adaptations of Community acts referring to the combined nomenclature are to be made by the Commission,

HAS ADOPTED THIS REGULATION :

Article 1

1. Annexes A and B to Regulation (EEC) No 2010/87 are hereby replaced by Annexes A and B in Annex I hereto.
2. Annexes I and II to Regulation (EEC) No 577/86 are hereby replaced by Annexes I and II in Annex II hereto.
3. The Annex to Regulation (EEC) No 2333/87 is hereby replaced by the Annex in Annex III hereto.

Article 2

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

It shall apply with effect from 1 January 1988.

⁽⁸⁾ OJ No L 372, 31. 12. 1987, p. 1.

⁽⁹⁾ OJ No L 75, 21. 3. 1988, p. 1.

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

Done at Brussels, 23 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

*ANNEX I**ANNEX A*

CN code	Accession compensatory amount ECU/tonne
0709 90 60	5,38
0712 90 19	5,38
1001 10 10	67,51
1001 10 90	67,51
1001 90 91	5,38
1001 90 99	5,38
1002 00 00	8,95
1003 00 10	10,92
1003 00 90	10,92
1004 00 10	10,50
1004 00 90	10,50
1005 10 90	5,38
1005 90 00	5,38
1007 00 90	10,92
1008 10 00	10,92
1008 20 00	10,92
1008 90 10	8,95
1008 90 90	10,92

ANNEX B

CN code	Coefficient	Accession compensatory amount ECU/tonne
1101 00 00	1,14	6,13
1102 10 00	1,25	11,19
1103 11 10	1,52	102,62
1103 11 90	1,23	6,62

ANNEX II

ANNEX I

CN code	Table	Additional code	Notes	Coefficient	Accession compensatory amount ECU/tonne
1102 20 10				1,40	7,52
1102 20 90				0,45	2,42
1102 90 10				1,02	11,14
1102 90 30				1,02	10,71
1102 90 90	1	7285		1,02	11,14
	1	7286		1,02	11,14
1103 12 00				1,40	14,70
1103 13 11	2	7287		1,45	7,79
1103 13 19	3	7289		1,45	7,79
1103 13 90				1,02	5,48
1103 19 10				1,02	9,13
1103 19 30				1,40	15,29
1103 19 90	1	7285		1,02	11,14
	1	7286		1,02	11,14
1103 21 00				1,02	5,49
1103 29 10				1,02	9,13
1103 29 20				1,02	11,14
1103 29 30				1,02	10,71
1103 29 40				1,02	5,48
1103 29 90	1	7285		1,02	11,14
	1	7286		1,02	11,14
1104 11 10				1,02	11,14
1104 11 90				1,40	15,29
1104 12 10				1,02	10,71
1104 12 90				1,80	18,90
1104 19 10				1,02	5,49
1104 19 30				1,02	9,13
1104 19 50				1,10	5,91
1104 19 99	1	7285		1,02	11,14
	1	7286		1,02	11,14
1104 21 10				1,02	11,14
1104 21 30				1,40	15,29
1104 21 50				1,60	17,47
1104 21 90				1,02	11,14
1104 22 10				1,02	10,71
1104 22 30				1,40	14,70
1104 22 50				1,02	10,71
1104 22 90				1,02	10,71
1104 23 10				1,02	5,48
1104 23 30				1,02	5,48
1104 23 90				1,02	5,48
1104 29 10	4	7290		1,02	11,14
	4	7291		1,02	11,14
	4	7292		1,02	5,49
	4	7293		1,02	9,13
1104 29 30	4	7290		1,02	11,14
	4	7291		1,02	11,14
	4	7292		1,02	5,49
	4	7293		1,02	9,13
1104 29 91				1,02	5,49
1104 29 95				1,02	9,13
1104 29 99	1	7285		1,02	11,14
	1	7286		1,02	11,14
1104 30 10				0,75	4,04
1104 30 90				0,30	1,61
1107 10 11				1,78	9,58
1107 10 19				1,33	7,16
1107 10 91				1,78	19,44
1107 10 99				1,33	14,52
1107 20 00				1,55	16,93

CN code	Table	Additional code	Notes	Coefficient	Accession compensatory amount ECU/tonne
2302 10 10	1	7622		0,14	3,03
	1	7623		0,14	3,03
2302 10 90				0,29	6,28
2302 20 10				0,14	3,03
2302 20 90				0,29	6,28
2302 30 10				0,14	3,03
2302 30 90				0,30	6,50
2302 40 10				0,14	3,03
2302 40 90				0,30	6,50
2309 10 11	2	7624	(?)	0,12	—
	2	7625	(?)	0,12	0,64
2309 10 13	3	7541	(?)	0,12	—
	3	7542	(?)	0,12	—
	3	7543	(?)	0,12	—
	3	7544	(?)	0,12	—
	3	7545	(?)	0,12	—
	3	7546	(?)	0,12	—
	3	7547	(?)	0,12	—
	3	7548	(?)	0,12	—
	3	7549	(?)	0,12	—
	3	7550	(?)	0,12	0,64
	3	7551	(?)	0,12	0,64
	3	7552	(?)	0,12	0,64
	3	7626	(?)	0,12	0,64
	3	7627	(?)	0,12	0,64
	3	7628	(?)	0,12	0,64
	3	7629	(?)	0,12	0,64
	3	7630	(?)	0,12	0,64
	3	7631	(?)	0,12	0,64
2309 10 31	2	7624	(?)	0,38	—
	2	7625	(?)	0,38	2,04
2309 10 33	3	7541	(?)	0,38	—
	3	7542	(?)	0,38	—
	3	7543	(?)	0,38	—
	3	7544	(?)	0,38	—
	3	7545	(?)	0,38	—
	3	7546	(?)	0,38	—
	3	7547	(?)	0,38	—
	3	7548	(?)	0,38	—
	3	7549	(?)	0,38	—
	3	7550	(?)	0,38	2,04
	3	7551	(?)	0,38	2,04
	3	7552	(?)	0,38	2,04
	3	7626	(?)	0,38	2,04
	3	7627	(?)	0,38	2,04
	3	7628	(?)	0,38	2,04
	3	7629	(?)	0,38	2,04
	3	7630	(?)	0,38	2,04
	3	7631	(?)	0,38	2,04
2309 10 51	2	7624	(?)	0,75	—
	2	7625	(?)	0,75	4,03
2309 10 53	3	7541	(?)	0,75	—
	3	7542	(?)	0,75	—
	3	7543	(?)	0,75	—
	3	7544	(?)	0,75	—
	3	7545	(?)	0,75	—
	3	7546	(?)	0,75	—
	3	7547	(?)	0,75	—
	3	7548	(?)	0,75	—
	3	7549	(?)	0,75	—
	3	7550	(?)	0,75	4,03
	3	7551	(?)	0,75	4,03
	3	7552	(?)	0,75	4,03
	3	7626	(?)	0,75	4,03
	3	7627	(?)	0,75	4,03

CN code	Table	Additional code	Notes	Coefficient	Accession compensatory amount ECU/tonne
	3	7628	(?)	0,75	4,03
	3	7629	(?)	0,75	4,03
	3	7630	(?)	0,75	4,03
	3	7631	(?)	0,75	4,03
2309 90 31	2	7624	(?)	0,12	—
	2	7625	(?)	0,12	0,64
2309 90 33	3	7541	(?)	0,12	—
	3	7542	(?)	0,12	—
	3	7543	(?)	0,12	—
	3	7544	(?)	0,12	—
	3	7545	(?)	0,12	—
	3	7546	(?)	0,12	—
	3	7547	(?)	0,12	—
	3	7548	(?)	0,12	—
	3	7549	(?)	0,12	—
	3	7550	(?)	0,12	—
	3	7551	(?)	0,12	0,64
	3	7552	(?)	0,12	0,64
	3	7626	(?)	0,12	0,64
	3	7627	(?)	0,12	0,64
	3	7628	(?)	0,12	0,64
	3	7629	(?)	0,12	0,64
	3	7630	(?)	0,12	0,64
	3	7631	(?)	0,12	0,64
2309 90 41	2	7624	(?)	0,38	—
	2	7625	(?)	0,38	2,04
2309 90 43	3	7541	(?)	0,38	—
	3	7542	(?)	0,38	—
	3	7543	(?)	0,38	—
	3	7544	(?)	0,38	—
	3	7545	(?)	0,38	—
	3	7546	(?)	0,38	—
	3	7547	(?)	0,38	—
	3	7548	(?)	0,38	—
	3	7549	(?)	0,38	—
	3	7550	(?)	0,38	—
	3	7551	(?)	0,38	2,04
	3	7552	(?)	0,38	2,04
	3	7626	(?)	0,38	2,04
	3	7627	(?)	0,38	2,04
	3	7628	(?)	0,38	2,04
	3	7629	(?)	0,38	2,04
	3	7630	(?)	0,38	2,04
	3	7631	(?)	0,38	2,04
2309 90 51	2	7624	(?)	0,75	—
	2	7625	(?)	0,75	4,03
2309 90 53	3	7541	(?)	0,75	—
	3	7542	(?)	0,75	—
	3	7543	(?)	0,75	—
	3	7544	(?)	0,75	—
	3	7545	(?)	0,75	—
	3	7546	(?)	0,75	—
	3	7547	(?)	0,75	—
	3	7548	(?)	0,75	—
	3	7549	(?)	0,75	—
	3	7550	(?)	0,75	—
	3	7551	(?)	0,75	4,03
	3	7552	(?)	0,75	4,03
	3	7626	(?)	0,75	4,03
	3	7627	(?)	0,75	4,03
	3	7628	(?)	0,75	4,03
	3	7629	(?)	0,75	4,03
	3	7630	(?)	0,75	4,03
	3	7631	(?)	0,75	4,03

ANNEX II

CN code	Table	Additional code	Notes	Coefficient	Accession compensatory amount ECU/tonne
1103 13 19	3	7288		1,45	0
1108 11 00	5	7294	(¹)	1,69	0
1108 11 00	5	7295	(¹)	1,69	0
1108 12 00	5	7294	(¹)	1,51	0
1108 12 00	5	7295	(¹)	1,51	0
1108 13 00	6	7296	(¹)	1,51	0
1108 13 00	6	7297	(¹)	1,51	0
1108 14 00	5	7294	(¹)	1,51	0
1108 14 00	5	7295	(¹)	1,51	0
1108 19 90	5	7294	(¹)	1,51	0
1108 19 90	5	7295	(¹)	1,51	0
1109 00 00				2,30	0
1702 30 91	7	7318		1,97	0
1702 30 99	7	7318		1,51	0
1702 40 90				1,51	0
1702 90 50				1,51	0
1702 90 75				2,06	0
1702 90 79				1,44	0
2106 90 55				1,51	0
2303 10 11				2,00	0

(¹) When completing the customs formalities, the applicant must state in the declaration provided for this purpose the content by weight of starch, expressed as dry matter, per 1 000 kilograms of the product.

(²) When completing:

— customs export formalities carried out in Spain for exports to third countries,

— customs formalities carried out in the Community as constituted on 31 December 1985 for imports from Spain,

the applicant must state in the declaration provided for this purpose the complete composition of the product and the exact content by weight of non-milk constituents broken down by tariff heading.

Appendix to Annex II

ADDITIONAL CODES

TABLE 1

CN code	Description	
1102 90 90 1103 19 90 1103 29 90 1104 19 99 1104 29 99	– Of millet :	– Of grain sorghum :
	7285	7286

TABLE 2

CN code	Description
1103 13 11	– Imported from third countries :
	7287

TABLE 3

CN code	Description	
1103 13 19	– Intra-Community trade, intended for the brewing industry (cf. Regulation (EEC) No 1570/78) :	– Other :
	7288	7289

TABLE 4

CN code	Description			
1104 29 10 1104 29 30	– Of millet :	– Of grain sorghum :	– Of wheat :	– Of rye :
	7290	7291	7292	7293

TABLE 5

CN code	Description	
1108 11 00 1108 12 00 1108 14 00 1108 19 90	– Of a starch content, by weight, of 85 % or more :	– Other : The monetary compensatory amount shall be multiplied by a coefficient calculated by means of the following formula : $C = \frac{a}{1\,000} \times 1,176$ (C = coefficient ; a = content by weight of starch, expressed as dry matter, per 1 000 kg) :
	7294	7295

TABLE 6

CN code	Description	
1108 13 00	– Of a starch content, by weight, of 78 % or more :	– Other : The monetary compensatory amount shall be multiplied by a coefficient calculated by means of the following formula : $C = \frac{a}{1\ 000} \times 1,282$ (C = coefficient ; a = content by weight of starch, expressed as dry matter, per 1 000 kg) :
	7296	7297

TABLE 7

CN code	Description
1702 30 91 1702 30 99	– Pursuant to Regulation (EEC) No 2730/75, the product falling within codes 1702 30 51 and 1702 30 59 is subject to the same compensatory amount as products falling within codes 1702 30 91 and 1702 30 99 :
	7318

TABLE 1

CN code	Description	
2302 10 10	– Obtained by grinding or milling whole maize plants, including those in pelletized form and with an approximate starch content of 10 % and 30 % by weight, expressed as dry matter :	– Other :
	7622	7623

TABLE 2

CN code	Description	
2309 10 11 2309 10 31 2309 10 51 2309 90 31 2309 90 41 2309 90 51	– Containing products falling within code 0714 or 1106 20 in cases where monetary compensatory amounts shall be granted :	– Other :
	7624	7625

TABLE 3

CN code	Description							
	-- Containing products falling within code 0714 or 1106 20 in cases where monetary compensatory amounts shall be granted :			-- Other :				
2309 10 13 2309 10 33 2309 10 53 2309 90 33 2309 90 43 2309 90 53	-- Having a content by weight of milk powder or granules (excluding any added whey, lactose, casein and caseinates in the finished product) :	-- Milk powder or granules (excluding any whey and/or lactose and/or casein and/or added caseinates) which have been denatured in accordance with Article 2 of Regulation (EEC) No 1725/79 or in accordance with Article 1 of Regulation (EEC) No 3714/84, and animal feeding stuffs the lactic part of which contains milk powder or granules (excluding whey) :	-- Containing skimmed-milk powder purchased under the terms of Regulation (EEC) No 368/77, Regulation (EEC) No 443/77 or Regulation (EEC) No 1844/77 and more than 9,0 g of iron and/or 1,2 g of copper per 100 kg :	-- Other :	-- Milk powder or granules (excluding any whey and/or lactose and/or casein and/or added caseinates) which have been denatured in accordance with Article 2 of Regulation (EEC) No 1725/79 or in accordance with Article 1 of Regulation (EEC) No 3714/84, and animal feeding stuffs the lactic part of which contains milk powder or granules (excluding whey) :	-- Containing skimmed-milk powder purchased under the terms of Regulation (EEC) No 368/77, Regulation (EEC) No 443/77 or Regulation (EEC) No 1844/77 and more than 9,0 g of iron and/or 1,2 g of copper per 100 kg :	-- Other :	
		-- Not more than 12 %	7541	7544	7547	7550	7626	7629
		-- More than 12 % but less than 30 % :	7542	7545	7548	7551	7627	7630
		-- 30 % or more but less than 50 % :	7543	7546	7549	7552	7628	7631

ANNEX III

ANNEX

(ECU/tonne)

CN code	Basic product	Coefficient	Accession compensatory amount
1006 10 91		—	47,17
1006 10 99		—	47,17
1006 20 10		—	58,96
1006 20 90		—	58,96
1006 30 11		—	71,44
1006 30 19		—	79,71
1006 30 91		—	76,08
1006 30 99		—	85,45
1006 40 00		—	21,04
1102 30 00	Broken rice	1,06	22,30
1103 14 00	Broken rice	1,06	22,30
1103 29 50	Broken rice	1,06	22,30
1104 19 91	Broken rice	1,80	37,87
1108 19 10	Broken rice	1,52	13,74

COMMISSION REGULATION (EEC) No 761/88

of 23 March 1988

amending Regulation (EEC) No 2042/75 on special detailed rules for the application of the system of import and export licences for cereals and rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EEC) No 3989/87⁽²⁾, and in particular Articles 12 (2) and 16 (6) thereof,

Whereas, pursuant to Commission Regulation (EEC) No 2042/75⁽³⁾, as last amended by Regulation (EEC) No 443/88⁽⁴⁾, the refund for exports is fixed in advance on application; whereas in that case exports outside the Community are subject to the presentation of an export licence issued pursuant to Commission Regulation (EEC) No 3183/80⁽⁵⁾, as last amended by Regulation (EEC) No 2082/87⁽⁶⁾;

Whereas, on account of budgetary constraints, the additional grant of export refunds for durum-wheat meal for the rest of the 1987/88 marketing year must be limited; whereas, to control the granting of such refunds, provision should be made for licences for the export of the products in question with advance fixing of the refund to be issued after a period of reflection with, where applicable, a uniform percentage reduction in quantities, and provision should be made for applications for licences to be withdrawn after the percentage reduction is fixed, where the quantity allocated is no longer of interest to the operator in question; whereas Regulation (EEC) No 2042/75 should be amended accordingly;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its Chairman,

Article 1

The following Article 9e is hereby added to Regulation (EEC) No 2042/75:

'Article 9e

1. Without prejudice to Article 16 (2) of Regulation (EEC) No 2727/75, export licences for products falling within CN code 1103 11 10 with advance fixing of the refund shall, until 30 June 1988, be issued on the fourth working day following the day on which the application is submitted.

2. If applications for export licences referred to in paragraph 1 exceed the quantities which may be exported for the 1987/88 marketing year under a refund, the Commission shall fix a uniform percentage reduction in the quantities. Applications for licences may be withdrawn within two days of the date of publication of the percentage reduction.

3. The period of validity of export licences issued pursuant to paragraph 1 shall run from the day on which they are actually issued.'

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, 23 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 377, 31. 12. 1987, p. 1.

⁽³⁾ OJ No L 213, 11. 8. 1975, p. 5.

⁽⁴⁾ OJ No L 45, 18. 2. 1988, p. 27.

⁽⁵⁾ OJ No L 338, 13. 12. 1980, p. 1.

⁽⁶⁾ OJ No L 195, 16. 7. 1987, p. 11.

COMMISSION REGULATION (EEC) No 762/88
of 23 March 1988
fixing the import levy on molasses

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 market in sugar ⁽¹⁾, as last amended by Regulation (EEC) No 3993/87 ⁽²⁾, and in particular Article 16 (8) thereof,

Whereas the import levy on molasses was fixed by Regulation (EEC) No 2569/87 ⁽³⁾, as last amended by Regulation (EEC) No 589/88 ⁽⁴⁾;

Whereas it follows from applying the rules and other provisions contained in Regulation (EEC) No 2569/87 to the information at present available to the Commission that the levy at present in force should be altered as shown in the Annex to this Regulation;

Whereas Council Regulation (EEC) No 2658/87 ⁽⁵⁾ introduces from 1 January 1988 a new combined nomencla-

ture meeting the requirements of both the Common Customs Tariff and the Community's statistics of foreign trade and replacing the previous nomenclature,

HAS ADOPTED THIS REGULATION:

Article 1

The import levy referred to in Article 16 (1) of amended Regulation (EEC) No 1785/81 shall be, in respect of molasses falling within subheadings 1703 10 00 and 1703 90 00 of the combined nomenclature, 0,55 ECU/100 kg.

Article 2

This Regulation shall enter into force on 24 March 1988.

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

Done at Brussels, 23 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 377, 31. 12. 1987, p. 23.

⁽³⁾ OJ No L 243, 27. 8. 1987, p. 48.

⁽⁴⁾ OJ No L 57, 3. 3. 1988, p. 24.

⁽⁵⁾ OJ No L 256, 7. 9. 1987, p. 1.

COMMISSION REGULATION (EEC) No 763/88**of 23 March 1988****repealing Regulation (EEC) No 626/88 applying the duty in the Common Customs Tariff to imports of fresh 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 1252/73 of 14 May 1973 on imports of citrus fruits originating in Cyprus⁽¹⁾, and in particular Article 5 thereof,

Whereas Commission Regulation (EEC) No 626/88 of 7 March 1988⁽²⁾ applied the duty in the Common Customs Tariff to imports of fresh lemons originating in Cyprus;

Whereas, pursuant to the second paragraph of Article 4 of Regulation (EEC) No 1252/73, this rule remains in force until the quotations referred to in Article 2 (1) of that Regulation, adjusted by the convention factors and following deduction of import charges other than customs duties, remain equal to or higher than the price laid down in Article 3 of that Regulation for three consecutive

market days on the representative markets of the Community with the lowest quotations;

Whereas the present trend of prices of Cypriot products on the representative markets indicates that the conditions set out in the second paragraph of Article 4 of Regulation (EEC) No 1252/73 are fulfilled; whereas Regulation (EEC) No 626/88 should therefore be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

Commission Regulation (EEC) No 626/88 is hereby repealed.

Article 2

This Regulation shall enter into force on 24 March 1988.

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

Done at Brussels, 23 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 133, 21. 5. 1973, p. 113.

⁽²⁾ OJ No L 62, 8. 3. 1988, p. 15.

COMMISSION REGULATION (EEC) No 764/88

of 23 March 1988

introducing a countervailing charge on fresh lemons originating in Spain
(except the Canary Islands)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 223/88⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

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

Whereas Commission Regulation (EEC) No 1426/87 of 25 May 1987 fixing for the 1987/88 marketing year the reference prices for fresh lemons⁽³⁾ fixed the reference price for products of class I for the period from November 1987 to April 1988 at 46,95 ECU per 100 kilograms net;

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

Whereas, in accordance with Article 3 (1) of Regulation (EEC) No 2118/74⁽⁴⁾, as last amended by Regulation(EEC) No 3811/85⁽⁵⁾, the prices to be taken into consideration must be recorded on the representative markets or, in certain circumstances, on other markets;

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

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

A countervailing charge of 2,18 ECU per 100 kilograms net is applied to fresh lemons (CN 0805 30 10) originating in Spain (except the Canary Islands).

Article 2

This Regulation shall enter into force on 25 March 1988.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.⁽²⁾ OJ No L 23, 28. 1. 1988, p. 1.⁽³⁾ OJ No L 136, 26. 5. 1987, p. 13.⁽⁴⁾ OJ No L 220, 10. 8. 1974, p. 20.⁽⁵⁾ OJ No L 368, 31. 12. 1985, p. 1.⁽⁶⁾ OJ No L 164, 24. 6. 1985, p. 1.⁽⁷⁾ OJ No L 153, 13. 6. 1987, p. 1.⁽⁸⁾ OJ No L 302, 15. 11. 1985, p. 9.

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

Done at Brussels, 23 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

COMMISSION REGULATION (EEC) No 765/88
of 23 March 1988

fixing the maximum export refund for white sugar for the 45th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EEC) No 1092/87

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 3993/87 ⁽²⁾, and in particular the first subparagraph of Article 19 (4) (b) thereof,

Whereas Commission Regulation (EEC) No 1092/87 of 15 April 1987 on a standing invitation to tender in order to determine levies and/or refunds on exports of white sugar ⁽³⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 1092/87, 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 45th partial invitation to tender, the provisions set out in Article 1 should be adopted;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 45th partial invitation to tender for white sugar issued pursuant to Regulation (EEC) No 1092/87 the maximum amount of the export refund is fixed at 42,875 ECU/100 kilograms.

Article 2

This Regulation shall enter into force on 24 March 1988.

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

Done at Brussels, 23 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 377, 31. 12. 1987, p. 23.

⁽³⁾ OJ No L 106, 22. 4. 1987, p. 9.

COMMISSION REGULATION (EEC) No 766/88

of 23 March 1988

altering the export refunds on white sugar and raw sugar exported in the natural state

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

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 3993/87 ⁽²⁾, and in particular the second subparagraph of Article 19 (4) thereof,

Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EEC) No 681/88 ⁽³⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 681/88 to the information known to the Commission that the export refunds at

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EEC) No 681/88 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 24 March 1988.

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

Done at Brussels, 23 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 377, 31. 12. 1987, p. 23.

⁽³⁾ OJ No L 71, 17. 3. 1988, p. 17.

ANNEX

to the Commission Regulation of 23 March 1988 altering the export refunds on white sugar and raw sugar exported in the natural state

(ECU)

Product code	Amount of refund	
	per 100 kg	per percentage point of sucrose content and per 100 kg net of the product in question
1701 11 90 100	38,87 ⁽¹⁾	
1701 11 90 300		0,4226
1701 11 90 500	36,46 ⁽¹⁾	
1701 11 90 900	⁽²⁾	
1701 12 90 100	38,87 ⁽¹⁾	
1701 12 90 300		0,4226
1701 12 90 500	36,46 ⁽¹⁾	
1701 12 90 900	⁽²⁾	
1701 91 00 000		0,4226
1701 99 10 100	42,26	
1701 99 10 900	40,73	

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

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

COMMISSION REGULATION (EEC) No 767/88
of 23 March 1988
fixing the import levies on white sugar and raw sugar

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

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 3993/87 ⁽²⁾, and in particular Article 16 (8) thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 2054/87 ⁽³⁾, as last amended by Regulation (EEC) No 755/88 ⁽⁴⁾;

Whereas Council Regulation (EEC) No 2658/87 ⁽⁵⁾ introduced from 1 January 1988 a new combined nomenclature meeting the requirements of both the Common Customs Tariff and the Community's statistics of foreign trade and replacing the previous nomenclature;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2054/87 to the information known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 24 March 1988.

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

Done at Brussels, 23 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 377, 31. 12. 1987, p. 23.

⁽³⁾ OJ No L 192, 11. 7. 1987, p. 38.

⁽⁴⁾ OJ No L 78, 23. 3. 1988, p. 30.

⁽⁵⁾ OJ No L 256, 7. 9. 1987, p. 1.

ANNEX

to the Commission Regulation of 23 March 1988 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy
1701 11 10	40,37 (*)
1701 11 90	40,37 (*)
1701 12 10	40,37 (*)
1701 12 90	40,37 (*)
1701 91 00	49,39
1701 99 10	49,39
1701 99 90	49,39

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

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 17 November 1987

concerning aid which the Land of Baden-Württemberg of the Federal Republic of Germany has provided to BUG-Alutechnik GmbH, an undertaking producing semi-finished and finished aluminium products

(Only the German text is authentic)

(88/174/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the first subparagraph of Article 93 (2) thereof,

Having given notice in accordance with the above Article to interested parties to submit their comments and having regard to those comments,

Whereas :

I

As the request of the Commission, the Federal German Government informed the Commission by verbal note from its Permanent Representation dated 24 June 1985 that the Land of Baden-Württemberg had granted by decision of 26 April 1985 DM 2 million to the undertaking in question as a cancellation of the State guarantee of DM 7 million which had been awarded to the undertaking by the Land on 11 July 1984 in accordance with the 'Directives for granting of guarantees to industry by the Land of Baden-Württemberg'. The grant of DM 2 million was provided on condition that the declaration of guarantee by the Land was returned and the grant was used to increase the capital of the undertaking which was under receivership. The aim of the grant was to make the recipient undertaking a worthwhile acquisition from the point of view of the purchasing company, which agreed to take over the undertaking on condition that its share capital was raised by DM 2 million and that DM 5 million would be invested in the firm's assets by 1987.

The Commission decided on 29 January 1986 to initiate the procedure provided for by Article 93 (2) of the EEC Treaty with respect to the non-notified aid of DM 2 million that the Land of Baden-Württemberg has provided to a producer of semi-finished aluminium products.

After the initial scrutiny, the Commission considered that the grant of DM 2 million constituted an aid measure within the meaning of Article 92 (1) as it allowed the take-over of the undertaking without the latter carrying all the related costs and as it was liable to distort competition and to affect trade within the Community to an extent contrary to the common interest.

With regard to the obligation of notification of the aid measure, the Commission concluded that the grant of DM 2 million should have been notified in advance as provided for by Article 93 (3) of the EEC Treaty. The Government of the Federal Republic of Germany had argued that the grant of DM 2 million was not notifiable because it fell below the thresholds laid down in the Commission's letter SG(79) D/10479 of 14 September 1979. However, those thresholds only apply for general aid schemes approved by the Commission. This was not the case for the grant of DM 2 million. Indeed, the Commission had never approved any general aid scheme for the Land of Baden-Württemberg which provided for grants in favour of undertakings in difficulty. Furthermore, as the company never went bankrupt, the payment of the grant of DM 2 million could not be considered, from the legal point of view, as the honouring of the guarantee of DM 7 million. In addition, given that the new company was formed on the viable parts of the undertaking under receivership and as the receiver agreed to invest DM 5 million in the firm's assets by 1987, the Commission had strong doubts concerning the statement that in the absence of the grant the company would have gone bankrupt.

Consequently, the grant of DM 2 million was provided illicitly without prior notification to and authorization by the Commission.

On the basis of the information available at that stage, the Commission considered that the aid in question could not benefit from any of the derogations provided for by Article 92 (3) of the EEC Treaty. In fact, as the subsector of extruded semi-finished aluminium products has faced and still faces overcapacity problems at a Community level and the undertaking under consideration was and still is participating in intra-Community trade, the danger of the aid measure in question affecting trading conditions between Member States to an extent contrary to the common interest appeared to be significant. At the same time, the Commission requested additional information in order to be able to take a final decision on the compatibility of the aid measure in question with Articles 92 and 93 of the EEC Treaty.

By letter dated 12 February 1986 it gave the Government of the Federal Republic of Germany notice to submit its comments. In conformity with the provisions of Article 93 (2) of the EEC Treaty, the other Member States and third parties were also given notice to submit their comments.

II

The Government of the Federal Republic of Germany, in submitting its comments under the procedure provided for in Article 93 (2) of the EEC Treaty by letter dated 25 April 1986, stated that the aid is economically justifiable and therefore requested the closure of the procedure. The aim of the grant was to make BUG-Alutechnik GmbH a worthwhile acquisition from the point of view of the only seriously interested purchaser, Kaiser Aluminium Europe Inc., a large integrated aluminium producer.

The take-over of BUG-Alutechnik by Kaiser Europe set in motion a restructuring process which involved the closure of several warehouses and a sales office, the disbandment of the own vehicle fleet and a cut of employment from 679 to 450. As a result of the integration into the aluminium group, the aided undertaking would be able to switch the product strategy away from the saturated building market towards extruded semi-finished products for the manufacturing industry (approximately 40 % share of turnover).

The grant did not affect the internal costing of the undertaking in question, so it did not result in lower prices than those of competitors on the market. Nor could the grant alone have staved off the bankruptcy threatening the firm in the medium term. Also in 1985 losses of about DM 8 million were incurred. So, only the take-over by a larger group and the ensuing increase in capital and profit and loss transfer to the group were able to prevent the cash from running out.

The undertaking currently exports 6,5 % of its output to other Community countries. The export sales target for semi-finished aluminium products in 1986 within the EEC is about 70 tonnes while total intra-Community trade accounts for 220 000 tonnes. So, taking as a basis actual exports of semi-finished aluminium products, the undertaking accounts only for 0,03 % of all trade within the EEC and 0,16 % of the Federal Republic's share. In view of such a small actual market share, any effect on trade between Member States should be minimal.

Detailed information on the restructuring efforts, the investment programme and the capacity changes were provided after requests by the Commission by letters from the Federal German Permanent Representation of 29 April, 25 June, 29 July and 27 October 1987.

The investments to be realized between 1985 and 1987 at a budget of DM 5 195 000 aimed mainly at the transformation of the central production building, the concentration of storage facilities, new administrative buildings and new equipment linked with the changes in the product mix. These investments will not increase the manufacturing capacity of BUG-Alutechnik. Because the products made by BUG-Alutechnik are complementary with the activities of Kaiser Europe, no compensatory capacity reduction is expected in the rest of the group during the integration of BUG-Alutechnik in Kaiser Europe. The present capacity of BUG-Alutechnik in the first transformation of aluminium has not changed and consists of three extrusion presses with a technical capacity of 14 600 tonnes, which is currently utilized at 63 %. The capacity in second transformation is currently utilized at 75 %.

Under the reduction of capacity — estimated by the Federal German authorities at one third — the following list of organizational changes within BUG-Alutechnik was provided :

- | | |
|--|--------------------------|
| (i) closure of the two units for finished products in Illmensee and Esenhausen | April 1984 |
| (ii) reduction in product mix (especially window and door elements) | December 1984 |
| (iii) cessation of independent metal construction activities | April 1984 |
| (iv) closure of the warehouses in Wurzach and Munich | April 1984 |
| (v) reduction of employment | April 1984 to March 1986 |
| (vi) closure of warehouses in Velbert, Darmstadt and Hannover | December 1985 |
| (vii) disbandment of own vehicle fleet | December 1985 |
| (viii) closure of sales office in Berlin | December 1985 |

In its last communication of 27 October 1987 the Federal German authorities argued that the capacity changes of BUG-Alutechnik at Vogt had to be added to the changes which occurred at Koblenz, the extrusion plant of Kaiser Aluminium Europe, the undertaking which purchased BUG in May 1985. Instead of installing additional extrusion capacity for hard alloyed aluminium, a growing market, Kaiser changed its three existing extrusion presses at Koblenz from transforming soft alloyed to hard alloyed aluminium at a cost of more than DM 10 million, while the market for soft alloys could be entirely satisfied by the three presses for soft alloyed aluminium at Vogt. So, in the area of soft alloyed extruded aluminium products characterized by overcapacity problems, Kaiser reduced the number of presses from six to three and now participates in the growing market for hard alloyed extrusion products through its three transformed presses at Koblenz. Soft alloys are mainly destined for the building and construction market while hard alloys are mainly destined for the machine construction, automobile and aviation industries.

Within the framework of the consultation of other interested parties provided for by Article 93 (2) of the EEC Treaty, the Government of one Member State, one national federation of aluminium producers and one competitor sent submissions.

III

The financial assistance granted to the undertaking in Vogt near Ravensburg by the Land of Baden-Württemberg is an aid within the meaning of Article 92 (1) of the EEC Treaty. In fact, through the grant of DM 2 million the Land prevented economic market forces from having their normal consequences — the disappearance of a loss-making uncompetitive undertaking — kept the undertaking in business artificially and facilitated its take-over by a large integrated aluminium group. This aid is therefore of a rescue nature and favours the recipient undertaking and its purchaser compared with other undertakings competing in the sector, by an artificial improvement of its profitability.

The grant of DM 2 million should have been notified in advance to the Commission, pursuant to Article 93 (3) of the EEC Treaty. As provided by that Article, the Commission must be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid.

As explained on the occasion of the initiation of the procedure, the Commission has never approved any general aid scheme for the Land of Baden-Württemberg which provided for grants in favour of undertakings in difficulties. The fact that the grant replaced a State guarantee which was given according to the approved 'Directives for granting of guarantees to industry in the Land of Baden-Württemberg' does not free the Member State concerned of its obligation of prior notification of the grant concerned. Moreover, since the undertaking

never went bankrupt and now forms part of a strong multinational group, the grant of DM 2 million cannot be considered, from the legal point of view, as the honouring of the guarantee of DM 7 million.

The aid is therefore illegal in relation to Community law and has been so from the time that it came into operation. The situation produced by the failure to fulfil the obligation of notification is particularly serious since the aid has been paid to the recipient out of the general budget of the Land. Hence, the aid has given rise to effects that are regarded as being incompatible with the common market.

In the case of aid which is incompatible with the common market the Commission — following the judgment of the Court of Justice of 12 July 1973 in Case 70/72 (1) — can require Member States to recover aid granted illegally from recipients.

IV

BUG-Alutechnik is operating in two subsectors of the aluminium industry, i.e. the extruded semis which are supplied to the manufacturing industry partly as pure semi-products and partly machined and finished to order, and standard shapes and sections for the building industry.

In 1984, the installed capacity of aluminium extrusion and forging in the European Community is estimated at 1 322 000 tonnes, of which 343 000 tonnes is installed in the Federal Republic of Germany. The utilization rate for Europe is estimated in 1984 at 75 %. This low rate is due to a lack of demand from the purchasing manufacturing industry which continues to show a low rate of activity.

BUG-Alutechnik has three extrusion presses with a total capacity of approximately 15 800 tonnes. Its current utilization rate is only 63 %. The capacity installed in this undertaking represents 4,3 % of the Federal Republic's capacity and 1,1 % of the EEC capacity.

In the past most of the extruded aluminium produced by the undertaking was further processed to aluminium frames for wooden-aluminium window production and in the edging field. Only a minor part (10 %) of the production was sold as extruded semis to the manufacturing industry. Since the change in the product mix took place, sales of semi-finished products for the manufacturing industry have risen to 40 % of turnover.

Intra-Community trade in forged and extruded semi-finished aluminium products amounted to 285 533 tonnes in 1986. During 1986 Germany exported 44 784 tonnes of extruded semis to the other Member States. Consequently, the share of the Federal Republic in total intra-Community trade in extruded semis corresponded to 15,7 % in 1986.

(1) ECR 1973, p. 813.

The undertaking exports aluminium semi-finished products to other Member States. Its export sales target in 1986 within the EEC is about 70 tonnes. The undertaking therefore accounts for 0,03 % of all trade within the EEC of extruded semis and 0,16 % of the Federal Republic's share.

There is no information available on either production or capacity of aluminium standard shapes and sections for the building industry in the Community. It is however generally known that the present utilization rate of the capacity installed for these products is low due to the serious downturn in the building industry.

The Federal German Government did not provide any information on the installed capacity of the undertaking in question for these products. The only information available is the fact that the utilization of manufacturing capacity on a one-shift basis averages over the year about 75 % and that production varied in the period 1983 to 1986 between 5 500 and 7 000 tonnes.

There is trade in these products within the Community. In 1986 intra-Community trade in doors, windows, and door and window frames of aluminium amounted to 18 225 tonnes, of which the Federal Republic of Germany was responsible for 3 451 tonnes or 16,2 %. The undertaking exports 10 % of its total production to the other Member States.

The Federal German Government also noted that the EEC export target for extruded semis in 1986 is 70 tonnes and that the majority of exports consists of door and window shapes as well as roof edgings and rain gutters. So, the exports of standard sections and shapes by the undertaking to other Member States is around 780 tonnes or 4,3 % of the intra-Community trade for these products and 22,6 % of the Federal Republic's share.

When State financial aid strengthens the position of one undertaking compared with other undertakings competing in intra-Community trade, the latter must be regarded as being affected by that aid. In this case, the aid in question, which gives a substantial advantage to the receiving undertaking, was designed to allow the take-over of BUG-Alutechnik by a large integrated aluminium group, Kaiser Aluminium Europe, without the latter carrying all the associated costs. The aid distorts competition by an artificial improvement of the profitability of the undertaking. It thereby favours the enterprise as compared to its competitors and constitutes an aid within the meaning of Article 92 (1).

Article 92 (2) which deals with aid measures that are compatible with the principle of the common market is not applicable in this case because the aid is of a rescue nature.

Article 92 (3) of the EEC Treaty lists those aids which may be compatible with the common market. Compatibility with the Treaty must be determined in the context of the Community as a whole and not of a single Member State. In order to safeguard the proper functioning of the common market and taking into account the principles of Article 3 (f) of the EEC Treaty, the derogations from the principle of Article 92 (1) of the EEC Treaty as set out in Article 92 (3) must be construed narrowly when an aid scheme or any individual award is scrutinized.

In particular, they may be applied only when the Commission can establish the free play of market forces alone, without the aid, would not induce the prospective aid recipient to adopt a course of action contributing to attainment of one of the said objectives.

To apply the exceptions to cases not contributing to such an objective or where an aid is not necessary to that end would be to give unfair advantages to certain Member States' industries or undertakings, the financial positions of which would merely be bolstered, and to allow trading conditions between Member States to be affected and competition to be distorted.

The Federal German Government has been unable to give, or the Commission to discover, any justification for a finding that the aid in reference falls within one of the categories of exceptions in Article 92 (3).

With regard to the exceptions provided for in Article 92 (3) (a) and (c) for aids that promote or facilitate the development of certain areas, the applications of the aid scheme cannot benefit from the exception provided for in Article 92 (3) (a) since the standard of living is not abnormally low, nor is there serious underemployment in the Federal Republic of Germany. Nor does the grant incorporate the requisite features of aid to facilitate the development of certain economic areas within the meaning of Article 92 (3) (c) inasmuch as it is not conditional on initial investment or job creation as explained in the 1979 Commission communication on the principles of coordination of Regional aid systems. Moreover, the undertaking situated in the Land of Baden-Württemberg is located at Vogt near Ravensburg, an area not considered either by the Commission or by the Federal Government as an assisted area.

As regards the exemption provided for in Article 92 (3) (b), it is evident that the aid in question was not intended to promote the execution of an important project of common European interest, or to remedy a serious disturbance in the Federal German economy. An aid in favour of one company in the aluminium industry is not adequate to remedy the kind of situation described in Article 92 (3) (b).

With regard to the exemption provided for in Article 92 (3) (c) in favour of 'aid to facilitate the development of certain economic activities', it must be observed that the illicitly provided grant of DM 2 million is solely a rescue aid paid to an undertaking under receivership with the aim of making the recipient company a worthwhile acquisition from the point of view of an international aluminium group. Without the aid the undertaking would have closed down and not been taken over by the purchasing group.

Reference is made to the Commission's letter to the Member States of 24 January 1979 on the conditions under which rescue aid can be regarded as compatible with the common market. Rescue aid which may merely be granted to keep a firm in business while the causes of its difficulties are discovered and a remedy is worked out, must comply *inter alia* with the following conditions :

- It must consist of cash aid in the form of loan guarantees or loans bearing normal commercial interest rates.

The aid received by BUG-Alutechnik does not meet this condition.

- It must be paid only for the time needed (generally not exceeding six months) to draw up the necessary and feasible recovery measures.

In this case, the rescue aid which took the form of a grant was not provided for a short period and was not subject to repayment. The aid was not linked to adequate recovery measures but was aimed to make BUG-Alutechnik a worthwhile acquisition from the point of view of the purchasing company, Kaiser Aluminium Europe.

- It must not have any adverse effects on the industrial situation in other Member States.

In this case, however, BUG-Alutechnik participates actively in intra-Community trade. Its integration in Kaiser, an integrated multinational aluminium group will not reduce exports to other Member States.

- It must be notified to the Commission in advance in individual significant cases.

As the case of this company — one should not only consider the recipient undertaking but also its purchaser — has to be called significant, the Federal German Government did not fulfil its obligation under Article 93 (3) of the EEC Treaty to notify the aid in sufficient time to enable the Commission to submit its comments and, if necessary, initiate in

respect of them the administrative procedure provided for in Article 93 (2) of the EEC Treaty.

The undertaking is operating in markets where capacities greatly exceed demand and therefore competition in these markets is extremely acute. It is accepted by the Federal German authorities that the Community market for finished aluminium products destined for the building sector such as sections and frames for doors and windows, window sills, rain gutters and roof edging seals shows a clear over-capacity because of the acute downturn in the building industry. So it would be unfair to give financial advantages to one undertaking of a certain Member State operating in this subsector and allow competition to be distorted. Also the market for extruded semi-finished aluminium products sold to the manufacturing industry is facing over-capacity estimated currently at 20 % to 25 %. Consequently, as the company in question exports extruded products to other Member States, the danger of the aid measure affecting trading conditions between Member States to an extent contrary to the common interest is likely to be significant. On the other hand, the disappearance of the undertaking from both markets would have decreased the overcapacity problems that these markets are facing at Community level.

The grant was paid to BUG-Alutechnik, the undertaking under receivership, but is entirely for the benefit of Kaiser, the purchasing international aluminium group. In the 1985 Annual Report of the parent company, Kaiser Aluminium and Chemical Corporation the acquisition of BUG-Alutechnik is described as one of the recent initiatives of the group to penetrate higher margin markets. It is a known practice of the large international aluminium group to concentrate more on higher value added products and the extruded semis sold to the manufacturing industry are one of the main targets. BUG-Alutechnik is in fact reorienting its production facilities towards extruded semis which account now for almost 40 % of its total output. The integration in the Kaiser group and the fact that national sales offices and distribution points have closed or will close indicate that the share of intra-Community exports in total sales will not decrease in the future, certainly not for extruded semis.

On similar grounds the Commission cannot accept the argument that any effect on trade between Member States will be minimal. It should also be born in mind that there exists no critical market share accepted by the Commission below which possible distorting effects on trade should be overlooked. The undertaking is currently exporting 10 % of its total output to the other Community countries and as explained there is no evidence to believe that this will be reduced in the future, rather the contrary.

Finally, the restructuring process realized so far and planned for the future has to be evaluated from a Community point of view. In sectors facing over-capacity problems at Community level restructuring must imply a reduction of installed physical capacity. The only real reductions of productive capacity in finished aluminium activities took place in 1984 before the aid was granted and were followed by an increase in semi-finished aluminium activities. The closures of three warehouses, a sales office and a vehicle fleet effected after the aid was granted had no impact on productive capacity. The production figures suggest that overall capacity did not change substantially between 1983 and 1987, although utilization of the aluminium presses is not higher than 63 % and of the anodizing lines not higher than 75 %. Analysing the investment details it can be concluded that the concentration of production and storage installations and changes in the product mix absorb the largest part of the capital expenditure and are not linked to a reduction in the manufacturing capacity. External sources report that BUG-Alutechnik now has a computer controlled warehouse at Vogt with a storage capacity of 2 000 tonnes and a capacity for welding, cutting, drilling, milling, screwing, etc.

The transformation of the three presses by Kaiser at Koblenz from soft to hard alloyed aluminium which has taken place in the context of the purchase of BUG-Alutechnik does not provide a complementary justification for the aid because it corresponds to a normal diversification strategy on an integrated aluminium group. Kaiser did not reduce the total number of extrusion presses although the subsector of extruded semi-finished products (soft and hard alloys together) has been showing overcapacity problems at Community level. In the past, the Commission has only allowed aid to particular undertakings operating in this subsector when the installed capacity was reduced significantly in order to contribute to the solution of the sectoral difficulties at Community level. Even considering the internal shift from soft to hard alloys, the Commission must remain coherent with its global sectoral approach.

In short, the restructuring of BUG-Alutechnik at Vogt has not changed overall capacity in the sector of extruded semi-finished and finished aluminium products which at Community level is facing serious over-capacity problems. Other European aluminium groups have reduced the number of extrusion presses in the EEC in order to meet the lower demand. The changes in the organization, production mix and marketing realized by

BUG-Alutechnik and by Kaiser Aluminium at Koblenz do not contribute significantly to the solution of surplus capacities in the EEC aluminium industry.

Thus it has to be concluded that the aid granted to BUG-Alutechnik cannot benefit from the exemption provided for in Article 92 (3) (c) of the EEC Treaty.

In view of all the foregoing considerations, the aid in question is illegal because the Federal German Government did not fulfil its obligations under Article 93 (3) of the EEC Treaty. It does not meet the conditions which must be fulfilled in order for one of the exceptions of Article 92 (2) and (3) of the EEC Treaty to apply. The aid, therefore, must be withdrawn by way of recovery.

HAS ADOPTED THIS DECISION :

Article 1

The aid of DM 2 million in the form of a grant that the Land of Baden-Württemberg provided in April 1985 to BUG-Alutechnik, an undertaking producing semi-finished and finished aluminium products, and of which the Government of the Federal Republic of Germany belatedly informed the Commission by letter of 24 June 1985, is illegal as it was provided in violation of the provisions of Article 93 (3) of the EEC Treaty. Moreover, it is incompatible with the common market within the meaning of Article 92 of the Treaty.

Article 2

The said aid shall be withdrawn by way of recovery and the Federal German Government shall inform the Commission, within two months of the date of the notification of this Decision, of the measures it has taken to comply herewith.

Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 17 November 1987.

For the Commission

Peter SUTHERLAND

Member of the Commission

COMMISSION DECISION

of 22 March 1988

on the closure of anti-dumping proceedings in respect of Spanish imports from
France of refrigerating units for transports

(IV/AD/86/2 — Reftrans)

(88/175/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Article 380 (3) of the Act concerning the conditions of accession of the Kingdom of Spain and the Portuguese Republic and the adjustments to the Treaties⁽¹⁾,

Having regard to Council Regulation (EEC) No 812/86 of 14 March 1986 on protection against imports which are the subject of dumping between the Community of Ten and the new Member States or between the new Member States during the period throughout which the transitional measures laid down by the Act of Accession of Spain and Portugal apply⁽²⁾, and in particular Article 7 thereof,

Having consulted the Member States concerned in accordance with Regulation (EEC) No 812/86,

Whereas :

A. Proceedings

The Spanish Dirección General de Comercio Exterior initiated anti-dumping proceedings by Decision No 27023 of 13 December 1985 (BOE No 313 of 31 December 1985). The proceedings were based on a complaint alleging that certain imports from France into Spain of refrigerating units for transport were being dumped and that an established industry in Spain was being injured as a result.

The complaint was lodged by the Spanish companies Reftrans, Sociedad Anónima and Climauto, Sociedad Anónima. Reftrans SA, which accounts for almost the entire domestic output of refrigerating units for transport, is the joint subsidiary of the Swiss company Westinghouse Electric SA and the Spanish company Frigicoll SA, Climauto SA, ceased manufacturing refrigerating units for transport in May 1985.

The Commission decided on 19 September 1986, in accordance with Article 380 (3) of the Act concerning the conditions of accession of the Kingdom of Spain and the Portuguese Republic, to pursue the proceedings instituted by the Spanish authorities in respect of various types of refrigerating unit for transport (falling within subheading ex 84.15 C II of the Common Customs Tariff, corresponding to NIMEXE code ex 84.15-74), manufactured by the French company Frigiking SA/Carrier Global

Transport Réfrigération, a subsidiary of the US company Carrier Corporation, exported by it to Spain and imported into Spain by the Spanish company Global Transporte Refrigeración SA.

The Commission then published a Notice on its decision in the *Official Journal of the European Communities*⁽³⁾, in accordance with Article 5 (1) (a) of Regulation (EEC) No 812/86. In accordance with Article 5 (1) (b) of the Regulation, it advised the Member States concerned and the relevant exporters and importers and, in accordance with Article 5 (1), (c), commenced an investigation in order to determine whether the facts alleged by the two Spanish complainants were correct and justified action by the Commission.

The Commission gave the parties concerned the opportunity of presenting their views in writing and of requesting a hearing.

The Commission sought all information it deemed necessary, and for this purpose sent questionnaires to the two Spanish complainants, the French manufacturer and exporter and the Spanish importer, in order to check whether there was any dumping margin and any injury.

B. Injury

Following the investigation, the Commission has determined that the relevant imports do not cause any material injury to the Spanish industry concerned. The information provided by the Spanish importer Global Transporte Refrigeración and the Spanish manufacturer Reftrans SA and the price lists and invoices provided by them show that during the period covered by the investigation the situation was as follows :

In the period from March to August 1986, prices for equivalent Spanish products were in many cases undercut by the prices of the imports that are the subject of the anti-dumping proceedings. However, sales of the relevant imported products in 1986 corresponded to only a small proportion of the total turnover achieved in 1986 by the Spanish manufacturer Reftrans SA.

In September 1986, when the Spanish importer introduced a new price list in which most prices had been increased, while the selling prices of Spanish products remained unchanged up to and including May 1987, the prices of equivalent Spanish products were no longer undercut by the prices of the imports that are the subject of the anti-dumping proceedings. Rather, the prices

⁽¹⁾ OJ No L 302, 15. 11. 1985, p. 23.⁽²⁾ OJ No L 78, 24. 3. 1986, p. 1.⁽³⁾ OJ No C 241, 25. 9. 1986, p. 6.

which Spanish customers had to pay for the imported products were higher, and indeed in most cases much higher, than the prices for equivalent domestic products. The only exception to this concerned four imported products, whose selling prices were slightly below those of equivalent domestic products. However, sales of these products in 1986 corresponded to only an insignificant proportion of the total turnover achieved in 1986 by the Spanish manufacturer Reftrans SA.

The prices of the relevant imports were thus not such as to have any appreciable impact on potential sales of the Spanish manufacturer Reftrans. Consequently, they could not have any effect either on the production or on the capacity utilization, stocks, sales or market share of the Spanish manufacturer.

Since at the end of the period covered by the investigation, apart from insignificant exceptions, the prices of equivalent Spanish products were not undercut but were substantially exceeded by the prices of the relevant imports, the latter prices were not such as to force the Spanish manufacturer to make appreciable price reductions or to prevent it from carrying out appreciable price increases, so that they similarly had no effect on the other economic factors specified in Article 3 (2) (c) of Regulation (EEC) No 812/86.

Since the prices of the relevant imports were not such as to significantly improve the potential for selling such imports, they could not result in any increase in such imports.

In conclusion, it is clear that the imports by the Spanish importer neither caused nor threatened to cause material

injury to an established industry in Spain nor materially retarded the establishment of such an industry in Spain. Accordingly, no protective measures are necessary.

C. Dumping

In view of the above conclusion regarding injury, the Commission does not consider it necessary to pursue any further the dumping allegation relating to the relevant imports, since anti-dumping measures may be taken only if examination shows that during the period covered by the investigation dumping has occurred, that this has caused material injury and that the interest of the Community requires action.

In these circumstances, it appears appropriate to close the proceedings pursuant to Article 7 (1) of Regulation (EEC) No 812/86 without introducing protective measures.

HAS ADOPTED THIS DECISION :

Sole Article

The anti-dumping proceedings in respect of Spanish imports from France of refrigerating units for transport shall be closed.

Brussels, 22 March 1988.

For the Commission

Peter SUTHERLAND

Member of the Commission