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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 15/89

of 4 January 1989

introducing a redressive duty on containerized cargo to be transported in liner service between the Community and Australia by Hyundai Merchant Marine Company Ltd of Seoul, Republic of Korea

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 4057/86 of 22 December 1986 on unfair pricing practices in maritime transport [1], and in particular Articles 2 and 11 thereof,

Having regard to the proposal from the Commission, submitted after consultations within the Advisory Committee as provided for under the above Regulation,

Whereas:

A. **PROCEDURE**

(1) In August 1987 the Commission received a complaint lodged by the 'Comité des Associations d'Armateurs des Communautés Européennes' (CAACE) on behalf of Community liner shipping companies from Denmark, France, Germany, Italy, the Netherlands, Spain and the United Kingdom operating in the liner shipping trade between the Community and Australia and organized in the Europe/United Kingdom to Australia Conferences. A shipping company from Belgium, not a member of the Conferences, later joined the complaint. The complainants represent all the Community shipowners operating in this trade. The complaint contained evidence that Hyundai Merchant Marine Company Ltd of Seoul, Republic of Korea, hereinafter referred to as 'Hyundai', was engaged in unfair pricing practices in the liner shipping trade between the Community and Australia and was causing major injury to the Community shipowners. The evidence was, after consultation, considered sufficient to justify the initiation of a proceeding. The Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* [2], the initiation of a proceeding concerning unfair pricing practices in maritime transport allegedly carried out by Hyundai in the liner shipping trade between the Community and Australia and commenced an investigation.

(2) The Commission officially so advised Hyundai, the representatives of the Republic of Korea, the shippers known to be concerned and the complainants and gave the interested parties the opportunity to make known their views in writing and to request a hearing. Hyundai, the complainant shipowners, shippers and the Community seafarers made their views known in writing. With the exception of the seafarers, the parties also requested, and have been granted, hearings.

At a late stage of the proceeding Hyundai requested the opportunity to meet the complainants for the purpose of presenting their opposing views. The Commission was prepared to grant this request but the complainants refused to attend the meeting and it was not, therefore, possible to arrange a confrontation.

(3) The Commission sought and verified all information it deemed to be necessary and carried out investigations at the premises of the following shipping companies:

— ABC Containerline NV, Antwerp, Belgium,

— Associated Container Transportation (Australia) Ltd, London, United Kingdom,

— Compagnie Générale Maritime, Paris, France,

— Eagle Container Line Ltd, Ipswich, United Kingdom,

— Hapag Lloyd AG, Hamburg, Germany,

— Hyundai Merchant Marine Company Ltd, Seoul, Republic of Korea,

[1] OJ No L 378, 31. 12. 1986, p. 14.

[2] OJ No C 308, 18. 11. 1987, p. 3.

— Lloyd Triestino di Navigazione SPA, Trieste, Italy,

— Nedlloyd Lijnen BV, Rotterdam, the Netherlands,

— P & O Containers Ltd, London, United Kingdom,

and at the secretariat of

— the Australian Conference, Crawley, United Kingdom.

(4) The investigation of unfair pricing practices covered the period from 1 January to 31 October 1987.

(5) The investigation concerns the international cargo liner service between the Community ports and Australia. Although there are variations in the European ports of call between the different shipping companies concerned in this investigation and their sailing itineraries between Europe and Australia differ, they are normally in direct competition to pick up cargo from those Community regions which provide most exports to Australia. All companies service Sydney and Melbourne and provide for onward transport facilities to other Australian destinations or ports where they may not call.

(6) All companies concerned operate fixed and published sailing schedules to which they generally adhere. The frequency of sailings varies.

(7) The proceeding concerns goods loaded in the Community with destination Australia. The service Community to Australia is either eastbound or westbound or round South Africa; it is non-stop with the exception, however, of Hyundai, which calls at the South Pacific islands on the way, resulting in longer transit times than its competitors.

(8) All companies concerned operate either full container vessels or combined container/bulk vessels. In general, however, containerized cargo represents the overwhelming majority of all cargoes on this liner service on which the investigation is concentrated. Other major aspects of the service offered by the companies such as inland haulage, port service and documentation are comparable.

(9) In view of the characteristics of the cargo liner service between the Community and Australia in general and the services offered by the individual shipping companies concerned in this investigation, it is concluded that these services are offered on the same route (shipping market) and are generally comparable.

B. UNFAIR COMMERCIAL PRACTICES

Freight rates charged by Hyundai

(10) The normal freight rate was determined on the basis of figures provided by Eagle Container Line, hereinafter referred to as 'Eagle', a Swiss company operating from Ipswich/United Kingdom which offers a service between the Community and Australia comparable to Hyundai's, and which was a preferred choice as compared to members of the Conferences or the other complainant.

(11) Eagle has been continuously operating since 1982 on this route, where it is thus an established company. With a market share of about 10 % of this trade and without any specific characteristics it is considered representative. Eagle does not enjoy non-commercial advantages. Both Eagle and Hyundai were found to transport a comparable cargo mix, in generally comparable vessels.

(12) Hyundai claimed that the normal freight rate should be based on Jebsen, a Norwegian shipping company operating in the Europe to Australia trade, without, however, justifying this request in detail.

It was found, *inter alia,* that Jebsen entered the trade only in 1985/86 and does not operate a fixed fleet and often calls only at one major Australian port. It is thus concluded that Jebsen does not represent a more appropriate choice for the determination of the normal freight rate.

(13) It was found that the net freight rate charged by Eagle during the period of the investigation did not cover all its costs and was thus not a rate actually charged in the ordinary course of shipping. Therefore the normal freight rate was constructed by aggregating all costs incurred by Eagle, a comparable company, for the reasons mentioned above, in the ordinary course of shipping business, both fixed and variable, plus a reasonable amount of overhead expenses. The relevant cost elements were not substantially different from those of another comparable company, namely ABC. A profit margin of 3 % on costs was included; this margin is considered appropriate in view of the characteristics of Eagle's business.

Adjustments were made to take account of differences in transit times between Community and Australian ports of between 9 and 19 days, depending on port, and the difference in sailing frequency of three days.

(14) When finally comparing Hyundai's freight rates with Eagle's, it was established that Hyundai undercut the normal freight rate at all times during the period under investigation; the average rate of undercutting was 26 %, rounded down, or ECU 450 per twenty-foot container.

Non-commercial advantages granted to Hyundai

(15) The investigation centered on a number of non-commercial advantages granted to Hyundai by the Korean Government.

(a) *Cargo reservation scheme*

(16) Article 16 of the Korean Maritime Transportation Fostering Act together with a number of decrees and ordinances imposes a cargo reservation scheme on trade to and from Korea:

— Korean shipping companies have sole rights to carry the principal bulk cargoes (e.g. crude oil, raw materials for the iron, steel and petrochemical industries, fertilizers, grain, coal, liquefied gas) on all routes to Korea,

— Korean shipping companies have sole rights to carry cement, iron and steel from Korea,

— Korean lines have preferential rights to carry all liner cargo to and from Korea on routes where Korean lines operate.

Cargoes for State industries are allocated by the Korean Government to the various Korean shipping companies. Exceptions ('waivers') to the rules above can be, and indeed are, granted by the Korean authorities where certain conditions laid down in the decrees and ordinances are fulfilled.

Waivers for bulk cargoes may be granted when Korean vessels do not have sufficient capacity, when unique circumstances at the port of origin of the cargo prevents the use of the Korean flag, when Korean vessels charge more than 10 % higher freight rates than non-Korean vessels, when Korean flag carriage is considered unsuitable or inappropriate in view of the terms of the contract, accepted trade practices or the law of the country of origin of the cargo, when disasters or acts of God make the use of Korean vessels impossible or difficult or when the Minister of Transport considers other reasons to justify granting a waiver.

Waivers for liner cargoes may be granted when international treaties, conventions or agreements to which Korea is party so stipulate, when Korean vessels form part of a Conference fleet and the Korean government has approved the Conference's cargo sharing arrangement, when the cargo cannot be shipped on a Korean vessel because of the cargo's nature or because no Korean vessel is available for at least five days after the cargo is ready for shipment, when disasters or acts of God make the use of Korean vessels impossible or difficult, when the authorities consider that in particular trades the allocation of cargo to a foreign flag line will contribute to the long-term and stable supply of transport capacity and when Korean merchants are allowed by the authorities, in recognition of their general good record of using Korean flags, freely of choose carriers.

As to the role individual Korean shipping companies play in the framework of the cargo reservation scheme, it is noted that a shipping company can only operate on a certain shipping route with a licence. This licence is granted by the Korean authorities where, *inter alia,* the start of the business is suited to supply and demand and where the applicant is a so-called 'designated maritime transportation businessman', i.e. a shipping company considered appropriate in view of its size whose role is to fulfil certain tasks imposed on it by the government in exchange for which it 'may be given preference in (its) development'. A 'designated maritime transportation businessman' may be given preferential assistance over other maritime businessmen with regard to, *inter alia,* the licencing of international liner routes and the transportation of designated cargoes under the cargo reservation scheme. Hyundai is a 'designated maritime transportation businessman'.

The Community, in line with the view expressed on numerous occasions by the OECD, considers a cargo reservation scheme in international shipping a unilateral impediment to the principle of free access to cargoes in ocean trades and thus a non-commercial advantage for the shipping companies benefitting from it.

(17) Hyundai maintained that the cargo reservation scheme was *de facto* without any effect and referred to carriage statistics for container trade to and from Korea which showed a Korean share in the four routes where Korean shipping companies were best represented of 12,5 %, 33 %, 54,3 % and 81,1 % respectively. The complainants, in their assessment on both bulk and container trade to and from Korea, estimate 89 % of the trade, in weight terms, to be in bulk and, as such, more or less covered by the cargo reservation law. None of these sets of figures is conclusive: one only refers to containerized traffic, which constitutes the substantially smaller volume, the other does not refer to the volume of bulk cargo actually carried by Korean vessels and neither indicates the relevance of the scheme to Hyundai.

(18) The Commission finds that Hyundai's activities were, and still are, largely home-trading activites. It is a cross-trader substantially only on the Australia-Papua New Guinea-South Asia-Europe-South Pacific islands-Australia service, of which the trade under investigation is one leg, and on the Canada/United States West Coast-Australia service. The numbers of vessels used in these services are five and one respectively of a total of 56 vessels. Apart

from the service using car carriers (18 vessels), transporting, *inter alia*, Hyundai cars, the services other than the one referred to above by and large fall under the scope of application of the Korean cargo reservation law. Hyundai, as the biggest Korean shipping company, is well placed to benefit from the advantages offered by the cargo reservation scheme.

Whenever Hyundai has capacity available it can rely on the application, by the Korean authorities, of the cargo reservation scheme to fill this capacity.

The guarantee of access to a substantial volume of business with, due to the licencing system, virtually no Korean and, due to the cargo reservation scheme, only limited non-Korean competition, secures Hyundai a base load and gives it valuable support in a world market still facing recession. As a result, a substantial part of Hyundai's revenue is generated from trade covered by the Korean cargo reservation law. The guaranteed home business provided by the cargo reservation scheme allowed Hyundai to enjoy commercial flexibility which competitors do not have.

(19) Discrimination against non-Korean shipping lines by means of the cargo reservation scheme is exacerbated by Articles 34 and 35 of the Korean Maritime Transportation Business Act. They stipulate that non-Korean individuals or companies are not allowed to own, or have a share in, Korean enterprises engaged in maritime freight forwarding, maritime transportation, brokering, shipping agency, vessel chartering and vessel management business. In addition, non-Korean individuals or companies must not own assets such as offices and equipment in Korea, nor are they free to own inland-haulage companies.

As a result, non-Korean shipping companies cannot expect to be able to compete on equal terms in that part of the market open to them; they are not in a position to offer efficient intermodal transport and thus assure additional cargo that would otherwise come their way. In fact, the Korean government is on record as saying that 'the weak and depressed state of Korea's domestic trucking business makes it inadvisable to allow foreign competition'.

This different treatment by Korean legislation and authorities in favour of Korean shipowners gives them substantial operating advantages as compared with non-Korean shipowners operating in Korea.

(20) It is thus considered that by virtue of the discrimination of non-Korean shipowners in Korea against shipping lines as manifested in the cargo reservation scheme and the additional measures concerning on-shore activities, Hyundai is enjoying non-commercial advantages granted by the Korean Government.

(b) *Shipping Industry Rationalization Plan (SIRP)*

(21) Before 1984, the Korean Government's shipping policy encouraged shipowners to expand their fleets substantially. According to an assessment by the Korean authorities, this resulted in substantial purchases of ships at a moment when ship prices peaked, in large-scale debts, structural difficulties of the companies and excessive competition among as many as 70 ocean-going shipping companies with a result that 'the Korean merchant fleet was less competitive in international markets compared to foreign fleets'.

The SIRP provided a radical change in this policy. Its purpose was to rationalize Korean shipping, which was in a serious condition, on a volontary basis and to make it a national strategic industry by providing concentrated assistance through the number of shipping firms, encouraging mergers and takeovers and increasing the tonnage of a unit firm, allocation of trades, replacing older ships with newer ships and getting rid of over-competition among domestic shipping firms.

(22) The first part of SIRP in 1984, as far as it is relevant for this investigation, contained the following support measures:

- tax benefits: exemption from registration and acquisition taxes in connection with the acquisition of vessels and companies,
- debt moratorium for Won loans: a maximum five-year moratorium for the payment of principal and interest of funds for purchases of Korean-made vessels,
- debt moratorium for foreign currency loans: extension from 2 1/2 to 5 years of grace period for loans in foreign currency incurred for purchases of Korean-made vessels,
- refinancing of interest accrued during the moratoria.

The refinancing element did not include direct cash payments or debt write-offs.

The same rules apply for mergers carried out at a later stage than those in the course of 1984.

(23) The effective advantages of the SIRP scheme to Hyundai were investigated as far as possible. The complainants claimed that Hyundai could not be commercially viable without the advantages derived from the SIRP scheme.

Hyundai admitted receiving the benefits referred to above but denied that the aspects other than the tax benefits constituted an advantage.

As to the financial implications of these aspects on Hyundai the following conclusions are drawn. The refinancing of the principal of loans is an unusual commercial practice, even in Korea. The refinancing of interest is normally not allowed and was not undertaken by Korean banks. The Korean authorities encouraged such refinancing for financially ailing industries such as shipping to be carried out by State-owned and other banks, thus granting advantages which under normal commercial conditions were not available.

In the relevant years (except 1987, not yet audited) Hyundai was making losses. Had the interest been repaid, these losses would have increased thus reducing Hyundai's credit-worthiness (details confidential). As a result, the refinancing, both of interest and principal, brought immediate cash flow advantages; these were linked with the advantage of an interest rate, applied for the refinancing of interest, which was at times up to three percent below the interest rates for normal loans.

It is therefore concluded that these financial implications constitute an advantage.

Alternatively, Hyundai claimed that these advantages only compensated for the damage inflicted on it by taking over financially and structurally weak shipping companies with partly outdated vessels.

It was found that participation in the SIRP was voluntary. Hyundai submitted detailed information supporting its claim that it had taken over considerable debts from the merged companies and incurred losses when selling off unwanted ships at less than book value. It did, however, not show that these disadvantages outweighed the advantages obtained through the mergers, such as the acquisition of movable and immovable assets, licences and goodwill and the continued and, through the mergers, extended right to benefit from the cargo reservation scheme.

It was furthermore established that participation in the SIRP scheme, which led to mergers and a general growth of its business, has allowed Hyundai to more than double its revenue in only three years at a time of general depression of the shipping market.

Hyundai has derived substantial cash flow advantages from this doubled revenue which will allow it to finance its debts more easily when they eventually fall due. In addition, given this increase in revenue, the relative burden of Hyundai's debts is decreasing more and more.

(24) In view of the above, it is concluded that the SIRP scheme afforded Hyundai a further non-commercial advantage granted by the Korean Governement.

(c) *Conclusion*

(25) With regard to the findings detailed in points 15 to 24 above, the Council considers that both (a) and (b) constitute a non-commercial advantage.

It was established that when Hyundai started the service under investigation, it was a company with substantial debts making losses on its overall operations. In addition, it expected to incur losses on this service and all the indications are that it did. It expanded at a time when the world shipping market was in recession by starting a service in an area hitherto unknown to Hyundai wich was just experiencing a substantial and visible reduction of trade.

As a result of the non-commercial advantages referred to above, Hyundai was supplied with a commercial safety net for its business activities by the cargo reservation scheme; the preferential treatment of Korean shipowners on-shore in Korean ports gives Hyundai operating advantages; by relying on the advantages of the SIRP scheme Hyundai could rely, when expanding, on its long-term projections not being hampered by otherwise necessary and inevitable short-term commercial and financial considerations, but could expect that in future years, with increased revenues, it could meet its obligations without facing serious financial problems.

These advantages were substantial enough to make it possible for Hyundai to proceed in the way found in the investigation.

In view of the above, it is concluded that without the non-commercial advantages Hyundai could not reasonably have attempted to break into the trade between the Community and Australia with freight rates as low as those found in the investigation.

C. INJURY

(26) With regard to the injury caused by Hyundai's low freight rates, the evidence available to the Commission shows that Hyundai's market share on the route between the Community and Australia increased from 0,3 % in 1986, when its service began, to 4 % during the period under investigation. At the same time the Community shipowners' share fell from 54 to 53,6 %. This decrease in itself cannot be considered as major injury.

(27) However, closer scrutiny of the data reveals that maintaining roughly the same level of market share coincided with a decrease in revenue and was only achieved by making very substantial concessions as regards freight rates ; the same pattern has appeared for cargo bookings. Whereas the number of containers transported during the period of the investigation was substantially equal to that for 1986, the revenue generated by the Community shipowners decreased by 7,5 % as the result of a largely equivalent reduction in the average freight rate.

It was further found that the average freight rates generated by the Community company most comparable to Hyundai, namely ABC, was reduced by about 2,5 % in the course of the year 1986, during the last three months of which Hyundai entered the market, and by about 14,5 % during 1987, leading to depressed freight rates which could only be increased by the company if it was prepared to suffer a very substantial loss of cargo bookings (see point 34). This finding is supported by Eagle's records.

When actually comparing Hyundai's freight rates with those of the Community shipowners, account was taken of the differences in service. Adjustments were made for differences in transit times and sailing frequency, which were both considered material, and for the fact that the Community shipowners' rates were depressed (for details relevant to the latter see point 29).

With regard to the latter, break-even rates for the Community shipowners were established, with which, for simplicity, the comparisons were made. These were based on the net rates after deduction, where appropriate, of, in particular, end-of-year, loyalty and quantity rebates or repayments as well as of forwarding agents' commissions.

The comparison with ABC, the Community shipowner most comparable to Hyundai, revealed that Hyundai undercut its freight rate by 35,9 % on a global average basis since both companies transported a comparable cargo mix.

As to a comparison with the other complainants and in order to avoid the risk of comparing different cargo mixes, comparisons were made, after adjustments, between the freight rates for a number of the most important basic commodity groups, namely fabrics, plastics, chemicals, paper and foodstuffs (except refrigerated) and textiles. The comparisons showed that Hyundai's rates would have to be increased by between 17 and 43 % to reach a freight level corresponding to a comparable service.

Since it is considered that a reasonable profit should be included in the freight rates charged by Community shipowners, an inclusion of such profit margin, at whatever level is considered appropriate, would have further increased these percentage margins.

(28) It was established that, despite Hyundai's appearance in the trade, the scheduled liner service operated by the complainants, either within the Conferences or separately, has been maintained and the number of sailings has not been reduced permanently. However, in view of the already existing overcapacity exacerbated by the addition of Hyundai's capacity, the Conference complainants temporarily withdrew one vessel from the service during the latter six months of 1987. As a result of this temporary withdrawal, it was possible for the complainants' capacity actually to be increased between 1986 and 1987 from 70 to 73 %, whereas it would otherwise have been reduced from 70 to 68 %.

In general, the complainants claimed that they could only maintain this level of capacity utilization by accepting substantially reduced freight rates. This assessment has been endorsed by the findings, especially those under point 27.

(29) It was considered whether Hyundai's low freight rates led to a reduction in profit of the Community shipowners. Two years have to be looked at, namely 1986 and 1987. It was found that all companies suffered a very substantial deterioration since Hyundai's entry into the market. Their profitability decreased between 1985 and 1986 ; the decrease is largely attributable to the cargo volume decrease between 1985 and 1986 in the Europe to Australia trade and much less to the reduction in freight rates experienced by the time Hyundai entered the market in autumn 1986. The complainants remained, on average, profitable in the trade under investigation although the level of profitability was largely insufficient to guarantee the long-term continuation of the service, future investment and employment.

However, during the investigation period, in 1987, during which entire period Hyundai was present in the market, all companies with one exception were making losses in the trade under investigation. It was found that, on the basis of management accounts and expressed in indices (details confidential), the complainants' overall profitability was +100, +15, −248 in 1985, 1986 and during the investigation period respectively.

If 1986 were to be used as basis, a profit of +100 in 1986 turned into a loss of −1 653 during the investigation period.

(30) Equally, the return on capital generated deteriorated in line with the developments described above.

(31) With regard to investments, it would appear that no major investment decisions, such as the replacement of some vessels, will have to be taken in 1988. Such investments are unlikely to be made if the Europe to Australia trade were to continue losing revenue and making substantial losses.

(32) With regard to employment, consideration has to be given to the fact that all complainants' ships fly Member States' flags and are manned by Community crews. Continuing losses increase the risk of flagging out and subsequent loss of employment. The recent event when one vessel was temporarily withdrawn from the service highlights this risk.

(33) It was considered whether injury has been caused by other factors such as decreased cargo volume and low freight rates operated by other shipowners, which must not be attributed to Hyundai.

It was established that the total containerized cargo transported between the Community and Australia was 167 000 TEU's in 1985 and fell to 137 000 TEU's in 1986; it remained at that level during the period under investigation.

Hyundai thus entered a shrinking market and thereby added to a developing imbalance between tonnage and transport capacity. Whereas the decreased cargo volume during 1986 already had a negative effect on the Community shipowners with regard to, *inter alia,* revenue, capacity utilization and profitability, this development was exacerbated by Hyundai's low freight rates during the last months of 1986 and during all of 1987.

(34) Hyundai claimed that, when entering the market, it merely aligned itself on the rates already operated by other non-complainant companies, in particular Gearbulk and Jebsen, two Norwegian companies. Hyundai did not supply any conclusive evidence for this claim. It was found, when examining one representative company's monthly liftings and rates records, and the interrelation between the two, that:

— when, at the moment of Hyundai's entry into the market with lower rates, the company was not prepared to reduce the rate level, it immediately lost considerable cargo to Hyundai,

— when, some time later, this company changed policy and aligned its rate level more towards Hyundai's, it immediately regained cargo, albeit at substantially reduced rates.

In view of the relative size of Gearbulk and Jebsen, which are both much smaller than Hyundai in the trade under investigation, and the fact that Hyundai within a very short time span increased its market share from nil to 4 %, it is concluded that the decline in freight rates has to be attributed to Hyundai.

(35) The above results lead to the determination that the effects of the unfair pricing practices by Hyundai in the trade between the Community and Australia, taken in isolation, have to be considered as causing serious disruption of the freight pattern on this route and major injury to the Community shipowners concerned.

D. COMMUNITY INTEREST

(36) Hyundai and some shippers claimed that it was not in the Community interest to take measures against Hyundai, which constitutes an additional competitive element in the trade under investigation. Although it is Community policy to encourage competition wherever possible, it is not its policy to encourage unfair competition based on non-commercial advantages.

Moreover, the trade under investigation is characterized by a number of independent competitors; indeed, one new competitor started its service in spring 1988. Community shippers have thus a wide choice between, *inter alia,* several independent operators.

It was furthermore claimed that Hyundai's low rates have allowed certain exports to Australia to be made for the first time in substantial quantities. As far as the most important product in terms of volume was concerned, this proved factually incorrect. As to the other products, which are substantially less important, it is considered that there are enough companies on the market to guarantee continuing exports at competitive freight rates by outsiders.

Finally, as far as certain break-bulk products are concerned, it was found that the quantities involved were very limited and irregular and it was not considered in the Community interest to include break-bulk cargos in Community measures.

The seafarers claimed, and the Community supports this claim, that it is in the Community interest to defend their employment which is put at risk by unfair competition since in the past they have suffered a great deal from unfair competition.

External trade policy considerations, which are in favour of free trade, the port interests with, *inter alia,* ancillary industries, and the shipping policy considerations of the Member States concerned are not in conflict with the imposition of a redressive duty.

Developments of the kind investigated, involving rate erosions, decreasing revenue and financial losses, seriously endanger the commercial viability of those Community shipping companies whose revenues depend to a substantial extent on the service concerned ; in addition, these developments endanger the viability of the services offered by the other Community companies and are therefore injurious to Community interests ; in view of the particularly serious difficulties facing the Community shipping industry in general, and the trade under investigation in particular, the economic and social importance of the industry, and the normally relatively low incidence of a rate increase on the value of the exported goods, the conclusion has been reached that it is in the Community's interest that action be taken in the form of a redressive duty.

E. THE RATE OF DUTY AND COLLECTION

(37) Having regard to the extent of the injury caused and, in particular, the undercutting in freight rates with its consequential effects, and to the fact that the normal freight rate was determined by reference to the costs of an operator charging lower rates than the complainant companies, it is concluded that the rate of the redressive duty cannot, if it is to remove injury, be less than the difference between Hyundai's freight rate and the normal freight rate determined as described under point 14.

(38) The rate of duty should therefore be ECU 450 per 20-foot container or ECU 900 per 40-foot container and *pro rata* for other container sizes. In order to allow an efficient collection of the redressive duty, the duty should be a fixed amount irrespective of the contents of the container.

(39) The collection of duties shall be made by the customs authorities since they are best placed and most competent to carry out this duty. It is considered appropriate to follow as far as possible the rules of customs procedure applicable to the exportation of goods. In order to safeguard collection of the duty, the loading of cargo in a Community port shall be made conditional upon the provisions of security for the amount of the duties.

F. TIME LIMIT

(40) The fact that this was the first case brought under Regulation (EEC) No 4057/86 meant that particular care was needed to ensure that the investigation complied in all respects with the requirements of the Regulation. This being so, the period of one year between initiation of the proceedings and their conclusion, as prescribed in Article 7 (9) (a) of the Regulation, has been slightly exceeded,

HAS ADOPTED THIS REGULATION :

Article 1

1. A redressive duty is hereby imposed on all containerized cargo loaded in a Community port on vessels operated directly or indirectly by Hyundai Merchant Marine Company Limited of Seoul, Republic of Korea, with destination Australia. The duty is to be paid by Hyundai.

2. The amount of duty shall be ECU 450 per 20-foot container or ECU 900 per 40-foot container and *pro rata* for other container sizes, irrespective of the contents.

3. The redressive duty shall be collected by the customs authorities. The customs provisions in force shall apply by analogy.

4. The arrival of a vessel operated directly or indirectly by Hyundai in a Community port and the expected number of containers to be loaded on that vessel shall be notified by Hyundai or its agents to the competent authorities three days before the vessel's expected time of arrival.

5. The loading of cargo in a Community port shall be made conditional upon presentation by Hyundai of proof that security for the amount of the duty has been provided.

Article 2

1. Before the containers are loaded, a loading declaration, accompanied by copies of the manifests, shall be lodged with the competent customs office.

2. The loading declaration shall be separate from the export declaration concerning the goods and shall be made out on form EX as introduced by Article 2 (1) of Council Relgulation (EEC) No 1900/85 of 8 July 1985 introducing Community export and import declaration forms [1], as amended by Regulation (EEC) No 1059/86 [2]. Only copies Nos 1 and 3 of form EX shall be used. The loading declaration may also be made on a commercial or administrative document as provided for in Article 18 (2) of Council Directive 81/177/EEC of 24 February 1981 on the harmonization of procedures for the export of Community goods [3].

3. The loading declaration shall be made by Hyundai or its agents. It shall refer to this Regulation and shall, as a minimum, contain information about the country of destination of the containerized cargo referred to in Article 1 (1) and the number of containers, broken down by type according to Article 1 (2).

4. The provisions in force with regard to export duties shall apply to the redressive duty imposed by this Regulation.

Article 3

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

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

Done at Brussels, 4 January 1989.

For the Council

The President

F. FERNANDEZ ORDOÑEZ

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(1) OJ No L 179, 11. 7. 1985, p. 4.
(2) OJ No L 97, 12. 4. 1986, p. 7.
(3) OJ No L 83, 30. 3. 1981, p. 40.

COMMISSION REGULATION (EEC) No 16/89

of 5 January 1989

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals ([1]), as last amended by Regulation (EEC) 2221/88 ([2]), and in particular Article 13 (5) thereof,

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

Having regard to the opinion of the Monetary Committee,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 2401/88 ([5]) and subsequent amending Regulations;

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

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

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

Whereas these exchange rates being those recorded on 4 January 1989;

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

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2401/88 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 6 January 1989.

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

Done at Brussels, 5 January 1989.

For the Commission

Frans ANDRIESSEN

Vice-President

([1]) OJ No L 281, 1. 11. 1975, p. 1.
([2]) OJ No L 197, 26. 7. 1988, p. 16.
([3]) OJ No L 164, 24. 6. 1985, p. 1.
([4]) OJ No L 153, 13. 6. 1987, p. 1.
([5]) OJ No L 205, 30. 7. 1988, p. 96.

ANNEX

to the Commission Regulation of 5 January 1989 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Levies	
	Portugal	Third country
0709 90 60	0,34	123,57
0712 90 19	0,34	123,57
1001 10 10	44,60	186,56 (1) (5)
1001 10 90	44,60	186,56 (1) (5)
1001 90 91	0,00	120,25
1001 90 99	0,00	120,25
1002 00 00	36,62	114,96 (6)
1003 00 10	29,63	122,64
1003 00 90	29,63	122,64
1004 00 10	85,40	77,63
1004 00 90	85,40	77,63
1005 10 90	0,34	123,57 (2) (3)
1005 90 00	0,34	123,57 (2) (3)
1007 00 90	24,28	134,77 (4)
1008 10 00	29,63	42,15
1008 20 00	29,63	116,88 (4)
1008 30 00	29,63	0,00 (5)
1008 90 10	(7)	(7)
1008 90 90	29,63	0,00
1101 00 00	7,30	182,37
1102 10 00	64,28	174,96
1103 11 10	82,51	302,55
1103 11 90	6,80	195,87

(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 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 17/89

of 5 January 1989

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to 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 2221/88 (2), and in particular Article 15 (6) thereof,

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

Having regard to the opinion of the Monetary Committee,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 2402/88 (5) and subsequent amending Regulations;

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

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

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

Whereas these exchange rates being those recorded on 4 January 1989;

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

HAS ADOPTED THIS REGULATION:

Article 1

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

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

Article 2

This Regulation shall enter into force on 6 January 1989.

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

Done at Brussels, 5 January 1989.

For the Commission

Frans ANDRIESSEN

Vice-President

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 197, 26. 7. 1988, p. 16.
(3) OJ No L 164, 24. 6. 1985, p. 1.
(4) OJ No L 153, 13. 6. 1987, p. 1.
(5) OJ No L 205, 30. 7. 1988, p. 99.

ANNEX

to the Commission Regulation of 5 January 1989 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

(ECU/tonne)

CN code	Current 1	1st period 2	2nd period 3	3rd period 4
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	0	0	0
1001 10 90	0	0	0	0
1001 90 91	0	9,09	9,09	9,09
1001 90 99	0	9,09	9,09	9,09
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	0	0	0
1004 00 90	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	12,72	12,72	12,72

B. Malt

(ECU/tonne)

CN code	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5
1107 10 11	0	16,18	16,18	16,18	16,18
1107 10 19	0	12,09	12,09	12,09	12,09
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 18/89

of 5 January 1989

fixing the minimum levies on the importation of olive oil and levies on the importation of other olive oil sector 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 No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats [1], as last amended by Regulation (EEC) No 2210/88 [2], and in particular Article 16 (2) thereof,

Having regard to Council Regulation (EEC) No 1514/76 of 24 June 1976 on imports of olive oil originating in Algeria [3], as last amended by Regulation (EEC) No 4014/88 [4], and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1521/76 of 24 June 1976 on imports of olive oil originating in Morocco [5], as last amended by Regulation (EEC) No 4015/88 [6], and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1508/76 of 24 June 1976 on imports of olive oil originating in Tunisia [7], as last amended by Regulation (EEC) No 413/86 [8], and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1180/77 of 17 May 1977 on imports into the Community of certain agricultural products originating in Turkey [9], as last amended by Regulation (EEC) No 4016/88 [10], and in particular Article 10 (2) thereof,

Having regard to Council Regulation (EEC) No 1620/77 of 18 July 1977 laying down detailed rules for the importation of olive oil from Lebanon [11];

Whereas by Regulation (EEC) No 3131/78 [12] the Commission decided to use the tendering procedure to fix levies on olive oil;

Whereas Article 3 of Council Regulation (EEC) No 2751/78 of 23 November 1978 laying down general rules for fixing the import levy on olive oil by tender [13] specifies that the minimum levy rate shall be fixed for each of the products concerned on the basis of the situation on the world market and the Community market and of the levy rates indicated by tenderers;

Whereas in the collection of the levy, account should be taken of the provisions in the Agreements between the Community and certain third countries; whereas in particular the levy applicable for those countries must be fixed taking as a basis for calculation the levy to be collected on imports from the other third countries;

Whereas application of the rules recalled above to the levy rates indicated by tenderers on 2 and 3 January 1989 leads to the minimum levies being fixed as indicated in Annex I to this Regulation;

Whereas the import levy on olives falling within CN codes 0709 90 39 and 0711 20 90 and on products falling within CN codes 1522 00 31, 1522 00 39 and 2306 90 19 must be calculated from the minimum levy applicable on the olive oil contained in these products; whereas, however, the levy charged for olive oil may not be less than an amount equal to 8 % of the value of the imported product, such amount to be fixed at a standard rate; whereas application of these provisions leads to the levies being fixed as indicated in Annex II to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The minimum levies on olive oil imports are fixed in Annex I.

Article 2

The levies applicable on imports of other olive oil sector products are fixed in Annex II.

Article 3

This Regulation shall enter into force on 6 January 1989.

[1] OJ No 172, 30. 9. 1966, p. 3025/66.
[2] OJ No L 197, 26. 7. 1988, p. 1.
[3] OJ No L 169, 28. 6. 1976, p. 24.
[4] OJ No L 358, 27. 12. 1988, p. 1.
[5] OJ No L 169, 28. 6. 1976, p. 43.
[6] OJ No L 358, 27. 12. 1988, p. 2.
[7] OJ No L 169, 28. 6. 1976, p. 9.
[8] OJ No L 48, 26. 2. 1986, p. 1.
[9] OJ No L 142, 9. 6. 1977, p. 10.
[10] OJ No L 358, 27. 12. 1988, p. 3.
[11] OJ No L 181, 21. 7. 1977, p. 4.
[12] OJ No L 370, 30. 12. 1978, p. 60.
[13] OJ No L 331, 28. 11. 1978, p. 6.

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

Done at Brussels, 5 January 1989.

For the Commission

Frans ANDRIESSEN

Vice-President

ANNEX I

Minimum import levies on olive oil

(ECU/100 kg)

CN code	Non-member countries
1509 10 10	75,00 ([1])
1509 10 90	75,00 ([1])
1509 90 00	87,00 ([2])
1510 00 10	75,00 ([1])
1510 00 90	119,00 ([3])

([1]) For imports of oil falling within this subheading and produced entirely in one of the countries listed below and transported directly from any of those countries to the Community, the levy to be collected is reduced by :

(a) Lebanon : ECU 0,60 per 100 kg ;

(b) Tunisia : ECU 12,69 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force ;

(c) Turkey : ECU 22,36 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force ;

(d) Algeria and Morocco : ECU 24,78 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force.

([2]) For imports of oil falling within this subheading :

(a) produced entirely in Algeria, Morocco or Tunisia and transported directly from any of those countries to the Community, the levy to be collected is reduced by ECU 3,86 per 100 kg ;

(b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by ECU 3,09 per 100 kg.

([3]) For imports of oil falling within this subheading :

(a) produced entirely in Algeria, Morocco or Tunisia and transported directly from any of those countries to the Community, the levy to be collected is reduced by ECU 7,25 per 100 kg ;

(b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by ECU 5,80 per 100 kg.

ANNEX II

Import levies on other olive oil sector products

(ECU/100 kg)

CN code	Non-member countries
0709 90 39	16,50
0711 20 90	16,50
1522 00 31	37,50
1522 00 39	60,00
2306 90 19	6,00

COMMISSION REGULATION (EEC) No 19/89
of 5 January 1989
adjusting the agricultural conversion rates for the pigmeat sector in Spain

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Commission Regulation (EEC) No 3578/88 of 17 November 1988 laying down detailed rules for the application of the system for the automatic dismantlement of negative monetary compensatory amounts [1], and in particular Article 7 (1) thereof,

Whereas Article 6a of Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture [2], as last amended by Regulation (EEC) No 1889/87 [3], lays down that the agricultural conversion rates of a Member State should be adjusted so as to avoid the creation of new monetary compensatory amounts;

Whereas the movement of the market rate for the peseta during the reference period 28 December 1988 to 3 January 1989 should, given the adjustment of the agricultural conversion rate determined by Council Regulation (EEC) No 1678/85 [4], as last amended by Regulation (EEC) No 4136/88 [5], entail, in accordance with Article 2 of Commission Regulation (EEC) No 3153/85 [6], as last amended by Regulation (EEC) No 3521/88 [7], an increase in the monetary compensatory amounts applicable in the pigmeat sector in Spain, effective from 9 January 1989; whereas in order to prevent this it is necessary to adjust the agricultural conversion rate so as to avoid the creation of these new monetary compensatory amounts,

HAS ADOPTED THIS REGULATION:

Article 1

In Annex V to amended Regulation (EEC) No 1678/85, the line relating to pigmeat is hereby replaced by the following:

Products	Agricultural conversion rates			
	1 ECU = ... Ptas	Applicable until	1 ECU = ... Ptas	Applicable from
'Pigmeat	152,665	8 January 1989	151,486	9 January 1989'

Article 2

This Regulation shall enter into force on 9 January 1989.

[1] OJ No L 312, 18. 11. 1988, p. 16.
[2] OJ No L 164, 24. 6. 1985, p. 6.
[3] OJ No L 182, 3. 7. 1987, p. 1.
[4] OJ No L 164, 24. 6. 1985, p. 11.
[5] OJ No L 362, 30. 12. 1988, p. 14.
[6] OJ No L 310, 21. 11. 1985, p. 4.
[7] OJ No L 307, 12. 11. 1988, p. 28.

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

Done at Brussels, 5 January 1989.

For the Commission

Frans ANDRIESSEN

Vice-President

COMMISSION REGULATION (EEC) No 20/89

of 4 January 1989

amending Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff

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 last amended by Regulation (EEC) No 4107/88 [2], and in particular Article 9 (1) thereof,

Whereas the Council, by Decision 87/149/EEC [3], approved, in the name of the Community, the agreement in the form of an Exchange of Letters between the European Economic Community and the United States of America on the Mediterranean preferences, citrus and pasta ; whereas the said Agreement enters into force on 1 January 1989 ;

Whereas the Agreement foresees import measures amending certain rates of duty laid down in the combined nomenclature, established by Regulation (EEC) No 2658/87 ;

Whereas it is appropriate to include those amended rates in the combined nomenclature ;

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

HAS ADOPTED THIS REGULATION :

Article 1

The combined nomenclature annexed to Council Regulation (EEC) No 2658/87, as amended by Commission Regulation (EEC) No 3174/88 [4], is hereby amended in accordance with the Annex 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 1989.

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

Done at Brussels, 4 January 1989.

For the Commission

COCKFIELD

Vice-President

(1) OJ No L 256, 7. 9. 1987, p. 1.
(2) OJ No L 361, 29. 12. 1988, p. 1.
(3) OJ No L 62, 5. 3. 1987, p. 22.
(4) OJ No L 298, 31. 10. 1988, p. 1.

ANNEX

CN code	Description	Rate of duty		Supplementary unit
		Autonomous (%) or levy (AGR)	Conventional (%)	
1	2	3	4	5
0802	**Other nuts, fresh or dried, whether or not shelled or peeled :**			
	– Almonds :			
0802 11	**– – In shell :**			
0802 11 10	(unchanged)			
0802 11 90	– – – Other	7	7 (1)	—
0802 12	**– – Shelled :**			
0802 12 10	(unchanged)			
0802 12 90	– – – Other	7	7 (1)	—
0802 21 00 to 0802 90 90	(unchanged)			

(1) Duty rate of 2 %, within the limits of a global annual tariff quota of 45 000 tonnes to be granted by the competent Community authorities.

1	2	3	4	5
0805	**Citrus fruit, fresh or dried :**			
0805 10	**– Oranges :**			
	– – Sweet oranges, fresh :			
	– – – From 1 to 30 April :			
0805 10 11	– – – – Sanguines and semi-sanguines	15 (1)	13 (2)	—
	– – – – Other :			
0805 10 15	– – – – – Navels, Navelines, Navelates, Salustianas, Vernas, Valencia lates, Maltese, Shamoutis, Ovalis, Trovita and Hamlins	15 (1)	13 (2)	—
0805 10 19	– – – – – Other	15 (1)	13 (2)	—
0805 10 21 to 0805 10 39	(unchanged)			
	– – – From 16 October to 31 March :			
0805 10 41	– – – – Sanguines and semi-sanguines	20 (1)	(2)	—
	– – – – Other :			
0805 10 45	– – – – – Navels, Navelines, Navelates, Salustianas, Vernas, Valencia lates, Maltese, Shamoutis, Ovalis, Trovita and Hamlins	20 (1)	(2)	—
0805 10 49	– – – – – Other	20 (1)	(2)	—
0805 10 70 to 0805 10 90	(unchanged)			

1	2	3	4	5
0805 20	— **Mandarins (including tangerines and satsumas); clementines, wilkings and similar citrus hybrids:**			
0805 20 10 to 0805 20 70	(unchanged)			
0805 20 90	— — Other	20 (1)	(3)	—
0805 30	— **Lemons *(Citrus limon, Citrus limonum)* and limes *(Citrus aurantifolia)*:**			
0805 30 10	— — Lemons *(Citrus limon, Citrus limonum)*	8 (1)	(4)	—
0805 30 90	(unchanged)			
0805 40 00	— **Grapefruit**	12	3 (5)	—
0805 90 00	(unchanged)			

(1) In addition to the customs duty, the application of a countervailing charge is provided for under certain conditions.

(2) Duty rate of 10 % for high-quality sweet oranges during the period 1 February to 30 April, within the limits of a tariff quota of 20 000 tonnes to be granted by the competent Community authorities. Qualification for this quota is governed by conditions laid down in the relevant Community provisions.

(3) Duty rate of 2 % for grapefruit hybrids known as 'minneolas' during the period 1 February to 30 April, within the limits of a tariff quota of 15 000 tonnes to be granted by the competent community authorities. Qualification for this quota is governed by conditions laid down in the relevant Community provisions.

(4) Duty rate of 6 % during the period 15 January to 14 June, within the limits of a tariff quota of 10 000 tonnes to be granted by the competent Community authorities.

(5) Duty rate of 1,5 % during the period 1 November to 30 April.

1	2	3	4	5
2008	**Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:**			
	— **Nuts ground-nuts and other seeds, whether or not mixed together:**			
2008 11	— — **Ground-nuts:**			
2008 11 10	(unchanged)			
	(unchanged)			
2008 11 91	— — — — Exceeding 1 kg	17	14 (1)	—
2008 11 99	— — — — Not exceeding 1 kg	22 (2)	16 (3)	—
2008 19	— — **Other, including mixtures:**			
2008 19 10	(unchanged)			
2008 19 90	— — — In immediate packings of a net content not exceeding 1 kg	22 (2)	16	—
2008 20 to 2008 99 99	(unchanged)			

(1) Duty rate of 12 % for roasted ground-nuts.

(2) Duty rate of 12 % for roasted nuts until 31 December 1990.

(3) Duty rate of 14 % for roasted ground-nuts.

1	2	3	4	5
2009	**Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter :**			
	– Orange juices :			
2009 11	**– – Frozen :**			
2009 11 11 to 2009 11 19	(unchanged)			
	– – – Of a density not exceeding 1,33 g/cm³ 20 °C :			
2009 11 91	(unchanged)			
2009 11 99	– – – – Other	21	19 + AD S/Z (1)	—
2009 19 to 200990 99	(unchanged)			

(1) Duty rate of 13 % for frozen concentrated orange juice, without added sugar, having a degree of concentration of up to 50° Brix, in containers of two litres or less, not containing blood orange concentrate, within the limits of an annual tariff quota of 1 500 tonnes to be granted by the competent authorities. Qualification for this quota is governed by conditions laid down in the relevant Community provisions.

COMMISSION REGULATION (EEC) No 21/89
of 5 January 1989
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 [1], as last amended by Regulation (EEC) No 2210/88 [2], and in particular Article 27 (4) thereof,

Having regard to Council Regulation (EEC) No 1678/85 of 11 June 1985 fixing the conversion rates to be applied in agriculture [3], as last amended by Regulation (EEC) No 4136/88 [4],

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

Having regard to the opinion of the Monetary Committee,

Whereas the amount of the subsidy referred to in Article 27 of Regulation No 136/66/EEC was fixed by Commission Regulation (EEC) No 3806/88 [7], as last amended by Regulation (EEC) No 4166/88 [8];

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 3806/88 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,

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 [9] are as set out in the Annexes hereto.

2. The amount of the compensatory aid referred to in Article 14 of Council Regulation (EEC) No 475/86 [10] are as shown in Annex III to this Regulation for sunflower seed harvested in Spain.

3. The amount of the special subsidy provided for by Council Regulation (EEC) No 1920/87 [11] for sunflower seed harvested and processed in Portugal is fixed in Annex III.

Article 2

This Regulation shall enter into force on 6 January 1989.

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

Done at Brussels, 5 January 1989.

For the Commission
Frans ANDRIESSEN
Vice-President

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[1] OJ No 172, 30. 9. 1966, p. 3025/66.
[2] OJ No L 197, 26. 7. 1988, p. 1.
[3] OJ No L 164, 24. 6. 1985, p. 11.
[4] OJ No L 362, 30. 12. 1988, p. 13.
[5] OJ No L 167, 25. 7. 1972, p. 9.
[6] OJ No L 197, 26. 7. 1988, p. 10.
[7] OJ No L 335, 7. 12. 1988, p. 18.
[8] OJ No L 367, 31. 12. 1988, p. 35.
[9] OJ No L 266, 28. 9. 1983, p. 1.
[10] OJ No L 53, 1. 3. 1986, p. 47.
[11] OJ No L 183, 3. 7. 1987, p. 18.

ANNEX I

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

(amounts per 100 kg)

	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5	5th period 6
1. Gross aids (ECU):						
— Spain	0,580	0,580	0,580	0,580	0,580	0,580
— Portugal	0,000	0,000	0,000	0,000	0,000	0,000
— Other Member States	18,662	18,751	18,916	19,081	19,323	19,170
2. Final aids:						
(a) Seed harvested and processed in:						
— Federal Republic of Germany (DM)	44,48	44,69	45,08	45,50	46,07	45,97
— Netherlands (Fl)	49,59	49,83	50,26	50,70	51,34	51,19
— BLEU (Bfrs/Lfrs)	901,13	905,43	913,40	921,36	933,05	925,66
— France (FF)	136,00	136,62	137,84	139,05	140,88	139,67
— Denmark (Dkr)	163,17	163,94	165,39	166,84	168,97	167,61
— Ireland (£ Irl)	15,125	15,194	15,329	15,465	15,667	15,534
— United Kingdom (£)	11,582	11,632	11,737	11,827	11,988	11,787
— Italy (Lit)	28 923	29 053	29 210	29 344	29 735	29 107
— Greece (Dr)	1 864,92	1 856,54	1 847,46	1 837,31	1 870,85	1 747,17
(b) Seed harvested in Spain and processed:						
— in Spain (Pta)	89,44	89,44	89,44	89,44	89,44	89,44
— in another Member State (Pta)	2 886,27	2 901,17	2 918,25	2 931,29	2 968,85	2 906,54
(c) Seed harvested in Portugal and processed:						
— in Portugal (Esc)	0,00	0,00	0,00	0,00	0,00	0,00
— in another Member State (Esc)	4 079,91	4 095,88	4 109,98	4 117,75	4 162,95	4 072,56

ANNEX II

Aids to colza and rape seed 'double zero'

(amounts per 100 kg)

	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5	5th period 6
1. Gross aids (ECU):						
— Spain	3,080	3,080	3,080	3,080	3,080	3,080
— Portugal	2,500	2,500	2,500	2,500	2,500	2,500
— Other Member States	21,162	21,251	21,416	21,581	21,823	21,670
2. Final aids:						
(a) Seed harvested and processed in:						
— Federal Republic of Germany (DM)	50,38	50,59	50,99	51,40	51,98	51,88
— Netherlands (Fl)	56,21	56,44	56,88	57,32	57,96	57,81
— BLEU (Bfrs/Lfrs)	1 021,85	1 026,14	1 034,11	1 042,08	1 053,77	1 046,38
— France (FF)	154,96	155,58	156,80	158,01	159,84	158,63
— Denmark (Dkr)	185,28	186,05	187,49	188,94	191,08	189,71
— Ireland (£ Irl)	17,235	17,304	17,439	17,574	17,777	17,643
— United Kingdom (£)	13,269	13,319	13,424	13,515	13,676	13,475
— Italy (Lit)	33 011	33 140	33 298	33 432	33 823	33 195
— Greece (Dr)	2 236,91	2 228,53	2 219,45	2 209,31	2 242,84	2 119,17
(b) Seed harvested in Spain and processed:						
— in Spain (Pta)	474,98	474,98	474,98	474,98	474,98	474,98
— in another Member State (Pta)	3 271,80	3 286,70	3 303,78	3 316,82	3 354,38	3 292,08
(c) Seed harvested in Portugal and processed:						
— in Portugal (Esc)	470,02	470,02	470,02	470,02	470,02	470,02
— in another Member State (Esc)	4 549,92	4 565,90	4 580,00	4 587,76	4 632,97	4 542,58

ANNEX III

Aids to sunflower seed

(amounts per 100 kg)

	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5
1. Gross aids (ECU):					
— Spain	5,170	5,170	5,170	5,170	5,170
— Portugal	0,000	0,000	0,000	0,000	0,000
— Other Member States	24,006	24,307	24,810	25,188	25,372
2. Final aids:					
(a) Seed harvested and processed in (1):					
— Federal Republic of Germany (DM)	57,09	57,80	58,98	59,90	60,34
— Netherlands (Fl)	63,73	64,53	65,86	66,86	67,35
— BLEU (Bfrs/Lfrs)	1 159,18	1 173,71	1 198,00	1 216,25	1 225,14
— France (FF)	176,62	178,89	182,75	185,62	186,97
— Denmark (Dkr)	210,45	213,11	217,57	220,92	222,53
— Ireland (£ Irl)	19,645	19,898	20,327	20,646	20,797
— United Kingdom (£)	15,206	15,407	15,754	15,997	16,113
— Italy (Lit)	37 687	38 176	38 911	39 412	39 698
— Greece (Dr)	2 675,49	2 705,86	2 760,74	2 790,82	2 810,35
(b) Seed harvested in Spain and processed:					
— in Spain (Pta)	797,28	797,28	797,28	797,28	797,28
— in another Member State (Pta)	3 739,13	3 785,83	3 853,75	3 899,39	3 928,54
(c) Seed harvested in Portugal and processed:					
— in Portugal (Esc)	0,00	0,00	0,00	0,00	0,00
— in Spain (Esc)	6 785,32	6 843,21	6 925,08	6 976,60	7 011,15
— in another Member State (Esc)	6 612,89	6 669,30	6 749,10	6 799,30	6 832,97
3. Compensatory aids:					
— in Spain (Pta)	3 689,00	3 736,66	3 806,03	3 851,67	3 883,23
4. Special aid:					
— in Portugal (Esc)	6 612,89	6 669,30	6 749,10	6 799,30	6 832,97

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

ANNEX IV

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

(value of 1 ECU)

	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5	5th period 6
DM	2,078620	2,074570	2,070810	2,067140	2,067140	2,056470
Fl	2,346590	2,342190	2,338840	2,335220	2,335220	2,324440
Bfrs/Lfrs	43,567699	43,556700	43,550300	43,540500	43,540500	43,501400
FF	7,100390	7,106360	7,111830	7,117510	7,117510	7,133620
Dkr	8,031610	8,032520	8,035340	8,037620	8,037620	8,042920
£Irl	0,777449	0,777148	0,777563	0,777978	0,777978	0,779396
£	0,648280	0,649701	0,650914	0,652174	0,652174	0,656239
Lit	1 528,58	1 535,18	1 540,78	1 546,33	1 546,33	1 562,29
Dr	173,09700	174,66300	176,20500	177,78700	177,78700	182,89000
Esc	171,60700	172,38100	173,18800	174,17900	174,17900	176,80900
Pta	132,76600	133,28100	133,80200	134,33400	134,33400	135,92000

COMMISSION REGULATION (EEC) No 22/89

of 5 January 1989

fixing the export refunds on cereals and on wheat or rye flour, groats and meal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals [1], as last amended by Regulation (EEC) No 2221/88 [2], and in particular the fourth subparagraph of Article 16 (2),

Having regard to the opinion of the Monetary Committee,

Whereas Article 16 of Regulation (EEC) No 2727/75 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products in the Community may be covered by an export refund;

Whereas Article 2 of Council Regulation (EEC) No 2746/75 of 29 October 1975 laying down general rules for granting export refunds on cereals and criteria for fixing the amount of such refunds [3], provides that when refunds are being fixed, account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals on the Community market on the one hand, and prices for cereals and cereal products on the world market on the other; whereas the same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on cereal markets and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances on the Community market;

Whereas Article 3 of Regulation (EEC) No 2746/75 defines the specific criteria to be taken into account when the refund on cereals is being calculated;

Whereas these specific criteria are defined, as far as wheat and rye flour, groats and meal are concerned, in Article 4 of Regulation (EEC) No 2746/75; whereas furthermore, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture; whereas these quantities were fixed in Commission Regulation No 162/67/EEC [4], as amended by Regulation (EEC) No 1607/71 [5];

Whereas the world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination;

Whereas the refund must be fixed once a month; whereas it may be altered in the intervening period;

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

— in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 % a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85 [6], as last amended by Regulation (EEC) No 1636/87 [7];

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

Whereas it follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto;

Whereas, pursuant to Article 275 of the Act of Accession of Spain and Portugal, refunds may be granted in the case of exports to Portugal; whereas, in the light of the situation and the level of prices no refund should be fixed in the case of exports to Portugal;

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

[1] OJ No L 281, 1. 11. 1975, p. 1.
[2] OJ No L 197, 26. 7. 1988, p. 16.
[3] OJ No L 281, 1. 11. 1975, p. 78.
[4] OJ No 128, 27. 6. 1967, p. 2574/67.
[5] OJ No L 168, 27. 7. 1971, p. 16.
[6] OJ No L 164, 24. 6. 1985, p. 1.
[7] OJ No L 153, 13. 6. 1987, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 2727/75, exported in the natural state, shall be as set out in the Annex hereto.

The refund on export to Portugal has not been fixed.

Article 2

This Regulation shall enter into force on 6 January 1989.

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

Done at Brussels, 5 January 1989.

For the Commission

Frans ANDRIESSEN

Vice-President

ANNEX

to the Commission Regulation of 5 January 1989 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

Product code	Destination (1)	Amount of refund
0709 90 60 000	—	—
0712 90 19 000	—	—
1001 10 10 000	01	0
1001 10 90 000	04 07 02	21,00 (2) 22,00 20,00 (2)
1001 90 91 000	01	0
1001 90 99 000	05 07 06 02	55,00 22,00 60,00 20,00
1002 00 00 000	06 02	60,00 20,00
1003 00 10 000	01	0
1003 00 90 000	05 07 02	60,00 22,00 20,00
1004 00 10 000	01	0
1004 00 90 000	01	0
1005 10 90 000	—	—
1005 90 00 000	03 02	70,00 0
1007 00 90 000	—	—
1008 20 00 000	—	—
1101 00 00 110	01	92,00
1101 00 00 120	01	92,00
1101 00 00 130	01	84,00
1101 00 00 150	01	74,00
1101 00 00 170	01	64,00
1101 00 00 180	01	54,00
1101 00 00 190	—	—
1101 00 00 900	—	—
1102 10 00 100	01	92,00
1102 10 00 200	01	92,00
1102 10 00 300	01	92,00
1102 10 00 500	01	92,00
1102 10 00 900	—	—
1103 11 10 100	01	201,00
1103 11 10 200	01	190,00
1103 11 10 500	01	170,00
1103 11 10 900	01	160,00
1103 11 90 100	01	92,00
1103 11 90 900	—	—

(1) The destinations are identified as follows:

01 All third countries,

02 Other third countries,

03 Switzerland, Austria and Liechtenstein,

04 Algeria,

05 Switzerland, Austria, Liechtenstein, Ceuta and Melilla,

06 Zone II b),

07 Poland.

(2) The refund cannot be granted if the quality of durum wheat exported corresponds to less than the quality defined in paragraph 2 of Article 2 of Commission Regulation (EEC) No 1569/77 with the exception of impurities constituted by grain (other than mottled grains and grains affected with fusariosis); 7 % maximum of which 5 % of soft wheat or other cereals.

NB: The zones are those defined in Commission Regulation (EEC) No 1124/77 (OJ No L 134, 28. 5. 1977, p. 53), as last amended by Regulation (EEC) No 296/88 (OJ No L 30, 2. 2. 1988, p. 9).

COMMISSION REGULATION (EEC) No 23/89

of 5 January 1989

fixing the export refunds on 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 2221/88 (2), and in particular the fourth subparagraph of Article 16 (2) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas Article 16 of Regulation (EEC) No 2727/75 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of those Regulations and prices for those products within the Community may be covered by an export refund;

Whereas Article 2 of Council Regulation (EEC) No 2746/75 (3), laying down general rules for granting export refunds on cereals and criteria for fixing the amount of such refunds, provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals on the Community market on the one hand and prices for cereals and cereal products on the world market on the other; whereas the same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on cereal markets and, furthermore, to take into account the economic aspect of the proposed exports, and the need to avoid disturbances on the Community market;

Whereas Council Regulation (EEC) No 2744/75 of 29 October 1975 on the import and export system for products processed from cereals and from rice (4), as last amended by Regulation (EEC) No 1906/87 (5), defines the specific criteria to be taken into account when the refund on these products is being calculated;

Whereas it follows from applying these detailed rules to the present situation on the market in products processed from cereals and rice that the export refund should be fixed at an amount which will cover the difference between Community prices and world market prices;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination;

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

— in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85 (6), as last amended by Regulation (EEC) No 1636/87 (7),

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

Whereas the refund must be fixed once a month; whereas it may be altered in the intervening period;

Whereas, pursuant to Article 275 of the Act of Accession of Spain and Portugal, refunds may be granted in the case of exports to Portugal; whereas, in the light of the situation and the level of prices no refund should be fixed in the case of exports to Portugal;

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 export refunds on malt listed in Article 1 (d) of Regulation (EEC) No 2727/75 subject to Regulation (EEC) No 2744/75 shall be as set out in the Annex hereto.

The refund on export to Portugal has not been fixed.

Article 2

This Regulation shall enter into force on 6 January 1989.

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 197, 26. 7. 1988, p. 16.
(3) OJ No L 281, 1. 11. 1975, p. 78.
(4) OJ No L 281, 1. 11. 1975, p. 65.
(5) OJ No L 182, 3. 7. 1987, p. 49.

(6) OJ No L 164, 24. 6. 1985, p. 1.
(7) OJ No L 153, 13. 6. 1987, p. 1.

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

Done at Brussels, 5 January 1989.

For the Commission
Frans ANDRIESSEN
Vice-President

ANNEX

to the Commission Regulation of 5 January 1989 fixing the export refunds on malt

(ECU / tonne)

Product code	Refund
1107 10 19 000	73,15
1107 10 99 000	83,00
1107 20 00 000	95,30

NB : The product codes and the footnotes are defined in Commission Regulation (EEC) No 3846/87 as amended (OJ No L 366, 24. 12. 1987, p. 1).

COMMISSION REGULATION (EEC) No 24/89

of 5 January 1989

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

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

Whereas Council Regulation (EEC) No 3005/88 [3], (EEC) No 3175/88 [4], (EEC) No 3552/88 [5] and (EEC) No 4078/88 [6] open and provide for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Jordan, Morocco and Israel respectively;

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

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

or

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

Whereas Commission Regulation (EEC) No 3557/88 [7] fixes the Community producer prices for carnations and roses for the application of the import arrangements;

Whereas Commission Regulation (EEC) No 700/88 [8], as amended by Regulation (EEC) No 3556/88 [9], lays down the detailed rules for the application of the arrangements;

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

— for the currencies which are maintained against one another within a maximum spread at any given moment for spot rate transactions of 2,25 %, a conversion rate based on their central rate adjusted by the correcting factor provided for in the last subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85 [10], as last amended by Regulation (EEC) No 1636/87 [11];

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

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

HAS ADOPTED THIS REGULATION:

Article 1

For imports of large-flowered roses originating in Israel, the preferential customs duty fixed by Council Regulation (EEC) No 4078/88 is hereby suspended and the Common Customs Tariff duty is hereby reintroduced from 7 January 1989.

Article 2

This Regulation shall enter into force on 7 January 1989.

[1] OJ No L 382, 31. 12. 1987, p. 22.
[2] OJ No L 311, 17. 11. 1988, p. 1.
[3] OJ No L 271, 1. 10. 1988, p. 7.
[4] OJ No L 283, 18. 10. 1988, p. 1.
[5] OJ No L 311, 17. 11. 1988, p. 2.
[6] OJ No L 359, 28. 12. 1988, p. 8.
[7] OJ No L 311, 17. 11. 1988, p. 9.
[8] OJ No L 72, 18. 3. 1988, p. 16.
[9] OJ No L 311, 17. 11. 1988, p. 8.
[10] OJ No L 164, 24. 6. 1985, p. 1.
[11] OJ No L 153, 13. 6. 1987, p. 1.

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

Done at Brussels, 5 January 1989.

For the Commission

Frans ANDRIESSEN

Vice-President

CORRIGENDA

Corrigendum to Commission Regulation (EEC) No 4166/88 of 30 December 1988 fixing the amount of the subsidy on oil seeds

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

On page 38, Annex III:

— 2. (b) Seed harvested in Spain and processed in another Member State, column '4th period':

for: '0,00',

read: '3 759,22';

— 3. Compensatory aids in Spain, column '4th period':

for: '– 47,23',

read: '3 711,98'.