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II

(Acts whose publication is not obligatory)

COUNCIL**COUNCIL DIRECTIVE**

of 28 June 1973

on the abolition of restrictions on freedom of establishment and freedom to provide services in respect of self-employed activities of banks and other financial institutions

(73/183/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 54 (2) and (3), Article 61 (2) and Article 63 (2) and (3) thereof;

Having regard to the General Programme for the abolition of restrictions on freedom of establishment ⁽¹⁾, and in particular Title IV A thereof;

Having regard to the General Programme for the abolition of restrictions on freedom to provide services ⁽²⁾, and in particular Title V C 2 (b) thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament ⁽³⁾;

Having regard to the Opinion of the Economic and Social Committee ⁽⁴⁾;

Having regard to the Opinion of the Monetary Committee;

Whereas, as regards banks and other financial institutions, the General Programmes provide for the

abolition, before the end of the second year of the second stage, of restrictions on freedom of establishment and freedom to provide services not linked with capital movements and the abolition, at the same rate as the liberalization of capital movements, of restrictions on banking services linked with such capital movements;

Whereas, as regards services linked with capital movements, a series of closely specified activities should be liberalized in an initial stage, having regard to the Opinion of the Monetary Committee; whereas the list of such activities will be supplemented, particularly on the basis of progress in liberalizing capital movements;

Whereas the provider of a service may, in order to provide his service, temporarily pursue his activity in the country in which the service is supplied under the same conditions as those applied by that country to its own nationals;

Whereas the activities of brokers pose particular problems because of the rules governing the taking-up and pursuit of such activity in the various countries; whereas the liberalization of this activity should be the subject of a future Directive;

⁽¹⁾ OJ No 2, 15. 1. 1962, p. 36/62.

⁽²⁾ OJ No 2, 15. 1. 1962, p. 32/62.

⁽³⁾ OJ No 201, 5. 11. 1966, p. 3472/66.

⁽⁴⁾ OJ No 224, 5. 12. 1966, p. 3799/66.

Whereas the activities of self-employed intermediaries in the sector of banks and other financial institutions is not covered by the Council Directive of 25 February 1964 relating to the achievement of freedom of establishment and the freedom to provide services in respect of the activities of intermediaries in commerce, industry and small craft industries ⁽¹⁾; whereas such activities should therefore be included in this Directive;

Whereas, however, in the present state of the various bodies of legislation, the activities of intermediaries moving to another Member State in order to provide services there would pose problems difficult to resolve; whereas there should therefore be a further Directive on the liberalization of the provision of services by such intermediaries;

Whereas, pending coordination, this Directive does not alter the provisions of the Member States laid down by law, regulation or administrative action which, applicable without condition as to nationality, forbid natural persons and companies or firms constituted in certain forms to pursue any one of the activities covered by this Directive;

Whereas the General Programme for the abolition of restrictions on freedom of establishment provides that restrictions on the right to join professional or trade organizations must be abolished where the professional activities of the person concerned necessarily involve the exercise of this right;

Whereas, although the provisions laid down by law, regulation or administrative action relating to the taking-up and pursuit of the activities covered by this Directive should be coordinated as soon as possible, restrictions can be abolished without prior or simultaneous reference to this coordination;

Whereas it should be guaranteed that there is joint examination of the problems which will face the authorities responsible in the Community and the Member States for implementing banking regulations, concerning supervision of the activities covered by this Directive and to this end close cooperation should be established between the Commission and the Member States and among the latter;

Whereas measures that a Member State might take in order to implement joint decisions taken in the

framework of monetary cooperation between the Member States do not constitute restrictions within the meaning of this Directive;

HAS ADOPTED THIS DIRECTIVE:

Article 1

Member States shall abolish, in respect of the natural persons and companies or firms covered by Title I of the General Programmes for the abolition of restrictions on freedom of establishment and freedom to provide services (hereinafter called 'beneficiaries'), the restrictions referred to in Title III of those General Programmes affecting the right to take up and pursue the activities specified in Article 2 of this Directive.

As regards the provision of services linked with capital movements, this Directive shall only apply to the services listed in Annex I excluding those provided by the managers and trustees of unit trusts.

The following services connected with securities and involving the transfer of the provider of the service to the country of the beneficiary shall not be liberalized:

- receipt of orders to buy or to sell,
- participation as intermediary in transfers outside the market and the recording of such transfers,
- information or advice given following a public offer,
- payment of coupons.

Article 2

This Directive shall apply to activities of self-employed persons falling within Group 620 of Annex I of the General Programme for the abolition of restrictions on freedom of establishment, as set out in Annex II to this Directive, except for the activity of brokers (Category 4 of Annex II).

This Directive shall not apply to the provision of services, in connection with banks and other financial institutions, by self-employed intermediaries who move to a Member State other than that in which they are established.

Article 3

1. Member States shall in particular abolish the following restrictions:

⁽¹⁾ OJ No 56, 4. 4. 1964, p. 869/64.

(a) those which prevent beneficiaries from establishing themselves or from providing services in the host country under the same conditions and with the same rights as nationals of that country;

(b) those existing by reason of administrative practices which result in treatment being applied to beneficiaries that is discriminatory by comparison with that applied to nationals.

2. The restrictions to be abolished shall include in particular those arising out of measures which prohibit or limit establishment or the provision of services by beneficiaries by the following means:

(a) *in Belgium:*

- the obligation imposed by Article 10 of arrêté royal No 185 of 9 July 1935 for foreign banks belonging to private individuals or constituted in the form of a partnership to operate in Belgium with a capital of at least 10 million francs required for Belgian banks of the same type is only 2 million francs,
- the reciprocity requirement referred to in Article 8 of the provisions for the control of private savings banks, coordinated by the Law of 23 June 1967, and in Article 8 of arrêté royal No 43 of 15 December 1934, as regards private savings banks and financing companies respectively, and in Articles 38 and 44 of arrêté royal No 225 of 7 January 1936 as regards mortgage undertakings;

(b) *in Denmark:*

- necessity for a special authorization for foreign banks stipulated by Law No 122 of 15 April 1930, amended by Laws No 163 of 13 April 1938 and No 134 of 29 May 1956,
- the nationality requirement demanded of members of the board of directors and managers of banks and branches located in Denmark, by Article 8 (2) of the abovementioned Law,
- the nationality requirement demanded of members of the supervisory board, by Article 8 (3) of the abovementioned Law,
- the nationality requirement demanded of the supervisory board and managers of savings banks and branch savings banks by Article

7 (6) of Law No 159 of 18 May 1937, in conjunction with Law No 327 of 3 July 1950, which were amended by Article 18 of Law No 286 of 18 June 1951, and by Law No 343 of 23 December 1959;

(c) *in France:*

- the obligation to hold a carte d'identité de commerçant pour les étrangers, imposed by the décret-loi of 12 November 1938 and the décret of 2 February 1939, as amended by the Law of 8 October 1940,
- the nationality requirement for persons who carry out banking operations, direct, administer or manage a company or firm or an agency for a company or firm which carries out these operations, who sign, on behalf of a bank, with power of attorney, the papers relating to the said operations, laid down by Article 7 of the Law of 13 June 1941, as amended by Article 49 of Law No 51-592 of 24 May 1951, and by Article 2 of the décret of 28 May 1946,
- the nationality requirement laid down for the undertakings referred to in Articles 1 and 2 of the Law of 14 June 1941 by Articles 7 and 11 of the same Law which refer to the requirements laid down in banking matters,
- the nationality requirement laid down for auxiliaries of the banking professions, referred to in Article 13 of the Law of 14 June 1941, as amended by the ordonnance of 16 October 1958,
- the nationality requirement laid down for démarcheurs en valeurs mobilières by Article 8 of the Law No 72-6, 3 January 1972,
- the nationality requirement laid down for auxiliaries of the stock market professions referred to in Article 5 of Law No 72-1128 of 21 December 1972,
- the nationality requirement laid down by Article 11 of ordonnance No 45-2710 of 2 November 1945 for the Chairman of the Board of Directors, the Managing Director and at least two-thirds of the board of any investment company,
- the registration of foreign banks on a special list, referred to in Article 15 of the Law of 13 June 1941;

(d) in Ireland:

- the requirement to be constituted in Ireland for any company which requests approval for access to banking activity and stipulated by the instructions of the Central Bank in the setting of the powers conferred upon it by Article 9 of Law No 24 of 28 July 1971, and published in the autumn 1972 number of the 'Quarterly Bulletin' of the said Bank,
- the nationality requirement laid down for the majority of the members to the board of directors, stipulated by the same instructions as above,
- the nationality requirement and, for companies, the requirement that they be constituted in Ireland, imposed on those who intend to exercise a professional activity as a loan enterprise, by Article 6 (3) of Law No 36 of 2 October 1933,
- the obligation to be constituted in Ireland required of any company which intends to exercise the activity of manager and trustee of a unit trust, stipulated by Article 3 (1) (b) and (c) of Law No 23 of 18 July 1972;

(e) in Italy:

- the reciprocity requirement, referred to in Article 2 of regio decreto No 1620 of 4 September 1919 concerning banks, and the discriminatory requirements regarding foreigners, which are imposed individually by ministerial decree when the said Article is implemented;

(f) in the Grand Duchy of Luxembourg:

- the limited duration of authorizations granted to foreigners, laid down in Article 21 of the Law of 2 June 1962;

(g) in the Netherlands:

- the nationality requirement for members of the 'Vereniging voor den Effectenhandel te Amsterdam', the 'Vereniging van Effectenhandelaren te Rotterdam' and the 'Bond voor de Geld- en Effectenhandel in de Provincie te 's-Gravenhage' laid down by their statutes, approved by the Ministerial authorities;

(h) in the United Kingdom:

- the obligation to be constituted in the United Kingdom imposed on any company which intends to exercise the activity of manager and

trustee of a unit trust, stipulated by Article 17 (1) (a), of Title 45 of the Law of 23 July 1958, known as the 'Prevention of Fraud (Investments) Act', and by Article 15 (1) (a), of Title 9 of the Law of 28 May 1940, known as the 'Prevention of Fraud (Investments) Act (Northern Ireland)'.

Article 4

1. Member States shall ensure that beneficiaries have the right to join professional or trade organizations under the same conditions and with the same rights and obligations as their own nationals.
2. The right to join professional or trade organizations shall, in the case of establishment, entail eligibility for election or appointment to high office in such organizations. However, such posts may be reserved for nationals where, in pursuance of any provision laid down by law or regulation, the organization concerned is involved in the exercise of official authority.
3. In the Grand Duchy of Luxembourg, membership of the Chambre de Commerce shall not give beneficiaries the right to take part in the election of the administrative organs of that Chamber.

Article 5

1. Where a Member State requires of its own nationals, who wish to pursue one of the activities referred to in Article 2, either an extract from the 'judicial records' or the production of a specific document, it shall accept, in respect of nationals of other Member States, the production of the document required for the same purpose in the Member State of origin or the State from which the foreign national comes or, failing this, an equivalent document issued by a competent judicial or administrative authority in the State of origin or in the State from which the foreign national comes.
2. Where a Member State takes other information into account in respect of its own nationals, account may also be taken of facts other than those which may appear in the documents referred to in paragraph 1 if they can be substantiated and if they show that the person concerned does not fulfil all the requirements as to good repute necessary in order to pursue his activity.

Member States shall accord to certificates issued by the competent judicial or administrative authorities of the country of origin or country from which the foreign national comes and relating to the existence

or non-existence of certain facts the same recognition as they accord to certificates issued by their own authorities.

3. Where a Member State requires of its own nationals wishing to take up or pursue any activity referred to in Article 2 proof of no previous bankruptcy, that State shall accept, in respect of nationals of other Member States, the production of the certificate usually issued for this purpose by the authorities of the Member State of origin or country from which the foreign national comes.

4. Where the country of origin or the country from which the foreign national comes does not issue one of the documents referred to in paragraphs 1 and 3, such proof may be replaced by a declaration on oath — or, in States where there is no provision for declaration on oath, by a solemn declaration — made by the person concerned before a competent judicial or administrative authority, or, where appropriate, a notary, in the country from which the person comes; such authority or notary will issue a certificate attesting the authority of the declaration on oath or solemn declaration. A declaration in respect of no previous bankruptcy may also be made before a competent professional or trade body in the said country.

5. Documents issued in accordance with paragraphs 1, 2 and 3 may not be produced more than three months after their date of issue.

6. Member States shall, within the time limit laid down in Article 8, designate the authorities and bodies competent to issue these documents and shall forthwith inform the other Member States and the Commission thereof.

Article 6

Pending coordination of the provisions laid down by law, regulation or administrative action relating to legal protection of the title 'bank', 'banker', 'savings bank' or any other equivalent term, unestablished foreign undertakings may provide services under names including such words provided such names are their original ones and that such undertakings leave no doubt as to their status under the national law to which they are subject.

To this end, Member States may require prior registration on a special list of unestablished foreign

providers of services. Such registration may be subject to production of a certificate issued by the authority of the country of origin specifying the status of the undertaking in question under the national legislation applicable.

For public information, the competent authority may publish the list and require foreign providers of services to inform their clients of their legal status and the chief characteristics of and facts about their activity and their financial position.

Article 7

The Commission and the representatives of the authorities responsible in the Member States for the supervision of banks and other financial institutions shall meet regularly so that they may facilitate, for the purpose of implementing the Directive, the solution of problems which the authorities might face regarding supervision of the activities covered by this Directive, and shall ensure all appropriate cooperation among themselves within the limits of their respective powers.

Article 8

Member States shall adopt the measures necessary to comply with this Directive within 18 months of its notification and shall forthwith inform the Commission thereof.

However, as regards the abolition of the restriction referred to in Article 3 (2) (g), the Netherlands shall be allowed a period of four years as from the date of the said notification.

Article 9

This Directive is addressed to the Member States.

Done at Luxembourg, 28 June 1973.

For the Council

The President

W. DE CLERCQ

ANNEX I

Banking services linked with the capital movements referred to in lists A and B in Annex I to the first Directive of 11 May 1960, as supplemented and amended by the second Directive of 18 December 1962 ⁽¹⁾

LIST A

Direct investments

- Commercial and financial information (soliciting custom, information on solvency of client, statistics, forwarding of accountancy data)
- Assistance and representation before the (administrative and judicial) authorities and other competent bodies
- Advice and assistance to undertakings with a view to their possible merger (seeking of foreign partners, expert advice etc.)
- Aid in large-scale share buying (particularly for take-over bids) in order to obtain a controlling interest in an undertaking (stock exchange formalities, capital financial assessment, ect.)
- Physical exchange of securities
- Custody of securities
- Delivery of securities allotted to the shareholders of a company.

Liquidation of direct investments

- Commercial and financial information (soliciting custom etc.)
- Assistance and representation before the (administrative and judicial) authorities and other competent bodies
- Advice and assistance to undertakings with a view to facilitating liquidation operations
- Aid in the large-scale sale of shares
- Physical exchange of securities
- Custody of securities.

Investments in real estate and liquidation thereof

- Commercial and financial information
- Assistance and representation before the (administrative and judicial) authorities and other competent bodies
- Advice and assistance concerning investments and the liquidation thereof
- Administration of estates (assistance and representation in connection with the upkeep of the property, letting, etc.)
- Assistance for the building-up and possible liquidation of sureties and guarantees of all kinds not issued by banks.

⁽¹⁾ The headings are defined in the explanatory notes annexed to the First Directive for the implementation of Article 67. These definitions have been adopted in this table.
The services listed in this Annex are not liberalized if they relate to capital movements other than those in lists A and B.
The headings underlined correspond to those in lists A and B of the Directives on the capital movements in question.

Personal capital movements

- Estate management on the occasion of succession (payment of taxes, search for missing persons, etc.).

The granting and repayment of short-term and medium-term credits in respect of commercial transactions or provision of services in which a resident is participating

- Commercial and financial information (soliciting custom, etc.)
- Assistance and representation before the (administrative and judicial) authorities and other competent bodies
- Advice on the financial management of an undertaking
- Recovery of claims
- Collection of bills
- Domiciling of bills
- Management of documentary credits
- Assistance for the building-up and possible liquidation of sureties and guarantees of all kinds not issued by banks
- Blocking of cash, bonds or securities belonging to a client and guaranteeing his obligation towards a third party
- Canvassing on behalf of third parties
- Services in connection with factoring operations.

Sureties, other guarantees and rights of pledge and transfers connected with them

(sureties and guarantees issued by banks)

Death duties

- Tax information,
- Tax deposits.

Other capital transactions in list A

From a banking point of view these other transactions only involve transfers.

LIST B**Operations in securities dealt in on a stock exchange excluding units of unit trusts**

- Receipt of orders to buy and sell
- Assistance in the issue of bearer certificates representing securities previously issued and dealt in on a stock exchange
- Servicing of securities (stamping, renewal of coupons, exchange, renewal, regrouping, splitting up, destruction)
- Financial services (payment of coupons, redemption of securities, aid in exercising allotment and subscription rights, etc.)
- Financial information (current information, analyses, etc.)
- Advice on investments in stocks and shares dealt in on a stock exchange

-
- Management of a portfolio of securities dealt in on a stock exchange ⁽¹⁾
 - Acceptance and implementation of powers of attorney for exercising the rights of holders of securities dealt in on a stock exchange (particularly representation at shareholders' meetings and in court)
 - Custody of securities
 - Conversion of securities
 - Assistance for entry on the official list of securities assigned to the holders of securities dealt in on a stock exchange
 - Canvassing on behalf of third parties in connection with securities dealt in on a stock exchange
 - Search for another party with a view to buying or selling securities dealt in on a stock exchange
 - Acting as a clearing house.

⁽¹⁾ These services concern both private and corporate investors.

ANNEX II

Regrouped headings of Isic Group 620 ⁽¹⁾ referred to in Article 2

Banks and other financial institutions such as:

Category 1: Banks

Banks
Merchant banks
Discounting banks

Category 2: Savings and loan undertakings

Instalment sales finance undertakings
Retail sales finance undertakings
Commodity sales finance undertakings
Building and loan associations
Real estate credit agencies
Urban mortgage undertakings
Farm mortgage undertakings
Mortgage guarantee undertakings
Credit undertakings
Short-term-credit undertakings
Agricultural loan institutions
Commercial credit undertakings
Industrial credit undertakings
Personal credit undertakings
Development finance undertakings
Savings banks
Savings and loan banks
Discount and loan
Financial institutions
Rediscount undertakings
Finance companies
Financiers for their own account
Holding companies
Investment companies
Finance-raising holding companies. Financial trustees
Pawnbroking

Category 3: Syndicates

Underwriting syndicates
Surety syndicates
Guarantee syndicates

Category 4: Brokers

Stock-exchange brokers
Outside brokers
Stock jobbers
Brokers in transferable securities

⁽¹⁾ Indexes to the International Standard Industrial Classification of all Economic Activities (ISIC) — United Nations — Statistical Papers Series M, No 4, rev. 1 add.

Category 5: Intermediaries or middlemen

Discount brokers operating on their own account
Bank brokers (*courtiers en banque*)
Financial intermediaries or middlemen

Category 6: Miscellaneous

Foreign exchange offices
Stock exchanges
Precious metals markets
Financial consultancy ⁽¹⁾
Clearing houses
Trust companies ⁽²⁾

⁽¹⁾ For the activities covered by this Directive.

⁽²⁾ Excluding the activities of companies covered by other Directives.

COMMISSION DECISION

of 30 April 1973

fixing the minimum sale price for butter for the 16th individual invitation to tender under the standing invitation to tender provided for by Regulation (EEC) No 1519/72

(73/184/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 804/68 ⁽¹⁾ of 27 June 1968 on the common organization of the market in milk and milk products, as last amended by the Act ⁽²⁾ annexed to the Treaty ⁽³⁾ concerning the Accession of new Member States to the European Economic Community and the European Atomic Energy Community, signed at Brussels on 22 January 1972, and in particular Article 6 ⁽⁷⁾ thereof;

Having regard to Council Regulation (EEC) No 985/68 ⁽⁴⁾ of 15 July 1968 laying down general rules for intervention on the market in butter and cream, as last amended by Regulation (EEC) No 2714/72 ⁽⁵⁾, and in particular Article 7a thereof;

Whereas, pursuant to Commission Regulation (EEC) No 1519/72 ⁽⁶⁾ of 14 July 1972 on the sale of butter at a reduced price for the exportation of certain fat compounds, as last amended by Regulation (EEC)

No 808/73 ⁽⁷⁾, the intervention agencies have put up for sale by standing invitation to tender certain quantities of butter which they hold;

Whereas Article 9 of that Regulation provides that for each individual invitation to tender, in the light of the tender received, a minimum selling price must be fixed for each of the uses referred to in Article 19 (2) (a) and (b) of the Regulation or a decision must be taken not to proceed with the invitation to tender; whereas pursuant to Article 10 of that Regulation the amount of the processing and export security is to be fixed at the same time in the light of the minimum price and the market price for butter;

Whereas Article 30a of Regulation (EEC) No 1519/72 provides for the possibility of introducing offers for butter destined for export to a specified third country, after processing into a product which contains at least 99.8 % of butyric fat, and without the incorporation of a tracer; whereas a minimum selling price and a separate processing and exportation security may be fixed for this purpose;

Whereas having regard to the situation of the market for butter, in the light of the tenders received in response to the 16th individual invitation to tender, it is necessary to fix the minimum prices at the levels specified below, and the amounts of the processing and export security which should be determined in consequence; so far as the allocation is concerned of butter envisaged in Article 19 (2) (a) and in Article 30a of Regulation (EEC) No 1519/72, and in order

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 73, 27. 3. 1972, p. 14.

⁽³⁾ OJ No L 73, 27. 3. 1972, p. 5.

⁽⁴⁾ OJ No L 169, 18. 7. 1968, p. 1.

⁽⁵⁾ OJ No L 291, 28. 12. 1972, p. 15.

⁽⁶⁾ OJ No L 162, 18. 7. 1972, p. 1.

⁽⁷⁾ OJ No L 78, 27. 3. 1973, p. 10.

not to proceed with the invitation to tender, so far as allocation is concerned of butter envisaged in Article 19 (2) (b) of the aforesaid Regulation;

Whereas the measures provided for in this Decision are in accordance with the Opinion of the Management Committee for Milk and Milk Products;

HAS ADOPTED THIS DECISION:

Article 1

1. For the 16th individual invitation to tender under Regulation (EEC) No 1519/72, in respect of which the time for submission of tender expired on 24 April 1973, the minimum prices to be considered when awarding contracts and the amounts of the processing and export security shall be as follows:

Use of butter	Minimum price in u.a./100 kg	Security in u.a./100 kg
(a) Article 19 (2) (a) of Regulation (EEC) No 1519/72	29.9	156.1
(b) Article 30 a of Regu- lation (EEC) No 1519/72	29.9	156.1

2. So far as the allocation of butter envisaged in Article 19 (2) (b) of Regulation (EEC) No 1519/72 is concerned, this individual invitation to tender was not proceeded with.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 30 April 1973.

For the Commission

The President

François-Xavier ORTOLI

COMMISSION RECOMMENDATION

of 15 May 1973

relating to the implementation by the original Member States of the Council Directive of 24 April 1972 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and to the enforcement of the obligation to insure against such liability

(73/185/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 155 thereof;

Whereas by virtue of the Council Directive of 24 April 1972 on the approximation of the laws of Member States relating to insurance against civil liability in respect of the use of motor vehicles, and to the enforcement of the obligation to insure against such liability ⁽¹⁾, as amended by the Council Directive of 19 December 1972 ⁽²⁾, the Member States must not later than 31 December 1973 bring into force the measures necessary to comply with that Directive; whereas, however, the original Member States have declared that as regards vehicles normally based in their territory they would bring into force the appropriate measures within six months of notification of the Directive.

Whereas the original Member States have taken or are about to take the measures necessary to comply with the Directive, at least those which are required for the abolition by each of the Member States of checks on insurance against civil liability in respect of the use of vehicles normally based in the European territory of another original Member State;

Whereas the six national insurers' bureaux of the original Member States concluded an agreement on 16 October 1972 in accordance with the principles of the first indent of Article 2 (2) of the Directive as ascertained by the Commission in close cooperation with the original Member States; whereas this agreement, which has been concluded for an undeter-

minate period, can be annulled if 12 months' notice is given;

Whereas, therefore, all the conditions have been, or are about to be, fulfilled enabling checks on insurance against civil liability to be abolished in relations between the original Member States; whereas abolition of such checks may take effect before the abolition of checks which is required by the Directive for all Member States and the date of which is to be decided by the Commission subsequently;

MAKES THE FOLLOWING RECOMMENDATION:

Article 1

From 1 July 1973 each original Member State shall refrain from making checks on insurance against civil liability in respect of the use of vehicles which are normally based in the European territory of another original Member State and have not been the subject of notification under Article 4 (b) of the Council Directive of 24 April 1972.

Article 2

This Recommendation is addressed to the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands.

Done at Brussels, 15 May 1973.

For the Commission

The President

François-Xavier ORTOLI

⁽¹⁾ OJ No L 103, 2. 5. 1972, p. 1.

⁽²⁾ OJ No L 291, 28. 12. 1972, p. 162, correction in OJ No L 75, 23. 3. 1973, p. 30.

COMMISSION DECISION

of 30 May 1973

concerning applications to the Guidance Section of the EAGGF for reimbursement in respect of the first survey on plantations of fruit trees carried out in accordance with the Council Directive of 26 July 1971

(73/186/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community;

Having regard to the Council Directive of 26 July 1971 ⁽¹⁾ concerning the statistical surveys to be carried out by the Member States in order to determine the production potential of plantations of certain types of fruit trees, and in particular Article 9 (5) thereof;

Whereas Article 4 (1) of the aforementioned Directive provides that Member States are to notify the Commission of the results of the surveys, presented in accordance with the provisions of Article 2, as rapidly as possible and in any case, in respect of the first survey, before 1 September 1973; whereas Article 4 (2) provides that results must be supplied for each production area, or, where this is not possible, by reference to the areas listed in the Annex to the Directive;

Whereas the measures provided for in this Decision are in accordance with the Opinion of the Fund Committee;

HAS ADOPTED THIS DECISION:

Article 1

1. Applications by Member States for reimbursement of eligible expenditure incurred on the first survey on plantations of fruit trees situated on their

territory and used for the production of dessert apples, dessert pears, peaches and oranges, following the Council Directive of 26 July 1971, shall contain the following particulars:

- date when the results of the survey were notified to the Commission,
- type of survey (exhaustive or based on random sampling),
- date when the survey was carried out,
- amount of the expenditure incurred by Member State in carrying out the survey, broken down by production area or by area as listed in the Annex to the Directive,
- number of hectares of fruit tree plantation actually covered by the survey, broken down by production area or by area as listed in the Annex to the Directive (only in cases of random sampling).

2. Applications for reimbursement shall be submitted in triplicate.

Article 2

This Decision is addressed to all Member States.

Done at Brussels, 30 May 1973.

For the Commission

The President

François-Xavier ORTOLI

⁽¹⁾ OJ No L 179, 9. 8. 1971, p. 21.

COMMISSION DECISION

of 4 June 1973

authorizing the Republic of France to allow the marketing of commercial seed of field pea up to and including 31 July 1973

(Only the French text is authentic)

(73/187/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Article 1

Having regard to the Treaty establishing the European Economic Community;

Having regard to the Council Directive of 14 June 1966 ⁽¹⁾ concerning the marketing of fodderplant seed, last amended by Council Directive of 6 December 1972 ⁽²⁾, and in particular Article 17 thereof;

Having regard to the request made by the Republic of France;

Whereas the crop production in France of field pea at the 1972 harvest was greatly reduced because of unfavourable weather; whereas the requirement of France for seed of field pea is considerably increased in 1973 and it is impossible to meet it entirely with the seed available in the other Member States;

Whereas, therefore, it is expedient to authorize the Republic of France to allow the marketing of commercial seed of field pea up to and including 31 July 1973;

Whereas the measures included in the present Decision are in accordance with the Opinion of the Permanent Committee for Agricultural, Horticultural and Forestry Plants;

The Republic of France is authorized to allow the marketing on its territory of a maximum of 1 200 tons of commercial seed of field pea (*Pisum arvense* L.) up to and including 31 July 1973.

Article 2

The Republic of France will report to the Commission before November 1973 the quantities of commercial seed of field pea marketed in its territory under the authority of the present Decision. The Commission will inform the other Member States of these quantities.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 4 June 1973.

For the Commission

The President

François-Xavier ORTOLI

⁽¹⁾ OJ No 125, 11. 7. 1966, p. 2298/66

⁽²⁾ OJ No L 287, 26. 12. 1972, p. 22.

COMMISSION DECISION

of 4 June 1973

exempting the United Kingdom of Great Britain and Northern Ireland from applying to certain species the Council Directive of 29 September 1970 concerning the marketing of vegetable seed

(Only the English text is authentic)

(73/188/EEC)

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

HAS ADOPTED THIS DECISION:

Article 1

Having regard to the Treaty establishing the European Economic Community;

Having regard to the Council Directive of 29 September 1970 ⁽¹⁾ concerning the marketing of vegetable seed, last amended by the Council Directive of 6 December 1972 ⁽²⁾, and in particular Article 42 thereof;

Having regard to the requests made by the United Kingdom;

Whereas seed of the species concerned have no significance for the United Kingdom, although they are produced or at least marketed there in insignificant quantities, and whereas, therefore, it should be released from the obligation to apply the Directive to seed of those species;

Whereas the measures proposed in this Decision are in agreement with the Opinion of the Permanent Committee for Agricultural, Horticultural and Forestry Seeds and Plants;

The United Kingdom of Great Britain and Northern Ireland is exempted from applying the Council Directive of 29 September 1970 concerning the marketing of vegetable seed, with the exception of the provisions of Article 16, paragraph 1, and of Article 30, paragraph 1 to the species listed below:

- | | |
|--|--------------|
| (a) <i>Citrullus vulgaris</i> L. | Water melon; |
| (b) <i>Foeniculum vulgare</i> P. Mill. | Fennel; |
| (c) <i>Scorzonera hispanica</i> L. | Scorzonera. |

Article 2

This Decision is addressed to the United Kingdom.

Done at Brussels, 4 June 1973.

For the Commission

The President

François-Xavier ORTOLI

⁽¹⁾ OJ No L 225, 12. 10. 1970, p. 7.

⁽²⁾ OJ No L 287, 26. 12. 1972, p. 22.

COMMISSION DECISION

of 6 June 1973

fixing the maximum amount of the refund for the 5th partial invitation to tender for
white sugar issued under Regulation (EEC) No 1101/73

(Only the French text is authentic)

(73/189/EEC)

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the Euro-
pean Economic Community;

Having regard to Council Regulation No 1009/67/
EEC ⁽¹⁾ of 18 December 1967 on the common organ-
ization of the market in sugar, as last amended by
Regulation (EEC) No 174/73 ⁽²⁾, and in particular
Article 10 (3) thereof;

Whereas, in accordance with Commission Regulation
(EEC) No 1101/73 ⁽³⁾ of 26 April 1973 on a standing
invitation to tender for the sale for export of white
sugar held by the French intervention agency, the
said agency is to issue partial invitations to tender
for the sale of white sugar which it holds and for
determining the export refund on such sugar;

Whereas, in accordance with Article 9 of Commission
Regulation (EEC) No 258/72 ⁽⁴⁾ of 3 February 1972
laying down detailed rules concerning the sale by
tender of sugar by intervention agencies, where the
terms of the invitation to tender do not specify a
maximum amount for the refund, that amount shall
be fixed in accordance with the procedure laid down
in Article 40 of Regulation No 1009/67/EEC, after
examination of the tenders, account being taken of
market conditions and potential outlets; whereas,
applying these criteria, the maximum amount for the

5th partial invitation to tender should be fixed as
provided in Article 1;

Whereas the measures provided for in this Decision
are in accordance with the Opinion of the Manage-
ment Committees for Sugar;

HAS ADOPTED THIS DECISION:

Article 1

For the 5th partial invitation to tender issued under
Regulation (EEC) No 1101/73, for which the period
for submission of tenders expired on 6 June 1973,
the maximum amount of the export refund allowed
upon the award of tender shall be 3.628 units of
account per 100 kilos of white sugar.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 6 June 1973.

For the Commission

P. J. LARDINOIS

Member of the Commission

⁽¹⁾ OJ No 308, 18. 12. 1967, p. 1.

⁽²⁾ OJ No L 25, 30. 1. 1973, p. 1

⁽³⁾ OJ No L 112, 28. 4. 1973, p. 20.

⁽⁴⁾ OJ No L 31, 4. 2. 1972, p. 22.

COMMISSION DECISION

of 6 June 1973

declaring that the conditions governing the mobilization of common wheat for a national food aid project are satisfied

(Only the French text is authentic)

(73/190/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 120/67/EEC ⁽¹⁾ of 13 June 1967 on the common organization of the market in cereals, as last amended by Regulation (EEC) No 1346/73 ⁽²⁾;Having regard to Council Regulation (EEC) No 290/69 ⁽³⁾ of 17 February 1969 laying down the criteria for mobilization of cereals intended as food aid, as amended by Regulation (EEC) No 832/69 ⁽⁴⁾ and renewed by Regulations (EEC) No 2338/69 ⁽⁵⁾ and (EEC) No 2046/70 ⁽⁶⁾, and in particular Article 4 (1) thereof;

Having regard to the communication from the French Republic of 23 May 1973 informing the Commission of its intention to supply food aid to the Republic of Sénégal in the form of flour within the framework of a national project under the 1968/69 programme of food aid in the form of grain and to mobilize to this end 3 000 tons of wheat other than durum to be bought in the market of the 'départements' of 'Seine-et-Marne' and 'Aisne';

Having regard to the investigation of the grain market situation in France that imposes application of the criteria laid down in Article 2 (1) of Council

Regulation (EEC) No 290/69, and in particular buying the product in the 'départements' of 'Seine-et-Marne' and 'Aisne';

Whereas the measures provided for in this Decision are in accordance with the Opinion of the Management Committee for Cereals;

HAS ADOPTED THIS DECISION:

Article 1

It is hereby declared that the conditions laid down in Article 2 (1) of Regulation (EEC) No 290/69 are satisfied in connection with the national food aid project, which the French Republic intends to undertake during the month of June 1973, involving the supply of 3 000 metric tons of common wheat which is to be mobilized out in the market of the 'départements' of 'Seine-et-Marne' and 'Aisne', with shipment to be made from the port of Rouen.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 6 June 1973.

*For the Commission**The President*

François-Xavier ORTOLI

⁽¹⁾ OJ No 117, 19. 6. 1967, p. 2269/67.

⁽²⁾ OJ No L 141, 28. 5. 1973, p. 8.

⁽³⁾ OJ No L 41, 18. 2. 1969, p. 2.

⁽⁴⁾ OJ No L 107, 6. 5. 1969, p. 3.

⁽⁵⁾ OJ No L 298, 25. 11 1969, p. 8.

⁽⁶⁾ OJ No L 228, 15. 10. 1970, p. 1.

COMMISSION DECISION

of 6 June 1973

declaring that the conditions governing the mobilization of common wheat for a national food aid project are satisfied

(Only the French text is authentic)

(73/191/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 120/67/EEC ⁽¹⁾ of 13 June 1967 on the common organization of the market in cereals, as last amended by Regulation (EEC) No 1346/73 ⁽²⁾;

Having regard to Council Regulation (EEC) No 290/69 ⁽³⁾ of 17 February 1969 laying down the criteria for mobilization of cereals intended as food aid, as amended by Regulation (EEC) No 832/69 ⁽⁴⁾ and renewed by Regulations (EEC) No 2338/69 ⁽⁵⁾ and (EEC) No 2046/70 ⁽⁶⁾, and in particular Article 4 (1) thereof;

Having regard to the communication from the French Republic of 21 May 1973 informing the Commission of its intention to supply food aid to the Republic of Mali in the form of flour within the framework of a national project under the 1968/69 programme of food aid in the form of grain and to mobilize to this end 2 000 tons of wheat other than durum to be bought in the market of the 'départements' of 'Seine-et-Marne' and 'Aisne';

Having regard to the investigation of the grain market situation in France that imposes applying of the criteria laid down in Article 2 (1) of Council Regulation (EEC) No 290/69, and in particular

buying the product in the 'départements' of 'Seine-et-Marne' and 'Aisne';

Whereas the measures provided for in this Decision are in accordance with the Opinion of the Management Committee for Cereals;

HAS ADOPTED THIS DECISION:

Article 1

It is hereby declared that the conditions laid down in Article 2 (1) of Regulation (EEC) No 290/69 are satisfied in connection with the national food aid project, which the French Republic intends to undertake during the month of June 1973, involving the supply of flour resulting from the milling of 2 000 metric tons of common wheat which is to be mobilized out in the market of the 'départements' of 'Seine-et-Marne' and 'Aisne', with shipment to be made from the ports of Rouen, Dunkerque and/or Bordeaux.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 6 June 1973.

For the Commission

The President

François-Xavier ORTOLI

⁽¹⁾ OJ No 117, 19. 6. 1967, p. 2269/67.

⁽²⁾ OJ No L 141, 28. 5. 1973, p. 8.

⁽³⁾ OJ No L 41, 18. 2. 1969, p. 2.

⁽⁴⁾ OJ No L 107, 6. 5. 1969, p. 3.

⁽⁵⁾ OJ No L 298, 25. 11. 1969, p. 8.

⁽⁶⁾ OJ No L 228, 15. 10. 1970, p. 1.

COMMISSION DECISION

of 8 June 1973

authorizing the Kingdom of Denmark to apply special intervention measures for rye

(Only the Danish text is authentic)

(73/192/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 120/67/EEC ⁽¹⁾ of 13 June 1967 on the common organization of the market in cereals, as last amended by Regulation (EEC) No 1346/73 ⁽²⁾, and in particular the second paragraph of Article 8 thereof;

Having regard to Council Regulation No 174/67/EEC ⁽³⁾ of 27 June 1967 on special intervention measures for cereals, as amended by Regulation (EEC) No 445/68 ⁽⁴⁾, and in particular Article 1 thereof;

Having regard to the request submitted by the Kingdom of Denmark to the Commission on 22 May 1973 describing the particularly difficult situation experienced by Danish holders of rye of bread-making quality at the end of the 1972/73 marketing year, as a result of the introduction of the new price system for rye for the 1973/74 marketing year, and requesting that special intervention measures be applied;

Whereas the stock of rye of bread-making quality required by the Danish milling industry to ensure that it continues to operate normally during the transition from one marketing year to the next is generally about 20 000 metric tons;

Whereas, as a single intervention price has been fixed for rye with effect from 1 August 1973, the amount of compensation granted at the end of

the 1972/73 marketing year for rye of bread-making quality will be minimal in comparison with that granted for rye at the end of the previous marketing year; whereas, as compensation does not cover the whole of the difference between the prices prevailing during one marketing year and the next, holders of rye of bread-making quality will be inclined to offer their stocks for intervention before 31 May;

Whereas, so that the German intervention agency should not be obliged to buy in before the end of the marketing year quantities of rye of bread-making quality which are out of proportion with those marketed, flat rate compensation should be granted to Danish holders of rye of bread-making quality to induce them to retain the stocks in their mills until 31 July 1973;

Whereas the measures provided for in this Decision are in accordance with the Opinion of the Management Committee for Cereals;

HAS ADOPTED THIS DECISION:

Article 1

In pursuance of Article 1 of Council Regulation No 174/67/EEC, the Kingdom of Denmark may authorize its intervention agency to take special intervention measures for rye.

Those measures shall take the form of the grant of compensation at a flat rate of 2.75 units of account per metric ton, up to a total quantity of 20 000 metric tons, to holders whose stocks of rye of bread-making quality satisfy the requirements of Commission Regu-

⁽¹⁾ OJ No 117, 19. 6. 1967, p. 2269/67.

⁽²⁾ OJ No L 141, 28. 5. 1973, p. 8.

⁽³⁾ OJ No 130, 28. 6. 1967, p. 2609/67.

⁽⁴⁾ OJ No L 91, 12. 4. 1968, p. 3.

lation (EEC) No 1554/73 ⁽¹⁾ of 7 June 1973 on the conditions for the granting of compensation in respect of common wheat, rye of bread-making quality and maize held in storage at the end of the 1972/73 marketing year.

Article 2

The Kingdom of Denmark shall keep the Commission informed of the progress of the measures provided for in this Decision.

Article 3

This Decision is addressed to the Kingdom of Denmark.

Done at Brussels, 8 June 1973.

For the Commission

The President

François-Xavier ORTOLI

⁽¹⁾ OJ No L 156, 13. 6. 1973, p. 13.

COMMISSION DECISION

of 8 June 1973

fixing the amount by which the monetary compensatory amounts for beef and veal are to be reduced

(73/193/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 974/71⁽¹⁾ of 12 May 1971 on certain measures of conjunctural policy to be taken in agriculture following the temporary widening of the margin of fluctuation for the currencies of certain Member States, as last amended by Regulation (EEC) No 1225/73⁽²⁾;

Having regard to Commission Regulation (EEC) No 1463/73⁽³⁾ of 30 May 1973 as to the detailed rules for applying the monetary compensatory amounts, and in particular Article 5 thereof;

Whereas Commission Regulation (EEC) No 1469/73⁽⁴⁾ of 30 May 1973, amended by Regulation (EEC) No 1547/73⁽⁵⁾, fixed the monetary compensatory amounts to be applied from 11 June 1973;

Whereas these compensatory amounts have been fixed without taking account of Article 4 (2) of Regulation (EEC) No 974/71, which provides that in trade among the States and between the States and third countries the compensatory amounts applicable because of a depreciation of the currency concerned cannot exceed the tax on imports from third countries;

Whereas, in order that this rule may be observed, Article 5 of Regulation (EEC) No 1463/73 has stated that, for the application of Article 4a (2) of Regulation (EEC) No 974/71 to meat, the Commission

shall give notice of the amounts by which the monetary compensatory amounts are to be reduced;

Whereas the amounts fixed in accordance with this rule are periodically altered when changes in the tax on imports from third countries make this necessary;

Whereas application of the said criteria results in a fixing of the amounts by which the monetary compensatory amounts are to be adjusted to the level appearing in the Annex hereto;

HAS ADOPTED THIS DECISION:

Article 1

With effect from 11 June 1973 the amounts by which the monetary compensatory amounts appearing in the Annex to Regulation (EEC) No 1469/73, as amended by Regulation (EEC) No 1547/73, must be reduced in accordance with Article 5 of Regulation (EEC) No 1463/73 are fixed in the Annex hereto.

Article 2

This Decision is addressed to all Member States.

Done at Brussels, 8 June 1973.

For the Commission

The President

François-Xavier ORTOLI

⁽¹⁾ OJ No L 106, 12. 5. 1971, p. 1.

⁽²⁾ OJ No L 125, 11. 5. 1973, p. 49.

⁽³⁾ OJ No L 146, 4. 6. 1973, p. 1.

⁽⁴⁾ OJ No L 147, 4. 6. 1973, p. 17.

⁽⁵⁾ OJ No L 155, 11. 6. 1973, p. 10.

ANNEX

Amounts to be deducted from the monetary compensatory amounts

CCT heading No	Italy (Lire/100 kg)	Ireland (£/100 kg)	United Kingdom (£/100 kg)
— Live weight —			
ex 01.02 A II a) ⁽¹⁾	11 217	2·636	2·636
ex 01.02 A II a) ⁽²⁾	5 467	2·636	2·636
ex 01.02 A II b) ⁽³⁾	9 319	2·187	2·187
ex 01.02 A II b) ⁽⁴⁾	5 194	2·187	2·187
— Net weight —			
02.01 A II a) 1 aa) 11	6 286	4·112	4·112
02.01 A II a) 1 aa) 22	4 835	3·163	3·163
02.01 A II a) 1 aa) 33	7 737	5·061	5·061
02.01 A II a) 1 bb) 11	7 909	4·155	4·155
02.01 A II a) 1 bb) 22	6 327	3·324	3·324
02.01 A II a) 1 bb) 33	9 491	4·986	4·986
02.01 A II a) 1 cc) 11	11 484	7·513	7·513
02.01 A II a) 1 cc) 22	13 136	8·593	8·593
02.01 A II a) 2 aa)	8 350	3·361	3·361
02.01 A II a) 2 bb)	6 263	2·521	2·521
02.01 A II a) 2 cc)	10 437	4·201	4·201
02.01 A II a) 2 dd) 11	12 525	5·042	5·042
02.01 A II a) 2 dd) 22 aaa)	10 437	4·201	4·201
02.01 A II a) 2 dd) 22 bbb)	14 362	5·781	5·781
02.06 C 1 a) 1	0	0	0·529
02.06 C 1 a) 2	0	0	0

⁽¹⁾ Calves for fattening weighing less than 80 kg.

⁽²⁾ Calves other than those referred to in ⁽¹⁾ above.

Entry in this subheading is subject to the conditions to be determined by the competent authorities.

⁽³⁾ Young male bovine animals for fattening of a minimum weight of 220 kg and a maximum weight of 300 kg.

⁽⁴⁾ Young male bovine animals other than those referred to in ⁽³⁾ above.

Entry in this subheading is subject to the conditions to be determined by the competent authorities.

COMMISSION DECISION

of 13 June 1973

authorizing the Kingdom of Belgium, the Kingdom of the Netherlands and the Grand Duchy of Luxembourg to apply special intervention measures for rye

(Only the French and Dutch texts are authentic)

(73/194/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to the Council Regulation No 120/67/EEC of 13 June 1967 establishing a common market for cereals ⁽¹⁾, as last amended by Regulation (EEC) No 1346/73 ⁽²⁾, and in particular Article 8, second paragraph thereof;

Having regard to the Council Regulation No 174/67/EEC ⁽³⁾ of 27 June 1967 on special intervention measures for cereals, as amended by Regulation (EEC) No 445/68 ⁽⁴⁾, and in particular Article 1 thereof;

Having regard to the requests of the Kingdom of Belgium, the Kingdom of the Netherlands and the Grand Duchy of Luxembourg, made to the Commission on 30 May 1973, in which these Member States point out the particularly difficult situation of their nationals holding stocks of rye of bread-making quality at the end of the 1972/73 season because of the implementation of the new method for determining the price of rye for the 1973/74 season, and request that special intervention measures be applied;

Whereas the stock of rye of bread-making quality required by the milling trade in these Member States to ensure the normal functioning of that trade between one season and the next is generally about 10 000 metric tons in Belgium, 5 000 metric tons in the Netherlands and 200 metric tons in Luxembourg;

Whereas, because a single intervention price has been fixed for rye from 1 August 1973, the compensatory allowance for rye of bread-making quality at the end of the 1972/73 season will be far less than the corresponding allowance at the end of the preceding season; and whereas, because the compensatory allowance cannot, overall, cover the difference in prices between the last season and the new season, the stockholders of rye of bread-making quality will be inclined to deliver their stock to the intervention agencies before 31 May;

Whereas, if the intervention agencies in Belgium, the Netherlands and Luxembourg are not to be obliged to purchase, before the end of the season, excessive amounts of rye of bread-making quality compared with the amount marketed, it will be necessary to grant a lump-sum allowance to the stockholders of rye of bread-making quality in these Member States in order to encourage them to retain their stocks until 31 July 1973;

Whereas the measures provided for in this Decision are in accordance with the Opinion of the Management Committee for Cereals;

HAS ADOPTED THIS DECISION:

Article 1

In pursuance of the provisions of Article 1 of Council Regulation No 174/67/EEC, the intervention agencies of the Kingdom of Belgium, the Kingdom of the Netherlands and the Grand Duchy of Luxembourg may apply special measures for rye.

These measures consist of granting a lump-sum allowance of 2.75 units of account per metric ton in respect of a total quantity not exceeding 10 000 metric tons in Belgium, 5 000 metric tons in the Netherlands and 200 metric tons in Luxembourg to stockholders whose stocks of rye of bread-making

⁽¹⁾ OJ No 117, 19. 6. 1967, p. 2269/67.

⁽²⁾ OJ No L 141, 28. 5. 1973, p. 8.

⁽³⁾ OJ No 130, 28. 6. 1967, p. 2609/67.

⁽⁴⁾ OJ No L 91, 12. 4. 1968, p. 3.

quality comply with the conditions laid down in the Commission Regulation (EEC) No 1554/73 ⁽¹⁾ of 7 June 1973 on the conditions for granting compensatory allowances for common wheat, rye of bread-making quality and maize in stock at the end of the 1972/73 season.

Article 2

The Kingdom of Belgium, the Kingdom of the Netherlands and the Grand Duchy of Luxembourg shall keep the Commission informed of the progress

of the operations provided for in this Decision.

Article 3

This Decision is addressed to the Kingdom of Belgium, the Kingdom of the Netherlands and the Grand Duchy of Luxembourg.

Done at Brussels, 13 June 1973.

For the Commission

The President

François-Xavier ORTOLI

⁽¹⁾ OJ No L 156, 13. 6. 1973, p. 13.

COMMISSION DECISION

of 13 June 1973

fixing the maximum amount of the refund for the 6th partial invitation to tender for
white sugar issued under Regulation (EEC) No 1101/73

(Only the French text is authentic)

(73/195/EEC)

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the Euro-
pean Economic Community;

Having regard to Council Regulation No 1009/67/
EEC ⁽¹⁾ of 18 December 1967 on the common organ-
ization of the market in sugar, as last amended by
Regulation (EEC) No 174/73 ⁽²⁾, and in particular
Article 10 (3) thereof;

Whereas, in accordance with Commission Regulation
(EEC) No 1101/73 ⁽³⁾ of 26 April 1973 on a standing
invitation to tender for the sale for export of white
sugar held by the French intervention agency, as last
amended by Regulation (EEC) No 1477/73 ⁽⁴⁾,
the said agency is to issue partial invitations to tender
for the sale of white sugar which it holds and for
determining the export refund on such sugar;

Whereas, in accordance with Article 9 of Commission
Regulation (EEC) No 258/72 ⁽⁵⁾ of 3 February 1972
laying down detailed rules concerning the sale by
tender of sugar by intervention agencies, where the
terms of the invitation to tender do not specify a
maximum amount for the refund, that amount shall
be fixed in accordance with the procedure laid down
in Article 40 of Regulation No 1009/67/EEC, after
examination of the tenders, account being taken of
market conditions and potential outlets; whereas,

applying these criteria, the maximum amount for the
6th partial invitation to tender should be fixed as
provided in Article 1;

Whereas the measures provided for in this Decision
are in accordance with the Opinion of the Manage-
ment Committees for Sugar;

HAS ADOPTED THIS DECISION:

Article 1

For the 6th partial invitation to tender issued under
Regulation (EEC) No 1101/73, for which the period
for submission of tenders expired on 12 June 1973,
the maximum amount of the export refund allowed
upon the award of tender shall be 5.068 units of
account per 100 kilogrammes of white sugar.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 13 June 1973.

For the Commission

P. J. LARDINOIS

Member of the Commission

⁽¹⁾ OJ No 308, 18. 12. 1967, p. 1.

⁽²⁾ OJ No L 25, 30. 1. 1973, p. 1.

⁽³⁾ OJ No L 112, 28. 4. 1973, p. 20.

⁽⁴⁾ OJ No 148, 5. 6. 1973, p. 15.

⁽⁵⁾ OJ No L 31, 4. 2. 1972, p. 22.

COMMISSION DECISION

of 14 June 1973

relating to proceedings under Article 85 of the EEC Treaty (IV/14.111 — Du Pont de Nemours Deutschland)

(Only the German text is authentic)

(73/196/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to Council Regulation No 17 ⁽¹⁾ of 6 February 1962, and in particular Article 2 thereof;

Having regard to the notification submitted as a precaution only on 31 January 1963 pursuant to Regulation No 17 by 'Adox Fotowerke Dr. C. Schleussner GmbH', a company established under German law at Frankfurt-on-Main (Germany), in respect of standard contracts for the sale of photographic products which it applied on the German domestic market;

Having regard to the publication in the *Official Journal of the European Communities* No C 122 of 24 November 1972 of the Summary of the notification pursuant to Article 19 (3) of Regulation No 17;

Having regard to the Opinion delivered on 27 March 1973 by the Advisory Committee on Restrictive Practices and Monopolies pursuant to Article 10 of Regulation No 17;

I

Whereas the notification submitted as a precaution only by Adox Fotowerke Dr. C. Schleussner GmbH in 1963 concerned contracts regularly awarded by that company since 1958 in Germany to specialized dealers, both wholesale and retail, wishing to sell one or more categories of the products it then manufactured (photographic films, paper and equipment; photochemical products; sensitive products for radiography; accessories, etc);

Whereas under the terms of those standard contracts, concluded for a year with tacit renewal, German

dealers undertook to observe strictly Adox's general conditions of sale for the category of products concerned, on pain of their deliveries being stopped, their annual rebates being withheld or financial penalties being imposed; whereas in particular they expressly agreed to respect the prices and distribution networks specified by the manufacturer and to ensure that these were respected by others; whereas Adox, for its part, undertook to apply without exception its system of fixed prices, as provided for in the German law;

Whereas Adox's general conditions of sale, as they stood in 1963, included in particular:

- (a) the requirement that both wholesalers and retailers should strictly apply the resale prices fixed by the manufacturer for each group of purchasers, irrespective of the origin of the products, and that they should not grant any discount whatsoever, whether directly or indirectly;
- (b) the requirement that wholesalers should only supply retailers in Germany able to provide service to the branch's usual customers and who in turn should undertake to comply with the prices and distribution networks specified by the manufacturer;
- (c) the requirement that retailers should deliver only to consumers, to the exclusion of any other dealer, and that they should not sell abroad without the manufacturer's permission;

Whereas in November 1969 the applicant company — which had meanwhile become Du Pont Fotowerke Adox GmbH — discontinued of its own accord the fixed price system which it had been using on the German market and amended its general conditions of sale, in particular by abolishing the export ban imposed on its German dealers; whereas in February 1971, following an intervention by the Commission, it also abolished the bans on wholesalers reselling to other wholesalers and on retailers reselling to other retailers;

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62; OJ Special edition 1959-62, November 1972, p. 87.

Whereas these general conditions of sale, thus amended, are being applied for products supplied by the 'Photographic Department' of Du Pont de Nemours (Deutschland) GmbH which, in July 1971, took over Du Pont Fotowerke Adox GmbH; whereas cameras are no longer included in those products as the latter company ceased to manufacture them in 1965;

Whereas the Commission has not received any comments from third parties in response to the publication of the summary of the notification;

II

Whereas, under Article 2 of Regulation No 17, a negative clearance may be granted if the Commission finds, on the basis of facts in its possession, that there are no grounds under Article 85 (1) of the EEC Treaty for action on its part in respect of the standard contracts and general conditions of sale in question;

Whereas those standard distribution contracts, as well as the general conditions of sale, which are of course subject to agreement between the supplier and each of its purchasers, are agreements between undertakings within the meaning of Article 85;

Whereas the standard distribution contracts which were concluded between specialized dealers and Fotowerke Dr. C. Schleussner GmbH, Du Pont Fotowerke Adox GmbH or Du Pont de Nemours (Deutschland) GmbH no longer contain any obligation apart from the undertaking entered into by dealers to observe the manufacturer's general conditions of sale;

Whereas the present wording of 'General Conditions of Delivery and Payment for Photochemical Products' and 'General Conditions of Delivery and Payment for Equipment and Spare Parts' applied by the 'Photographic Department' of Du Pont de Nemours (Deutschland) GmbH both contain similar clauses relating, *inter alia*, to the placing of orders, the way of quoting prices, consignments, retention of ownership, conditions of payment, complaints, place of jurisdiction, etc.;

Whereas the conditions of sale for photochemical products contain the additional requirement that dealers should provide customers with the usual service of the branch and supply articles only in their original packaging; whereas the conditions of sale for equipment and spare parts also stipulate that the warranty against manufacturing defects shall in all cases extend over a period of six months;

Whereas none of the aforementioned clauses is a direct or indirect restriction against competition among either distributors or consumers within the

meaning of Article 85 (1) of the Treaty; whereas in particular, dealers, whether wholesale or retail, may deliver their goods to any purchasers, including purchasers outside German territory, at prices which they themselves have freely determined;

Whereas, consequently, the facts in the possession of the Commission do not show that the standard contracts and conditions of sale in question have as their object or effect the prevention, restriction or distortion of competition within the Common Market within the meaning of Article 85 (1) of the EEC Treaty; whereas, since one of the conditions for applying that paragraph is not satisfied, negative clearance may be granted;

III

Whereas the standard contracts and conditions of sale as worded prior to February 1971 fell within the provisions of Article 85 (1) because they contained clauses which restricted competition and which might affect trade between Member States, in particular:

- (a) a ban on exporting by wholesalers and retailers without the manufacturer's permission;
- (b) a ban on resales at the same level of distribution, as regards exports within the EEC;
- (c) a requirement to respect prices fixed by the manufacturer, as regards goods re-imported into Germany from other Member States of the EEC;

Whereas such clauses, which were the only ones prohibited under Article 85 (1) and were unlikely to be exempted under the provisions of Article 85 (3), were finally all eliminated in February 1971;

Whereas the agreements in question consequently satisfy the requirements of Article 7 (1) of Regulation No 17; whereas, in fact, those agreements, which were in existence when the said Regulation No 17 (13 March 1962) entered into force and which were notified within the time limits fixed in Article 5 (1) of that Regulation, do not satisfy the requirements of Article 85 (3) of the Treaty, but whereas Du Pont Fotowerke Adox GmbH has amended the said agreements so that they no longer fall within the prohibition contained in Article 85 (1); whereas, as far as the versions of the contracts prior to modifications are concerned, the prohibition contained in Article 85 (1) applies only to the period fixed by the Commission;

Whereas in this respect account should be taken of the fact that the abovementioned company abolished of its own accord two of the three restrictive clauses mentioned above and abolished the third clause as soon as the Commission so requested; whereas these circumstances are sufficient to justify the non-application of the prohibition contained in Article 85 (1) for the entire period preceding the amendments;

HAS ADOPTED THIS DECISION:

Article 1

On the basis of the facts in the possession of the Commission, there are no grounds under Article 85 (1) of the Treaty establishing the European Economic Community for action on its part in respect of the standard contracts and general conditions of sale which are being applied by Du Pont de Nemours (Deutschland) GmbH for the distribution of products from its 'Photographic Department'.

Article 2

The prohibition contained in Article 85 (1) shall not apply to the versions of the standard contracts and general conditions of sale applied by Adox Fotowerke Dr. C. Schleussner GmbH, and then by Du Pont Fotowerke Adox GmbH during the period between 13 March 1962 and February 1971.

Article 3

This Decision is addressed to Du Pont de Nemours (Deutschland) GmbH, Hochstrasse 43, Frankfurt-on-Main (Germany).

Done at Brussels, 14 June 1973.

For the Commission

The President

François-Xavier ORTOLI
