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I

(Acts whose publication is obligatory)

REGULATION (EEC) No 1560/75 OF THE COMMISSION**of 20 June 1975****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 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 85/75 ⁽²⁾, and in particular Article 13 (5) thereof ;

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Regulation (EEC) No 2524/74 ⁽³⁾ and subsequent amending Regulations ;

Whereas it follows from applying the provisions contained in Regulation (EEC) No 2524/74 to the

offer prices and today's quotations known to the Commission that the levies at present in force should be altered as shown in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION :

Article 1

The import levies to be charged on the products listed in Article 1 (a), (b) and (c) of Regulation No 120/67/EEC are hereby fixed as shown in the table annexed to this Regulation.

Article 2

This Regulation shall enter into force on 21 June 1975.

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

Done at Brussels, 20 June 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

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

²⁾ OJ No L 11, 16. 1. 1975, p. 1.

³⁾ OJ No L 271, 5. 10. 1974, p. 9.

ANNEX

to the Commission Regulation of 20 June 1975 fixing the import levies on cereals and on wheat or rye flour groats and meal

(u.a./metric ton)

CCT heading No	Description of goods	Levies
10.01 A	Common wheat and meslin	49.58
10.01 B	Durum wheat	42.62 ⁽¹⁾ ⁽⁴⁾
10.02	Rye	51.55 ⁽⁵⁾
10.03	Barley	52.23
10.04	Oats	43.44
10.05 B	Maize other than hybrid maize for sowing	25.86 ⁽²⁾ ⁽³⁾
10.07 A	Buckwheat	17.49
10.07 B	Millet	4.03
10.07 C	Grain sorghum	41.08
10.07 D	Canary seed; other cereals	0 ⁽⁴⁾
11.01 A	Wheat or meslin flour	88.75
11.01 B	Rye flour	91.53
11.02 A I a	Durum wheat groats and meal	85.01
11.02 A I b	Common wheat groats and meal	94.55

⁽¹⁾ Where durum wheat originating in Morocco is transported directly from that country to the Community, the levy is reduced by 0.50 u.a./metric ton.

⁽²⁾ Where maize originating in the AASM and OCT is imported into the French Overseas Departments, the levy is reduced by 6 u.a./metric ton.

⁽³⁾ Where maize originating in Tanzania, Uganda and Kenya is imported into the Community, the levy is reduced by 1 u.a./metric ton.

⁽⁴⁾ Where wheat and canary seed produced in Turkey are transported directly from that country to the Community, the levy is reduced by 0.50 u.a./metric ton.

⁽⁵⁾ 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 1234/71 and Commission Regulation (EEC) No 2622/71.

REGULATION (EEC) No 1561/75 OF THE COMMISSION

of 20 June 1975

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 Council Regulation No 120/
67/EEC⁽¹⁾ of 13 June 1967 on the common organiza-
tion of the market in cereals, as last amended by Regu-
lation (EEC) No 85/75⁽²⁾, and in particular Article
15 (6) thereof ;

Whereas the premiums to be added to the levies on
cereals and malt were fixed by Regulation (EEC) No
2017/74⁽³⁾ and subsequent amending Regulations ;

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 as shown in the tables annexed to this Regula-
tion,

HAS ADOPTED THIS REGULATION :

Article 1

The scale of the premiums to be added, pursuant to
Article 15 of Regulation No 120/67/EEC, to the
import levies fixed in advance in respect of cereals
and malt is hereby fixed as shown in the tables
annexed to this Regulation.

Article 2

This Regulation shall enter into force on 21 June
1975.

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

Done at Brussels, 20 June 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

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

⁽²⁾ OJ No L 11, 16. 1. 1975, p. 1.

⁽³⁾ OJ No L 210, 1. 8. 1974, p. 4.

ANNEX

to the Commission Regulation of 20 June 1975 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour ⁽¹⁾

(u.a./metric ton)

CCT heading No	Description of goods	Current 6	1st period 7	2nd period 8	3rd period 9
10.01 A	Common wheat and meslin	0	0.72	0.72	2.17
10.01 B	Durum wheat	0	2.53	2.53	2.53
10.02	Rye	0	0.72	0.72	0
10.03	Barley	0	0	0	0
10.04	Oats	0	0	0	0
10.05 B	Maize other than hybrid maize for sowing	0	2.06	2.06	4.95
10.07 A	Buckwheat	0	0	0	0
10.07 B	Millet	0	0.72	0.72	0.72
10.07 C	Grain sorghum	0	0.90	0.90	0.90
10.07 D	Other	0	0	0	0
11.01 A	Wheat or meslin flour	0	1.02	1.02	3.04

(¹) The period of validity of the licence is limited in accordance with Regulation (EEC) No 2196/71 (OJ No L 231, 14. 10. 1971, p. 28), as last amended by Regulation (EEC) No 3148/73 (OJ No L 321, 22. 11. 1973, p. 13).

B. Malt

(u.a./100 kg)

CCT heading No	Description of goods	Current 6	1st period 7	2nd period 8	3rd period 9	4th period 10
11.07 A I (a)	Unroasted malt, obtained from wheat, in the form of flour	0	0.128	0.128	0.386	0.386
11.07 A I (b)	Unroasted malt, obtained from wheat, other than in the form of flour	0	0.096	0.096	0.289	0.289
11.07 A II (a)	Unroasted malt, other than that obtained from wheat, in the form of flour	0	0	0	0	0
11.07 A II (b)	Unroasted malt, other than that obtained from wheat, other than in the form of flour	0	0	0	0	0
11.07 B	Roasted malt	0	0	0	0	0

REGULATION (EEC) No 1562/75 OF THE COMMISSION
of 20 June 1975
altering the export levies on starch products

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 85/75⁽²⁾;

Having regard to Council Regulation No 359/67/EEC⁽³⁾ of 25 July 1967 on the common organization of the market in rice, as last amended by Regulation (EEC) No 476/75⁽⁴⁾;

Having regard to Council Regulation (EEC) No 1132/74⁽⁵⁾ of 29 April 1974 on production refunds in the cereals and rice sectors, as last amended by Regulation (EEC) No 3113/74⁽⁶⁾, and in particular Article 7 (2) thereof;

Whereas the export levies on starch products were fixed by Regulation (EEC) No 884/75⁽⁷⁾, as last amended by Regulation (EEC) No 1511/75⁽⁸⁾;

Whereas it follows from applying the provisions contained in Regulation (EEC) No 884/75 to the prices of broken rice that the levies at present in force should be altered as shown in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The export levies provided for in Article 7 (2) of Regulation (EEC) No 1132/74 fixed in the Annex to amended Regulation (EEC) No 884/75 are altered as shown in the table annexed to this Regulation for the products listed therein.

Article 2

This Regulation shall enter into force on 24 June 1975.

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

Done at Brussels, 20 June 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

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

⁽²⁾ OJ No L 11, 16. 1. 1975, p. 1.

⁽³⁾ OJ No 174, 31. 7. 1967, p. 1.

⁽⁴⁾ OJ No L 52, 28. 2. 1975, p. 31.

⁽⁵⁾ OJ No L 128, 10. 5. 1974, p. 24.

⁽⁶⁾ OJ No L 332, 12. 12. 1974, p. 1.

⁽⁷⁾ OJ No L 85, 5. 4. 1975, p. 8.

⁽⁸⁾ OJ No L 154, 14. 6. 1975, p. 35.

ANNEX

CCT heading No	Nomenclature in simplified wording	Export levies in u.a./100 kg			
		Denmark	Ireland	United Kingdom	Other Member States
11.08 A II	Rice starch	2.777	2.777	2.777	2.777

REGULATION (EEC) No 1563/75 OF THE COMMISSION
of 20 June 1975
suspending the advance fixing of the levy on olive oil

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community ;

Having regard to Council Regulation No 136/66/EEC⁽¹⁾ of 22 September 1966 on the establishment of a common organization of the market in oils and fats, as last amended by Regulation (EEC) No 1707/73⁽²⁾ ;

Having regard to Council Regulation (EEC) No 19/69⁽³⁾ of 20 December 1968 on the advance fixing of the levy on imports of olive oil, as last amended by Regulation (EEC) No 2429/72⁽⁴⁾, and in particular the second subparagraph of Article 1 (2) thereof ;

Whereas the offer price for olive oil on the world market considerably exceeds the threshold price at present in force, but is less than the threshold price resulting from the market target price already fixed for the new marketing year which is appreciably higher than the present level ; whereas this situation threatens the advance fixing of levies in respect of

considerably larger quantities than can be envisaged under more normal circumstances ; whereas such imports would place a burden on the Community market and would cause a considerable proportion of Community production to be placed in intervention from the start of the new marketing year ;

Whereas, in view in particular of the problems set out above and after examining all available information on the situation it is necessary to suspend the advance fixing of the levies on imports of olive oil for a period of three working days,

HAS ADOPTED THIS REGULATION :

Article 1

The advance fixing of the levy on olive oil shall be suspended for the period from 23 to 25 June 1975.

Article 2

This Regulation shall enter into force on 23 June 1975.

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

Done at Brussels, 20 June 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

¹⁾ OJ No 172, 30. 9. 1966, p. 3025/66.

²⁾ OJ No L 175, 29. 6. 1973, p. 5.

³⁾ OJ No L 3, 7. 1. 1969, p. 8.

⁴⁾ OJ No L 264, 23. 11. 1972, p. 1.

REGULATION (EEC) No 1564/75 OF THE COMMISSION
of 20 June 1975
determining the world market price for colza and rape seed

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 136/66/EEC⁽¹⁾ of 22 September 1966 on the establishment of a common organization of the markets in oils and fats, as last amended by Regulation (EEC) No 1707/73⁽²⁾;

Having regard to Council Regulation (EEC) No 1569/72⁽³⁾ of 20 July 1972 laying down special measures for colza and rape seed, as last amended by Regulation (EEC) No 3477/73⁽⁴⁾;

Having regard to Commission Regulation (EEC) No 2300/73⁽⁵⁾ of 23 August 1973 laying down detailed rules for applying differential amounts for colza and rape seed and repealing Regulation (EEC) No 1464/73, as last amended by Regulation (EEC) No 632/75⁽⁶⁾, and in particular Article 9 (4) thereof;

Having regard to the Opinion of the Monetary Committee;

Whereas, pursuant to Article 9 (4) of Regulation (EEC) No 2300/73, the Commission must determine the world market price for colza and rape seed;

Whereas the world market price should be determined in accordance with the rules and the criteria set out in Commission Regulation (EEC) No 1322/75⁽⁷⁾ of 23 May 1975 fixing the amount of the

subsidy on oil seeds, as last amended by Regulation (EEC) No 1515/75⁽⁸⁾;

Whereas to enable the price system to operate normally, the world market price should be calculated on the following basis:

- in the case of currencies which are maintained in relation to each other, at any given moment, within a band of 2.25 %, a rate of exchange based on their effective parity;
- 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 subparagraph;

Whereas, applying all these provisions, the world market price for colza and rape seed should be fixed as shown in the table annexed to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The world market price referred to in Article 9 (4) of Regulation (EEC) No 2300/73 and the rates to be used for converting them into national currencies shall be as shown in the table annexed to this Regulation.

Article 2

This Regulation shall enter into force on 23 June 1975.

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

Done at Brussels, 20 June 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

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

⁽²⁾ OJ No L 175, 29. 6. 1973, p. 5.

⁽³⁾ OJ No L 167, 25. 7. 1972, p. 9.

⁽⁴⁾ OJ No L 357, 28. 12. 1973, p. 6.

⁽⁵⁾ OJ No L 236, 24. 8. 1973, p. 28.

⁽⁶⁾ OJ No L 66, 13. 3. 1975, p. 11.

⁽⁷⁾ OJ No L 133, 24. 5. 1975, p. 55.

⁽⁸⁾ OJ No L 154, 14. 6. 1975, p. 57.

ANNEX

World market price applicable from 23 June 1975 for colza and rape seed (CCT heading No ex 12.01)

	<i>u.a./100 kg ⁽¹⁾</i>
World market price :	18·670
World market price where the subsidy is fixed in advance :	
— for the month of June 1975	18·670
— for the month of July 1975	18·670
— for the month of August 1975	18·525
— for the month of September 1975	18·309
— for the month of October 1975	18·164
— for the month of November 1975	18·020

⁽¹⁾ The conversion rates from units of account into national currency as foreseen by Article 9 (5) (a) of Regulation (EEC) No 2300/73 are the following :

1 u.a. =	DM	3·21978
1 u.a. =	Fl	3·35507
1 u.a. =	Bfr/Lfr	48·6572
1 u.a. =	FF	5·56932
1 u.a. =	Dkr	7·57831
1 u.a. =	£	0·610982
1 u.a. =	l £	0·610982
1 u.a. =	Lit	867·190

REGULATION (EEC) No 1565/75 OF THE COMMISSION**of 20 June 1975****fixing the basic amount of the special export levy on syrups and other sugars**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community ;

Having regard to Council Regulation No 1009/67/EEC⁽¹⁾ of 18 December 1967 on the common organization of the market in sugar, as last amended by Regulation (EEC) No 2476/74⁽²⁾, and in particular Article 16 (5), second indent ;

Whereas the special export levy on syrups and other sugars were introduced by Regulation (EEC) No 403/74⁽³⁾, as last amended by Regulation (EEC) No 1503/75⁽⁴⁾ ;

Whereas Commission Regulation (EEC) No 389/74⁽⁵⁾ of 14 February 1974, as last amended by Regulation (EEC) No 3164/74⁽⁶⁾, has laid down detailed rules for applying the special export levy on syrups and other sugars ;

Whereas it follows from applying the rules and other provisions contained in the amended Regulation (EEC) No 403/74 to the information at present available to the Commission that the levies at present in force should be altered as shown in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION :

Article 1

The basic amount of the special export levy on the products specified in Article 1 (1) (d), of Regulation No 1009/67/EEC shall be as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 21 June 1975.

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

Done at Brussels, 20 June 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

⁽¹⁾ OJ No 308, 18. 12. 1967, p. 1.

⁽²⁾ OJ No L 264, 1. 10. 1974, p. 70.

⁽³⁾ OJ No L 44, 16. 2. 1974, p. 12.

⁽⁴⁾ OJ No L 153, 13. 6. 1975, p. 26.

⁽⁵⁾ OJ No L 43, 15. 2. 1974, p. 35.

⁽⁶⁾ OJ No L 334, 14. 12. 1974, p. 49.

ANNEX

to the Commission Regulation of 20 June 1975 fixing the basic amount of the special export levy on syrups and other sugars

(u.a./100 kg)		
CCT heading No	Description of goods	Basic amount of the special export levy per percentage point of sucrose content ⁽¹⁾
17.02	Other sugars ; sugar syrups ; artificial honey (whether or not mixed with natural honey) ; caramel :	
	ex D. Invert sugar and other syrups, but not including sucrose syrups which are 97 % or less pure ⁽²⁾ and are in packings the contents of which is not more than 25 kg	0-0100
	ex F. Caramel made from beet sugar and cane sugar	0-0100
17.05	Flavoured or coloured sugars, syrups and molasses, but not including fruit juices containing added sugar in any proportion : ex C. Other, excluding syrups and vanilla sugar in immediate packings the net contents of which do not exceed 2.5 kg, and molasses	0-0100

⁽¹⁾ Sucrose content is determined in accordance with Article 13 of Regulation (EEC) No 394/70.

⁽²⁾ The purity of the syrups is determined in accordance with Article 13 (2) of Regulation (EEC) No 394/70.

REGULATION (EEC) No 1566/75 OF THE COMMISSION**of 20 June 1975****amending the amounts applicable as compensatory amounts for cereals and rice**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to the Treaty ⁽¹⁾ concerning the accession of new Member States to the European Economic Community and the European Atomic Energy Community, signed at Brussels 22 January 1972;

Having regard to Council Regulation (EEC) No 229/73 ⁽²⁾ of 31 January 1973 laying down general rules for a system of compensatory amounts for cereals and fixing these amounts for certain products, as last amended by Regulation (EEC) No 1860/74 ⁽³⁾, and in particular Article 7 thereof;

Having regard to Council Regulation (EEC) No 243/73 ⁽⁴⁾ of 31 January 1973 laying down general rules for a system of compensatory amounts for rice and fixing these amounts for certain products, as amended by Regulation (EEC) No 1999/74 ⁽⁵⁾, and in particular Article 5 thereof;

Whereas compensatory amounts for cereals and rice have been fixed pursuant to Regulation (EEC) No 1392/75 ⁽⁶⁾, as last amended by Regulation (EEC) No 1559/75 ⁽⁷⁾;

Whereas the application of the rules referred to in Regulation (EEC) No 1392/75 requires that the amounts at present in force should be amended as shown in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The amounts applicable as compensatory amounts shown in the Annex to amended Regulation (EEC) No 1392/75 are amended as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 21 June 1975.

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

Done at Brussels, 20 June 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

⁽¹⁾ OJ No L 73, 27. 3. 1972, p. 5.

⁽²⁾ OJ No L 27, 1. 2. 1973, p. 25.

⁽³⁾ OJ No L 197, 19. 7. 1974, p. 1.

⁽⁴⁾ OJ No L 29, 1. 2. 1973, p. 26.

⁽⁵⁾ OJ No L 209, 31. 7. 1974, p. 5.

⁽⁶⁾ OJ No L 140, 31. 5. 1975, p. 14.

⁽⁷⁾ OJ No L 158, 20. 6. 1975, p. 23.

ANNEXE A — BILAG A — ANHANG A — ALLEGATO A — BIJLAGE A — ANNEX A

Montants applicables au titre des montants compensatoires pour les céréales

Beløb, der skal anvendes som udligningsbeløb for korn

Für Getreide als Ausgleichsbeträge anzuwendende Beträge

Importi applicabili a titolo di importi di compensazione per i cereali

Als compenserende bedragen toe te passen bedragen voor granen

Amounts applicable as compensatory amounts for cereals

N° du tarif douanier commun Position i den fælles toldtarif Nr. des Gemeinsamen Zolltarifs N. della tariffa doganale comune Nr. van het gemeenschappelijk douanetarief CCT heading No	(RE/UC/ir. 1 000 kg)		
	DK	IRL	UK
10.07 B	—	6.00	6.00

ANNEXE C — BILAG C — ANHANG C — ALLEGATO C — BIJLAGE C — ANNEX C

Montants applicables au titre des montants compensatoires pour les produits transformés à base de céréales et de riz

Beløb, der skal anvendes som udligningsbeløb for produkter, der er forarbejdet på basis af korn og ris

Für Getreide- und Reisverarbeitungserzeugnisse als Ausgleichsbeträge anzuwendende Beträge

Importi applicabili a titolo di importi di compensazione per i prodotti trasformati dei cereali e del riso

Als compenserende bedragen toe te passen bedragen voor op basis van granen en rijst verwerkte produkten

Amounts applicable as compensatory amounts for products processed from cereals or rice

(RE/UC/u.a./100 kg)

N° du tarif douanier commun Position i den fælles toldtarif Nr. des Gemeinsamen Zolltarifs N. della tariffa doganale comune Nr. van het gemeenschappelijk douanetarief CCT heading No	DK	IRL	UK
11.01 H ⁽¹⁾	—	0.612	0.612
11.02 A VIII ⁽¹⁾	—	0.612	0.612
11.02 B I a) 4 ⁽¹⁾	—	0.840	0.840
11.02 B I b) 4 ⁽¹⁾	—	0.840	0.840
11.02 C VII ⁽¹⁾	—	0.840	0.840
11.02 D VII ⁽¹⁾	—	0.612	0.612
11.02 E I a) 4 ⁽¹⁾	—	0.612	0.612
11.02 E I b) 4 ⁽¹⁾	—	0.840	0.840
11.02 F VIII ⁽¹⁾	—	0.612	0.612

⁽¹⁾ Pour la distinction entre les produits des n°s 11.01 et 11.02, d'une part, et ceux de la sous-position 23.02 A, d'autre part, sont considérés comme relevant des n°s 11.01 et 11.02 les produits ayant simultanément :

- une teneur en amidon (déterminée d'après la méthode polarimétrique Ewers modifiée) supérieure à 45 % (en poids) sur matière sèche,
- une teneur en cendres (en poids) sur matière sèche (déduction faite des matières minérales ayant pu être ajoutées) inférieure ou égale à 1,6 % pour le riz, 2,5 % pour le froment et le seigle, 3 % pour l'orge, 4 % pour le sarrasin, 5 % pour l'avoine et 2 % pour les autres céréales.

Les germes de céréales, même en farines, relèvent en tout cas du n° 11.02.

⁽²⁾ Med henblik på sondringen mellem varer tariferet under pos. 11.01 og 11.02 på den ene side og under pos. 23.02 A på den anden side anses som tariferet under pos. 11.01 og 11.02 varer, der samtidig har

- et indhold af stivelse (bestemt ved Ewers modificerede polarimetriske metode) på over 45 vægtprocent, beregnet på grundlag af tørsubstansen,
- et askeindhold (efter fradrag af eventuelle tilsatte mineralske stoffer) på 1,6 vægtprocent eller derunder for ris, 2,5 vægtprocent eller derunder for hvede og rug, 3 vægtprocent eller derunder for byg, 4 vægtprocent eller derunder for boghvede, 5 vægtprocent eller derunder for havre og 2 vægtprocent eller derunder for de øvrige kornsorter, beregnet på grundlag af tørsubstansen.

Kim af korn samt mel deraf tariferes under alle omstændigheder under pos. 11.02.

⁽³⁾ Für die Abgrenzung der Erzeugnisse der Tarifnummern 11.01 und 11.02 von denen der Tarifstelle 23.02 A gelten als Erzeugnisse der Tarifnummern 11.01 und 11.02 Erzeugnisse, die gleichzeitig folgendes aufweisen :

- einen auf den Trockenstoff bezogenen Stärkegehalt (bestimmt nach dem abgeänderten polarimetrischen Ewers-Verfahren) von mehr als 45 Gewichtshundertteilen,
- einen auf den Trockenstoff bezogenen Aschegehalt (abzüglich etwa zugesetzter Mineralstoffe), der bei Reis 1,6 Gewichtshundertteile oder weniger, bei Weizen und Roggen 2,5 Gewichtshundertteile oder weniger, bei Gerste 3 Gewichtshundertteile oder weniger, bei Buchweizen 4 Gewichtshundertteile oder weniger, bei Hafer 5 Gewichtshundertteile oder weniger und bei anderen Getreidearten 2 Gewichtshundertteile oder weniger beträgt.

Getreidekeime, auch gemahlen, gehören auf jeden Fall zur Tarifnummer 11.02.

- (¹) Per la distinzione tra i prodotti delle voci nn. 11.01 e 11.02 da un lato, e quelli della sottovoce 23.02 A dall'altro, si considerano come appartenenti alle voci nn. 11.01 e 11.02 i prodotti che abbiano simultaneamente:
- un tenore in amido (determinato in base al metodo polarimetrico Ewers modificato), calcolato sulla materia secca, superiore al 45 % (in peso),
 - un tenore in ceneri (in peso), calcolato sulla materia secca (dedotte le sostanze minerali che possono essere state aggiunte), inferiore o pari all'1,6 % per il riso, al 2,5 % per il frumento e la segala, al 3 % per l'orzo, al 4 % per il grano saraceno, al 5 % per l'avena e al 2 % per gli altri cereali.

I germi di cereali, anche sfarinati, rientrano comunque nella voce n. 11.02.

- (¹) Voor het onderscheid tussen de produkten van de nummers 11.01 en 11.02 enerzijds en die van de onderverdeling 23.02 A anderzijds, worden geacht onder de nummers 11.01 en 11.02 te vallen de produkten die tegelijkertijd:

- een zetmeelgehalte hebben (bepaald volgens de gewijzigde polarimetrische methode van Ewers) van meer dan 45 gewichtspersenten, berekend op de droge stof, en
- een asgehalte hebben (onder aftrek van eventueel toegevoegde minerale stoffen), berekend op de droge stof, van ten hoogste: 1,6 gewichtspersent voor rijst, 2,5 gewichtspersenten voor tarwe en rogge, 3 gewichtspersenten voor gerst, 4 gewichtspersenten voor boekweit, 5 gewichtspersenten voor haver en 2 gewichtspersenten voor andere granen.

Graankiemen ook indien gemalen, vallen in elk geval onder nummer 11.02.

- (¹) For the purpose of distinguishing between products falling within headings Nos 11.01 and 11.02 and those falling within subheading 23.02 A, products falling within headings Nos 11.01 and 11.02 shall be those meeting the following specifications:

- a starch content (determined by the modified Ewers polarimetric method), referred to dry matter, exceeding 45 % by weight,
- an ash content, by weight, referred to dry matter (after deduction of any added minerals) not exceeding 1.6 % for rice, 2.5 % for wheat and rye, 3 % for barley, 4 % for buckwheat, 5 % for oats and 2 % for other cereals.

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

REGULATION (EEC) No 1567/75 OF THE COMMISSION**of 20 June 1975****altering the import levies on products processed from cereals and rice**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to 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 85/75⁽²⁾, and in particular Article 14 (4) thereof;

Having regard to Council Regulation No 359/67/EEC⁽³⁾ of 25 July 1967 on the common organization of the market in rice, as last amended by Regulation (EEC) No 476/75⁽⁴⁾, and in particular Article 12 (4) thereof;

Whereas the import levies on products processed from cereals and rice were fixed by Regulation (EEC) No 1340/75⁽⁵⁾, as last amended by Regulation (EEC) No 1545/75⁽⁶⁾;

Whereas the levy on the basic product as last fixed differs from the average levy by more than 0.25 unit

of account per 100 kilogrammes of basic product; whereas, pursuant to Article 1 of Regulation (EEC) No 1579/74⁽⁷⁾, the levies at present in force must therefore be altered as shown in the table annexed to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies to be charged on products processed from cereals and rice covered by Regulation (EEC) No 1052/68⁽⁸⁾, as last amended by Regulation (EEC) No 980/75⁽⁹⁾, as fixed in the Annex to amended Regulation (EEC) No 1340/75 are hereby altered as shown in the table annexed to this Regulation.

Article 2

This Regulation shall enter into force on 21 June 1975.

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

Done at Brussels, 20 June 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

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

(2) OJ No L 11, 16. 1. 1975, p. 1.

(3) OJ No 174, 31. 7. 1967, p. 1.

(4) OJ No L 52, 28. 2. 1975, p. 31.

(5) OJ No L 137, 28. 5. 1975, p. 7.

(6) OJ No L 157, 19. 6. 1975, p. 12.

(7) OJ No L 168, 25. 6. 1974, p. 7.

(8) OJ No L 179, 25. 7. 1968, p. 8.

(9) OJ No L 95, 17. 4. 1975, p. 1.

ANNEX

to the Commission Regulation of 20 June 1975 altering the import levies on products processed from cereals and rice

CCT heading No	Levies in u.a./100 kg	
	Third countries (other than AASM and OCT, Tanzania, Uganda and Kenya)	AASM, OCT, Tanzania, Uganda and Kenya
11.01 D ⁽²⁾	8.159	7.659
11.02 A IV ⁽²⁾	8.159	7.659
11.02 B I a) 2 aa)	4.590	4.340
11.02 B I a) 2 bb) ⁽²⁾	7.909	7.659
11.02 B I b) 2 ⁽²⁾	7.909	7.659
11.02 B II a) ⁽²⁾	6.795	6.545
11.02 C I ⁽²⁾	8.124	7.874
11.02 C IV ⁽²⁾	7.058	6.808
11.02 D I ⁽²⁾	5.269	5.019
11.02 D IV ⁽²⁾	4.590	4.340
11.02 E I a) 2 ⁽²⁾	4.590	4.340
11.02 E I b) 2 ⁽²⁾	9.010	8.510
11.02 E II a) ⁽²⁾	9.358	8.858
11.02 F I ⁽²⁾	9.358	8.858
11.02 F IV ⁽²⁾	8.159	7.659
11.02 G I	4.191	3.691
11.07 A I a)	9.659	8.759
11.07 A I b)	7.445	6.545
11.08 A III	5.266	3.566
11.09 A	21.484	6.484
11.09 B	21.484	6.484

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

- a starch content (determined by the modified Ewers polarimetric method), referred to dry matter, exceeding 45 % by weight
- an ash content, by weight, referred to dry matter (after deduction of any added minerals), not exceeding 1.6 % for rice, 2.5 % for wheat, 3 % for barley, 4 % for buckwheat, 5 % for oats and 2 % for other cereals.

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

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 24 April 1975

authorizing the application of special tariff measures to the carriage by rail of iron ore from Lorraine and Western France to Belgium, Luxembourg and the Saar

(Only the German and the French texts are authentic)

(75/356/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Articles 2 to 5 and 70 thereof;

Whereas by Decision No 13/67⁽¹⁾ of 7 June 1967 the High Authority of the ECSC authorized the application of reduced rates to the carriage by rail of Lorraine iron ore to the Saar; whereas by Decision No 74/302/ECSC⁽²⁾ of 22 May 1974 the Commission extended such authorization until 31 December 1974 by approving the application until that date of Franco-German Tariff No 3101 (now designated Tariff No 5001) — Part III — Price Scale No 1 and of the tariff subsidy (Frachthilfe) granted pursuant to the Directives from the Bundesminister für Wirtschaft;

Whereas by Decisions No 68/349/ECSC⁽³⁾ of 31 July 1968 and No 69/268/ECSC⁽⁴⁾ of 28 July 1969 the Commission authorized the application of special tariff measures to the carriage by rail of Lorraine iron ore to Belgium and Luxembourg; whereas by Decision No 73/48/ECSC⁽⁵⁾ of 4 January 1973 it extended such authorization until 31 December 1974 by approving the application until that date of Franco-Belgian Tariff No 3232 (now designated Tariff No 5040) — Part III and of Franco-Luxembourg Tariff No 3530 (now designated Tariff No 5024) — Part III A;

Whereas by Decision No 73/49/ECSC⁽⁶⁾ of 4 January 1973 the Commission authorized until 31 December 1974 the application of three special tariffs to the carriage by rail of iron ore from Western France to Belgium (Franco-Belgian Tariff No 3232-01 — now designated Tariff No 5040-01), to Luxembourg (Franco-Luxembourg Tariff No 3530-05 — now designated Tariff No 5024-05) and to the Saar (Franco-German Tariff No 3101 — now designated Tariff No 5001 — Part III — Price Scale No 2);

Whereas the Commission, with the agreement of the Member States concerned, considered all these measures as an integral part of the tariff structure as a whole and therefore limited its authorization thereof to a period expiring on 31 December 1974;

Whereas, by letters dated 20 December 1974, 23 December 1974 and 14 March 1975 from the Offices of the Permanent Representatives of France, Germany and Luxembourg respectively to the European Communities, the French, German and Luxembourg Governments addressed a request to the Commission to extend until 31 December 1976 the authorization for all the tariffs in question with the tariff reductions applied previously, it being understood however that the reduction of FF 1.01 granted over the French section as provided for in Franco-German Tariff No 5001 would in future be subsidized in full by the SNCF;

⁽¹⁾ OJ No 116, 17. 6. 1967, p. 2249/67.

⁽²⁾ OJ No L 171, 27. 6. 1974, p. 2.

⁽³⁾ OJ No L 230, 19. 9. 1968, p. 8.

⁽⁴⁾ OJ No L 220, 1. 9. 1969, p. 5.

⁽⁵⁾ OJ No L 83, 30. 3. 1973, p. 36.

⁽⁶⁾ OJ No L 83, 30. 3. 1973, p. 38.

Whereas in their request and in particular during a consultation meeting with the Commission, the Governments concerned have pointed out that :

1. The circumstances which gave rise to previous authorizations granted by the Commission still prevail today, that since the first authorizations were granted, the situation of French iron ore compared with imports of rich ore from non-Member States has not changed fundamentally, that its position remains unfavourable and that the disadvantage of the low iron content of French, and, particularly, Lorraine iron ore, which is reflected in a high consumption of coke in blast furnaces, has become more acute due to the considerable increases in the price of coke ;
2. The continued application of the special tariff measures concerned should enable the French iron mines to pursue their efforts towards rationalization and modernization, which have been reflected in increased productivity (the output of mines in the East, for example, increased by 38 % between 1968 and 1973) and reduce the risk to the railways of losing traffic of some 10 million metric tons which is still profitable ; the French and Luxembourg Governments support their request for an extension of authorization of the said measures by stressing their importance to their railways ;
3. The continued operation of French mines is of importance to the Community in that this ensures survival of sources of supply of raw materials and to a certain extent insures against the risks associated with imports from non-member producer countries at a time when the latter are uniting in an attempt to strengthen their position *vis-à-vis* consumer countries ;

Whereas the circumstances invoked by the Governments concerned as set out in 1 and 2 above seem incontestable in so far as they are intended to justify aid for the French iron mines ; whereas in spite of efforts towards rationalization and modernization the latter have still not entirely overcome their difficulties, in particular because of new disadvantages resulting from the increased cost of coke, which has a more pronounced effect on the use of French ore due to the greater consumption of coke that this entails ;

Whereas under the present circumstances governing the supply of raw materials to the Community the granting for a further period of tariff reductions in favour of the iron producers can help them in their restructuring and modernization efforts and thus enable them to make an effective contribution to supplying the Community iron and steel industry ;

Whereas under these conditions and even if, because of present circumstances, in particular the state of the

world market in iron ore at this time, there seems to be little risk in the short-term of a reduction in the present volume of trade in French iron ore, continued application of the special tariff measures in question appears justified ; whereas the interest of the SNCF and the CFL as invoked by the French and Luxembourg Governments have not been established, because both Governments have failed to provide the proof requested by the Commission that the application of these tariff measures will actually improve the operating results of the two railways ; whereas the interest of the SNCF and the CFL are not however decisive since the aim of the aid is not disputed ; whereas these measures are compatible with the principles of the Treaty establishing the ECSC and whereas their application is not liable to have a disturbing effect upon the common market ;

Whereas the period for which continued application has been requested by the Governments concerned is limited to two years ; whereas because of the shortness of this period and having regard to the terms on which the tariff reductions authorized are applied, it does not appear necessary to provide for such reductions to be gradually scaled down over this period, even though the tariff aid thus granted to certain French producers will have accordingly remained unchanged for a total period of almost 10 years ;

Whereas the Commission must reserve the right to review its decision whenever the circumstances giving rise to it vary or no longer apply ;

HAS ADOPTED THIS DECISION :

Article 1

Authorization is hereby given, until 31 December 1976, for the application to the carriage by rail of Lorraine iron ore and iron ore from Western France to Belgium, Luxembourg and the Saar of the following special tariff measures :

- Franco-German Tariff No 5001 — Part III and the tariff subsidy (Frachthilfe) granted pursuant to the Directives from the Bundesminister für Wirtschaft,
- Franco-Belgian Tariffs No 5040 — Part III and No 5040-01,
- Franco-Luxembourg Tariffs No 5024 — Part III A and No 5024-05

with the tariff reductions in force on 31 December 1974.

Article 2

This Decision may be amended or repealed if the Commission finds that it is no longer warranted.

Article 3

Done at Brussels, 24 April 1975.

*For the Commission**The President*

François-Xavier ORTOLI

This Decision is addressed to the Federal Republic of Germany, the French Republic and the Grand Duchy of Luxembourg.

COMMISSION DECISION

of 28 May 1975

addressed to the Government of the Grand Duchy of Luxembourg on a draft Grand-Ducal regulation implementing Council Regulation (EEC) No 1174/68 of 30 July 1968 on the introduction of a system of bracket tariffs for the carriage of goods by road between Member States

(Only the French text is authentic)

(75/357/EEC)

The Government of the Grand Duchy of Luxembourg by a letter of 4 July 1974 from the Office of its Permanent Representative referred to the Commission a draft Grand-Ducal regulation implementing Council Regulation (EEC) No 1174/68⁽¹⁾ of 30 July 1968 on the introduction of a system of bracket tariffs for the carriage of goods by road between Member States and Commission Regulation (EEC) No 358/69⁽²⁾ of 26 February 1969 laying down detailed rules for the publication of transport rates and conditions which depart from published tariffs.

After a briefing session held with the Commission and as a result of the amendments made with effect from 1 January 1975 to Regulation (EEC) No 1174/68⁽³⁾ by Council Regulation (EEC) No 3255/74 of 19 December 1974, the Government of Luxembourg informed the Commission by letters of 3 and 29 January from the Office of its Permanent Representative of certain amendments to be made to the initial text of the draft.

These communications constitute a consultation with the Commission on the draft as required by Article 12(1) of Regulation (EEC) No 1174/68.

The Commission does not consider it necessary to initiate any consultation with the other Member States as provided for by Article 12(2) of Regulation (EEC) No 1174/68.

The Commission's Opinion on the draft Grand-Ducal regulation is as follows:

1. The draft Grand-Ducal decree is intended to replace the Grand-Ducal decree of 12 February 1971⁽⁴⁾, on which the Commission had given a generally favourable Opinion⁽⁵⁾ but with the following reservations:

(a) *On the organization of and procedure for carrying out checks:*

— the Grand-Ducal decree made reference only to the General Law of 12 June 1965 on road

transport, which speaks only of the subsequent adoption of checking measures designed to ensure its proper implementation;

— the checking measures laid down by the Grand-Ducal regulation were restricted to checks on carriers, whereas the compulsory nature of the tariff system made it necessary to be able to check on all parties connected with road transport operations.

In a further letter to the Commission, the Government of Luxembourg stated that no further checking measures were necessary as experience had shown that the measures laid down under the existing law were quite adequate. An undertaking was however given to extend checking to providers of ancillary transport services, the basic Law of 12 June 1965 making no provision for it to be extended to consignors and consignees.

(b) *In respect of penalties:*

the Commission suggested that the system of exclusively criminal penalties should be supplemented by administrative penalties on a scale graded according to the seriousness of the breach.

2. The provisions of the Grand-Ducal regulation are as follows:

— *Article 1* designates the member of Government in charge of the department dealing with road transport as competent authority for the purposes of Regulation (EEC) No 1174/68. It also delegates checking measures and scrutiny of special contracts, and the transmission for publication of these, to a Road Transport Control Department to be set up within the ministerial department dealing with road transport.

— *Article 2* designates the Chamber of Commerce as the body responsible for the publication of transport rates and conditions which depart from the published tariffs (special contracts).

⁽¹⁾ OJ No L 194, 6. 8. 1968, p. 1.

⁽²⁾ OJ No L 53, 4. 3. 1969, p. 1.

⁽³⁾ OJ No L 349, 28. 12. 1974, p. 3.

⁽⁴⁾ Memorial A No 12, 25. 2. 1971, p. 253.

⁽⁵⁾ OJ No L 7, 9. 1. 1971, p. 12.

- *Article 3* sets out the number of consignment note copies to be completed, the information to be provided on all copies before the transport operation is carried out, and the information to be provided on the carrier's copy (control copy) after the operation has been carried out.
- *Article 4* lays down that carriers established in the Grand Duchy of Luxembourg shall maintain log books which will be carried in the vehicles and on which it will be compulsory to enter certain particulars which will enable a check to be made that the transport operation was carried out in accordance with the particulars entered on the consignment note.
- *Article 5* lays down procedures for the transmission of consignment notes and duplicate log-book sheets to the Road Transport Control Service.
- *Article 6* designates the persons entitled to carry out checking measures and specified the extent of their powers of inquiry.
- *Article 7* sets out the criminal penalties applicable to breaches of Regulation (EEC) No 1174/68. Offences are punishable by imprisonment of from eight days to five years and/or a fine of from ten thousand to a million francs. Certain offences can also result in forfeiture of the profit illegally obtained and confiscation of the vehicle used to commit the offence.
- *Article 8* lays down that breaches of the Grand-Ducal regulation will be punished in accordance with Article 8 of the Law of 12 June 1965 on road transport. This Law prescribes penalties of from eight days to three months imprisonment and/or a fine of from Bfrs 501 to Bfrs 30 000.
- *Article 9* stipulates that when a carrier has been found guilty of a breach of both the provisions of Regulation (EEC) No 1174/68 and of those of the Grand-Ducal regulation, the member of Government in charge of the ministerial department dealing with road transport may withdraw the carriers permit to carry on business as an international carrier for a period of from three months to ten years.

In cases of repeated breach if a carrier has, within three years of being penalized for a first offence or

within three years of the end of the period of limitation, been found guilty of a third offence of the same type, the member of Government in charge of the department dealing with road transport will without further formality order the permanent withdrawal of such carrier's permit to carry on business as an international carrier.

3. The Commission finds that the draft Grand-Ducal regulation generally meets the wishes expressed in its Opinion of 4 December 1970.

On the organization of and procedure for carrying out checks it incorporates specific measures on the setting up of a control department, on the content of consignment notes and on the maintenance of log books giving details of individual transport operations. Moreover, as the officials of the control department are entitled to investigate and certify breaches of the regulation jointly with the officers already entitled to do so under the Law of 12 June 1965 the staff complement for this work is strengthened. The Government of Luxembourg has not however acted on the Commission's Opinion that checking measures should be extended to consignors and consignees.

In respect of penalties, the Government of Luxembourg has acceded to the Commission's wish by introducing administrative measures providing for temporary or permanent withdrawal of the carrier's permit, depending on the seriousness of the offence and the number of offences previously committed.

4. The Commission is therefore able to give a favourable opinion on the draft Grand-Ducal regulation while regretting that it has not been deemed advisable to extend checking measures to all parties connected with transport operations.

Done at Brussels, 28 May 1975.

For the Commission

The President

François-Xavier ORTOLI

COMMISSION DECISION

of 3 June 1975

relating to proceedings under Article 85 of the EEC Treaty

(IV/712 — Stoves and Heaters)

(Only the Dutch text is authentic)

(75/358/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 3 thereof;

Having regard to the notification of the 'Herziene Overeenkomst Haarden- en Kachelhandel' submitted on 26 October 1962 by Mr J. M. O'Brien, manager of the Haarden- en Kachelbureau, in accordance with Article 5 of Regulation No 17;

Having regard to the applications submitted under Article 3 of Regulation No 17 by Mr H. D. Kriek, dealer, of Krommenie, and by B. V. Stokvis en Zonen of Rotterdam on respectively 4 May 1973 and 31 October 1974;

Having regard to the decision of the Arrondissementsrechtbank in Haarlem on 15 January 1974 to adjourn the action brought before it until the Commission had given its Decision in the case;

Having heard the parties concerned, in accordance with Article 19 (1) of Regulation No 17 and with the provisions of Regulation No 99/63/EEC⁽²⁾;

Having regard to the Opinion obtained on 25 February 1975 of the Advisory Committee on Restrictive Practices and Dominant Positions in accordance with Article 10 of Regulation No 17,

WHEREAS:

I. The facts

The facts may be summarized as follows:

The 'Revised Agreement on Trade in Stoves and Heaters' (hereinafter referred to as 'the Agreement'), made on 1 January 1952, amended on 1 January 1962 and then notified to the Commission on 26 October 1962, contained various provisions for an association of different categories of approved members involved

in the manufacture and distribution of coal and oil heating appliances on the Dutch market, that is to say manufacturers, importers, wholesalers, provincial wholesalers, agents and retailers.

The Agreement was administered by the 'Haarden- en Kachelhandel bureau' (hereinafter referred to as 'the Bureau') of which Mr J. M. O'Brien (hereinafter referred to as 'Mr O'Brien') was the manager. The Agreement has been further amended on a number of occasions and on 1 October 1967 was extended to include gas heaters. The operation of the Agreement was subsequently terminated at the end of 1972. The Bureau is now being wound up and Mr O'Brien has been given the responsibility of dealing with outstanding cases and of disposing of the assets of the Bureau.

The Dutch market in coal, oil and gas heating appliances was controlled by the Agreement, and about 25 Dutch manufacturers, three importers, about 75 wholesalers and several thousand retailers were affiliated to it. The products, the subject of the Agreement, accounted for more than 90 % of the trade in these heating appliances in the Netherlands.

R. S. Stokvis & Zonen NV, Rotterdam — later R. S. Stokvis & Zonen BV — (hereinafter referred to as 'Stokvis') joined the Association on 1 January 1957 as a wholesaler and was thereafter a member of the approved group of wholesalers dealing in gas heating appliances.

Mr H. D. Kriek, a dealer of Krommenie (hereinafter referred to as 'Mr H. D. Kriek') had been a member of the association since 1957/58 as a retailer and in 1967 became a member of the approved group of retailers selling gas heating appliances.

Article 32 (3) of the Agreement as notified to the Commission in 1962, which applied to wholesalers belonging to the Association, provided as follows:

'3. Wholesalers:

- (a) shall refrain from offering, selling or delivering to retail associations; sales and supplies to approved purchasing associations shall only be made to a central warehouse;

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No 127, 20. 8. 1963, p. 2268/63.

- (b) shall refrain from offering, selling or delivering to unauthorized retailers or to retailers who have been suspended or disqualified under the provisions of these regulations ;
- (c) shall refrain from offering, selling or delivering to state, provincial or other public bodies and institutions — including the Nederlandse Spoorwegen — unless the goods ordered and supplied are intended for internal use within the institution, and shall refrain from offering, selling or delivering to the Rijksinkoopbureau, (Government procurement office) unless the goods ordered and supplied are intended for internal use by Government institutions. Offers, sales and deliveries shall take account of the regulations which shall be drawn up for that purpose by the "Haarden- en Kachelbureau" ;
- (d) shall not supply stoves and heaters on terms of sale or return, nor enter with purchasers into arrangements of equivalent effect ;
- (e) shall not accept the return of heating appliances after delivery except for clearly established defects in the delivered goods, unless in special circumstances the Manager of the Haarden- en Kachelbureau at his discretion so permits ;
- (f) shall not open showrooms for the sale of heating appliances to the public unless they are operated as a retail shop within the meaning of the first paragraph of this Article ;
- (g) shall not appoint retailers as agents nor give commissions or other forms of benefit to retailers for their orders ;
- (h) shall refrain from buying or taking delivery of stoves and heaters from manufacturers or importers of oil heaters who are not approved under these regulations, or who have been suspended or disqualified in pursuance of these regulations

On 1 December 1969 sub-clause (b) above was amended by the addition of the following sentence :

'deliveries shall not be made to sales points other than those registered with the Haarden- en Kachelbureau under these regulations'.

This amendment was notified on 23 April 1971.

On 2 December 1971 the following additional provision was notified under (i) :

- (i) shall refrain from directly or indirectly assisting in any way in the contravention of the provisions of Article 10 (2). Such assistance will be deemed to have been given where a wholesaler knew, should have known

or could reasonably have formed the conclusion that stoves and heaters supplied by him were not intended exclusively for direct sale by a retailer to the consumer'.

Article 75 (1) of the Agreement, added by way of amendment on 1 October 1967 and notified on 26 September 1968, states :

- '1. The obligations set out in Articles 32, 33, 34 and 36 (5) of this Agreement also apply to manufacturers, importers and wholesalers of gas heating appliances, it being understood that in Article 32 (3) (a) "purchasing associations within the meaning of Article 12" be amended to read "purchasing associations within the meaning of Article 74", and that subparagraph (b) be amended to read : "shall refrain from offering, selling or supplying gas heating appliances to and buying gas heating appliances from persons not registered with the Gasverwarmingsapparaten department or persons registered with this department who have been suspended or disqualified under the provisions of these regulations".'

This provision was amended in the following terms on 11 November 1970 and the amendment was notified on 23 April 1971 :

- '... and that (b) be amended to read "shall refrain from offering selling, supplying or delivering gas heating appliances to and buying gas heating appliances from persons not registered with the Gasverwarmingsapparaten department or persons registered with this department who have been suspended or disqualified under the provisions of these regulations ; deliveries may not be made to sales points other than those registered with the Gasverwarmingsapparaten department under these regulations".'

In the text of the Agreement notified in 1962, the provisions of Article 10 applying to retailers affiliated to the Agreement read as follows :

'Article 10

The stipulations governing retailers, set out in Article 9, are now as follows :

- 1. Heating appliances shall be purchased only from suppliers appearing in the list of suppliers drawn up by the Haarden- en Kachelbureau or about to be placed on this list by the Bureau. Such articles shall not be purchased from suppliers whom the Haarden- en Kachelbureau in Utrecht has declared to be temporarily suspended or who have been struck off the list of suppliers by the Bureau. Heating appliances shall not be purchased jointly by groups of retailers.

2. Heating appliances shall not be sold by retailers to other retailers, unless the approval of the Haarden- en Kachelbureau has been obtained.
3. Heating appliances shall be sold only at the gross price, as fixed by the supplier, applying at the time when the appliance is sold. In displaying the goods or in any other way offering them for sale, no price may be quoted other than this gross price. No advertisements may be made which offer part-exchange or which may create a misleading impression on the public. The cost of any installation shall be charged separately. Any further regulations on this matter issued by the Haarden- en Kachelbureau must be observed.
4. Heating appliances shall not be supplied or accepted on terms of sale or return, displayed, exhibited, demonstrated, offered for sale or sold on other premises, or deposited or stored with other parties. They shall not, without the approval of the Haarden- en Kachelbureau, be displayed, exhibited, demonstrated, offered for sale or sold in any place other than those registered as sales premises with the Haarden- en Kachelbureau.

Heating appliances shall not be supplied on loan or otherwise made available for use, nor shall any such offer be made in advertisements or other publications.
5. The conditions under which hire-purchase sales are made shall be notified immediately to the Haarden- en Kachelbureau in Utrecht.
6. No discount shall be given on the sale of heating appliances nor may gifts, commissions or dividends be given on sales. Sales commissions may, however, be allowed for permanently employed staff. Advertising sales at reduced prices or selling at reduced prices or with free gifts and offering commissions on the sale of heating appliances are also prohibited.
7. Prompt assistance must be given in any inquiry concerning heating appliances initiated by or on behalf of the Haarden- en Kachelbureau in Utrecht; this assistance includes permitting the inspection of books and records.
8. It is also prohibited, in any way whatsoever, to assist directly or indirectly in, or be a party to any act which runs counter to the above provisions.

These provisions were supplemented by circular distributed by the appropriate Consultative Committee on 8 April 1969 and notified on 23 April 1971 as follows:

(a) *Article 10 (2)*

'Heating appliances shall not be sold by retailers to other retailers, unless the approval of the Haarden- en Kachelbureau has been obtained. By virtue of the provisions of Article 78 of the Exclusive Trade Agreement on gas heating appliances, this stipulation also applies to approved retailers of gas heating appliances';

(b) *Article 10 (7)*

'Full and clear accounts must be kept showing all purchases and sales of gas heating appliances together with the names of suppliers and purchasers'.

The provisions were again amended by circular of 1 December 1969, which was notified on 23 April 1971, as follows:

(a) *Article 10 (3)*

'No advertisements shall be made which create a misleading impression on the public';

(b) *Article 10 (6)*

'No commissions shall be given or offered on the sale of heating appliances. Sales commissions may, however, be given to permanently employed staff'.

The supervision of the application of the provisions of the Agreement is, by virtue of Articles 38 *et seq.*, the responsibility of the 'Beoordelingscommissie' or Committee of Arbitration, which has the power to impose fines and to disqualify members from exclusive distribution. Appeal can be made against the decisions of the 'Beoordelingscommissie' to an Appeal Committee set up under Articles 54 *et seq.* of the Agreement. The Committee of Arbitration and the Appeal Committee operated in accordance with a highly formalized procedure which both in its form and its effects was designed to follow closely the manner in which judicial proceedings are conducted in the Netherlands.

The Committee of Arbitration consisted of five representatives of the different categories which were party to the Agreement; there was no independent representation. The Appeal Committee consisted of either three or five members drawn from persons in categories which were not concerned with the sector in question. Appointment to the committees was made by a consultative committee which again consisted exclusively of members of the different categories belonging to the Agreement. The independence of the Appeal Committee was diminished not only by the way in which it was constituted but also by the rules of procedure drawn up for it by the consultative committee.

The principle under which this procedure operated followed the Dutch legal principle of 'binden advies' or mandatory settlement. The Bureau is still seeking to carry out the provisions of this part of the agreement in two cases, by enforcing penalties imposed by the Appeal Committee.

Certain other provisions of the Agreement related to the conditions of entry and to the obligations imposed on the various categories of parties to the Agreement including the obligation to observe resale price maintenance. These provisions also covered the requirement for mutual and collective exclusivity between the different categories of member which effectively closed the Dutch market.

In July 1968, Mr H. L. Smit, a wholesaler/retailer of Amsterdam (hereinafter referred to as 'Mr Smit'), a known independent who was not registered under the Agreement, had made an arrangement with Mr Kriek under which he bought the gas heaters he required from wholesalers approved under the Agreement in the name of Mr Kriek, who was an approved retailer.

These gas heaters were then resold by Mr Smit at lower prices than those fixed by the manufacturers, importers and wholesalers affiliated to the Agreement. Furthermore, both the range of goods sold by Mr Smit and his turnover were considerable.

By a letter dated 3 November 1969, the Committee of Arbitration summoned Mr Kriek on the grounds that this market conduct was in breach of the obligations imposed on retailers by Article 10 of the Agreement.

The Committee wrote to Mr Kriek on 9 January 1970 informing it that it was being fined:

- (a) Fl 5 000 for acting in contravention of Article 10 (4) and (8);
- (b) Fl 500 for not keeping his books in a proper manner in accordance with the requirements of Article 10 (7).

In its investigation into Mr Kriek's affairs, initiated on 30 October 1969, the Committee of Arbitration had found that:

- (a) a large number of gas heating appliances (about 3 600) had been bought from individual wholesalers while only a small number (about 200) had been sold to the public;
- (b) Mr Kriek had not maintained accounts of his trade in gas heating appliances in the manner laid down by the Agreement.

When Mr Kriek refused to pay the fine imposed, the Committee of Arbitration informed him by letter dated 16 February 1970 that he was suspended as a member of the Agreement and that accordingly he could no longer make purchases from recognized

wholesalers. The arrangement between Mr Kriek and Mr Smit was then discontinued since practically the whole trade in gas heating appliances was carried out through firms affiliated to the Agreement. Mr Kriek was unable to obtain gas stoves elsewhere.

On 8 February 1972 Mr O'Brien summoned Mr Kriek before the Arrondissementsrechtbank in Haarlem to enforce the payment of the Fl 5 500 fine. In its judgment on 15 January 1974, the Court adjourned the case until the Commission of the European Communities had given its Decision in the matter. This judgment was sent to the Commission by the Court.

During 1969 and 1970, Stokvis had delivered gas heating appliances to retailers not registered under the Agreement and to one retailer who was suspended. Stokvis had also delivered 3 900 items to the firm Schweitzer in Westzaan (hereinafter referred to as 'Schweitzer'), which had then sold them to Mr Smit.

The Committee of Arbitration wrote to Stokvis on 3 November 1971 informing Stokvis that it was being fined:

- (a) Fl 3 700 for supplying to retailers who were not registered or who were suspended;
- (b) Fl 100 000, of which Fl 50 000 was suspended, for supplying Mr Smit via Schweitzer.

Stokvis appealed to the Appeal Committee against this decision of the Committee of Arbitration. In its ruling of 6 December 1971, the Appeal Committee upheld the fine of Fl 3 700, but set aside the remainder of the decision of the Committee of Arbitration, and, in a new ruling, fined Stokvis Fl 50 000 for infringement of Article 75 (1). The grounds for this were the same, that is to say for supplying Mr Smit via Schweitzer.

In its appeal, Stokvis had claimed that the amended provisions of Article 75 (1) of the Agreement, circulated to members in stencilled form on 11 November 1970, were not binding as long as they were not notified to the Commission of the European Communities. This notification did not take place until 21 April 1971.

On 6 December 1971 the Appeal Committee ruled on this point as follows:

'A formal eleventh objection has been lodged to the effect that the addition of Article 75 (1) of the Revised Agreement — circulated in stencilled form on 11 November 1970 — was not binding for as long as this amendment was not notified to the European Commission, which notification, as it has emerged during this hearing, took place only on 21 April 1971.

Even if the Appeal Committee concedes that it is correct that amendments to the Revised Agreement shall not take effect until after such notification, this can, nevertheless, have no effect on the view of the Appeal Committee in the present case'.

On 5 January 1973 Mr O'Brien summoned Stokvis before the Arrondissementsrechtbank in Rotterdam to enforce payment of the fine of Fl 53 700; these proceedings are still pending.

By letter dated 12 January 1973, the bureau informed the Commission that the Agreement had been terminated at the end of 1972 and that it would cease to have effect from 1 January 1973. The system operating under the Agreement had been brought to an end. The affairs of the Bureau were being wound up under the direction of Mr O'Brien.

II. Appraisal

Under Article 85 (1) of the EEC Treaty, all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market are prohibited as incompatible with the common market.

Since the Agreement has ceased to operate since 1 January 1973, this appraisal will be limited to those provisions of the Agreement for which legal enforcement is still being sought in the two cases, that is to say, Articles 10, 32 (3), 75 (1) and the arbitration provisions under Articles 38 to 54 *et seq.* The appraisal must take account of the legal and economic situation on the relevant market at the time, in particular the collective and mutual obligations with regard to exclusivity and resale price maintenance which applied to the greater part of the Dutch market.

The legal or natural persons engaged in the trade in heating appliances who were parties to the Agreement are undertakings within the meaning of Article 85 (1), while the Bureau is an integral part of an association of undertakings empowered to take binding decisions.

The Agreement, as notified in 1962 and thereafter amended on several occasions by those empowered to do so, was an agreement between undertakings and can therefore fall within the scope of Article 85 (1), while the decisions taken by the competent authorities set up under the Agreement are decisions of an association of undertakings within the meaning of this Article.

The provisions of Article 10 of the Agreement under which the fine was imposed on Mr Kriek and which state that retailers affiliated to the Agreement must sell their products only in premises belonging to them, together with the obligation to sell these products only to private persons and not to other

retailers, have as their object and effect the prevention, restriction and distortion of competition within the common market.

Similarly, the provisions that retailers should keep detailed accounts including the names of their customers had as their object and effect the prevention, restriction and distortion of competition within the common market, since their object was to supervise the prohibition on sale to other undertakings of the relevant products on the Dutch market with the result that such sales were made the more difficult to carry out.

The provisions of Articles 32 (3) and 75 (1) of the Agreement under which the fine was imposed on Stokvis and which stated that wholesalers affiliated to the Agreement must not sell the products in question to non-approved or disqualified retailers, or directly or indirectly collaborate in sales between retailers, have as their object and effect the prevention, restriction and distortion of competition.

These provisions have as their object and effect both the extension and completion of the exclusive regulation of trade and resale price maintenance which was agreed by the recognized groups of manufacturers, importers, wholesalers and retailers for the products in question on the Dutch market.

The existing distribution structure and the respective market positions of the undertakings concerned were thus fixed in such a way that new entrants to the market and undertakings not affiliated to the Agreement found it more difficult to capture a share of the market. The possible change in market relationships which competition could have produced was considerably hindered by these provisions.

The so-called arbitration provisions (Articles 38 to 54 *et seq.*) also have as their object and effect the prevention, restriction and distortion of competition within the common market. They are in fact a means of dissuading firms from establishing their position on the market through competitive effort. They thus contribute to the circumvention of the EEC rules on competition.

Examination of this case shows that the restrictions of competition constituted a coherent and precisely elaborated system which clearly had as its object and effect the exclusion of competition between the groups concerned and the channelling of trade in the products in question through these groups to the greatest extent possible. The share of total Dutch sales involved is estimated at over 90 %, and a substantial proportion of the products are imported into the Netherlands from other Member States.

These provisions furthermore are capable of having an appreciable effect on trade between Member States. A system such as that described above, which covers the whole territory of a Member State, has as its effect the strengthening of barriers between national markets, which stands in the way of the economic interpenetra-

tion aimed at by the EEC Treaty and results in the protection of national markets (see Judgment of the Court of Justice given on 17 October 1972 in Case 8/72 — VCH). Undertakings from other Member States wishing to sell the relevant products in the Netherlands without being affiliated to the Agreement are considerably impeded by the existence of these provisions in the Agreement. Opportunities for manufacturers and wholesalers from the other Member States to export to the Netherlands and for Dutch buyers to import these products from the other Member States are thereby considerably restricted. The flow of trade between the Member States is accordingly affected in a manner detrimental to the creation of a single market between these Member States.

Article 85 (3) provides that Article 85 (1) may be declared inapplicable in the case of agreements between undertakings and decisions by associations of undertaking which contribute to the improvement of production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which do not:

- (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
- (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

The Bureau claimed that since the agreements only applied to the Dutch market, it was notified only as a precautionary measure, since it was exempted from notification under Article 4 (2) of Regulation No 17, the only parties to the Agreement being undertakings from one Member State while the Agreement did not relate either to imports or to exports between Member States.

The Commission, however, considers that in view of the involvement of three Dutch importers the Agreement did relate to imports and exports between Member States. The Agreement was, therefore, not exempted from notification under Article 5 (2) in conjunction with Article 4 (2) (1).

The Agreement does not qualify for exemption under Article 85 (3) since it does not satisfy the requirements contained therein.

With regard to the application of these provisions, the Bureau claimed that one of the aims of the Agreement was to ensure that the relevant products were sold through specialized retailers under regulated trading conditions, that the market was always supplied through the equitable cooperation between manufacturer, wholesaler and retailer, and that the consumer could always be sure of having appliances available on the market which could be installed in his own home by experts.

It must be observed firstly that the restrictions on competition, that is to say the obligation to observe

the requirements as to exclusive sales and purchases and the obligations concerning prices, do not appear to be necessary for improving distribution of the products in question. On the contrary, these obligations were part of a market protection system which blocked access to the distribution network and made parallel imports impossible, in so far as both of these were controlled by the undertakings affiliated to the Agreement, which in fact constituted the major part of the distribution network in the Netherlands for these products.

It is difficult to see how the system of exclusive distribution through the wholesalers and retailers affiliated to the Agreement, and the resulting prohibition on selling to other non-affiliated or disqualified undertakings, could improve distribution, or why retailers affiliated to the Agreement should be required to sell only to private persons, since trade between retailers can clearly contribute to better and faster supplies to the consumer.

It must also be observed that the restriction of competition did not in any way allow consumers to benefit from any advantages resulting from the Agreement. On the contrary, the effect of the restrictions was to maintain the prices laid down under the agreement and to obstruct supplies to undertakings selling at a lower price.

It is not necessary to consider the other conditions for the applicability of Article 85 (3), but it may nevertheless be stated that the restrictions in the agreement are not to be considered indispensable merely because they require the appliances to be sold by retailers. Having regard to the fact that the Dutch market was almost completely dominated by the Agreement, it is not possible to accept the argument that competition was not eliminated in respect of a substantial part of the products.

Article 3 (1) of Regulation No 17 states that where the Commission, upon application or upon its own initiative, finds that there is an infringement of Article 85 of the EEC Treaty, it may require the undertakings or associations of undertakings concerned to bring such an infringement to an end.

On the foregoing considerations the Commission proposes to reach a finding that the association of undertakings against which proceedings have been initiated has infringed Article 85 of the EEC Treaty.

The Commission therefore proposes to require the association of undertakings concerned to bring this infringement to an immediate end by requiring it to stop applying the disputed provisions of the Agreement and to refrain henceforth from attempts, whether by legal action or by other means, to collect fines imposed for alleged infringements of the Agreement committed when it was still applied.

Since the decision of the Arrondissementsrechtbank in Haarlem on 15 January 1974, adjourning the proceedings pending before it, has been communi-

cated to the Commission of the European Communities, a true copy of the present Decision should be sent to that Court,

HAS ADOPTED THIS DECISION :

Article 1

The provisions of Articles 10, 32 (3) and 75 (1) and the arbitration provisions (Articles 38 to 54 *et seq.*) of the Revised Agreement on Trade in Stoves and Heaters constitute an infringement of Article 85 (1) of the Treaty establishing the European Economic Community.

Article 2

The application for a declaration under Article 85 (3) that Article 85 (1) is inapplicable is refused in respect of those Articles of the Agreement referred to in Article 1 hereof.

Article 3

The association of undertakings to which this Decision is addressed shall forthwith bring the aforesaid

infringement to an end. It must, in particular, refrain from attempting, through the process of law or by any other means, to recover the fines imposed for alleged breaches of the Agreement while it was in force.

Article 4

This Decision is addressed to the Haarden- en Kachelbureau, for the attention of Mr O'Brien, van Hoeylaan 32, The Hague.

Article 5

A true copy of this Decision shall be sent to the Arrondissementsrechtbank in Haarlem, for the attention of Mr van Eijk, Clerk of the Court, Jansstraat 81, Haarlem.

Done at Brussels, 3 June 1975.

For the Commission

The President

François-Xavier ORTOLI

COMMISSION DECISION

of 19 June 1975

determining the minimum rate of levy for the issue during the month of June 1975 of import licences for beef and veal under the 'EXIM' arrangements

(75/359/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 805/68⁽¹⁾ of 27 June 1968 on the common organization of the market in beef and veal, as last amended by Regulation (EEC) No 1855/74⁽²⁾, and in particular Article 21 (2) thereof;

Whereas, in application of Article 4 (3) of Commission Regulation (EEC) No 1090/75⁽³⁾ of 23 April 1975 on the issue by a way of protective measures of import licences for certain beef and veal products (EXIM), as amended by Regulation (EEC) No 1406/75⁽⁴⁾, the minimum rate of levy giving entitlement to the issue of import licences must be determined; whereas, having regard to the rates of refund at present applicable, to the rates of levy fixed pursuant to Articles 10 to 13 of Regulation (EEC) No 805/68 and to the quantities of products for which import licences were requested during the period 1 to 10 June 1975, it is advisable to fix the rate of the levy, expressed in

respect of beef or veal in carcase, at 8·721 units of account per 100 kg,

HAS ADOPTED THIS DECISION:

Article 1

The minimum rate of levy giving entitlement to the issue of import licences under Regulation (EEC) No 1090/75 shall be 8·721 units of account per 100 kg of beef or veal in carcase.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 19 June 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 195, 18. 7. 1974, p. 14.

⁽³⁾ OJ No L 108, 26. 4. 1975, p. 1.

⁽⁴⁾ OJ No L 140, 31. 5. 1975, p. 50.

CORRIGENDA

Corrigendum to Commission Regulation (EEC) No 1076/75 of 24 April 1975 and to Commission Regulation (EEC) No 1089/75 of 25 April 1975 amending the amounts applicable as compensatory amounts for cereals and rice

(Official Journals of the European Communities, No L 105 of 25 April 1975 and No L 107 of 26 April 1975)

Page 45 (OJ No L 105), Annex A, CCT heading No :

Page 23 (OJ No L 107), Annex A, CCT heading No :

for: '11.01 B',

read: '10.01 B'.
