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I

(Acts whose publication is obligatory)

REGULATION (EEC) No 2172/75 OF THE COMMISSION**of 21 August 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 665/75 ⁽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 1976/75 ⁽³⁾ and subsequent amending Regulations ;

Whereas it follows from applying the provisions contained in Regulation (EEC) No 1976/75 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 22 August 1975.

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

Done at Brussels, 21 August 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 72, 20. 3. 1975, p. 14.

⁽³⁾ OJ No L 202, 1. 8. 1975, p. 1.

ANNEX

to the Commission Regulation of 21 August 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	8.38
10.01 B	Durum wheat	0 ⁽¹⁾ ⁽⁵⁾
10.02	Rye	21.29 ⁽⁶⁾
10.03	Barley	0
10.04	Oats	0
10.05 B	Maize other than hybrid maize for sowing	0.95 ⁽²⁾ ⁽³⁾
10.07 A	Buckwheat	17.31
10.07 B	Millet	4.68 ⁽⁴⁾
10.07 C	Grain sorghum	10.20 ⁽⁴⁾
10.07 D	Canary seed; other cereals	0 ⁽⁵⁾
11.01 A	Wheat or meslin flour	30.47
11.01 B	Rye flour	48.57
11.02 A I a	Durum wheat groats and meal	2.07
11.02 A I b	Common wheat groats and meal	32.91

⁽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 originated in the ACP or OCT is imported into the French overseas departments, the levy is reduced by 6 u.a./metric ton as provided for in Regulation (EEC) No 1599/75.

⁽³⁾ Where maize originating in the ACP or OCT is imported into the Community the levy is reduced by 1.50 u.a./metric ton subject to the application of the provisions of Article 22 of Regulation (EEC) No 1599/75.

⁽⁴⁾ Where millet and sorghum originating in the ACP or OCT is imported into the Community the levy is reduced by 50 % subject to the application of the provisions of Article 22 of Regulation (EEC) No 1599/75.

⁽⁵⁾ 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.

⁽⁶⁾ The import levy charged on rye produced in Turkey and transported directly from that country to the Community is laid down in Council Regulation (EEC) No 1234/71 and Commission Regulation (EEC) No 2622/71.

REGULATION (EEC) No 2173/75 OF THE COMMISSION
of 21 August 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 665/75 ⁽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
1977/75 ⁽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 22 August
1975.

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

Done at Brussels, 21 August 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 72, 20. 3. 1975, p. 14.

⁽³⁾ OJ No L 202, 1. 8. 1975, p. 4.

ANNEX

to the Commission Regulation of 21 August 1975 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour⁽¹⁾

(u.a. / 1 000 kg)

CCT heading No	Description of goods	Current 8	1st period 9	2nd period 10	3rd period 11
10.01 A	Common wheat and meslin	0	0	0	0
10.01 B	Durum wheat	0	0	0	0
10.02	Rye	0	0	0	0
10.03	Barley	0	0	0	0
10.04	Oats	0	1.58	1.58	1.58
10.05 B	Maize other than hybrid maize for sowing	0	4.34	4.34	5.53
10.07 A	Buckwheat	0	0	0	0
10.07 B	Millet	0	0.79	0.79	0
10.07 C	Grain sorghum	0	0.79	0.79	0.79
10.07 D	Other	0	0	0	0
11.01 A	Wheat or meslin flour	0	0	0	0

(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./1 000 kg)

CCT heading No	Description of goods	Current 8	1st period 9	2nd period 10	3rd period 11	4th period 12
11.07 A I (a)	Unroasted malt, obtained from wheat, in the form of flour	0	0	0	0	0
11.07 A I (b)	Unroasted malt, obtained from wheat, other than in the form of flour	0	0	0	0	0
11.07 A II (a)	Unroasted malt, other than that obtained from wheat, in the form of flour	0	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 2174/75 OF THE COMMISSION**of 21 August 1975****fixing the import levies on rice and broken rice**

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community;

Having regard to Council Regulation No 359/
67/EEC ⁽¹⁾ of 25 July 1967 on the common organiza-
tion of the market in rice, as last amended by Regula-
tion (EEC) No 476/75 ⁽²⁾, and in particular Article 11
(5) thereof;

Whereas the import levies on rice and broken rice
were fixed by Regulation (EEC) No 1668/75 ⁽³⁾ and
subsequent amending Regulations;

Whereas it follows from applying the rules and other
provisions contained in Regulation (EEC) No 1668/75
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 table annexed to
this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies to be charged on the products listed
in Article 1 (1) (a) and (b) of Regulation No 359/
67/EEC are hereby fixed as shown in the table
annexed to this Regulation.

Article 2

This Regulation shall enter into force on 22 August
1975.

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

Done at Brussels, 21 August 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

⁽¹⁾ OJ No 174, 31. 7. 1967, p. 1.

⁽²⁾ OJ No L 52, 28. 2. 1975, p. 31.

⁽³⁾ OJ No L 168, 1. 7. 1975, p. 50.

to the Commission Regulation of 21 August 1975 fixing the import levies on rice and broken rice

CCT heading No	Description of goods	Third countries	ACP and OCT ⁽¹⁾ ⁽²⁾
10.06	Rice :		
	A. Paddy rice ; husked rice :		
	I. Paddy rice :		
	a) Round grain	0	0
	b) Long grain	0.938	0.169
	II. Husked rice :		
	a) Round grain	0	0
	b) Long grain	1.172	0.286
	B. Semi-milled or wholly milled rice :		
	I. Semi-milled rice :		
	a) Round grain	2.666	0.555
	b) Long grain	9.244	3.846
	II. Wholly milled rice :		
	a) Round grain	2.839	0.620
	b) Long grain	9.910	4.155
	C. Broken rice :	0	0

(2) In accordance with Regulation (EEC) No 1599/75 provides that the levies are not applied to imports into the French overseas departments of products originating in the African, Caribbean and Pacific States or in the 'overseas countries and territories'.

REGULATION (EEC) No 2175/75 OF THE COMMISSION

of 21 August 1975

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community ;

Having regard to Council Regulation No 359/67/EEC⁽¹⁾ of 25 July 1967 on the common organization of the market in rice, as last amended by Regulation (EEC) No 476/75⁽²⁾, and in particular Article 13 (6) thereof ;

Having regard to the Opinion of the Monetary Committee ;

Whereas the premiums to be added to the import levies fixed in advance for rice and broken rice must include a premium for the current month and a premium for each of the following months until the expiry of the period of validity of the import licence ; whereas this period of validity was laid down in Article 20 (2) of Commission Regulation (EEC) No 2637/70⁽³⁾ of 23 December 1970, as last amended by Regulation (EEC) No 1807/75⁽⁴⁾ ;

Whereas Council Regulation No 365/67/EEC⁽⁵⁾ of 25 July 1967, as last amended by Regulation (EEC) No 2435/70⁽⁶⁾, lays down rules for the advance fixing of levies on rice and broken rice ;

Whereas under the terms of Regulation No 365/67/EEC, where the cif price for husked rice for milled rice or for broken rice determined on the day on which the premiums are fixed is higher than the cif forward delivery price for the same product, the premium should as a general rule be equal to the difference between these two prices ; whereas the cif price is that determined in accordance with Article 16 of Regulation No 359/67/EEC on the day on which the premiums are fixed ; whereas the detailed rules for determining cif prices were laid down in Regulation (EEC) No 1613/71⁽⁷⁾, as last amended by Regulation (EEC) No 1057/73⁽⁸⁾ ; whereas the cif forward delivery price must also be determined in accordance

with Article 16 of Regulation No 359/67/EEC but on the basis of offers at North Sea ports ; whereas this price must be the cif price for shipment during the month in which the import licence is issued in the case of imports to be effected during that month ; whereas this price must be the cif price for shipment during the month in which importation is expected to take place in the case of imports to be effected during the month following the month in which the import licence is issued ; whereas this price must be the cif price for shipment during the month preceding the month in which importation is expected to take place in the case of imports to be effected during the remaining months for which the import licence is valid ; whereas, if no offer for forward delivery is made for shipment during a given month, this price should be the price ruling for shipment during the last month in which an offer for forward delivery was made ;

Whereas the premium is equal to 0 unit of account if the cif price determined on the day on which the scale of the premiums is fixed is equal to the cif forward delivery price or exceeds that price by not more than 0.025 unit of account per 100 kilograms ;

Whereas the premium may, however, be fixed at a higher level in exceptional circumstances and within certain specified limits ;

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

- in the case of currencies which are maintained in relation to each other, at any given moment, within a band of 2.25 %, a rate of exchange based on their 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 it follows from applying all these provisions that the premiums should be fixed as shown in the table annexed to this Regulation ; whereas the amount of the premiums should be altered only if application of the abovementioned provisions entails a change of more than 0.025 unit of account,

⁽¹⁾ OJ No 174, 31. 7. 1967, p. 1.

⁽²⁾ OJ No L 52, 28. 2. 1975, p. 31.

⁽³⁾ OJ No L 283, 29. 12. 1970, p. 15.

⁽⁴⁾ OJ No L 184, 15. 7. 1975, p. 33.

⁽⁵⁾ OJ No 174, 31. 7. 1967, p. 32.

⁽⁶⁾ OJ No L 262, 3. 12. 1970, p. 3.

⁽⁷⁾ OJ No L 168, 27. 7. 1971, p. 28.

⁽⁸⁾ OJ No L 105, 20. 4. 1973, p. 10.

HAS ADOPTED THIS REGULATION:

hereby fixed as shown in the table annexed to this Regulation.

Article 1

The premiums to be added to the import levies fixed in advance in respect of rice and broken rice are

Article 2

This Regulation shall enter into force on 22 August 1975.

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

Done at Brussels, 21 August 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

ANNEX

to the Commission Regulation of 21 August 1975 fixing the premiums to be added to the import levies on rice and broken rice

(u.a./100 kg)

CCT heading No	Description of goods	Current 8	1st period 9	2nd period 10	3rd period 11
10.06	Rice :				
	A. Paddy rice ; husked rice :				
	I. Paddy rice :				
	a) Round grain	0	0	0	—
	b) Long grain	0	0	0	0
	II. Husked rice :				
	a) Round grain	0	0	0	—
	b) Long grain	0	0	0	0
	B. Semi-milled or wholly milled rice :				
	I. Semi-milled rice :				
	a) Round grain	0	0	0	—
	b) Long grain	0	0	0	0
	II. Wholly milled rice :				
	a) Round grain	0	0	0	—
	b) Long grain	0	0	0	0
	C. Broken rice :	0	0	0	0

REGULATION (EEC) No 2176/75 OF THE COMMISSION**of 21 August 1975****fixing the import levies on calves and adult bovine animals and on beef and veal
other than frozen**THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European
Economic Community;*Article 1*Having regard to Council Regulation (EEC) No
805/68 ⁽¹⁾ of 27 June 1968 on the common organiza-
tion of the market in beef and veal, as last amended
by Regulation (EEC) No 1855/74 ⁽²⁾, and in particular
the second line of Article 10 (7), and Article 12 (7)
thereof;The levies referred to in Articles 10 and 12 of Regula-
tion (EEC) No 805/68 are hereby fixed as shown in
the Annex to this Regulation.*Article 2*Whereas the import levies on calves and adult bovine
animals and on beef and veal other than frozen were
fixed by Regulation (EEC) No 2070/75 ⁽³⁾ amended by
Regulation (EEC) No 2131/75 ⁽⁴⁾;To be classified as products falling within subheadings
02.01 A II a) 1 aa) and 02.01 A II a) 1 bb), products
must correspond to the definition contained in Article
2 of Regulation (EEC) No 2249/73 ⁽⁵⁾.Whereas it follows from applying the rules and other
provisions contained in amended Regulation (EEC)
No 2070/75 to the quotations and other information
known to the Commission that the levies at present in
force should be altered as shown in the Annex to this
Regulation,*Article 3*This Regulation shall enter into force on 25 August
1975.This Regulation shall be binding in its entirety and directly applicable in all Member
States.

Done at Brussels, 21 August 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 210, 8. 8. 1975, p. 9.⁽⁴⁾ OJ No L 217, 15. 8. 1975, p. 9.⁽⁵⁾ OJ No L 230, 18. 8. 1973, p. 15.

ANNEX

Levies applicable from 25 August 1975 to imports from third countries ⁽¹⁾

(in u.s. / 100 kg)			
CCT heading No	Description of goods	Austria Sweden Switzerland	Other third countries
01.02	Live animals of the bovine species :	Live weight	
	A. Domestic species :		
	II. Other :		
	a) Calves	43-820 (b)	43-820 (b)
	b) Other :		
02.01	1. Cows for immediate slaughter, the meat of which is intended for processing (a)	43-820	—
	2. Other :		
	aa) Not yet having any permanent teeth, of a weight of not less than 350 kg but not more than 450 kg in the case of male animals, or of not less than 320 kg but not more than 420 kg in the case of female animals (c)	—	43-820
	bb) Other	43-820 (b)	43-820 (b)
	Meat and edible offals of the animals falling within heading No 01.01, 01.02, 01.03 or 01.04, fresh, chilled or frozen :	Net weight	
02.01	A. Meat :		
	II. Of bovine animals :		
	a) Of domestic bovine animals :		
	1. Fresh or chilled :		
	aa) Of calves :		
	11. Carcases and half-carcases	83-258	83-258
	22. Separated or unseparated forequarters	66-606	66-606
	33. Separated or unseparated hindquarters	99-910	99-910
	bb) Of adult animals :		
	11. Carcases, half-carcases or 'compensated' quarters :		
	aaa) Carcases of a weight of not less than 180 kg but not more than 270 kg and half-carcases or 'compensated' quarters of a weight of not less than 90 kg but not more than 135 kg, with a low degree of ossification of the cartilages (more especially those of the symphysis pubis and the vertebral apophyses), the meat of which is of a light pink colour and the fat of which, of extremely fine structure, is white to light yellow in colour (c)	—	83-258
	bbb) Other	83-258	83-258
	22. Forequarters :		
	aaa) Of a weight of not less than 45 kg but not more than 68 kg, with a low degree of ossification of the cartilages (more especially those of the vertebral apophyses), the meat of which is of a light pink colour and the fat of which, of extremely fine structure, is white to light yellow in colour (c)	—	66-606
	bbb) Other	66-606	66-606

(in u.e./100 kg)			
CCT heading No	Description of goods	Austria Sweden Switzerland	Other third countries
02.01 (cont'd)	33. Hindquarters :	Net weight	
	aaa) Of a weight of not less than 45 kg but not more than 68 kg (not less than 38 kg but not more than 61 kg in the case of 'Pistola' cuts), with a low degree of ossification of the cartilages (more especially those of the vertebral apophyses), the meat of which is of a light pink colour and the fat of which, of extremely fine structure, is white to light yellow in colour (c)	--	99-910
	bbb) Other	99-910	99-910
	cc) Other cuts of veal and beef :		
	11. Unboned (bone-in)	124-887	124-887
	22. Boned or boneless	142-853	142-853
02.06	Meat and edible meat offals (except poultry liver), salted, in brine, dried or smoked :		
	C. Other :		
	I. Of domestic bovine animals :		
	a) Meat :		
	1. Unboned (bone-in)	124-887	124-887
	2. Boned or boneless	142-853	142-853

(¹) In accordance with Regulation (EEC) No 1599/75 provides that the levies are not applied to imports into the French overseas departments of products originating in the African, Caribbean and Pacific States or in the 'overseas countries and territories'.

(a) Entry under this subheading is subject to conditions to be determined by the competent authorities and to the special conditions at present applicable to cows imported under the bilateral agreement on cattle for the food processing industry between the European Communities and Austria.

(b) Where these products are imported under the conditions set out in Article 11 of Council Regulation (EEC) No 805/68 of 27 June 1968 and in the provisions adopted for its application, the levy is either refunded or not collected in accordance with those provisions.

(c) Entry under this subheading is subject to the production of the certificate referred to in paragraph 2 (c) of Protocol 1, Annex I to the trade agreement between the EEC and the Socialist Federal Republic of Yugoslavia.

REGULATION (EEC) No 2177/75 OF THE COMMISSION
of 21 August 1975

re-establishing the levying of the customs duties on plaiting materials bound together in parallel strands or woven, etc., falling within heading No 46.02, originating in South Korea, to which the preferential tariff arrangements set out in Council Regulation (EEC) No 3054/74 of 2 December 1974 apply

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community ;

Having regard to Council Regulation (EEC) No 3054/74⁽¹⁾ of 2 December 1974 establishing preferential tariffs in respect of certain products originating in developing countries, and in particular Article 4 (2) thereof ;

Whereas Article 1 (3) and (4) of that Regulation provides that the customs duties may, for each category of products, be suspended up to a Community ceiling, expressed in units of account, which will be equal to the sum arrived at by adding together the value of the products in question imported cif into the Community in 1971 and coming from countries and territories covered by those arrangements, but not including products coming from countries and territories already covered by various preferential tariff arrangements established by the Community, and 5 % of the value of 1972 cif imports coming from other countries and from countries and territories already covered by such arrangements ;

Whereas, having regard to that ceiling, the amounts for products originating in any one of the countries or territories listed in Annex B to that Regulation should be within a maximum Community amount representing 50 % of that ceiling, with the exception of certain products for which the maximum amount is to be reduced to the percentage indicated in Annex A to that Regulation ; whereas, for these products, this reduced percentage will be 30 % ;

Whereas Article 2 (2) of that Regulation provides that the levying of customs duties may be re-established at any time in respect of imports of the products in question originating in any of the said countries or territories once the relevant Community maximum amount has been reached ;

Whereas, in respect of plaiting materials bound together in parallel strands or woven, falling within

heading No 46.02, the ceiling, calculated as indicated above, should be 2 796 000 units of account, and therefore the maximum amount 838 800 units of account ; whereas on 13 August 1975, the amounts of imports into the Community of plaiting materials bound together in parallel strands or woven, falling within heading No 46.02, originating in South Korea, a country covered by preferential tariff arrangements, reached that maximum amount ; whereas, bearing in mind the objectives of Regulation (EEC) No 3054/74 which provides that maximum amounts should not be exceeded, customs duties should be re-established in respect of the products in question in relation to South Korea,

HAS ADOPTED THIS REGULATION :

Article 1

As from 25 August 1975, the levying of customs duties, suspended in pursuance of Council Regulation (EEC) No 3054/74 of 2 December 1974, shall be re-established in respect of the following products, imported into the Community and originating in South Korea :

CCT heading No	Description of goods
46.02	Plaiting materials bound together in parallel strands or woven, in sheet form, including matting, mats and screens ; straw envelopes for bottles

Article 2

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

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

Done at Brussels, 21 August 1975.

For the Commission

F. O. GUNDELACH

Member of the Commission

⁽¹⁾ OJ No L 329, 9. 12. 1974, p. 70.

REGULATION (EEC) No 2178/75 OF THE COMMISSION**of 21 August 1975****amending Regulation (EEC) No 2006/75 fixing for the 1975/76 marketing year,
the accession compensatory amounts for certain categories of cereals, for rice
and for processed products derived from cereals or rice**

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community ;

Having regard to Council Regulation (EEC) No
229/73⁽¹⁾ of 31 January 1973 laying down general
rules for the system of compensatory amounts for
cereals and fixing these for certain products, as last
amended by Regulation (EEC) No 1860/74⁽²⁾, and in
particular Article 9 thereof ;

Having regard to Council Regulation (EEC) No
243/73⁽³⁾ of 31 January 1973 laying down general
rules for the system of compensatory amounts for rice
and fixing these amounts for certain products, and in
particular Article 7(1) thereof ;

Whereas the accession compensatory amounts for
certain categories of cereals, for rice and for processed
products derived from cereals or rice for the 1975/76
marketing year have been fixed by Regulation (EEC)
No 2006/75⁽⁴⁾ ; whereas a check has revealed errors
in Annexes A, B and C to this Regulation ; whereas
the Regulation in question must therefore be
amended ;

Whereas the measures provided for in this Regulation
are in accordance with the Opinion of the Manage-
ment Committee for Cereals,

HAS ADOPTED THIS REGULATION :

Article 1

The accession compensatory amounts for certain cate-
gories of cereals, for rice and for processed products
derived from cereals or rice for the 1975/76 marketing
year shown in the Annexes to Regulation (EEC) No
2006/75 are amended as shown in the Annex to this
Regulation.

Article 2

This Regulation shall enter into force on 22 August
1975.

It shall apply in so far as any party concerned so
requests with effect from 1 August 1975.

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

Done at Brussels, 21 August 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

⁽¹⁾ OJ No L 27, 1. 2. 1973, p. 25.

⁽²⁾ OJ No L 197, 19. 7. 1974, p. 1.

⁽³⁾ OJ No L 29, 1. 2. 1973, p. 26.

⁽⁴⁾ OJ No L 203, 1. 8. 1975, p. 1.

ANNEXE — BILAG — ANHANG — ALLEGATO — BIJLAGE — ANNEX

(RE/UC/1 000 kg)

N° du tarif douanier commun Position i den fælles toldtarif Nr. des Gemeinsamen Zoltarifs N. della tariffa doganale comune Nr. van het gemeenschappelijk douanetarief CCT heading No	Échanges entre la Communauté dans sa composition originaire et Udveksling mellem Fællesmarkedet i dets originale sammensætning og Handel zwischen der Gemeinschaft in ihrer ursprünglichen Zusammensetzung und Scambi fra la Comunità nella sua composizione originaria e Handelsverkeer tussen de Gemeenschap in haar oorspronkelijke samenstelling en Trade between the Community as originally constituted and		
	DK	IRL	UK
10.01 B	7,60	9.57	38.76
10.06 B I a)	74,45	74.45	74.45
11.02 D V	—	11.39	23.82
11.02 F III	5,25	8.98	25.58
11.02 F V	—	11.39	23.82
17.02 B II a)	—	2.46 ⁽¹⁾	28.04 ⁽¹⁾

REGULATION (EEC) No 2179/75 OF THE COMMISSION**of 21 August 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 of Accession ⁽¹⁾;

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 1602/75 ⁽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

1983/75 ⁽⁶⁾, as last amended by Regulation (EEC) No
2170/75 ⁽⁷⁾;

Whereas the application of the rules referred to in
Regulation (EEC) No 1983/75 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 1983/75 are amended as shown in the Annex to
this Regulation.

Article 2

This Regulation shall enter into force on 22 August
1975.

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

Done at Brussels, 21 August 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 164, 27. 6. 1975, p. 2.

⁽⁴⁾ OJ No L 29, 1. 2. 1973, p. 26.

⁽⁵⁾ OJ No L 209, 31. 7. 1974, p. 5.

⁽⁶⁾ OJ No L 202, 1. 8. 1975, p. 21.

⁽⁷⁾ OJ No L 221, 21. 8. 1975, p. 12.

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

(RE/UC/u.a./1 000 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
10.02	—	9.65	22.00
10.07 C	—	11.70	10.00

ANNEXE B — BILAG B — ANHANG B — ALLEGATO B — BIJLAGE B — ANNEX B

Montants applicables au titre des montants compensatoires pour le riz et les brisures

Beløb, der skal anvendes som udligningsbeløb for ris og brudris

Für Reis und Bruchreis als Ausgleichsbeträge anzuwendende Beträge

Importi applicabili a titolo di importi di compensazione per il riso e le rotture di riso

Als compenserende bedragen toe te passen bedragen voor rijst en breukrijst

Amounts applicable as compensatory amounts for rice and broken rice

(RE/UC/u.a./1 000 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
10.06 A I b)	7,20	7·20	7·20
10.06 A II b)	9,00	9·00	9·00
10.06 B I b)	12,16	12·16	12·16
10.06 B II b)	13,04	13·04	13·04

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./1 000 kg)

N° du tarif douanier commun Position i den fælles toldtarif Nr. des Gemeinsamen Zolldtarifs N. della tariffa doganale comune Nr. van het gemeenschappelijk douanetarief CCT heading No	DK	IRL	UK
11.01 A ⁽¹⁾	8,07	5.57	10.00
11.01 B ⁽¹⁾	—	12.78	30.00
11.01 K ⁽¹⁾	—	11.93	10.20
11.02 A I b) ⁽¹⁾	8,72	6.02	14.00
11.02 A II ⁽¹⁾	—	13.51	30.80
11.02 A IX ⁽¹⁾	—	11.93	10.20
11.02 B II b) ⁽¹⁾	—	12.83	29.26
11.02 B II d) ⁽¹⁾	—	16.38	14.00
11.02 C II ⁽¹⁾	—	13.51	30.80
11.02 C VIII ⁽¹⁾	—	16.38	14.00
11.02 D II ⁽¹⁾	—	9.84	22.44
11.02 D VIII ⁽¹⁾	—	11.93	10.20
11.02 E II b) ⁽¹⁾	—	13.51	30.80
11.02 E II d) ⁽¹⁾	—	16.38	14.00
11.02 F II ⁽¹⁾	—	9.84	22.44
11.02 F IX ⁽¹⁾	—	11.93	10.20

⁽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.

⁽¹⁾ 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.

- (*) 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.

- (*) 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.

- (*) 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.

- (*) 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.

REGULATION (EEC) No 2180/75 OF THE COMMISSION
of 21 August 1975
altering the export levy on white sugar and raw sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community ;

Having regard to Council Regulation (EEC) No 3330/74 ⁽¹⁾ of 19 December 1974 on the common organization of the market in sugar, and in particular Article 17 (6) thereof ;

Having regard to Council Regulation (EEC) No 608/72 ⁽²⁾ of 23 March 1972 laying down rules to be applied in cases of considerable price rises on the world sugar market, and in particular Article 1 (2) thereof ;

Whereas, pursuant to Article 17 (1) of Regulation (EEC) No 3330/74, where the Community or any region thereof cannot be supplied with sugar at prices within the limit of the threshold price, provision may be made for charging a special export levy on sugar ;

Whereas the threshold price for white sugar and raw sugar was fixed by Regulation (EEC) No 660/75 ⁽³⁾ ;

Whereas the list of products subject to the special levy is given in Commission Regulation (EEC) No

825/75 ⁽⁴⁾ of 25 March 1975 laying down detailed rules for applying export levies on sugar ;

Whereas the export levy on white sugar and raw sugar was fixed by Regulation (EEC) No 1702/75 ⁽⁵⁾, as last amended by Regulation (EEC) No 2171/75 ⁽⁶⁾ ;

Whereas it follows from applying the rules, criteria and other provisions contained in the Regulation (EEC) No 1702/75 to the information at present available to the Commission, that the export levy at present in force should be altered as shown in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION :

Article 1

The export levy on sugar provided for in the first subparagraph of Article 17 (1) of Regulation (EEC) No 3330/74 is fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 22 August 1975.

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

Done at Brussels, 21 August 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

⁽¹⁾ OJ No L 359, 31. 12. 1974, p. 1.

⁽²⁾ OJ No L 75, 28. 3. 1972, p. 5.

⁽³⁾ OJ No L 72, 20. 3. 1975, p. 7.

⁽⁴⁾ OJ No L 79, 28. 3. 1975, p. 17.

⁽⁵⁾ OJ No L 172, 3. 7. 1975, p. 15.

⁽⁶⁾ OJ No L 221, 21. 8. 1975, p. 16.

ANNEX

to the Commission Regulation of 21 August 1975 altering the export levy on white sugar and raw sugar

(u.a./100 kg)

CCT heading No	Description of goods	Amount of the special export levy
17.01	Beet sugar and cane sugar, solid : A. Denatured : I. White sugar II. Raw sugar B. Undenatured : I. White sugar ex II. Raw sugar other than candy sugar	 6.01 9.45 ⁽¹⁾ 6.01 9.45 ⁽¹⁾

⁽¹⁾ This amount applies to raw sugar with a 92 % yield. If the yield of the exported raw sugar is different from 92 % the levy to be applied shall be calculated in conformity with Article 2 of Regulation (EEC) No 1076/72.

REGULATION (EEC) No 2181/75 OF THE COMMISSION

of 21 August 1975

fixing the refunds applicable to cereals and 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 665/75⁽²⁾, and in particular the first sentence of the fourth subparagraph of Article 16 (2) thereof ;

Having regard to the Opinion of the Monetary Committee ;

Whereas Article 16 of Regulation No 120/67/EEC provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products in the Community may be covered by an export refund ;

Whereas Article 2 of Council Regulation No 139/67/EEC⁽³⁾ of 21 June 1967 laying down general rules for granting export refunds on cereals and criteria for fixing the amount of such refunds, as last amended by Regulation (EEC) No 87/75⁽⁴⁾, provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals on the Community market on the one hand and prices for cereals and cereal products on the world market on the other ; whereas the same article provides that it is also important to ensure equilibrium and the natural development of prices and trade on cereal markets and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances on the Community market ;

Whereas Article 3 of Regulation No 139/67/EEC defines the specific criteria to be taken into account when the refund on cereals is being calculated ;

Whereas these specific criteria are defined, as far as wheat and rye flour, groats and meal are concerned, in Article 4 of Regulation No 139/67/EEC ; whereas, furthermore, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture ; whereas

these quantities were fixed in Regulation No 162/67/EEC⁽⁵⁾, as amended by Regulation (EEC) No 1607/71⁽⁶⁾ ;

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

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

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

- in the case of currencies which are maintained in relation to each other, at any given moment, within a band of 2.25 %, a rate of exchange based on their 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 it follows from applying the rules outlined above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds, should be fixed as shown in the Annex to this Regulation ;

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

HAS ADOPTED THIS REGULATION :

Article 1

The refunds on the products listed in Article 1 (a), (b) and (c) of Regulation No 120/67/EEC, exported in the natural state, are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 22 August 1975.

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

⁽²⁾ OJ No L 72, 20. 3. 1975, p. 14.

⁽³⁾ OJ No 125, 26. 6. 1967, p. 2453/67.

⁽⁴⁾ OJ No L 11, 16. 1. 1975, p. 3.

⁽⁵⁾ OJ No 128, 27. 6. 1967, p. 2574/67.

⁽⁶⁾ OJ No L 168, 27. 7. 1971, p. 16.

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

Done at Brussels, 21 August 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

ANNEX

to the Commission Regulation of 21 August 1975 fixing the refunds applicable to cereals
and wheat or rye flour groats and meal

CCT heading No	Description of products	Refund <i>(u.a./metric ton)</i>
10.01 A	Common wheat ⁽¹⁾ and meslin	—
10.01 B	Durum wheat	—
10.02	Rye ⁽¹⁾	—
10.03	Barley	—
10.04	Oats	—
10.05 B	Maize (other than hybrid maize for sowing)	—
10.07 C	Grain sorghum	—
ex 11.01 A	Wheat flour : — of an ash content of 0 to 510 — of an ash content of 521 to 600 — of an ash content of 601 to 900 — of an ash content of 901 to 1 100 — of an ash content of 1 101 to 1 650 — of an ash content of 1 651 to 1 900	— — — — — —
ex 11.01 B	Rye flour : — of an ash content of 0 to 700 — of an ash content of 701 to 1 150 — of an ash content of 1 151 to 1 600 — of an ash content of 1 601 to 2 000	— — — —
11.02 A I a	Durum wheat groats and meal : — of an ash content of 0 to 950 — of an ash content of 951 to 1 300 — of an ash content of 1 301 to 1 500	— — —
11.02 A I b	Common wheat groats and meal : — of an ash content of 0 to 520	—

⁽¹⁾ The refund is granted solely in respect of common wheat and rye which has not been denatured pursuant to Article 7 (3) and
⁽⁵⁾ Regulation No 120/67/EEC.

N.B. The zones are those defined in Regulation (EEC) No 941/72 (OJ No L 107, 6. 5. 1972).

REGULATION (EEC) No 2182/75 OF THE COMMISSION**of 21 August 1975****fixing the corrective amount applicable to the refund on cereals 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 organization of the market in cereals, as last amended by Regulation (EEC) No 665/75⁽²⁾, and in particular the third sentence of the second subparagraph of Article 16 (4) thereof ;

Having regard to Council Regulation No 139/67/EEC⁽³⁾ of 21 June 1967 laying down general rules for granting export refunds on cereals and criteria for fixing the amount of such refunds, as last amended by Regulation (EEC) No 87/75⁽⁴⁾ ;

Having regard to the Opinion of the Monetary Committee ;

Whereas Article 16 (4) of Regulation No 120/67/EEC provides that the export refund applicable to cereals on the day on which application for an export licence is made, adjusted for the threshold price in force during the month of exportation, must be applied on request to exports to be effected during the period of validity of the export licence ; whereas, in this case, the corrective amount must be applied to the refund ;

Whereas Council Regulation (EEC) No 1052/68⁽⁵⁾ of 23 July 1968 on the import and export system for products processed from cereals and rice, as last amended by Regulation (EEC) No 980/75⁽⁶⁾ made possible the fixing of a corrective amount for certain products listed in Article 1 (c) and (d) of Regulation No 120/67/EEC ;

Whereas Regulation (EEC) No 1281/75⁽⁷⁾ laid down detailed rules for the advance fixing of export refunds for cereals and certain products processed from cereals ;

Whereas, pursuant to that Regulation, when the corrective amount is being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals on the Commu-

nity market on the one hand and prices for cereals and cereal products on the world market on the other ; whereas the same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on cereal markets and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances on the Community market ;

Whereas for the products listed in Article 1 (c) of Regulation No 120/67/EEC and for malt account should be taken of the specific criteria laid down in Article 2 (2) and (3) of Regulation (EEC) No 1281/75 ;

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

Whereas the corrective amount must be fixed at the same time as the refund and according to the same procedure ;

Whereas it may be altered in the period between fixings ;

Whereas, if the system of corrective amounts is to operate normally, corrective amounts 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 preceding subparagraph ;

Whereas it follows from applying the provisions referred to above that the corrective amount must be fixed as shown in the tables annexed to this Regulation ;

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

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

(2) OJ No L 72, 20. 3. 1975, p. 14.

(3) OJ No 125, 26. 6. 1967, p. 2453/67.

(4) OJ No L 11, 16. 1. 1975, p. 3.

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

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

(7) OJ No L 131, 22. 5. 1975, p. 15.

HAS ADOPTED THIS REGULATION:

and malt is hereby fixed as shown in the tables annexed to this Regulation.

Article 1

The corrective amount referred to in Article 16 (4) of Regulation No 120/67/EEC which is applicable to export refunds fixed in advance in respect of cereals

Article 2

This Regulation shall enter into force on 22 August 1975.

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

Done at Brussels, 21 August 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

ANNEX

to the Commission Regulation of 21 August fixing the corrective amount applicable to the refund on cereals and malt

A. Cereals

(u.a. / 1 000 kg)

CCT heading No	Description of goods	Current 8	1st period 9	2nd period 10	3rd period 11	4th period 12	5th period 1	6th period 2
10.01 A	Common wheat, and meslin	—	—	—	—	—	—	—
10.01 B	Durum wheat	—	—	—	—	—	—	—
10.02	Rye	—	—	—	—	—	—	—
10.03	Barley	—	—	—	—	—	—	—
10.04	Oats	—	—	—	—	—	—	—
10.05 B	Maize other than hybrid maize for sowing	—	—	—	—	—	—	—
10.07 C	Grain sorghum	—	—	—	—	—	—	—
11.01 A	Common wheat flour	—	—	—	—	—	—	—
11.01 B	Rye flour	—	—	—	—	—	—	—
11.02 A I a	Durum wheat groats and meal	—	—	—	—	—	—	—
11.02 A I b	Common wheat groats and meal	—	—	—	—	—	—	—

N.B. The zones are those defined in Regulation (EEC) No 941/72 (OJ No L 107, 6. 5. 1972).

B. Malt*(u.a. / 1 000 kg)*

CCT heading No	Description of goods	Current 8	1st period 9	2nd period 10	3rd period 11	4th period 12	5th period 1
11.07	Malt, roasted or not :						
	A. Unroasted :						
	I. Obtained from wheat :						
	a) In the form of flour	—	—	—	—	—	—
	b) Other	—	—	—	—	—	—
	II. Other :						
	a) In the form of flour	—	—	—	—	—	—
	b) Other	—	—	—	—	—	—
	B. Roasted	—	—	—	—	—	—

(u.a. / 1 000 kg)

CCT heading No	Description of goods	6th period 2	7th period 3	8th period 4	9th period 5	10th period 6	11th period 7
11.07	Malt, roasted or not :						
	A. Unroasted :						
	I. Obtained from wheat :						
	a) In the form of flour	—	—	—	—	—	—
	b) Other	—	—	—	—	—	—
	II. Other :						
	a) In the form of flour	—	—	—	—	—	—
	b) Other	—	—	—	—	—	—
	B. Roasted	—	—	—	—	—	—

REGULATION (EEC) No 2183/75 OF THE COMMISSION**of 21 August 1975****fixing the export levies on cereals**

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 665/75⁽²⁾ ;

Having regard to Council Regulation (EEC) No 1968/73⁽³⁾ of 19 July 1973 laying down general rules to be applied in the event of the cereals market being disturbed, as last amended by Regulation (EEC) No 86/75⁽⁴⁾ and in particular Article 4 (2) thereof ;

Having regard to the Opinion of the Monetary Committee ;

Whereas Article 19 of Regulation No 120/67/EEC provides that measures may be taken when the quotations or prices on the world market for one or more products reach the level of Community prices ; whereas that situation is likely to continue and to deteriorate, thereby disturbing or threatening to disturb the Community market ;

Whereas Regulation (EEC) No 1968/73 specifies that the quotations or prices on the world market shall be regarded as having reached the level of Community prices when they approach or exceed the threshold price ; whereas the continuation and the deterioration of that situation may be regarded as being likely to continue where an imbalance between supply and demand is established and where this imbalance is likely to persist, having regard to foreseeable production and market price trends ;

Whereas the high level of prices in international trade could impede importation of common wheat, durum wheat, wheat or meslin flour, barley, rye, oats, maize, durum wheat groats and meal into the Community or provoke exportation from the Community ;

Whereas the situation described above can be said to exist at the present time ; whereas to ensure supplies in the Community an export levy should be introduced for common wheat, durum wheat, wheat or meslin flour, barley, rye, oats, maize, durum wheat groats and meal ;

Whereas the threshold prices for the 1975/76 marketing year were fixed by Council Regulation (EEC) No 1173/75⁽⁵⁾ of 28 April 1975 ;

Whereas Article 3 of Regulation (EEC) No 1968/73 specifies that when the export levy is being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals on the Community market on the one hand and prices for cereals and cereal products on the world market on the other ; whereas the same article provides that it is also important to ensure equilibrium and the natural development of prices and trade on cereal markets and furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances on the Community market ;

Whereas for the products, other than starches, listed in Article 1 (c) and (d) of Regulation No 120/67/EEC the specific factors set out in Article 3 (2) of Regulation (EEC) No 1968/73 must also be taken into account ;

Whereas the export levy may be varied if the world market situation or the specific requirements of certain markets make this necessary ;

Whereas, if the levy system is to operate normally, the following should be used to calculate the levies :

- for currencies the exchange rates for which are kept at any given moment within a band of 2.25 %, at a conversion rate based on their actual parity ;
- for other currencies a conversion rate based on the arithmetic mean of the spot market rates for each

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

⁽²⁾ OJ No L 72, 20. 3. 1975, p. 14.

⁽³⁾ OJ No L 201, 21. 7. 1973, p. 10.

⁽⁴⁾ OJ No L 11, 16. 1. 1975, p. 2.

⁽⁵⁾ OJ No L 117, 7. 5. 1975, p. 6.

of these currencies against the Community currencies referred to in the preceding paragraph over a specified period ;

Whereas it follows from applying the rules outlined above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the export levies, should be fixed as shown in the Annex to this Regulation ;

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

HAS ADOPTED THIS REGULATION :

Article 1

The export levies referred to in the first indent of Article 2(1) of Regulation (EEC) No 1968/73 are hereby fixed at the amounts shown in the Annex.

Article 2

This Regulation shall enter into force on 22 August 1975.

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

Done at Brussels, 21 August 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

ANNEX

to the Commission Regulation of 21 August 1975 fixing the export levies in the cereals sector

CCT heading No	Description	u.a./metric ton
ex 10.01 A	Common wheat and meslin, excluding officially certified seeds ⁽¹⁾	17.00
ex 10.01 B	Durum wheat, excluding officially certified seeds ⁽¹⁾	17.00
ex 10.02	Rye, excluding officially certified seeds ⁽¹⁾	0
ex 10.03	Barley, excluding officially certified seeds ⁽¹⁾	20.00
ex 10.04	Oats, excluding officially certified seeds ⁽¹⁾	12.00
10.05 B	Maize other than hybrid maize for sowing	12.00
10.07 B	Millet	—
10.07 C	Grain sorghum	—
ex 11.01 A	Wheat flour	0
11.01 B	Rye flour	0
11.02 A I a)	Durum wheat groats and meal	15.00
11.02 A I b)	Common wheat groats and meal	0
11.01	Flour of cereals :	
	C. Barley flour	—
	D. Oat flour	—
	E. Maize flour :	
	I. Of a fat content not exceeding 1.5 % by weight	—
	II. Other	—
	H. Millet flour	—
	K. Grain sorghum flour	—
11.02	Cereal groats and cereal meal ; other worked cereal grains (for example, rolled, flaked, polished, pearled or kibbled, but not further prepared), except husked, glazed, polished or broken rice ; germ of cereals, whole, rolled, flaked or ground :	
	A. Cereal groats and cereal meal :	
	II. Rye	—
	III. Barley :	
	a) Of an ash content not exceeding 1 % by weight	—
	b) Barley groats and meal not included under No 11.02 A III a)	—
	IV. Oats :	
	a) Of an ash content not exceeding 2.3 % by weight	—
	b) Oat groats and meal not included under No 11.02 A IV a)	—

CCT heading No	Description	u.a./metric ton
11.02 (cont'd)	V. Maize :	
	a) Of a fat content not exceeding 1·5 % by weight :	
	1. For the brewing industry	—
	2. Other	—
	b) Other	—
	VIII. Millet	—
	IX. Grain sorghum	—
	B. Hulled grains (shelled or husked), whether or not sliced or kibbled :	
	I. Barley, oats, buckwheat and millet :	
	a) hulled (shelled or husked) :	
	1. Barley ⁽²⁾	—
	2. Oats :	
	aa) Clipped oats ⁽²⁾	—
	bb) Other :	
	(11) Of an ash content not exceeding 2·3 % by weight ⁽²⁾	—
	(22) Other ⁽²⁾	—
	4. Millet	—
	b) Hulled and sliced or kibbled ('Grütze or grutten') :	
	1. Barley ⁽²⁾	—
	2. Oats :	
	aa) Of an ash content not exceeding 2·3 % by weight ⁽²⁾	—
	bb) Other ⁽²⁾	—
	4. Millet ⁽²⁾	—
	II. Other cereals :	
	a) Wheat ⁽²⁾	—
	b) Rye ⁽²⁾	—
	c) Maize ⁽²⁾	—
	d) Grain sorghum ⁽²⁾	—
	C. Pearled grains :	
	I. Wheat ⁽³⁾	—
	II. Rye ⁽³⁾	—
	III. Barley :	
	a) Of an ash content (without talc) not exceeding 1 % by weight — 1st category ⁽³⁾	—
	b) Other ⁽³⁾	—
	IV. Oats ⁽³⁾	—
	V. Maize ⁽³⁾	—
	VII. Millet ⁽³⁾	—
	VIII. Grain sorghum ⁽³⁾	—

CCT heading No	Description	u.a./metric ton
11.02 (cont'd)	D. Grains not otherwise worked than kibbled :	
	I. Wheat	—
	II. Rye	—
	III. Barley	—
	IV. Oats	—
	V. Maize	—
	VII. Millet	—
	VIII. Grain sorghum	—
	E. Rolled grains ; flaked grains :	
	I. Barley, oats, buckwheat and millet :	
	a) Rolled :	
	1. Barley	—
	2. Oats	—
	4. Millet	—
	b) Flaked :	
	1. Barley	—
	2. Oats	—
	4. Millet	—
	II. Other cereals :	
	a) Wheat	—
	b) Rye	—
	c) Maize	—
	d) Grain sorghum	—
	F. Pellets :	
	I. Wheat	—
	II. Rye	—
	III. Barley	—
	IV. Oats	—
	V. Maize	—
	VIII. Millet	—
	IX. Grain sorghum	—
	G. Germ of cereals, whole, rolled, flaked or ground	
	I. Wheat	—
	II. Other	—
11.07	Malt, roasted or not :	
	A. Unroasted :	
	I. Obtained from wheat :	
	a) In the form of flour	—
	b) Other	—

CCT heading No	Description	u.a./metric ton
11.07 (cont'd)	II. Other : a) In the form of flour b) Other B. Roasted	— — —
23.02	Bran, sharps and other residues derived from the sifting, milling or working of cereals or of leguminous vegetables : A. Of cereals : I. Of maize : a) With a starch content not exceeding 35 % by weight b) Other : 1. With a starch content exceeding 35 % but not exceeding 45 % by weight, and having undergone a denaturing process 2. Other II. Of other cereals : a) Of which the starch content does not exceed 28 % by weight, and of which the percentage which passes through a sieve with an aperture of 0.2 mm does not exceed 10 % by weight or of which the sieved product has an ash content, calculated on the dry product, of 1.5 % or more by weight b) Other	— — — — — — —
23.07	Sweetened forage, other preparations of a kind used in animal feeding : B. Other, containing starch, glucose or glucose syrup falling within subheadings 17.02 B and 17.05 B, or milk products, mixed with other products too : ex I. Preparations of a kind used in animal feeding, covered by Regulation (EEC) No 968/68, of a milk powder content of less than 50 % by weight and of cereal products ⁽⁴⁾ content by weight : — Exceeding 5 % but not exceeding 15 % — Exceeding 15 % but not exceeding 30 % — Exceeding 30 % but not exceeding 50 % — Exceeding 50 % but not exceeding 65 % — Exceeding 65 %	— — — — — —

⁽¹⁾ Officially certified seeds are understood to be those seeds contained in the packages officially sealed and officially labelled as 'basic seed', 'certified seed, first generation', 'certified seed, second generation' conforming to the provisions of the Council Directive of 14 June 1966 on the marketing of cereal seed (OJ No 125, 11. 7. 1966, p. 2309/66) and of the Council Decision of 26 March 1973 on the equivalence of seed produced in Denmark, Ireland and the United Kingdom (OJ No L 106, 20. 4. 1973, p. 12).

⁽²⁾ Hulled grains are grains corresponding to the definition given in the Annex to Regulation (EEC) No 821/68 (OJ No L 149, 29. 6. 1968, p. 46).

⁽³⁾ Pearled grains are grains corresponding to the definition given in the Annex to Regulation (EEC) No 821/68 (OJ No L 149, 29. 6. 1968, p. 46).

⁽⁴⁾ 'Cereals products' means the products falling within Chapter 10 and heading Nos 11.01 and 11.02 (excluding subheading 11.02 G) of the Common Customs Tariff.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 18 July 1975

relating to a proceeding under Article 85 of the EEC Treaty (IV/21.353 — Kabel-metal-Luchaire)

(Only the French and German texts are authentic)

(75/494/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 Regulation No 17⁽¹⁾ of 6 February 1962, and in particular Articles 4, 6 and 8 thereof;

Having regard to the notification made on 2 February 1963 of the patent and know-how licensing agreement which Kabel- und Metallwerke Neumeyer AG, a company with its registered office at Nuremberg, Germany, which later became Kabel- und Metallwerke Gutehoffnungshütte AG, with its registered office at Hanover (hereinafter called 'Kabelmetal'), concluded on 19 June 1958 with Ets Luchaire SA, Paris, France (hereinafter called 'Luchaire');

Having regard to the summary of the notification published, as required by Article 19 (3) of Regulation No 17, in *Official Journal of the European Communities* No C 157 of 14 December 1974;

Having regard to the Opinion delivered on 24 April 1975 by the Advisory Committee on Restrictive Practices and Dominant Positions pursuant to Article 10 of Regulation No 17;

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

I.

1. Kabelmetal has developed from the cold-extrusion process a whole range of special techniques for the machining of steel parts.

At present the manufacturing techniques used by Kabelmetal are based on secret processes and practical experience (know-how) and on a large number of patents in all EEC countries other than Ireland, Denmark and Luxembourg. These patents, of varying importance, do not directly affect the basic extrusion process, which in itself may be freely used by any firm, but relate specifically to the manufacture and fitting together of the tools for the shaping of the parts, the phosphatization and lubrication of the parts, and in general to improved methods, in particular those used to obtain parts with special shapes.

The various parts manufactured on the basis of techniques used by Kabelmetal include pistons, shock absorbers, hollow axles, spindles, extinguishers, brake parts, parts of furniture, cog wheels, etc. Among the major users of the products thus obtained are the motor industry, the electrical industry, the extinguisher-manufacturing industry and the mechanical-engineering industry in general.

2. By the terms of the licensing and technical assistance agreement concluded on 19 June 1958, as amended on 4 March 1960, 10 November 1960, 16 January 1962, 31 December 1965 and 13 March 1974, Kabelmetal granted Luchaire an exclusive licence for

the manufacture in France of the abovementioned products using its secret and patented manufacturing techniques (current or future), the exclusive right to sell these products in certain non-member countries (Spain and Portugal) and a non-exclusive licence to sell these products in all the countries of the common market.

The parties agreed to exchange all relevant information concerning the application of the licensed techniques. Kabelmetal specifically undertook to give the licensee all necessary technical assistance for the duration of the agreement, in particular to help train technicians, work out production planning, design tooling and determine the types of steels to be used. The licensee undertook to grant Kabelmetal a non-exclusive licence in respect of any patent relating to such improvements of processes as should be discovered by the licensee, so that Kabelmetal might not only use them for its own production but also authorize any other licensee who should give the same undertaking to use them. Luchaire also undertook to keep secret Kabelmetal's know-how: it would communicate such know-how only to its authorized representatives and employees and take all reasonable steps to ensure that they too should keep it secret.

In consideration of the licence, Luchaire undertook to pay Kabelmetal royalties, originally calculated by reference to the purchase price of the materials used, and subsequently changed to a lump sum, paid in instalments. Once the agreement has expired, Luchaire may continue to make use without payment of royalties of techniques received prior to 31 December 1972, while the use of techniques received after this date will be subject to the payment of royalties the amount of which is still to be fixed.

The parties undertake for the duration of the agreement not to sell, either directly or indirectly, products manufactured using Kabelmetal's techniques in certain countries outside the EEC, that is to say for Kabelmetal in Spain and Portugal, and for Luchaire outside the EEC and these two countries. However, this undertaking does not apply to imports into these countries of machines or assemblies which incorporate parts manufactured under the agreement.

Kabelmetal undertakes not to grant any licence in respect of its techniques on terms which are more favourable than those applying to Luchaire to any other person, company or firm anywhere in the world.

The agreement is to be performed in accordance with French law; any dispute between the parties over the

agreement must be settled in accordance with the conciliation and arbitration rules of the Paris International Chamber of Commerce.

As originally drafted, the agreement contained an obligation on the licensee to transfer to Kabelmetal ownership of such improvements, whether patentable or not, as the licensee might make in conjunction with Kabelmetal; a further obligation not to sell the products in question within the EEC, except in the territory of specified Member States, and an obligation not to contest the validity of the licensor's patented processes. At the Commission's request, however, the parties deleted these obligations from the agreement with effect from 13 March 1974.

The agreement expires on 31 December 1977.

3. The following factors also emerged during investigation of the case: essentially, the cold-extrusion process involves the plastic deformation in a press, without pre-heating either of the part or of the tooling (punches and die), of a rough blank, usually of metal, into a solid or hollow part. The essential distinguishing characteristic of the cold-extrusion process is that it makes it possible to work with metals at ambient temperature. This normally has certain advantages over the 'traditional' deep-drawing processes in that it improves the mechanical properties of the parts (strength, fibre structure, etc.) — as a result of cold hardening — as well as saving material and additional machining. In general, it can be said that it is better to use cold-extrusion techniques to manufacture parts which require the removal of a large quantity of material in successive operations, provided that the number of parts to be produced justifies the use of expensive equipment. It should be noted that the investment costs for the installation of one production unit per extrusion, with a sufficient number of presses and tools, total several million units of account.

The extrusion process has been used since the end of the last century on soft metals and in the manufacture of armaments such as brass cartridge cases. From 1934 onwards it was extended to steel as a result of inventions made by Kabel- und Metallwerke Neumeyer AG and protected by secret patents. After the Second World War the process was confiscated by the Allies and thus came to be used widely in Europe and in the USA for the manufacture of many different parts and was put to many different uses. Although the cold-extrusion process in general has thus been in use for more than thirty years, there exists a whole range of possible techniques now used by various firms in the mechanical-engineering industry.

Kabelmetal, with all its know-how and its patents, holds the key to the use of cold-extrusion techniques specially developed for manufacturing steel parts with particularly awkward dimensions and shapes. Luchaire profits directly from Kabelmetal's development work by turning to Kabelmetal whenever it has any special problems concerning the manufacture of new parts and new tools and equipment requiring fresh investment.

The products covered by the agreement are generally manufactured on the basis of technical specifications and part designs submitted by customers before an order is placed. Detailed technical research is often required in order, principally, to reduce the number of non-standardized shapes, such as large variations of section, grooves and necks. There is no wholesale or retail trade in most of these products, because they are generally delivered direct by Kabelmetal itself or its licensee to manufacturers who incorporate them into their own products.

Apart from some deliveries made in Belgium, where under the original version of the agreement of 19 June 1958 Luchaire had a non-exclusive sales licence, Luchaire has not as yet been supplying firms within the EEC, other than those established in France. Undertakings in other Community countries (i.e. Italy, the United Kingdom, Belgium and the Netherlands) have been supplied direct by Kabelmetal.

It is impossible to determine exactly the licensee's share of the market, since the products in question are put to many different uses and may be manufactured both by producers using different cold-extrusion techniques, including six undertakings established in France, and by those using rival deep-drawing techniques. Nevertheless, the information available to the Commission suggests that Luchaire must account for about 20 % of the production of such parts in France in 1974. The other 80 % was manufactured by competitors and by users themselves (mainly the large car manufacturers or their subcontractors).

Rival techniques for obtaining the same parts as those manufactured by cold-extrusion include the tradi-

tional techniques of forging and sintering, machining by metal removal and casting.

It should also be pointed out that at present Luchaire is the only licensee within the EEC for the products manufactured on the basis of Kabelmetal techniques.

4. No observations were received by the Commission from third parties following the publication of the summary of the notification.

II.

5. Article 85(1) of the Treaty prohibits as incompatible with the common market all agreements between undertakings 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.

6. By the terms of its agreement with Luchaire, Kabelmetal undertook to grant Luchaire an exclusive licence for the manufacture, in a specified part of the territory of the common market, of parts obtained by cold-extrusion using its patented inventions and know-how.

A patent confers on the holder the exclusive right to use the protected invention; know-how, as long as it is kept secret, makes it possible for the person possessing it to make sole use of the invention, or of the technical and economic information which is its subject. The holder of a patent or know-how may, by licensing agreements, authorize the use of the patented invention in a specific part of the common market covered by the patent, or pass on the invention or secret information to any firm interested in using it.

If the patent-holder, however, undertakes to restrict the use of his inventions to one single firm in a specified territory, he is no longer able to make agreements

with other applicants for licences; such an undertaking on the part of the holder is not of the essence of the patent; such an exclusive licence covering industrial property rights and know-how may be a restriction of competition and therefore prohibited by Article 85(1).

In the case in point, as has been shown above, the techniques in respect of which Kabelmetal has granted licences are important techniques for the manufacture of rough parts and the number of strictly competing and comparable processes, like the number of manufacturers using them, is relatively small. Luchaire holds a substantial share of the market for these articles in the EEC, and this share is all the greater as the remainder is not exclusively produced by competitors but also by the users themselves. Kabelmetal for its part has a considerable turnover in Germany. This being so, the exclusive manufacturing licence granted by Kabelmetal, apart from restricting Kabelmetal's freedom, seriously affects the position of others — notably many metallurgical undertakings with their registered offices in France — who might wish to apply the techniques in question, since they are prevented from using these techniques within the common market.

The exclusive licence granted to Luchaire, therefore, appreciably restricts competition within the common market.

7. The exclusive manufacturing licence for France granted by Kabelmetal to the licensee prevents Kabelmetal from granting further licences to other firms which would enable them to use its patented inventions and know-how on French territory and, consequently, put them in a position to export from France to other parts of the common market.

This restriction must therefore be regarded as liable to affect trade between Member States since it is likely to endanger, directly or indirectly, freedom of trade between Member States in such a way as to hamper attainment of the objectives of a single international market.

The agreement in question therefore falls within the scope of Article 85(1) of the Treaty.

8. The other provisions of the agreement between Kabelmetal and Luchaire are not caught by Article 85(1), because they do not have as their object or effect a substantial restriction of competition within the common market. This is true in particular of the following :

- (i) Kabelmetal's undertaking not to grant any licence in respect of its techniques to any firm in any part of the world on terms more favourable than those applying to Luchaire (most-favoured-licensee clause). The licensor's undertaking to extend to the original licensee any more favourable terms subsequently granted to other licensees would not in general dissuade the licensor from granting further licences to third parties. In specific cases, however, particularly where the market situation was such that the only way to find other licensees was to grant them more favourable terms than those granted to the first licensee, this obligation could be an obstacle to the granting of further licences and therefore constitute an appreciable restriction of competition. In this specific case, however, none of the facts point to such a restriction.
- (ii) the prohibition on exports by the parties to countries outside the common market, since in the case in point this would not substantially affect either competition within the common market or trade between Member States, because the products in question are not suitable for marketing through intermediaries and are therefore unlikely to be reimported into the EEC and subsequently sold from one Member State to another.
- (iii) Luchaire's obligation to grant Kabelmetal, and through Kabelmetal other possible licensees, non-exclusive licences in respect of such improvements as Luchaire itself may have made to the techniques in question. This restricts Luchaire's freedom to make contractual dispositions in respect of such improvements, for although Luchaire remains free in theory to grant licences for improvements to other firms, which would not normally have access to Kabelmetal's basic processes, it cannot now refuse to grant such licences to competing firms using the same processes, which are therefore directly interested in any improvement. Luchaire's obligation to permit the granting of licences to its competitors, thus losing any competitive advantage which might result from the said improvements, would tend to discourage any effort which the company

might normally make to obtain such an advantage. Such an effect may restrict competition, particularly in an oligopolistic market structure. In the market in question, as Luchaire is at present the only licensee in the common market and as it is unlikely that further licensees who could effectively compete with Luchaire will be appointed before the contract expires, the obligation in question cannot be regarded as having an appreciable effect on conditions in the EEC market.

- (iv) Luchaire's undertaking to keep secret the know-how made available to it by Kabelmetal, since the very essence of technical know-how, which is a collection of industrial processes unprotected by the law on industrial property, is secrecy. This element of secrecy is an essential precondition so that the owner of the technical know-how can pass it on to other firms and is therefore also an essential prerequisite for exploiting the know-how until such time as it becomes public knowledge.
- (v) Luchaire's undertaking to pay royalties if it uses — once the contract has expired — the secret techniques received after a specified date during the lifetime of the contract, since this obligation does not prevent the licensee from using the know-how after the contract has expired even if it has to pay royalties to do so.

III.

9. Under Article 85(3), the provisions of Article 85(1) may be declared inapplicable in the case of any agreement between undertakings which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

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

10. Kabelmetal's undertaking to grant Luchaire exclusive rights contributes to promoting economic progress, since it made possible the licensing agreement in question by guaranteeing Luchaire a sufficient return on its investments by virtue of the terri-

torial advantages it derives from the exclusion of any other firm which might be interested in manufacturing on the basis of the licensor's techniques within the territory for which the licence is valid. This provision has therefore enabled another manufacturer within the EEC to use improved techniques for machining steel parts — techniques which, compared with the traditional deep-drawing processes, make possible considerable savings in raw material and the production of high-quality finished products.

The obligation also contributes to promoting technical progress and to improving the production of parts manufactured according to the licensor's techniques in that the agreement made possible by the obligation permits the licensee to ask for Kabelmetal's technical assistance in designing new parts and new tools and equipment, and thus encourages joint improvement of the licensed techniques.

11. Users, notably electrical-equipment and motor-vehicle manufacturers and their customers, obtain a fair share of the benefits of the economic and technical progress mentioned above, for as a result of this agreement they have at their disposal in the common market goods tailored to their needs, in unusual shapes and dimensions. Most users in France can, thanks to the close proximity of Kabelmetal's licensee, be sure of obtaining efficient technical information and assistance in finding which of the parts they require can be made to higher technical specifications or at lower prices, as well as regular supplies. Competition between rival products is sufficient to guarantee users a share in the benefits in question.

12. Luchaire's exclusive licence for a specific territory may, in respect of the use of Kabelmetal's secret and protected techniques, be considered indispensable to attainment of the desirable objectives set out in the foregoing paragraphs. Given the investments required to apply Kabelmetal's techniques and to promote sales of products manufactured by extrusion processes, which when the agreement came into force were not as yet widely used and had to compete with many other processes to which users were already accustomed, Kabelmetal would have been unable to get any interested firm in the EEC to apply the techniques it possessed at that time, or indeed any new development involving fresh investment, had it not given an undertaking that other firms would be unable to compete with it directly by manufacturing the products in question using the same protected or

secret techniques in the territory covered by the licensing agreement. The protection which this territorial advantage gives against the risk of insufficient use of production capacity that has had to be created could not be attained by measures which would restrict competition to a lesser degree.

13. Although Luchaire occupies an important position in the EEC, the agreement in question does not give it power to eliminate competition in a large part of the relevant product market. It should be noted here that other cold-extrusion techniques and other deep-drawing processes are used by several firms within the common market. Added to this is the fact that Kabelmetal's licensee is free to sell the relevant products within the common market outside the territory for which it holds an exclusive manufacturing licence and is especially responsible.

14. As matters now stand, the licensing agreement between Kabelmetal and Luchaire satisfies all the tests for a decision granting exemption under Article 85 (3).

IV.

15. As originally drafted, the licensing agreement between Kabelmetal and Luchaire did not satisfy the tests of Article 85 (3), because it contained a general obligation on the licensee not to export to other EEC countries the articles manufactured using Kabelmetal's techniques, the obligation to transfer to Kabelmetal ownership of jointly developed improvements and the obligation not to contest the validity of the licensor's patents. These obligations constituted substantial restrictions of competition and could not be regarded as being of the essence of the licensed patent rights or as contributing to the improvement of production or distribution of goods or to promoting technical or economic progress.

At the Commission's request, these obligations preventing application of Article 85 (3) were on 13 March 1974 deleted from the agreement.

Pursuant to Article 6 (1) of Regulation No 17, the decision granting exemption under Article 85 (3) may therefore have effect from the date on which the agreement was amended, namely 13 March 1974.

16. For purposes of determining pursuant to Article 8 (1) of Regulation No 17 the duration of the validity of the decision, account should be taken of the fact that the restrictions of competition found do not prevent the free movement of the goods in question

between Member States of the EEC. Since the agreement in question is to lapse very soon, before the expiry of the Kabelmetal patents to which it relates, it would be advisable to provide that the decision under Article 85 (3) will lapse on the same date as the agreement.

17. In order that it may be verified that the amended agreement as applied in practice does not exceed the bounds of the decision declaring inapplicable the prohibition in Article 85 (1), measures should be taken to ensure that the Commission is informed of judgments given under the arbitration clause, since these might contain interpretations of the agreement which do not take account of the scope of this decision, which might in consequence have to be amended.

V.

18. The agreement in question does not satisfy the tests of Article 7 (1) and (2) of Regulation No 17. The agreement was already in existence at the date of entry into force of Regulation No 17 but was not notified by the date specified in Article 5 (1) of the said Regulation and did not fall within subparagraph (2) (b) of Article 4 (2) of the Regulation since its effect is not simply to impose restrictions on the exercise of the rights of the user of industrial property rights.

Consequently, the prohibition in Article 85 (1) applies to the whole period between 13 March 1962, the date of entry into force of Regulation No 17, and the date of entry into force of the decision declaring Article 85 (1) inapplicable to the agreement in question,

HAS ADOPTED THIS DECISION :

Article 1

The provisions of Article 85 (1) of the Treaty establishing the European Economic Community are, pursuant to Article 85 (3) thereof, declared inapplicable to the patent and know-how licensing agreement concluded on 19 June 1958 by Kabelmetal and Luchaire, as amended on 13 March 1974.

Article 2

The abovementioned undertakings shall communicate to the Commission without delay any judgment given under the arbitration clause.

Article 3

— Ets Luchaire SA, Paris, France.

This Decision shall have effect from 13 March 1974 to 31 December 1977.

Done at Brussels, 18 July 1975.

Article 4

This Decision is addressed to the following undertakings:

— Kabel- und Metallwerke Gutehoffnungshütte AG, Hanover, Germany, and

For the Commission

The President

François-Xavier ORTOLI
