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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 370/78**of 23 February 1978****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 (EEC) No
2727/75 of 29 October 1975 on the common organiza-
tion of the market in cereals⁽¹⁾, as last amended by
Regulation (EEC) No 2560/77⁽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 Regula-
tion (EEC) No 1729/77⁽³⁾ and subsequent amending
Regulations ;

Whereas it follows from applying the provisions
contained in Regulation (EEC) No 1729/77 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 products listed in
Article 1 (a), (b) and (c) of Regulation (EEC) No
2727/75 are hereby fixed as shown in the table
annexed to this Regulation.

Article 2

This Regulation shall enter into force on 24 February
1978.

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

Done at Brussels, 23 February 1978.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 303, 28. 11. 1977, p. 1.

⁽³⁾ OJ No L 191, 30. 7. 1977, p. 5.

ANNEX

to the Commission Regulation of 23 February 1978 fixing the import levies on cereals and on wheat or rye flour groats and meal

(u.a./tonne)

CCT heading No	Description	Levies
10.01 A	Common wheat, and meslin	87.84
10.01 B	Durum wheat	116.94 ⁽¹⁾ ⁽⁵⁾
10.02	Rye	77.22 ⁽⁶⁾
10.03	Barley	80.91
10.04	Oats	74.85
10.05 B	Maize, other than hybrid maize for sowing	76.62 ⁽²⁾ ⁽³⁾
10.07 A	Buckwheat	0
10.07 B	Millet	80.02 ⁽⁴⁾
10.07 C	Grain sorghum	82.66 ⁽⁴⁾
10.07 D	Canary seed; other cereals	0 ⁽⁵⁾
11.01 A	Wheat or meslin flour	134.61
11.01 B	Rye flour	119.73
11.02 A I a)	Durum wheat groats and meal	192.26
11.02 A I b)	Common wheat groats and meal	144.33

⁽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./tonne.

⁽²⁾ Where maize originating in the ACP or OCT is imported into the French overseas departments, the levy is reduced by 6 u.a./tonne as provided for in Regulation (EEC) No 706/76.

⁽³⁾ Where maize originating in the ACP or OCT is imported into the Community the levy is reduced by 1.50 u.a./tonne.

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

⁽⁵⁾ Where durum wheat and canary seed produced in Turkey are transported directly from that country to the Community, the levy is reduced by 0.50 u.a./tonne.

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

COMMISSION REGULATION (EEC) No 371/78

of 23 February 1978

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 (EEC) No
2727/75 of 29 October 1975 on the common organ-
ization of the market in cereals⁽¹⁾, as last amended by
Regulation (EEC) No 2560/77⁽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
1730/77⁽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 (EEC) No 2727/75, 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 24 February
1978.

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

Done at Brussels, 23 February 1978.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 303, 28. 11. 1977, p. 1.

⁽³⁾ OJ No L 191, 30. 7. 1977, p. 7.

ANNEX

to the Commission Regulation of 23 February 1978 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

(u.a./tonne)

CCT heading No	Description	Current 2	1st period 3	2nd period 4	3rd period 5
10.01 A	Common wheat, and meslin	0	0	0	3.23
10.01 B	Durum wheat	0	0	0	12.88
10.02	Rye	0	0	0	1.34
10.03	Barley	0	0	0	0
10.04	Oats	0	2.64	2.64	3.30
10.05 B	Maize, other than hybrid maize for sowing	0	0.16	0.16	1.51
10.07 A	Buckwheat	0	0	0	0
10.07 B	Millet	0	0	0	0
10.07 C	Grain sorghum	0	2.97	2.97	2.97
10.07 D	Other cereals	0	0	0	0
11.01 A	Wheat or meslin flour	0	0	0	4.53

B. Malt

(u.a./tonne)

CCT heading No	Description	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6
11.07 A I (a)	Unroasted malt, obtained from wheat, in the form of flour	0	0	0	5.75	5.75
11.07 A I (b)	Unroasted malt, obtained from wheat, other than in the form of flour	0	0	0	4.30	4.30
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

COMMISSION REGULATION (EEC) No 372/78

of 23 February 1978

fixing the minimum import levies 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 of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 2560/77⁽²⁾,

Having regard to Council Regulation No 162/66/EEC of 27 October 1966 on trade in oils and fats between the Community and Greece⁽³⁾,

Having regard to Council Regulation (EEC) No 2843/76 of 23 November 1976 laying down special measures in particular for the determination of the offers of olive oil on the world market⁽⁴⁾, as amended by Regulation (EEC) No 2361/77⁽⁵⁾, and in particular Article 2 (3) thereof,

Having regard to Council Regulation (EEC) No 2844/76 of 23 November 1976 laying down special measures in particular for the determination of the offers of olive oil on the Greek market⁽⁶⁾, as amended by Regulation (EEC) No 2361/77, and in particular Article 2 (3) thereof,

Having regard to Council Regulation (EEC) No 1514/76 of 24 June 1976 on imports of olive oil from Algeria⁽⁷⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1521/76 of 24 June 1976 on imports of olive oil from Morocco⁽⁸⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1508/76 of 24 June 1976 on imports of olive oil from Tunisia⁽⁹⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1180/77 of 17 May 1977 on imports into the Community of certain agricultural products originating in Turkey⁽¹⁰⁾, and in particular Article 10 (2) thereof,

Whereas, in Regulation (EEC) No 1362/76 of 14 June 1976⁽¹¹⁾, the Commission decided to use the tendering procedure to fix the levies on olive oil;

Whereas Article 4 of Commission Regulation (EEC) No 3188/76 of 23 December 1976 on detailed rules for the implementation of the special measures for the determination of offers of olive oil on the world market and the Greek market⁽¹²⁾, as last amended by Regulation (EEC) No 2413/77⁽¹³⁾, lays down the criteria for fixing the rate of the minimum levy;

Whereas that rate must be fixed for each of the products concerned on the basis of an examination of the world or Greek markets and of the Community market, and also of the levy rates indicated by the tenderers;

Whereas account should be taken of the oil content of products other than olive oil; whereas, however, no levies are applied to imports of oil-cake and other residues falling within subheading 23.04 A of the Common Customs Tariff and having an oil content of not more than 3 %;

Whereas account should be taken in applying the levy of the provisions of the agreements between the Community and certain non-member countries; whereas, in particular, the levy must be calculated on the basis of the levy to be collected on imports from non-member countries;

Whereas the application of the rules described above to the levy rates submitted by tenderers on 20 and 21 February 1978 results in the fixing of the minimum levies as shown in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The minimum levies on imports of olive oil shall be as shown in the Annex.

Article 2

This Regulation shall enter into force on 24 February 1978.

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

⁽²⁾ OJ No L 303, 28. 11. 1977, p. 1.

⁽³⁾ OJ No 197, 29. 10. 1966, p. 3393/66.

⁽⁴⁾ OJ No L 327, 26. 11. 1976, p. 4.

⁽⁵⁾ OJ No L 277, 29. 10. 1977, p. 2.

⁽⁶⁾ OJ No L 327, 26. 11. 1976, p. 6.

⁽⁷⁾ OJ No L 169, 28. 6. 1976, p. 24.

⁽⁸⁾ OJ No L 169, 28. 6. 1976, p. 43.

⁽⁹⁾ OJ No L 169, 28. 6. 1976, p. 9.

⁽¹⁰⁾ OJ No L 142, 9. 6. 1977, p. 10.

⁽¹¹⁾ OJ No L 154, 15. 6. 1976, p. 13.

⁽¹²⁾ OJ No L 359, 30. 12. 1976, p. 26.

⁽¹³⁾ OJ No L 279, 1. 11. 1977, p. 55.

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

Done at Brussels, 23 February 1978.

For the Commission

Finn GUNDELACH

Vice-President

ANNEX

to the Commission Regulation of 23 February 1978 fixing the minimum import levies on olive oil

(u.a. / 100 kg)

CCT heading No	Greece	Non-member countries
07.01 N II	6.00	10.00
07.03 A II	6.00	10.00
15.07 A I a)	30.00 ⁽³⁾	56.00 ⁽³⁾
15.07 A I b)	30.00 ⁽³⁾	54.00 ⁽³⁾
15.07 A I c)	30.00 ⁽³⁾	54.00 ⁽³⁾
15.07 A II a)	31.00	58.00 ⁽¹⁾
15.07 A II b)	45.00	84.00 ⁽²⁾
15.17 B I a)	14.00	25.00
15.17 B I b)	22.00	40.00
23.04 A	2.00 ⁽⁴⁾	4.00 ⁽⁴⁾

⁽¹⁾ For imports of oil falling within this tariff subheading :

- (a) produced entirely in Algeria, Morocco or Tunisia and transported directly from any of those countries to the Community, the levy to be collected is reduced by 3.20 u.a./100 kg ;
- (b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by 2.50 u.a./100 kg.

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

- (a) produced entirely in Algeria, Morocco or Tunisia and transported directly from any of those countries to the Community, the levy to be collected is reduced by 6 u.a./100 kg ;
- (b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by 4.80 u.a./100 kg.

⁽³⁾ For imports of oil falling within this tariff subheading and produced entirely in one of the countries listed below and transported directly from any of those countries to the Community, the levy to be collected is reduced by :

- (a) Greece and Spain : 0.50 u.a./100 kg ;
- (b) Turkey : 18.50 u.a./100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force ;
- (c) Algeria, Morocco, Tunisia : 20.50 u.a./100 kg provided that the operator furnishes proof of having paid the export tax applied by those countries ; however, the repayment may not exceed the amount of the tax in force.

⁽⁴⁾ Pursuant in Article 3 of Regulations (EEC) No 2843/76 and (EEC) No 2844/76, no import levy is collected on oil-cake and other residues falling within subheading 23.04 A of the Common Customs Tariff and having an oil content of not more than 3 %.

COMMISSION REGULATION (EEC) No 373/78**of 23 February 1978****laying down certain detailed rules for the conduct of distillation operations in the wine sector and defining the event giving rise to payment of the amounts involved in these operations**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 816/70 of 28 April 1970 laying down additional provisions for the common organization of the market in wine⁽¹⁾, as last amended by Regulation (EEC) No 2560/77⁽²⁾, and in particular Articles 6b (4), 6c (4), 6d (5), 7 (3), 24 (7), 24a (5) and 24b (4) thereof,

Whereas pursuant to Article 4 (2) of Council Regulation (EEC) No 1134/68 of 30 July 1968 laying down rules for the implementation of Regulation (EEC) No 653/68 on conditions for alterations to the value on the unit of account used for the common agricultural policy⁽³⁾, the sums owed by a Member State or a duly authorized body, expressed in national currency and representing amounts fixed in units of account, shall be paid on the basis of the relationship between the unit of account and the national currency which obtained at the time when the transaction or part transaction was carried out ;

Whereas, pursuant to Article 6 of the abovementioned Regulation, the time when a transaction is carried out is considered as being the date on which occurs the event, as defined by Community rules or, in the absence of and pending adoption of such rules, by the rules of the Member State concerned, in which the amount involved in the transaction becomes due and payable ;

Whereas in the case of the distillation operations provided for in Articles 6b, 6c, 6d, 7, 24, 24a and 24b of Regulation (EEC) No 816/70, it appears appropriate to consider as the event giving rise to payment of the aid and of the purchase price for alcohol in the case of obligatory distillation, the entry to the distillery of the wine or of the by-products of wine-making intended for distillation ;

Whereas certain administrative difficulties in the application of this Regulation to obligatory distillation oper-

ations may arise ; whereas it should be possible to grant exceptional and temporary derogations to countries faced with such difficulties ;

Whereas in certain regions of the Community it is possible for wine producers to have their products distilled by itinerant distillers ; whereas in such cases the date of delivery of the wine and the by-products to these distillers is treated as the date of entry to the distillery ;

Whereas so as to maintain the existing relationship between the purchase price of wine or of the by-products of wine-making intended for distillation and the aid or, as the case may be, the price for alcohol in the case of obligatory distillation, it is indispensable to provide that the same representative rate be used in both cases for conversion into national currency ;

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

HAS ADOPTED THIS REGULATION :

Article 1

1. In the case of the distillation operations referred to in Articles 6b, 6c, 6d, 7, 24, 24a and 24b of Regulation (EEC) No 816/70, the event, within the meaning of Article 6 of Regulation (EEC) No 1134/68 giving rise to payment of the aid or of the price for alcohol delivered for obligatory distillation, shall be considered occurring on the date of entry to the distillery of the wine or of the by-products of wine-making intended for distillation.

However, for the 1977/78 wine-growing year and in respect of the distillation operations referred to in Articles 24 and 24a of Regulation (EEC) No 816/70, the Member States may choose to consider the event as occurring when the alcohol is delivered to the intervention agency.

⁽¹⁾ OJ No L 99, 5. 5. 1970, p. 1.

⁽²⁾ OJ No L 303, 28. 11. 1977, p. 1.

⁽³⁾ OJ No L 188, 1. 8. 1968, p. 1.

2. The conversion rate in the case of obligatory distillation to be applied to the minimum purchase and purchase prices fixed in units of account shall be the representative rate applying on the date when the wine or the by-products of wine-making enter the distillery.

Where use is made of the second subparagraph of paragraph 1, the conversion rate to be used shall be the representative rate applying on the date when the alcohol is delivered to the intervention agency.

If the representative rate is changed, the purchase prices specified in contracts previously concluded

between a distiller and a producer shall be, for deliveries made after the new rate applies, considered as adjusted in accordance with the new representative rate, the adjusted amount being however limited to the amount of the minimum purchase price expressed in national currency.

Article 2

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

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

Done at Brussels, 23 February 1978.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION REGULATION (EEC) No 374/78
of 23 February 1978
fixing the amount of the subsidy on oil seeds

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation No 136/
66/EEC of 22 September 1966 on the establishment
of a common organization of the market in oils and
fats⁽¹⁾, as last amended by Regulation (EEC) No
2560/77⁽²⁾, and in particular Article 27 (4) thereof,

Whereas the amount of the subsidy referred to in
Article 27 of Regulation No 136/66/EEC was fixed by
Regulation (EEC) No 190/78⁽³⁾, as last amended by
Regulation (EEC) No 321/78⁽⁴⁾;

Whereas, in the absence of the indicative price for the
1978/79 marketing year for colza and rape seed in
case of pre-fixation for the month of July 1978, the
amount of subsidy on these products has been
obtainable only on the basis of the indicative price for
the month of July 1977; whereas, therefore, this
amount may be applied on a temporary basis and
should be confirmed or replaced when the indicative
price for the 1978/79 marketing year is known;

Whereas it follows from applying the rules and other
provisions contained in Regulation (EEC) No 190/78
to the information at present available to the Commis-
sion, that the amount of the subsidy at present in
force should be altered as shown in the Annex to this
Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. The amount of the subsidy referred to in Article
27 of Regulation No 136/66/EEC is hereby fixed as
shown in the table annexed to this Regulation.
2. The amount of the subsidy for the month of
July 1978 will, however, for colza and rape seed, be
confirmed or replaced as from 24 February 1978 to
take into account the indicative price which is fixed
for these products for the 1978/79 marketing year.

Article 2

This Regulation shall enter into force on 24 February
1978.

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

Done at Brussels, 23 February 1978.

For the Commission

Finn GUNDELACH

Vice-President

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

⁽²⁾ OJ No L 303, 28. 11. 1977, p. 1.

⁽³⁾ OJ No L 27, 1. 2. 1978, p. 24.

⁽⁴⁾ OJ No L 46, 17. 2. 1978, p. 21.

*ANNEX***to the Commission Regulation of 23 February 1978 fixing the amount of the subsidy on oil seeds**

Subsidy applicable from 24 February 1978 to colza and rape seeds (CCT heading No ex 12.01) and sunflower seeds (CCT heading No ex 12.01) (u.a./100 kg)

	Colza and rape seed	Sunflower seed
Subsidy	11.190	13.768
Subsidy in the case of advance fixing :		
— for the month of February 1978	11.190	13.768
— for the month of March 1978	11.567	14.236
— for the month of April 1978	11.307	14.321
— for the month of May 1978	11.307	14.321
— for the month of June 1978	11.307	—
— for the month of July 1978	9.179 ⁽¹⁾	—

⁽¹⁾ Subject to confirmation.

COMMISSION REGULATION (EEC) No 375/78

of 23 February 1978

fixing 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 of 22 September 1966 on the establishment of a common organization of the markets in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 2560/77⁽²⁾,

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

Having regard to Commission Regulation (EEC) No 2300/73 of 23 August 1973 laying down detailed rules for applying differential amounts for colza and rape seed and repealing Regulation (EEC) No 1464/73⁽⁵⁾, as last amended by Regulation (EEC) No 1234/77⁽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 190/78 of 31 January 1978 fixing the amount of the subsidy

on oil seeds⁽⁷⁾, as last amended by Regulation (EEC) No 374/78⁽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 24 February 1978.

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

Done at Brussels, 23 February 1978.

For the Commission

Finn GUNDELACH

Vice-President

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

⁽²⁾ OJ No L 303, 28. 11. 1977, p. 1.

⁽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 143, 10. 6. 1977, p. 9.

⁽⁷⁾ OJ No L 27, 1. 2. 1978, p. 24.

⁽⁸⁾ See page 9 of this Official Journal.

ANNEX

World market price applicable from 24 February 1978 for colza and rape seed (CCT heading No ex 12.01)

	<i>u.a./100 kg ⁽¹⁾</i>
World market price	19.164
World market price where the subsidy is fixed in advance :	
— for the month of February 1978	19.164
— for the month of March 1978	19.091
— for the month of April 1978	19.351
— for the month of May 1978	19.351
— for the month of June 1978	19.351
— for the month of July 1978	19.351

⁽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	3.15665
1 u.a. = Fl	3.35507
1 u.a. = Bfr/Lfr	48.6572
1 u.a. = FF	7.29012
1 u.a. = Dkr	8.56656
1 u.a. = £	0.772929
1 u.a. = I £	0.772929
1 u.a. = Lit	1 292.81

COMMISSION REGULATION (EEC) No 376/78

of 23 February 1978

abolishing the countervailing charge on imports of mandarins (including tangerines and satsumas), clementines, wilkings and other similar citrus hybrids originating in Morocco

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 1034/77⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Commission Regulation (EEC) No 348/78 of 20 February 1978⁽³⁾ introduced a countervailing charge on imports of mandarins (including tangerines and satsumas), clementines, wilkings and other similar citrus hybrids originating in Morocco;

Whereas the present trend of prices for Moroccan products on the representative markets referred to in Regulation (EEC) No 2118/74⁽⁴⁾, as amended by

Regulation (EEC) No 385/75⁽⁵⁾, recorded or calculated in accordance with the provisions of Article 5 of that Regulation, indicates that entry prices have been at least equal to the reference price for two consecutive market days; whereas the conditions specified in the second indent of Article 26 (1) of Regulation (EEC) No 1035/72 are therefore fulfilled and the countervailing charge on imports of these products originating in Morocco can be abolished,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 348/78 is hereby repealed.

Article 2

This Regulation shall enter into force on 24 February 1978.

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

Done at Brussels, 23 February 1978.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 125, 19. 5. 1977, p. 1.

⁽³⁾ OJ No L 49, 21. 2. 1978, p. 13.

⁽⁴⁾ OJ No L 220, 10. 8. 1974, p. 20.

⁽⁵⁾ OJ No L 44, 18. 2. 1975, p. 8.

COMMISSION REGULATION (EEC) No 377/78

of 23 February 1978

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 (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 2560/77⁽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 (EEC) No 2727/75 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products in the Community may be covered by an export refund;

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

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

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

these quantities were fixed in Regulation No 162/67/EEC⁽⁴⁾, as amended by Regulation (EEC) No 1607/71⁽⁵⁾;

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

Whereas the refund must be fixed 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 Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The refunds on the products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 2727/75, 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 24 February 1978.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 303, 28. 11. 1977, p. 1.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No 128, 27. 6. 1967, p. 2574/67.

⁽⁵⁾ OJ No L 168, 27. 7. 1971, p. 16.

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

Done at Brussels, 23 February 1978.

For the Commission

Finn GUNDELACH

Vice-President

ANNEX

to the Commission Regulation of 23 February 1978 fixing the refunds applicable to cereals and wheat or rye flour groats and meal

CCT heading No	Description	Refund (u.a. / tonne)
10.01 A	Common wheat and meslin	0
10.01 B	Durum wheat	0
10.02	Rye :	
	— for exports to :	
	— Switzerland, Austria and Liechtenstein	55.00
	— other third countries	65.00
10.03	Barley :	
	— for exports to :	
	— Switzerland, Austria and Liechtenstein	56.00
	— Iberian Peninsula	60.00
	— Zones I, II, III, IV and V	0
	— other third countries	65.00
10.04	Oats	0
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 520	92.00
	— of an ash content of 521 to 600	92.00
	— of an ash content of 601 to 900	82.00
	— of an ash content of 901 to 1 100	82.00
	— of an ash content of 1 101 to 1 650	72.00
	— of an ash content of 1 651 to 1 900	72.00
ex 11.01 B	Rye flour :	
	— of an ash content of 0 to 700	45.00
	— of an ash content of 701 to 1 150	45.00
	— of an ash content of 1 151 to 1 600	45.00
	— of an ash content of 1 601 to 2 000	45.00
11.02 A I a)	Durum wheat groats and meal :	
	— of an ash content of 0 to 950	155.00
	— of an ash content of 951 to 1 300	155.00
	— of an ash content of 1 301 to 1 500	155.00
11.02 A I b)	Common wheat groats and meal :	
	— of an ash content of 0 to 520	92.00

N.B. The zones are those defined in Regulation (EEC) No 1124/77 (OJ No L 134, 28. 5. 1977).

COMMISSION REGULATION (EEC) No 378/78

of 23 February 1978

fixing the corrective amount applicable to the refund on cereals

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 2560/77⁽²⁾, and in particular the third sentence of the second subparagraph of Article 16 (4) thereof,

Having regard to Council Regulation (EEC) No 2746/75 of 29 October 1975 laying down general rules for granting export refunds on cereals and criteria for fixing the amount of such refunds⁽³⁾,

Having regard to the opinion of the Monetary Committee,

Whereas Article 16 (4) of Regulation (EEC) No 2727/75 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 2744/75 of 29 October 1975 on the import and export system for products processed from cereals and from rice⁽⁴⁾, as last amended by Regulation (EEC) No 2560/77, made possible the fixing of a corrective amount for certain products listed in Article 1 (c) of Regulation (EEC) No 2727/75;

Whereas Regulation (EEC) No 1281/75⁽⁵⁾ 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 (EEC) No 2727/75 account should be taken of the specific criteria laid down in Article 2 (2) 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 table 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 L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 303, 28. 11. 1977, p. 1.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No L 281, 1. 11. 1975, p. 65.

⁽⁵⁾ OJ No L 131, 22. 5. 1975, p. 15.

HAS ADOPTED THIS REGULATION:

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

Article 1

The corrective amount referred to in Article 16 (4) of Regulation (EEC) No 2727/75 which is applicable to export refunds fixed in advance in respect of cereals is

Article 2

This Regulation shall enter into force on 24 February 1978.

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

Done at Brussels, 23 February 1978.

For the Commission

Finn GUNDELACH

Vice-President

ANNEX

to the Commission Regulation of 23 February 1978 fixing the corrective amount applicable to the refund on cereals

(u.a. / tonne)

CCT heading No	Description	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6	5th period 7	6th period 8
10.01 A	Common wheat, and meslin	0	0	0	—	—	—	—
10.01 B	Durum wheat	0	0	0	—	—	—	—
10.02	Rye	0	0	0	—	—	—	—
10.03	Barley	0	0	0	+ 2.00	+ 2.00	—	—
10.04	Oats	0	0	0	—	—	—	—
10.05 B	Maize other than hybrid maize for sowing	—	—	—	—	—	—	—
10.07 C	Grain sorghum	—	—	—	—	—	—	—
11.01 A	Common wheat flour	0	0	0	0	0	—	—
11.01 B	Rye flour	0	0	0	0	0	—	—
11.02 A I a)	Durum wheat groats and meal	0	0	0	0	0	—	—
11.02 A I b)	Common wheat groats and meal	0	0	0	0	0	—	—

N.B. The zones are those defined in Regulation (EEC) No 1124/77 (OJ No L 134, 28. 5. 1977).

COMMISSION REGULATION (EEC) No 379/78**of 23 February 1978****fixing the import levies on white sugar and raw sugar**

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation (EEC) No
3330/74 of 19 December 1974 on the common organ-
ization of the market in sugar ⁽¹⁾, as last amended by
Regulation (EEC) No 2560/77 ⁽²⁾, and in particular
Article 15 (7) thereof,

Whereas the import levies on white sugar and raw
sugar were fixed by Regulation (EEC) No 1436/77 ⁽³⁾,
as last amended by Regulation (EEC) No 369/78 ⁽⁴⁾;

Whereas it follows from applying the rules and other
provisions contained in Regulation (EEC) No 1436/77
to the information at present available to the Commis-

sion 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 levies referred to in Article 15 (1) of Regulation
(EEC) No 3330/74 are, in respect of white sugar and
standard quality raw sugar, hereby fixed as shown in
the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 24 February
1978.

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

Done at Brussels, 23 February 1978.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 359, 31. 12. 1974, p. 1.

⁽²⁾ OJ No L 303, 28. 11. 1977, p. 1.

⁽³⁾ OJ No L 161, 1. 7. 1977, p. 9.

⁽⁴⁾ OJ No L 52, 23. 2. 1978, p. 15.

ANNEX

**to the Commission Regulation of 23 February 1978 fixing the import levies on white sugar
and raw sugar**

(u.a. / 100 kg)		
CCT heading No	Description	Levy
17.01	Beet sugar and cane sugar, in solid form :	
	A. White sugar ; flavoured or coloured sugar	24.49
	B. Raw sugar	20.63 ⁽¹⁾

⁽¹⁾ Applicable to raw sugar with a yield of 92 % ; if the yield is other than 92 %, the levy applicable is calculated in accordance with
the provisions of Article 2 of Regulation (EEC) No 837/68.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 17 November 1977

authorizing the French Republic not to apply Community treatment to suits, jackets, blazers and the like, falling within heading No ex 61.01 of the Common Customs Tariff, originating in Hong Kong and in free circulation in the other Member States

(Only the French text is authentic)

(78/171/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the first paragraph of Article 115 thereof,

Having regard to the application under the first paragraph of Article 115 of the Treaty, made on 9 November 1977 by the French Government to the Commission by telex from the office of its Permanent Representative to the European Communities, for authorization not to apply Community treatment to imports of suits, jackets, blazers and the like, falling within heading No ex 61.01 of the Common Customs Tariff, originating in Hong Kong and in free circulation in the other Member States,

Whereas the importation into the Community of the products in question originating in Hong Kong is covered by an Agreement negotiated between the Community and Hong Kong and concluded on 8 April 1976;

Whereas under the Agreement Hong Kong has undertaken to take all necessary steps to limit its exports of certain textile products to the Community to certain ceilings allocated among the Member States;

Whereas according to information supplied by the French Government there are serious economic difficulties in the clothing industry resulting in a progressive decline in production and a reduction in the number of workers employed;

Whereas, because of the appreciable amount in question, the execution of the indirect transactions that prompted this application would be likely to aggravate the abovementioned economic difficulties;

Whereas it is not possible at the present time to set in motion the machinery for bringing about the necessary cooperation from the other Member States;

Whereas authorization should accordingly be given, for a limited period, for the application of protective measures under the first paragraph of Article 115, subject to the conditions specified in the Commission Decision of 12 May 1971 ⁽¹⁾, and in particular Article 1 thereof,

HAS ADOPTED THIS DECISION:

Article 1

The French Republic is authorized not to apply Community treatment to suits, jackets, blazers and the like, falling within heading No ex 61.01 of the Common Customs Tariff, where they originate in Hong Kong and are in free circulation in the other Member States, and in respect of which applications for import licences lodged after 27 October 1977 are before the French authorities at the date of this Decision.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 17 November 1977.

For the Commission

Christopher TUGENDHAT

Member of the Commission

⁽¹⁾ OJ No L 121, 3. 6. 1971, p. 26.

COMMISSION DECISION

of 21 December 1977

relating to a proceeding under Article 85 of the EEC Treaty (IV/29.418 — spices)

(Only the French and English texts are authentic)

(78/172/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 of 6 February
1962⁽¹⁾, and in particular Articles 1 and 3 thereof,

Having regard to the Commission Decision of 24
June 1977 to initiate a proceeding on its own initia-
tive under Article 3 (1) of Regulation No 17,

Having heard the undertakings concerned in accor-
dance with Article 19 (1) of Regulation No 17 and
with Regulation No 99/63/EEC⁽²⁾,

Having regard to the opinion of the Advisory
Committee on Restrictive Practices and Dominant
Positions of 23 November 1977 obtained pursuant to
Article 10 of Regulation No 17

Whereas :

I. THE FACTS**Description of products**

1. The products in question are packaged spices
intended for domestic consumption ; that is to say, all
ingredients which can be added to food to improve its
flavour and/or aroma and which appear in the 'spice'
catalogues issued by the different producers.

There are very few spices in the true sense of the word
(such as pepper, nutmeg, cloves, vanilla, cinnamon,
curry and saffron). All spice firms on the market offer
a range of at least 40 to 50 varieties of spices in a
broader sense, including various mixtures.

**The Belgian market in spices for domestic
consumption****A. The producers**

2. The Belgian spice market is expanding very
rapidly. Total sales by producers in 1976 amounted to

approximately Bfrs 325 million as against approxi-
mately Bfrs 247 million in 1975, representing an
increase of 32 %.

The number of producers on the market is limited
and four producers Brooke Bond Liebig (hereinafter
referred to as 'Liebig'), India, Ducros and Topo, share
between them approximately 85 % of the market, the
remaining 15 % being shared among a number of
minor producers.

In 1975 the American company McCormick, a major
spice producer operating under an established trade-
mark, attempted to penetrate the Belgian market. Its
sole distributor for Belgium was the undertaking Resta
of Ternat, which imported McCormick spices from
France and the United Kingdom. In March 1977
McCormick decided to withdraw, as it had failed to
make more than a minimal impact on the market.

3. The Liebig group has been operating on the
Belgian market since 1969 through its subsidiary,
Brooke Bond Liebig Benelux NV. This company,
which in 1975 acquired control of Erica by
purchasing 75 % of its shares, packages and sells
more than 50 different spices under the Liebig and
Erica labels.

Spices account for more than 20 % of total Liebig
sales on the Belgian market. Its other products
include Oxo in liquid and cube form, meat extracts,
stock cubes, corned beef, catering and industrial
products.

In 1976 sales of Liebig and Erica spices on the
Belgian market amounted to Bfrs 122.1 million. This
figure represents 39 % of the Belgian market, almost
twice that of the second producer, and an increase of
20 % in Liebig sales of spices over the previous year ;
this share of the market is almost double that of the
second largest producer.

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

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

4. Of the other producers, the French company, Ducros, has been operating on the Belgian market since 1971 under its own trade mark.

The Belgian companies, India and Topo, sell some of their products under their own label and some under the label of the distributors listed below (see paragraph 6).

B. Distribution

5. In 1975 there were in Belgium approximately 24 000 foodstores engaged in the distribution of dried foodstuffs⁽¹⁾, which includes spices, with a total combined turnover in dried foodstuffs of about Bfrs 178 000 million. 3 839 of these foodstores were self-service foodstores which represented only 16 % of the total but had a total combined turnover sales of dried foodstuffs of about Bfrs 130 600 million, i.e. about 73 % of total sales of dried foodstuffs. The largest self-service shops were the 712 supermarkets and the 72 hypermarkets⁽²⁾ which together represented 3 % of the total number of foodstores, but whose combined

turnover in dried foodstuffs amounted to Bfrs 92 500 million or 52 % of total sales⁽³⁾.

6. . The three largest chains of self-service foodstores are GB-Inno-BM (hereinafter referred to as 'GB'), Delhaize Frères et Cie Le Lion (hereinafter referred to as 'Delhaize Frères') and Sarma-Penney Limited (hereinafter referred to as 'Sarma'). These distributors have a share of spice distribution which is at least as large as their share of dried foodstuffs as a whole. In 1975 their total combined purchases of spices from Liebig and other producers amounted to approximately Bfrs 73 million (taxes not included) which represents approximately 30 % of the total spice sales of all the Belgian producers. These spices were sold through approximately 300 outlets or just over 1 % of all foodstores. In 1976 the total value of all spices purchased by these distributors was Bfrs 93 million which accounted for 28 % of the total combined sales of spices of all producers in Belgium.

7. In 1975 and 1976 the approximate quantities of spices purchased from both Liebig and the other producers by these three distributors were as follows :

(in units)

Distributors	1975		1976	
	Liebig	Other producers	Liebig	Other producers
GB				
Delhaize Frères				
Sarma				

8. In 1976 the turnover achieved by Liebig for Liebig products was made up as follows :

Distributors	Sales (million Bfrs)	% of Liebig spice sales
GB, Delhaize Frères, Sarma		59.0
Other retailers operating under the agreements referred to below (paragraph 15)		3.3
Other retailers		37.7
Total		100.0

(1) Excluding such items as meat and dairy produce, flour, bread, biscuits and cakes.

(2) A hypermarket is defined as a self-service retail store with a selling area of at least 2 500 m²; whereas a supermarket has at least 400 m².

(3) These statistics are taken from the annual survey of the Belgian Distribution Committee on self-service foodstores as reported in 'Distribution d'aujourd'hui' of November 1976.

Sales under agreement of Liebig spices to the above-mentioned three major distributors and to the other retailers, amounting respectively to Bfrs 53.3 million and Bfrs 3 million, account for approximately 17 and 1 % of all spice sales on the Belgian market.

Sales under agreement of Erica spices, which are not sold to the three major distributors amounted in 1976 to approximately Bfrs 3 million, which represents 2.4 % of Liebig's total spice sales on the Belgian market and accounts for approximately 1 % of this market.

9. Impulse buying and sales promotion account for a large proportion of consumer purchases of the many spices available. The items are not on the shopping list but are most often bought only after they have caught the customer's eye. It is for this reason that most spices are sold in spacious self-service foodstores (particularly hypermarkets and supermarkets), which are the only ones to possess large display units located at spots most likely to encourage impulse buying (such as on shelves at eye-level, near the basic necessities such as oil, salt, vinegar and sugar).

10. Liebig prices both to the distributor and to the consumer, are generally much higher per unit of weight than those of other makes. The difference in prices to the distributor is on average between 150 and 200 %. Because of the size of the distributor margin on Liebig spices, the difference in the retail price for Liebig spices and those of other producers is also very considerable.

Liebig distribution agreements

11. Liebig has concluded distribution agreements with the main Belgian distributors, GB, Delhaize Frères and Sarma and with some 80 distributors (either independent or members of distribution chains). A summary of the main terms of the agreements made with the principal Belgian distributors and which are the subject of these proceedings is set out below.

12. The distributor undertakes to sell only Liebig spices apart from its own brands in all its existing and new shops. In the case of GB and Sarma, sales under such own brands are restricted to the most common varieties ranging, according to the agreement, from 12 to 18. In addition, Delhaize Frères is also entitled to sell other brands of spices which are not included in the Liebig range or are packaged completely differently, as well as spices advertised in the publicity magazine 'Shopping', on condition that they are displayed separately.

The distributor further undertakes :

- (a) to sell at the prices affixed at the time of production on condition that these are observed also by all other retailers ;
- (b) to display Liebig spices in a number of illuminated display units of a particular size.

These display units are fitted with five shelves of which the top three are reserved for Liebig spices and the bottom ones for the distributor's own brand.

The spices must be placed above items with a quick turnover, such as sugar, salt and oil.

At Delhaize Frères and Sarma shops the prices of the Liebig spices are not to be displayed on the shelves, since 'it has been proved that the housewife has no idea of spice prices' (Sarma).

13. In return Liebig undertakes to grant certain rebates and to guarantee a profit as follows :

- (a) an end-of-year rebate of 10 % on total spice purchases (in the case of Sarma, a single premium on purchases corresponding to consumer sales of Bfrs 8 million, excluding VAT) ;
- (b) for Delhaize Frères and GB a sales incentive premium calculated by comparing the increase in the sales figures for the year in question over those for the previous year, as follows :

<i>Increase</i>	<i>Premium</i>
10 %	3 %
20 %	4 %
30 %	5 %

- (c) a profit guarantee which, in the case of GB, amounts to Bfrs 12 million for the first year, Bfrs 13 million for the second and Bfrs 14 million for the third. For Delhaize Frères it is Bfrs 7 million and for Sarma it is a sum equivalent to the profit resulting from consumer sales of Bfrs 8 million, excluding VAT.

Therefore, for Delhaize Frères and GB, if the difference between the net purchasing price from Liebig and the consumer price, excluding VAT, plus the rebates and premiums is less than the agreed amount, Liebig will pay the difference. In fact this guarantee has never been called upon since from the first trading year the turnover exceeded the threshold for the guarantee.

Finally, Liebig undertakes to install the display units, to supply a complete back-up service, in particular to supply 'direct' so that the distributor does not have to maintain large stocks, to install sales promotion mate-

rial and to enforce the normal sales price, in particular by affixing prices at the time of production (see paragraph 12 (a) above).

14. The agreement with GB was concluded in 1973 for three years, whereas the agreements with Delhaize Frères and Sarma were for one year. In the case of Sarma, the agreement is renewable each year unless six weeks notice of termination is given. So far no notice has been given, and therefore this agreement is still in force. Although the other two agreements have not been renewed in writing, the Commission's enquiries have established that these agreements remain in force.

II. APPLICATION OF ARTICLE 85 (1)

15. Under Article 85 (1) the following shall be prohibited as incompatible with the common market: 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.

16. The agreements concluded by Liebig with GB, Delhaize Frères and Sarma are such as to restrict competition.

17. The obligation in the agreements with GB, Delhaize Frères and Sarma to sell only Liebig products, apart from spices under their own brands, is likely to prevent the purchase and sale of brands other than Liebig by the distributors concerned.

This obligation is reinforced by significant financial benefits in that the rebates referred to in paragraph 13 and the system of resale price maintenance afford a minimum gross profit of 35 % on the resale price which may amount to almost 60 % of the purchase price paid by the distributor. Furthermore, a certain profit is expressly guaranteed in the contracts.

The major part of this high financial return is primarily intended to compensate these undertakings for excluding sales of spices competing with those of Liebig. This financial return therefore also restricts competition.

18. The terms of these agreements are such as to prevent the distributors concerned from exercising their freedom of choice in respect of the purchase and resale of spices by binding them to a single supplier, except in respect of those spices sold under their own brand. Furthermore, they are also such as to restrict

competition between spice producers by prohibiting the producers of other brands from selling their own spices through the distributors in question.

19. There are terms in the agreements with the three main distributors expressly allowing them to sell their own brands. However, other terms in these agreements should be noted, in particular the following:

- (a) the number of spices which can be sold under the GB and Delhaize Frères labels is restricted in the agreements respectively to between 12 and 18 as compared with 55 under the Liebig label;
- (b) the distributor's own brands have to be displayed in the special units below the Liebig spices. Given the specific way these branded spices are sold in self-service stores, this represents an advantage for the sale of Liebig products displayed on the top three shelves;
- (c) two distributors (Delhaize Frères and Sarma) are not permitted to display Liebig prices on the shelves where these are higher than those of their own brands, which makes it difficult for the housewife to compare prices and can even give the impression that the prices shown for the distributor's own spices also apply to the Liebig products.

20. Furthermore, the exceptions to the obligation to sell only Liebig products apart from the distributor's own brand provided for in the agreement with Delhaize Frères do not destroy the assertion that competition is restricted. As regards the sale of other brands which include varieties of spices outside the Liebig range, this could, in practice, only apply to uncommon varieties, since Liebig's own range is large enough to cover all the normal requirements of large stores. The producer of such special varieties would not, therefore, on the basis of such varieties alone, be in a position to compete with a producer offering the whole of the normal range. As far as the possibility of selling other items separately by promotion in a publicity campaign is concerned, the impact in terms of competition is minimal.

21. The restriction of competition between the various brands of spices is significant.

The main brands of spices for domestic consumption are marketed in very large ranges which can only be adequately introduced and sold in large self-service stores. The large self-service store offers the best setting for the sale of spices, since it is the only place where a large number of consumers can see, familiarize themselves with and purchase new varieties. This is particularly true in the case of new mixtures.

Moreover, the presentation of such a range requires space, proper equipment, supporting services (particularly rotation) and a publicity effort which an independent retailer can rarely provide. Furthermore, since the need of the customer of the independent retailer is limited to small quantities and to the most common varieties and the sales technique is very different from that of self-service stores, such a retailer is generally not interested in offering the entire range. This is supported by the figures given in paragraph 6 which show how much of the total volume of spice sales is accounted for by large self-service stores. It is further demonstrated by the case of Liebig itself, whose spice sales to the three major distributors account for 59 % of Liebig's overall turnover in spices in Belgium.

The Agreements in question are of a type which prevents the sale under suitable conditions of brands other than Liebig in those large self-service stores which are by far the most important in Belgium. The importance of these stores is borne out by the fact that although they represent only 1 % of the total number of food retailers in Belgium, they account for 30 % of the distribution of spices in the Belgian market.

Those distributors which are debarred from competition, though few in number, nonetheless account individually for a sizeable proportion of distribution. The Liebig competitors would make a more pronounced and effective impact and be in a position to expand sales to a greater degree if they had access to the few major distributors rather than having to deal with a large number of smaller retailers.

It therefore follows that if a producer is prevented from introducing his brands into the premises of the distributors concerned, his opportunities to canvass for sales and above all to launch his product on the Belgian market are appreciably restricted.

In addition to all the obstacles referred to above, account must also be taken of the importance of the producer benefiting from the restriction of competition. By virtue of its share of the market of the product in question, and its long standing reputation both for spices and other basic foodstuffs, Liebig occupies a very important position of supply in comparison with other producers, which makes even more significant a restriction impeding potential competitors from penetrating the Belgian market, and preventing any expansion by producers already established in this market.

For the above reasons, competition for spice brands other than Liebig already established on the Belgian market is seriously impeded by the agreements in

question and potential competition from producers who wish to penetrate the market is frustrated even further.

22. The effects of the restriction on competition between brands are all the more significant as the application of resale prices for Liebig spices allows no competition amongst Liebig products.

23. The restriction on competition described above has a significant effect on trade between Member States, in that it affects the pattern of trade by impeding spice producers from other Member States who are already established on the Belgian market from developing their sales on this market as they could do if there were no such restrictions concerning the most important foodstores in the country.

The effects of this restriction are even more marked in the case of a producer from another Member State wishing to penetrate the Belgian market. They could hinder the creation of a pattern of trade within the Community which other producers such as McCormick would be able to foster.

III. APPLICATION OF ARTICLE 85 (3)

24. Article 85 (3) states that 'the provisions of paragraph 1 may, however, be declared inapplicable in the case of :

- any agreement or category of agreements between undertakings ;
- any decision or category of decisions by associations of undertakings ;
- any other concerted practice or category of concerted practices ;

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 benefits, 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.'

25. The agreements in question do not fall within the scope of Commission Regulation No 67/67/EEC of 22 March 1967 on the application of Article 85 (3) of the Treaty to certain categories of exclusive dealing agreements⁽¹⁾. The system of price-fixing contained in all the agreements constitutes a restriction of competition which is not permitted by Regulation No 67/67/EEC and therefore the application of this Regulation is excluded.

⁽¹⁾ OJ No 57, 25. 3. 1967, p. 849/67.

Moreover, these agreements do not contain an undertaking by the distributors concerned to purchase the relevant products only from Liebig for resale. They only contain an undertaking not to sell brands of Liebig's competitors, subject to the right to sell under their own brand names spices bought from other producers. Moreover, these agreements have the effect of excluding other brands without providing the undertakings concerned or consumers with the advantages normally expected from an exclusive agreement.

26. Furthermore, the agreements which have been made by the subsidiary of a company established and operating in the United Kingdom and which moreover have not been notified to the Commission, do not qualify for exemption from Article 85 (1) by virtue of Article 85 (3).

Even if the agreements had been notified, the Commission considers that they would still not fulfil the requirements set out in Article 85 (3). In the first place, the agreements do not contribute to improving the distribution of the products. On the contrary, they could even have adverse effects on distribution, in that they prevent the distribution of several brands at the exact point where such distribution could be made in the most favourable conditions, i.e. in large self-service stores.

Even supposing that there was an improvement in distribution in this case, the Commission does not consider that consumers would be allowed a fair share of any resulting benefit. As demonstrated above, most spice users are not only prevented from choosing from a number of different brands, and thus being able to opt for the cheapest brands, but also, as a result of the resale price maintenance system, they lose the advantages of competition between spices of the same brand at the distribution stage.

The obligation under their respective contracts to observe resale price maintenance does not permit the three distributors concerned to pass on to the consumer any part of the substantial financial advantages which they derive under their agreements.

IV. APPLICATION OF ARTICLE 3 (1) OF REGULATION No 17

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

The Commission finds under this Article that the obligation imposed on the distributors described in paragraph 12 above constitutes an infringement of Article 85 of the EEC Treaty.

The Commission accordingly requires the Liebig group and the companies GB, Delhaize Frères and Sarma to terminate the infringement forthwith,

HAS ADOPTED THIS DECISION :

Article 1

The provision in the distribution agreements for Belgium made by the Brooke Bond Liebig Ltd group, through its subsidiary Brooke Bond Liebig Benelux NV with GB-Inno-BM SA, Établissements Delhaize Frères et Cie. Le Lion SA and Sarma Penney Ltd, prohibiting the latter undertakings from selling on their premises spices other than those produced by Liebig and those sold under their own brands, constitutes an infringement of Article 85 (1) of the Treaty establishing the European Economic Community.

Article 2

The undertakings named in Article 3 shall forthwith terminate the infringement referred to in Article 1.

Article 3

This Decision is addressed to :

- Brooke Bond Liebig Limited, London,
- Brooke Bond Liebig Benelux NV, Antwerp,
- GB-Inno-BM SA, Brussels,
- Delhaize Frères et Cie. Le Lion SA, Brussels,
- Sarma Penney Ltd, Brussels.

Done at Brussels, 21 December 1977.

For the Commission

Raymond VOUEL

Member of the Commission

COMMISSION DECISION**of 17 January 1978**

authorizing the French Republic not to apply Community treatment to handkerchiefs falling within heading No ex 61.05 of the Common Customs Tariff, originating in the People's Republic of China and in free circulation in the other Member States

(Only the French text is authentic)

(78/173/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the first paragraph of Article 115 thereof,

Having regard to the application under the first paragraph of Article 115 of the Treaty made on 11 January 1978 by the French Government to the Commission by telex from the office of its Permanent Representative to the European Communities, for authorization not to apply Community treatment to handkerchiefs falling within heading No ex 61.05 of the Common Customs Tariff, originating in the People's Republic of China and in free circulation in the other Member States,

Whereas for the products in question France is not at present authorizing any imports direct from the People's Republic of China, pending the opening of the quota set by the Council Decision of 20 December 1977;

Whereas according to information supplied by the French authorities, there are economic difficulties in the sector in question;

Whereas the granting of the import licences which gave rise to this application would be likely to obstruct the trade policy measures taken by France to remedy the abovementioned difficulties;

Whereas it is not possible to set in motion rapidly the machinery for bringing about the necessary cooperation from the other Member States;

Whereas authorization should accordingly be given for the application of protective measures under the first paragraph of Article 115, subject to the conditions specified in the Commission Decision of 12 May 1971 ⁽¹⁾, and in particular Article 1 thereof,

HAS ADOPTED THIS DECISION:

Article 1

The French Republic is authorized not to apply Community treatment to handkerchiefs falling within heading No ex 61.05 of the Common Customs Tariff where they originate in the People's Republic of China and are in free circulation in the other Member States, and in respect of which applications for import licences lodged after 28 December 1977 are, on the date of this Decision, pending with the French authorities.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 17 January 1978.

For the Commission

Wilhelm HAFFERKAMP

Vice-President

⁽¹⁾ OJ No L 121, 3. 6. 1971, p. 26.