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II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 7 November 1980

approving aids from the Federal Republic of Germany to the coal-mining industry during 1979

(Only the German text is authentic)

(80/1279/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to Commission Decision No 528/76/ECSC of 25 February 1976 regarding the Community system of measures taken by the Member States to assist the coal-mining industry ⁽¹⁾,

Having consulted the Council,

— aid for development and innovation (testing and trial of new equipment) in the coal-mining industry 68·0,

— premiums to shift-paid workers and piece workers for each shift worked underground 110·0,

— aid for the building of long-term security stocks 121·5;

I

Whereas the Government of the Federal Republic of Germany has informed the Commission, pursuant to Article 2 of the Decision, of the financial measures which it intends to implement directly or indirectly for the benefit of the coal industry in 1979; whereas of these measures the following may be approved pursuant to that Decision :

(million DM)

— investment aids to individual projects under an investment programme 746·6,

Whereas these aids meet the criteria laid down in the Decision for the admissibility of such State assistance;

Whereas the investment of DM 746 600 000 is proposed for investment projects for mines, coking plants, briquette works and pit-head power stations; whereas the percentage of all investment covered by investment aid is more than 80 %;

Whereas in relation to the Community's new policy for coal, this 1979 investment aid, which increased slightly *vis-à-vis* 1978, is to be regarded as beneficial since it will promote the long-term stabilization of production

⁽¹⁾ OJ No L 63, 11. 3. 1976, p. 1.

in the German coalfields. The aid complies with the provisions of Article 7 (1) of the Decision;

Whereas, the purpose and amount of the aid in question shows that, pursuant to Article 7 (5) of the Decision, the Federal Government must notify the Commission at least once a year, in respect of each project in the programme which it has decided to carry out, of the aims pursued, the sums invested and the amounts of the aid;

Whereas the sum of DM 68 000 000 to promote innovation is intended to ensure that research results are applied to production as quickly as possible; whereas the aid is lower than the costs borne by the undertakings and is granted in respect of individual projects which, when completed, are likely to prove their economic worth to coal-mining in the medium term; whereas the purpose and amount of this aid show that it is compatible with the third subparagraph of Article 7 (3) of the Decision;

Whereas the aid of DM 110 000 000 towards the payment of the coal-winning premium helps the coal industry to secure a stable, skilled workforce, which is imperative if its productivity is to increase; whereas the undertakings moreover incur expenditure on the necessary recruitment, training, retraining and retention of workers which is several times the amount of aid in the form of this premium;

Whereas the purpose and amount of the coal-mining premium show that this measure is compatible with Article 8 of the Decision;

Whereas the aid of DM 121 500 000 for the building-up of long-term security stocks is a measure by the Federal Government to increase the long-term security of energy supply; whereas to this end, the emergency association of German mining industries has purchased 10 million tonnes of coal and coke; whereas the aid proposed by the Federal Government for this purpose covers only part of the actual current cost of maintaining these stocks;

Whereas the purpose and amount of the aid show that this measure is compatible with Article 10 of the Decision;

II

Whereas, in accordance with Article 3 (2) of the Decision, an examination of the compatibility of the abovementioned aids with the proper functioning of the common market must also extend to all other financial measures to support current production in 1979;

Whereas on this basis the total cost of the proposed measures amounts to 1 023 500 000 European units of account i.e. 10.98 European units of account per tonne produced; whereas, compared with other Member States, current production in the Federal Republic of Germany is more heavily subsidized (per tonne) than in the United Kingdom and substantially less than in France and Belgium;

Whereas the following remarks can be made on the compatibility of these aids for current production with the proper functioning of the common market:

- owing to the large stocks of coal and coke on hand there were no supply difficulties in 1979,
- the level of exports of German coal to the other Member States fell in 1979 compared with 1978,
- price alignment agreements were hardly entered into in 1979,
- industrial consumers of coal did not receive indirect aid in 1979 as a result of the prices of German coking coal and steam coal,
- rationalization of production in 1979 was achieved by heavy investment and the closure of two unprofitable pits;

Whereas it may therefore be concluded that the German aids for current production in the coal industry in 1979 are compatible with the proper functioning of the common market;

Whereas this applies even when account is taken of aids to the coal mines under Decision 73/287/ECSC;

III

Whereas, pursuant to Article 14 (1) of the Decision, the Commission must ensure that the aids authorized are used for the purposes set out in Articles 7 to 12 thereof; whereas the Commission must be informed, in particular, of the amount of the aids and of the manner in which they were apportioned,

HAS ADOPTED THIS DECISION:

Article 1

The Federal Republic of Germany is hereby authorized in respect of the 1979 calendar year to grant the following aids to the coal industry:

1. grant of investment aid not exceeding DM 746 600 000 to undertakings in the coal industry in order to increase investment;
 2. promotion of development and innovation not exceeding DM 68 000 000;
 3. payment of premiums to shift-paid workers and piece workers for each shift worked underground, not exceeding DM 110 000 000;
 4. aid not exceeding DM 121 500 000 for the build-up of long-term security stocks.
-

Article 2

The Government of the Federal Republic of Germany shall notify the Commission by 31 December 1980 of details of the aids granted pursuant to this Decision, and in particular of the amounts paid and the manner in which they are apportioned.

Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 7 November 1980.

For the Commission

Guido BRUNNER

Member of the Commission

COMMISSION DECISION

of 7 November 1980

approving aids from the French Republic to the coal-mining industry during 1979 and
approving additional aids from the French Republic to the coal-mining industry during 1978

(Only the French text is authentic)

(80/1280/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to Commission Decision No 528/76/ECSC of 25 February 1976 regarding the Community system of measures taken by the Member States to assist the coal-mining industry ⁽¹⁾,

Having consulted the Council,

I

Whereas the French Government has informed the Commission, pursuant to Article 2 of the above Decision, of the financial measures which it intends to implement directly or indirectly for the benefit of the coal industry during 1979; whereas of these measures the following may be approved pursuant to that Decision;

Whereas the French Government intends to grant to Charbonnages de France for 1979 aid amounting to FF 2 418 000 000 to permit the economic restructuring of the coalfields to proceed in an appropriate manner;

Whereas the French Government also proposes to grant to the central administration of Charbonnages de France in 1979 aid amounting to FF 317 000 000 to cover the charges incurred in borrowing and transferred from the pits to the central administration of Charbonnages de France under the French Government's financial improvement scheme. Whereas this aid is paid not to the coalfields but only to the central administration of Charbonnages de France;

Whereas the abovementioned aids meet the criteria laid down in the Decision for the admissibility of such State assistance;

Whereas the aid of FF 2 735 000 000 proposed by the French Government for 1979 to cover losses (of which FF 2 418 000 000, is to cover the coalfields' losses on mining and FF 317 000 000 to cover the losses sustained by the central administration of Charbonnages de France) will not be higher than the likely operating losses of Charbonnages de France;

Whereas the following points are relevant in connection with aid to the individual coalfields:

1. In 1979, aid to the Nord/Pas-de-Calais and Centre-Midi coalfields will be calculated in such a way that, as a result of the closure of further pits, there will be a reduction in production, which will mean that some 2 700 fewer persons will be employed in the coal industry. The aids will prevent severe economic and social disruption in areas where there are not yet adequate opportunities for re-employment. The aids to these coalfields therefore comply with the provisions of the first subparagraph of Article 12 (1) and Article 12 (2) of the Decision.
2. The output planning of the Charbonnages de France in the Lorraine coalfield aims at long-term stabilization, since the coking coal produced in this coalfield is important for supplying the steel industry. The aid granted for this purpose complies with the second subparagraph of Article 12 (1) and Article 12 (3) of the Decision.

II

Whereas, under Article 3 (2) of the Decision, an examination of the compatibility of the proposed aids with the proper functioning of the common market must also extend to all other financial measures to support current production in 1979;

Whereas the sum of all these aids to support current production by the French coal industry is FF 477 300 000, or 25.66 European units of account per tonne, for 1979; whereas this is higher than

⁽¹⁾ OJ No L 63, 11. 3. 1976, p. 1.

corresponding German and United Kingdom aids but lower than Belgian aid;

Whereas the following points must be made about the compatibility of the proposed aid with the proper functioning of the common market:

- there were no supply difficulties on the French coal market in 1979,
- French coal exports to other Community countries rose in 1979 compared with 1978,
- hardly any price alignment agreements were entered into for French coal in 1979,
- industrial consumers of coal did not directly receive aid in 1979 through the prices of French coking coal and steam coal,
- the closure of marginal pits in the Nord/Pas-de-Calais and Centre-Midi coalfield resulted in rationalization and concentration of production on pits where productivity is highest;

Whereas it may accordingly be concluded that the aids proposed in 1979 for current production by the French

coal industry are compatible with the proper functioning of the common market;

Whereas this applies even when account is taken of aids to coal mines under Decision 73/287/ECSC.

III

Whereas on 7 December 1978 the Commission of the European Communities adopted Decision 79/22/ECSC ⁽¹⁾; whereas that Decision authorized the aids which the French Government proposed to grant to the coal industry for 1978 provided they had been dealt with and examined by the Commission in the 'Memorandum on the financial aid awarded by the Member States to the coal industry in 1978' ⁽²⁾;

Whereas, as was stated in that memorandum, the French Government proposed to grant FF 2 429.9 million of aid under Decision No 528/76/ECSC to Charbonnages de France;

Whereas, in addition, the French Government in a written application dated 27 April 1979 requested permission to alter or to increase the aids originally proposed as follows:

(FF million)

	Original amount	Additional amount	Total
Cover for the losses by the central administration of Charbonnages de France	200.0	+ 117.0	317.0
Cover for coalfields' operating losses	2 229.9	+ 100.1	2 330.0
Total	2 429.9	+ 217.1	2 647.0
Coking coal aid	9.8	+ 1.2	11.0
Total	2 439.7	+ 218.3	2 658.0

Whereas Charbonnages de France must be viewed as a single undertaking for the purpose of assessing aid to its central administration, i.e. aids to the central administration and to the coalfields are classed together. According to the final balance sheet for 1978, total aid (FF 2 647 million) is FF 18 million less than Charbonnages de France's total losses;

⁽¹⁾ OJ No L 9, 13. 1. 1979, p. 31.

⁽²⁾ Doc. COM(78)367 final p. A/12 ff.

Whereas aid to cover coalfields' losses can be broken as follows by coalfield:

(FF million)				
	Nord/ Pas-de-Calais	Lorraine	Centre- Midi	Total
Original amounts	1 056.9	574.5	598.5	2 229.9
Additional amounts	- 63.9	+ 163.1	+ 0.9	+ 100.1
Total	993.0	737.6	599.4	2 330.0
Aid to cover interest paid by the central administration of Charbonnages de France				317.0
Total aid to cover operating losses				2 647.0
per tonne of production in FF				135.05

Whereas the overall amount of aid to current production in the French coal industry in 1978 is thus increased by FF 218.3 million.

Whereas the increase in French aid to cover coalfields' operating losses concerns the Lorraine coalfield only; whereas it was necessary for the following reasons:

- production costs per tonne rose more steeply in 1978 than originally forecast,
- returns per tonne increased only slightly in 1978 over 1977;

Whereas, for the above reasons, operating losses increased. The increase in aid covers only part of the operating losses in 1978 and is hence compatible with the second subparagraph of Article 12 (2) of the Decision;

Whereas it should also be noted that coking coal from this coalfield is essential to the steel industry's supply and hence complies with the second subparagraph of Article 12 (1) and Article 12 (3) of the Decision.

IV

Whereas the following remarks must be made in respect of the compatibility of the total amount of French aids to support current production with the proper functioning of the common market:

- there has been no decline in trade in coal between France and the other Community countries,
- industrial users of coking coal and steam coal did not receive indirect aids as a result of artificially low prices of French coal;

Whereas it may therefore be concluded that the additional aids proposed in 1978 for current production in the French coal industry are compatible with the proper functioning of the common market.

V

Whereas, pursuant to Article 14 (1) of the Decision, the Commission must satisfy itself that the approved aids are used exclusively for the purposes set out in Articles 7 to 12 of that Decision; whereas, consequently, the Commission is to be notified in particular of the amount of the aid and the manner in which it is apportioned,

HAS ADOPTED THIS DECISION:

Article 1

The French Republic is hereby authorized to grant to the coal industry the following aids for 1979:

- (a) an amount not exceeding FF 2 418 000 000 to cover losses on mining;
- (b) an amount not exceeding FF 317 000 000 to cover the financial losses sustained by the central administration of Charbonnages de France.

The French Republic is authorized to grant to the coal industry the following additional aids for 1978:

- (a) an amount not exceeding FF 117 000 000 to cover the financial losses sustained by the central administration of Charbonnages de France;

(b) an amount not exceeding FF 100 100 000 to cover losses on mining.

The aids referred to in (a) and (b) above shall not exceed actual losses.

Article 2

The Government of the French Republic shall notify the Commission by 31 December 1980 of details of the aids granted pursuant to this Decision and in particular of the amounts paid and the manner in which they are apportioned.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 7 November 1980.

For the Commission

Guido BRUNNER

Member of the Commission

COMMISSION DECISION

of 7 November 1980

approving aids from the Kingdom of Belgium to the coal-mining industry during 1979

(Only the Dutch and French texts are authentic)

(80/1281/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to Commission Decision No 528/76/ECSC of 25 February 1976 regarding the Community system of measures taken by the Member States to assist the coal-mining industry ⁽¹⁾,

Having consulted the Council,

I

Whereas the Belgian Government has informed the Commission pursuant to Article 2 of the above Decision of the financial measures which it intends to take during 1979 in order to give direct or indirect support to the coal-mining industry; whereas, of these measures, the following aids qualify for approval pursuant to that Decision:

	<i>(Bfrs million)</i>
— investment aid	520.9
— aid to cover losses	5 600.6

Whereas these aids meet the criteria laid down in the Decision for the admissibility of such State assistance;

Whereas, of the investment aid sum of Bfrs 520 900 000, Bfrs 514 000 000 will go to the Campine coalfield and Bfrs 6 900 000, to the Southern coalfield; whereas in the Campine coalfield, special investments are envisaged on behalf of the Eisden colliery (Bfrs 150 million) and the remaining Bfrs 364 million covers depreciation in the Campine coalfield so that it can maintain production of coking coal, which is important for the Belgian steel industry; the investment aid for the Southern coalfield enables it to carry out the most

essential repairs so as not to jeopardize the technical safety of the collieries;

Whereas the Belgian investment aid is therefore compatible with the provisions of Article 7 (2) of the Decision;

Whereas the aid totalling Bfrs 5 600 600 000 to cover operating losses is paid to the two Belgian coalfields for different reasons; whereas the aid paid to the Campine coalfield will almost make up the difference between costs and returns; whereas this almost complete covering of the difference between costs and returns is necessary because the coalfield is intended to supply the Belgian steel industry with coking coal and must therefore maintain its output;

Whereas the purpose and amount of aid granted to cover losses in respect of the Campine coalfield therefore comply with the second subparagraph of Article 12 (1) and Article 12 (3) of the Decision;

Whereas, on the other hand, the Southern coalfield should be granted aid in respect of pit operating losses to cover part of the difference between costs and returns, so that the proposed closure of this coalfield by 1981 can take place without serious economic and social disturbances in the re-employment of the redundant miners; whereas in 1979 one pit was closed in the Southern coalfield, thereby affecting 630 miners;

Whereas the purpose and type of the aids to cover pit operating losses of the Southern coalfield are therefore compatible with the first subparagraph of Article 12 (1), and Article 12 (2) of the Decision.

II

Whereas, pursuant to Article 3 (2) of the Decision, all other measures to assist current production in 1979 must be taken into consideration for an examination of the compatibility of the proposed aids with the proper functioning of the common market;

Whereas, on this basis of assessment, the total amount of aid proposed is 287 700 000 European units of

⁽¹⁾ OJ No L 63, 11. 3. 1976, p. 1.

account, i.e. 47.16 European units of account per tonne; whereas this figure is exceptionally high compared with that for the other Member States of the Community;

Whereas the following observations can be made on the compatibility of the proposed current production aids with the proper functioning of the common market:

- owing to the large stockpile, there were no supply difficulties in 1979,
- the closure of one unprofitable pit resulted in rationalization and the concentration of production on pits where productivity is highest,
- industrial consumers of coal did not receive aid in 1979 as a result of the prices of Belgian coking coal and steam coal;

Whereas it may be concluded that the aid granted to the Belgian coal-mining industry in 1979 is compatible with the proper functioning of the common market;

Whereas this applies even when account is taken of aids to the coal mines under Decision 73/287/ECSC.

III

Whereas, pursuant to Article 14 (1) of the Decision, the Commission must ensure that any aid it approves is used exclusively for the purposes set out in Article 7 to 12 thereof; whereas the Commission must therefore be informed in particular of the amounts of the payments and the manner in which they are apportioned,

HAS ADOPTED THIS DECISION:

Article 1

The Kingdom of Belgium is hereby authorized in respect of the 1979 calendar year to grant aid totalling Bfrs 6 121 500 000 to the Belgian coal-mining industry.

The amount of Bfrs 6 121 500 000 provided in respect of the calendar year 1979 is divided as follows:

1. grant of investment aid of Bfrs 520 900 000 apportioned between the two coalfields as follows:
 - to the Campine coalfield an amount not exceeding Bfrs 514 000 000,
 - to the Southern coalfield an amount not exceeding Bfrs 6 900 000;
2. grant of aid to cover losses of Bfrs 5 600 600 000 apportioned between the two coalfields as follows:
 - to the Campine coalfield an amount not exceeding Bfrs 3 893 500 000,
 - to the Southern coalfield an amount not exceeding Bfrs 1 707 100 000.

Article 2

The Government of the Kingdom of Belgium shall notify the Commission by 31 December 1980 of details of the aids granted pursuant to this Decision and in particular of the amount of the payments made and the manner in which they are apportioned.

Article 3

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 7 November 1980.

For the Commission

Guido BRUNNER

Member of the Commission

COMMISSION DECISION

of 7 November 1980

approving aids from the United Kingdom for the coal-mining industry during the 1979/80 financial year and approving additional aids from the United Kingdom for the coal-mining industry during the 1978/79 financial year

(Only the English text is authentic)

(80/1282/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Whereas the United Kingdom Government is to contribute £ 3.5 million towards such costs borne by the NCB in 1979/80;

Having regard to Commission Decision No 528/76/ECSC of 25 February 1976 regarding the Community system of measures taken by the Member States to assist the coal-mining industry ⁽¹⁾,

Whereas the purpose and form of the aid show that it meets the criteria set out in Article 8 of the Decision;

Having consulted the Council,

I

Whereas the United Kingdom Government has informed the Commission, pursuant to Article 2 of the above Decision, of the financial measures which it intends to implement directly or indirectly for the benefit of the coal industry during the 1979/80 financial year ⁽²⁾; whereas the following of these measures may be approved pursuant to the Decision:

Whereas the £ 13.4 million aid to cover the costs of stocks of coal and coke is based on total producers' stocks and additional stock held by consumers financed directly or indirectly by the producers, amounting to some 19 million tonnes; whereas, with monthly production of around 10 million tonnes, stocks eligible for aid under Article 9 (2) of the Decision amount to 9 million tonnes; whereas the amount of aid per tonne is accordingly £ 1.5; whereas the actual cost of stocks (including depreciation and interest) is substantially higher than the amount of aid;

(£ million)

— aid for the recruitment and retention of skilled workers	3.5
— aid for stocks	13.4
— aid for power station coal	9.6
— aid to cover losses on mining	160.5

Whereas the purpose and form of the aid show that it meets the criteria set out in Article 9 of the Decision;

Whereas these aids meet the criteria laid down in the Decision for the admissibility of such State assistance;

Whereas the £ 9.6 million aid for power-station coal is intended to cover the cost of deliveries of power station coal to Scotland. From the information provided by the United Kingdom Government, the amount and purposes of the aid granted can be regarded as being compatible with Article 11 of the Decision;

The aid for attracting and keeping skilled workers is intended to offset in part the National Coal Board's costs arising from rationalization and the transfer of production to their best pits. This results in outgoings on removals, transport, etc.;

Whereas the aid given to cover losses on mining (£ 160.5 million) will only partly cover the losses sustained by NCB pits in 1979/80. The aid is given to avoid serious economic and social problems in those coalfields where there are not yet adequate re-employment opportunities and to maintain existing production capacities so as to safeguard energy supplies. The aid is therefore compatible with Article 12 of the Decision.

⁽¹⁾ OJ No L 63, 11. 3. 1976, p. 1.

⁽²⁾ The 1979/80 financial year runs from the beginning of April 1979 to the end of March 1980.

II

Whereas, under Article 3 (2) of the Decision, an examination of the compatibility of the above-mentioned aids with the proper functioning of the common market must also extend to all other financial measures to support current production in the 1979/80 financial year;

Whereas aids for current production in the United Kingdom will amount to 279.2 million European units of account or 2.31 European units of account per tonne for the 1979/80 financial year; whereas the British coal industry therefore receives the lowest subsidy of all coal-producing Member States;

Whereas an examination of the compatibility of these aids with the proper functioning of the common market requires no detailed information or investigations:

- there were no supply difficulties on the British market in 1979/80,
- British coal exports to other Community countries rose in 1979/80 compared with 1978/79,
- the closure of five unprofitable pits resulted in rationalization and the concentration of production on pits where productivity is highest,
- industrial consumers of coal did not receive indirect aids in 1979 as a result of the prices of British coking coal and steam coal;

Whereas it can therefore be stated that the aids for the British coal industry for current production in the 1979/80 financial year are compatible with the proper functioning of the common market;

Whereas this also applies when account is taken of aids to the coal industry pursuant to Decision 73/287/ECSC.

III

Whereas on 7 December 1978 the Commission of the European Communities adopted Decision 79/23/ECSC⁽¹⁾; whereas that Decision authorized the aids which the United Kingdom Government proposed to grant to the coal industry for the 1978/79 financial year provided they had been dealt with and examined by the Commission in the 'Memorandum on the

financial aid awarded by the Member States to the coal industry in 1978'⁽²⁾;

Whereas, as was stated in that memorandum, the United Kingdom Government proposed to grant £ 20.8 million of aid under Decision No 528/76/ECSC to the coal industry;

Whereas, in addition in its letter of 19 March 1979, the United Kingdom Government applied, for the 1978/79 financial year⁽³⁾, to increase aid to producers' stocks of coal and coke by £ 27.5 million and aid for power station coal by £ 17.2 million and to award a further £ 50 million in aid to cover pit operating losses; whereas the overall amount of aid to current production in the British coal industry in the 1978/79 financial year is thus increased by £ 94.7 million;

Whereas the application to grant aid to producers' stocks totalling £ 9 million was based on the estimates of the costs of producers' stocks of coal for September 1977; a falling-off in sales has, however, led to an increase in coal stocks and hence also to additional costs, with the result that producer stock aid has risen by £ 11.5 million. There has also been a steep increase in the coke stocks held by NSF (National Smokeless Fuels), a subsidiary of the NCB. The United Kingdom Government thus plans to award aid totalling £ 16 million to NSF for the 1978/79 financial year as part of a five-year programme to balance supply and demand on the coke market;

Whereas any assessment of aid to cover the cost of pithead stocks of coal and coke (£ 36.5 million) must take into account the fact that the total pithead stocks held by producers and the additional stocks held by consumers, which are directly or indirectly financed by the producers totalled approximately 21.5 million tonnes at the end of 1978. Given a monthly production of some 10 million tonnes, the volume of producers' stocks qualifying for aid is 11.5 million tonnes. This means that the per-tonne grant in aid is £ 3.2 and the actual costs of maintaining producers' stocks (including depreciation and interest) are approximately £ 5 per tonne;

Whereas the aid thus complies with the provisions of Article 9 of the Decision;

Whereas the £ 8.5 million in aid for power station coal which the United Kingdom Government applied to

⁽¹⁾ OJ No L 9, 13. 1. 1979, p. 33.

⁽²⁾ Doc. COM(78) 367 final, p. A 16 ff.

⁽³⁾ The 1978/79 financial year runs from the beginning of April 1978 to the end of March 1979.

award was based on price estimates for September 1977, which did not take account of the sharp fall in the dollar in 1978;

Whereas, generally speaking, there are no new factors in addition to those described in the Commission Decision of 7 December 1978 ⁽¹⁾ which need to be considered in assessing the increase in aid for power station coal; whereas the aid envisaged is hence compatible with the provisions of Article 11 of the Decision;

Whereas the United Kingdom Government has applied to grant aid totalling £ 50 million to the NCB to cover operating losses for the 1978/79 financial year. The actual losses suffered by NCB coalfields in 1978/79 are estimated to be around £ 100 million in the NCB's annual report;

Whereas the aid will be used to defer the closure of unprofitable pits in order to obviate serious economic and social problems in areas in which there is not yet sufficient scope for re-employment, and to maintain the production capacity needed for security of energy supply in the long term; whereas it thus meets the requirements of Article 12 of the Decision.

IV

Whereas the following points should be noted with regard to the compatibility of United Kingdom aids to current production with the proper functioning of the common market:

- there were no indications in trade in coal between the United Kingdom and the other Member States in 1978 of distortions in competition resulting from aids between the British coal industry and that of other Member States;
- industrial consumers of coal did not receive indirect aids in 1978 as a result of the prices of British coking coal and steam coal;

Whereas it may therefore be concluded that the additional aids proposed in the 1978/79 financial year for current production in the British coal industry are compatible with the proper functioning of the common market.

V

Whereas, pursuant to Article 14 (1) of the Decision, the Commission must ascertain that the aids authorized are used exclusively for the purposes set out in Articles 7 to 12 thereof; whereas the Commission must be informed in particular of the amount of these aids and the manner in which they are apportioned,

HAS ADOPTED THIS DECISION:

Article 1

The United Kingdom is hereby authorized in respect of the 1979/80 financial year to grant aids totalling £ 187 000 000 to the British coal-mining industry.

The said aids are made up as follows:

1. grant to cover the costs incurred by the National Coal Board in respect of relocation of personnel under the production rationalization programme, not exceeding £ 3 500 000;
2. aid towards stocking costs in respect of coal and coke not exceeding £ 13 400 000;
3. aid for deliveries of power station coal to Scotland not exceeding 9 600 000;
4. aid to cover losses on mining not exceeding £ 160 500 000.

The United Kingdom is hereby authorized in respect of the 1978/79 financial year to grant additional aids totalling £ 94 700 000 to the British coal-mining industry.

The said aids are made up as follows:

1. aid towards stocking costs in respect of coal and coke not exceeding £ 27 500 000;
2. aid for deliveries of power station coal to Scotland not exceeding £ 17 200 000;
3. aid to cover losses on mining not exceeding £ 50 000 000.

Article 2

The United Kingdom shall notify the Commission by 31 December 1980 of details of the aids granted

⁽¹⁾ OJ No L 9, 13. 1. 1979, p. 33.

pursuant to this Decision, and in particular of the amounts paid and the manner in which they are apportioned.

Done at Brussels, 7 November 1980.

Article 3

This Decision is addressed to the United Kingdom.

For the Commission

Guido BRUNNER

Member of the Commission

COMMISSION DECISION

of 25 November 1980

relating to a proceeding under Article 85 of the EEC Treaty
(IV/29.702: Johnson & Johnson)

(Only the English and German texts are authentic)

(80/1283/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to Council Regulation No 17 of 6 February 1962 ⁽¹⁾, and in particular Articles 3 and 15 thereof,

Having regard to the application submitted to the Commission, pursuant to Article 3 of Regulation No 17, on 22 March 1979 on behalf of Eurim Pharm GmbH of Piding, Federal Republic of Germany,

Having regard to the Commission Decision of 21 June 1979 to initiate proceedings in this case,

Having heard the undertakings concerned in accordance with Article 19 of Regulation No 17 and having offered the undertakings concerned an opportunity of being heard in accordance with Commission Regulation No 99/63/EEC of 25 July 1963 ⁽²⁾, which opportunity the undertakings declined,

Having heard the opinion of the Advisory Committee on Restrictive Practices and Dominant Positions delivered pursuant to Article 10 of Regulation No 17 on 30 November 1979,

Whereas:

I. THE FACTS

1. The subject of these proceedings is the practices of Ortho Pharmaceutical Ltd on the one hand, and Cilag Chemie GmbH (Alsbach) and Cilag Chemie AG (Schaffhausen) on the other hand, all three being subsidiaries of Johnson & Johnson Inc., who, by imposing restrictions on dealers in the United Kingdom and in Germany, hindered exports of Gravindex pregnancy tests, in particular from the United Kingdom to the German importer Eurim Pharm GmbH.

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

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

A. The undertakings

Johnson & Johnson Inc., New Brunswick, USA

2. Johnson & Johnson Inc. (hereinafter called 'Johnson & Johnson') is one of the largest pharmaceutical and medical manufacturers in the world. Its turnover of \$ 2 914 millions in 1977 was divided as follows (in millions of dollars):

— Consumer (toiletries and hygienic products, including baby care items):	1 266.7	(136.6) ⁽³⁾
— Professional (diagnostic, products, medical equipment, etc.):	836.8	(144.5)
— Pharmaceutical (prescription drugs, contraceptives, therapeutics, veterinary products):	518.3	(137.5)
— Industrial (textile products, chemicals, etc.):	292.3	(33.8)
Total	2 914.1	(452.4)
of which Europe:	600.5	(137.6)

Johnson & Johnson has subsidiaries world-wide. In Europe it has 38 subsidiaries in 14 countries, including 28 subsidiaries in all Member States of the EEC except Luxembourg.

There is no central European office of Johnson & Johnson. The subsidiaries are responsible directly to the parent company in the USA. The activities of the European subsidiaries are limited to serving their respective national markets.

⁽³⁾ Figures in brackets represent the 'operating profit'.

Ortho Pharmaceutical Ltd, High Wycombe, UK

3. Ortho Pharmaceutical Ltd (hereinafter called 'Ortho UK') is a wholly-owned subsidiary of Johnson & Johnson. Its turnover in 1977 was about £ 4.6 millions. About 85 % of turnover was in pharmaceutical products, principally contraceptives, and the remaining 15 % in diagnostic products. The firm manufactures the largest part of its products itself. In a minority of cases, including Gravindex, the active ingredients are imported from other subsidiaries of the Group in the USA and are only processed by Ortho UK.

Cilag-Chemie GmbH, Alsbach, Germany and Cilag-Chemie AG, Schaffhausen, Switzerland

4. Cilag Chemie GmbH (hereinafter called 'Cilag Alsbach') was formed in 1950 and is a wholly-owned subsidiary of Cilag-Chemie AG of Schaffhausen, Switzerland (hereinafter called 'Cilag Schaffhausen'), which is in turn a 100 % subsidiary of Johnson & Johnson. Its turnover in 1977 was about DM 50 millions. The firm is engaged simply in assembly, packaging and marketing of products obtained from Cilag Schaffhausen. Its activities involve pharmaceutical (about 76 % of turnover) and diagnostic products (about 24 %). Besides Cilag-Alsbach, another wholly-owned subsidiary of Johnson & Johnson, Dr Molter GmbH, sells pharmaceutical products, including diagnostics, in Germany. Its turnover in 1977 was about DM 15 millions.

Eurim Pharm GmbH, Piding, Germany

5. Eurim Pharm is an independent company, engaged chiefly in importing drugs from other EEC countries into Germany and marketing them to hospitals and doctors. It was formed in 1975. Its proprietors are Andreas Mohringer, a chemist, and H. Leipold.

Mohringer joined the firm in October 1976, merging with it his own importing firm 'Mohringer Pharmazeutika', formed in April 1975.

Its present business concerns some 100 pharmaceutical products, from well-known manufacturers, as well as some 20 diagnostic products, including Gravindex slide tests.

B. The product

6. Gravindex is a diagnostic product for the detection of pregnancy. Like all pregnancy tests, it works by measuring the Choriongonadotrophin (HCG —

Placenta hormone) content of the urine. Two basic types of pregnancy tests may be distinguished:

- (a) tests carried out at home; these are intended for use by the women themselves, and may be bought from retail chemists;
- (b) tests carried out in the laboratory; these may be subdivided into two sub-types, the slide test and the tube test. Gravindex belongs to the first sub-type. Slide tests are claimed to take some three minutes; whereas the tube test may take from half an hour to over two hours. The disadvantage of the longer time taken for the tube test is compensated by the advantage of its being able to confirm a suspected pregnancy a full week earlier than the slide test.

In the Federal Republic of Germany, laboratory tests are mainly sold directly to doctors; in Great Britain, to hospitals, but also to pharmaceutical dealers.

These proceedings deal only with pregnancy tests intended to be carried out in the laboratory.

7. Each Gravindex test consists of two bottles, containing respectively 2 mg of antigen and 2 mg of antiserum. The active ingredients (antigen and antiserum) of all Gravindex tests sold in Europe are manufactured exclusively by Ortho Diagnostics Inc. of Rariton, New Jersey, USA, one of Johnson & Johnson's American subsidiaries.

Ortho UK receives the active ingredients directly from Ortho Diagnostics ready for filling and packaging in the United Kingdom. Cilag Alsbach receives the active ingredients, already in 2 mg bottles, from Cilag Schaffhausen. Cilag Alsbach is itself responsible only for packing and labelling.

8. In the Federal Republic of Germany there are at present eight different slide tests and seven different tube tests on the market. The most important supplier, from the point of view of both turnover and number of products, is the Dutch firm Organon, with five tests in its range and a share of the German market for laboratory pregnancy tests of about ... % ⁽¹⁾. After the market-leader Organon follow the two subsidiaries of Johnson & Johnson, Dr Molter (market share of about ... %, representing a turnover in 1978 of DM ... millions), and Cilag Alsbach (market share of about ... %, representing a turnover in 1978 of almost DM ... millions), and (with considerably lower market shares) Hoffmann-La Roche, Denver (USA) and the

⁽¹⁾ In the published version of the Decision, some figures have hereinafter been omitted, pursuant to the provisions of Article 21 of Regulation No 17 concerning non-disclosure of business secrets.

Dutch firm Chefaro, the products of which are traded in Germany by the firm Roland.

9. In the United Kingdom nine different slide tests and five different tube tests are marketed by 11 different enterprises. Of these enterprises Organon is the most important, next is Burroughs Wellcome, and Ortho UK takes the third place with a market share of about ... %, representing a turnover in 1978 of about £ As potential serious competitors can be named Hoffmann-La Roche (which has recently re-entered the UK market for laboratory pregnancy tests) and Mercia Diagnostics.

10. Total trade sales in the EEC of Gravindex pregnancy tests by the subsidiaries of Johnson & Johnson in the years 1973 to 1978 were:

1973:	... EUA ⁽¹⁾
1974:	... EUA
1975:	... EUA
1976:	... EUA
1977:	... EUA
1978:	... EUA

C. Prices

11. Although the active ingredients of the Gravindex pregnancy tests all come from Ortho Diagnostics (USA) and the subsidiaries such as Ortho UK and Cilag Alsbach only have to bottle and/or package them, there are big differences between the selling prices of Gravindex pregnancy tests throughout the common market. Prices are highest in Germany and lowest in the United Kingdom. In 1977 the Cilag-Alsbach price was 3.75 times the price charged by Ortho UK to dealers. Chart I shows the prices of Gravindex slide tests in the different Member States in the last six years and the differences between them.

12. Eurim Pharm imports Gravindex slide tests from the United Kingdom into Germany. It purchases these tests from various British chemists. In Germany Eurim Pharm sells the tests in the original packing together with the German registration number and instructions in German. Its selling prices are about 25 % lower than those of Cilag Alsbach, even after the goods have passed through the hands of an additional middle-man (the UK wholesaler or retailer).

Eurim Pharm's selling prices, and those of Ortho UK and Cilag Alsbach, are set out in Chart II.

⁽¹⁾ EUA: European units of account (calculation based on the mean unweighted exchange rate throughout each year).

CHART I
Prices of Gravindex slide tests excluding VAT charged by Johnson & Johnson subsidiaries to dealers
(25 test pack except where otherwise stated)

	1973		1974		1975		Price index calculated for each year on base UK = 100			
		EUA		EUA		EUA	1973	1974	1975	1975
D (DM)	90.91 ⁽¹⁾	27.747	90.91	29.482	90.91	29.812	372	401	393	
UK (£)	3.75 ⁽¹⁾	7.465	3.75 ⁽¹⁾	7.356	4.25 ⁽¹⁾⁽²⁾	7.589	100	100	100	
I (Lit)	—	—	15 000.00	19.336	15 000.00	18.529	—	263	244	
F (FF)	134.60 ⁽¹⁾	24.617	155.00	27.032	155.00	29.140	330	367	384	
B (Bfr)	1 289.00 ⁽¹⁾	26.966	1 289.00 ⁽¹⁾	27.781	1 289.00 ⁽¹⁾	28.287	361	378	373	
DK (Dkr)	111.54 ⁽¹⁾	15.040	134.90	18.583	156.00 ⁽²⁾	21.902	201	253	289	

	1976		1977		1978		Price index calculated for each year on base UK = 100			
		EUA		EUA		EUA	1976	1977	1978	1978
D (DM)	90.91	32.290	90.91	34.328	90.91	35.566	414	377	340	
UK (£)	4.85 ⁽¹⁾	7.803	5.95	9.102	6.95 ⁽²⁾	10.468	100	100	100	
I (Lit)	16 500.00 ⁽²⁾	17.739	18 000.00	17.879	21 000.00	19.440	227	196	186	
F (FF)	155.00	29.000	155.00	27.649	155.00	27.004	372	304	258	
B (Bfr)	1 289.00	29.862	1 289.00	31.529	1 289.00	32.176	383	346	307	
DK (Dkr)	196.00	28.987	196.00	28.589	223.00	31.769	371	314	303	

⁽¹⁾ 20 test pack.

⁽²⁾ Mean unweighted price.

EUA: European unit of account (mean unweighted exchange rate throughout each year).

CHART II

Prices of Gravindex slide tests excluding VAT
(charged to dealers in the UK and Germany)

	1973		1974		1975		Price index calculated for each year on base UK = 100		
		EUA		EUA		EUA	1973	1974	1975
Eurim Pharm (DM) (20 test pack)					58.19 (2.91)	19.083 (0.954)			251
Cilag Chemie GmbH (DM) (20 test pack)	90.91 (4.545)	27.747 (1.387)			90.91 (3.64)	29.482 (1.180)	372	401	393
Ortho Pharmaceutical Ltd (£) (20 test pack)	3.75 (0.187)	7.465 (0.373)	3.75 (0.187)	7.356 (0.368)	4.25 (0.213) ⁽¹⁾	7.589 (0.379)	100	100	100

	1976		1977		1978		Price index calculated for each year on base UK = 100		
		EUA		EUA		EUA	1976	1977	1978
Eurim Pharm (DM) (20 test pack)	58.19 (2.91)	20.668 (1.034)	58.00 (2.90)	21.901 (1.095)	58.00 (2.90)	22.691 (1.135)	265	241	217
Cilag Alsbach (DM) (25 test pack)	90.91 (3.64)	32.290 (1.293)	90.91 (3.64)	34.328 (1.373)	90.91 (3.64)	35.566 (1.424)	414	377	340
Ortho UK (£) (25 test pack)			5.95 (0.238)	9.102 (0.364)	6.95 (0.278) ⁽¹⁾	10.468 (0.419)	100	100	100

⁽¹⁾ Mean unweighted price.

EUA: European unit of account (mean unweighted exchange rate throughout each year).

Prices in brackets: prices per test.

D. Export prohibitions in the terms of trading for pharmaceutical dealers

(a) *Ortho UK*

13. At least since 1 January 1973 and until January 1977, all the firm's 'UK trade price lists' intended for sales to pharmaceutical dealers included, under 'terms of trading', the following condition :

'Export prohibited except by prior arrangement'.

(See for example the October 1975 price list.)

The corresponding (amended) condition in the January 1977 and all subsequent price lists reads as follows:

'Export prohibited to non-EEC countries except by prior arrangement'.

The October 1978 trade price list contains, however, no restrictions. The UK trade price lists do not mention the product Gravindex, as it is not a pharmaceutical, but a diagnostic product. However, in a letter to the Commission of 16 January 1980 Ortho UK stated: 'In view of that fact that no diagnostic price lists are circulated to the trade as a matter of course, we treat our contractual arrangements with wholesalers and retailers as being governed by the terms endorsed on the UK pharmaceutical trade price list.'

(b) *Cilag Alsbach*

14. This firm issues separate price-lists ('Preislisten') for diagnostic products and pharmaceutical products. The former apply exclusively to hospitals, while the latter relate to sales to retailers and hospital pharmacists. The pharmaceuticals price lists issued from 1958 up to 27 February 1978 included, in the section headed 'Wiederverkauf', the following condition:

'Der unmittelbare oder mittelbare Weiterverkauf nach dem Ausland einschließlich der Freihafengebiete ist nicht statthaft'. (Direct or indirect sale to other countries, free ports included, is not allowed).

(See for example 24 January 1977 price list).

The product Gravindex pregnancy tests appears in those price lists from 1967 on.

E. Enforcement of the export prohibition by Ortho UK

15. From an article in a German magazine dated May 1975, Cilag Alsbach learned that the chemist Mohringer was offering Gravindex, imported from other EEC Member States, at a more attractive price : Mohringer 20 tests for DM 58.19 (DM 2.91 per test), Cilag Alsbach 12 tests for DM 55 (DM 4.58 per test).

By test purchases, Cilag Alsbach ascertained that the Gravindex offered on the German market came from Great Britain. Ortho UK was immediately informed of this discovery (See Ortho UK internal note of 7 July 1975).

16. In July 1975, Cilag Schaffhausen asked its British counterpart to take the necessary measures to stop imports from the UK into Germany. It was agreed that Cilag Alsbach would establish the package numbers of the imported items by test purchases, so that Ortho UK could ascertain the British exporter (see letter Ortho UK to Cilag Schaffhausen dated 19 December 1975).

17. Ortho UK also contacted Mohringer direct, by letter dated 17 December 1975, asking him to name his supplier who was, according to Ortho UK 'contravening (Ortho UK's) terms of trading'. Ortho UK required Mohringer's cooperation, in order to 'prevent any further breach of our trading regulations'. The same letter made it clear that Ortho UK's export prohibition was aimed principally at 'Europe' (which in this context must be taken substantially to mean other EEC countries).

18. In March 1976 Cilag Schaffhausen found that Mohringer was still able to offer large quantities of Gravindex on the German market; so Dr Fuller, Vice-Chairman of Johnson & Johnson International Inc., New Brunswick, a wholly-owned subsidiary of Johnson & Johnson carrying on the international activities of the concern, was brought into the affair by letter of 22 March 1976 from Cilag Schaffhausen, stating, *inter alia* :

'We have now too much written and discussed without having made any progress in solving this very unpleasant and important problem. We would like that you contact now all responsables to find at least a strategy for further actions.'

At the initiative of Mr A. S. Poole, Vice-President, International of Ortho Diagnostics, the 'Gravindex problem' was discussed at a meeting early in April 1976.

In a letter to Cilag Alsbach dated 5 April 1976, Ortho UK affirmed their decision to impede exports of Gravindex slide tests. They said they felt that they knew

the possible source of the supply to Mohringer and would take every step to eliminate the 'Gravindex problem'.

19. On 7 April 1976, Ortho UK wrote to the retail chemist in London, the supposed exporter of Gravindex tests, threatening to cut off his supplies. Since he denied making the exports, subsequent deliveries to him and to another purchaser, the firm of . . . , were marked with special code numbers so as to permit an incontestable identification. (This is shown by internal notes from Ortho UK dated 14 and 23 April 1976 and letter from Ortho UK to Cilag Alsbach of 23 April 1976.)

20. In January 1977 Ortho UK issued a new price list, wherein the global export ban was replaced by a prohibition on exports to non-EEC countries, which later was omitted from the October 1978 price list. No special notice of the changes was given to Ortho UK's customers.

Despite the January 1977 change the search for Mohringer's (Eurim Pharm's) source of supply was pursued. By letter of 19 January 1977 to Cilag Alsbach, Ortho UK confirmed that if an exporter were identified, the supply of Gravindex to the German market would be stopped.

21. A definite identification of a British exporter was made in February 1977. By test purchase from Eurim Pharm, Cilag Alsbach Obtained possession of a Gravindex package which was specially identified by the batch number and also by a triangular piece cut out of the package insert (see letter from Cilag Alsbach to Ortho UK of 4 February 1977).

22. Although Ortho UK should have been aware that the imposition on customers of a prohibition on exports to other EEC Member States would infringe the competition rules of the EEC Treaty ⁽¹⁾, the Ortho UK company nevertheless substantially stopped supplies to certain chemists in May and June 1977, by totally withholding supplies or by drastically restricting them (see letters from Ortho UK to Cilag Alsbach dated 18 May and 11 July 1977). The letter of 18 May indicated four 'possible methods' of stopping the trade of Gravindex slide tests from the UK into Germany. Firstly, as abovementioned, Ortho UK had stopped deliveries to certain dealers. (Quoting them: 'However, this will probably only result in temporary sustaining the flow as other distributors might be approached'.) A

second possibility was to raise the UK price to a level close to that of the European selling price (again quoting 'but our pricing laws in the UK will not allow us to do this'). Thirdly, Ortho UK might change the Gravindex trade mark. They wrote: 'but this, yet again, would only lead to a temporary sustenance of the business, as I am sure that people would realize it was the same product'. Fourthly, they might consider withdrawing the 20 test pack from the UK market completely.

Orders from three chemists, placed during May and June 1977, were held up for six to seven months, although Ortho UK's stocks were sufficient at the times these orders were placed, and other customers' orders were dealt with much more quickly. Ortho UK claims that the delay in deliveries was caused by an unprecedented increase of orders in the second half of 1977 so that from May 1977, Ortho UK had an excess of orders on hand over its stocks. However, the excess of unserved orders was mainly due to a shortage of 200 test packs and yet the orders of the three chemists called for 20/25 test packs. Although Ortho UK argues that 20/25 test packs may be used to satisfy orders for the 200 test pack, when the latter is in short supply, there is no evidence of this substitution having been carried out in practice.

In August 1977 the 20 test pack was withdrawn from the UK market. In March 1978 the price of the 25 test pack was raised 20 % and in August 1978 by a further 9.5 %. Also in August 1978, the price of the 200 test pack was raised 10 %. Thus three of the four possibilities for action against exports of Gravindex slide tests as indicated in the letter from Ortho UK of 18 May 1977 were put into effect.

The Commission has no information on any enforcement of a prohibition on exports by Ortho UK after January 1978.

23. Cilag Alsbach for its part ceased its efforts to stop imports of Gravindex products in July 1977, recognizing expressly that, since the decision of the Court of Justice of May 1976 in the Centrafarm case, they were aware that it is unlawful to prohibit or hinder 'parallel imports' (see Cilag Alsbach internal note of 21 July 1977).

F. Proceeding

24. This proceeding is brought only against Johnson & Johnson, Ortho UK, Cilag Schaffhausen and Cilag Alsbach and not against their customers, the United Kingdom and German chemists who were formally parties to the agreements involved, because the purpose

⁽¹⁾ Judgment of the Court of Justice 13 July 1966, Case Nos 56—58/64 (Grundig/Consten) (1966) European Court Reports 322. Decisions of the Commission of 1 December and 21 December 1976 (Miller International and Theal/Watts) (OJ No L 357, 29. 12. 1976, p. 40 and OJ No L 39, 10. 2. 1977, p. 19).

of the export ban was to protect the partitioning of the national markets. The restrictive agreements with the chemists were only the vehicle for this protective policy, which was indeed contrary to the interests of those chemists.

25. These proceedings are confined to examining, in respect of the Gravindex slide tests only, the export prohibitions contained in the 'UK trade price lists', the 'Preislisten' and elsewhere, the enforcement of the UK export prohibitions and the conduct of both Ortho UK and Cilag Alsbach.

26. Following receipt by the parties of the Commission's Statement of Objections dated 26 July 1979, Johnson & Johnson informed the Commission by their telex of 13 September 1979 and Ortho UK, Cilag Alsbach and Cilag Schaffhausen by letters from their legal advisers dated 27 September 1979, containing replies to the Commission's Statement of Objections, that they were declining the Commission's invitation to attend a hearing, because they believed that the case was 'fully and clearly set out in the reply'. Johnson & Johnson, for its part, replied to the Statement of Objections by letter from its General Counsel also dated 27 September 1979.

II. APPLICABILITY OF ARTICLE 85 (1)

27. Article 85 (1) of the EEC Treaty prohibits 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.

A. Agreements between undertakings

28. Ortho UK, Cilag Alsbach and their respective dealers are undertakings within the meaning of Article 85 (1).

The export bans which were embodied in the price lists applied by Ortho UK and Cilag Alsbach for sales of their products to pharmaceutical dealers, formed an essential part of the contracts of sale between each company and its dealers. These contracts are agreements between undertakings within the meaning of Article 85 (1).

The prohibition of exports from the United Kingdom continued to be applied after the amendment of the

terms of trading in January 1977. Ortho changed the wording so that ostensibly only exports to non-EEC countries were still prohibited, but in reality, exports to EEC countries were still not allowed. On the contrary, Ortho UK stressed to those dealers which it supposed were exporting, that exports to EEC countries were still prohibited. It made and carried out threats to withhold or delay supplies, and also instituted a system of checks on dealers. The dealers knew that the present and future deliveries were obtainable only if they complied with the request not to export. Those actions were pursued both before and after the amendment of the terms of trading in January 1977 without any interruption. After that date they were even intensified in order to bring to an end the exports of Gravindex pregnancy tests. The continued efforts to prevent dealers from exporting compelled those dealers to accept the fact that exporting was still not allowed.

The contracts of sale of Ortho UK were still, therefore, subject to prohibitions of exports, which prohibitions formed an integral part of agreements within the meaning of Article 85 (1). For the purpose of determining the applicability of Article 85 (1), the facts that it was not in the dealers' interests to observe the prohibition and that some of them did not do so, are irrelevant; that Article extends to any distribution system whose object is to restrict competition, whether or not it is successful in doing so.

B. Restriction of competition

29. In the UK trade price lists, applied by Ortho UK until January 1977, a provision was embodied prohibiting export from the United Kingdom except by prior arrangement. The 'Preislisten' applied by Cilag Alsbach until 28 February 1978 contained a provision prohibiting direct or indirect resale to other countries. These provisions had as their object the restriction of competition within the common market. They were aimed at preventing buyers in the United Kingdom and Germany from reselling the products of Ortho UK and Cilag Alsbach to other countries including the common market countries and thus from competing in those countries. Article 85 (1) is applicable even if the export prohibitions were not always enforced as the exporting dealers' supplies were constantly at risk in the event of the exports becoming known to the supplier.

30. Moreover, in this case the export prohibition imposed by Ortho UK had restrictive effects.

Ortho UK's intention, to restrict competition within the common market, appears clearly from its efforts to discover, at the request and with the assistance of Cilag

Alsbach, the dealers supplying Gravindex pregnancy tests to the German importer Eurim Pharm.

31. In fact, Ortho UK did prevent dealers in the United Kingdom from reselling Gravindex pregnancy tests to Eurim Pharm. After threatening to withhold supplies from the chemist in April 1976, when Gravindex pregnancy tests originating from him continued to appear on the German market, in May 1977, Ortho stopped supplies of the products to certain chemists who, in Ortho UK's view, were apparently supplying German undertakings. At the same time orders from at least three chemists were considerably delayed.

32. These facts show that the amendment of the export prohibition by Ortho UK was a pure fiction. In practice, Ortho UK acted as if there had not been any amendment; so that the agreements operated as if they had never been amended.

33. The parties claim that their actions are of too little importance to restrict competition within the common market to an appreciable degree.

However, it has been established (see figures under point 2 above) that the 1977 turnover of the Johnson & Johnson group in Europe was \$ 600 million and the 'operating profit' in Europe in that year was \$ 137 million. In those figures the pharmaceutical sector comprises about 17 % and 30 % respectively.

Moreover, the Johnson & Johnson group has, with the Gravindex product, an important share of the market in the Member States. On the market for laboratory pregnancy tests, which must be considered as the relevant product market, the Gravindex slide test has a market share in the United Kingdom of about ... %. On the German market the corresponding market share is about ... %, but there the sales of Dr Molter, also a subsidiary of Johnson & Johnson, which sells slide tests and has a market share of about ... %, must also be taken into account. The only competitors with a higher market share are Organon and Burroughs Wellcome in the United Kingdom and Organon in Germany. Even if one considered the market for laboratory pregnancy tests as a part of a larger market including home tests, the restriction of competition would still be appreciable as home test sales are not larger than laboratory test sales, thus leaving to the Johnson & Johnson group a market share in Germany of well over ... %. The practical significance of the export prohibition is made clear by the fact that Cilag Alsbach considered even relatively small quantities of imports from the United Kingdom 'a very unpleasant and important problem' (see letter from Cilag Schaffhausen to Dr Fuller of

22 March 1976), as so-called 'parallel importers' compete directly with manufacturers for clinics' and doctors' business.

Therefore, the actions on the part of Ortho UK and Cilag Alsbach which impeded the export of Gravindex pregnancy tests by British dealers to the German market, restricted competition within the common market to an appreciable degree.

34. Any argument that Ortho UK's actions could be excused by the UK pharmaceutical price regulation scheme or by other statutory price controls would be unfounded; the fact that the United Kingdom prices are controlled by a public authority does not justify restrictions of trade between Member States ⁽¹⁾. Moreover, price control has been a feature of the United Kingdom market for many years for Ortho UK's products as well as for others, and the prices fixed under it provide a fair return, including a reasonable profit, on the overall activities of the undertakings concerned.

C. Effect upon trade between Member States

35. An export prohibition is, by its very nature, liable to affect trade between Member States. Such a condition has as its object to impede trade between Member States or to confine such trade to channels chosen by the undertaking imposing the prohibition. In this case the restrictions prevented trade between, in particular, the United Kingdom and other Member States, caused or at least contributed to an artificial partitioning of the common market and were likely to hinder the establishment of a single market among Member States.

36. This effect on trade between Member States has been appreciable. The only trade in Gravindex pregnancy tests between the United Kingdom and the other Member States, and in particular Germany, was that done by so-called 'parallel importers'. Every influence on this trade has an appreciable effect, especially when price differences exist to an appreciable extent (e.g. the price in Germany is 3.75 times the price in the UK) providing considerable incentive and scope for exports from the United Kingdom to Germany. It therefore seems reasonable to conclude that but for the export prohibition there could have been a significant flow of Gravindex tests from the UK to Germany with a

⁽¹⁾ See judgment of 31 October 1974, Case No 16/74 (Centrafarm v. Sterling Drug) [1974] ECR 1183.

corresponding effect on the German price and corresponding benefits to German users. Moreover, the existence of price differences was the reason for the actions of Ortho UK, as is shown for instance by the letter from Ortho UK to the chemist of 7 April 1976. But even if such important price differences did not exist at a given moment, e.g. between Germany and the other Member States for the product Gravindex, this situation might have changed. Therefore also the export ban imposed by Cilag Alsbach is likely to affect trade between Member States to an appreciable degree, especially taking into account Cilag Alsbach's position on the market ⁽¹⁾.

III. INAPPLICABILITY OF ARTICLE 85 (3)

37. The agreements in question do not qualify for exemption under Article 85 (3) because they were not notified to the Commission, and they are not agreements of the kind which, under Article 4 (2) of Regulation No 17, do not need to be notified. Moreover they do not fulfil the conditions for exemption presented by Article 85 (3). The export prohibitions in question do not contribute to the improvement of distribution nor have the other requirements of Article 85 (3) been fulfilled.

IV. APPLICABILITY OF ARTICLES 3 (1) AND 15 (2) OF REGULATION NO 17

A. Article 3

38. The Commission has established that Ortho UK and Cilag Alsbach have infringed Article 85 (1) by the following practices :

1. the inclusion of an export prohibition in the UK trade price lists of Ortho UK at least from January 1973 to January 1977;
2. the inclusion in the year 1977 of a *de facto* prohibition of exports from the United Kingdom to other EEC Member States in contracts of sale between Ortho UK and its dealers;
3. the inclusion of an export prohibition in the 'Preislisten' of Cilag Alsbach from 1967 to March 1978.

39. In order to avoid any misunderstandings resulting from former prohibition clauses the undertakings

concerned must be required under Article 3 of Regulation No 17 to bring to the notice of their dealers that exports to other Member States of the EEC are not prohibited and duly to satisfy the Commission that this has been done.

B. Article 15 (2)

40. Article 15 (2) empowers the Commission to impose a fine from 1 000 to 1 000 000 units of account, or a sum in excess thereof, but not exceeding 10 % of the turnover in the preceding business year of each of the undertakings participating in the infringement, where, either intentionally or negligently they infringe Article 85 (1) of the Treaty.

In fixing the amount of the fine, regard shall be had to both the gravity and the duration of the infringement.

41. On the facts set out above, the Commission has reached the conclusion that the parties knew, or at the very least should have known, that the export prohibitions had restrictive effects on competition and were likely to affect trade between Member States.

Cilag Alsbach has admitted that after the judgment of the Court of Justice of 20 May 1976 in the Centrafarm case ⁽²⁾ it was aware that it was unlawful to hinder parallel imports. However, the company should have known that, following the judgment of the Court of 13 July 1966 in the Grundig/Consten case ⁽³⁾ and that of 31 October 1974 in the Centrafarm v. Sterling Drug case ⁽⁴⁾, it was already laid down that export prohibitions were considered contrary to Community law. This is also true for Cilag Schaffhausen, which insisted on the enforcement of the export ban imposed on British dealers in order to protect the market of its subsidiary Cilag Alsbach.

The claim made by Ortho UK that it is unreasonable to impute to ordinary traders knowledge of the fact that an export prohibition is contrary to Article 85 (1) is untenable. Ortho UK must have known that such a clause and the abovementioned practices had as their object and effect a restriction of competition within the common market. It is of no relevance therefore to know if the company was aware that it infringed Article 85 (1) ⁽⁵⁾.

Johnson & Johnson knew or should have known that it and its affiliates have to comply with the law of the

⁽¹⁾ Judgment of the Court of Justice of 1 February 1978, Case No 19/77 (Miller international Schallplatten), (1978) ECR 151.

⁽²⁾ Case No 104/75, (1976) ECR 613.

⁽³⁾ Case Nos 56—58/64, (1966) ECR 322.

⁽⁴⁾ Case No 15/74, (1974) ECR 1164—1165.

⁽⁵⁾ Judgment of the Court of Justice of 1 February 1978, Case No 19/77 (Miller International Schallplatten), (1978) ECR 152 and of 12 July 1979, Case Nos 32/78, 36—82/78 (BMW Belgium), (1979) ECR 2435.

European Communities. It had been informed of the 'very unpleasant and important problem' of parallel imports and nevertheless did not stop the policy of its affiliates of preventing such parallel imports, which would have influenced the price differences.

42. As regards the gravity and duration of the infringements, export prohibitions are serious restrictions of competition and contrary to the goal of a single market among the Member States.

The infringements lasted for considerable periods:

1. the infringement referred to at point 38, subparagraph 1 above, from at least January 1973 to January 1977;
2. the infringement referred to at point 38, subparagraph 2 above, throughout 1977;
3. the infringement referred to at point 38, subparagraph 3 above, from 1967 to March 1978.

43. The export prohibitions imposed on the United Kingdom dealers are the principal infringements taken into account. In this respect the Commission bears in mind that the price differences for Gravindex pregnancy tests in 1973 to 1978 were considerable, as is shown by Chart I. The prohibition on exports by British dealers to other EEC Member States prevented the Gravindex products from the United Kingdom, where the prices were the lowest in the EEC, having an influence on the higher price levels (up to 3.75 times higher) in other Member States.

44. In determining the gravity of the infringement it must be taken into account that Ortho UK and Cilag Alsbach sought to prevent exports by chemists in a determined and vigorous manner and continued to do this even after the formal export prohibitions were removed from Ortho's terms of trading. The means employed included measures to identify the exporters, threatening to cut off a dealer's supplies and even a refusal to supply certain chemists by withholding supplies totally or by drastically limiting them.

Moreover, Cilag Alsbach continued its actions even after the Decision of the Court of Justice of 20 May 1976 in the Centrafarm case although it was aware — as it has admitted — that after that Decision it was unlawful to hinder parallel imports.

45. The fact that Ortho UK imposed the export prohibition and that Cilag Alsbach insisted on its application, shows that the object of their combined actions was to maintain the separation of, in particular, the United Kingdom and German markets and the wide difference between the prices in the UK and elsewhere. They intended to protect their marketing policies from any possible change in the market and price situation.

46. On the other hand it is taken into account that the export prohibitions imposed on the German dealers had little practical significance since prices in other markets were and continued to be lower and exports therefore of no interest. Nevertheless they expressed the general policy of preventing parallel exports in any circumstances and this must be regarded as a grave contravention even if for economic reasons it was not effective.

47. Ortho UK, Cilag Alsbach and Cilag Schaffhausen are subsidiaries of Johnson & Johnson and the various measures to prevent parallel exports were taken in their common interest, under the control and with the knowledge of the parent company.

In fact Ortho UK and Cilag Alsbach are not only subject both in theory and in practice to the general power of Johnson & Johnson to give policy directives, being wholly-owned subsidiaries, but are also dependent on the parent company for the goods involved, namely Gravindex slide tests. The companies Ortho UK and Cilag Alsbach only bottle and package this product. There is no question of an autonomous commercial policy for the European subsidiaries. It is established that Cilag Schaffhausen brought the parent company into this affair, not only to inform it, but with the express purpose of finding a solution to — quoting them — 'a very unpleasant and important problem', using the parent company's authoritative power. If the various companies in the group had really been accustomed to operating independently of each other, Ortho UK would be unlikely to have imposed an export prohibition at all, and it would certainly not have devoted a considerable amount of management effort to enforcing it, when the only result of such actions, from Ortho UK's point of view, would be a reduction in its own sales potential. None of the enforcement measures taken by the various companies and described at points 15 to 22 above is explicable otherwise than in the context of a general group policy of maintaining separate national markets with different prices. After the date of Cilag Schaffhausen's letter of 22 March 1976 to Dr Fuller (see point 18), the group continued to operate the policy of partitioning the common market. This shows that the parent company knew of this policy, and approved of it.

48. Therefore, the Commission regards Ortho UK, Cilag Schaffhausen, Cilag Alsbach and Johnson & Johnson as jointly responsible and must impose a fine on them jointly and severally. However, this finding does not affect the amount of the fine.

49. The companies involved sell many products, and the maximum fine which could be imposed under Regulation No 17 would be 10 % of total turnover in all products. This decision concerns an infringement in connection with one product. The imposition of export bans on trade between Member States must always be regarded as a particularly grave infringement, justifying the imposition of fines reflecting this fact.

50. The Commission has taken into account the substantial differences between the prices of Gravindex in the different Member States, in particular between those in the UK and elsewhere, the vigorous way in which the export ban was enforced, the fact that the infringement was undoubtedly intentional, and the group's market share. The Commission also takes into account the size of the Johnson & Johnson group and the need to suppress unlawful activities and to prevent any recurrence, and the resulting need for a fine large enough to be a deterrent to such an enterprise. Account has been taken of the principles of equity and proportionality. The Commission has therefore thought it appropriate to impose a fine of the sum set out in Article 3,

HAS ADOPTED THIS DECISION:

Article 1

The inclusion

- (a) by Ortho Pharmaceutical Ltd of an export prohibition for the product Gravindex in the UK trade price lists from 1 January 1973 to 1 January 1977;
- (b) by Ortho Pharmaceutical Ltd of a *de facto* export prohibition for the product Gravindex from the United Kingdom to other EEC Member States in the contracts of sale with its dealers during the year 1977, and
- (c) by Cilag Chemie GmbH of an export prohibition in the 'Preislisten' for the product Gravindex from 1 January 1967 to 27 February 1978

constituted infringements of Article 85 (1) of the Treaty establishing the European Economic Community.

Article 2

Ortho Pharmaceutical Ltd and Cilag Chemie GmbH shall bring it to the notice of their dealers, in writing, that exports to other Member States of the EEC are not prohibited. The Commission shall be informed within three months of the way in which this notice has been given.

Article 3

A fine of two hundred thousand (200 000) European units of account, that is to say 112 894.20 (one hundred and twelve thousand eight hundred and ninety-four point twenty) pounds sterling or 510 476 (five hundred and ten thousand four hundred and seventy-six) DM or 460.152 (four hundred and sixty thousand one hundred and fifty-two) Sfrs, or 266 260 (two hundred and sixty-six thousand two hundred and sixty) US dollars is hereby imposed on Ortho Pharmaceutical Ltd, Cilag Chemie GmbH, Cilag Chemie AG and Johnson & Johnson Inc., jointly and severally.

This sum shall be paid either to Lloyd's Bank, London, the account of the European Communities No 108.63.41, or to Sal. Oppenheim Cologne, the account of the European Communities No 000 0064 910, or to Union des Banques Suisses, Geneva, the account of the European Communities No 255.340.30.G, or to the Chemical Bank, New York, the account of the European Communities No 400-360.950 within three months of the date of notification of this Decision to the undertakings to which it is addressed.

Article 4

This Decision shall be enforceable in the manner provided for in Article 192 of the Treaty establishing the European Economic Community.

Article 5

This Decision is addressed to the following undertakings:

- (a) Ortho Pharmaceutical Ltd,
PO Box 79,
Saunderton,
High Wycombe,
UK-Buckinghamshire — MP14 YMJ;
- (b) Cilag Chemie GmbH,
Neue Bergstraße 9,
D-6146 Alsbach an der Bergstraße;
- (c) Cilag Chemie AG,
Hochstraße 205/9,
CH-8201 Schaffhausen;
- (d) Johnson & Johnson Inc.,
501 George Street,
New Brunswick;
USA-New Jersey 08903.

Done at Brussels, 25 November 1980.

For the Commission

Raymond VOUEL

Member of the Commission

COMMISSION DECISION

of 19 December 1980

amending Commission Decision 78/638/EEC authorizing the United Kingdom of Great Britain and Northern Ireland to grant exemptions for national road transport operations from the Community regulations on social matters relating to road transport

(Only the English text is authentic)

(80/1284/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 543/69 of 25 March 1969 on the harmonization of certain social legislation relating to road transport ⁽¹⁾, as last amended by Regulation (EEC) No 2829/77 ⁽²⁾, and in particular Article 14a (3) (b) thereof,

Having regard to the application lodged by the United Kingdom Government on 1 February 1980 requesting the Commission to authorize a permanent exemption from Regulation (EEC) No 543/69 in respect of the transport of milk from the farm to the dairy and vice-versa, within national frontiers.

Whereas the Commission, by its Decision 78/638/EEC ⁽³⁾, had already exempted such transport of milk from the abovementioned Regulation (EEC) No 543/69 until 31 December 1980, as long as certain conditions, imposed by the Commission, were met,

Whereas a final decision as to whether, and if so, under what conditions, derogations for the transport of milk should continue to be authorized, requires further investigation;

Whereas for this purpose the United Kingdom Government will carry out a study in cooperation with the Commission with the following main objectives:

— to evaluate the difference in the contents of the

various concepts used in national law on the one hand and in Community law on the other hand;

— bearing in mind those differences if any, to evaluate the real quantitative differences existing between the various provisions on working conditions in national law on the one hand and in Community law on the other hand;

— to evaluate the economic and social impact of a full implementation of Regulation (EEC) No 543/69 on the transport of milk in the United Kingdom;

Whereas, within the framework of this study, all interested parties, i.e. in particular employers' associations, trade unions and representatives of other relevant modes of transport will be consulted;

Whereas the Commission will be consulted on all phases of the study and will participate as far as it deems fit;

Whereas responsibility for the study will lie with the United Kingdom Government;

Whereas this study will be submitted to the Commission before 30 April 1981;

Whereas the Commission will take a decision, before 1 July 1981, as to whether any derogations can continue to be applied to the milk transport sector and if so under what conditions;

Whereas the United Kingdom Government will then have until 31 December 1981 to ensure that such decision will be effectively implemented as from 1 January 1982;

Whereas in these circumstances it is appropriate for the

⁽¹⁾ OJ No L 77, 29. 3. 1969, p. 49 (for codified text see OJ No C 73, 17. 3. 1979, p. 1).

⁽²⁾ OJ No L 334, 24. 12. 1977, p. 11.

⁽³⁾ OJ No L 203, 30. 6. 1978, p. 39.

Commission to prolong until 31 December 1981 the
authorization granted by Decision 78/638/EEC,

Article 2

This Decision is addressed to the United Kingdom.

HAS ADOPTED THIS DECISION:

Done at Brussels, 19 December 1980.

Article 1

In Article 2 of Decision 78/638/EEC, '31 December
1980' is hereby replaced by '31 December 1981'.

For the Commission

Richard BURKE

Member of the Commission

COMMISSION DECISION

of 22 December 1980

on the reimbursement by the Guidance Section of the EAGGF to the Federal Republic of Germany of premiums paid during 1977 for the conversion of dairy herds to meat production

(Only the German text is authentic)

(80/1285/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy ⁽¹⁾, as last amended by Regulation (EEC) No 2788/72 ⁽²⁾, and in particular Article 7 (1) thereof,

Having regard to Council Regulation (EEC) No 1353/73 of 15 May 1973 introducing a premium system for the conversion of dairy cow herds to meat production and a development premium for the specialized raising of cattle for meat production ⁽³⁾, as last amended by Regulation (EEC) No 266/75 ⁽⁴⁾, and in particular Articles 16 (2) and 17 (2) thereof,

Whereas the Federal Republic of Germany has made an application for reimbursement in respect of expenditure incurred in respect of premiums granted during 1977;

Whereas this application is in accordance with the provisions of Commission Regulation (EEC) No 2641/74 of 15 October 1974 concerning applications for the refund by the Guidance Section of the EAGGF of premiums for the conversion of dairy herds to meat production and of development premiums for the specialized raising of cattle for meat production ⁽⁵⁾;

Whereas an examination of the information provided shows that eligible premiums amounting to DM 19 414 660.93 were paid under the conditions laid down in Articles 1 to 4 of Regulation (EEC) No 1353/73 and its detailed rules of application;

Whereas these payments were made without taking into consideration the modifications of the exchange rates introduced in Council Regulation (EEC) No 475/75 of 27 February 1975 on the exchange rates to be applied in agriculture ⁽⁶⁾ and in Council Regulation (EEC) No 557/76 of 15 March 1976 on the exchange rates to be applied in agriculture and repealing Regulation (EEC) No 475/75 ⁽⁷⁾, applicable in the Federal Republic of Germany from 1 June 1975 and 15 March 1976 respectively; this reduces the eligible expenditure by DM 3 676.82 to an amount of DM 19 410 948.11;

Whereas the Guidance Section of the European Agricultural Guidance and Guarantee Fund should therefore reimburse 50 % thereof, i.e. DM 9 705 492.05; whereas a provisional amount of DM 8 736 597.42 was paid with the Commission Decision of 20 December 1979; whereas the balance to be paid amounts to DM 968 894.63;

Whereas the EAGGF Committee has been consulted on the financial aspects and in particular as to the funds available,

HAS ADOPTED THIS DECISION:

Article 1

The final contribution by the Guidance Section of the European Agricultural Guidance and Guarantee Fund towards the expenditure incurred by the Federal Republic of Germany during 1977 on premiums for the conversion of dairy herds to meat production and of development premiums for the specialized raising of cattle for meat production shall be DM 9 705 492.05.

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽²⁾ OJ No L 295, 30. 12. 1972, p. 1.

⁽³⁾ OJ No L 141, 28. 5. 1973, p. 18.

⁽⁴⁾ OJ No L 30, 4. 2. 1975, p. 1.

⁽⁵⁾ OJ No L 283, 19. 10. 1974, p. 5.

⁽⁶⁾ OJ No L 52, 28. 2. 1975, p. 28.

⁽⁷⁾ OJ No L 67, 15. 3. 1976, p. 1.

⁽⁸⁾ OJ No L 28, 5. 2. 1980, p. 19.

The balance of the contribution, i.e. DM 968 894.63
shall be paid to the Federal Republic of Germany.

Done at Brussels, 22 December 1980.

Article 2

This Decision is addressed to the Federal Republic of
Germany.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 22 December 1980

on the reimbursement by the Guidance Section of the EAGGF to the Federal Republic of Germany of premiums paid during the years 1978 and 1979 for the conversion of dairy herds to meat production

(Only the German text is authentic)

(80/1286/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy ⁽¹⁾, as last amended by Regulation (EEC) No 2788/72 ⁽²⁾, and in particular Article 7 (1) thereof,

Having regard to Council Regulation (EEC) No 1353/73 of 15 May 1973 introducing a premium system for the conversion of dairy cow herds to meat production and a development premium for the specialized raising of cattle for meat production ⁽³⁾, as last amended by Regulation (EEC) No 266/75 ⁽⁴⁾, and in particular Articles 16 (2) and 17 (2) thereof,

Whereas the Federal Republic of Germany has made an application for reimbursement in respect of expenditure incurred in respect of premiums granted during the years 1978 and 1979;

Whereas this application is in accordance with the provisions of Commission Regulation (EEC) No 2641/74 of 15 October 1974 concerning applications for the refund by the Guidance Section of the EAGGF of premiums for the conversion of dairy herds to meat production and of development premiums for the specialized raising of cattle for meat production ⁽⁵⁾;

Whereas an examination of the information provided shows that eligible premiums amounting to DM 5 756 622.45 were paid under the conditions laid down in Articles 1 to 4 of Regulation (EEC) No 1353/73 and its detailed rules of application;

Whereas these payments were made without taking into consideration the modifications of the exchange rates introduced in Council Regulation (EEC) No 475/75 of 27 February 1975 on the exchange rates to be applied in agriculture ⁽⁶⁾ and in Council Regulation (EEC) No 557/76 of 15 March 1976 on the exchange rates to be applied in agriculture and repealing Regulation (EEC) No 475/75 ⁽⁷⁾, applicable in the Federal Republic of Germany from 1 June 1975 and 15 March 1976 respectively; this reduces the eligible expenditure by DM 131 895.72 to an amount of DM 5 624 726.73;

Whereas the Guidance Section of the European Agricultural Guidance and Guarantee Fund should therefore reimburse 50 % thereof, i.e. DM 2 812 363.36; whereas a provisional amount of DM 2 611 694.10 was paid with the Commission Decision of 20 December 1979 ⁽⁸⁾; whereas the balance to be paid amounts to DM 200 669.26;

Whereas the EAGGF Committee has been consulted on the financial aspects and in particular as to the funds available,

HAS ADOPTED THIS DECISION:

Article 1

The final contribution by the Guidance Section of the European Agricultural Guidance and Guarantee Fund towards the expenditure incurred by the Federal Republic of Germany during the years 1978 and 1979 on premiums for the conversion of dairy herds to meat production and of development premiums for the specialized raising of cattle for meat production shall be DM 2 812 363.36. The balance of the contribution, i.e.

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽²⁾ OJ No L 295, 30. 12. 1972, p. 1.

⁽³⁾ OJ No L 141, 28. 5. 1973, p. 18.

⁽⁴⁾ OJ No L 30, 4. 2. 1975, p. 1.

⁽⁵⁾ OJ No L 283, 19. 10. 1974, p. 5.

⁽⁶⁾ OJ No L 52, 28. 2. 1975, p. 28.

⁽⁷⁾ OJ No L 67, 15. 3. 1976, p. 1.

⁽⁸⁾ OJ No L 28, 5. 2. 1980, p. 22.

DM 200 669·26 shall be paid to the Federal Republic of
Germany.

Done at Brussels, 22 December 1980.

Article 2

This Decision is addressed to the Federal Republic of
Germany.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 22 December 1980

on the reimbursement by the Guidance Section of the EAGGF to the French Republic of aids granted to producers' organizations in the fishing industry during 1978

(Only the French text is authentic)

(80/1287/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 100/76 of 19 January 1976 on the common organization of the market in fishery products ⁽¹⁾, and in particular Article 24 thereof,

Having regard to Council Regulation (EEC) No 106/76 of 19 January 1976 on granting and reimbursing aids granted by Member States to producers' organizations in the fishing industry ⁽²⁾, and in particular Article 8 (2) thereof,

Whereas the French Republic has made an application for reimbursement in connection with all its expenditure incurred in respect of aid granted during 1978 under Article 6 (1) of Regulation (EEC) No 100/76;

Whereas this application is in accordance with the provisions of Commission Regulation (EEC) No 1273/72 of 20 June 1972 on claims for reimbursement of aids granted by Member States to producers' organizations in the fishing industry ⁽³⁾, and with the provisions of Commission Regulation (EEC) No 457/72 of 2 March 1972 defining the concept of administrative expenses of producers' organizations in the fishing industry ⁽⁴⁾;

Whereas an examination of the information provided shows that aids amounting to FF 640 680 were paid under the conditions laid down in Article 6 (1) of Regulation (EEC) No 100/76;

Whereas the Guidance Section of the European Agricultural Guidance and Guarantee Fund should therefore reimburse 50 % thereof, i.e. FF 320 340;

Whereas the EAGGF Committee has been consulted on the financial aspects and in particular as to the funds available,

HAS ADOPTED THIS DECISION:

Article 1

The contribution by the Guidance Section of the European Agricultural Guidance and Guarantee Fund towards the expenditure incurred by the French Republic during 1978 in respect of aids granted to producers' organizations in the fishing industry shall be FF 320 340.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 22 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 20, 28. 1. 1976, p. 1.

⁽²⁾ OJ No L 20, 28. 1. 1976, p. 42.

⁽³⁾ OJ No L 141, 21. 6. 1972, p. 9.

⁽⁴⁾ OJ No L 54, 3. 3. 1972, p. 31.

COMMISSION DECISION

of 22 December 1980

on the provisional reimbursement by the Guidance Section of the EAGGF to the French Republic of aids granted during 1975 to organizations of fruit and vegetable producers

(Only the French text is authentic)

(80/1288/EEC)

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 Council Regulation (EEC) No 1367/80 ⁽²⁾, and in particular Article 36 thereof,

Having regard to Council Regulation (EEC) No 449/69 of 11 March 1969 on the reimbursement of aid granted by Member States to organizations of fruit and vegetable producers ⁽³⁾, and in particular Article 7 (2) thereof,

Whereas the French Republic has made an application for reimbursement in respect of aid granted during 1975 to organizations of fruit and vegetable producers;

Whereas this application is in accordance with the provisions of Commission Regulation (EEC) No 2264/69 of 13 November 1969 on application for reimbursement of aid granted by Member States to organizations of fruit and vegetable producers ⁽⁴⁾, as last amended by Commission Regulation (EEC) No 850/80 of 31 March 1980 ⁽⁵⁾;

Whereas an examination of the information provided shows that aid of FF 1 152 442.32 was granted under the conditions laid down in Articles 2 to 6 of Regulation (EEC) No 449/69;

Whereas, however, an inquiry carried out under the third paragraph of Article 9 (2) of Regulation (EEC) No 729/70 on the financing of the common agricultural policy ⁽⁶⁾ showed that certain recipient organizations

did not fulfil, as laid down, all the tasks prescribed in Article 13 of Regulation (EEC) No 1035/72; whereas, it is therefore only possible to admit at present as eligible an amount of FF 1 058 419.22;

Whereas it appears therefore that the Guidance Section of the EAGGF should provisionally reimburse 50 % thereof, i.e. FF 529 209.61;

Whereas the EAGGF Committee has been consulted on the financial aspects and in particular as to the funds available,

HAS ADOPTED THIS DECISION:

Article 1

The contribution by the Guidance Section of the European Agricultural Guidance and Guarantee Fund towards the aid granted by the French Republic to organizations of fruit and vegetable producers during 1975 provisionally shall be FF 529 209.61.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 22 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 140, 5. 6. 1980, p. 24.

⁽³⁾ OJ No L 61, 12. 3. 1969, p. 2.

⁽⁴⁾ OJ No L 287, 15. 11. 1969, p. 3.

⁽⁵⁾ OJ No L 92, 9. 4. 1980, p. 5.

⁽⁶⁾ OJ No L 94, 28. 4. 1970, p. 13.

COMMISSION DECISION

of 22 December 1980

on the reimbursement by the Guidance Section of the EAGGF to the French Republic of expenditure incurred during 1979 on aids and premiums relating to the modernization of farms, including those in the less-favoured farming areas

(Only the French text is authentic)

(80/1289/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 72/159/EEC of 17 April 1972 on the modernization of farms ⁽¹⁾, as last amended by Directive 80/370/EEC ⁽²⁾, and in particular Article 21 (3) thereof,

Having regard to Council Directive 75/268/EEC of 28 April 1975, on mountain and hill farming and farming in certain less-favoured areas ⁽³⁾, as last amended by Directive 80/666/EEC ⁽⁴⁾, and in particular Article 13 thereof,

Whereas the measures taken by the French Republic to implement Directives 72/159/EEC and 75/268/EEC were the subject of favourable Commission Decisions pursuant to Article 18 of Directive 72/159 and to Article 13 of Directive 75/268/EEC;

Whereas Commission Decision 76/627/EEC of 25 June 1976 concerning applications for reimbursement in respect of aids granted by the Member States pursuant

to Directive 75/268/EEC ⁽⁵⁾, lays down in Article 2 that applications for reimbursement concerning Title III of Directive 75/268/EEC are to be submitted along with applications for reimbursement of expenditure on Directive 72/159/EEC, under the provisions laid down in Commission Decision 74/581/EEC of 16 October 1974 concerning applications for reimbursement in respect of aid granted by the Member States pursuant to Directives 72/159/EEC, 72/160/EEC and 72/161/EEC ⁽⁶⁾, as last amended by Commission Decision 80/427/EEC of 28 March 1980 ⁽⁷⁾;

Whereas Commission Decision 74/581/EEC lays down in Article 4 (1), that the Commission, acting on the basis of particulars contained in the application for reimbursement, is to reimburse up to the full amount requested;

Whereas the application for reimbursement lodged by the French Republic in respect of aid and premiums granted during 1979 for the modernization of farms, including those in the less-favoured areas, is complete and has been submitted in due form in accordance with the provisions of Decision 74/581/EEC; whereas the total amount of expenditure declared eligible for the year 1979 comes to FF 196 833 789.72, broken down as follows:

	Ordinary farming areas	Less-favoured farming areas (Title III)
under Article 8	FF 60 308 612.00	FF 81 619 336.00
under Article 10	FF 3 644 355.40	FF 16 346 411.32
under Article 11	FF 8 953 120.00	—
under Article 12	FF 24 289 305.00	—
under Article 13	FF 1 672 650.00	—

⁽¹⁾ OJ No L 96, 23. 4. 1972, p. 1.

⁽²⁾ OJ No L 90, 3. 4. 1980, p. 43.

⁽³⁾ OJ No L 128, 19. 5. 1975, p. 1.

⁽⁴⁾ OJ No L 180, 14. 7. 1980, p. 34.

⁽⁵⁾ OJ No L 222, 14. 8. 1976, p. 37.

⁽⁶⁾ OJ No L 320, 29. 11. 1974, p. 1.

⁽⁷⁾ OJ No L 102, 19. 4. 1980, p. 24.

whereas the total amount of the reimbursement requested comes to FF 49 208 447·43;

Whereas there are no immediate objections to the application as regards the accuracy of the particulars which it contains or compliance of the expenditure incurred with the provisions in force; whereas, therefore, the Guidance Section of the European Agricultural Guidance and Guarantee Fund should reimburse 25 % of the declared expenditure, i.e. a total of FF 49 208 447·43 (as requested);

Whereas Commission Decision 74/581/EEC lays down in Article 4 (2), that where an examination of the application for reimbursement shows that the amount specified is not that which is actually due, the situation is to be regularized in accordance with the procedure laid down in the same Article of the said Decision;

Whereas the EAGGF Committee has been consulted on the financial aspects and in particular as to the funds available,

HAS ADOPTED THIS DECISION:

Article 1

The contribution by the Guidance Section of the European Agricultural Guidance and Guarantee Fund

towards the expenditure incurred by the French Republic during 1979 on aids and premiums relating to the modernization of farms including those in the less-favoured farming areas, is hereby fixed at FF 49 208 447·43.

Article 2

The amount referred to in Article 1 shall be paid provided that a thorough examination of the application for reimbursement does not give rise to any change in the amount for reimbursement.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 22 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 22 December 1980

on the reimbursement by the Guidance Section of the EAGGF to the Italian Republic of expenditure incurred during 1978 on aids relating to the provision of socio-economic guidance for and the acquisition of occupational skills by persons engaged in agriculture

(Only the Italian text is authentic)

(80/1290/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 72/161/EEC of 17 April 1972 concerning the provision of socio-economic guidance for and the acquisition of occupational skills by persons engaged in agriculture ⁽¹⁾, as last amended by Directive 73/358/EEC ⁽²⁾, and in particular Article 14 (2) thereof,

Whereas the measures taken by the Italian Republic to implement Directive 72/161/EEC were the subject of a favourable Commission Decision pursuant to Article 11 of the said Directive;

Whereas the Italian Republic has made an application for reimbursement of expenditure incurred on aids granted during 1978 for the provision of socio-economic guidance for and the acquisition of occupational skills by persons engaged in agriculture; whereas the application is complete and has been submitted in due form and in accordance with the requirements of Commission Decision 74/581/EEC of 16 October 1974 concerning applications for reimbursement in respect of aid granted by the Member States pursuant to Directives 72/159/EEC, 72/160/EEC and 72/161/EEC ⁽³⁾, and also with the payments on account which can be agreed, as last amended by Commission Decision 80/427/EEC of 28 March 1980 ⁽⁴⁾;

Whereas an examination of the information provided shows that eligible expenditure of Lit 1 706 539 840 broken down as follows:

- under Title I: Lit 241 631 840,
- under Title II: Lit 1 464 908 000,

has been incurred under the conditions laid down in Directive 72/161/EEC; whereas the Guidance Section of

the European Agricultural Guidance and Guarantee Fund should therefore reimburse 25 % thereof, i.e. Lit 426 634 960;

Whereas a payment on account of Lit 323 463 720 has been granted in application of Article 14 (3) of Directive 72/161/EEC and of Article 4 (1) of Decision 74/581/EEC; whereas a balance of Lit 103 171 240 should therefore be granted to the Member State;

Whereas the EAGGF Committee has been consulted on the financial aspects and in particular as to the funds available,

HAS ADOPTED THIS DECISION:

Article 1

The final contribution by the Guidance Section of the European Agricultural Guidance and Guarantee Fund towards the expenditure incurred by the Italian Republic during 1978 in respect of aids relating to the provision of socio-economic guidance for and the acquisition of occupational skills by persons engaged in agriculture shall be Lit 426 634 960.

The balance of the contribution, i.e. Lit 103 171 240 shall be paid to the Italian Republic.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 22 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 96, 23. 4. 1972, p. 15.

⁽²⁾ OJ No L 326, 27. 11. 1973, p. 17.

⁽³⁾ OJ No L 320, 29. 11. 1974, p. 1.

⁽⁴⁾ OJ No L 102, 19. 4. 1980, p. 24.

COMMISSION DECISION

of 22 December 1980

on the reimbursement by the Guidance Section of the EAGGF to the Italian Republic of expenditure incurred during 1978 on aids and premiums relating to the modernization of farms

(Only the Italian text is authentic)

(80/1291/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 72/159/EEC of 17 April 1972 on the modernization of farms ⁽¹⁾, as last amended by Directive 80/370/EEC ⁽²⁾, and in particular Article 21 (2) thereof,

Whereas the measures taken by the Italian Republic to implement Directive 72/159/EEC were the subject of a favourable Commission Decision pursuant to Article 18 of the said Directive;

Whereas the Italian Republic has made an application for reimbursement of expenditure incurred during 1978 on aids and premiums relating to the modernization of farms; whereas this application is complete and has been submitted in due form and in accordance with the requirements of Commission Decision 74/581/EEC of 16 October 1974 concerning applications for reimbursement in respect of aid granted by the Member States pursuant to Directives 72/159/EEC, 72/160/EEC and 72/161/EEC ⁽³⁾, and also with the payments on account which can be agreed, as last amended by Commission Decision 80/427/EEC of 28 March 1980 ⁽⁴⁾;

Whereas an examination of the information provided shows that eligible expenditure of Lit 3 998 131 906 broken down as follows:

- under Article 8: Lit 1 003 501 500,
- under Article 10: Lit 214 324 138,
- under Article 11: Lit 2 547 224 843,
- under Article 12: Lit 233 081 425,
- under Article 13: —

has been incurred under the conditions laid down in Directive 72/159/EEC; whereas the Guidance Section of

the European Agricultural Guidance and Guarantee Fund should therefore reimburse 25 % thereof, i.e. Lit 999 532 976;

Whereas a payment on account of Lit 841 215 168 has been granted in application of Article 21 (3) of Directive 72/159/EEC and of Article 4 (1) of Decision 74/581/EEC; whereas a balance of Lit 158 317 808 should therefore be granted to the Member State;

Whereas the EAGGF Committee has been consulted on the financial aspects and in particular as to the funds available,

HAS ADOPTED THIS DECISION:

Article 1

The final contribution by the Guidance Section of the European Agricultural Guidance and Guarantee Fund towards the expenditure incurred by the Italian Republic during 1978 in respect of aid and premiums relating to the modernization of farms shall be Lit 999 532 976.

The balance of the contribution, i.e. Lit 158 317 808 shall be paid to the Italian Republic.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 22 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 96, 23. 4. 1972, p. 1.

⁽²⁾ OJ No L 90, 3. 4. 1980, p. 43.

⁽³⁾ OJ No L 320, 29. 11. 1974, p. 1.

⁽⁴⁾ OJ No L 102, 19. 4. 1980, p. 24.

COMMISSION DECISION

of 22 December 1980

on the reimbursement by the Guidance Section of the EAGGF to the Italian Republic of expenditure incurred during 1979 on aids and premiums relating to the modernization of farms, including those in the less-favoured farming areas

(Only the Italian text is authentic)

(80/1292/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 72/159/EEC of 17 April 1972 on the modernization of farms ⁽¹⁾, as last amended by Directive 80/370/EEC ⁽²⁾, and in particular Article 21 (3) thereof,

Having regard to Council Directive 75/268/EEC of 28 April 1975 on mountain and hill farming and farming in certain less-favoured areas ⁽³⁾, as last amended by Directive 80/666/EEC ⁽⁴⁾, and in particular Article 13 thereof,

Whereas the measures taken by the Italian Republic to implement Directives 72/159/EEC and 75/268/EEC were the subject of favourable Commission Decisions pursuant to Article 18 of Directive 72/159 and to Article 13 of Directive 75/268/EEC;

Whereas Commission Decision 76/627/EEC of 25 June 1976 concerning applications for reimbursement in respect of aids granted by the Member States pursuant

to Directive 75/268/EEC ⁽⁵⁾, lays down in Article 2 that applications for reimbursement concerning Title III of Directive 75/268/EEC are to be submitted along with applications for reimbursement of expenditure on Directive 72/159/EEC, under the provisions laid down in Commission Decision 74/581/EEC of 16 October 1974 concerning applications for reimbursement in respect of aid granted by the Member States pursuant to Directives 72/159/EEC, 72/160/EEC and 72/161/EEC ⁽⁶⁾, as last amended by Commission Decision 80/427/EEC of 28 March 1980 ⁽⁷⁾;

Whereas Commission Decision 74/581/EEC lays down in Article 4 (1) that the Commission, acting on the basis of particulars contained in the application for reimbursement, is to reimburse up to the full amount requested;

Whereas the application for reimbursement lodged by the Italian Republic in respect of aid and premiums granted during 1979 for the modernization of farms, including those in the less-favoured areas, is complete and has been submitted in due form in accordance with the provisions of Decision 74/581/EEC; whereas the total amount of expenditure declared eligible for the year 1979 comes to Lit 4 717 001 813, broken down as follows:

	Ordinary farming areas	Less-favoured farming areas (Title III)
under Article 8	Lit 232 317 252	Lit 1 183 677 934
under Article 10	Lit 171 965 781	Lit 178 415 865
under Article 11	Lit 2 925 692 936	—
under Article 12	Lit 24 932 045	—
under Article 13	—	—

⁽¹⁾ OJ No L 96, 23. 4. 1972, p. 1.

⁽²⁾ OJ No L 90, 3. 4. 1980, p. 43.

⁽³⁾ OJ No L 128, 19. 5. 1975, p. 1.

⁽⁴⁾ OJ No L 180, 14. 7. 1980, p. 34.

⁽⁵⁾ OJ No L 222, 14. 8. 1976, p. 37.

⁽⁶⁾ OJ No L 320, 29. 11. 1974, p. 1.

⁽⁷⁾ OJ No L 102, 19. 4. 1980, p. 24.

whereas the total amount of the reimbursement requested comes to Lit 1 179 250 453;

Whereas there are no immediate objections to the application as regards the accuracy of the particulars which it contains or compliance of the expenditure incurred with the provisions in force; whereas, therefore, the Guidance Section of the European Agricultural Guidance and Guarantee Fund should reimburse 25 % of the declared expenditure, i.e. a total of Lit 1 179 250 453 (as requested);

Whereas Commission Decision 74/581/EEC lays down in Article 4 (2) that where an examination of the application for reimbursement shows that the amount specified is not that which is actually due, the situation is to be regularized in accordance with the procedure laid down in the same Article of the said Decision;

Whereas the EAGGF Committee has been consulted on the financial aspects and in particular as to the funds available,

HAS ADOPTED THIS DECISION:

Article 1

The contribution by the Guidance Section of the European Agricultural Guidance and Guarantee Fund

towards the expenditure incurred by the Italian Republic during 1979 on aids and premiums relating to the modernization of farms including those in the less-favoured farming areas, is hereby fixed at Lit 1 179 250 453.

Article 2

The amount referred to in Article 1 shall be paid provided that a thorough examination of the application for reimbursement does not give rise to any change in the amount for reimbursement.

Article 3

This Decision is addressed to the Italian Republic.

Done at Brussels, 22 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 22 December 1980

on the reimbursement by the Guidance Section of the EAGGF to the Italian Republic of expenditure incurred during 1979 on aid for the less-favoured farming areas

(Only the Italian text is authentic)

(80/1293/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 75/268/EEC of 28 April 1975 on mountain and hill farming and farming in certain less-favoured areas⁽¹⁾, as last amended by Directive 80/666/EEC⁽²⁾, and in particular Article 13 thereof,

Having regard to Council Directive 72/159/EEC of 17 April 1972 on the modernization of farms⁽³⁾, as last amended by Directive 80/370/EEC⁽⁴⁾, and in particular Article 21 (3) thereof,

Whereas the measures taken by the Italian Republic to implement Directive 75/268/EEC were the subject of a favourable Commission Decision pursuant to Article 13 of the said Directive and to Article 18 of Directive 72/159/EEC;

Whereas Commission Decision 76/627/EEC of 25 June 1976 concerning applications for reimbursement in respect of aid granted by Member States pursuant to Directive 75/268/EEC⁽⁵⁾, as last amended by Commission Decision 80/427/EEC of 28 March 1980⁽⁶⁾, lays down in Article 5 (1) that the Commission, acting on the basis of the particulars contained in the application for reimbursement, shall reimburse up to the full amount requested;

Whereas the application for reimbursement lodged by the Italian Republic in respect of aid granted during 1979 for the less-favoured farming areas is complete and has been submitted in due form in accordance with Decision 76/627/EEC; whereas the total amount of expenditure declared eligible for the year 1979 comes to Lit 12 477 612 106, broken down as follows:

— under Title II: Lit 10 361 568 321,

— under Title IV: Lit 2 116 043 785;

whereas the total amount of reimbursement requested comes to Lit 4 155 559 857;

Whereas there are no immediate objections to the application as regards the accuracy of the particulars which it contains or compliance of the expenditure incurred with the provisions in force; whereas, therefore, the Guidance Section of the European Agricultural Guidance and Guarantee Fund should reimburse 35 % of the declared expenditure under Title II and 25 % of the declared expenditure under Title IV, i.e. a total of Lit 4 155 559 857 (as requested);

Whereas Decision 76/627/EEC lays down in Article 2 that applications for reimbursement concerning Title III of Directive 75/268/EEC are to be submitted along with applications for reimbursement of expenditure on Directive 72/159/EEC;

Whereas Commission Decision 76/627/EEC lays down in Article 5 (2) that where an examination of the application for reimbursement shows that the amount specified is not that which is actually due, the situation is to be regularized in accordance with the procedure laid down in the same Article of the said Decision;

Whereas the EAGGF Committee has been consulted on the financial aspects and in particular as to the funds available,

HAS ADOPTED THIS DECISION:

Article 1

The contribution by the Guidance Section of the European Agricultural Guidance and Guarantee Fund towards the expenditure incurred by the Italian

(¹) OJ No L 128, 19. 5. 1975, p. 1.

(²) OJ No L 180, 14. 7. 1980, p. 34.

(³) OJ No L 96, 23. 4. 1972, p. 1.

(⁴) OJ No L 90, 3. 4. 1980, p. 43.

(⁵) OJ No L 222, 14. 8. 1976, p. 37.

(⁶) OJ No L 102, 19. 4. 1980, p. 24.

Republic during 1979 on aid for the less-favoured farming areas is hereby fixed at Lit 4 155 559 857.

Article 3

This Decision is addressed to the Italian Republic.

Article 2

Done at Brussels, 22 December 1980.

The amount referred to in Article 1 shall be paid provided that a thorough examination of the application for reimbursement leads to no change in the amount to be reimbursed.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 22 December 1980

on the reimbursement by the Guidance Section of the EAGGF to the Kingdom of the Netherlands of expenditure incurred during 1978 on aids and premiums relating to the modernization of farms

(Only the Dutch text is authentic)

(80/1294/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 72/159/EEC of 17 April 1972 on the modernization of farms ⁽¹⁾, as last amended by Directive 80/370/EEC ⁽²⁾, and in particular Article 21 (2) thereof,

Whereas the measures taken by the Kingdom of the Netherlands to implement Directive 72/159/EEC were the subject of a favourable Commission Decision pursuant to Article 18 of the said Directive;

Whereas the Kingdom of the Netherlands has made an application for reimbursement of expenditure incurred during 1978 on aids and premiums relating to the modernization of farms; whereas this application is complete and has been submitted in due form and in accordance with the requirements of Commission Decision 74/581/EEC of 16 October 1974 concerning applications for reimbursement in respect of aid granted by the Member States pursuant to Directives 72/159/EEC, 72/160/EEC and 72/161/EEC ⁽³⁾ and also with the payments on account which can be agreed, as last amended by Commission Decision 80/427/EEC of 28 March 1980 ⁽⁴⁾;

Whereas an examination of the information provided shows that eligible expenditure of Fl 76 472 114.64 broken down as follows:

- under Article 8: Fl 61 066 778.38,
- under Article 10: Fl 162 339.18,
- under Article 11: —
- under Article 12: Fl 2 289 418.00,
- under Article 13: Fl 12 953 579.08,

has been incurred under the conditions laid down in Directive 72/159/EEC; whereas the Guidance Section of

the European Agricultural Guidance and Guarantee Fund should therefore reimburse 25 % thereof, i.e. Fl 19 118 028.66;

Whereas a payment on account of Fl 14 343 265.78 has been granted in application of Article 21 (3) of Directive 72/159/EEC and of Article 4 (1) of Decision 74/581/EEC; whereas a balance of Fl 4 774 762.88 should therefore be granted to the Member State;

Whereas the EAGGF Committee has been consulted on the financial aspects and in particular as to the funds available,

HAS ADOPTED THIS DECISION:

Article 1

The final contribution by the Guidance Section of the European Agricultural Guidance and Guarantee Fund towards the expenditure incurred by the Kingdom of the Netherlands during 1978 in respect of aid and premiums relating to the modernization of farms shall be Fl 19 118 028.66.

The balance of the contribution, i.e. Fl 4 774 762.88 shall be paid to the Kingdom of the Netherlands.

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 22 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 96, 23. 4. 1972, p. 1.

⁽²⁾ OJ No L 90, 3. 4. 1980, p. 43.

⁽³⁾ OJ No L 320, 29. 11. 1974, p. 1.

⁽⁴⁾ OJ No L 102, 19. 4. 1980, p. 24.

COMMISSION DECISION

of 22 December 1980

on the reimbursement by the Guidance Section of the EAGGF to the Kingdom of the Netherlands of aids granted during 1978 to organizations of fruit and vegetable producers

(Only the Dutch text is authentic)

(80/1295/EEC)

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 Council Regulation (EEC) No 1367/80 ⁽²⁾, and in particular Article 36 thereof,

Having regard to Council Regulation (EEC) No 449/69 of 11 March 1969 on the reimbursement of aid granted by Member States to organizations of fruit and vegetable producers ⁽³⁾, and in particular Article 7 ⁽²⁾ thereof,

Whereas the Kingdom of the Netherlands has made an application for reimbursement in respect of aid granted during 1978 to organizations of fruit and vegetable producers;

Whereas this application is in accordance with the provisions of Commission Regulation (EEC) No 2264/69 of 13 November 1969 on applications for reimbursement of aid granted by Member States to organizations of fruit and vegetable producers ⁽⁴⁾, as last amended by Commission Regulation (EEC) No 850/80 of 31 March 1980 ⁽⁵⁾;

Whereas an examination of the information provided shows that aid of Fl 599 167.84 was granted under the conditions laid down in Articles 2 to 6 of Regulation

(EEC) No 449/69; whereas the Guidance Section of the Fund should therefore reimburse 50 % thereof, i.e. Fl 299 583.92;

Whereas the Fund Committee has been consulted on the financial aspects and in particular as to the funds available,

HAS ADOPTED THIS DECISION:

Article 1

The contribution by the Guidance Section of the European Agricultural Guidance and Guarantee Fund towards the aid granted by the Kingdom of the Netherlands to organizations of fruit and vegetable producers during 1978 shall be Fl 299 583.92.

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 22 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 140, 5. 6. 1980, p. 24.

⁽³⁾ OJ No L 61, 12. 3. 1969, p. 2.

⁽⁴⁾ OJ No L 287, 15. 11. 1969, p. 3.

⁽⁵⁾ OJ No L 92, 9. 4. 1980, p. 5.

COMMISSION DECISION

of 22 December 1980

on the reimbursement by the Guidance Section of the EAGGF to the Kingdom of the Netherlands of expenditure incurred during 1979 on annuities relating to measures to encourage the cessation of farming and the reallocation of utilized agricultural area for the purpose of structural improvement

(Only the Dutch text is authentic)

(80/1296/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 72/160/EEC of 17 April 1972 concerning measures to encourage the cessation of farming and the reallocation of utilized agricultural area for the purpose of structural improvement ⁽¹⁾, as last amended by Directive 73/358/EEC ⁽²⁾, and in particular Article 12 (3) thereof,

Whereas the measures taken by the Kingdom of the Netherlands to implement Directive 72/160/EEC were the subject of a favourable Commission Decision pursuant to Article 9 of the said Directive;

Whereas Commission Decision 74/581/EEC of 16 October 1974 concerning applications for reimbursement in respect of aid granted by the Member States pursuant to Directives 72/159/EEC, 72/160/EEC and 72/161/EEC ⁽³⁾, as last amended by Commission Decision 80/427/EEC of 28 March 1980 ⁽⁴⁾, lays down in Article 4 (1) that the Commission, acting on the basis of the particulars contained in the applications for reimbursement, is to reimburse up to the full amount requested;

Whereas the application for reimbursement lodged by the Kingdom of the Netherlands in respect of expenditure incurred during 1979 on measures to encourage the cessation of farming and the reallocation of utilized agricultural area for the purpose of structural improvement is complete and has been submitted in due form in accordance with the provisions of Decision 74/581/EEC; whereas the total amount of expenditure declared eligible for the year 1979 comes to Fl 88 344.51;

Whereas the total amount of the reimbursement requested comes to Fl 22 086.12;

Whereas examination of this application for reimbursement as to the accuracy of the particulars which it contains and compliance of the expenditure incurred with the provisions in force shows that annuities exceeding the maximum amount prescribed in Article 2 (1) (a) of Directive 72/160/EEC, have been included in the expenditure declared eligible; whereas for the purpose of calculating the reimbursement, 10 %, i.e. Fl 8 834.45, should therefore be deducted from the expenditure declared; whereas the total amount of expenditure thus regularized to be taken into consideration for reimbursement amounts to Fl 79 510.06;

Whereas the Member State has been consulted on this aspect; whereas the Guidance Section of the European Agricultural Guidance and Guarantee Fund should therefore reimburse 25 % of the expenditure thus regularized, i.e. a total of Fl 19 877.51;

Whereas Commission Decision 74/581/EEC lays down in Article 4 (2) that where an examination of the application for reimbursement shows that the amount specified is not that which is actually due, the situation is to be regularized in accordance with the procedure laid down in the same Article of the said Decision;

Whereas the EAGGF Committee has been consulted on the financial aspects and in particular as to the funds available,

HAS ADOPTED THIS DECISION:

Article 1

The contribution by the Guidance Section of the European Agricultural Guidance and Guarantee Fund

(1) OJ No L 96, 23. 4. 1972, p. 9.

(2) OJ No L 326, 27. 11. 1973, p. 17.

(3) OJ No L 320, 29. 11. 1974, p. 1.

(4) OJ No L 102, 19. 4. 1980, p. 24.

towards the expenditure incurred by the Kingdom of the Netherlands during 1979 on annuities to encourage the cessation of farming and the reallocation of utilized agricultural area for the purpose of structural improvement is hereby fixed at Fl 19 877·51.

Article 2

The amount referred to in Article 1 shall be paid provided that a thorough examination of the application for reimbursement does not give rise to any change in the amount for reimbursement.

Article 3

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 22 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

COMMISSION DECISION

of 22 December 1980

on the reimbursement by the Guidance Section of the EAGGF to the Kingdom of the Netherlands of premiums paid during 1979 for the conversion of dairy herds to meat production

(Only the Dutch text is authentic)

(80/1297/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy ⁽¹⁾, as last amended by Regulation (EEC) No 2788/72 ⁽²⁾, and in particular Article 7 (1) thereof,

Having regard to Council Regulation (EEC) No 1353/73 of 15 May 1973 introducing a premium system for the conversion of dairy cow herds to meat production and a development premium for the specialized raising of cattle for meat production ⁽³⁾, as last amended by Regulation (EEC) No 266/75 ⁽⁴⁾, and in particular Articles 16 (2) and 17 (2) thereof,

Whereas the Kingdom of the Netherlands has made an application for reimbursement in respect of expenditure incurred in respect of premiums granted during 1979;

Whereas this application is in accordance with the provisions of Commission Regulation (EEC) No 2641/74 of 15 October 1974 concerning applications for the refund by the Guidance Section of the EAGGF of premiums for the conversion of dairy herds to meat production and of development premiums for the specialized raising of cattle for meat production ⁽⁵⁾;

Whereas an examination of the information provided shows that eligible premiums amounting to Fl 30 242·26 were paid under the conditions laid down in

Articles 1 to 4 of Regulation (EEC) No 1353/73 and its detailed rules of application; whereas the Guidance Section of the European Agricultural Guidance and Guarantee Fund should therefore reimburse 50 % thereof, i.e. Fl 15 121·13;

Whereas the EAGGF Committee has been consulted on the financial aspects and in particular as to the funds available,

HAS ADOPTED THIS DECISION:

Article 1

The contribution by the Guidance Section of the European Agricultural Guidance and Guarantee Fund towards the expenditure incurred by the Kingdom of the Netherlands during 1979 on premiums for the conversion of dairy herds to meat production and of development premiums for the specialized raising of cattle for meat production shall be Fl 15 121·13.

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 22 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽²⁾ OJ No L 295, 30. 12. 1972, p. 1.

⁽³⁾ OJ No L 141, 28. 5. 1973, p. 18.

⁽⁴⁾ OJ No L 30, 4. 2. 1975, p. 1.

⁽⁵⁾ OJ No L 283, 19. 10. 1974, p. 5.

COMMISSION DECISION

of 23 December 1980

on health protection measures in respect of Bundesland Tyrol, Austria

(80/1298/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine animals and swine and fresh meat from third countries ⁽¹⁾, as last amended by Directive 77/98/EEC ⁽²⁾, and in particular Articles 7 and 15 thereof,

Whereas it is laid down in Articles 6 and 14 of Directive 72/462/EEC that Member States shall not authorize importation of swine or fresh meat of swine from third countries which have not been free from contagious porcine paralysis (Teschen disease) for the last 12 months and where vaccination against contagious porcine paralysis (Teschen disease) has taken place in the preceding 12 months;

Whereas it has been established that contagious porcine paralysis (Teschen disease) occurs in Bundesland Tyrol, Austria, and that vaccination against that disease is permitted in that Bundesland;

Whereas Articles 7 and 15 of Directive 72/462/EEC provide that the prohibitions laid down in Articles 6 and 14 of the said Directive can be limited to a part of the territory of a third country;

Whereas with the exception of Bundesland Tyrol, the remainder of Austria has been free of the disease for the last 12 months and vaccination against the disease has not taken place there in the preceding 12 months;

Whereas the central veterinary authorities of Austria have given satisfactory assurances that swine which have at any time been in Bundesland Tyrol or fresh meat of such swine will not be exported to the Community;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

The prohibition provided for in Article 6 (a) and (b) of Directive 72/462/EEC, in respect of contagious porcine paralysis (Teschen disease), shall only apply to Bundesland Tyrol.

Article 2

The prohibition provided for in Article 14 (2) (a) and (b) of Directive 72/462/EEC, in respect of contagious porcine paralysis (Teschen disease), shall only apply to Bundesland Tyrol.

Article 3

This Decision shall apply with effect from 1 January 1981.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 23 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 302, 31. 12. 1972, p. 28.

⁽²⁾ OJ No L 26, 31. 1. 1977, p. 81.

COMMISSION DECISION

of 23 December 1980

amending Decision 79/277/EEC as regards animal health conditions governing the import
of masseter muscles from Argentina, Brazil, Uruguay and Paraguay

(80/1299/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Directive 72/462/EEC of
12 December 1972 on health and veterinary inspection
problems upon importation of bovine animals and
swine and fresh meat from third countries ⁽¹⁾, as last
amended by Directive 77/98/EEC ⁽²⁾, and in particular
Articles 16 and 28 thereof,

Whereas animal health conditions concerning imports
of fresh meat from Argentina, Brazil and Uruguay were
laid down by Commission Decisions 78/693/EEC,
78/694/EEC and 78/695/EEC ⁽³⁾ respectively, as
amended by Decision 79/18/EEC ⁽⁴⁾, and from
Paraguay by Commission Decision 79/238/EEC ⁽⁵⁾;

Whereas difficulties exist in the application of Article 20
(k) of Directive 72/462/EEC which have still to be
resolved; whereas, in order not to disrupt existing trade
patterns, Member States should be allowed, on a
temporary basis, to continue to authorize imports of
whole masseter muscles of bovine animals;

Whereas Commission Decisions 79/277/EEC ⁽⁶⁾ and
79/654/EEC ⁽⁷⁾ and Council Decision 80/377/EEC ⁽⁸⁾
provide for such temporary authorizations; whereas a

further period is necessary to resolve the difficulties
referred to above; whereas the Commission has made
the necessary proposals;

Whereas the measures provided for in this Decision are
in accordance with the opinion of the Standing
Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

In Articles 1, 2, 3 and 4 of Decision 79/277/EEC,
'31 December 1980' is hereby replaced by '31
December 1981'.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 23 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 302, 31. 12. 1972, p. 28.

⁽²⁾ OJ No L 26, 31. 1. 1977, p. 81.

⁽³⁾ OJ No L 236, 28. 8. 1978, pp. 19, 29 and 37.

⁽⁴⁾ OJ No L 7, 11. 1. 1979, p. 31.

⁽⁵⁾ OJ No L 53, 3. 3. 1979, p. 33.

⁽⁶⁾ OJ No L 65, 15. 3. 1979, p. 32.

⁽⁷⁾ OJ No L 186, 24. 7. 1979, p. 42.

⁽⁸⁾ OJ No L 93, 10. 4. 1980, p. 24.

COMMISSION DECISION

of 23 December 1980

concerning health protection measures with regard to imports of certain fresh meat from the
State of Rio Grande do Sul, Brazil

(80/1300/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine animals and swine and fresh meat from third countries ⁽¹⁾, as last amended by Directive 77/98/EEC ⁽²⁾, and in particular Articles 16 and 28 thereof,

Whereas the health conditions and health certificates required on imports of fresh meat from Brazil were laid down by Commission Decision 78/694/EEC ⁽³⁾, as last amended by Decision 79/690/EEC ⁽⁴⁾, notably on account of the situation with regard to foot and mouth disease then existing in Brazil;

Whereas, because a large number of outbreaks of foot and mouth disease occurred in the State of Rio Grande do Sul, Brazil, it was necessary to suspend by Commission Decision 80/798/EEC ⁽⁵⁾, the authorization of imports of certain fresh meat from that State until 30 September 1980; whereas this suspension was extended until 31 December 1980 by Commission Decision 80/960/EEC ⁽⁶⁾;

Whereas this suspension can now be revoked, following an improvement in the situation; whereas, however, the meat produced during and prior to the suspension period, because of animal health risks, should not be

authorized by Member States for import into the Community;

Whereas the measures provided for by this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

1. The suspension of authorization of imports of fresh meat of bovine animals from the State of Rio Grande do Sul, Brazil is hereby revoked.

2. Nevertheless the authorization of the imports of fresh meat produced or originating in Rio Grande do Sul prior to 1 January 1981 shall continue to be suspended.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 23 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 302, 31. 12. 1972, p. 28.

⁽²⁾ OJ No L 26, 31. 1. 1977, p. 81.

⁽³⁾ OJ No L 236, 26. 8. 1978, p. 29.

⁽⁴⁾ OJ No L 201, 9. 8. 1979, p. 34.

⁽⁵⁾ OJ No L 234, 5. 9. 1980, p. 34.

⁽⁶⁾ OJ No L 269, 14. 10. 1980, p. 14.

COMMISSION DECISION

of 23 December 1980

authorizing the United Kingdom not to apply Community treatment to men's and boys' woven suits originating in Bulgaria

(Only the English text is authentic)

(80/1301/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 Commission Decision 80/47/EEC of 20 December 1979 on surveillance and protective measures which Member States may be authorized to take in respect of imports of certain products originating in third countries and put into free circulation in another Member State ⁽¹⁾, and in particular Article 3 thereof,

Whereas on 18 December 1980 a request was made under the first paragraph of Article 115 of the Treaty by the Government of the United Kingdom to the Commission of the European Communities for authorization not to apply Community treatment to men's and boys' woven suits falling within subheading 61.01 B V of the Common Customs Tariff (category 16), originating in the other Member States;

Whereas the importation into the Community of the products in question, originating in Bulgaria, is covered by an Agreement negotiated between the Community and that country; whereas under that Agreement Bulgaria has undertaken to take all necessary steps to limit its exports of the products in question to the Community to within certain ceilings;

Whereas in order to implement that Agreement and take account of its characteristics, the Council adopted Regulation (EEC) No 3059/78 ⁽²⁾, as last amended by Commission Regulation (EEC) No 3063/79 ⁽³⁾, introducing specific common rules for imports of certain textile products;

Whereas the differences in market conditions within the Community and the particular sensitivity of this branch of Community industry have been taken into account in allocating the abovementioned Community ceilings between the Member States;

Whereas for this reason disparities still exist between the conditions governing the importation of the products in question into the different Member States; whereas uniformity can only be brought about gradually;

Whereas these disparities in the commercial policy measures applied by the Member States have resulted in deflections of trade, in that since 1 January 1980 the United Kingdom has admitted the products in question in free circulation, originating in the said third country which amount to approximately 62.5 % of the direct quota;

Whereas information has been received by the Commission indicating that total imports of the products in question originating in third countries have increased from 1 538 000 pieces in 1978 to 1 891 000 pieces in 1979; whereas the market share taken by those imports has risen from 28 % in 1978 to 34 % in 1979;

Whereas the prices of the products in question originating in Bulgaria are approximately 60 % below the prices of like products manufactured in the United Kingdom;

Whereas output of like products in the United Kingdom has fallen from 3 800 000 pieces in 1978 to 3 400 000 pieces in 1979; whereas the domestic industry's share of the home market has fallen from 60.5 % in 1978 to 52.5 % in 1979;

Whereas further indirect imports, in addition to those already admitted would be likely to aggravate these difficulties and jeopardize the aims of the abovementioned commercial policy measures;

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

⁽¹⁾ OJ No L 16, 22. 1. 1980, p. 14.

⁽²⁾ OJ No L 365, 27. 12. 1978, p. 1.

⁽³⁾ OJ No L 347, 31. 12. 1979, p. 1.

Whereas authorization should accordingly be given for the application of protective measures under the first paragraph of Article 115, subject to the conditions laid down in Decision 80/47/EEC, and in particular Article 3 thereof;

Whereas applications for import documents are duly pending with the authorities of the Member States having made the request; whereas these applications need to be covered by such authorization,

HAS ADOPTED THIS DECISION:

Article 1

The United Kingdom is authorized not to apply Community treatment to the products indicated below, originating in Bulgaria and in free circulation in the other Member States in respect of which applications for import licences were lodged after 14 December 1980:

CCT heading No	Description
61.01 B V (NIMEXE code 61.01-51, 54, 57) (category 16)	Men's and boys' woven suits (including coordinate suits consisting of two or three pieces, which are ordered, packed, consigned, and normally sold together) of wool, of cotton or of man-made textile fibres, excluding ski suits.

Article 2

Done at Brussels, 23 December 1980.

This Decision shall apply until new opportunities arise in the United Kingdom for the importation of the products in question originating in Bulgaria or until 31 December 1980 whichever is the earlier.

Article 3

This Decision is addressed to the United Kingdom.

For the Commission

Étienne DAVIGNON

Member of the Commission

COMMISSION DECISION

of 23 December 1980

fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EEC) No 3024/80

(80/1302/EEC)

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 1870/80⁽²⁾,

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⁾, and in particular Article 5 thereof,

Whereas an invitation to tender for the levy and/or refund for the export of common wheat was issued under Commission Regulation (EEC) No 3024/80⁽⁴⁾;

Whereas, pursuant to Article 5 of Commission Regulation (EEC) No 279/75⁽⁵⁾, as amended by Regulation (EEC) No 2944/78⁽⁶⁾, the Commission, acting under the procedure laid down in Article 26 of Regulation (EEC) No 2727/75, may decide to fix a maximum export refund; whereas in fixing this maximum the criteria provided for in Articles 2 and 3 of Regulation (EEC) No 2746/75 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund;

Whereas the application of the abovementioned criteria to the current market situation for the cereal in question

results in the maximum export refund being fixed at the amount specified in Article 1;

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

HAS ADOPTED THIS DECISION:

Article 1

The maximum export refund on common wheat to be exported pursuant to the invitation to tender for the export of common wheat issued in Regulation (EEC) No 3024/80 is hereby fixed on the basis of the tenders submitted by 23 December 1980 at 45.10 ECU per tonne.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 23 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 184, 17. 7. 1980, p. 1.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No L 317, 25. 11. 1980, p. 12.

⁽⁵⁾ OJ No L 31, 5. 2. 1975, p. 8.

⁽⁶⁾ OJ No L 351, 15. 12. 1978, p. 16.

COMMISSION DECISION

of 23 December 1980

fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EEC) No 3026/80

(80/1303/EEC)

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 1870/80⁽²⁾,

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⁾, and in particular Article 5 thereof,

Whereas an invitation to tender for the levy and/or refund for the export of common wheat was issued under Commission Regulation (EEC) No 3026/80⁽⁴⁾;

Whereas, pursuant to Article 5 of Commission Regulation (EEC) No 279/75⁽⁵⁾, as amended by Regulation (EEC) No 2944/78⁽⁶⁾, the Commission, acting under the procedure laid down in Article 26 of Regulation (EEC) No 2727/75, may decide to fix a maximum export refund; whereas in fixing this maximum the criteria provided for in Articles 2 and 3 of Regulation (EEC) No 2746/75 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund;

Whereas the application of the abovementioned criteria to the current market situation for the cereal in question

results in the maximum export refund being fixed at the amount specified in Article 1;

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

HAS ADOPTED THIS DECISION:

Article 1

The maximum export refund on common wheat to be exported pursuant to the invitation to tender for the export of common wheat issued in Regulation (EEC) No 3026/80 is hereby fixed on the basis of the tenders submitted by 23 December 1980 at 45.10 ECU per tonne.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 23 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 184, 17. 7. 1980, p. 1.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No L 317, 25. 11. 1980, p. 18.

⁽⁵⁾ OJ No L 31, 5. 2. 1975, p. 8.

⁽⁶⁾ OJ No L 351, 15. 12. 1978, p. 16.

COMMISSION DECISION

of 23 December 1980

fixing the maximum export refund on barley in connection with the invitation to tender
issued in Regulation (EEC) No 3023/80

(80/1304/EEC)

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 1870/80 ⁽²⁾.

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⁾, and in
particular Article 5 thereof,

Whereas an invitation to tender for the levy and/or
refund for the export of barley was issued under
Commission Regulation (EEC) No 3023/80 ⁽⁴⁾;

Whereas, pursuant to Article 5 of Commission
Regulation (EEC) No 279/75 ⁽⁵⁾, as amended by
Regulation (EEC) No 2944/78 ⁽⁶⁾, the Commission,
acting under the procedure laid down in Article 26 of
Regulation (EEC) No 2727/75, may decide to fix a
maximum export refund; whereas in fixing this
maximum the criteria provided for in Articles 2 and 3
of Regulation (EEC) No 2746/75 must be taken into
account; whereas a contract is awarded to any tenderer
whose tender is equal to or less than the maximum
export refund;

Whereas the application of the abovementioned criteria
to the current market situation for the cereal in question

results in the maximum export refund being fixed at the
amount specified in Article 1;

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

HAS ADOPTED THIS DECISION:

Article 1

The maximum export refund on barley to be exported
pursuant to the invitation to tender for the export of
barley issued in Regulation (EEC) No 3023/80 is hereby
fixed on the basis of the tenders submitted by 23
December 1980 at 27.50 ECU per tonne.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 23 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 184, 17. 7. 1980, p. 1.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No L 317, 25. 11. 1980, p. 9.

⁽⁵⁾ OJ No L 31, 5. 2. 1975, p. 8.

⁽⁶⁾ OJ No L 351, 15. 12. 1978, p. 16.

COMMISSION DECISION

of 23 December 1980

fixing the maximum export refund on barley in connection with the invitation to tender
issued in Regulation (EEC) No 3025/80

(80/1305/EEC)

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 1870/80 ⁽²⁾,

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⁾, and in
particular Article 5 thereof,

Whereas an invitation to tender for the export refund
on barley was issued under Commission Regulation
(EEC) No 3025/80 ⁽⁴⁾;

Whereas, pursuant to Article 5 of Commission
Regulation (EEC) No 279/75 ⁽⁵⁾, as amended by
Regulation (EEC) No 2944/78 ⁽⁶⁾, the Commission,
acting under the procedure laid down in Article 26 of
Regulation (EEC) No 2727/75, may decide to fix a
maximum export refund; whereas in fixing this
maximum the criteria provided for in Articles 2 and 3
of Regulation (EEC) No 2746/75 must be taken into
account; whereas a contract is awarded to any tenderer
whose tender is equal to or less than the maximum
export refund;

Whereas the application of the abovementioned criteria
to the current market situation for the cereal in question

results in the maximum export refund being fixed at the
amount specified in Article 1;

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

HAS ADOPTED THIS DECISION:

Article 1

The maximum export refund on barley to be exported
pursuant to the invitation to tender for the export of
barley issued in Regulation (EEC) No 3025/80 is hereby
fixed on the basis of the tenders submitted by 23
December 1980 at 27.50 ECU per tonne.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 23 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 184, 17. 7. 1980, p. 1.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No L 317, 25. 11. 1980, p. 15.

⁽⁵⁾ OJ No L 31, 5. 2. 1975, p. 8.

⁽⁶⁾ OJ No L 351, 15. 12. 1978, p. 16.

COMMISSION DECISION

of 23 December 1980

to take no action on the tenders submitted by 23 December 1980 in response to the invitation to tender for the export of barley issued in Regulation (EEC) No 2868/80

(80/1306/EEC)

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 1870/80⁽²⁾,

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⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 2747/75 of 29 October 1975 laying down general rules to be applied in the event of the cereals market being disturbed⁽⁴⁾, as last amended by Regulation (EEC) No 2560/77⁽⁵⁾, and in particular Article 2 (1) thereof,

Whereas an invitation to tender for the levy and/or refund for the export of barley was issued under Commission Regulation (EEC) No 2868/80⁽⁶⁾;

Whereas Article 5 of Commission Regulation (EEC) No 279/75⁽⁷⁾, as amended by Regulation (EEC) No 2944/78⁽⁸⁾ and Article 5 of Commission Regulation (EEC) No 3130/73⁽⁹⁾, as amended by Regulations (EEC) No 278/75⁽¹⁰⁾ and (EEC) No 771/75⁽¹¹⁾, allows the Commission to decide, in accordance with the procedure laid down in Article 26 of Regulation (EEC) No 2727/75 and on the basis of the tenders submitted, to make no award;

Whereas on the basis of the criteria laid down in Articles 2 and 3 of Regulation (EEC) No 2746/75 and in Article 3 (1) (b) and (d) of Regulation (EEC) No 2747/75 a maximum refund or a minimum levy should not be fixed;

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

HAS ADOPTED THIS DECISION:

Article 1

No action shall be taken on the tenders submitted by 23 December 1980 in response to the invitation to tender for the levy and/or refund for the export of barley issued in Regulation (EEC) No 2868/80.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 23 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

(1) OJ No L 281, 1. 11. 1975, p. 1.

(2) OJ No L 184, 17. 7. 1980, p. 1.

(3) OJ No L 281, 1. 11. 1975, p. 78.

(4) OJ No L 281, 1. 11. 1975, p. 82.

(5) OJ No L 303, 28. 11. 1977, p. 1.

(6) OJ No L 297, 6. 11. 1980, p. 25.

(7) OJ No L 31, 5. 2. 1975, p. 8.

(8) OJ No L 351, 15. 12. 1978, p. 16.

(9) OJ No L 319, 20. 11. 1973, p. 10.

(10) OJ No L 31, 5. 2. 1975, p. 7.

(11) OJ No L 77, 26. 3. 1975, p. 13.

COMMISSION DECISION

of 23 December 1980

fixing the minimum export levy for the 42nd partial invitation to tender for white sugar
issued under Regulation (EEC) No 561/80

(80/1307/EEC)

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 organization of the market in sugar ⁽¹⁾, as last amended by Regulation (EEC) No 1396/78 ⁽²⁾, and in particular Article 17 (5) thereof,

Having regard to Council Regulation (EEC) No 608/72 of 23 March 1972 laying down rules to be applied in case of considerable price rises on the world sugar market ⁽³⁾, and in particular Article 1 (1) thereof,

Whereas Commission Regulation (EEC) No 561/80 of 5 March 1980 on a standing invitation to tender in order to determine levies and/or refunds on exports of white sugar ⁽⁴⁾, as last amended by Regulation (EEC) No 1731/80 ⁽⁵⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 561/80 a minimum export levy shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the 42nd partial invitation to tender, the provisions set out in Article 1 should be adopted;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS DECISION:

Article 1

The minimum export levy for the 42nd partial invitation to tender for white sugar issued under Regulation (EEC) No 561/80 is hereby fixed at 8.979 ECU per 100 kilograms.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 23 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 359, 31. 12. 1974, p. 1.

⁽²⁾ OJ No L 170, 27. 6. 1978, p. 1.

⁽³⁾ OJ No L 75, 28. 3. 1972, p. 5.

⁽⁴⁾ OJ No L 61, 6. 3. 1980, p. 18.

⁽⁵⁾ OJ No L 170, 3. 7. 1980, p. 19.

COMMISSION DECISION

of 23 December 1980

fixing the minimum export levy for the 26th partial invitation to tender for raw beet sugar
issued under Regulation (EEC) No 1216/80

(80/1308/EEC)

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
organization of the market in sugar ⁽¹⁾, as last amended
by Regulation (EEC) No 1396/78 ⁽²⁾, and in particular
Article 17 ⁽⁵⁾ thereof,

Having regard to Council Regulation (EEC) No 608/72
of 23 March 1972 laying down rules to be applied in
case of considerable price rises on the world sugar
market ⁽³⁾, and in particular Article 1 ⁽¹⁾ thereof,

Whereas Commission Regulation (EEC) No 1216/80 of
14 May 1980 on a standing invitation to tender in order
to determine levies and/or refunds on exports of raw
beet sugar ⁽⁴⁾, as amended by Regulation (EEC)
No 1731/80 ⁽⁵⁾, requires partial invitations to tender to
be issued for the export of this sugar;

Whereas, pursuant to Article 9 ⁽¹⁾ of Regulation (EEC)
No 1216/80 an export levy shall be fixed, as the case
may be, account being taken in particular of the state
and foreseeable development of the Community and
world markets in sugar, for the partial invitation to
tender in question;

Whereas, following an examination of the tenders
submitted in response to the 26th partial invitation to
tender, the provisions set out in Article 1 should be
adopted;

Whereas the measures provided for in this Decision are
in accordance with the opinion of the Management
Committee for Sugar,

HAS ADOPTED THIS DECISION:

Article 1

The minimum export levy for the 26th partial invitation
to tender for raw beet sugar issued under Regulation
(EEC) No 1216/80 is hereby fixed at 13·430 ECU per
100 kilograms.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 23 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 359, 31. 12. 1974, p. 1.

⁽²⁾ OJ No L 170, 27. 6. 1978, p. 1.

⁽³⁾ OJ No L 75, 28. 3. 1972, p. 5.

⁽⁴⁾ OJ No L 122, 15. 5. 1980, p. 29.

⁽⁵⁾ OJ No L 170, 3. 7. 1980, p. 19.

COMMISSION DECISION

of 29 December 1980

opening a standing invitation to tender for the export of 300 000 tonnes of barley held by
the German intervention agency

(Only the German text is authentic)

(80/1309/EEC)

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 1870/80 ⁽²⁾, and in
particular Article 7 (5) thereof,

Whereas Article 3 of Council Regulation (EEC)
No 2738/78 of 29 October 1975 laying down general
rules for intervention on the market in cereals ⁽³⁾
provides that cereals held by the intervention agencies
shall be disposed of by invitation to tender;

Whereas Commission Regulation (EEC) No 376/70 of
27 February 1970 ⁽⁴⁾ lays down the procedure and
conditions for the disposal of cereals held by
intervention agencies;

Whereas the Federal Republic of Germany in a
communication dated 27 November 1980, advised the
Commission of its wish to put up for sale for export to
non-member countries 300 000 tonnes of barley which
its intervention agency holds in store;

Whereas, in view of the intervention stock levels within
the Community the proposed operation seems
particularly appropriate;

Whereas the 300 000 tonnes of barley to be put up for
sale by tender are to be exported from the points of
departure for which tenders are to be made by
tenderers; whereas a certain proportion of the said
quantity is stored in other places; whereas the German
intervention agency, in order to place all participants in
the intervention to tender on the same footing, must
undertake the sale at uniform prices, and for that

purpose, it should take over the cost of transport from
the place of storage to the points of departure
determined;

Whereas under Article 5 (5) of Commission Regulation
(EEC) No 376/70 it may be provided that a tender shall
only be valid if it is accompanied by an application for
an export licence and by an application for advance
fixing of the refund for the destination in question;
whereas the intention of this provision is to facilitate
assessment of the tender;

Whereas, in order to ensure that the tenders are made in
good faith and to guarantee the smooth running of the
proposed operation in existing market conditions, it is
necessary to provide for a special security; whereas, for
the same reasons, the security must be released only on
provision of proof of the arrival of the goods at their
destination;

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

HAS ADOPTED THIS DECISION:

Article 1

The German intervention agency may, on the following
conditions, open a standing invitation to tender for the
export of barley held by it.

Article 2

1. The invitation to tender shall cover a maximum of
300 000 tonnes of barley.

2. The regions in which the 300 000 tonnes of barley
are stored are stated in the Annex.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 184, 17. 7. 1980, p. 1.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 49.

⁽⁴⁾ OJ No L 47, 28. 2. 1970, p. 49.

Article 3

1. The places for which the minimum sale price is to be fixed are as follows: Hamburg, Bremen, Brake, Nordenham, Emden, Rotterdam, Husum, Brunsbüttel, Rendsburg, Flensburg, Kiel, Lübeck, Braunschweig, Fallersleben, Berlin, Regensburg, Passau.

2. Tenders must be drawn up by reference to the standard quality defined in Council Regulation (EEC) No 2731/75 ⁽¹⁾. They must relate to a quantity of at least 500 tonnes.

3. Tenders must be made for one or more ports or places of departure. The tenderer shall specify the port or ports or places of departure in respect of which his tender is put forward.

Tenders shall be for barley:

- in port silos from which direct loading onto barge or sea-going vessel is possible, or
- delivered not unloaded to the place of embarkation in the port or place of departure.

4. Tenders shall be valid only if they are accompanied by:

- an application for export licence lodged by the tenderer, with an application for advance fixing of the export refund or levy, for the destination in question. For the purpose of this Decision, all countries for which the same rate of export refund or levy is fixed shall be considered as one destination,
- a written undertaking by the tenderer, countersigned by the financial institution to provide a special security of 40 ECU/tonne not later than two working days following the date of receipt of the information that this tender has been accepted.

5. The security shall be released only in respect of quantities for which the tenderer and exporter proves either:

- (a) that the customs formalities for release into free circulation have been completed in the non-member country or countries for which the export refund or levy has been fixed in advance. The said proof shall be provided in accordance with the provisions of Article 20 (3) to (6) of Commission Regulation (EEC) No 2730/79 ⁽²⁾; or

- (b) that the product has become unsuitable for human or animal consumption.

6. For barley which is not located at the places referred to in the first and second indents of the second subparagraph or paragraph 3, the most favourable transport costs between the place of storage and the place of embarkation in the ports or places of departure referred to in paragraph 1 and attainable at the lowest transport cost, shall be reimbursed to the exporter and tenderer by the German intervention agency.

Article 4

1. Notwithstanding the provisions of Article 21 (1) of Commission Regulation (EEC) No 3183/80 ⁽³⁾, export licences issued under this standing invitation to tender shall be considered, for the purposes of determining their period of validity, as having been issued on the day the tender was submitted.

2. The said licences shall be valid from their date of issue within the meaning of paragraph 1 until the end of the fourth month following.

Article 5

The time limit for submission of tenders under the first partial invitation to tender shall expire on 21 January 1981 at 1 p.m. (Brussels time).

The German intervention agency shall specify in the notice of invitation to tender the time limit for submission of tenders under the subsequent partial invitations to tender. The time limit for submission of tenders under the last partial invitation to tender shall expire on 24 June 1981 at 1 p.m. (Brussels time).

Article 6

The German intervention agency lays down where necessary additional provisions and conditions consistent with the provisions of this Regulation.

Article 7

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 29 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 22.

⁽²⁾ OJ No L 317, 12. 12. 1979, p. 1.

⁽³⁾ OJ No L 338, 13. 12. 1980, p. 1.

ANNEX

Place of storage	Quantity (tonnes)
Schleswig-Holstein	35 300
Hamburg	9 500
Niedersachsen	62 000
Bremen	25 500
Berlin	4 500
Nordrhein-Westfalen	114 500
Hessen	7 000
Rheinland-Pfalz	25 900
Baden-Württemberg	3 800
Bayern	12 000
