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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 2314/85

of 13 August 1985

fixing the import levies on cereals and on wheat or rye flour, groats and meal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 1018/84⁽²⁾, and in particular Article 13 (5) thereof,

Having regard to Council Regulation No 129 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EEC) No 2543/73⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Regulation (EEC) No 2159/85⁽⁵⁾ and subsequent amending Regulations;

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

— in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the coefficient

provided for in Article 2b (2) of Regulation (EEC) No 974/71⁽⁶⁾, as last amended by Regulation (EEC) No 855/84⁽⁷⁾,

— for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded for a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient;

Whereas these exchange rates being those recorded on 12 August 1985;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2159/85 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies to be charged on products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 2727/75 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 14 August 1985.

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

Done at Brussels, 13 August 1985.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 107, 19. 4. 1984, p. 1.

⁽³⁾ OJ No 106, 30. 10. 1962, p. 2553/62.

⁽⁴⁾ OJ No L 263, 19. 9. 1973, p. 1.

⁽⁵⁾ OJ No L 203, 1. 8. 1985, p. 8.

⁽⁶⁾ OJ No L 106, 12. 5. 1971, p. 1.

⁽⁷⁾ OJ No L 90, 1. 4. 1984, p. 1.

ANNEX

to the Commission Regulation of 13 August 1985 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)		
CCT heading No	Description	Levies
10.01 B I	Common wheat, and meslin	108,66
10.01 B II	Durum wheat	167,53 ⁽¹⁾ ⁽⁵⁾
10.02	Rye	111,45 ⁽⁶⁾
10.03	Barley	108,24
10.04	Oats	80,31
10.05 B	Maize, other than hybrid maize for sowing	92,18 ⁽²⁾ ⁽³⁾
10.07 A	Buckwheat	0
10.07 B	Millet	52,80 ⁽⁴⁾
10.07 C	Grain sorghum	106,26 ⁽⁴⁾
10.07 D I	Triticale	⁽⁷⁾
10.07 D II	Canary seed; other cereals	0 ⁽⁵⁾
11.01 A	Wheat or meslin flour	164,35
11.01 B	Rye flour	169,03
11.02 A I a)	Durum wheat groats and meal	272,76
11.02 A I b)	Common wheat groats and meal	177,49

⁽¹⁾ Where durum wheat originating in Morocco is transported directly from that country to the Community, the levy is reduced by 0,60 ECU/tonne.

⁽²⁾ In accordance with Regulation (EEC) No 486/85 the levies are not applied to imports into the French overseas departments of products originating in the African, Caribbean and Pacific States or in the 'overseas countries and territories'.

⁽³⁾ Where maize originating in the ACP or OCT is imported into the Community the levy is reduced by 1,81 ECU/tonne.

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

⁽⁵⁾ Where durum wheat and canary seed produced in Turkey are transported directly from that country to the Community, the levy is reduced by 0,60 ECU/tonne.

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

⁽⁷⁾ The levy applicable to rye shall be charged on imports of the product falling within subheading 10.07 D I (triticale).

COMMISSION REGULATION (EEC) No 2315/85

of 13 August 1985

fixing the premiums to be added to the import levies on cereals, flour and malt

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation (EEC) No
2727/75 of 29 October 1975 on the common organ-
ization of the market in cereals ⁽¹⁾, as last amended by
Regulation (EEC) No 1018/84 ⁽²⁾, and in particular
Article 15 (6) thereof,

Having regard to Council Regulation No 129 on the
value of the unit of account and the exchange rates to
be applied for the purposes of the common agricul-
tural policy ⁽³⁾, as last amended by Regulation (EEC)
No 2543/73 ⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary
Committee,

Whereas the premiums to be added to the levies on
cereals and malt were fixed by Regulation (EEC) No
2160/85 ⁽⁵⁾ and subsequent amending Regulations;

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

- in the case of currencies which are maintained in
relation to each other at any given moment within
a band of 2,25 %, a rate of exchange based on
their central rate, multiplied by the coefficient

provided for in Article 2b (2) of Regulation (EEC)
No 974/71 ⁽⁶⁾, as last amended by Regulation (EEC)
No 855/84 ⁽⁷⁾,

- for other currencies, an exchange rate based on the
arithmetic mean of the spot market rates of each of
these currencies recorded for a given period in
relation to the Community currencies referred to
in the previous indent, and the aforesaid coeffi-
cient;

Whereas these exchange rates being those recorded on
12 August 1985;

Whereas, on the basis of today's cif prices and cif
forward delivery prices, the premiums at present in
force, which are to be added to the levies, should be
altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The premiums referred to in Article 15 of Regulation
(EEC) No 2727/75 to be added to the import levies
fixed in advance in respect of cereals and malt shall be
as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 14 August
1985.

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

Done at Brussels, 13 August 1985.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 107, 19. 4. 1984, p. 1.

⁽³⁾ OJ No 106, 30. 10. 1962, p. 2553/62.

⁽⁴⁾ OJ No L 263, 19. 9. 1973, p. 1.

⁽⁵⁾ OJ No L 203, 1. 8. 1985, p. 11.

⁽⁶⁾ OJ No L 106, 12. 5. 1971, p. 1.

⁽⁷⁾ OJ No L 90, 1. 4. 1984, p. 1.

ANNEX

to the Commission Regulation of 13 August 1985 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

(ECU/tonne)					
CCT heading No	Description	Current 8	1st period 9	2nd period 10	3rd period 11
10.01 B I	Common wheat, and meslin	0	0	0	0
10.01 B II	Durum wheat	0	0	0	0
10.02	Rye	0	0	0	0
10.03	Barley	0	0	0	1,22
10.04	Oats	0	0	0	0
10.05 B	Maize, other than hybrid maize for sowing	0	1,47	1,47	3,86
10.07 A	Buckwheat	0	0	0	0
10.07 B	Millet	0	0	0	0
10.07 C	Grain sorghum	0	0	0	6,99
10.07 D	Other cereals	0	0	0	0
11.01 A	Wheat or meslin flour	0	0	0	0

B. Malt

(ECU/tonne)						
CCT heading No	Description	Current 8	1st period 9	2nd period 10	3rd period 11	4th period 12
11.07 A I (a)	Unroasted malt, obtained from wheat, in the form of flour	0	0	0	0	0
11.07 A I (b)	Unroasted malt, obtained from wheat, other than in the form of flour	0	0	0	0	0
11.07 A II (a)	Unroasted malt, other than that obtained from wheat, in the form of flour	0	0	0	2,17	2,17
11.07 A II (b)	Unroasted malt, other than that obtained from wheat, other than in the form of flour	0	0	0	1,62	1,62
11.07 B	Roasted malt	0	0	0	1,89	1,89

COMMISSION REGULATION (EEC) No 2316/85

of 12 August 1985

amending Regulation (EEC) No 1368/85 as regards the beef products which may
be taken into intervention in certain Member States

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation (EEC) No 805/68
of 27 June 1968 on the common organization of the
market in beef and veal ⁽¹⁾, as last amended by the Act
of Accession of Greece, and in particular Article 6 (5)
(c) thereof,

Having regard to Council Regulation (EEC) No
1308/85 of 23 May 1985 fixing for the 1985/1986
marketing year the guide price and intervention price
for adult bovine animals ⁽²⁾, and in particular Article 3
(5) thereof,

Whereas, by Regulation (EEC) No 869/84 ⁽³⁾, the
Council decided, by way of an experiment, to imple-
ment for a period of three years the Community scale
for the classification of carcasses of adult bovine
animals established under Regulation (EEC) No
1208/81 ⁽⁴⁾ in connection with intervention measures;
whereas the categories and qualities of products which
may be bought in by the intervention agencies must
therefore be defined on the basis of the said scale;

Whereas, in accordance with Council Regulation
(EEC) No 1302/73 ⁽⁵⁾, as last amended by Regulation
(EEC) No 427/77 ⁽⁶⁾, the qualities and cuts of the
products to be bought in by the intervention agencies
must be determined taking into account, on the one
hand, the need to give effective support to the market
and to maintain the balance between the market
concerned and that in competing animal products and,

on the other hand, the financial burden on the
Community; whereas application of these criteria in
the present situation on the beef market at the start of
the period for the marketing of grass feed cattle indi-
cates that category C should be included temporarily
in the list of products which may be taken into inter-
vention in the Federal Republic of Germany in order
to cope with the substantial seasonal supplies of this
category of animal;

Whereas Commission Regulation (EEC) No 1368/85
fixing the buying-in prices for forequarters in the beef
and veal sector valid with effect from 27 May 1985 and
repealing Regulation (EEC) No 1177/85 ⁽⁷⁾ should
therefore be amended;

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

HAS ADOPTED THIS REGULATION:

Article 1

The part 'Deutschland' in the Annex to Regulation
(EEC) No 1368/85 shall be replaced by the Annex to
this Regulation.

Article 2

This Regulation shall enter into force on 19 August
1985.

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

• Done at Brussels, 12 August 1985.

For the Commission

Nicolas MOSAR

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 137, 27. 5. 1985, p. 16.

⁽³⁾ OJ No L 90, 1. 4. 1984, p. 32.

⁽⁴⁾ OJ No L 123, 7. 5. 1981, p. 3.

⁽⁵⁾ OJ No L 132, 19. 5. 1973, p. 3.

⁽⁶⁾ OJ No L 61, 5. 3. 1977, p. 16.

⁽⁷⁾ OJ No L 139, 27. 5. 1985, p. 24.

BILAG — ANHANG — ΠΑΡΑΡΤΗΜΑ — ANNEX — ANNEXE — ALLEGATO — BIJLAGE

„DEUTSCHLAND“

— Vorderviertel, auf 8 Rippen quergeschnitten, stammend von :

	<i>(ECU / Écus / Ecu)</i>
Kategorie A Klasse U2	291,600
Kategorie A Klasse U3	289,200
Kategorie A Klasse R2	281,600
Kategorie A Klasse R3	278,800
Kategorie C Klasse U3	279,140
Kategorie C Klasse R3	269,140
Kategorie C Klasse R4	263,940"

COMMISSION REGULATION (EEC) No 2317/85

of 12 August 1985

imposing a provisional anti-dumping duty on imports of roller chains for cycles
originating in the USSR and the People's Republic of China

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation (EEC) No
2176/84 of 23 July 1984 on protection against
dumped or subsidized imports from countries not
members of the European Economic Community⁽¹⁾,
and in particular Article 11 thereof,

After consultations within the Advisory Committee
under the above Regulation,

Whereas :

A. Procedure

1. In May 1984 the Commission received a
complaint lodged by the Fachverband Fahrrad-
und Kraftradteile- Industrie e.V. on behalf of
producers whose collective output constitutes a
major proportion of the Community production
of the product in question. The complaint
contained evidence of dumping and of material
injury resulting therefrom, which was considered
sufficient to justify the initiation of a proceeding.
The Commission accordingly announced, by a
notice published in the *Official Journal of the
European Communities*⁽²⁾, the initiation of an
anti-dumping proceeding concerning imports into
the Community of 1/2" x 1/8" roller chains for
cycles falling within heading No ex 73.29 of the
Common Customs Tariff, corresponding to
NIMEXE code ex 73.29-11, originating in the
USSR and the People's Republic of China and
commenced an investigation.

2. The Commission officially so advised the expor-
ters and importers known to be concerned and the
complainants and gave the parties directly
concerned the opportunity to make known their
views in writing and to request a hearing. All the
known exporters made their views known in
writing. Neither the exporters nor the importers
concerned have requested hearings.

3. The Chinese exporter presented its views in
writing, though without providing the necessary
supporting evidence. In particular, it failed to
reply to the questionnaire sent to it, although the
Commission extended the deadline several times
and referred in writing to the importance of this
information for the establishment of the facts and
to the consequences for the outcome of the
proceeding of failure to provide the necessary
information, particularly in the light of Article 7
(7) (b) of Regulation (EEC) No 2176/84, which
provides that should any interested party refuse
access to necessary information, preliminary or
final findings may be made on the basis of the
facts available.

4. The Commission sought and verified all the infor-
mation which it deemed necessary for the prelimi-
nary determination of the facts and carried out
investigations at the premises of the following
firms :

EEC producers :

- Union Sils, Van de Loo & Co. GmbH, Frön-
denberg, Germany ;
- Wippermann Jr. GmbH, Hagen, Germany.

The Commission requested detailed written
submissions from all complainant Community
producers and all exporters and importers, and
verified the information made available to the
extent considered necessary.

The investigation of dumping covered the period
June 1983 to June 1984.

B. Normal value

5. In order to establish whether the imports from the
USSR and the People's Republic of China were
dumped, the Commission had to take account of
the fact that these countries do not have market
economies and the Commission therefore had to
base its determinations on the normal value in a
market-economy country. In this connection, the
complainants had suggested the Japanese market.
As the Commission did not obtain the necessary
information it had requested from Japanese
producers, the complainants had proposed the
Spanish market as an appropriate alternative.

⁽¹⁾ OJ No L 201, 30. 7. 1984, p. 1.

⁽²⁾ OJ No C 235, 5. 9. 1984, p. 9.

6. The USSR exporter objected to this suggestion. It considered that India could be a more appropriate analogue country, alleging that bicycle production in India is on a scale more comparable to that of the Soviet Union and that cycle chains manufactured in India are of the same type as those manufactured in the USSR as they are produced mainly for roadster bicycles. It gave no indication, however, of the domestic price ruling in India.

7. The Commission has examined the structure of the Spanish market for bicycle chains. Spain, the USSR and the People's Republic of China all produce $1/2 \times 1/8$ inch standard simple roller chains for cycles according to DIN 8187 or ISO/R-606 specifications. The producers in the USSR and China do not guarantee that their products meet these specifications but their products generally do so in practice. The Spanish products are of slightly higher quality than those from the USSR and the People's Republic of China but the difference in quality is not significant for the purpose for which the product is normally sold, and it can be allowed for (see paragraph 9 below). It was found that in Spain there was efficient internal competition between the existing producers as well as from imports from other countries; in 1984 these held a market share of about 23 % in Spain. The Commission is also satisfied that industrial production technologies for roller chains are very similar in all countries and that the conditions and volume of production investigated in Spain are adequate to permit a proper comparison. The choice of Spain appears to be more appropriate than that of India since both Spain and the USSR use capital intensive production methods and similar machinery. Furthermore, the levels of development of the industries in Spain and the USSR are more similar than those of the USSR and India.

The Chinese exporter did not contest this choice.

C. Export price

8. Export prices were determined on the basis of the prices actually paid or payable for the products sold for export to the Community.

D. Comparison

9. In comparing normal values with export prices, the Commission took account, where appropriate, of differences affecting price comparability. Based

on information given by the Spanish producers, adjustments were made in particular for differences in quality, selling and marketing conditions, and payment terms. All comparisons were made at the ex-works level.

E. Margins

10. The preliminary examination of the facts showed the existence of dumping in respect of the exports investigated, the margin of dumping being equal to the amount by which the normal value as established exceeds the weighted average price for export to the Community.

11. These margins vary according to the importing Member State; they are all appreciably in excess of 40 % for China and of 60 % for the USSR, the weighted average for the Community as a whole being as follows:

the People's Republic of China 45 %;

the USSR 102 %.

F. Injury

12. With regard to the injury caused by the dumped imports, the evidence available to the Commission shows that imports into the Community from the USSR increased from 2 185 000 metres in 1982 to 3 793 000 metres in 1984 with a consequent increase in market share from 8,9 % to 14,4 %, while in the same period imports from the People's Republic of China decreased from 3 449 000 metres to 2 144 000 metres, reducing their market share from 14,1 % to 8,1 %. Taken together the dumped imports increased from 5 634 000 metres in 1982 to 5 937 000 metres in 1984 maintaining a significant market share of approximately 23 % throughout the period.

13. Considering that the imports of the Chinese product in the Community had decreased and corresponded to a declining market share of the Chinese product in the Community, the Commission has examined whether it was appropriate to aggregate the imports of cycle chains originating in China with those originating in the USSR.

The Commission found, however, that all the products under investigation competed with each other in the Community market. Furthermore, Chinese imports had shown a decline in 1983 only and had stabilized in 1984, still maintaining a substantial market share significant enough to

cause material injury because of the low prices at which they were sold in the Community. The Commission therefore concluded that in order to determine whether material injury was caused by the dumped products aggregation of the imports from China with those from the USSR was not unreasonable.

14. The sale prices of the imports under consideration undercut the prices of the Community producers during the investigation period by up to 16 % for the USSR product and by up to 6 % for the Chinese product, account being taken of differences in quality. These sale prices were lower than those required to cover the costs of Community producers and provide a reasonable profit.

15. Community production fell from 10 938 000 metres in 1982 to 8 500 000 metres in 1984. Although taken together the dumped imports from the USSR and China did not increase in the same proportion as the decrease in Community production, the Commission is satisfied that their significant level of market share, which in 1984 reached 37 % in the Federal Republic of Germany and 31 % in Italy, which alone absorbed more than 80 % of the dumped imports, combined with the low prices at which the dumped imports were offered for sale, have caused a serious market deterioration in the Community. These dumped imports contributed to the fact that the Community industry concerned had to work continuously at a low rate of capacity utilization of less than 60 %, which entailed high unit costs, and to sell the product at prices which in certain cases did not even yield a reasonable contribution to fixed costs. Thus the Community industry accumulated substantial financial losses, which led two Community producers to close down this line of production, while others, in order to cut losses, reduced their output. As a result, employment fell by about 18 % between 1982 and 1984 while short-time working frequently had to be introduced.

16. The Commission has considered whether injury has been caused by other factors such as the development of consumption in the Community. It has been alleged by the complainant that consumption in the Community has risen by some 8 % since 1982, but that this increase has not been reflected in the Community producers' figures for sales in the EEC. The Commission has

therefore also considered whether injury has been caused by other imports. Although it is difficult to establish precise data for consumption in the Community and imports from other non-member countries since the statistics available to the Commission include other types of chains than those under consideration, the information received by the Commission leads to the inference that sales by the Community industry have been partly replaced by imports from other countries as well. However, verifying global import statistics from other third countries, the Commission found that on average these imports have been sold at higher prices than the dumped imports. Moreover, the Commission has received no evidence that these imports have been dumped. Thus the substantial market share of the dumped imports from the two countries concerned and the prices at which they are offered for sale in the Community led the Commission to determine that the effects of the dumped imports of 1/2" x 1/8" roller chains for cycles originating in the USSR and the People's Republic of China, taken in isolation, have to be considered as constituting material injury to the Community industry concerned.

G. Community interest

17. In view of the serious difficulties facing the Community industry the Commission has come to the conclusion that it is in the Community's interest that action be taken. In order to prevent further injury being caused during the remainder of the proceeding, this action should take the form of provisional anti-dumping duties on imports of 1/2" x 1/8" roller chains for cycles originating in the USSR and the People's Republic of China.

H. Rate of duty

18. The extent of injury caused was determined by the difference between the prices at which the dumped imports are offered for sale and the return expected from efficient manufacturing of the product in the Community. The rate of such duties, therefore, should be sufficient to eliminate the difference between the selling prices of the dumped products in the Community and the prices necessary to cover the production cost of Community producers and a reasonable contribution to fixed costs and overheads.

Taking into account the different level of prices at which the USSR and Chinese products were sold on the Community market and the difference in the rate of price undercutting resulting therefrom, the rate of duty should be higher for these products imported from the USSR than for China.

19. A period should be fixed within which the parties concerned may make their views known and request a hearing.

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of 1/2" x 1/8" roller chains for cycles falling within heading No ex 73.29 of the Common Customs Tariff, corresponding to NIMEXE code ex 73.29-11, originating in the USSR and the People's Republic of China.

2. The rates of the duty shall be, for products originating in :

- the USSR 30 % ;
- the People's Republic of China 20 %,

of the free-at-Community-frontier net price before duty.

3. The provisions in force concerning customs duties shall apply.

4. The release for free circulation in the Community of the products referred to in paragraph 1 shall be subject to the provision of a security equivalent to the amount of the provisional duty.

Article 2

Without prejudice to Article 7 (4) (b) and (c) of Regulation (EEC) No 2176/84, the parties may make known their views in writing and apply to be heard orally by the Commission within one month of the entry into force of this Regulation.

Article 3

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

Subject to Articles 11, 12 and 14 of Regulation (EEC) No 2176/84, this Regulation shall apply for a period of four months unless the Council adopts definitive measures before the expiry of that period.

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

Done at Brussels, 12 August 1985.

For the Commission

Nicolas MOSAR

Member of the Commission

COMMISSION REGULATION (EEC) No 2318/85
of 13 August 1985
fixing the import levies on milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EEC) No 1298/85 ⁽²⁾, and in particular Article 14 (8) thereof,

Whereas the import levies on milk and milk products were fixed by Regulation (EEC) No 1935/85 ⁽³⁾, as amended by Regulation (EEC) No 2151/85 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1935/85 to the prices known to the Commission that the levies at

present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies referred to in Article 14 (2) of Regulation (EEC) No 804/68 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 16 August 1985.

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

Done at Brussels, 13 August 1985.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13

⁽²⁾ OJ No L 137, 27. 5. 1985, p. 5.

⁽³⁾ OJ No L 181, 13. 7. 1985, p. 8.

⁽⁴⁾ OJ No L 199, 31. 7. 1985, p. 32.

ANNEX

to the Commission Regulation of 13 August 1985 fixing the import levies on milk and milk products

(ECU/100 kg net weight, unless otherwise indicated)

CCT heading No	Code	Import levy
04.01 A I a)	0110	28,15
04.01 A I b)	0120	25,74
04.01 A II a) 1	0130	25,74
04.01 A II a) 2	0140	31,50
04.01 A II b) 1	0150	24,53
04.01 A II b) 2	0160	30,29
04.01 B I	0200	62,92
04.01 B II	0300	133,09
04.01 B III	0400	205,69
04.02 A I	0500	20,02
04.02 A II a) 1	0620	130,11
04.02 A II a) 2	0720	177,93
04.02 A II a) 3	0820	180,35
04.02 A II a) 4	0920	245,65
04.02 A II b) 1	1020	122,86
04.02 A II b) 2	1120	170,68
04.02 A II b) 3	1220	173,10
04.02 A II b) 4	1320	238,40
04.02 A III a) 1	1420	30,13
04.02 A III a) 2	1520	40,68
04.02 A III b) 1	1620	133,09
04.02 A III b) 2	1720	205,69
04.02 B I a)	1820	36,27
04.02 B I b) 1 aa)	2220	per kg 1,2286 (*)
04.02 B I b) 1 bb)	2320	per kg 1,7068 (*)
04.02 B I b) 1 cc)	2420	per kg 2,3840 (*)
04.02 B I b) 2 aa)	2520	per kg 1,2286 (*)
04.02 B I b) 2 bb)	2620	per kg 1,7068 (*)
04.02 B I b) 2 cc)	2720	per kg 2,3840 (*)
04.02 B II a)	2820	52,91
04.02 B II b) 1	2910	per kg 1,3309 (*)
04.02 B II b) 2	3010	per kg 2,0569 (*)
04.03 A	3110	241,99
04.03 B	3210	295,23
04.04 A	3300	184,99 (*)
04.04 B	3900	244,78 (*)
04.04 C	4000	163,23 (*)
04.04 D I a)	4410	169,11 (*)
04.04 D I b)	4510	178,86 (*)
04.04 D II	4610	275,58
04.04 E I a)	4710	244,78
04.04 E I b) 1	4800	197,94 (*)

(ECU/100 kg net weight, unless otherwise indicated)

CCT heading No	Code	Import levy
04.04 E I b) 2	5000	181,15 ⁽¹⁾
04.04 E I c) 1	5210	135,86
04.04 E I c) 2	5250	277,87
04.04 E II a)	5310	244,78
04.04 E II b)	5410	277,87
17.02 A II	5500	41,79 ⁽¹²⁾
21.07 F I	5600	41,79
23.07 B I a) 3	5700	94,57
23.07 B I a) 4	5800	122,82
23.07 B I b) 3	5900	114,04
23.07 B I c) 3	6000	91,71
23.07 B II	6100	122,82

- (¹) For the purposes of this tariff subheading, 'special milk for infants' means products free from pathogenic toxicogenic germs and containing per gram less than 10 000 revivifiable aerobic bacteria and less than two coliform bacteria.
- (²) Inclusion under this tariff subheading is subject to conditions to be laid down by the competent authorities.
- (³) In calculating the fat content the weight of any added sugar shall be disregarded.
- (⁴) The levy on 100 kg of product falling within this subheading is equal to the sum of the following components:
- (a) the amount per kg shown, multiplied by the weight of milk and cream contained in 100 kg of product;
 - (b) 7,25 ECU; and
 - (c) 24,55 ECU.
- (⁵) The levy on 100 kg of product falling within this subheading is equal to the sum of the following components:
- (a) the amount per kg shown, multiplied by the weight of milk and cream contained in 100 kg of product; and
 - (b) 24,55 ECU.
- (⁶) The levy is limited to:
- 18,13 ECU per 100 kg net weight for products listed under (a) in Annex I to Regulation (EEC) No 1767/82 imported from Switzerland and for products listed under (c) of that Annex imported from Austria or Finland,
 - 9,07 ECU per 100 kg net weight for products listed under (b) of Annex I to Regulation (EEC) No 1767/82 imported from Switzerland.
- (⁷) The levy is limited to 6 % of the customs value for imports from Switzerland, in accordance with Article 1 (3) of Regulation (EEC) No 1767/82.
- (⁸) The levy is limited to 50 ECU per 100 kg net weight for products listed under (o) and (p) of Annex I to Regulation (EEC) No 1767/82 imported from Austria.
- (⁹) The levy is limited to 36,27 ECU per 100 kg net weight for products listed under (g) of Annex I to Regulation (EEC) No 1767/82 imported from Switzerland and for products listed under (h) of that Annex imported from Austria or Finland.
- (¹⁰) The levy per 100 kg net weight is limited to:
- 12,09 ECU for products listed under (d) of Annex I to Regulation (EEC) No 1767/82 imported from Canada,
 - 15,00 ECU for products listed under (e) and (f) of that Annex imported from Australia or New Zealand.
- (¹¹) The levy is limited to:
- 77,70 ECU per 100 kg net weight for products listed under (i) of Annex I to Regulation (EEC) No 1767/82 imported from Romania or Switzerland,
 - 50 ECU for products listed under (o) and (p) of that Annex imported from Austria,
 - 101,88 ECU per 100 kg net weight for products listed under (k) of that Annex imported from Romania or Switzerland,
 - 65,61 ECU per 100 kg net weight for products listed under (l) of that Annex imported from Bulgaria, Hungary, Israel, Romania, Turkey or Yugoslavia and for products listed under (m) of that Annex imported from Bulgaria, Hungary, Israel, Romania, Turkey, Cyprus or Yugoslavia,
 - 55 ECU per 100 kg net weight for products listed under (n) of that Annex imported from Austria, for products listed under (s) of that Annex imported from Finland and for products listed under (r) of that Annex imported from Norway,
 - 18,13 ECU per 100 kg net weight for products listed under (q) of that Annex imported from Finland,
 - 15,00 ECU for products listed under (f) of that Annex imported from Australia and New Zealand.
- (¹²) Lactose and lactose syrup falling within subheading 17.02 A I are, in pursuance of Regulation (EEC) No 2730/75, subject to the same levy as that applicable to lactose and lactose syrup falling within subheading 17.02 A II.
- (¹³) For the purposes of tariff subheading ex 23.07 B 'milk products' means the products falling within tariff headings and sub-headings 04.01, 04.02, 04.03, 04.04, 17.02 A and 21.07 F I.
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COMMISSION REGULATION (EEC) No 2319/85

of 13 August 1985

fixing the amounts to be levied in the beef sector on products which left the United Kingdom during the week 1 to 7 July 1985

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1311/85 of 23 May 1985 on the granting of a premium for the slaughter of certain adult bovine animals in the United Kingdom ⁽¹⁾, and in particular Article 5 thereof,

Whereas, under Article 3 of Regulation (EEC) No 1311/85, an amount equivalent to the amount of the variable slaughter premium granted in the United Kingdom is levied on meat and meat preparations from animals on which it has been paid, when they are consigned to other Member States or to non-member countries;

Whereas, under Article 7 (1) of Commission Regulation (EEC) No 2187/85 of 31 July 1985 laying down detailed rules for the application of the premium for the slaughter of certain adult bovine animals for slaughter in the United Kingdom ⁽²⁾, the amounts to be charged on departure from the territory of the United Kingdom of the products listed in the Annex

to the said Regulation must be fixed each week by the Commission ;

Whereas, accordingly, the amounts to be levied on products which left the United Kingdom during the week 1 to 7 July 1985 should be fixed,

HAS ADOPTED THIS REGULATION :

Article 1

Pursuant to Article 3 of Regulation (EEC) No 1311/85, the amounts to be levied on the products referred to in Article 7 (1) of Regulation (EEC) No 2187/85 which left the territory of the United Kingdom during the week 1 to 7 July 1985 shall be those set out in the Annex.

Article 2

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

It shall apply with effect from 1 July 1985.

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

Done at Brussels, 13 August 1985.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 137, 27. 5. 1985, p. 20.

⁽²⁾ OJ No L 203, 1. 8. 1985, p. 76.

ANNEX

Amounts to be levied on products which left the territory of the United Kingdom during
the week 1 to 7 July 1985

(ECU/100 kg net weight)

CCT heading No	Description	Amount
1	2	3
ex 02.01 A II a) and ex 02.01 A II b)	Meat of adult bovine animals, fresh, chilled or frozen :	
	1. Carcases, half-carcases or 'compensated' quarters	26,26474
	2. Separated or unseparated forequarters	21,01179
	3. Separated or unseparated hindquarters	31,51769
	4. Other :	
	aa) Unboned (bone-in)	21,01179
	bb) Boned or boneless	35,98269
ex 02.06 C I a)	Meat salted, in brine, dried or smoked, of adult bovine animals :	
	1. Unboned (bone-in)	21,01179
	2. Boned or boneless	29,94180
ex 16.02 B III b) 1	Other prepared or preserved meat or meat offal, containing meat or offal of adult bovine animals :	
	aa) Uncooked ; mixtures of cooked meat or offal and uncooked meat or offal :	
	11. Containing 80 % or more by weight of beef meat excluding offals and fat	29,94180
	22. Other	21,01179

COMMISSION REGULATION (EEC) No 2320/85
of 13 August 1985
fixing the import levies on white sugar and raw sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EEC) No 1482/85⁽²⁾, and in particular Article 16 (8) thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Regulation (EEC) No 1809/85⁽³⁾, as last amended by Regulation (EEC) No 2313/85⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1809/85 to the information known to the Commission that the levies

at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies referred to in Article 16 (1) of Regulation (EEC) No 1785/81 shall be, in respect of white sugar and standard quality raw sugar, as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 14 August 1985.

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

Done at Brussels, 13 August 1985.

For the Commission

Frans ANDRIESEN

Vice-President

- ⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.
⁽²⁾ OJ No L 151, 10. 6. 1985, p. 1.
⁽³⁾ OJ No L 169, 29. 6. 1985, p. 77.
⁽⁴⁾ OJ No L 216, 13. 8. 1985, p. 11.

ANNEX

to the Commission Regulation of 13 August 1985 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)		
CCT heading No	Description	Levy
17.01	Beet sugar and cane sugar, in solid form:	
	A. White sugar: flavoured or coloured sugar	46,58
	B. Raw sugar	42,10 ⁽¹⁾

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

COMMISSION REGULATION (EEC) No 2321/85

of 13 August 1985

altering the import levies on products processed from cereals and rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (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 1018/84⁽²⁾, and in particular Article 14 (4) thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice⁽³⁾, as last amended by Regulation (EEC) No 1025/84⁽⁴⁾, and in particular Article 12 (4) thereof,

Having regard to Council Regulation No 129 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy⁽⁵⁾, as last amended by Regulation (EEC) No 2543/73⁽⁶⁾, and in particular Article 3 thereof,

Having regard to the advice of the Monetary Committee,

Whereas the import levies on products processed from cereals and rice were fixed by Regulation (EEC) No 2127/85⁽⁷⁾, as last amended by Regulation (EEC) No 2299/85⁽⁸⁾;

Whereas Council Regulation (EEC) No 1027/84 of 31 March 1984⁽⁹⁾ as amended by Regulation (EEC) No 2744/75⁽¹⁰⁾ as regards products falling within sub-heading 23.02 A of the Common Customs Tariff;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the coefficient provided for in Article 2b (2) of Regulation (EEC) No 974/71⁽¹¹⁾ as last amended by Regulation (EEC) No 855/84⁽¹²⁾,
- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded over a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient;

Whereas these exchange rates being those recorded on 12 August 1985;

Whereas the levy on the basic product as last fixed differs from the average levy by more than 3,02 ECU per tonne of basic product; whereas, pursuant to Article 1 of Regulation (EEC) No 1579/74⁽¹³⁾ the levies at present in force must therefore be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies to be charged on products processed from cereals and rice covered by Regulation (EEC) No 2744/75, as last amended by Regulation (EEC) No 1027/84, as fixed in the Annex to amended Regulation (EEC) No 2127/85 are hereby altered to the amounts set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 14 August 1985.

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

Done at Brussels, 13 August 1985.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 107, 19. 4. 1984, p. 1.

⁽³⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽⁴⁾ OJ No L 107, 19. 4. 1984, p. 13.

⁽⁵⁾ OJ No 106, 30. 10. 1962, p. 2553/62.

⁽⁶⁾ OJ No L 263, 19. 9. 1973, p. 1.

⁽⁷⁾ OJ No L 198, 30. 7. 1985, p. 38.

⁽⁸⁾ OJ No L 213, 10. 8. 1985, p. 41.

⁽⁹⁾ OJ No L 107, 19. 4. 1984, p. 15.

⁽¹⁰⁾ OJ No L 281, 1. 11. 1975, p. 65.

⁽¹¹⁾ OJ No L 106, 12. 5. 1971, p. 1.

⁽¹²⁾ OJ No L 90, 1. 4. 1984, p. 1.

⁽¹³⁾ OJ No L 168, 25. 6. 1974, p. 7.

ANNEX

to the Commission Regulation of 13 August 1985 altering the import levies on products processed from cereals and rice

CCT heading No	<i>(ECU/tonne)</i>	
	Import levies	
	Third countries (other than ACP or OCT)	ACP or OCT
23.02 A I a)	49,02	43,02
23.02 A I b)	98,19	92,19
23.02 A II a)	49,02	43,02
23.02 A II b)	98,19	92,19

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 5 June 1985

concerning an aid scheme in favour of the textile and clothing industry in
France funded by means of parafiscal charges

(Only the French text is authentic)

(85/380/EEC)

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community, and in particular the first
subparagraph of Article 93 (2) thereof,

Having given notice to the parties concerned to
submit their comments as provided for in the said
Article 93, and having regard to those comments,

Whereas :

I

On 5 July 1984, the French Government belatedly
informed the Commission of three decrees amending
and extending previously existing aid schemes for the
textile and clothing industry, funded by two parafiscal
charges levied under the same procedure as value
added tax on sales of textile and clothing products in
France.

By Decrees No 84/388, No 84/389 and No 84/390,
published in the *Official Gazette of the French Repu-
blic* of 25 May 1984, the Comité de développement et
de promotion du textile et de l'habillement (CDPTH)
was created and two previous parafiscal charges, based
on decrees No 82/1242 and No 82/1243 in respect of
which the Commission delivered a final negative deci-
sion on 20 July 1983, were merged in order to provide
for one aid scheme in favour of the textile and

clothing industry. The decrees entered into force retro-
spectively on 1 January 1984, whereby the French
Government failed to comply with its obligations
under Article 93 (3) of the EEC Treaty.

Under those three decrees, the scheme provided for
aid amounting to some FF 250 million annually, of
which a certain amount was earmarked for joint
research, development and promotion projects. The
remaining proceeds from the parafiscal charges were
to be allocated to individual aid measures for textile
and clothing firms for the purpose of modernization
and rationalization investment.

The two schemes had been in force, with certain
amendments and extensions, since 1965 in the case of
the textile industry and since 1969 in the case of the
clothing industry. Following initial scrutiny, the
Commission took the view that the measures in ques-
tion would help to provide the recipient industries
with considerable financial support, on a scale and in
such forms that trade was bound to be affected and
conditions of intra-Community competition distorted.
On account of their objectives and duration, the
Commission considered these measures tantamount to
operating aid. Furthermore, they could be combined
with other general or specific measures of assistance
for which the textile and clothing/knitwear industries
were eligible. The two decrees contained no provisions
designed to prevent increases in production capacity
in branches already experiencing surpluses, nor did

they lay down conditions for reciprocal commitments on the part of the recipient firms operating in these branches which could meet the requirements of the Community textiles and clothing industry aid guidelines.

Therefore, the Commission considered that the aids in question would not promote any development which from the Community point of view, would be adequate to counteract their trade distorting effects and that the aids — by favouring the undertakings in question operating in a sector where there is a high volume of trade and where competition is very keen — would be liable to affect trade between Member States.

The Commission took the view that the proposed aids did not meet the conditions necessary to benefit from one of the derogations laid down in Article 92 of the EEC Treaty and it initiated the procedure provided for in the first subparagraph of Article 93 (2) thereof.

By letter of 30 July 1984, it gave the French Government notice to submit its comments.

II

The French Government, in submitting its comments under the procedure provided for in Article 93 (2) of the EEC Treaty by letter of 31 August 1984 firstly declared that no aids had been granted nor would be granted until a final Commission decision had been taken.

As to the substance, the French Government pointed out that the newly created Committee had not started to operate and that the detailed arrangements specifically applying to the planned aids had not yet been finally decided by that Committee. These would be submitted to the Commission at a later date.

By letter dated 18 April 1985, the French Government submitted the additional comments to which it had alluded, according to which the detailed arrangements implementing the proposed aid scheme are as follows :

- financial assistance amounting to FF 150 million in 1985 in the form of a reduction of 6 percentage points on interest rates in respect of commercial loans amounting to FF 1 000 million for investments in technologically advanced equipment,
- the aids are intended to increase productivity and the quality of products in order to enable the industry to compete more effectively with imports from countries with low labour costs.

In addition, the French Government pointed out that the aid programme was not intended to increase total textile and clothing production capacity and that the scheme had a very limited global impact in view of

the net grant equivalent which would be in the range of between 4 % and 7,5 %, most probably averaging 5,5 %.

Finally, the French Government considered that the scheme's macro-economic effect on competition in the EC would be next to nothing as the parafiscal charges were levied on the French industry itself.

In commenting under the same procedure, three other Member States and one federation of firms in the sectors concerned supported the Commission's view and expressed great concern about the support measures. They emphasized that the French textile and clothing industry had previously benefited from very considerable financial assistance *inter alia* under schemes to reduce social security contributions and that the new aids would be liable to distort competition in the Community by conferring unfair advantages on the recipients in competition with other Community textile and clothing producers. Furthermore, they highlighted the positive development of the French textile and clothing industry during the last two or three years on the basis of which they considered that the aids would be totally unjustified.

III

In the clothing and textile sectors there is trade between Member States — as sufficiently documented by statistical evidence — and competition is very keen. The French textile and clothing industry — producing about 20 % of total textile and clothing value added in the EC — plays a very active part in intra-Community trade by shipping some 30 % of its total output to other Member States.

In this case, the proposed measures have been communicated by the French Government to the Commission with explicit reference to Articles 92 to 94 of the EEC Treaty, thus recognizing and accepting their aid character. Equally, by calculating the net grant equivalent of the proposed measures, the French Government itself points to a reduction by — most probably — 5,5 % of investment costs which the textile and clothing companies in France would normally have to bear.

Furthermore, the fact that a system of financial support is serviced by a charge designed for that purpose and imposed on the undertakings or producers concerned has no influence on the aid character of the system, as under Articles 92 to 94 of the EEC Treaty such measures have to be examined in the same way as aid properly so-called. Any other approach would have the effect of opening a loophole in Article 92 thereof and would lead to a system of permanent aids, the amount of which would be unforeseeable and difficult to review.

In the sectors concerned, characterized by a high volume of trade between Member States and keen competition, the proposed aids are liable to affect this trade and distort or threaten to distort competition between Member States by favouring the French textile and clothing industries' undertakings within the meaning of Article 92 (1) of the EEC Treaty.

When State financial aid strengthens the position of undertakings compared with other undertakings competing in intra-Community trade the latter must be regarded as affected by that aid.

Article 92 (1) lays down the principle that aid having the features therein described is incompatible with the common market.

The exceptions to this principle set out in Article 92 (2) are not applicable in this case because of the character and the purpose of the proposed aids.

Article 92 (3) sets out which aids may be considered to be compatible with the common market. Compatibility with the Treaty must be determined in the context of the Community and not in that of a single Member State. In order to safeguard the proper functioning of the common market and to take account of the principles set forth in Article 3 (f), the exceptions to the principle set forth in Article 92 stipulated in Article 92 (3) must be construed narrowly when any aid scheme or any individual award is scrutinized.

In particular, they may be applied only when the Commission is satisfied that the free play of market forces alone, without the aids, would not induce the prospective aid recipients to adopt a course of action contributing to the attainment of one of the objectives sought.

To apply the exceptions to cases not contributing to such an objective or where an aid is not necessary to that end would be to give unwarranted advantages to certain Member States' industries or undertakings, the financial positions of which would merely be bolstered, and allow trading conditions between Member States to be affected and competition to be distorted without any justification based on the common interest referred to in Article 92 (3).

The French Government has been unable to give, or the Commission to discover, any justification for a finding that the planned aids fall within one of the categories of exceptions for which provision is made in Article 92 (3).

With regard to the exemptions provided for in Article 92 (3) (a) and (c) relating to aids intended to promote

or facilitate the development of certain areas, it must be observed that the standard of living in France is not abnormally low nor is there serious under-employment within the meaning of the exemption specified in (a); and because the aid scheme applies to firms in given economic sectors irrespective of where they are located, it is not intended for the development of certain areas as provided for in the exemption specified in (c).

As regards the exemptions provided for in Article 92 (3) (b), it is evident that the scheme in question is not intended to promote the execution of an important project of common European interest, or to remedy a serious disturbance in the French economy. A sectoral aid scheme in favour of the textile and clothing industry is not suited to remedying the kind of situation described in Article 92 (3) (b).

With regard to the exemptions provided for in Article 92 (3) (c) in favour of 'aid to facilitate the development of certain economic activities', it must be observed that market conditions in the sectors concerned seem apt, without State intervention, to ensure normal development, and that the proposed aids cannot therefore be regarded as 'facilitating' such development, when the need for aid is assessed from the standpoint of the Community rather than from that of a single Member State.

An examination of recent developments and the current situation shows that firms in those sectors are more competitive today than they were in the past. After a number of years, during which the damage inflicted on the Community clothing and textile industries has been reflected in plant closures and workforce reductions, owing to overall market depression and increased imports from countries with low labour costs, the said industries are now firmly on the road to recovery. During 1984 and early 1985 it has increasingly become evident that a majority of firms in these industries throughout the Community by means of rapidly rising productivity, improved marketing and management skills, a high-quality range of products and the application of a new generation of technologically advanced equipment has achieved the objectives of restructuring and has regained, to a large extent, the level of competitiveness required to ensure economic success and viability on the EEC textile market.

Therefore, specific aids to assist the textile and clothing industries in the Community are, in principle, no longer justified and, in particular, any new sectoral aid programme in favour of these industries would purely be a palliative measure in the national interest of the Member State proposing such a theme; it would merely transfer remaining structural problems

and unemployment from one Member State to another and would, in addition, not meet the conditions defined in the Community guidelines on aid to the textile industry.

The French Government's proposal does not demonstrate the existence of any problems which are specific to French textile and clothing enterprises.

On the contrary, as far as the French textile and clothing industry is concerned, a number of economic indicators document recent restructuring and positive economic and financial developments. Investments have increased by 38 % between 1981 and 1983 against an average for French industry as a whole of 9 %. Equally, investments as a share of turnover increased from 2,6 % to 4 %, again well above the total industry average. Net profits have recovered and show a considerable improvement compared to previous years, particularly leading to a significantly improved rate of self-financing. Despite continuing pressure from imports from countries with low production costs, output is stable or even increasing in most sub-sectors of the industry. Total textile exports increased by 18 % in 1984, which has brought the share of production exported to 46 %. Since 1981, export growth rates have exceeded import growth rates by several percentage points.

All these indicators lend support to the view that the former depressions have lifted and that the situation is continuing to improve. As a result, the present situation of the French textile and clothing industry is such as to enable firms to invest using their own financial resources without State aid.

Moreover, massive restructuring, re-tooling and the increased application of the latest available technology have made the French textile and clothing industry more productive and efficient and much better able to manufacture high-quality products and, thus, to compete internationally.

Furthermore, the rate of job losses has considerably slowed down and stands — for the period 1981 to 1983 — at minus 3,8 % against a Community textile and clothing industry average of minus 10,2 %.

It also has to be taken into account that the French industries in question have, for very many years, benefited from considerable public financial support, be it under general, regional or, indeed, specific aid schemes, which has contributed significantly to the positive development described above. During the period 1982 to 1984 alone, the industry benefited from financial aid amounting to FF 3 500 million.

Furthermore, the proposed aid programme would, in the situation described above, by artificially lowering the investment costs of companies in the sectors concerned, weaken the competitive position of other producers in the Community and would, therefore, have the effect of distorting competition and depressing prices, to the detriment and possible withdrawal from the market of producers which have, in some cases, survived only on account of restructuring, and productivity and quality improvements secured out of their own resources. As a share amounting to some 30 % of the production of the textile and clothing industries which it is proposed to aid is exported to the other Member States, in a situation where demand is only increasing slowly, it is very unlikely that trading conditions would remain unaffected.

In addition, the French Government's proposal to aid the textile and clothing industries comes close to being equivalent to an aid scheme for general investment and modernization of existing equipment in that sector, a category of aids about which the Commission has always had strong reservations, particularly in view of its 1971 and 1977 guidelines on aid to the textile industry. Under the present proposal, no consideration in terms of restructuring is required of the firms, and the scheme would not allow for the required degree of selectivity of the investment which may therefore simply involve replacing existing machinery and, indeed, the extension of a firm's activities.

Furthermore, the description of the general aims of the scheme is not sufficiently clear and lacks quantitative objectives as to capacities, employment and restructuring and thus makes it virtually impossible for the Commission to evaluate the scheme in advance in terms of the resulting distortion of competition.

The proposal lacks any reference to a selective approach in respect of the different sub-sectors and does not define any criteria to be used for checking the viability of companies.

No provision is made under the proposal in respect of the simultaneous application of other aid programmes in favour of the said industries and the possibility of aiding companies which are not eligible under the programme in question would neutralize the small degree of selectivity which exists in singling out firms for support according to the type of investment projected and would, thus, further accentuate the effects of the aid programme.

Equally, the simultaneous cumulative application of another existing aid scheme in addition to the aid available under this sectoral programme would increase the intensity of aid for any given investment and, thus, would further accentuate the negative effects of the proposed aids.

It is therefore evident that the aid scheme in question does not conform to the objectives defined in the Community guidelines on aids to the textile and clothing industry.

The French Government points to a net grant equivalent resulting from the aid scheme of most probably 5,5 % of total investment in the industry and considers that such aid intensity has a very limited effect on competition.

While in comparison with previous aids granted by the French Government to the textile and clothing industry the intensity of the scheme currently proposed may appear to be more limited, it nevertheless has to be concluded that the proposed aids are to be granted to facilitate investment which reduces the costs normally allowed for in the budgets of the undertakings in question. In a market where the volume of trade between Member States is substantial, all aid, whatever its amount or intensity, and particularly aids of an intensity of 5,5 % net grant equivalent distort or threaten to distort normal competition since the companies receiving the aid obtain external assistance which does not accrue to their competitors. The specific intensity of 5,5 % may not be a very large percentage of the aggregate financial resources of an undertaking but the aid is nevertheless appreciable in the light of the total investment costs of a company benefitting under the proposed scheme.

As to the French Government's claim that the macro-economic effects of the proposed aid scheme would be next to nothing it has to be pointed out that competitiveness is determined at company level and that the aids envisaged would enable those firms benefiting under the scheme to significantly reduce their investment costs and, consequently, modify their prices.

In view of all the foregoing considerations, it is clear that the proposed aids under the scheme of assistance for the benefit of the textile and clothing industries in France by favouring the undertakings in the sectors concerned, the market situation of which would no

longer be solely determined by their own efficiency, merits and powers, would operate only in the national interest of the said Member State and would not contribute to a development which would be adequate to counteract the resulting distortion of trade at Community level.

Consequently, the aid proposal in question does not meet the conditions which must be fulfilled for one of the exceptions laid down in Article 92 (2) and (3) of the EEC Treaty to apply,

HAS ADOPTED THIS DECISION:

Article 1

The aid for the benefit of textile and clothing undertakings provided for by Decrees No 84/388, No 84/389 and No 84/390 published in the *Official Gazette of the French Republic* on 25 May 1984, the detailed arrangements for the implementation of which were communicated to the Commission by letter of 18 April 1985, is incompatible with the common market under Article 92 of the EEC Treaty and France shall refrain from implementing the said aid scheme.

Article 2

France shall inform the Commission within two months of the date of notification of this Decision of the measures taken to comply herewith.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 5 June 1985.

For the Commission

Peter SUTHERLAND

Member of the Commission

COMMISSION DECISION

of 8 July 1985

setting up a prior communication and consultation procedure on migration policies in relation to non-member countries

(85/381/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 118 thereof,

Whereas the foreign populations in the Community and the changes which have taken place in their composition are important demographic factors, more especially by virtue of the permanent nature of their presence, the reuniting of families and the fact of their high birth rate;

Whereas there are problems linked with their integration into the workforce, society and cultural life and, more particularly, those encountered in the education, training and employment of the second generation;

Whereas it is important to ensure that the migration policies of Member States in relation to non-member countries take into account both common policies and the actions taken at Community level, in particular within the framework of Community labour market policy, in order not to jeopardize the results; whereas it is necessary to facilitate the exchange of information and views in these areas with a view to adopting common positions, and it is therefore important to organize a consultation procedure ensuring the participation of all Member States;

Whereas, moreover, the Council in its resolution of 9 February 1976 concerning an action programme in favour of migrant workers and members of their families⁽¹⁾, and in its resolution of 27 June 1980 concerning orientation towards a Community labour market policy⁽²⁾, underlined the importance of undertaking appropriate consultation on migration policies in relation to non-member countries, and whereas integration of the Community labour market should be favoured in the framework of free movement of the labour force within the Community, in particular by appropriate consultation on these policies, in accordance with the conclusions which the Council adopted on 22 November 1979 on this subject; whereas its resolution of 27 June 1985 on guidelines

for a Community policy on migration⁽³⁾ reaffirmed the need for such consultation;

Whereas, moreover, the final communiqué of the Conference of Heads of State and of Government of 9 and 10 December 1974 in Paris recommends, in point 10, a stage-by-stage harmonization of legislation concerning foreigners; whereas the European Council on 25 and 26 June 1984 adopted conclusions on social policy;

Whereas in its resolution of 9 June 1983⁽⁴⁾ concerning, *inter alia*, the passport union and the suppression of individual controls at Community frontiers, the European Parliament urged the Council and the Commission to make further proposals particularly with a view to harmonization of visa policies and legislation concerning foreigners;

Whereas the role of the Commission, in view of the powers conferred on it by the Treaty, is to promote cooperation between Member States in the field of social policy, in particular in the different areas above-mentioned, and to organize appropriate consultations to this end,

HAS ADOPTED THIS DECISION:

Article 1

1. The Member States shall give the Commission and the other Member States in good time and at the latest at the moment they are made public advance information of:

— draft measures which they intend to take with regard to third country workers and members of their families, in the areas of entry, residence and employment, including illegal entry, residence and employment, as well as the realization of equality of treatment in living and working conditions, wages and economic rights, the promotion of integration into the workforce, society and cultural life, and the voluntary return of such persons to their countries of origin,

⁽¹⁾ OJ No C 34, 14. 2. 1976, p. 2.

⁽²⁾ OJ No C 168, 8. 7. 1980, p. 1.

⁽³⁾ OJ No C 141, 10. 6. 1985, p. 462.

⁽⁴⁾ OJ No C 184, 11. 7. 1983, p. 112.

- draft agreements relating to the abovementioned matters, as well as draft cooperation agreements which they intend to negotiate or renegotiate with third countries, when these agreements involve provisions relating to the abovementioned matters,
- draft agreements relating to conditions of residence and employment of their nationals working in third countries and members of their families, which they intend to negotiate or renegotiate with those countries.

2. The Member States shall communicate to the Commission and to the other Member States, in the areas mentioned in paragraph 1 the texts of provisions laid down by law, regulation or administrative action already in force, and also the texts of agreements made with third countries.

Article 2

1. If, within the space of two weeks from the date of receipt of the documents mentioned in Article 1, a Member State so requests, or if the Commission so decides on its own initiative, the Commission shall proceed with a consultation with the Member States on those documents within six weeks of their receipt.

The Commission shall proceed with this consultation immediately, if a Member State requests it to do so as a matter of urgency.

2. The Commission may, at any time at the request of a Member State or on its own initiative, arrange a consultation on the draft provisions and agreements referred to in Article 1, except in the case of questions upon which consultation has already taken place and concerning which no new developments have arisen.

Article 3

The objectives of the consultation procedure provided for in Article 2 shall be, *inter alia*:

- to facilitate the mutual exchange of information and the identification of problems of common interest and, in relation to those problems, to facilitate the adoption of a common position by the

Member States, particularly as regards international instruments relating to migration,

- to ensure that the agreements and measures referred to in Article 1, including those relating to development aid, are in conformity with, and do not compromise the results of, Community policies and actions in these fields, in particular as regards Community labour market policy,
- to examine the possibility of measures, which might be taken by the Community or Member States in the fields referred to in Article 1, aimed at achieving progress towards a harmonization of national legislation on foreigners, promoting the inclusion of a maximum of common provisions in bilateral agreements, and improving the protection of Community nationals working and living in third countries.

Article 4

1. Consultation shall be arranged by the Commission. Meetings shall be chaired by the Commission, which shall also provide the secretariat.

2. The consultation procedure established by this Decision shall not affect the responsibilities of Committees already in existence, in particular those of the Advisory and Technical Committee, as determined by Council Regulation (EEC) No 1612/68⁽¹⁾.

3. The Member States shall take all necessary steps to ensure the proper functioning of the consultation procedure, and in particular, where necessary, to safeguard the confidential nature of the information which will be made available to them in that connection.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 8 July 1985.

For the Commission

Peter SUTHERLAND

Member of the Commission

⁽¹⁾ OJ No L 257, 19. 10. 1968, p. 2.

COMMISSION DECISION

of 10 July 1985

prohibiting the use in feedingstuffs of protein products obtained from *Candida* yeasts cultivated on n-alkanes

(85/382/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 82/471/EEC of 30 June 1982 concerning certain products used in animal nutrition ⁽¹⁾, as last amended by Commission Directive 84/443/EEC ⁽²⁾, and in particular Articles 4 and 6 thereof,

Having consulted the Scientific Committee for Animal Nutrition and the Scientific Committee for Food,

Whereas under Directive 82/471/EEC the Member States are temporarily authorized to maintain the national authorizations which, prior to being notified of that Directive, they granted for the use of protein products obtained from *Candida* yeasts cultivated on n-alkanes; whereas a Community Decision concerning these products should be taken within a period of two years as from notification of that Directive;

Whereas, according to present scientific and technical knowledge and the joint opinion of the Scientific Committee for Animal Nutrition and the Scientific Committee for Food, certain strains of yeast of the *Candida* variety are pathogenic and, in some circumstances, may give rise to hypersensitivity reactions; whereas the use of such strains for the production of protein for use in animal nutrition may therefore entail hazards to animal or human health in so far as viable cells are released;

Whereas, moreover, in the absence of certain basic scientific data, in particular those necessary to interpret the likely effects of changes in the composition of the fatty acids of animal lipids, the hazards which such products may present for the consumer cannot be assessed;

Whereas, on the basis of present knowledge, it cannot be concluded that protein products obtainable from yeasts of the *Candida* variety cultivated on n-alkanes

satisfy the requirements for obtaining Community authorization under Directive 82/471/EEC;

Whereas the use in feedingstuffs of protein products obtained from yeasts of the *Candida* variety cultivated on n-alkanes should be prohibited throughout the Community until such time as it is established that such products do not represent a hazard to animal or human health;

Whereas those Member States which authorize certain protein products obtained from yeasts of the *Candida* variety cultivated on n-alkanes must take the necessary measures to rescind such authorizations;

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

HAS ADOPTED THIS DECISION:

Article 1

National authorizations granted for the use of protein products obtained from yeasts of the *Candida* variety cultivated on n-alkanes shall be withdrawn.

Article 2

This Decision shall apply from 1 March 1986.

Member States shall inform the Commission of any necessary measures they have taken to comply with this Decision.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 10 July 1985.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 213, 21. 7. 1982, p. 8.

⁽²⁾ OJ No L 245, 14. 9. 1984, p. 21.

CORRIGENDA

Corrigendum to the Commission Regulation (EEC) No 1948/85 of 15 July 1985 laying down detailed rules for the transfer to the Greek intervention agency of skimmed-milk powder held by the intervention agencies of other Member States

(Official Journal of the European Communities No L 183 of 16 July 1985, page 6)

Page 9, Annex, first paragraph :

for: '... Verordnung (EWG) Nr. 1822/83 ...'

read: '... Verordnung (EWG) Nr. 1322/85 ...';

for: '... Verordnung (EWG) Nr. 2484/83 ...'

read: '... Verordnung (EWG) Nr. 1948/85 ...'.

Page 9, Annex, third paragraph :

for: '... κανονισμός (ΕΟΚ) αριθ. 1822/83 ...'

read: '... κανονισμός (ΕΟΚ) αριθ. 1322/85 ...';

for: '... και (ΕΟΚ) αριθ. 2484/83 ...'

read: '... και (ΕΟΚ) αριθ. 1948/85 ...'.
