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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 3171/86**of 17 October 1986****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 the Act of Accession of Spain and Portugal,

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 1579/86 ⁽²⁾, and in particular Article 13 (5) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy ⁽³⁾, 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 Commission Regulation (EEC) No 2010/86 ⁽⁴⁾ 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 corrective factor provided for in the last paragraph of Article 3 (1) of Regulation (EEC) No 1676/85,

— 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 16 October 1986;

Whereas the aforesaid corrective factor affects the entire calculation basis for the levies, including the equivalence coefficients;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2010/86 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 18 October 1986.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 139, 24. 5. 1986, p. 29.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 173, 1. 7. 1986, p. 1.

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

Done at Brussels, 17 October 1986.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX

to the Commission Regulation of 17 October 1986 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CCT heading No	Description	(ECU/tonne)	
		Portugal	Third country
10.01 B I	Common wheat, and meslin	7,44	174,85
10.01 B II	Durum wheat	32,48	242,87 ⁽¹⁾ ⁽²⁾
10.02	Rye	43,99	158,54 ⁽⁶⁾
10.03	Barley	14,08	173,49
10.04	Oats	76,61	147,07
10.05 B	Maize, other than hybrid maize for sowing	—	173,16 ⁽²⁾ ⁽³⁾ ⁽⁸⁾
10.07 A	Buckwheat	—	0
10.07 B	Millet	14,08	117,25 ⁽⁴⁾
10.07 C II	Grain sorghum, other than hybrid sorghum for sowing	—	167,96 ⁽⁴⁾ ⁽⁸⁾
10.07 D I	Triticale	⁽⁷⁾	⁽⁷⁾
10.07 D II	Canary seed; other cereals	—	0 ⁽²⁾
11.01 A	Wheat or meslin flour	24,22	258,30
11.01 B	Rye flour	75,39	235,76
11.02 A I a)	Durum wheat groats and meal	63,59	390,50
11.02 A I b)	Common wheat groats and meal	25,27	278,08

⁽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).

⁽⁸⁾ The levy referred to in Article 1 of Council Regulation (EEC) No 2913/86 shall be fixed on the basis of an invitation to tender in accordance with Commission Regulation (EEC) No 3140/86.

COMMISSION REGULATION (EEC) No 3172/86

of 17 October 1986

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 the Act of Accession of Spain and Portugal,

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 1579/86 ⁽²⁾, and in particular Article 15 (6) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy ⁽³⁾, 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 Commission Regulation (EEC) No 2011/86 ⁽⁴⁾ 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 corrective factor provided for in the last paragraph of Article 3 (1) of Regulation (EEC) No 1676/85,
- 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 16 October 1986;

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

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 originating in Portugal shall be zero.
2. 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 originating in third countries shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 18 October 1986.

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

Done at Brussels, 17 October 1986.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 139, 24. 5. 1986, p. 29.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 173, 1. 7. 1986, p. 4.

ANNEX

to the Commission Regulation of 17 October 1986 fixing the premiums to be added to the import levies on cereals, flour and malt from third countries

A. Cereals and flour

(ECU/tonne)

CCT heading No	Description	Current 10	1st period 11	2nd period 12	3rd period 1
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	0
10.04	Oats	0	0	0	0
10.05 B	Maize, other than hybrid maize for sowing	0	0	0	0
10.07 A	Buckwheat	0	0	0	0
10.07 B	Millet	0	0	0	0
10.07 C II	Grain sorghum, other than hybrid sorghum for sowing	0	0	0	0
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 10	1st period 11	2nd period 12	3rd period 1	4th period 2
11.07 A I (a)	Unroasted malt, obtained from wheat, in the form of flour	0	0	0	0	0
11.07 A I (b)	Unroasted malt, obtained from wheat, other than in the form of flour	0	0	0	0	0
11.07 A II (a)	Unroasted malt, other than that obtained from wheat, in the form of flour	0	0	0	0	0
11.07 A II (b)	Unroasted malt, other than that obtained from wheat, other than in the form of flour	0	0	0	0	0
11.07 B	Roasted malt	0	0	0	0	0

COMMISSION REGULATION (EEC) No 3173/86

of 17 October 1986

on the sale by the procedure laid down in Regulation (EEC) No 2539/84 of beef held by certain intervention agencies and intended for export amending Regulation (EEC) No 1687/76 and repealing Regulation (EEC) No 984/81

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 Regulation (EEC) No 3768/85 ⁽²⁾, and in particular Article 7 (3) thereof,

Whereas Commission Regulation (EEC) No 2539/84 of 5 September 1984 laying down detailed rules for certain sales of frozen beef held by the intervention agencies ⁽³⁾, has provided for the possibility of applying a two-stage procedure when selling beef from intervention stocks;

Whereas certain intervention agencies hold substantial stocks of bone-in intervention meat; whereas an extension of the period of storage for the meat bought in should be avoided on account of the ensuing high costs; whereas outlets exist in certain third countries for the products in question it is appropriate therefore to offer this meat for sale at a price fixed at a standard rate in advance in accordance with Commission Regulation (EEC) No 2539/84;

Whereas it is necessary to lay down a time limit for export of the said meat; whereas this time limit should be fixed in taking into account Article (5) (b) of Commission Regulation (EEC) No 2377/80 of 4 September 1980 on special detailed rules for the application of the system of import and export licences in the beef and veal sector ⁽⁴⁾, as last amended by Regulation (EEC) No 3815/85 ⁽⁵⁾;

Whereas the export of meat sold under this Regulation must be guaranteed by the lodging of a security, the amount of which may differ from that provided for in Article 15 of Commission Regulation (EEC) No 2173/79 ⁽⁶⁾; whereas such security shall be released when proof, as required by Article 12 of Commission Regulation (EEC) No 1687/76 ⁽⁷⁾, as last amended by Regulation (EEC) No 2927/86 ⁽⁸⁾, has been furnished within the time limit laid down in Article 31 of Commission Regulation

(EEC) No 2730/79 ⁽⁹⁾, as last amended by Regulation (EEC) No 2108/86 ⁽¹⁰⁾;

Whereas products held by intervention agencies and intended for export are subject to the provisions of Regulation (EEC) No 1687/76; whereas, however, Annex I of the said Regulation setting out the entries to be made in control copies should be expanded;

Whereas Commission Regulation (EEC) No 984/81 ⁽¹¹⁾ should be repealed;

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

1. Part of the stocks of bone-in intervention beef held by certain intervention agencies shall be sold.

This meat shall be for export.

Subject to the provisions of this Regulation, the sale shall take place in accordance with the provisions of Regulation (EEC) No 2539/84.

The provisions of Regulation (EEC) No 985/81 shall not apply to this sale.

2. The qualities and the minimum prices referred to in Article 3 (1) of Regulation (EEC) No 2539/84 are given in Annex I hereto.

3. Only those tenders shall be taken into consideration which reach the intervention agencies concerned not later than 12 noon on 22 October 1986.

4. Particulars to the qualities and the places where the products are stored may be obtained by interested parties at the addresses given in Annex II.

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 362, 31. 12. 1985, p. 8.

⁽³⁾ OJ No L 238, 6. 9. 1984, p. 13.

⁽⁴⁾ OJ No L 241, 13. 9. 1980, p. 5.

⁽⁵⁾ OJ No L 368, 31. 12. 1985, p. 11.

⁽⁶⁾ OJ No L 251, 5. 10. 1979, p. 12.

⁽⁷⁾ OJ No L 190, 14. 7. 1986, p. 1.

⁽⁸⁾ OJ No L 272, 24. 9. 1986, p. 22.

⁽⁹⁾ OJ No L 317, 12. 12. 1979, p. 1.

⁽¹⁰⁾ OJ No L 182, 5. 7. 1986, p. 9.

⁽¹¹⁾ OJ No L 99, 10. 4. 1981, p. 31.

Article 2

The products referred to in Article 1 must be exported within five months from the date of conclusion of the contract of sale.

Article 3

The security provided for in Article 5 of Regulation (EEC) No 2539/84 is hereby fixed at 150 ECU per 100 kilograms.

2. Without prejudice to Article 15 (2) and (3) of Regulation (EEC) No 2173/79 the security referred to in paragraph 1 shall be released when the proof provided for in Article 12 of Regulation (EEC) No 1687/76 is furnished.

3. The said proof shall be furnished within the time limit laid down in Article 31 of Regulation (EEC) No 2730/79.

Article 4

Regulation (EEC) No 1687/76 is hereby amended as follows :

In part I of the Annex, 'Products to be exported in the same state as that in which they were when removed from intervention stock', the following item and footnote are added :

'25. Commission Regulation (EEC) No 3173/86 of 17 October 1986 on the sale by procedure laid down in Regulation (EEC) No 2539/84 of beef held by certain intervention agencies and intended for export ⁽²⁵⁾.

⁽²⁵⁾ OJ No L 295, 18. 10. 1986, p. 5.'

Article 5

Regulation (EEC) No 984/81 is hereby repealed.

Article 6

This Regulation shall enter into force on 18 October 1986.

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

Done at Brussels, 17 October 1986.

For the Commission

Frans ANDRIESSEN

Vice-President

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

- Categoría A: Canales de animales jóvenes sin castrar de menos de dos años,
Categoría C: Canales de animales machos castrados.
- Kategori A: Slagtekroppe af unge ikke-kastrede handyr på under to år,
Kategori C: Slagtekroppe af kastrede handyr.
- Kategorie A: Schlachtkörper von jungen männlichen nicht kastrierten Tieren von weniger als 2 Jahren,
Kategorie C: Schlachtkörper von männlichen kastrierten Tieren.
- Κατηγορία Α: Σφάγια νεαρών μη ευνουχισμένων αρρένων ζώων κάτω των 2 ετών,
Κατηγορία C: Σφάγια ευνουχισμένων αρρένων ζώων.
- Category A: Carcasses of uncastrated young male animals of less than two years of age,
Category C: Carcasses of castrated male animals.
- Catégorie A: Carcasses de jeunes animaux mâles non castrés de moins de 2 ans,
Catégorie C: Carcasses d'animaux mâles castrés.
- Categoria A: Carcasse di giovani animali maschi non castrati di età inferiore a 2 anni,
Categoria C: Carcasse di animali maschi castrati.
- Categorie A: Geslachte niet-gecastreerde jonge mannelijke dieren minder dan 2 jaar oud,
Categorie C: Geslachte gecastreerde mannelijke dieren.
- Categoria A: Carcaças de jovens animais machos não castrados de menos de dois anos,
Categoria C: Carcaças de animais machos castrados.

Precio mínimo expresado en ECUS por 100 kg ⁽¹⁾ — Mindestpreise in ECU/100 kg ⁽¹⁾ — Mindestpreise,
ausgedrückt in ECU/100 kg ⁽¹⁾ — Ελάχιστες τιμές πωλήσεως εκφραζόμενες σε ECU ανά 100 kg ⁽¹⁾ —
Minimum prices expressed in ECU per 100 kg ⁽¹⁾ — Prix minimaux exprimés en Écus par 100 kg ⁽¹⁾ —
Prezzi minimi espressi in ECU per 100 kg ⁽¹⁾ — Minimumprijzen uitgedrukt in Ecu per 100 kg ⁽¹⁾ —
Preço mínimo expresso em ECUs por 100 kg ⁽¹⁾

BUNDESREPUBLIK DEUTSCHLAND

- *Vorderviertel, auf 8 Rippen geschnitten, stammend von:*
Bullen A / Ochsen A / Kategorie A, Klassen U und R / Kategorie C, Klassen U und R 130,00
- *Hinterviertel, auf 5 Rippen geschnitten, stammend von:*
Bullen A / Kategorie A, Klassen U und R / Kategorie C, Klassen U und R 215,00
- *Vorderviertel, auf 5 Rippen geschnitten, mit Dünnung am Vorderviertel eingeschlossen, stammend von:*
Bullen A / Ochsen A / Kategorie A, Klassen U und R / Kategorie C, Klassen U und R 130,00
- *Hinterviertel, auf 8 Rippen geschnitten (Pistola), ohne Dünnung, stammend von:*
Bullen A / Ochsen A / Kategorie A, Klassen U und R / Kategorie C, Klassen U und R 215,00

- ⁽¹⁾ En caso de que los productos estén almacenados fuera del Estado miembro al que pertenezca el organismo de intervención poseedor, estos precios se ajustarán con arreglo a lo dispuesto en el Reglamento (CEE) n° 1805/77.
- ⁽¹⁾ Såfremt produkterne er oplagrede uden for den medlemsstat, hvor det interventionsorgan, der ligger inde med produkterne, er hjemmehørende, tilpasses disse priser i overensstemmelse med bestemmelserne i forordning (EØF) nr. 1805/77.
- ⁽¹⁾ Falls die Lagerung der Erzeugnisse außerhalb des für die betreffende Interventionsstelle zuständigen Mitgliedstaats erfolgt, werden diese Preise gemäß den Vorschriften der Verordnung (EWG) Nr. 1805/77 angepaßt.
- ⁽¹⁾ Στην περίπτωση που τα προϊόντα αποθεματοποιούνται εκτός του κράτους μέλους στο οποίο υπάγεται ο οργανισμός παρεμβάσεως που τα κατέχει, οι τιμές αυτές προσαρμόζονται σύμφωνα με τις διατάξεις του κανονισμού (ΕΟΚ) αριθ. 1805/77.
- ⁽¹⁾ Where the products are stored outside the Member State where the intervention agency responsible for them is situated, these prices shall be adjusted in accordance with Regulation (EEC) No 1805/77.
- ⁽¹⁾ Au cas où les produits sont stockés en dehors de l'État membre dont relève l'organisme d'intervention détenteur, ces prix sont ajustés conformément aux dispositions du règlement (CEE) n° 1805/77.
- ⁽¹⁾ Qualora i prodotti siano immagazzinati fuori dello Stato membro da cui dipende l'organismo d'intervento detentore, detti prezzi vengono ritoccati in conformità del disposto del regolamento (CEE) n. 1805/77.
- ⁽¹⁾ Ingeval de produkten zijn opgeslagen buiten de Lid-Staat waaronder het interventiebureau dat deze produkten onder zich heeft resorteert, worden deze prijzen aangepast overeenkomstig de bepalingen van Verordening (EEG) nr. 1805/77.
- ⁽¹⁾ No caso de os produtos estarem armazenados fora do Estado-membro de que depende o organismo de intervenção detentor, estes preços serão ajustados conforme o disposto no Regulamento (CEE) n° 1805/77.

BELGIQUE/BELGIË

- *Quartiers avant, découpe droite à 8 côtes, provenant des :*
- *Voorvoeten, recht afgesneden op 8 ribben, afkomstig van :*
Taureaux 55 % / Stieren 55 % / Bœufs 55 % / Ossen 55 % / Catégorie A, classes U, R et O / Categorie A, klassen U, R en O / Catégorie C, classes R et O / Categorie C, klassen R en O 130,00
- *Quartiers arrière, découpe droite à 5 côtes, provenant des :*
- *Achtersvoeten, recht afgesneden op 5 ribben, afkomstig van :*
Taureaux 55 % / Stieren 55 % / Bœufs 55 % / Ossen 55 % / Catégorie A, classes U, R et O / Categorie A, klassen U, R en O / Catégorie C, classes R et O / Categorie C, klassen R en O 215,00
- *Quartiers arrière, découpe à 8 côtes, dite « pistola », provenant des :*
- *Achtersvoeten, afgesneden op 8 ribben (pistola), afkomstig van :*
Taureaux 55 % / Stieren 55 % / Bœufs 55 % / Ossen 55 % / Catégorie A, classes U, R et O / Categorie A, klassen U, R en O / Catégorie C, classes R et O / Categorie C, klassen R en O 215,00

DANMARK

- *Forfjerdinger, udskåret med 5 ribben, idet slag og bryst bliver siddende på forfjerdinger, af :*
Stude 1 / Tyre P / Ungtyre 1 / Kategori A, klasse R og O / Kategori C, klasse R og O 130,00
- *Bagfjerdinger, udskåret med 8 ribben, såkaldte »pistoler«, af :*
Stude 1 / Tyre P / Ungtyre 1 / Kategori A, klasse R og O / Kategori C, klasse R og O 215,00
- *Forfjerdinger, lige udskåret med 8 ribben, af :*
Kategori A, klasse R og O, Kategori C, klasse R og O 130,00
- *Bagfjerdinger, lige udskåret med 5 ribben af :*
Stude 1 / Tyre P / Ungtyre 1 / Kategori A, klasse R og O / Kategori C, klasse R og O 215,00

FRANCE

- *Quartiers avant, découpe à 5 côtes, caparaçons faisant partie du quartier avant, provenant des :*
Catégorie A, classes U, R et O / Catégorie C, classes U, R et O 130,00
- *Quartiers arrière, découpe à 8 côtes, dite « pistola », provenant des :*
Catégorie A, classes U, R et O / Catégorie C, classes U, R et O 215,00
- *Quartiers avant, découpe droite à 10 côtes, provenant des :*
Catégorie A, classes U, R et O 130,00
- *Quartiers arrière, découpe à 3 côtes, provenant des :*
Catégorie A, classes U, R et O / Catégorie C, classes U, R et O 215,00

IRELAND

- *Forequarters, straight cut at 10th rib, from :*
Steers 1 / Steers 2 / Category C, classes U, R and O 130,00
- *Hindquarters, straight cut at third rib, from :*
Steers 1 / Steers 2 / Category C, classes U, R and O 215,00
- *Forequarters, cut at fifth rib, with thin flank included in the forequarter, from :*
Steers 1 / Steers 2 / Category C, classes U, R and O 130,00
- *Hindquarters, 'pistola' cut at eighth rib, from :*
Steers 1 / Steers 2 / Category C, classes U, R and O 215,00

ITALIA

- *Quarti anteriori, taglio a 5 costole, il pancettone fa parte del quarto anteriore, provenienti dai:*
Vitelloni 1 / Vitelloni 2 / Categoria A, classi U, R e O 130,00
- *Quarti posteriori, taglio a 8 costole, detto pistola, provenienti dai:*
Vitelloni 1 / Vitelloni 2 / Categoria A, classi U, R e O 215,00
- *Quarti anteriori, taglio a 8 costole, il pancettone fa parte del quarto anteriore, provenienti dai:*
Vitelloni 1 / Vitelloni 2 / Categoria A, classi U, R e O 130,00
- *Quarti posteriori, taglio a 5 costole, detto pistola, provenienti dai:*
Vitelloni 1 / Vitelloni 2 / Categoria A, classi U, R e O 215,00

NEDERLAND

- *Voorvoeten, afgesneden op 5 ribben, waarbij de flank, de platte ribben en de naborst aan de voorvoet vastzitten, afkomstig van:*
Stieren, 1e kwaliteit / Categorie A, klasse R 130,00
- *Voorvoeten, recht afgesneden op 8 ribben, afkomstig van:*
Stieren, 1e kwaliteit / Categorie A, klasse R 130,00
- *Achtersvoeten, recht afgesneden op 5 ribben, afkomstig van:*
Stieren, 1e kwaliteit / Categorie A, klasse R 215,00

UNITED KINGDOM

A. Great Britain

- *Forequarters, straight cut at 10th rib, from:*
Steers M / Steers H / Category C, classes U and R 130,00
- *Hindquarters, straight cut at third rib, from:*
Steers M / Steers H / Category C, classes U and R 215,00
- *Forequarters, cut at fifth rib, with thin flank included in the forequarter, from:*
Steers M / Steers H / Category C, classes U and R 130,00
- *Hindquarters, 'pistola' cut at eighth rib, from:*
Steers M / Steers H / Category C, classes U and R 215,00

B. Northern Ireland

- *Forequarters, straight cut at 10th rib, from:*
Steers L/M / Steers L/H / Steers T / Category C, classes U, R and O 130,00
- *Hindquarters, straight cut at third rib, from:*
Steers L/M / Steers L/H / Steers T / Category C, classes U, R and O 215,00
- *Forequarters, cut at fifth rib, with thin flank included in the forequarter, from:*
Steers L/M / Steers L/H / Steers T / Category C, classes U, R and O 130,00
- *Hindquarters, 'pistola' cut at eighth rib, from:*
Steers L/M / Steers L/H / Steers T / Category C, classes U, R and O 215,00

*ANEXO II — BILAG II — ANHANG II — ΠΑΡΑΡΤΗΜΑ II — ANNEX II —
ANNEXE II — ALLEGATO II — BIJLAGE II — ANEXO II*

Direcciones de los organismos de intervención — Interventionsorganernes adresser —
Anschriften der Interventionsstellen — Διευθύνσεις των οργανισμών παρεμβάσεως —
Addresses of the intervention agencies — Adresses des organismes d'intervention —
Indirizzi degli organismi d'intervento — Adressen van de interventiebureaus — Endereços
dos organismos de intervenção

BELGIQUE/BELGIË: Office belge de l'économie et Belgische Dienst voor Bedrijfs-
de l'agriculture leven en Landbouw
rue de Trèves 82 Trierstraat 82
1040 Bruxelles 1040 Brussel
Tél. 02/230 17 40, télex 240 76 OBEA BRU B

BUNDESREPUBLIK Bundesanstalt für landwirtschaftliche Marktordnung (BALM)
DEUTSCHLAND: Geschäftsbereich 3 (Fleisch und Fleischerzeugnisse)
Postfach 180 107 — Adickesallee 40
D-6000 Frankfurt am Main 18
Tel. (06 9) 1 56 40 App. 772/773, Telex: 04 11 56

FRANCE: OFIVAL
Tour Montparnasse
33, avenue du Maine
75755 Paris Cedex 15
Tél. 538 84 00, télex 26 06 43

IRELAND: Department of Agriculture
Agriculture House
Kildare Street
Dublin 2
Tel. (01) 78 90 11, ext. 22 78
Telex 4280 and 5118

ITALIA: Azienda di Stato per gli interventi nel mercato agricolo (AIMA)
Roma, via Palestro 81
Tel. 49 57 283 — 49 59 261
Telex 61 30 03

UNITED KINGDOM: Intervention Board for Agricultural Produce
Fountain House
2 Queens Walk
Reading RG1 7QW
Berks.
Tel. (0734) 58 36 26
Telex 848 302

DANMARK: Direktoratet for markedsordningerne
EF-Direktoratet
Frederiksborggade 18
DK-1360 København K
Tel. (01) 92 70 00, telex 151 37 DK

NEDERLAND: Voedselvoorzienings in- en verkoopbureau
Ministerie van Landbouw en Visserij
Postbus 960
6430 AZ Hoensbroek
Tel. (045) 22 20 20
Telex: 56 396

COMMISSION REGULATION (EEC) No 3174/86

of 17 October 1986

re-establishing the levying of customs duties applicable to third countries on
certain products originating in Yugoslavia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Economic Community,

Having regard to the Cooperation Agreement between the European Economic Community and the Socialist Federal Republic of Yugoslavia⁽¹⁾, and in particular Protocol 1 thereto,

Having regard to Article 1 of Council Regulation (EEC) No 3138/85 of 22 October 1985 establishing ceilings and Community supervision for imports of certain goods originating in Yugoslavia (1986)⁽²⁾;

Whereas Article 1 of the abovementioned Protocol provides that the products listed below, imported under reduced duty rates according to Article 18 of the Cooperation Agreement are subject to the annual ceiling indicated below, above which the customs duties applicable to third countries may be re-established:

(tonnes)		
CCT heading No	Description	Ceiling
73.02	Ferro-alloys : C. Ferro-silicon	5 517

Whereas imports into the Community of those products, originating in Yugoslavia, have reached that ceiling; whereas the situation on the Community market requires that customs duties applicable to third countries on the products in question be re-established,

HAS ADOPTED THIS REGULATION:

Article 1

From 21 October to 31 December 1986, the levying of customs duties applicable to third countries shall be re-established on imports into the Community of the following products:

CCT heading No	Description	Origin
73.02	Ferro-alloys : C. Ferro-silicon	Yugoslavia

Article 2

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

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

Done at Brussels, 17 October 1986.

For the Commission

COCKFIELD

Vice-President

⁽¹⁾ OJ No L 41, 14. 2. 1983, p. 2.

⁽²⁾ OJ No L 304, 16. 11. 1985, p. 26.

COMMISSION REGULATION (EEC) No 3175/86
of 17 October 1986
fixing the export refunds on eggs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organization of the market in eggs ⁽¹⁾, as last amended by Regulation (EEC) No 1475/86 ⁽²⁾, and in particular the first sentence of the fifth subparagraph of Article 9 (2) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas Article 9 of Regulation (EEC) No 2771/75 provides that the difference between prices on the world market for the products listed in Article 1 (1) of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Council Regulation (EEC) No 2774/75 of 29 October 1975 ⁽³⁾ lays down general rules for granting export refunds and criteria for fixing the amount of such refunds;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85 ⁽⁴⁾;
- 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 rela-

tion to the Community currencies referred to in the previous indent and the aforesaid coefficient;

Whereas it follows from applying these rules and criteria to the present situation on the market in eggs that the refund should be fixed at an amount which would permit Community participation in world trade and would also take account of the nature of these exports and their importance at the present time;

Whereas Commission Regulation (EEC) No 633/86 of 28 February 1986 laying down specific rules on export refunds in the egg sector following the accession of Portugal and amending Regulation (EEC) No 188/86 ⁽⁵⁾ established the principle that no Community refund should be granted on egg products originating in Portugal;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The list of products for which, when they are exported, the export refund referred to in Article 9 of Regulation (EEC) No 2771/75 is granted, and the amount of that refund shall be as shown in the Annex hereto.
2. The refund referred to in paragraph 1 shall not be granted in respect of exports to Portugal from 1 March 1986.
3. The refund referred to in paragraph 1 shall not be granted in respect of exports of products originating in Portugal.

Article 2

This Regulation shall enter into force on 1 November 1986.

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

Done at Brussels, 17 October 1986.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 282, 1. 11. 1975, p. 49.

⁽²⁾ OJ No L 133, 21. 5. 1986, p. 39.

⁽³⁾ OJ No L 282, 1. 11. 1975, p. 68.

⁽⁴⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁵⁾ OJ No L 60, 1. 3. 1986, p. 13.

to the Commission Regulation of 17 October 1986 fixing the export refunds on eggs

(a) Only poultry eggs which fulfil the conditions stipulated by the competent authorities of the European Communities are eligible for entry under this subheading.

(a) Only poultry eggs which fulfil the conditions stipulated by the competent authorities of the European Communities are eligible for entry under this subheading.

COMMISSION REGULATION (EEC) No 3176/86
of 17 October 1986
fixing the export refunds on poultrymeat

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organization of the market in poultrymeat⁽¹⁾, as last amended by Regulation (EEC) No 1475/86⁽²⁾, and in particular the first sentence of the fifth subparagraph of Article 9 (2) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas Article 9 of Regulation (EEC) No 2777/75 provides that the difference between prices on the world market for the products listed in Article 1 (1) of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Council Regulation (EEC) No 2779/75 of 29 October 1975⁽³⁾, lays down general rules for granting export refunds and criteria for fixing the amount of such refunds;

Whereas it follows from applying these rules and criteria to the present situation on the market in poultrymeat that the refund should be fixed at an amount which would permit Community participation in world trade and would also take account of the nature of these exports and their importance at the present time;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁴⁾,

- 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 Commission Regulation (EEC) No 634/86 of 28 February 1986 laying down specific rules on export refunds in the poultrymeat sector following the accession of Portugal and amending Regulation (EEC) No 189/86⁽⁵⁾ established the principle that no Community refund should be granted on poultrymeat products originating in Portugal;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultry meat and Eggs,

HAS ADOPTED THIS REGULATION:

Article 1

1. The list of products for which, when they are exported, the export refund referred to in Article 9 of Regulation (EEC) No 2777/75 is granted, and the amount of that refund shall be as shown in the Annex hereto.
2. The refund referred to in paragraph 1 shall not be granted in respect of exports to Portugal from 1 March 1986.
3. The refund referred to in paragraph 1 shall not be granted in respect of exports of products originating in Portugal.

Article 2

This Regulation shall enter into force on 1 November 1986.

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

Done at Brussels, 17 October 1986.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 282, 1. 11. 1975, p. 77.

⁽²⁾ OJ No L 133, 21. 5. 1986, p. 39.

⁽³⁾ OJ No L 282, 1. 11. 1975, p. 90.

⁽⁴⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁵⁾ OJ No L 60, 1. 3. 1986, p. 15.

ANNEX

to the Commission Regulation of 17 October 1986 fixing the export refunds on poultrymeat

CCT heading No	Description	Refund
		ECU/100 units
01.05	Live poultry, that is to say, fowls, ducks, geese, turkeys and guinea fowls : For all exports except to the United States of America : A. Of a weight not exceeding 185 g, known as 'chicks' : I. Turkeys and geese II. Other	8,40 4,20
		ECU/100 kg
	B. Other : I. Fowls	23,00
02.02	Dead poultry (that is to say fowls, ducks, geese, turkeys and guinea fowls) and edible offals thereof (except liver), fresh, chilled or frozen : For all exports except to the United States of America : A. Whole poultry : I. Fowls : a) Plucked and gutted, with heads and feet, known as '83 % chickens' b) Plucked and drawn, without heads and feet but with hearts, livers and gizzards, known as '70 % chickens' c) Plucked and drawn, without heads and feet and without hearts, livers and gizzards, known as '65 % chickens' II. Ducks : a) Plucked, bled, not drawn or gutted with heads and feet, known as '85 % ducks' b) Plucked and drawn without heads and feet, with hearts, livers and gizzards known as '70 % ducks' c) Plucked and drawn without heads and feet, without hearts, livers and gizzards, known as '63 % ducks' IV. Turkeys : a) Plucked and drawn, without heads and feet but with necks, hearts, livers and gizzards, known as '80 % turkeys' b) Plucked and drawn, without heads and feet and without necks, hearts, livers and gizzards, known as '73 % turkeys'	35,00 35,00 35,00 52,00 52,00 52,00 35,00 35,00

CCT heading No	Description	Refund
		ECU/100 kg
02.02 (cont'd)	B. Poultry cuts (excluding offals): I. Boned or boneless: b) Of turkeys: — Homogenized meat, including mechanically recovered meat: — In the proportion of water: protein not exceeding 4,7 and in the proportion of fat content: protein not exceeding 1,5 (1) — Other — Other c) Of other poultry: — Homogenized meat, including mechanically recovered meat: — In the proportion of water: protein not exceeding 4,7 and in the proportion of fat content: protein not exceeding 1,5 (1) — Other — Other II. Unboned (bone-in): a) Halves or quarters: 1. Of fowls 2. Of ducks 4. Of turkeys b) Whole wings, with or without tips d) Breasts and cuts of breasts: 2. Of turkeys 3. Of other poultry e) Legs and cuts of legs: 2. Of turkeys - aa) Drumsticks and cuts of drumsticks - bb) Other 3. Of other poultry ex g) Other: - turkey wingcuts comprising either the humerus or the radius and/or ulna, without the wing tip	40,00 0,00 70,00 40,00 0,00 70,00 41,00 52,00 36,00 29,00 55,00 55,00 28,00 50,00 52,00 29,00
16.02	Other prepared or preserved meat or meat offal: For all exports except to the United States of America: B. Other: I. Poultrymeat or offal: a) Containing 57 % or more by weight of poultrymeat (2)	

CCT heading No	Description	Refund
16.02 (cont'd)	1. Containing uncooked meat or offal ; mixtures of cooked meat or offal and uncooked meat or offal : ex bb) Other : Fowls, whole ; cuts thereof (excluding offals) as described under subheadings 02.02 B I c) (excluding homogenized meat, including mechanically recovered meat), 02.02 B II a) 1, 02.02 B II d) 3 and 02.02 B II e) 3.	27,00

(¹) Water, protein and fat contents shall be determined in accordance with recognized ISO (International Organization for Standardization) methods as set out below :

Water : ISO 1442-1973

Protein : Multiplication of the nitrogen content, determined in accordance with ISO 937-1978, by the factor 6,25

Fat : ISO 1443-1973.

(²) For the purpose of determining the percentage of poultrymeat the weight of any bones shall be disregarded.

COMMISSION REGULATION (EEC) No 3177/86**of 17 October 1986****temporarily suspending the advance fixing of export refunds for certain beef and veal sector products**

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 Regulation (EEC) No 3768/85 ⁽²⁾;

Having regard to Council Regulation (EEC) No 885/68 of 28 June 1968 laying down general rules for granting export refunds on beef and veal and criteria for fixing the amount of such refunds ⁽³⁾, as last amended by Regulation (EEC) No 427/77 ⁽⁴⁾, and in particular the second subparagraph of Article 5 (4) thereof,

Whereas consideration of the situation on the market in beef and veal reveals, the existence of a number of problems arising from the application of the provisions concerning the advance fixing of the refund; whereas

applications are, for speculative purposes, being submitted for the advance fixing of the refund for certain products as a result; whereas the advance fixing of refunds should therefore be suspended, with no action being taken on applications already lodged but not yet dealt with,

HAS ADOPTED THIS REGULATION:

Article 1

The advance fixing of export refunds for products falling within subheading 02.01 A II a) of the Common Customs Tariff is hereby suspended from 20 to 22 October 1986.

Article 2

This Regulation shall enter into force on 18 October 1986.

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

Done at Brussels, 17 October 1986.

For the Commission

Frans ANDRIESSEN

Vice-President

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 362, 31. 12. 1985, p. 8.

⁽³⁾ OJ No L 156, 4. 7. 1968, p. 2.

⁽⁴⁾ OJ No L 61, 5. 3. 1977, p. 16.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 25 September 1986

relating to a proceeding under Article 85 of the EEC Treaty and Article 15 of Council Regulation No 17

(IV/31.143 — Peugeot)

(Only the French text is authentic)

(86/506/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Whereas :

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17 of 6 February 1962, first Regulation implementing Articles 85 and 86 of the Treaty ⁽¹⁾, as last amended by the Act of Accession of Spain and Portugal and in particular Articles 4, 5, 6 and 15 (1) (b) thereof,

Having regard to the notification on 30 January 1963 pursuant to Article 5 of Regulation No 17 by Automobiles Peugeot SA of the standard form distribution agreement for vehicles of the Peugeot and Talbot makes,

Having regard to the Commission Decision of 1 October 1984 to initiate proceedings in this case,

Having given the undertaking concerned the opportunity to make known its views on the objections raised by the Commission, pursuant to Article 19 (1) and (2) of Regulation No 17 and Commission Regulation No 99/63/EEC of 25 July 1963 on the hearings provided for in Article 19 (1) and (2) of Council Regulation No 17 ⁽²⁾,

After consulting the Advisory Committee on Restrictive Practices and Dominant Positions,

I. THE FACTS

- (1) This Decision concerns the obstacles which were placed in the way of the purchase of new right-hand-drive (RHD) cars under the Peugeot group's distribution system from 1 May 1982 to 30 June 1985, and the incorrect replies given by Peugeot in response to two requests for information made by the Commission pursuant to Article 11 of Regulation No 17.

A. The firms

- (2) Automobiles Peugeot SA, hereinafter referred to as 'Peugeot' — a subsidiary of Peugeot SA, Paris — produces motor vehicles and sells them under the Peugeot and Talbot marques. The group achieved a turnover of FF 75 300 million in 1982, FF 85 200 million in 1983 and FF 91 100 million in 1984.

The Companies Talbot Motor Company Limited, Coventry, (Talbot Motor), Peugeot Talbot Belgique SA, Nivelles, Peugeot Talbot Nederland NV, Utrecht, and Peugeot Automobile Deutschland GmbH, Saarbrücken, form part of the Peugeot group and import and distribute vehicles of the Peugeot and Talbot makes in their respective countries. Peugeot Talbot Belgique also ensures the distribution of such vehicles in the Grand Duchy of Luxembourg.

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

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

- (3) Société de Distribution et d'Exportation Automobile, Paris, (SODEXA) also belongs to the Peugeot group and is responsible for the sale of Peugeot and Talbot vehicles to purchasers temporarily resident in France who can buy cars there tax free (sales under transit agreements). To that end, Sodexa has always had access to supplies of all models meeting the specifications of the different countries of final registration (countries of destination), which are at all events already included in Peugeot's production programme. Sodexa met increasingly with demands in respect of sales outside France where the purchasers wanted a different specification from that normally offered in the country in which the order was placed. The execution of orders for RHD vehicles on the continent was also entrusted to Sodexa as part of this activity.

B. The product

- (4) The products involved are new series-production cars of the Peugeot make (104, 205, 305, 504, 604) and Talbot make (Samba, Horizon, Solara, Tagora, Rancho and Murena).

Each range comprises several basic versions (models). Vehicles also have different specifications. In this respect, a distinction can be drawn between specifications which are compulsory according to the laws of the various States and those which satisfy the consumer's requirements or which the manufacturer thinks appropriate for one selling area. No Member State prescribes by law left-hand-drive (LHD) or right-hand-drive, but producing both types is economically indispensable as a manufacturer must take into account the wishes and habits of users in the country of destination.

- (5) The RHD cars that are made available to British military personnel stationed temporarily on the Continent have a slightly different specification from that of vehicles intended for delivery in the United Kingdom and Ireland. They have a speedometer calibrated in kilometres per hour and exterior rear-view mirrors and headlamps designed for driving on the right. Subsequently adapting the vehicles to driving conditions in the country of destination poses no difficulties and involves little expense.
- (6) The plans of the Peugeot group produce mainly LHD vehicles. In 1982, RHD vehicles accounted for 6,1 % of Peugeot production and 25 % of Talbot production. Vehicles of the latter marque

are manufactured by Talbot Motor itself in the United Kingdom.

C. Distribution

- (7) In France, the distribution of vehicles is handled by Peugeot's branches and subsidiaries and by its dealers. In the other Member States, they are distributed either through Peugeot subsidiaries or through independent importers, who in turn have a distribution network. Originally separate, the distribution networks for Peugeot vehicles and Talbot vehicles have gradually been merged since the autumn of 1980.
- (8) Peugeot notified the Commission on 30 January 1963 of a standard form agreement for the distribution of Peugeot vehicles in France (Case No IV/14.056) and for imports into the other Member States (Case No IV/12.428). By letter dated 7 May 1971, Peugeot forwarded to the Commission the standard form distribution agreements for the Benelux countries, the Federal Republic of Germany and Italy. On 28 February 1972, the Commission sent Peugeot a statement of objections in Cases No IV/14.056 and No IV/12.428, following which the export prohibitions provided for in the distribution agreements were dropped. Subsequently, at the Commission's request and with a view to ensuring that Peugeot's standard form agreements were brought into line with the principles embodied in Commission Decision 75/73/EEC⁽¹⁾ in the BMW case, further amendments were made to those agreements. The '*Contrat de Concession Peugeot*' (Peugeot distribution agreement) used in France is considered by Peugeot to be the standard agreement for its entire distribution system in the Community.
- (9) Peugeot Distribution agreements were specially notified to the Commission in respect of Germany on 10 July 1979 (Case No IV/29.900) and of the United Kingdom on 7 March 1979 (Case No IV/29.819).
- (10) By registered letter dated 24 December 1985, Peugeot informed the Commission that it had modified its distribution agreements to bring them into conformity with the provisions of Commission Regulation (EEC) No 123/85 of 12 December 1984 on the application of Article 85 (3) of the Treaty to certain categories of motor vehicle distribution and servicing agreements⁽²⁾.
- (11) This decision concerns only the distribution agreement as it was applied by Peugeot in Belgium, the Grand Duchy of Luxembourg and the Netherlands between 1 May 1982 and 30 June 1985.

⁽¹⁾ OJ No L 29, 3. 2. 1975, p. 1.

⁽²⁾ OJ No L 15, 18. 1. 1985, p. 16.

- (12) The main provisions of this agreement may be summarized as follows. Peugeot confers on the selected dealer the right to sell the products designated in the agreement (contract products), that is to say new vehicles of the Peugeot and/or Talbot makes, as well as spare parts and accessories in a defined territory (the allotted territory). In that territory, Peugeot undertakes to supply for resale the products specified in the agreement to that dealer alone. The dealer may sell new vehicles only to final consumers. He is forbidden to promote sales outside his territory. He may sell new vehicles of other makes only with Peugeot's consent. He is obliged to use only the genuine spare parts made available by Peugeot and, in France, by Peugeot or its suppliers.
- (13) In the allotted territory, Peugeot reserves the right to sell direct to certain categories of purchaser, in particular fleet buyers, government departments, staff of the Peugeot group and other special status purchasers.
- (14) One of the groups falling within these so-called 'special sales' categories is that of sales to purchasers under transit arrangements. The basic agreement thus stipulates:

'The manufacturer reserves the right to sell direct or through any specialized company the products it markets in the following cases:

1. ...
2. ...
3. Sales to persons normally resident outside France who wish the vehicle to be delivered to them in the area of primary responsibility allotted, registered in the TT series;' (translated from the French).

It was for this purpose that Sodexa was set up (see point 3).

D. Price differences between the Member States

- (15) The recommended final selling prices, net of tax, for Peugeot and Talbot vehicles in the Member States have shown wide divergences. In 1982 and 1983 they were lowest in Denmark and highest in the United Kingdom. Between these two extremes lay the price levels in the other countries, in the following (ascending) order: Belgium/Luxembourg, Netherlands, France, Federal Republic of Germany, Italy and Ireland. A comparison, made by Peugeot, of the prices charged for seven popular models in France, Belgium, the Grand Duchy of Luxembourg,

the Federal Republic of Germany and the United Kingdom on 1 January 1982 and on 1 January 1983 shows that the level of prices in the United Kingdom was on average 40 % higher than the price level in Belgium and Luxembourg, 23 % higher than that in France and 20 % higher than that in the Federal Republic of Germany.

E. The distribution of RHD vehicles on the Continent

- (16) Under the contractual system in force prior to 30 June 1985, Peugeot Talbot dealers on the Continent were unable as a rule to purchase RHD vehicles direct from the manufacturer. An order was required to be sent to Sodexa, which then exercised the direct selling right reserved for Peugeot. The dealer was treated as an agent or representative and received, instead of his usual profit margin, a commission which as a rule, came to about 8 %.
- (17) In the German market, where there is a certain local demand for RHD vehicles on the part of British servicemen stationed there (in 1981, Peugeot sold approximately 500 RHD cars in Germany), dealers were, in fact, prevented from selling such vehicles. The German distribution agreement provided that the manufacturer had a direct selling right which, in practice, was exercised by Sodexa along the lines of an exclusive selling right.

For its sales to British servicemen, Sodexa concluded distribution agreements with two commercial companies specializing in sales to that category of purchaser. The two companies were prohibited by contract from selling RHD vehicles to persons other than members of the British armed forces stationed in Germany.

- (18) In French franc terms, the prices charged by Sodexa corresponded as a rule to the list prices charged in France for sales to final consumers and did not differ, in the case of cars having the same basic specification, according to whether they were with RHD or LHD. For sales to British servicemen, Sodexa drew up special price lists expressed in pounds sterling and, inasmuch as the sales were to take place in the Federal Republic of Germany, in German marks.
- (19) A slightly different situation obtained in Belgium and Luxembourg prior to March 1982. RHD vehicles could be had there direct from the importer, that is to say without the intervention of Sodexa. The prices were equivalent to those of their LHD counterparts plus a surcharge of about Bfr 5 000 to adapt them to UK specification.

- (20) Only in Belgium did sales of RHD cars to persons resident in the United Kingdom reach notable proportions (150 in 1983 and 137 in 1982). They reached their highest point in the first quarter of 1982, falling off sharply thereafter. In the other continental markets, the number of sales of RHD cars to United Kingdom nationals remained very small owing to the monitoring by Sodexa and the specific measures taken by Peugeot to bring such sales by its dealers to an end (see paragraphs 22 to 27).

However, during the second half of 1982, Sodexa itself delivered RHD Talbots to the United Kingdom. Some 150 German specification RHD cars were involved, which had originally been intended for British servicemen in Germany but which could not be sold there owing to an unexpected fall in demand. Sodexa first of all offered the vehicles to its sister company Talbot Motor. Talbot Motor showed no interest, so Sodexa finally sold the vehicles to independent distributors, notably Europlan, for resale to private customers in the UK. It is clear from all this that the sole object of the sales was to rid Sodexa of this stock of ageing and otherwise unsaleable vehicles. This move by Sodexa brought forth strong protests from British dealers and from the management of Talbot Motor in the United Kingdom.

F. The dissuasive measures adopted by Peugeot

- (21) According to the Commission's findings, Sodexa tried to dissuade potential buyers of RHD vehicles resident in the United Kingdom from ordering such vehicles on the Continent. Purchasers who wrote to Sodexa were systematically referred to the British dealer network.

This uncooperative attitude towards customers resident in the United Kingdom stood in sharp contrast with Sodexa's efforts to sell as many RHD vehicles as possible to other purchasers resident in third countries, on the one hand, and to British servicemen stationed on the Continent, on the other.

(a) *The measures taken on the Belgian and Luxembourg market*

- (22) Following a marked increase in the demand for RHD vehicles, chiefly in Belgium, at the beginning of 1982, Peugeot-Talbot Belgique, the Peugeot

group subsidiary responsible for distribution in Belgium and the Grand Duchy of Luxembourg, sent a telex to Peugeot on 23 April of that year stating that the measure introducing a six-month delivery period was not dissuasive enough as orders were still being received. Sodexa proposed, in its letter of 30 April 1982, that sales to British customers should be effected at the list prices charged by the importer in the United Kingdom (other exports price list). Nevertheless, it instructed Peugeot-Talbot Belgique to accord special treatment to British servicemen stationed in Belgium who provided proof of their belonging to the armed forces.

- (23) As from the second week of May 1982, Peugeot-Talbot Belgique informed dealers that the orders they had placed since the beginning of the year had been cancelled by the manufacturer, that their profit margin had been reduced to 10 % and that a further price increase of at least 10 % was to be expected that month. Dealers were asked to indicate whether they wished to maintain the orders placed in view of the new conditions. If not, their deposits would be returned to them.
- (24) The reform, in May 1982, of the system of fixing the prices of British specification RHD vehicles meant price increases of approximately 17 % on average for Peugeot vehicles and approximately 53 % for Talbot vehicles.

At the same time, the price differential in Belgium between LHD and RHD vehicles rose to 31 % on average for Peugeot vehicles and 47 % for Talbot vehicles.

The measures taken by Peugeot led in about 300 cases to the annulment of the contracts of sale concluded by Belgian dealers with British purchasers and subsequently, to the drying-up of orders from British purchasers for RHD vehicles in Belgium.

(b) *The measures taken on the Dutch market*

- (25) In March 1982 there was an increased demand for British-specification RHD vehicles in the Netherlands. Orders were at that time refused by Peugeot-Talbot Nederland after consultations with Peugeot. On 13 April 1982, in a circular addressed to all dealers, the Dutch subsidiary announced that it would not accept any orders for British-specification RHD vehicles and that potential purchasers should be referred to the British dealer network.

(c) The effects of these measures

- (26) The aim of the measures taken by Peugeot was to protect its sales network in the United Kingdom by blocking parallel imports from the Continent. These measures were really effective as is witnessed by two internal Talbot Motor and Peugeot memoranda of October 1982 and January 1983. The first acknowledges that Peugeot's sales department for northern Europe had effectively prevented dealers from selling RHD cars to United Kingdom purchasers; the second claims that Peugeot was the car producer which had imported by far the fewest vehicles into Britain.

G. Furnishing of incorrect information by Peugeot

- (27) On 9 September 1982, the Commission notified to Peugeot SA a request for information pursuant to Article 11 of Regulation No 17. It asked whether the firms belonging to the Peugeot group carried out orders placed by their authorized retail dealers even where they were for vehicles whose specifications did not correspond to those of the country of sale. It also asked whether any instructions had been issued to the effect that customers resident in the country of the authorized dealer should be treated differently from customers resident in other Member States of the Community.

On 6 October 1982 Peugeot replied that any authorized dealer in the common market could obtain supplies of Peugeot and Talbot vehicles having national specifications other than those of his own market in so far as those vehicles were series produced in the desired version. Peugeot also denied having issued any instructions to the effect that customers should be treated differently according to their country of residence.

- (28) Contrary to these assertions, Peugeot-Talbot dealers were not certain of being able to sell such vehicles. It was incorrect to deny the existence of any discriminatory instructions (see paragraphs 23 and 25). Peugeot was aware of the inaccuracy of this information as its management knew how vehicles, the specifications of which did not match those of the country of sale, were sold and what discriminatory treatment was applied to customers resident in the United Kingdom. This is clear in particular from an internal memorandum from the director entrusted with the task of replying to the Commission dated 6 October 1982 in which the existence

of such restrictive measures is expressly recognized. The memorandum refers, moreover, to instructions whereby Peugeot-Talbot Nederland prohibited its dealers from selling RHD cars to British purchasers. The existence of such instructions is expressly denied in the information supplied that same day to the Commission.

- (29) In a second request for information dated 28 January 1983, also pursuant to Article 11 of Regulation No 17, the Commission enquired about the selling prices charged in France, Belgium, the Federal Republic of Germany and the United Kingdom for RHD cars on 1 January 1982 and 1 January 1983.

In its reply of 17 March 1983 Peugeot stated that, in the continental Member States mentioned, the Sodexa selling prices to final purchasers applied. In this connection Peugeot enclosed a table setting out, for 1982 and 1983, identical price lists for France, Belgium and the Federal Republic.

- (30) This reply was incorrect in several respects. Thus, in Belgium, the prices applicable on 1 January 1982 and until March 1982 to RHD vehicles of the Talbot make were not the Sodexa prices but the prices on the normal Belgian price list plus a surcharge of some 5000 Belgian francs to cover the cost of equipment changes. The prices given for Peugeot vehicles in Belgium were also incorrect. Between 1 January 1982 and the May 1982 increase, the prices asked were substantially lower than the Sodexa prices. Moreover, the prices asked as from May 1982 were appreciably higher than the Sodexa prices.

The information furnished on the German market was likewise incorrect. The list prices charged there, expressed in German marks, were based on the Sodexa prices but were in effect lower than the latter because Sodexa granted a discount to all military personnel. In addition, the information furnished on prices was misleading as it gave the impression that RHD cars were freely available in Germany. In reality, such vehicles were supplied only to servicemen who provided adequate proof that they were stationed there.

- (31) In its response to the statement of objections, which it largely repeated at the oral hearing on 10 December 1985, Peugeot acknowledges that its answers were incomplete but attributes this to a lack of transparency of information within the group given the size of the firm's network and the internal division of areas of responsibility. As

regards the reply of 6 October 1982, Peugeot acknowledges that it was aware of the facts but, having considered that there was no restriction upon competition, decided nevertheless to send the letter. As regards more especially the reply of 17 March 1983, Peugeot also states that the prices mentioned in the letter are those set by the headquarters department responsible for pricing and that there may have been differences in the dates of their coming into effect owing to the managements of Sodexa and the local subsidiaries enjoying a certain latitude in fixing them in the light of the commercial context peculiar to each market.

II. LEGAL ASSESSMENT

A. Withholding of exemption for Peugeot distribution agreements

- (32) The agreements implemented within the framework of the Peugeot distribution system, and deriving from the standard form agreement notified by Peugeot on 30 January 1963, contain a series of restrictive clauses to which the prohibition laid down in Article 85 (1) of the Treaty is applicable and in respect of which the conditions for an exemption under paragraph 3 of that Article were not satisfied during the period from 1 May 1982 to 30 June 1985.

1. Article 85 (1)

- (33) The Peugeot distribution system is based as a rule on bilateral agreements between Peugeot or its distribution companies, on the one hand, and their authorized dealers on the other. It is a system which covers the whole Community and which is applied according to uniform principles laid down by Peugeot. The standard form agreement, which formed the basis of its distribution system until 30 June 1985, served as a model or set the tone for all Peugeot distribution agreements at all stages of distribution in the common market.

The main provisions of this agreement falling under the prohibition contained in Article 85 (1) are as follows :

- (34) Peugeot's basic undertaking not to conclude any distribution and servicing agreements for contract

products with other firms operating within the contract territory restricts Peugeot's freedom of action and limits competition.

- (35) Since dealers are authorized to sell new vehicles covered by the agreement only to final consumers, independent dealers, including parallel importers, are unable to purchase and resell new Peugeot and Talbot vehicles. This clause even prohibits sales to other authorized dealers in the Peugeot distribution network.

The ban on the marketing by dealers, save with Peugeot's consent, of new vehicles of other makes has the effect of preventing those dealers from being appointed as sales outlets by other car makers. The obligation to use only genuine parts supplied by Peugeot or, in France, by Peugeot and its own suppliers prevents other suppliers of spare parts from selling substitute parts or parts that may be rendered functionally equivalent to Peugeot or its own suppliers' parts.

Preventing dealers actively marketing contract products outside their own contract territory reduces not only the intensity of the intra-brand competition within the Peugeot distribution network but also inter-brand competition in so far as they may deal with the products of other manufacturers.

By the combined effect of such agreements within the Peugeot distribution system, competition within the common market is appreciably impeded. The restrictive effects of Peugeot's agreements within the meaning of Article 85 (1) are magnified by the existence of similar exclusive and selective distribution systems operated by other vehicle manufacturers.

- (36) The agreements also have an appreciable effect on trade between Member States. Dealers not admitted to the Peugeot distribution system are prevented from buying Peugeot products or supplying them to customers in other Member States. Authorized dealers are not allowed to promote actively export sales, including exports to other Member States. Intra-Community trade is also affected by the fact that competing products, offered for sale in a given Member State and seeking outlets in another Member State, do not have access to the Peugeot dealer network.

- (37) The measures taken by Peugeot (see paragraphs 22 to 26 above), which made it more difficult, and even impossible, for certain categories of consumers to purchase RHD cars on the Continent, considerably magnified the restrictive effects of the contractual provisions examined above and the degree to which trade between Member States was affected (Ground 21 of the judgment of the Court of Justice of the European Communities in Joined Cases 25 and 26/84 *Ford-Werke AG and Ford of Europe Inc. v. Commission of the European Communities*⁽¹⁾).

2. Article 85 (3)

- (38) Admittedly, a system of agreements containing restrictive conditions such as those included in the Peugeot distribution agreements can, in theory, have beneficial effects, as are essential if the agreements are to qualify for exemption within the meaning of Article 85 (3). This possibility is ruled out, however, where dealers are unable to order new cars of the make in question in order to satisfy demand on the part of customers who are nationals of another Member State (always provided such cars are marketed in that other State).

A vehicle manufacturer who makes use of the differences in the specifications of cars with a view to controlling their outlets, and who limits the availability of RHD vehicles or of LHD vehicles, as the case may be, from his dealers reduces the supply of goods and the opportunities for purchasing them, to the detriment of final consumers. He thereby creates a situation in which the favourable effects which can in theory flow from a selective and exclusive distribution system, such as is habitually employed in the motor industry, are nullified (paragraph 44 of Commission Decision 83/560/EEC in the *Ford* case⁽²⁾, and Article 5 (1), point 2 (d) and the 16th recital of Regulation (EEC) No 123/85).

- (39) Peugeot argues that the agreement it notified should be interpreted as meaning that Peugeot reserves, in the agreement itself, the exclusive right to sell to consumers, resident outside the area of the dealer concerned, cars having specifications other than those stipulated in the dealer's contract: this also means that it was protected from fines in

so far as it did not go beyond the limits of the notified agreements. It need not be decided whether the agreement permits dealers to order such cars as, at all events, exemption under Article 85 (3) cannot be granted (paragraphs 40 to 46) and as it is not appropriate in this case to impose fines on account of Peugeot's past behaviour (paragraph 47).

- (40) Where a producer reserves to himself the right to sell, in an exclusive manner, models having specifications different from those normally made available in the contract territory to local consumers, competition in its products in trade between the Member States can scarcely take place. Where a producer systematically refuses to sell goods or renders their sale practically impossible, this unilateral conduct has the same effects as a reserved exclusive selling right.

All these measures led to a partitioning of the market.

- (41) In the Dutch market, the blocking of deliveries of RHD vehicles to Dutch dealers was absolute (see paragraphs 25 and 26). In Belgium, the supplements demanded had the same effects as a total refusal to supply RHD cars. These supplements were so high and were introduced in such a manner that British consumers lost all interest in buying cars in that country (see paragraphs 22, 23, 24 and 26).

- (42) The considerable reduction in supplies in the Peugeot distribution network to purchasers resident in the United Kingdom contrasts with the fact that Peugeot itself by no means brought the distribution of RHD cars on the Continent to an end. RHD cars having the specifications of third countries continued to be made available, and the sale to military personnel of British specifications vehicles even continued to be encouraged by special prices and conditions which remained attractive (see paragraph 20).

- (43) During the hearings, Peugeot claimed that Peugeot Talbot dealers faced serious difficulties in the years 1981 to 1983, arising partly from the merging of the Peugeot and Talbot network (number of sales outlets reduced from 647 to 518), partly from the economic situation (100 car dealers left the market), and finally from the growth of parallel imports into the United Kingdom caused by the differences in the economic policies of the Member States (11 % difference between the price-indexes of the United Kingdom, on the one hand, and Belgium and

⁽¹⁾ Not yet reported in the *Official Journal of the European Communities*.

⁽²⁾ OJ No L 327, 24. 11. 1983, p. 31.

Luxembourg on the other). It claimed that such a situation, by giving rise to abnormal patterns of trade in a common market, could have caused irreparable damage to its sales network in the United Kingdom. However, it must be stated that such a concern cannot justify a partitioning of the markets such as was brought about by Peugeot. The British dealers' association, when faced with the situation described above, called upon Peugeot to reduce the prices charged in the United Kingdom so as to make them more competitive.

- (44) Since, for most consumers, cars are one of the most expensive single items which they buy, and since consumer demand in the United Kingdom is almost exclusively for RHD cars, their interests were very seriously damaged by Peugeot's refusal to supply RHD cars on the Dutch market.

- (45) The obstacles placed in the way of the supply of vehicles to purchasers resident in the United Kingdom render the restrictions on competition stemming from the Peugeot distribution system unexemptable under Article 85 (3).

- (46) Although Peugeot communicated to the Commission on 24 December 1985 that it had amended the distribution agreements to make them comply with Regulation (EEC) No 123/85, the agreements in question cannot benefit from the block exemption provided for in Article 8 of that Regulation in respect of the period from 1 May 1982 to 30 June 1985. Where the Commission has initiated, before the entry into force of Regulation (EEC) No 123/85, that is to say before 1 July 1985, the procedure laid down in Article 9 of Regulation No 17 in an individual case, as happened in this case, such communication cannot have the retroactive effects provided for in Article 8 of Regulation (EEC) No 123/85.

- (47) It is not appropriate to impose a fine pursuant to Article 15 (2) (a) of Regulation No 17 with regard to the measures taken by Peugeot to prevent the sale of RHD vehicles, for two reasons.

If the distribution agreement is to be interpreted as giving Peugeot and Sodexa the exclusive right to sell RHD vehicles (paragraph 39 above), then the notification extends to the refusal to supply, and precludes the imposition of a fine (Article 15 (5) of Regulation No 17).

A fine also cannot be imposed in respect of behaviour prior to 30 June 1985 if the distribution agreement permitted the continental dealers to place orders for RHD cars, because it was not until the Judgment of the Court of Justice of the European Communities of 17 December 1985 in Joined Cases Nos. 25 and 26/84, Ford, that the necessary clarification of this subject was forthcoming. After that date it must be presumed that, if RHD vehicles are not available, exemption pursuant to Article 85 (3) of the Treaty will not be considered (cf. the Judgment under reference, *passim*). Furthermore, since that Judgment, undertakings that take part in a systematic refusal of supplies within a distribution system must reckon with a direct application of Article 85 (1) of the Treaty.

B. Applicability of Article 15 (1) (b) of Regulation No 17

- (48) Under Article 15 (1) (b) of Regulation No 17, the Commission may impose on undertakings fines of from 100 to 5 000 units of account where, intentionally or negligently, they furnish incorrect replies in response to a request for information made pursuant to Article 11 (3) or (5) of the said Regulation. As detailed above (paragraphs 27 to 31), Peugeot furnished incorrect replies in response to two requests for information made by the Commission.

- (49) Peugeot's statement on 6 October 1982, that any authorized dealer in the common market could obtain supplies of Peugeot and Talbot vehicles having national specifications other than those of his own market and resell them to his customers without discrimination as to their country of residence was objectively incorrect: Peugeot had, in reality, either refused to supply cars or adopted measures having an effect equivalent to a blocking of supplies. Moreover, Peugeot could not deny the existence of any discriminatory instructions, having given its dealers in the Netherlands specific instructions to treat British customers differently.

- (50) At the time of its reply, Peugeot was perfectly aware of all the elements of the false statement. It therefore furnished incorrect replies intentionally, as it has acknowledged, while seeking justification in the claim that it did not consider the actions in question to have been caught by Article 85. As a result of the incorrect replies, the Commission resumed its investigations only after fresh complaints were submitted to it.

- (51) As regards the reply of 17 March 1983, concerning the retail selling prices of RHD vehicles in Belgium and Germany, the information was also incorrect as Peugeot stated that the Sodexa prices were applicable in 1982. In reality the prices charged in Belgium from 1 January 1982 until March 1982 for cars of that type made by Talbot were the normal Belgian list prices. In that same country, preferential prices were charged for RHD Peugeots until May 1982: after that date, the prices asked were appreciably higher than the Sodexa prices. In Germany, the Sodexa prices generally did not apply: they were reserved for foreign servicemen who, what is more, were entitled to substantial discounts.
- (52) Peugeot pleads that the persons to whom it had entrusted the drafting of the reply were not fully acquainted with the prices charged in Belgium and Germany on the dates in question, and that they did not know that the new prices which had just been adopted by Sodexa were liable, owing to the requirements of the respective markets, not to be applied automatically by domestic dealers. Even if one accepts in Peugeot's favour this line of argument, the company did not exercise sufficient supervision within the group to prevent a false statement from being made. The incorrectness of the information sent is therefore, at the very least, the result of negligence.
- (53) The Commission's two letters of 9 September 1982 and 28 January 1983 can be considered, in Peugeot's favour, to constitute only one request for information pursuant to Article 11 of Regulation No 17, because they put a series of questions in a single context and because the second letter made reference to the first. Following those questions, Peugeot furnished incorrect information, partly intentionally (paragraph 50) and partly negligently (paragraph 52). Taking these facts together, it accordingly appears appropriate to impose a fine of 4 000 ECU.

HAS ADOPTED THIS DECISION:

Article 1

The standard form distribution agreement notified by Automobiles Peugeot SA on 30 January 1963, which

formed the basis of its system of distribution in the Member States of the European Economic Community until 30 June 1985, restricted competition and affected trade between Member States within the meaning of Article 85 (1). An exemption under Article 85 (3) for that agreement, insofar as it was applied by Peugeot in Belgium, the Netherlands and the Grand Duchy of Luxembourg, is hereby refused in respect of the period from 1 May 1982 to 30 June 1985.

Article 2

A fine of four thousand (4 000) ECU or 27 413 FF is hereby imposed on Automobiles Peugeot SA pursuant to Article 15 (1) (b) of Regulation No 17 in respect of incorrect information furnished deliberately on 6 October 1982 and negligently on 17 March 1983.

This fine shall be paid within three months of the date of notification of this Decision to Automobiles Peugeot SA into an account of the Commission of the European Communities with Société Générale, Agence internationale, Paris, account No 5.770.006.5 for FF, or account No 000-7.729.105.5 for ECU.

Article 3

This Decision is addressed to Automobiles Peugeot SA, 75, avenue de la Grande Armée, 75116 Paris.

This Decision is enforceable pursuant to Article 192 of the EEC Treaty.

Done at Brussels, 25 September 1986.

For the Commission

Peter SUTHERLAND

Member of the Commission

COMMISSION DECISION

of 30 September 1986

relating to a proceeding under Article 85 of the EEC Treaty
(IV/31.362 — Irish Banks' Standing Committee)

(Only the English text is authentic)

(86/507/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17 of 6 February 1962, first Regulation implementing Articles 85 and 86 of the Treaty⁽¹⁾, as last amended by the Act of Accession of Spain and Portugal, and in particular Article 2 thereof,

Having regard to the application for negative clearance submitted on 15 October 1984 by the Irish Banks' Standing Committee on behalf of its members, concerning a number of agreements then in force between them,

After publication⁽²⁾ of the summary of the application pursuant to Article 19 (3) of Regulation No 17,

After consulting the Advisory Committee on Restrictive Practices and Dominant Positions,

Whereas :

I. THE FACTS

- (1) On 15 October 1984 the Irish Banks' Standing Committee (IBSC) filed an application for negative clearance on behalf of its members for a number of agreements then in force between them.
- (2) This application was filed as a precautionary measure, the members having earlier voluntarily terminated a number of agreements relating to commissions charged for various banking services which previously existed between them.

A. The parties

- (3) The parties to which this application relates are the members of the IBSC, namely, Allied Irish Banks plc (Dublin, Ireland), Bank of Ireland (Dublin, Ireland), Northern Bank Ltd (Belfast, United

Kingdom) and Ulster Bank Ltd (Belfast, United Kingdom). The latter two are wholly-owned subsidiaries of Midland Bank plc (London, United Kingdom) and National Westminster Bank plc (London, United Kingdom), respectively. The four banks are generally referred to as the 'Associated Banks'.

- (4) The IBSC is an unincorporated members' association whose activities are not laid down by statute or internal regulations. In practice, its principal functions are twofold: to provide a forum for cooperation in technical and operational matters, and to coordinate and represent the views of its members in dealings with the Authorities and other relevant representative bodies.

B. The market

- (5) The three categories of financial institutions operating in Ireland are as follows:
 1. Licensed banks, that is, banks licensed and controlled by the Central Bank of Ireland. These banks may be subdivided into:
 - (a) Associated Banks, that is, the parties, which are the four clearing banks and principal retail banks; and
 - (b) Non-Associated Banks, that is, the Merchant and Commercial ('wholesale') Banks, and Industrial (deposit taking and lending) Banks, of which there are thirty-three in total;
 2. State-owned and State-sponsored Banks, of which there are four;
 3. Building Societies, whose lending activities are confined to mortgage finance for housing in Ireland.

In addition, there also exist hire-purchase companies and credit unions.

- (6) The Associated Banks' share of total non-government lending in Ireland is approximately 38 %. Their share of the total non-government deposit market is approximately 43 %.

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No C 143, 10. 6. 1986, p. 4.

C. The agreements

- (7) The agreements to which the application for negative clearance relates are as follows:

1. Bank Opening Hours

The opening hours of the Associated Banks have since 1965 been the subject of formal agreement between the parties and also with the Trade Union of the Banks' employees.

The current normal opening hours are as follows: 10.00 a.m. — 12.30 p.m., 1.30 p.m. — 3.00 p.m. Monday to Friday (and until 5.00 p.m. on one day a week Monday to Thursday inclusive). However, certain additional banking services are available up to eighteen or twenty-four hours a day from Automated Teller Machines (ATMs) operated by each of the parties.

2. Clearing Rules

The parties are members of the Dublin Bankers' Clearing Committee through which they operate a clearing exchange, supplementary to that operated by the Central Bank. The Central Bank is itself a member of this committee as are the Chase Bank of Ireland Ltd and the Trustee Savings Banks.

The agreement in question sets out the rules according to which debits and credits drawn on or for the credit of member Banks are settled as between one another. Each member nevertheless remains free to use its own Clearing System for the clearance of items drawn on, and for the credit of, offices of its own or other Banks where such a course may be deemed desirable. In addition, each member may demand that the rules be reconsidered at any time, and is free to withdraw from the agreement subject to giving one month's notice in writing.

The agreement does not refer to any requirements for membership of the Committee, which is in principle open. The clearing exchange operated by the Central Bank remains available for non-members.

3. Direct Debiting Scheme

The parties operate a scheme whereby their customers may make use of a facility to collect amounts due to them from debtors by originating direct debits on debtors' bank accounts. The scheme is described in the publication 'Originator's Guide' published jointly by the parties, which also sets out the rules to be observed by participants. These rules conform to requirements laid down by the parties in respect of direct debiting operations carried out in Ireland.

D. Background to the present application

- (8) In 1981 the Commission carried out a Community-wide investigation into commissions charged by credit institutions in each of the Member States for the various banking services they provided. The findings of this investigation were that in several Member States, including Ireland, such agreements or concerted practices existed between these undertakings which might be capable of infringing the EEC competition rules. Following the investigation certain banks' associations notified these agreements to the Commission. The present application, however, relates only to agreements other than Commission agreements concluded between the parties, the IBSC confirming that the latter agreements existing at the time of the Commission's investigation had since been terminated.

- (9) In its original form, the application for negative clearance also related to an agreement on common interest rates on loans and deposits and other related agreements then in force between the parties.

Following a review of the concept of operating on the basis of jointly-agreed interest rates carried out by the parties and the Central Bank, however, these agreements were terminated. The same structure of interest rates, however, was retained as part of the new arrangements for Associated Banks' interest rates introduced by the Central Bank in consultation with the Associated Banks. These new arrangements were set out in a press release issued by the Central Bank on 31 May 1985.

- (10) In the framework of the Commission's present policy in this sector, it is appropriate to confine this Decision to agreements relating to services, and to reserve its position regarding the arrangements for interest rates, including the structure of such rates.

E. Observations from third parties

- (11) The Commission has received no observations from interested third parties following publication of the notice required by Article 19 (3) of Regulation 17.

II. LEGAL ASSESSMENT

A. General

- (12) The applicability of the Community rules on competition to the banking sector has been constantly affirmed by the Commission and was confirmed by the Court of Justice in Case No 172/80, *Züchner v. Bayerische Vereinsbank*⁽¹⁾.

⁽¹⁾ ECR 2021 (1981) p. 2030 *et seq.*

B. Article 85 (1)

- (13) Article 85 (1) provides that 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, shall be prohibited as incompatible with the common market.

(a) Undertakings

- (14) As economic entities engaging in activities of an economic nature, the banks participating in the agreements for which negative clearance is sought are undertakings within the meaning of Article 85 of the EEC Treaty.

(b) Agreements

- (15) The application for negative clearance refers to the agreements contained therein as agreements between the parties on behalf of whom the application was made. As such the agreements may be taken to constitute agreements between undertakings for the purposes of Article 85.

(c) Restrictions of competition

- (16) 1. Bank Opening Hours

The Commission considers that the time period within which services are made available to consumers is an aspect of competition between undertakings providing actually or potentially competing services.

However, with regard to the market on which the parties to the agreement in question are operating, given that:

- (i) only some of the banking services provided by the parties are actually affected by this agreement;
- and
- (ii) competition between the parties in these services is not otherwise affected by this agreement;

the Commission takes the view that any prevention, restriction or distortion of competition which results from this agreement is not appreciable.

- (17) 2. Clearing Rules and Direct Debiting Scheme

These agreements do not contain any provisions which have as their object or effect the prevention, restriction or distortion of competition within the common market. In particular, since membership to each is open, these agreements have no impact on competition.

- (18) In view of the above, therefore, there are no grounds, on the basis of the facts in the Commission's possession, for action on its part under Article 85 (1). The Commission can therefore give these agreements negative clearance under Article 2 of Regulation No 17,

HAS ADOPTED THIS DECISION:

Article 1

On the basis of the facts in its possession, the Commission has no grounds for action under Article 85 (1) of the EEC Treaty in respect of the agreements on Bank Opening Hours, Clearing Rules and the Direct Debiting Scheme operating between the Associated Banks in Ireland.

Article 2

This decision is addressed to:

Allied Irish Banks plc,
Bankcentre,
Ballsbridge,
Dublin 4,
Bank of Ireland,
Lower Baggot Street,
Dublin 2,
Northern Bank Ltd,
Griffin House,
Wilton Terrace,
Dublin 2,
Ulster Bank Ltd,
College Green,
Dublin 2.

Done at Brussels, 30 September 1986.

For the Commission

Peter SUTHERLAND

Member of the Commission

COMMISSION DIRECTIVE

of 7 October 1986

adapting to technical progress for the second time Council Directive 77/728/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of paints, varnishes, printing inks, adhesives and similar products

(86/508/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 77/728/EEC of 7 November 1977 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of paints, varnishes, printing inks, adhesives and similar products⁽¹⁾, as last amended by Directive 83/265/EEC⁽²⁾ and in particular Article 11 thereof;

Whereas the reference made to the ISO standard in Explanatory Note 6 to Annex I to Directive 77/728/EEC should be changed;

Whereas Annex II to Directive 77/728/EEC lays down special provisions concerning the labelling of certain preparations, particularly paints and varnishes containing lead; whereas it is necessary to inform users of the harmful effects of lead on human health, especially in the case of children, and to minimize the lead content of the paints and varnishes available to them; whereas, under these circumstances, the numerical value laid down in point 1 of Annex II should be revised;

Whereas it will be necessary to revise this numerical value within a reasonable period;

Whereas the measures provided for in this Directive are in accordance with the opinion of the Committee on the Adaptation to Technical Progress of Directives relating to the removal of technical barriers to trade in dangerous substances and preparations,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 77/728/EEC is hereby amended as follows:

1. The reference number of the ISO standard in Explanatory Note 6 to Annex I is replaced by 'ISO 6713-1984'.

2. Point 1 of Annex II is replaced by the following:

'1. Paints and varnishes containing lead

Labels of packages of paints and varnishes containing lead in quantities exceeding 0,25 % expressed as weight of metal, of the total weight of the preparation, as determined in accordance with ISO standard 6503/1984 shall show the following particulars:

"Contains lead. Should not be used on surfaces liable to be chewed or sucked by children."

In the case of packages the contents of which are less than 125 millilitres, the particulars may be as follows:

"Warning. Contains lead."

Article 2

The numerical value in Article 1 (2) is a reflection of the current situation. Given the continuing developments in knowledge and technology, it will be necessary to revise it within a period of 24 months from the date of adoption of this Directive, and in any case not later than 31 December 1988.

Article 3

Member States shall adopt and publish the provisions necessary to comply with the Directive before 1 September 1987. They shall forthwith inform the Commission thereof. They shall apply those provisions from 1 June 1988 at the latest.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 7 October 1986.

For the Commission

COCKFIELD

Vice-President

⁽¹⁾ OJ No L 303, 28. 11. 1977, p. 23.

⁽²⁾ OJ No L 147, 6. 6. 1983, p. 11.

COMMISSION OF THE EUROPEAN COMMUNITIES

DOCUMENT

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The ERDF, one of the Community's structural funds was set up in 1975 to correct the principal regional imbalances within the Community. ERDF aid is accordingly granted in areas and regions suffering from imbalances resulting in particular from the predominance of agriculture, industrial change and structural under-employment. Such regions, which are determined in agreement with the Member States, are generally the areas covered by national regional aid schemes, these areas being approved by the Commission in accordance with Articles 92 and 94 of the Treaty establishing the European Economic Community. The ERDF provides assistance by making grants which support and supplement national regional development efforts

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