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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 43/87**of 8 January 1987****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 7 January 1987;

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 9 January 1987.

⁽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, 8 January 1987.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX

to the Commission Regulation of 8 January 1987 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CCT heading No	Description	Levies (ECU/tonne)	
		Portugal	Third country
10.01 B I	Common wheat, and meslin	18,39	197,33
10.01 B II	Durum wheat	45,77	244,75 ⁽¹⁾ ⁽²⁾
10.02	Rye	54,03	169,23 ⁽²⁾
10.03	Barley	24,59	182,98
10.04	Oats	86,01	151,07
10.05 B	Maize, other than hybrid maize for sowing	—	178,09 ⁽²⁾ ⁽³⁾ ⁽⁴⁾
10.07 A	Buckwheat	8,89	8,89
10.07 B	Millet	24,59	119,77 ⁽⁴⁾
10.07 C II	Grain sorghum, other than hybrid sorghum for sowing	9,83	180,14 ⁽⁴⁾ ⁽⁵⁾
10.07 D I	Triticale	⁽⁷⁾	⁽⁷⁾
10.07 D II	Canary seed; other cereals	24,59	44,52 ⁽⁵⁾
11.01 A	Wheat or meslin flour	40,36	291,82
11.01 B	Rye flour	90,26	251,54
11.02 A I a)	Durum wheat groats and meal	84,44	392,86
11.02 A I b)	Common wheat groats and meal	41,81	312,64

⁽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 44/87

of 8 January 1987

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 7 January 1987;

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 9 January 1987.

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

Done at Brussels, 8 January 1987.

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 8 January 1987 fixing the premiums to be added to the import levies on cereals, flour and malt from third countries

A. Cereals and flour

CCT heading No	Description	(ECU/tonne)			
		Current 1	1st period 2	2nd period 3	3rd period 4
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	4,26	4,26	4,26
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	101,46	101,46	101,46
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

CCT heading No	Description	(ECU/tonne)				
		Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5
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	7,58	7,58	7,58	7,58
11.07 A II b)	Unroasted malt, other than that obtained from wheat, other than in the form of flour	0	5,67	5,67	5,67	5,67
11.07 B	Roasted malt	0	6,60	6,60	6,60	6,60

COMMISSION REGULATION (EEC) No 45/87

of 8 January 1987

fixing the minimum levies on the importation of olive oil and levies on the importation of other olive oil sector products

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 No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 1454/86⁽²⁾, and in particular Article 16 (2) thereof,

Having regard to Council Regulation (EEC) No 1514/76 of 24 June 1976 on imports of olive oil originating in Algeria⁽³⁾, as last amended by Regulation (EEC) No 414/86⁽⁴⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1521/76 of 24 June 1976 on imports of olive oil originating in Morocco⁽⁵⁾, as last amended by Regulation (EEC) No 413/86⁽⁶⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1508/76 of 24 June 1976 on imports of olive oil originating in Tunisia⁽⁷⁾, as last amended by Regulation (EEC) No 413/86, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1180/77 of 17 May 1977 on imports into the Community of certain agricultural products originating in Turkey⁽⁸⁾, as last amended by Regulation (EEC) No 415/86⁽⁹⁾, and in particular Article 10 (2) thereof,

Having regard to Council Regulation (EEC) No 1620/77 of 18 July 1977 laying down detailed rules for the importation of olive oil from Lebanon⁽¹⁰⁾;

Whereas by Regulation (EEC) No 3131/78⁽¹¹⁾ the Commission decided to use the tendering procedure to fix levies on olive oil;

Whereas Article 3 of Council Regulation (EEC) No 2751/78 of 23 November 1978 laying down general rules for fixing the import levy on olive oil by tender⁽¹²⁾ speci-

fies that the minimum levy rate shall be fixed for each of the products concerned on the basis of the situation on the world market and the Community market and of the levy rates indicated by tenderers;

Whereas in the collection of the levy, account should be taken of the provisions in the Agreements between the Community and certain third countries; whereas in particular the levy applicable for those countries must be fixed taking as a basis for calculation the levy to be collected on imports from the other third countries;

Whereas, with regard to Turkey and the Maghreb countries, the provisions of this Regulation should be without prejudice to the additional amount to be determined in accordance with the agreements between the Community and these third countries;

Whereas application of the rules recalled above to the levy rates indicated by tenderers on 5 and 6 January 1987 leads to the minimum levies being fixed as indicated in Annex I to this Regulation;

Whereas the import levy on olives falling within subheadings 07.01 N II and 07.03 A II of the Common Customs Tariff and on products falling within subheadings 15.17 B I and 23.04 A II of the Common Customs Tariff must be calculated from the minimum levy applicable on the olive oil contained in these products; whereas, however, the levy charged for olive oil may not be less than an amount equal to 8 % of the value of the imported product, such amount to be fixed at a standard rate; whereas application of these provisions leads to the levies being fixed as indicated in Annex II to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The minimum levies on olive oil imports are fixed in Annex I.

Article 2

The levies applicable on imports of other olive oil sector products are fixed in Annex II.

Article 3

This Regulation shall enter into force on 9 January 1987.

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

⁽²⁾ OJ No L 133, 21. 5. 1986, p. 8.

⁽³⁾ OJ No L 169, 28. 6. 1976, p. 24.

⁽⁴⁾ OJ No L 48, 26. 2. 1986, p. 2.

⁽⁵⁾ OJ No L 169, 28. 6. 1976, p. 43.

⁽⁶⁾ OJ No L 48, 26. 2. 1986, p. 1.

⁽⁷⁾ OJ No L 169, 28. 6. 1976, p. 9.

⁽⁸⁾ OJ No L 142, 9. 6. 1977, p. 10.

⁽⁹⁾ OJ No L 48, 26. 2. 1986, p. 3.

⁽¹⁰⁾ OJ No L 181, 21. 7. 1977, p. 4.

⁽¹¹⁾ OJ No L 370, 30. 12. 1978, p. 60.

⁽¹²⁾ OJ No L 331, 28. 11. 1978, p. 6.

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

Done at Brussels, 8 January 1987.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX I

Minimum import levies on olive oil

(ECU/100 kg)	
CCT heading No	Non-member countries
15.07 A I a)	52,00 ⁽¹⁾
15.07 A I b)	54,00 ⁽¹⁾
15.07 A I c)	52,00 ⁽¹⁾
15.07 A II a)	64,00 ⁽²⁾
15.07 A II b)	82,00 ⁽³⁾

⁽¹⁾ For imports of oil falling within this tariff subheading and produced entirely in one of the countries listed below and transported directly from any of those countries to the Community, the levy to be collected is reduced by :

- (a) Lebanon : 0,60 ECU/100 kg ;
- (b) Turkey : 11,48 ECU/100 kg ^(*) provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force ;
- (c) Algeria, Tunisia and Morocco : 12,69 ECU/100 kg ^(*) provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force.

^(*) These amounts may be increased by an additional amount to be determined by the Community and the third countries in question.

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

- (a) produced entirely in Algeria, Morocco or Tunisia and transported directly from any of those countries to the Community, the levy to be collected is reduced by 3,86 ECU/100 kg ;
- (b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by 3,09 ECU/100 kg.

⁽³⁾ For imports of oil falling within this tariff subheading :

- (a) produced entirely in Algeria, Morocco or Tunisia and transported directly from any of those countries to the Community, the levy to be collected is reduced by 7,25 ECU/100 kg ;
- (b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by 5,80 ECU/100 kg.

ANNEX II

Import levies on other olive oil sector products

(ECU/100 kg)	
CCT heading No	Non-member countries
07.01 N II	11,88
07.03 A II	11,88
15.17 B I a)	27,00
15.17 B I b)	43,20
23.04 A II	4,16

COMMISSION REGULATION (EEC) No 46/87

of 8 January 1987

amending Regulation (EEC) No 2633/86 increasing to 860 000 tonnes the quantity of bread-making wheat held by the French intervention agency for which a standing invitation to tender for export has been opened

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 1579/86⁽²⁾, and in particular Article 7 (5) thereof,

Having regard to Commission Regulation (EEC) No 1836/82 of 7 July 1982 laying down the procedure and conditions for the disposal of cereals held by the intervention agencies⁽³⁾, as last amended by Regulation (EEC) No 3826/85⁽⁴⁾,

Whereas Commission Regulation (EEC) No 2633/86⁽⁵⁾, as last amended by Regulation (EEC) No 3640/86⁽⁶⁾, opened a standing invitation to tender for the export of 660 000 tonnes of bread-making wheat held by the French intervention agency; whereas, in a communication of 18 December 1986, France informed the Commission of the intention of its intervention agency to increase by 200 000 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of bread-making wheat held by the French intervention agency for which a standing invitation to tender for export has been opened should be increased to 860 000 tonnes;

Whereas this increase in the quantity put out to tender makes it necessary to alter the list of regions and quantities in store; whereas Annex I to Regulation (EEC) No 2633/86 must therefore be amended;

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 2 of Regulation (EEC) No 2633/86 is replaced by the following:

Article 2

1. This invitation to tender shall cover a maximum of 860 000 tonnes of bread-making wheat to be exported to all third countries.
2. The regions in which the 860 000 tonnes of bread-making wheat are stored are listed in Annex I hereto¹.

Article 2

Annex I to Regulation (EEC) No 2633/86 is replaced by the Annex hereto.

Article 3

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

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

Done at Brussels, 8 January 1987.

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 202, 9. 7. 1982, p. 23.

⁽⁴⁾ OJ No L 371, 31. 12. 1985, p. 1.

⁽⁵⁾ OJ No L 237, 23. 8. 1986, p. 17.

⁽⁶⁾ OJ No L 336, 29. 11. 1986, p. 53.

*ANNEX**'ANNEX I*

<i>(tonnes)</i>	
Place of storage	Quantity
Amiens	65 000
Bordeaux	20 000
Châlons-sur-Marne	155 000
Dijon	25 000
Lille	30 000
Nancy	55 000
Nantes	75 000
Orléans	220 000
Paris	65 000
Poitiers	70 000
Rouen	60 000
Toulouse	20 000'

COMMISSION REGULATION (EEC) No 47/87

of 8 January 1987

opening an invitation to tender for the sale for export of baled tobacco held by the Greek intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 727/70 of 21 April 1970 on the common organization of the market in raw tobacco ⁽¹⁾, as last amended by Regulation (EEC) No 1576/86 ⁽²⁾, and in particular Article 7 (4) thereof,

Whereas Commission Regulation (EEC) No 3389/73 ⁽³⁾, as last amended by Regulation (EEC) No 3263/85 ⁽⁴⁾, lays down the procedure and conditions for the sale of tobacco held by intervention agencies;

Whereas, on account of the problems caused by the storage of baled tobacco, and in particular the costs of storage, an invitation to tender should be opened for the sale of the tobacco in lots; whereas this tobacco should be intended for export, without refund;

Whereas payment for all these lots is made before the tobacco is removed; whereas it should be provided that, at the request of the successful tenderer, the security should be released progressively as the quantities of tobacco are exported;

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

HAS ADOPTED THIS REGULATION:

Article 1

Five lots of baled raw tobacco from the 1985 harvest, held by the Greek intervention agency, with a total weight of 5 059 948 kilograms divided by varieties as shown in the Annex hereto, shall be sold for export.

Article 2

The sale shall take place in accordance with the tendering procedure provided for in Regulation (EEC) No 3389/73.

Article 3

The deadline for the submission of tenders at the headquarters of the Commission of the European Communities shall be at 3 p.m. local time, on 13 March 1987.

Article 4

The closing date referred to in Article 9 (1) of Regulation (EEC) No 3389/73 for removal of the tobacco by the successful tenderer shall be:

- (a) at the end of the fourth month following the date of publication of the result of the tendering procedure in the *Official Journal of the European Communities*, in respect of at least one-third of the lots;
- (b) at the end of the sixth month following the said date for the remaining tobacco.

Article 5

1. The security specified in Article 5 of Regulation (EEC) No 3389/73 must be lodged with and by the Ypiresia Diachirisis Agoron Georgikon Proionton (YDAGEP) Acharnon 5, GR-Athens 108.

2. The Commission shall inform the relevant intervention agency forthwith of the result of the sale by tender. The agency shall immediately release the securities of tenderers whose tenders were inadmissible or who were unsuccessful.

Save as otherwise provided in the second subparagraph of Article 7 of Regulation (EEC) No 3389/73, the securities of the successful tenderer or tenderers shall be released once the conditions laid down in Article 7 (c) of that Regulation have been fulfilled.

3. On application by the person concerned, the security shall be released by instalments in proportion to the quantities of tobacco in respect of which the proof referred to in Article 7 (c) of the said Regulation has been furnished.

Article 6

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

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 1.

⁽²⁾ OJ No L 139, 24. 5. 1986, p. 1.

⁽³⁾ OJ No L 345, 15. 12. 1973, p. 47.

⁽⁴⁾ OJ No L 311, 22. 11. 1985, p. 22.

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

Done at Brussels, 8 January 1987.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX

Lot No	Variety	Harvest	Weight (kilograms)
1	Burley	1985	907 765
2	Burley	1985	1 247 008
3	Burley	1985	803 975
4	Burley	1985	1 227 898
5	Burley	1985	873 302
Total			5 059 948

COMMISSION REGULATION (EEC) No 48/87

of 8 January 1987

opening a standing invitation to tender for the export of 100 000 tonnes of feed wheat held by the German intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Article 2

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 1579/86⁽²⁾, and in particular Article 7 (5) thereof,

Whereas Article 3 of Council Regulation (EEC) No 1581/86 of 23 May 1986 laying down general rules for intervention on the market in cereals⁽³⁾ provides that cereals held by the intervention agencies shall be disposed of by invitation to tender;

Whereas Commission Regulation (EEC) No 1836/82⁽⁴⁾, as last amended by Regulation (EEC) No 3826/85⁽⁵⁾, lays down the procedure and conditions for the disposal of cereals held by intervention agencies;

Whereas the wheat to be exported must be of a quality suitable for feed;

Whereas it is appropriate, in the present market situation to open a standing invitation to tender for the export of 100 000 tonnes of feed wheat held by the German intervention agency;

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

HAS ADOPTED THIS REGULATION:

Article 1

The German intervention agency may, on the conditions laid down in Regulation (EEC) No 1836/82, open a standing invitation to tender for the export of 100 000 tonnes of feed wheat held by it.

1. The invitation to tender shall cover a maximum of 100 000 tonnes of feed wheat to be exported to all third countries.

2. The regions in which the 100 000 tonnes of feed wheat are stored are listed in Annex I hereto.

Article 3

The export licences shall be valid from their date of issue, within the meaning of Article 9 of Regulation (EEC) No 1836/82, until the end of the fourth month following.

Article 4

1. The time limit for submission of tenders under the first partial invitation to tender shall expire on 28 January 1987 at 1 p.m. (Brussels time).

2. The time limit for submission of tenders under the last partial invitation to tender shall expire on 25 March 1987 at 1 p.m. (Brussels time).

3. The tenders shall be lodged with the German intervention agency.

Article 5

The common wheat to be exported shall be of a quality suitable for feed.

Article 6

The German intervention agency shall notify the Commission of the tenders received not later than two hours after expiry of the time limit for the submission thereof. Notification shall be given as specified in the table in Annex II hereto.

Article 7

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

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 139, 24. 5. 1986, p. 29.

⁽³⁾ OJ No L 139, 24. 5. 1986, p. 36.

⁽⁴⁾ OJ No L 202, 9. 7. 1982, p. 23.

⁽⁵⁾ OJ No L 371, 31. 12. 1985, p. 1.

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

Done at Brussels, 8 January 1987.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX I

(tonnes)	
Place of storage	Quantity
Schleswig-Holstein / Hamburg	51 005
Niedersachsen / Bremen	19 421
Nordrhein-Westfalen	29 401

ANNEX II

Standing invitation to tender for the export of 100 000 tonnes of feed wheat held by the German intervention agency

(Regulation (EEC) No 48/87)

1	2	3	4	5	6	7
Tender No	Consignment No	Quantity (tonnes)	Offer price (ECU/tonne) (1)	Price increases (+) or reductions (—) (ECU/tonne)	Commercial costs (ECU/tonne)	Destination
1						
2						
3						
etc.						

(1) This price includes the increases or reductions relating to the lot to which the tender refers.

COMMISSION REGULATION (EEC) No 49/87

of 8 January 1987

amending Regulation (EEC) No 3140/86 in respect of the period of validity of import licences issued under the invitation to tender for the levy on imports of maize and sorghum from third countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2913/86 of 16 September 1986 introducing a derogation from Regulation (EEC) No 2727/75 as regards the import levy applicable to certain quantities of maize and sorghum ⁽¹⁾, and in particular Article 5 thereof,

Whereas Commission Regulation (EEC) No 3140/86 ⁽²⁾, as last amended by Regulation (EEC) No 3643/86 ⁽³⁾, issues an invitation to tender for the levy on imports of maize and sorghum from third countries; whereas it makes provision in particular for the period of validity of import licences issued;

Whereas provision should be made for shorter period of validity of licences issued;

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 3 (2) of Regulation (EEC) No 3140/86 is hereby replaced by the following:

'2. Import licences issued in connection with invitations to tender shall be valid from their date of issue within the meaning of paragraph 1 until 31 March 1987.'

Article 2

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

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

Done at Brussels, 8 January 1987.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 272, 24. 9. 1986, p. 1.

⁽²⁾ OJ No L 292, 16. 10. 1986, p. 27.

⁽³⁾ OJ No L 336, 26. 11. 1986, p. 57.

COMMISSION REGULATION (EEC) No 50/87

of 8 January 1987

fixing the amount of the subsidy on oil seeds

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 1454/86⁽²⁾, and in particular Article 27 (4),

Having regard to Council Regulation (EEC) No 1678/85 of 11 June 1985 fixing the conversion rates to be applied in agriculture⁽³⁾, as last amended by Regulation (EEC) No 2332/86⁽⁴⁾,

Having regard to Council Regulation (EEC) No 1569/72 of 20 July 1972 laying down special measures for colza, rape and sunflower seed⁽⁵⁾, as last amended by Regulation (EEC) No 1474/84⁽⁶⁾, and in particular Article 2 (3) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the amount of the subsidy referred to in Article 27 of Regulation No 136/66/EEC was fixed by Commission Regulation (EEC) No 3776/86⁽⁷⁾, as last amended by Regulation (EEC) No 4081/86⁽⁸⁾;

Whereas the target price and the monthly increments in the target price for colza, rape and sunflower seed for the

1986/87 marketing year have been fixed in Council Regulations (EEC) No 1457/86⁽⁹⁾ and (EEC) No 1458/86⁽¹⁰⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 3776/86 to the information known to the Commission that the amount of the subsidy at present in force should be altered to the amount set out in the Annexes hereto,

HAS ADOPTED THIS REGULATION:

Article 1

1. The amounts of the subsidy and the exchange rates referred to in Article 33 (2) and (3) of Commission Regulation (EEC) No 2681/83⁽¹¹⁾ shall be as set out in the Annexes hereto.

2. The amount of the compensatory aid referred to in Article 14 of Council Regulation (EEC) No 475/86⁽¹²⁾ and Article 12 of Council Regulation (EEC) No 476/86⁽¹³⁾ shall be as shown in Annex III to this Regulation for sunflower seed harvested in Spain and Portugal.

Article 2

This Regulation shall enter into force on 9 January 1987.

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

Done at Brussels, 8 January 1987.

For the Commission

Frans ANDRIESEN

Vice-President

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

⁽²⁾ OJ No L 133, 21. 5. 1986, p. 8.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 11.

⁽⁴⁾ OJ No L 204, 28. 7. 1986, p. 1.

⁽⁵⁾ OJ No L 167, 25. 7. 1972, p. 9.

⁽⁶⁾ OJ No L 143, 30. 5. 1984, p. 4.

⁽⁷⁾ OJ No L 349, 11. 12. 1986, p. 34.

⁽⁸⁾ OJ No L 371, 31. 12. 1986, p. 47.

⁽⁹⁾ OJ No L 133, 21. 5. 1986, p. 12.

⁽¹⁰⁾ OJ No L 133, 21. 5. 1986, p. 14.

⁽¹¹⁾ OJ No L 266, 28. 9. 1983, p. 1.

⁽¹²⁾ OJ No L 53, 1. 3. 1986, p. 47.

⁽¹³⁾ OJ No L 53, 1. 3. 1986, p. 51.

ANNEX I

Aids to colza and rape seed other than 'double zero'

(amounts per 100 kilograms)

	Current month	2nd month	3rd month	4th month	5th month	6th month
1. Gross aids (ECU):						
— Spain	0,610	0,610	0,610	0,610	0,610	0,610
— Portugal	0,000	0,000	0,000	0,000	0,000	0,000
— Other Member States	34,286	34,382	34,710	34,953	34,785	34,617
2. Final aids:						
(a) Seed harvested and processed in:						
— Federal Republic of Germany (DM)	82,77	83,03	83,83	84,53	84,14	84,05
— Netherlands (Fl)	93,26	93,55	94,44	95,22	94,78	94,65
— BLEU (Bfrs/Lfrs)	1 600,32	1 604,63	1 619,93	1 630,59	1 622,63	1 610,01
— France (FF)	236,91	237,41	239,43	240,59	239,32	238,71
— Denmark (Dkr)	292,23	293,03	295,82	297,89	296,45	294,67
— Ireland (£ Irl)	25,991	26,043	26,288	26,307	26,164	25,930
— United Kingdom (£)	19,039	19,032	19,209	19,319	19,185	18,930
— Italy (Lit)	52 108	52 236	52 610	53 097	52 831	52 322
— Greece (Dr)	3 317,29	3 287,49	3 290,94	3 292,79	3 264,64	3 171,97
(b) Seed harvested in Spain and processed:						
— in Spain (Pta)	88,94	88,94	88,94	88,94	88,94	88,94
— in another Member State (Pta)	4 079,60	4 090,47	4 136,97	4 141,18	4 115,05	4 083,97
(c) Seed harvested in Portugal and processed:						
— in Portugal (Esc)	0,00	0,00	0,00	0,00	0,00	0,00
— in another Member State (Esc)	4 922,31	4 924,17	4 937,84	4 958,66	4 929,37	4 855,54

ANNEX II

Aids to colza and rape seed 'double zero'

(amounts per 100 kilograms)

	Current month	2nd month	3rd month	4th month	5th month	6th month
1. Gross aids (ECU):						
— Spain	1,860	1,860	1,860	1,860	1,860	1,860
— Portugal	1,250	1,250	1,250	1,250	1,250	1,250
— Other Member States	35,536	35,632	35,960	36,203	36,035	35,867
2. Final aids:						
(a) Seed harvested and processed in:						
— Federal Republic of Germany (DM)	85,76	86,01	86,82	87,51	87,12	87,04
— Netherlands (Fl)	96,63	96,91	97,81	98,58	98,15	98,02
— BLEU (Bfrs/Lfrs)	1 658,91	1 663,23	1 678,52	1 689,19	1 681,23	1 668,60
— France (FF)	245,79	246,29	248,31	249,47	248,20	247,59
— Denmark (Dkr)	302,91	303,71	306,51	308,57	307,13	305,35
— Ireland (£ Irl)	26,970	27,022	27,266	27,286	27,143	26,908
— United Kingdom (£)	19,823	19,816	19,993	20,103	19,969	19,714
— Italy (Lit)	54 032	54 160	54 534	55 022	54 756	54 247
— Greece (Dr)	3 463,14	3 433,34	3 436,79	3 438,64	3 410,49	3 317,82
(b) Seed harvested in Spain and processed:						
— in Spain (Pta)	271,19	271,19	271,19	271,19	271,19	271,19
— in another Member State (Pta)	4 261,85	4 272,72	4 319,22	4 323,43	4 297,30	4 266,22
(c) Seed harvested in Portugal and processed:						
— in Portugal (Esc)	189,77	189,77	189,77	189,77	189,77	189,77
— in another Member State (Esc)	5 112,08	5 113,94	5 127,61	5 148,43	5 119,14	5 045,31

ANNEX III

Aids to sunflower seed

(amounts per 100 kilograms)

	Current month	2nd month	3rd month	4th month	5th month
1. Gross aids (ECU):					
— Spain	1,720	1,720	1,720	1,720	1,720
— Portugal	0,000	0,000	0,000	0,000	0,000
— Other Member States	40,173	40,764	41,355	41,355	41,355
2. Final aids:					
(a) Seed harvested and processed in (1):					
— Federal Republic of Germany (DM)	97,02	98,42	99,85	99,96	99,96
— Netherlands (Fl)	109,31	110,90	112,49	112,61	112,61
— BLEU (Bfrs/Lfrs)	1 874,86	1 902,56	1 930,26	1 929,56	1 929,56
— France (FF)	277,36	281,56	285,48	284,97	284,97
— Denmark (Dkr)	342,38	347,43	352,48	352,48	352,48
— Ireland (£ Irl)	30,424	30,887	31,346	31,168	31,168
— United Kingdom (£)	22,222	22,592	22,963	22,963	22,963
— Italy (Lit)	61 032	61 939	62 706	62 851	62 851
— Greece (Dr)	3 862,97	3 905,73	3 943,66	3 927,84	3 927,84
(b) Seed harvested in Spain and processed:					
— in Spain (Pta)	250,77	250,77	250,77	250,77	250,77
— in another Member State (Pta)	3 881,74	3 967,90	4 054,07	4 020,66	4 020,66
(c) Seed harvested in Portugal and processed:					
— in Portugal (Esc)	0,00	0,00	0,00	0,00	0,00
— in Spain (Esc)	6 408,52	6 495,22	6 548,55	6 536,11	6 536,11
— in another Member State (Esc)	6 200,57	6 284,45	6 336,05	6 324,01	6 324,01
3. Compensatory aids:					
— in Spain (Pta)	3 836,74	3 922,90	4 009,07	3 975,66	3 975,66
— in Portugal (Esc)	6 172,77	6 256,65	6 308,25	6 296,22	6 296,22

(1) For seed harvested in the Community as constituted at 31 December 1985 and processed in Spain, the amounts shown in 2 (a) to be multiplied by 1,033538.

ANNEX IV

Exchange rate of the ECU to be used for converting final aids into the currency of the processing country when the latter is a country other than the country of production

(value of 1 ECU)

	Current month	2nd month	3rd month	4th month	5th month	6th month
DM	2,074690	2,069330	2,063600	2,058020	2,058020	2,043780
Fl	2,344930	2,341670	2,337320	2,333170	2,333170	2,321810
Bfrs/Lfrs	43,229300	43,255600	43,260700	43,276500	43,276500	43,313500
FF	6,860940	6,866440	6,877450	6,891000	6,891000	6,910730
Dkr	7,864150	7,879360	7,893740	7,908380	7,908380	7,964650
£ Irl	0,764417	0,768274	0,771252	0,775014	0,775014	0,783988
£	0,728496	0,730425	0,732214	0,733993	0,733993	0,740377
Lit	1 446,43	1 450,94	1 456,40	1 460,12	1 460,12	1 471,19
Dr	148,92800	151,13000	153,18100	155,07000	155,07000	161,01700
Esc	156,48500	157,63900	158,66700	159,52300	159,52300	162,35500
Pta	141,38900	142,08500	142,59300	143,09100	143,09100	144,50000

COMMISSION REGULATION (EEC) No 51/87

of 8 January 1987

fixing the export refunds 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 the fourth subparagraph of Article 16⁽²⁾,

Having regard to the opinion of the Monetary Committee,

Whereas Article 16 of Regulation (EEC) No 2727/75 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products in the Community may be covered by an export refund;

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

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

Whereas these specific criteria are defined, as far as wheat and rye flour, groats and meal are concerned, in Article 4 of Regulation (EEC) No 2746/75; whereas furthermore, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture; whereas these quantities were fixed in Commission Regulation No 162/67/EEC⁽⁴⁾, as amended by Regulation (EEC) No 1607/71⁽⁵⁾;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to

vary the refund for certain products according to destination;

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

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 % a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁶⁾,
- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded over a given period in relation to the Community currencies referred to in the previous indent and the aforesaid coefficient;

Whereas it follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto;

Whereas, pursuant to Article 275 of the Act of Accession of Spain and Portugal, refunds may be granted in the case of exports to Portugal; whereas, in the light of the situation and the level of prices no refund should be fixed in the case of exports to Portugal;

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 2727/75, exported in the natural state, shall be as set out in the Annex hereto.

The refund on export to Portugal has not been fixed.

Article 2

This Regulation shall enter into force on 9 January 1987.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 139, 24. 5. 1986, p. 29.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

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

⁽⁵⁾ OJ No L 168, 27. 7. 1971, p. 16.

⁽⁶⁾ OJ No L 164, 24. 6. 1985, p. 1.

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

Done at Brussels, 8 January 1987.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX

to the Commission Regulation of 8 January 1987 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

(ECU / tonne)

CCT heading No	Description	Refund
10.01 B I	Common wheat and meslin for exports to : — Switzerland, Austria, Liechtenstein, Ceuta and Melilla — zone II b) — other third countries	122,00 128,00 136,00
10.01 B II	Durum wheat for exports to : — Switzerland, Austria and Liechtenstein — zone I and zone II a) — other third countries	5,00 ^(?) 196,00 ^(?) 10,00 ^(?)
10.02	Rye for exports to : — Switzerland, Austria and Liechtenstein — other third countries	5,00 10,00
10.03	Barley for exports to : — Switzerland, Austria, Liechtenstein, Ceuta and Melilla — zone II b) — Cyprus — other third countries	125,00 129,00 25,00 132,00
10.04	Oats for exports to : — Switzerland, Austria and Liechtenstein — zone I — other third countries	— 95,00 —
10.05 B	Maize, other than hybrid maize for sowing for exports to : — Switzerland, Austria and Liechtenstein — zone I, zone V, the German Democratic Republic and the Canary Islands — other third countries	10,00 20,00 —
10.07 B	Millet	—
10.07 C II	Grain sorghum, other than hybrid sorghum for sowing	—
ex 11.01 A	Wheat flour : — of an ash content of 0 to 520 — of an ash content of 521 to 600 — of an ash content of 601 to 900 — of an ash content of 901 to 1 100 — of an ash content of 1 101 to 1 650 — of an ash content of 1 651 to 1 900	193,00 193,00 170,00 157,00 146,00 130,00

		(ECU / tonne)
CCT heading No	Description	Refund
ex 11.01 B	Rye flour :	
	— of an ash content of 0 to 700	193,00
	— of an ash content of 701 to 1 150	193,00
	— of an ash content of 1 151 to 1 600	193,00
	— of an ash content of 1 601 to 2 000	193,00
11.02 A I a)	Durum wheat groats and meal :	
	— of an ash content of 0 to 1 300 ⁽¹⁾	308,00 ⁽²⁾
	— of an ash content of 0 to 1 300 ⁽²⁾	292,00 ⁽²⁾
	— of an ash content of 0 to 1 300	262,00 ⁽²⁾
	— of an ash content of more than 1 300	247,00 ⁽²⁾
11.02 A I b)	Common wheat groats and meal :	
	— of an ash content of 0 to 520	193,00

⁽¹⁾ Meal of which less than 10 % by weight is capable of passing through a sieve of 0,250 mm mesh.

⁽²⁾ Meal of which less than 10 % by weight is capable of passing through a sieve of 0,160 mm mesh.

⁽³⁾ With the exception of the quantities referred to in the Commission's Decision of 19 March 1986.

N.B. The zones are those defined in Regulation (EEC) No 1124/77 (OJ No L 134, 28. 5. 1977), as last amended by Regulation (EEC) No 3817/85 (OJ No L 368, 31. 12. 1985).

COMMISSION REGULATION (EEC) No 52/87
of 8 January 1987
fixing the corrective amount applicable to the refund on cereals

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to 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⁾,

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

Having regard to the opinion of the Monetary Committee,

Whereas Article 16 (4) of Regulation (EEC) No 2727/75 provides that the export refund applicable to cereals on the day on which application for an export licence is made, adjusted for the threshold price in force during the month of exportation, must be applied on request to exports to be effected during the period of validity of the export licence; whereas, in this case, a corrective amount must be applied to the refund;

Whereas Council Regulation (EEC) No 2744/75 of 29 October 1975 on the import and export system for products processed from cereals and from rice ⁽⁴⁾, as last amended by Regulation (EEC) No 1588/86 ⁽⁵⁾, made possible the fixing of a corrective amount for certain products listed in Article 1 (c) of Regulation (EEC) No 2727/75;

Whereas Commission Regulation (EEC) No 1281/75 ⁽⁶⁾ laid down detailed rules for the advance fixing of export refunds for cereals and certain products processed from cereals;

Whereas, pursuant to that Regulation, when the corrective amount is being fixed, account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals on the Community market on the one hand and possibilities and conditions for the sale of cereals and cereal products on the world market on the other; whereas the same Regulation provides that it is also important to ensure equilibrium and the natural development of prices and trade on cereal markets and,

furthermore, to take into account the economic aspect of exports and the need to avoid disturbances on the Community market;

Whereas for the products listed in Article 1 (c) of Regulation (EEC) No 2727/75 account should be taken of the specific criteria laid down in Article 2 (2) of Regulation (EEC) No 1281/75;

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

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

Whereas it may be altered in the period between fixings;

Whereas, if the system of corrective amounts is to operate normally, corrective amounts should be calculated on the following basis:

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85 ⁽⁷⁾,
- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded over a given period in relation to the Community currencies referred to in the preceding indent and the aforesaid coefficient;

Whereas it follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto;

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

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 16 (4) of Regulation (EEC) No 2727/75 which is applicable to export refunds fixed in advance in respect of cereals shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 9 January 1987.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 139, 24. 5. 1986, p. 29.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No L 281, 1. 11. 1975, p. 65.

⁽⁵⁾ OJ No L 139, 24. 5. 1986, p. 47.

⁽⁶⁾ OJ No L 131, 22. 5. 1975, p. 15.

⁽⁷⁾ OJ No L 164, 24. 6. 1985, p. 1.

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

Done at Brussels, 8 January 1987.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX

to the Commission Regulation of 8 January 1987 fixing the corrective amount applicable to the refund on cereals

CCT heading No	Description	(ECU/tonne)						
		Current	1st period	2nd period	3rd period	4th period	5th period	6th period
		1	2	3	4	5	6	7
10.01 B I	Common wheat and meslin for exports to :							
	— China	0	+ 6,00	— 6,00	— 6,00	— 6,00	— 6,00	— 14,00
	— other third countries	0	0	— 12,00	— 12,00	— 12,00	— 12,00	— 20,00
10.01 B II	Durum wheat	0	0	0	0	0	0	— 20,00
10.02	Rye	0	0	0	0	0	—	—
10.03	Barley	0	0	— 12,00	— 12,00	— 12,00	— 20,00	— 20,00
10.04	Oats	—	—	—	—	—	—	—
10.05 B	Maize other than hybrid maize for sowing	0	0	0	—	—	—	—
10.07 C II	Grain sorghum, other than hybrid sorghum for sowing	—	—	—	—	—	—	—
11.01 A	Common wheat flour	0	0	0	0	0	0	— 50,00
11.01 B	Rye flour	0	0	0	0	0	0	— 50,00
11.02 A I a)	Durum wheat groats and meal	0	0	0	0	0	0	— 50,00
11.02 A I b)	Common wheat groats and meal	0	0	0	0	0	0	— 50,00

N.B. The zones are those defined in Regulation (EEC) No 1124/77 (OJ No L 134, 28. 5. 1977), as last amended by Regulation (EEC) No 3817/85 (OJ No L 368, 31. 12. 1985).

COMMISSION REGULATION (EEC) No 53/87

of 8 January 1987

fixing the export refunds on 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 the fourth subparagraph of Article 16 (2) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas Article 16 of Regulation (EEC) No 2727/75 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of those Regulations and prices for those products within the Community may be covered by an export refund;

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

Whereas Council Regulation (EEC) No 2744/75 of 29 October 1975 on the import and export system for products processed from cereals and from rice⁽⁴⁾, as last amended by Regulation (EEC) No 1588/86⁽⁵⁾, defines the specific criteria to be taken into account when the refund on these products is being calculated;

Whereas it follows from applying these detailed rules to the present situation on the market in products processed

from cereals and rice that the export refund should be fixed at an amount which will cover the difference between Community prices and world market prices;

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

Whereas, 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⁽⁶⁾,
- 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 the refund must be fixed once a month; whereas it may be altered in the intervening period;

Whereas, pursuant to Article 275 of the Act of Accession of Spain and Portugal, refunds may be granted in the case of exports to Portugal; whereas, in the light of the situation and the level of prices no refund should be fixed in the case of exports to Portugal;

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on malt listed in Article 1 (d) of Regulation (EEC) No 2727/75 subject to Regulation (EEC) No 2744/75 shall be as set out in the Annex hereto.

The refund on export to Portugal has not been fixed.

Article 2

This Regulation shall enter into force on 9 January 1987.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 139, 24. 5. 1986, p. 29.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No L 281, 1. 11. 1975, p. 65.

⁽⁵⁾ OJ No L 139, 24. 5. 1986, p. 47.

⁽⁶⁾ OJ No L 164, 24. 6. 1985, p. 1.

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

Done at Brussels, 8 January 1987.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX

to the Commission Regulation of 8 January 1987 fixing the export refunds on malt

<i>(ECU/tonne)</i>	
CCT heading No	Refund
11.07 A I b)	162,26
11.07 A II b)	204,26
11.07 B	238,05

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 11 December 1986

relating to a proceeding under Article 85 of the EEC Treaty (IV/261-A —
Belgische Vereniging der Banken/Association Belge des Banques)

(Only the French and Dutch texts are authentic)

(87/13/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 Articles 6 and 8 thereof,

Having regard to the notification and application for negative clearance submitted on 31 October 1962 by the Belgische Vereniging der Banken / Association Belge des Banques concerning conventions, agreements and recommendations relating to the activity of virtually all banks established in Belgium,

Having regard to the summary of the notification published ⁽²⁾ 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 31 October 1962, the Belgische Vereniging der Banken/Association Belge des Banques — hereinafter referred to as the BVB/ABB — notified to

the Commission in accordance with Article 5 of Regulation No 17, a series of restrictive practices entered into by its members within the association, with a view to obtaining negative clearance in respect of the application to them of Article 85 (1) of the EEC Treaty or, failing that, an exemption under Article 85 (3) from the prohibition contained in paragraph 1 of that Article.

A. The Belgische Vereniging der Banken/ Association Belge des Banques

- (2) The BVB/ABB, which has its registered office in Brussels, was set up on 1 December 1936. As provided for in Article 3 of its statutes, its objects are to represent the Banking profession and to protect its interests, to promote the latter, to deal with social matters and to study any issue of interest to its members. With this in mind, it endeavours, among other matters, to establish permanent contacts between its members, to define and express the banking profession's views on banking matters and to promote agreed standards intended to facilitate the organization and exercise of the profession.
- (3) Membership of the BVB/ABB is open to banks established in Belgium, including subsidiaries and branches of foreign banks and banks appearing on the list published by the Banking Commission, the body responsible for supervising banks in Belgium. Admission to membership of the BVB/ABB is decided by its Management Committee. On 1 June 1986, of the 86 banks on the list, 84 were members of the BVB/ABB.

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No C 199, 8. 8. 1986, p. 2.

- (4) The organs of the BVB/ABB are the General Meeting, the Management Committee, the President, the Officers, the specialized sections, the regional sections and the Director-General. The Management Committee, consists of the BVB/ABB Officers (President, Vice-Presidents and Director-General), The Chairman of the Management Boards of the Generale Bank/Générale de Banque, the Bank Brussel Lambert/Banque Bruxelles Lambert, the Kredietbank and the Paribas Bank België/Banque Paribas Belgique, and the heads of the BVB/ABB's four specialized sections (regional, private and specialized banks; medium-sized banks; branches of foreign banks in Belgium; subsidiaries of foreign banks in Belgium); it is the Management Committee which lays down the general policy and position of the BVB/ABB towards third parties, and in particular towards the public authorities, and which approves, by common accord, agreed standards.

B. The financial sector in Belgium

1. The role of banks within the financial sector in terms of deposits

- (5) On 31 December 1984⁽¹⁾, the shares of total customer deposits held by the various categories of financial institution were as follows:

— banks:	42,8 %
— public credit institutions:	40,6 %
— private savings banks:	16,1 %
— finance companies:	0,5 %

- (6) The banks' share of this total has been growing slowly but surely since 1975 (when it was 39,6 %). This increase has been at the expense of the public credit institutions (44,9 % in 1975) and is due to the growth in international deposits, which have doubled since 1975, accounting for 5,4 % out of 39,6 % in that year and for 10,9 % out of 42 % in 1982⁽²⁾.

2. The role of banks within the financial sector in balance-sheet terms

- (7) The same phenomenon shows up more distinctly in the shares of the balance-sheet total accounted for by the various categories of financial institution. At the end of 1984, the shares were as follows⁽¹⁾:

— banks:	68,8 %
— public credit institutions:	22,4 %
— private savings banks:	8,3 %
— finance companies:	0,5 %

- (8) The share accounted for by the banks in 1975 was only 56,1 %, whereas the public credit institutions still accounted for 32,5 %. In 1982, the international balance sheet made up two-thirds of the banks' share (44,2 % of the financial sector's total balance sheet) compared with only two-fifths (26,1 % of the total) in 1975⁽³⁾.

C. The restrictive practices notified

1. Notification and updatings

- (9) On 31 October 1962, the BVB/ABB notified to the Commission a series of eight conventions and ten agreements concluded between its members within the association, and seven association recommendations, specifying for each restrictive practice contained therein the member banks of the BVB/ABB party to it, those that had given notice of it, and its date of entry into force.
- (10) In response to the request for information sent by the Commission on 6 November 1975, pursuant to Article 11 of Regulation No 17, the BVB/ABB, on 23 January 1976, sent to it, among other documents, a list of the conventions, agreements and recommendations in force on that date, a list of the banks not party to all or some of the restrictive practices, and the text of the amended or new restrictive practices.
- (11) On 14 July 1981, the Court of Justice, in *Züchner v. Bayerische Vereinsbank*⁽⁴⁾, gave its ruling on certain points that were still open to discussion as regards the applicability of the competition rules laid down in the Treaty to agreements between banks. Following that judgment and the enquiry conducted by the Commission in each of the Member States, which at the time were ten in number, into national inter-bank agreements on commissions charged for banking services, a further request for information was sent to the BVB/ABB on 3 May 1983. In response to that request, the BVB/ABB informed the Commission on 13, 21 and 27 June 1983 of the amendments made to the restrictive practices already notified and sent to it the texts of the new restrictive practices entered into since 1976, some of which were being redrafted at the time. In response to a further updating request from the Commission on 26 July 1984, BVB/ABB replied on 5 September 1984, indicating the major amendments made since June 1983.

(1) 'De banken binnen de financiële sector in 1984' / 'Les banques au sein du secteur financier en 1984', Aspecten en documenten / Aspects et documents, No 42, p. 30, BVB/ABB, October 1985.

(2) 'De banken binnen de financiële sector sedert 1975' / 'Les banques au sein du secteur financier depuis 1975', Vol. I — 'Vergelijkende analyse' / 'Analyse Comparative', Aspecten en documenten / Aspects et documents, No 29, p. 19, BVB/ABB, May 1984.

(3) 'De banken binnen de financiële sector sedert 1975' / 'Les banques au sein du secteur financier depuis 1975', Vol. I — 'Vergelijkende analyse' / 'Analyse Comparative', Aspecten en documenten / Aspects et documents, No 29, p. 18, BVB/ABB, May 1984.

(4) Case 172/80, ECR (1981), p. 2021.

2. *Restrictive practices in force when the Statement of Objections was issued*

- (12) It transpired from that last updating that, when the Statement of Objections was sent on 13 June 1985, twelve conventions, two agreements and eight recommendations were in force (the different terminology used was not based on any precise, pre-established rationale; the effects of the restrictive practices were identical except for the fact that the conventions provided for penalties for breaches of their provisions).

(13) (a) Conventions

- AC1: Accounts and deposits;
 AC2: Collection of cheques and bills;
 AC2 bis: Collection of Belgian bills denominated in Belgian francs;
 AC3: Charges for the safe custody of bills;
 AC4: Payment of coupons, repayment and allotment of securities;
 AC5: Miscellaneous transactions in securities;
 AC6: Hiring of safes;
 AC7: Implementation of business conventions concluded or to be concluded between banks carrying on business in Belgium;
 AC8: Competition matters;
 AC9: International payments and foreign-exchange dealings;
 AC10: Conditions applicable to the collection of commercial bills and cheques having direct or indirect links with abroad, transactions in goods having direct or indirect links with abroad, and documentary credit;
 AC11: Conditions applicable to banks and bankers established abroad.

(b) Agreements

- AA2: Article 45 of the Uniform law on Bills of Exchange and Promissory Notes;
 AA4: Reduction in the amount of work involved in checking for stops in connection with transactions in securities.

(c) Recommendations

- AR1: Incorporation into Belgian law of the sixth EEC Directive on VAT;
 AR2: Exemption from charges in respect of inter-bank currency transfers;

- AR7: Promoting the use of cheques;
 AR8: Enforcement of decisions taken by the CIRIB⁽¹⁾
 AR9: Personal loans;
 AR11: Compliance with interbank conventions and agreements;
 AR13: Banking rationalization;
 AR15: Protection against armed robberies.

3. *Scope of the objections*

- (14) The objections were concerned solely with the restrictive practices in respect of commissions charged by banks for services provided. Convention AC1 on accounts and deposits was not, therefore, covered. For the time being, the Commission reserves its position on that convention, the main provisions of which relate to deposit interest rates.
- (15) With regard to the restrictive practices covered by the objections, the Commission indicated, in its Statement of Objections of 13 June 1985, that it could consider Agreements AA4 and Recommendations AR1, AR2, AR7, AR8, AR9, AR13 and AR15 as not being in restraint of competition.
- (16) However, in that same letter, the Commission gave notice of its intention to take a decision prohibiting the other restrictive practices, viz. Conventions AC2, AC2bis, AC3, AC4, AC5, AC6, AC7, AC8, AC9, AC10 and AC11, Agreement AA2 and Recommendation AR11.

4. *Abrogation by the BVB/ABB of some of the restrictive practices notified*

- (17) In response to the Statement of Objections and following the subsequent discussions between the BVB/ABB and the Commission's Directorate-General for Competition, the former announced in a letter dated 8 April 1986 that it had terminated, with effect from 1 April 1986, some of the restrictive practices in their entirety and others in part.
- (18) The restrictive practices abandoned in their entirety are Conventions AC2, AC2bis, AC3, AC6, AC7, AC8 and AC11 and Recommendation AR11. The other restrictive practices, viz. Conventions AC4, AC5, AC9 and AC10 and Agreement AA2, were abandoned in part; among other matters, all the provisions relating to charges and fees payable by customers were deleted.

D. *Scope of this Decision*

- (19) The BVB/ABB has deleted from Agreement AA2 any charges or fees specified and all references to commissions of whatever kind, with the result that the agreement is no longer restrictive of competition and may be classified with the similar instruments listed in paragraph 15 above.

⁽¹⁾ International Conferences on Rationalization in inter-banking relations.

- (20) Accordingly, this Decision applies only to the three conventions relating to commissions charged in interbank relations: one of them, relating to miscellaneous transactions in securities, has replaced Conventions AC4 and AC5 while the other two, which concern international monetary movements and trade, have replaced Conventions AC9 and AC10.

- (21) The definitive texts of these three conventions were sent to the Commission by the BVB/ABB on 30 May 1986. Their exact titles are as follows:

- Interbank Convention relating to intermediation by two or more banks in transactions in securities (*Overeenkomst tussen de banken betreffende de tussenkomst van verscheidene banken bij de verrichtingen op effecten* — *Convention interbancaire relative à l'intervention de plusieurs banques dans les opérations sur titres*);
- Interbank Convention relating to intermediation by two or more banks in payments originating abroad (*Overeenkomst tussen de banken betreffende de tussenkomst van verscheidene banken bij betalingen uit het buitenland* — *Convention interbancaire relative à l'intervention de plusieurs banques dans les paiements provenant de l'étranger*);
- Interbank Convention relating to intermediation by two banks established in Belgium in the collection of cheques and commercial bills on behalf of principals abroad (*Overeenkomst tussen de banken betreffende de tussenkomst van twee banken gevestigd in België bij het incasso van cheques en handelspapier uit het buitenland* — *Convention interbancaire relative à l'intervention de deux banques établies en Belgique dans l'encaissement de chèques et de papier commercial provenant de l'étranger*).

E. Substance of the conventions covered by this decision

1. Convention on transactions in securities

- (22) This convention fixes the amount of the rebates on commissions received for services rendered by registrar banks to other banks in Belgium in consideration of their intermediation in payment transactions in respect of, firstly, coupons and securities, and secondly, various other securities dealings. The amount of the rebate is expressed as a percentage of the commission charged by the registrar bank, the percentage varies according to the nature of the transaction.

(a) Payments of coupons and securities

- (23) In the case of securities represented by CIK (CIK: *Interprofessionele effectendeposito en girokas* /

Caisse interprofessionnelle de dépôts et de virements de titres) certificates and the corresponding coupons, the refund is 50 %, with a maximum of Bfrs 625 per bearer security and Bfrs 200 per coupon. In the case of securities not represented by CIK certificates and the corresponding coupons, the rebate is 80 %, with a maximum, in the case of bearer securities, of Bfrs 625 per security and Bfrs 200 per coupon and, in the case of registered certificates, Bfrs 1 750 per certificate and Bfrs 625 per coupon.

- (24) For supranational and international issues, the rebate is 40 %. For issues floated by the cities of Antwerp, Brussels, Gent and Liège, the rebate is two thirds.

- (25) For coupons relating to bearer securities representing foreign stock, the rebate is 40 % if the securities are represented by CIK certificate and 50 % in all other cases.

(b) Miscellaneous transactions in securities

- (26) The rebate is 50 % of the commission charged on miscellaneous transactions in securities: exchange, allotment, renewal of coupons, stamping, signature of registered certificates, and deposit with a view to a general meeting.

- (27) Where the securities are deposited with the CIK, the rebate in the case of the first three transactions listed in the preceding paragraph is calculated on the basis of the preferential CIK rate and after deduction of the commission charged by that agency; it is zero in the case of stamping, the CIK collecting the commission for that transaction.

- (28) Similarly, the rebate is zero on the special commissions charged (i) by the bank holding the allocation of new securities where exchange takes place with numbers remaining unchanged, and (ii) by the bank holding the allocation of new coupon sheets where coupons are renewed.

2. Convention on payments originating abroad

- (29) This convention fixes the maximum amount of the payment commission that may be charged between banks on any international foreign-exchange payment transaction originating abroad and transmitted via a bank established in Belgium to another bank established there. The maximum amount is as follows: zero for transactions of less than Bfrs 1 000; Bfrs 225 for transactions of between Bfrs 1 001 and Bfrs 100 000; Bfrs 250 for transactions of between Bfrs 100 001 and Bfrs 300 000; and Bfrs 600 for transactions of over Bfrs 300 000.

(30) The convention specifies that the following are excluded from its scope:

- Eurocheques issued up to the maximum amount accepted for clearing⁽¹⁾,
- European traveller's cheques,
- foreign-currency traveller's cheques issued on behalf of the payee bank,
- operations involving the purchase, sale and collection of securities or coupons,
- payments of foreign pensions of a social nature made by legal persons to the order of recipients having *régicole* status⁽²⁾ or treated as having such status.

(31) The convention also stipulates that, in connection with transactions covered by it, the intermediary bank shall refrain from any act of unfair competition involving any contact or attempted contact, whether or not direct, with customers of the payee bank.

3. *Convention on the collection of cheques and commercial bills originating abroad*

(32) This convention no longer contains any schedule of charges and fees. It simply lays down the principle of charging commissions and stipulates who is to collect them. It indicates that the collecting bank may collect commissions and costs from the principal. Where the collection of cheques is concerned, the commission is invariably payable by the principal. In the case of commercial bills, the convention, referring to Article 22 of the relevant uniform rules drawn up by the International Chamber of Commerce⁽³⁾, lays down that, where the letter of remittance stipulates that the commissions and costs are to be borne by the drawee and where the drawee refuses to pay them, the collecting bank may collect such commissions and costs from the principal except where the order for collection expressly contains instructions to the contrary.

(33) Where presentation to a second bank in Belgium is made at the express request of the drawee, the first bank must expressly mention that fact in its remittance, failing which the second bank charges to it

its commissions and costs as if presentation to the second bank had been made on instructions from the foreign principal; the commission that the second bank is entitled to collect may not be charged to the first bank but may be charged to the drawee.

F. Observations by third parties

(34) No observation has been received from third parties following publication, in accordance with Article 19 (3) of Regulation No 17, of the summary of the three conventions.

II. LEGAL ASSESSMENT

A. Article 85 (1)

1. *Undertakings and association of undertakings*

(35) The banks applying the notified conventions, being economic entities carrying on activities of an economic nature, are undertakings within the meaning of Article 85. The BVB/ABB, which comprises such undertakings, is an association of undertakings within the meaning of that same provision.

2. *Agreements between undertakings and decisions by associations of undertakings*

(36) A distinction should be made at this point between those who are members and those who are not members of the BVB/ABB. As distinct from the conventions notified in 1962, the BVB/ABB members have not formally acceded to the three conventions that are the subject of this Decision. The texts were sent to them by the BVB/ABB members, the three new conventions may be treated as decisions by associations of undertakings. Otherwise, since no member bank of the BVB/ABB indicated on receipt of the texts of the new conventions that it would not comply with them, it is possible to take the view that the conventions were acceded to tacitly and hence that they ranked as agreements between undertakings. In both cases, the restrictive practices are, in any event, caught by Article 85.

(37) Banks that are not members of the BVB/ABB may, as in the past, apply the BVB/ABB conventions in whole or in part. From this point of view, the conventions are to be regarded as agreements between undertakings within the meaning of Article 85.

⁽¹⁾ At the moment, this corresponds roughly to Swf 600.

⁽²⁾ A recipient having *régicole* status means any natural person having his principal residence in Belgium and any legal person having its registered office there.

⁽³⁾ Brochure No 322 of the International Chamber of Commerce.

3. Effect on trade between Member States

- (38) The concept of trade within the meaning of Article 85 of the Treaty is wide-ranging⁽¹⁾. It relates to economic activity in general, including monetary transactions and banking services.
- (39) National pricing agreements covering an entire Member State may have the effect of consolidating the isolation of a national market, thus hindering the economic interpenetration sought by the Treaty. The restrictive practices notified by the BVB/ABB produce their effects throughout Belgium.
- (40) Moreover, as indicated by the BVB/ABB in connection with Belgian banks established abroad⁽²⁾, a branch continues to form an integral part of the structure of the bank which set it up, and operates under its direct control. Whatever considerations are applicable to the subsidiaries of foreign banks established in Belgium, their branches, at the very least, are direct emanations of those banks and hence participate in trade between Member States.
- (41) Of the 84 banks established in Belgium at the end of 1985⁽³⁾, 61 were incorporated abroad (branches with no legal personality of their own) or incorporated in Belgium but with majority foreign ownership (subsidiaries), of which 27 were from eight Member States⁽⁴⁾. Of these 61 banks, 28 were branches, of which 14 were from seven Member States⁽⁵⁾. The 10 largest banks established in Belgium at the end of 1984 in terms of balance-sheet total⁽⁶⁾ included seven incorporated abroad or with majority ownership (six branches and one subsidiary). If banks are considered not in terms of their balance-sheet but in terms of their deposits, four banks incorporated abroad or with majority foreign ownership (two branches and two subsidiaries) were among the 10 largest banks established in Belgium at the end of 1984⁽⁶⁾. The importance in the Belgian banking sector of foreign-owned

banks (branches and subsidiaries with majority foreign ownership) has increased steadily over the last fifteen years: between 1970 and 1985, their share in the balance-sheet total grew from 22,5 % to 51,0 %, in customer deposits from 10,8 % to 19,9 %, in credits to customers from 21,9 % to 40,9 %, and in interbank transactions from 35,7 % to 67,5 %⁽⁷⁾.

- (42) The degree of internationalization of banking activities also reflects the impact of the interbank conventions on trade between Member States. With the growing number of foreign banks established there account for an even larger share of their total business. In 1985, this share amounted to 69,6 % of their balance-sheet total (41 % in 1970), 27,5 % of total customer deposits (12,5 % in 1970), 55,2 % of total customer credits (23 % in 1970) and 95,7 % of interbank transactions (95 % in 1970)⁽⁸⁾.
- (43) Furthermore, the three conventions, inasmuch as they relate indirectly to services provided without distinction to national and foreign customers, are likely to affect intra-Community trade. Two of them, inasmuch as they directly concern foreign-exchange transactions or transfers from abroad, have a direct effect on trade between Member States. The third, on cheques and commercial bills, also concerns trade between Member States because it affects, on the one hand, foreign principals who confide the servicing of their cheques and bills in Belgium to Belgian banks and, on the other hand, foreign holders of Belgian cheques and bills.

4. Restrictions of competition

- (44) Two of the three conventions, the one dealing with transactions in securities and the other with payments originating abroad, restrict and even eliminate the freedom enjoyed by the banks applying them to determine bilaterally charges for services they provide to one another. By complying with the convention relating to transactions in securities, the banks deprive themselves of the right to negotiate, between themselves and on an individual basis, better terms than those laid down in the convention. The restrictions of competition contained in the convention on payments originating abroad are even more pronounced since the convention sets uniform rates expressed in absolute amounts. The amount of the commission is, there-

⁽¹⁾ Judgment referred to in point 11.

⁽²⁾ 'Het net van de Belgische banken in het buitenland' / 'Le réseau des banques belges à l'étranger', 'Aspecten en documenten / Aspects et Documents', No 17, BVB/ABB, April 1983, p. 6.

⁽³⁾ 'Statistisch vademecum van de banksector 1985' / 'Vademecum statistique du secteur bancaire 1985', 'Aspecten en documenten / Aspects et Documents', No 49, BVB/ABB, May 1986, p. 88.

⁽⁴⁾ Including Spain and Portugal.

⁽⁵⁾ 'Statistisch vademecum van de banksector 1985' / 'Vademecum statistique du secteur bancaire 1985', 'Aspecten en documenten / Aspects et Documents', No 49, BVB/ABB, May 1986, p. 34.

⁽⁶⁾ *Idem*, p. 37.

⁽⁷⁾ *Idem*, p. 89.

⁽⁸⁾ *Idem*, p. 83.

fore, determined in advance, unlike in the case of the convention on transactions in securities, which lays down only the percentages of the rebate and not its exact amount. The latter depends on the amount of the commission charged by the registrar bank (that commission no longer being the subject of an interbank convention).

- (45) The third convention, which deals with the collection of cheques and commercial bills originating abroad, no longer fixes any rates. Nonetheless, by establishing the principle of, and the procedures for, charging a commission on transactions falling within its scope, it has the effect of appreciably restricting the freedom of action of the banks that are party to it: the banks agree, on the one hand, not to provide this service free of charge and, on the other hand, which party shall be liable for the commission thus provided for. The possibility that the banks might waive the commission is not merely a theoretical one, as the commission in question is not their only source of income, and they could waive it in order to attract business.

B. Article 85 (3)

- (46) The four conditions required for an exemption under Article 85 (3) are met in the cases at issue, for the following reasons:

1. *Improvement in the supply of banking services and in the payments system*

- (47) The convention on transactions in securities increases the supply of banking services. It allows all the banks to take on for their customers the servicing of the whole range of securities instead of simply securities for which they have been made directly responsible, as registrar banks, by the issuers.
- (48) The convention on payments originating abroad improves the functioning of the payments system since it allows an intermediary banker to pass on, if only in part, any commission charged to him by his foreign correspondent. If a maximum amount were not fixed for the commission charged by the intermediary banker, each transaction would have to be the subject of negotiations between the payee banker and the intermediary banker, slowing down transactions and raising their cost to the final user, where that cost were passed on to him. Technical progress associated with the use of information technology for carrying out such transactions and

the need to improve the streamlined integrated payment systems provide justification for introducing commissions with a uniform ceiling for transactions between all financial intermediaries operating within an integrated payments system.

- (49) The convention on the collection of cheques and commercial bills also makes for an improvement in the payments system by stipulating in advance which costs can be set off, thereby avoiding any subsequent dispute that might jeopardize the smooth conduct of transactions falling within the scope of the convention.

2. *Participation by users*

- (50) Holders of securities receive a fair share of the benefit of the convention on transactions in securities, since it allows them to contact their own bank in connection with transactions in securities the servicing of which the bank does not take on. As a result, they are not obliged to contact the different registrar banks since all their transactions in securities can now be dealt with by a single bank, *viz.* the one at which they have an account. Moreover, no extra commission is payable for that service either by the holder of the securities or the issuer, the intermediary bank being remunerated by the registrar bank, which passes on to the intermediary part of the commission which it receives from the issuer of the securities on account of the financial service provided.

- (51) Under the convention on payments originating abroad, a fair share of the resulting benefit also accrues to final users, since recipients of payments from abroad are not obliged to contact a bank other than their own bank whenever the latter is not the correspondent of the bank established in the country in which the order originates. Moreover, a commission is not compulsorily charged on the occasion of such a transaction, since the convention does not require the intermediary bank to charge that commission, providing simply for the possibility of so doing. For the rest, a maximum amount is fixed for the commission: if the intermediary bank decides to charge a commission, it may opt for a level below the maximum. In any event, the maximum, which is Bfrs 600 for the largest transactions, is invariably lower than the cost of the transaction to the intermediary bank, which averages some Bfrs 750; under no circumstances, therefore, does the final user pay the real cost of the service rendered even though the commission may seem high for small transactions.

Users, who are financial intermediaries acting as payee banks, and above all customers, who are the final users, receive the bulk of the benefit: payments are speeded up, in spite of the ever-increasing number of transactions, and no unforeseen costs calculated *a posteriori* on an arbitrary basis are incurred. The convention has precisely the object of limiting such costs to reasonable amounts that are known in advance and freely negotiated beforehand by all those also taking part in the clearing system, with the result that none of them is subjected to unfair conditions or placed at a competitive disadvantage.

- (52) The convention on the collection of cheques and commercial bills originating abroad also allows users a large share of the resulting benefit since, among other things, it allows the Belgian drawee to deal only with his own bank, and not with another bank established in Belgium that is the correspondent of the bank abroad from which the order arrives. In addition, by not fixing the amount of the commission provided for, the convention leaves room for negotiation on that amount, which might benefit the party that is ultimately responsible for paying it.

3. Indispensable nature of the restrictions

- (53) The restrictions of competition imposed by the convention on transactions in securities are indispensable in order to ensure the smooth operation of the general servicing of securities. By agreeing to take on the servicing of securities for which they are not registrar banks, intermediary banks simultaneously render a service to their customers holding securities, to the registrar banks, whose task they perform in part, and to the issuers of securities, who, as a result, do not need to designate numerous registrar banks. Where such a service is supplied collectively by all banks in a particular country to all customers in that country, it is essential that the relevant arrangements are determined jointly by the banks. Rebates that varied from one bank to another would entail, for each security, bilateral negotiations between the 84 banks party to the convention.
- (54) The same points can be made regarding the convention on payments originating abroad: it provides for a service to be supplied collectively by all banks to all customers. In transmitting the order to the payee bank, the intermediary bank supplies a

service to the beneficiary of the payment, who is not its customer. The restriction imposed on banks, *viz.* that they must not exceed the maximum amount laid down in the convention, is essential to ensure that the smallest banks, who have few correspondents and, as a result, act first and foremost as payee banks rather than intermediate banks, are not subjected to unfair conditions and thereby placed at a competitive disadvantage.

- (55) The restrictions contained in the convention on the collection of cheques and commercial bills originating abroad are necessary in order to harmonize the rules applicable in that connection and hence in order to avoid any dispute involving the set-off of commissions and costs. If there were disputes, there would be a danger that some banks might refuse to continue operating this service which is beneficial to customers.

4. Scope for competition

- (56) The convention on transactions in securities does not govern relations between banks and their customers, either upstream (the issuers of securities) or downstream (the holders of securities). The banks are free to determine the amount of the commission they charge issuers who instruct them to take on the necessary servicing. The amount of the rebate paid in practice to intermediary banks thus varies in line with the commission that the registrar bank or banks charges or charge the issuer: only the share it accounts for of the commission charged by the registrar bank is determined in advance. Issuers of securities are able, therefore, to play off the different banks against one another in order to obtain the best possible terms by designating as the registrar bank or banks the one or ones charging the lowest commissions.
- (57) The convention on payments originating abroad does not govern relations between banks and their customers either. Scope for competition exists at two levels. First, the intermediary bank need not charge any commission or, if it does decide to charge a commission, it may set it at a level below the maximum provided for in the convention. Second, if a commission is charged by the intermediary bank, the payee bank need not pass it on, or may pass it on only in part to the customer who is the beneficiary of the payment: the extent to which the payment commission is passed on to the customer is left to the discretion of the payee bank.

- (58) The convention on the collection of cheques and commercial bills originating abroad does not contain any provisions relating to the amount of commissions; it provides merely for the charging of commissions. There is, therefore, scope for competition in this area between banks, which can charge different commissions for the same service, as they only know the amount of the commission after the event.

C. Articles 6 and 8 of Regulation No 17

- (59) Pursuant to Article 6 (1) of Regulation No 17, this Decision takes effect on 30 May 1986, the date on which the BVB/ABB sent to the Commission the definitive versions of the three conventions concerned by this Decision.
- (60) Pursuant to Article 8 (1) of Regulation No 17, the exemption resulting from this Decision is granted for an initial period of ten years, the restrictions contained in the conventions not being significant in scope.
- (61) For the Commission to be in a position to ensure that the conditions that have provided the grounds for granting the exemption continue to be met throughout the exemption period, the BVB/ABB must be required to notify the Commission immediately of any addition or amendment to the three conventions in question, and of any new agreement concluded between its members within the association,

HAS ADOPTED THIS DECISION:

Article 1

Pursuant to Article 85 (3) of the EEC Treaty, the provisions of Article 85 (1) are hereby declared inapplicable for the period from 30 May 1986 to 29 May 1986 to the following three agreements concluded between the members of the Belgische Vereniging der banken/Association Belge des Banques:

- Interbank Convention relating to intermediation by two or more banks in transactions in securities (*Overeenkomst tussen de banken betreffende de tussen-*

komst van verscheidene banken bij de verrichtingen op effecten; Convention interbancaire relative à l'intervention de plusieurs banques dans les opérations sur titres),

- Interbank Convention relating to intermediation by two or more banks in payments originating abroad (*Overeenkomst tussen de banken betreffende de tussenkomst van verscheidene banken bij betalingen uit het buitenland; Convention interbancaire relative à l'intervention de plusieurs banques dans les paiements provenant de l'étranger*),
- Interbank Convention relating to intermediation by two banks established in Belgium in the collection of cheques and commercial bills on behalf of principals abroad (*Overeenkomst tussen de banken betreffende de tussenkomst van twee banken gevestigd in België bij het incasso van cheques en handelspapier uit het buitenland; Convention interbancaire relative à l'intervention de deux banques établies en Belgique dans l'encaissement de chèques et de papier commercial provenant de l'étranger*).

Article 2

The following obligation is attached to this Decision: the Belgische Vereniging der Bankieren/Association Belge des Banques shall inform the Commission forthwith of any addition or amendment to the three conventions referred to in Article 1 and of any new agreement concluded between its members within the association.

Article 3

This Decision is addressed to the Belgische Vereniging der Bankieren/Association Belge des Banques, rue Ravenstein 36 (Boîte 5), B-1000 Brussels.

Done at Brussels, 11 December 1986.

For the Commission

Peter SUTHERLAND

Member of the Commission

COUNCIL OF THE EUROPEAN COMMUNITIES

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