

Official Journal

of the European Communities

ISSN 0378-6978

L 19

Volume 30

21 January 1987

English edition

Legislation

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 141/87**of 20 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 135/87⁽⁴⁾;

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 19 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 135/87 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 21 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 17, 20. 1. 1987, p. 1.

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

Done at Brussels, 20 January 1987.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX

to the Commission Regulation of 20 January 1987 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CCT heading No	Description	Levies	
		Portugal	Third country
10.01 B I	Common wheat, and meslin	3,65	197,62
10.01 B II	Durum wheat	37,10	252,98 ⁽¹⁾ ⁽²⁾
10.02	Rye	33,36	174,48 ⁽³⁾
10.03	Barley	31,61	187,03
10.04	Oats	90,74	156,82
10.05 B	Maize, other than hybrid maize for sowing	—	179,35 ⁽²⁾ ⁽³⁾ ⁽⁴⁾
10.07 A	Buckwheat	26,30	26,30
10.07 B	Millet	31,61	141,68 ⁽⁴⁾
10.07 C II	Grain sorghum, other than hybrid sorghum for sowing	17,35	180,10 ⁽⁴⁾ ⁽⁵⁾
10.07 D I	Triticale	⁽⁷⁾	⁽⁷⁾
10.07 D II	Canary seed; other cereals	31,61	63,57 ⁽⁷⁾
11.01 A	Wheat or meslin flour	19,73	291,28
11.01 B	Rye flour	61,32	258,89
11.02 A I a)	Durum wheat groats and meal	71,00	405,62
11.02 A I b)	Common wheat groats and meal	19,53	312,81

⁽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 142/87

of 20 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 19 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 21 January 1987.

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

Done at Brussels, 20 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 20 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	4,04	4,04	4,04
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	93,72	93,72	93,72
10.07 B	Millet	0	3,91	3,91	3,91
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	7,19	7,19	7,19	7,19
11.07 A II b)	Unroasted malt, other than that obtained from wheat, other than in the form of flour	0	5,37	5,37	5,37	5,37
11.07 B	Roasted malt	0	6,26	6,26	6,26	6,26

COMMISSION REGULATION (EEC) No 143/87
of 20 January 1987
on the supply of common wheat to the People's Republic of Bangladesh as food aid

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

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management⁽¹⁾, and in particular Article 12 thereof,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽²⁾, as last amended by Regulation (EEC) No 1579/86⁽³⁾, and in particular Article 28 thereof,

Whereas, by its Decision of 23 October 1985 on the supply of food aid to Bangladesh, the Commission allocated to the latter country 70 000 tonnes of cereals;

Whereas it is necessary to provide for the carrying out of this measure in accordance with the rules laid down by Commission Regulation (EEC) No 1974/80 of 22 July 1980 laying down general implementing rules in respect of certain food-aid operations involving cereals and rice⁽⁴⁾, as last amended by Regulation (EEC) No 3826/85⁽⁵⁾;

Whereas, in light of the special requirements inherent in this operation, provision should be made for it to be carried out at the cif ex-ship stage and to define the obligations that result therefrom for the successful tenderer; whereas, moreover, in light of the specific nature of the terms and conditions to be respected as regards, in particular, the transport and delivery of the goods to the destination, provision should be made for the designated intervention agency to communicate to each tenderer the clauses that are the subject of the Agreement between the European Economic Community and the recipient country;

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 intervention agency specified in Annex I hereto shall implement the mobilization and supply procedures in accordance with the provisions of Regulation (EEC) No

1974/80 and under the conditions laid down in Annex I, save as otherwise provided in the special provisions of this Regulation.

Article 2

By way of derogation from Article 13 of Regulation (EEC) No 1974/80, the operation shall be carried out at the cif ex-ship stage, under the following conditions:

1. The successful tenderer shall arrange at his own expense for transport by the fastest sea route from the port of shipment specified in his tender to the ports of destination specified in the notice of invitation to tender. However, at the request of the successful tenderer accompanied by the appropriate supporting documents, the Commission may authorize the port of shipment to be changed.

The successful tenderer shall transport the goods by sea in vessels listed in the larger classes in internationally recognized classification registers and meeting all the health requirements for the transport of foodstuffs. He shall send the intervention agency responsible for payment an attestation that the chartered vessel meets the abovementioned health and classification requirements.

2. The successful tenderer shall take out a marine insurance policy endorsed to the order of the recipient covering all risks of carriage and, where appropriate, of transshipment, including all cases of non-delivery and loss, without exclusion of particular average. This insurance policy shall be taken out for at least the amount of the tender increased by the value of the product determined in accordance with the following subparagraph.

The contract shall include a clause whereby, in the event of loss or deterioration of the goods, the insurer is to pay the intervention agency responsible for payment compensation related to the value of the product, namely the intervention price applicable on the date of taking delivery of the quantity in question.

3. The successful tenderer shall communicate to the recipient, the abovementioned intervention agency and the Commission, as soon as they come to his knowledge, the name of the vessel and its flag, the loading date, the expected date of arrival at the port of discharge and any incident occurring during carriage of the goods.

The successful tenderer shall stipulate in the transport document that the captain must advise the recipient at least 72 hours in advance of the date of arrival at the port of discharge.

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.

⁽²⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽³⁾ OJ No L 139, 24. 5. 1986, p. 29.

⁽⁴⁾ OJ No L 192, 26. 7. 1980, p. 11.

⁽⁵⁾ OJ No L 371, 31. 12. 1985, p. 1.

4. The successful tenderer shall be responsible for the costs arising from placing the goods on board the vessel in the port of shipment and shall bear the maritime freight charges.

The successful tenderer shall not be responsible for the unloading charges at the port of discharge.

Any demurrage shall neither be charged nor credited to the successful tenderer.

5. The successful tenderer shall furnish the recipient without delay, where appropriate through the Commission delegate to the recipient country specified in Annex I, with :

- the bill of lading for the port of destination specified,
- the charter party or other equivalent document indicating, in particular, the laytime and the particulars of the vessel or vessels,
- the attestation of inspection for conformity referred to in Article 15 of Regulation (EEC) No 1974/80,

— the attestation that the vessel meets the requirements laid down in point 1.

6. The successful tenderer shall bear all the risks, in particular of loss or deterioration of the goods, until they have effectively passed the ship's rail at the port of shipment.

Article 3

The intervention agency specified in Annex I shall make available to tenderers the specific clauses concerning, in particular, the chartering of the means of transport, transport and discharge at destination set out in the exchange of letters on the measures in question between the European Economic Community and the recipient.

The tender submitted shall be deemed to have been drawn up taking account of the charges and constraints resulting from the abovementioned specific clauses.

Article 4

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

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

Done at Brussels, 20 January 1987.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX I

1. **Programme :** 1986
2. **Recipient :** Relief and Rehabilitation Division, Ministry of Food, Bangladesh, Secretariat, Dhaka, Bangladesh
3. **Place or country of destination :** Bangladesh
4. **Product to be mobilized :** common wheat
5. **Total quantity :** 70 000 tonnes
6. **Number of lots :** 2 (2 × 35 000 tonnes)
7. **Intervention agency responsible for conducting the procedure :**
Bundesanstalt für landwirtschaftliche Marktordnung (BALM), Adickesallee 40, D-6000 Frankfurt/Main, Telex : 411 475
8. **Method of mobilizing the product :** Intervention
9. **Characteristics of the goods :**
common wheat of fair, sound and merchantable quality, free from abnormal smell and pests, which produces dough which does not stick during the mechanical kneading process
The common wheat must meet the following conditions :
 - moisture : 14,5 % maximum (ICC Method No 110)
 - protein content : 11 % minimum (N × 5,7 in terms of dry matter) (ICC Method No 105)
 - Hagberg falling number of at least 200, including the preparation (agitation) time of 60 seconds (ICC Method No 107)
10. **Packaging :** in bulk
11. **Port of shipment :** a Community port
12. **Delivery stage :** cif — ex-ship
13. **Port of landing :** Chittagong and Chalna
14. **Procedure to be applied in order to determine supply costs :** tendering
15. **Deadline for the submission of tenders :** 12 noon on 3 February 1987
16. **Shipment period :** 1 to 31 March 1987
17. **Security :** 10 ECU per tonne

Notes :

1. The successful tenderer shall send a copy of the shipping documents to the following address :
Commission Delegation in Bangladesh,
Mr Joël Fessaguet,
Dacca Office,
House CES (E) 19,
Road 128, Gulshan,
Dacca 12,
Tel. 60 05 64/41 18 41,
Telex 642501 CECO-BJ.
2. At the request of the beneficiary the successful tenderer may deliver a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded.
3. As soon as the successful tenderer has been informed of the award of the contract, he shall contact the beneficiary or his representative without delay, in order to determine the necessary consignment documents, as well as the details of period, rate and other circumstances concerning shipment.

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

Número de la partida Partiets nummer Nummer der Partie Αριθμός παρτίδων Number of lot Numéro du lot Numero della partita Nummer van de partij Número do lote	Tonelaje Mængde (t) Menge (t) Τόνοι Tonnage Tonnage Tonnellaggio Hoeveelheid (t) Tonelagem	Nombre y dirección del almacenista Lagerindehaverens navn og adresse Name und Adresse des Lagerhalters Όνομα και διεύθυνση εναποθηκευτού Address of store Nom et adresse du stockeur Nome e indirizzo del detentore Naam en adres van de depothouder Nome e endereço do armazenista	Lugar de almacenamiento Lagerplads Ort der Lagerhaltung Τόπος αποθηκεύσεως Town at which stored Lieu de stockage Luogo di accantonamento Adres van de opslagplaats Local de armazenagem
1	585	W. Körber Inh. Jürgen Boock Lagerei und Spedition Johann-Specht-Straße 5 2420 Eutin	2420 Eutin Lager Nr. 1547 01
	1 056	Richard Hübsch KG Harniskai 4 Postfach 1828 2390 Flensburg	2390 Flensburg Lager Nr. 1301 01
	2 098	Speditions- und Handelsgesellschaft Kock KG Österstraße 37/39 Postfach 1108 2223 Keldorf	2228 Friedrichskoog Lager Nr. 2951 79
	7 218	Getreide AG vorm. P. Kruse — Chr. Sieck Friedrich-Voss-Straße 11 Postfach 140 2370 Rendsburg	2340 Kappeln Lager Nr. 2905 06
	1 272	Raiffeisen-Hauptgenossenschaft Kiel EG Werftstraße 218 Postfach 1101 2300 Kiel 1	2300 Kiel Lager Nr. 2471 76
	1 384	Lübecker Hafengesellschaft mbH An der Untertrave 16 Postfach 2235 2400 Lübeck 1	2400 Lübeck Lager Nr. 1898 01
	956	Raiffeisen-Hauptgenossenschaft Kiel EG Werftstraße 218 Postfach 1101 2300 Kiel 1	2300 Kiel Lager Nr. 2471 73
	186	Hanssen GmbH & Co. KG Getreide-Futtermittel-Mischfutterwerk Industriestraße 1 Postfach 1529 2241 Weddingstedt	2225 Schafstedt Lager Nr. 3868 01
	20 245	Hansa-Lagerhaus Ströh & Co. Eversween 11 2102 Hamburg 93	2000 Hamburg Lager Nr. 1104 77
2	12 256	Hansa-Lagerhaus Ströh & Co. Eversween 11 2102 Hamburg 93	2000 Hamburg Lager Nr. 1104 77
	11 931	Rethe Speicher Erich und Rolf Mackprang Eversween 1-7 2102 Hamburg 93	2000 Hamburg Lager Nr. 2539 76

Número de la partida Partiets nummer Nummer der Partie Αριθμός παρτίδων Number of lot Numéro du lot Numero della partita Nummer van de partij Número do lote	Tonelaje Mængde (t) Menge (t) Τόνοι Tonnage Tonnage Tonnellaggio Hoeveelheid (t) Tonelagem	Nombre y dirección del almacenista Lagerindehaverens navn og adresse Name und Adresse des Lagerhalters Όνομα και διεύθυνση εναποθηκευτού Address of store Nom et adresse du stockeur Nome e indirizzo del detentore Naam en adres van de depothouder Nome e endereço do armazenista	Lugar de almacenamiento Lagerplads Ort der Lagerhaltung Τόπος αποθηκεύσεως Town at which stored Lieu de stockage Luogo di accantonamento Adres van de opslagplaats Local de armazenagem
	925	Rudolf L. Rieke & Co. Lagerhaus- und Speditionsgesellschaft Wallstraße 24 Postfach 1340 3450 Holzminden 1	3457 Arholzen Lager Nr. 2603 20
	436	Rhenus AG ZN Hannover Fössestraße 110 Postfach 910960 3000 Hannover 91	3000 Hannover 91 Lager Nr. 2580 01
	3 158	Rhenus AG ZN Hannover Fössestraße 110 Postfach 910960 3000 Hannover 91	3000 Hannover 91 Lager Nr. 2580 02
	2 039	Union Schiffahrts- und Lagerhausgesellschaft mbH Königstraße 3 Postfach 6049 3000 Hannover 1	3000 Hannover 91 Lager Nr. 3399 01
	4 255	Rhenus AG ZN Hildesheim Hafenstraße 32 Postfach 1229 3200 Hildesheim 1	3200 Hildesheim Lager Nr. 2581 18

COMMISSION REGULATION (EEC) No 144/87

of 20 January 1987

on the issue of import licences for high-quality fresh, chilled or frozen beef and veal

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

Having regard to Council Regulation (EEC) No 3928/86 of 16 December 1986 opening a Community tariff quota for high-quality fresh, chilled or frozen beef and veal falling within subheadings 02.01 A II a) and 02.01 A II b) of the Common Customs Tariff (1987) ⁽¹⁾, and in particular Article 2 thereof,

Whereas Commission Regulation (EEC) No 3985/86 of 23 December 1986 laying down detailed rules for the application of import arrangements provided for by Regulations (EEC) No 3927/86 and (EEC) No 3928/86 in the beef and veal sector ⁽²⁾, provides in Article 7, that applications for and the issue of import licences for the meat referred to in Article 1 (1) (d) thereof are to be effected in accordance with the provisions of Articles 12 and 15 of Commission Regulation (EEC) No 2377/80 of 4 September 1980 on special detailed rules for the application of the system of import and export licences in the beef and veal sector ⁽³⁾, as last amended by Regulation (EEC) No 3815/85 ⁽⁴⁾;

Whereas Article 1 (1) (d) of Regulation (EEC) No 3985/86 fixes the amount of high-quality fresh, chilled or frozen beef and veal originating in and imported from the United States of America and Canada which may be imported on special terms in 1987 at 10 000 tonnes;

Whereas the applications received in January 1987 cover quantities less than the quota available; whereas, therefore, these applications can be met in full,

HAS ADOPTED THIS REGULATION:

Article 1

All applications for import licences in respect of January 1987 for high-quality fresh, chilled or frozen beef and veal as referred to in Article 1 (1) (d) of Regulation (EEC) No 3985/86 are hereby met in full.

Article 2

Applications for licences in respect of the meat referred to in Article 1 may be entered in accordance with Articles 12 and 15 of Regulation (EEC) No 2377/80 during the first 10 days of February 1987, the total quantity available being 1 664,7 tonnes.

Article 3

This Regulation shall enter into force on 21 January 1987.

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

Done at Brussels, 20 January 1987.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 365, 24. 12. 1986, p. 2.

⁽²⁾ OJ No L 370, 30. 12. 1986, p. 37.

⁽³⁾ OJ No L 241, 13. 9. 1980, p. 5.

⁽⁴⁾ OJ No L 368, 31. 12. 1985, p. 11.

COMMISSION REGULATION (EEC) No 145/87

of 20 January 1987

laying down to what extent applications for issue of export licences submitted during January 1987 for beef and veal products which may benefit from special import treatment in a third country may be accepted

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

Having regard to Council Regulation (EEC) No 2931/79 of 20 December 1979 on the granting of assistance for export of agricultural products which may benefit from a special import treatment in a third country⁽¹⁾, and in particular Article 1 (2) thereof,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽²⁾, as last amended by Regulation (EEC) No 3768/85⁽³⁾,

Whereas Commission Regulation (EEC) No 2377/80 of 4 September 1980 on special detailed rules for the application of the system of import and export licences in the beef and veal sector⁽⁴⁾ as last amended by Regulation (EEC) No 3815/85⁽⁵⁾, lays down, in Articles 14 and 15, detailed rules for export licence applications for the products referred to in Article 1 of Commission Regulation (EEC) No 2973/79⁽⁶⁾; whereas Article 15 (6) (c) of Regulation (EEC) No 2377/80 requires the Commission, where the quantities in respect of which licences are

applied for exceed the quantities available, to reduce the quantities requested by a fixed percentage;

Whereas Commission Regulation (EEC) No 3582/81⁽⁷⁾, fixed the quantities of meat which might be exported on special terms for the first quarter of 1987;

Whereas the quantities for which licence applications have been lodged for the first quarter of 1987 are lower than those available; whereas these applications can, therefore, be met in full,

HAS ADOPTED THIS REGULATION:

Article 1

The applications for export licences lodged for the beef and veal referred to in Regulation (EEC) No 2973/79 for the first quarter of 1987 shall be met in full.

Article 2

This Regulation shall enter into force on 21 January 1987.

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

Done at Brussels, 20 January 1987.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 334, 28. 12. 1979, p. 8.

⁽²⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽³⁾ OJ No L 362, 31. 12. 1985, p. 8.

⁽⁴⁾ OJ No L 241, 13. 9. 1980, p. 5.

⁽⁵⁾ OJ No L 368, 31. 12. 1985, p. 11.

⁽⁶⁾ OJ No L 336, 29. 12. 1979, p. 44.

⁽⁷⁾ OJ No L 359, 15. 12. 1981, p. 14.

COMMISSION REGULATION (EEC) No 146/87

of 20 January 1987

amending Regulation (EEC) No 2601/86 increasing to 750 000 tonnes the quantity of bread-making wheat held by the German 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 2601/86 ⁽⁵⁾, amended by Regulation (EEC) No 4090/86 ⁽⁶⁾, opened a standing invitation to tender for the export of 450 000 tonnes of bread-making wheat held by the German intervention agency; whereas, in a communication of 8 January 1987, Germany informed the Commission of the intention of its intervention agency to increase by 300 000 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 German intervention agency for which a standing invitation to tender for export has been opened should be increased to 750 000 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 2601/86 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 2601/86 is replaced by the following:

Article 2

1. This invitation to tender shall cover a maximum of 750 000 tonnes of bread-making wheat to be exported to all third countries.
2. The regions in which the 750 000 tonnes of bread-making wheat are stored are listed in Annex I hereto.

Article 2

Annex I to Regulation (EEC) No 2601/86 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, 20 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 235, 21. 8. 1986, p. 14.

⁽⁶⁾ OJ No L 371, 30. 12. 1986, p. 62.

*ANNEX**ANNEX I*

<i>(tonnes)</i>	
Place of storage	Quantity
Schleswig-Holstein / Hamburg	104 729
Niedersachsen / Bremen	257 375
Nordrhein-Westfalen	195 120
Hessen	42 160
Baden-Württemberg	23 806
Bayern	70 445
Rheinland-Pfalz	55 881'

COMMISSION REGULATION (EEC) No 147/87

of 20 January 1987

altering the import levies on products processed from cereals and rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to 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 14 (4) thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽³⁾, as last amended by Regulation (EEC) No 1449/86 ⁽⁴⁾ and in particular Article 12 (4) thereof,

Having regard to Council Regulation 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 ⁽⁵⁾ and in particular Article 3 thereof,

Having regard to the advice of the Monetary Committee,

Whereas the import levies on products processed from cereals and rice were fixed by Commission Regulation (EEC) No 4071/86 ⁽⁶⁾, as last amended by Regulation (EEC) No 132/87 ⁽⁷⁾;

Whereas Council Regulation (EEC) No 1588/86 ⁽⁸⁾ as amended by Council Regulation (EEC) No 2744/75 ⁽⁹⁾ as regards products falling within subheading 23.02 A of the Common Customs Tariff;

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

— in the case of currencies which are maintained in relation to each other at any given moment within a band

of 2,25 %, a rate of exchange based on their central rate, multiplied by the 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 over a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient;

Whereas these exchange rates being those recorded on 19 January 1987;

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

Whereas the levy on the basic product as last fixed differs from the average levy by more than 3,02 ECU per tonne of basic product; whereas, pursuant to Article 1 of Commission Regulation (EEC) No 1579/74 ⁽¹⁰⁾ the levies at present in force must therefore be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies to be charged on products processed from cereals and rice covered by Regulation (EEC) No 2744/75, as last amended by Regulation (EEC) No 1588/86, as fixed in the Annex to amended Regulation (EEC) No 4071/86 are hereby altered to the amounts set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 21 January 1987.

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

Done at Brussels, 20 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 166, 25. 6. 1976, p. 1.

⁽⁴⁾ OJ No L 133, 21. 5. 1986, p. 1.

⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁶⁾ OJ No L 371, 31. 12. 1986, p. 19.

⁽⁷⁾ OJ No L 15, 17. 1. 1987, p. 26.

⁽⁸⁾ OJ No L 139, 24. 5. 1986, p. 47.

⁽⁹⁾ OJ No L 281, 1. 11. 1975, p. 65.

⁽¹⁰⁾ OJ No L 168, 25. 6. 1974, p. 7.

ANNEX

to the Commission Regulation of 20 January 1987 altering the import levies on products processed from cereals and rice

(ECU/tonne)

CCT heading No	Import levies	
	Third countries (other than ACP or OCT)	ACP or OCT
11.01 D ⁽²⁾	288,24	282,20
11.02 A IV ⁽²⁾	288,24	282,20
11.02 B I a) 2 aa)	162,94	159,92
11.02 B I a) 2 bb) ⁽²⁾	285,22	282,20
11.02 B I b) 2 ⁽²⁾	285,22	282,20
11.02 C IV ⁽²⁾	253,87	250,85
11.02 D IV ⁽²⁾	162,94	159,92
11.02 E I a) 2 ⁽²⁾	162,94	159,92
11.02 E I b) 2 ⁽²⁾	319,60	313,56
11.02 F IV ⁽²⁾	288,24	282,20

⁽²⁾ For the purpose of distinguishing between products falling within heading Nos 11.01 and 11.02 and those falling within subheading 23.02 A, products falling within heading Nos 11.01 and 11.02 shall be those meeting the following specifications:

- a starch content (determined by the modified Ewers polarimetric method), referred to dry matter, exceeding 45 % by weight,
 - an ash content, by weight, referred to dry matter (after deduction of any added minerals), not exceeding 1,6 % for rice, 2,5 % for wheat, 3 % for barley, 4 % for buckwheat, 5 % for oats and 2 % for other cereals.
- Germ of cereals, whole, rolled, flaked or ground, falls in all cases within heading No 11.02.

COMMISSION REGULATION (EEC) No 148/87
of 20 January 1987
altering 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⁾, and in particular the fourth sentence of
the second subparagraph of Article 16 (4) thereof,

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

Whereas the corrective amount applicable to the refund
on cereals was fixed by Commission Regulation (EEC) No
116/87 ⁽⁴⁾;

Whereas, the basis of today's cif prices and cif forward
delivery prices, taking foreseeable developments on the

market into account, the corrective amount at present
applicable to the refund on cereals should be altered,

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 16 (4) of
Regulation (EEC) No 2727/75, fixed in the Annex to
Regulation (EEC) No 116/87 which is applicable to the
export refunds fixed in advance in respect of cereals, is
hereby altered to the amounts set out in the Annex
hereto.

Article 2

This Regulation shall enter into force on 21 January
1987.

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

Done at Brussels, 20 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 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No L 14, 16. 1. 1987, p. 42.

ANNEX

to the Commission Regulation of 20 January 1987 altering the corrective amount
applicable to the refund on cereals

(ECU/tonne)

CCT heading No	Description	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	0	0	0	0	0	0	— 30,00
10.01 B II	Durum wheat	0	0	0	0	0	—	—
10.02	Rye	0	0	0	0	0	—	—
10.03	Barley	0	0	0	0	0	— 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).

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 10 December 1986

relating to a proceeding under Article 85 of the EEC Treaty
(IV/29.036 — The GAFTA Soya Bean Meal Futures Association)

(Only the English text is authentic)

(87/44/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to the notification and application for negative clearance submitted on 11 April 1975 relating to the articles of association and the rules and regulations of the GAFTA Soya Bean Meal Futures Association Limited,

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. FACTS

- (1) The GAFTA ⁽³⁾ Soya Bean Meal Futures Association Limited (SOMFA) is one of many commodity markets established in London. The commodity markets are self-regulatory organizations run by committees of management selected by members

from amongst themselves, aided by secretariats and using powers given to them by their members in market rule books. Although the markets are self-regulating, there is an element of supervision by the Bank of England and, increasingly, supervision of the members by the Association of Futures Brokers and Dealers Limited (AFBD).

- (2) The object of SOMFA is to set up and to administer a terminal market in London for soya bean meal. A terminal market, or a futures market, provides organized facilities for concluding contracts for the purchase and sale of a commodity to be delivered at named future dates. Futures markets have been developed primarily to enable persons involved in commodity trading to protect themselves from the risks of adverse price movements.
- (3) SOMFA provides a market floor for trading and price-making, determines various technical questions such as allowable delivery months and standard contract terms and procures the provision of clearing and settlement facilities. Trading is done on the floor of the market where dealers face each other in a ring, making bids and offers through the system known as 'open outcry'.
- (4) The International Futures Markets in London are among the principal markets used in international commodity merchandising, and they contribute to the stability and smooth operation of world trade and to world pricing mechanisms. The relative size of SOMFA compared with its most important competitors is shown below :

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No C 251, 8. 10. 1986, p. 10.

⁽³⁾ 'GAFTA' means Grain and Feed Trade Association.

Annual volumes of trade (tonnes traded) in soya bean meal
1982 to 1985

Year	London	Chicago (100 tonnes)	Hong Kong (30 tonnes)	Mid-America (20 tonnes)
1982	3 842 500			
1983	4 466 100			
1984	2 493 760	3 822 179	340 545	10 981
1985	2 078 500	3 339 268	372 352	

N.B. : Data for London include the 20 tonnes soya bean meal contract which commenced trading on 8 May 1984 (the current contract); the 100 tonnes, sterling soya bean meal contract traded up to 31 December 1984; and the 100 tonnes US Dollar soya bean meal contract traded from 1 July 1983 to 22 August 1984.

- (5) The contract currently traded on the soya bean meal market is for 20 tonnes, or multiples of 20 tonnes, of soya bean meal/pellets of a quality defined in detail in Rule 13.05 of SOMFA's rules. The contract is for delivery of each 20 tonnes in one of the stores approved by SOMFA in either the Federal Republic of Germany, Belgium, the Netherlands or the United Kingdom at the seller's option. Quotations are for one year ahead and the months for trading are December, February, April, June, August and October.
- (6) All contracts traded on SOMFA must be registered with the International Commodities Clearing House Limited (ICCH), an independent service company, which provides clearing and settlement facilities for SOMFA. ICCH has substantial capital and reserves, and is wholly owned by six clearing banks. The principal functions of ICCH are to maintain and organize a 'daily clearing' of all trades and provide a guarantee for due fulfilment of contracts, in accordance with the rules of SOMFA, to clearing members in whose names such contracts are registered.
- (7) There are three classes of membership of SOMFA. The first class is of voting members known as floor members. Floor members are allowed to trade on the floor of the market. The rules set no limit to the number of floor members. The second two classes of non-voting or associate members consist of trade associate members and general associate members. Their number is similarly not limited. Non-voting members have to pass all contracts through a floor member.
- (8) The criteria specified in the Articles for floor members require an applicant for membership to meet certain financial requirements. A detailed statement of the criteria in force at the time of application may be obtained from the Secretary. To become a floor member the applicant must satisfy the Committee that it is carrying on business from a properly-established office in London, and that it is actively interested in the trading of soya bean meal. Firms and companies whose principal place of business is not within the member countries of the EEC are not eligible for floor membership.
- (9) All floor members must be members of the ICCH and must register their contracts with the ICCH which, in return for its fee, guarantees the performance of the contracts.
- (10) Trade associate members are companies or firms which have a continuing interest in the production, trading or consumption of physical soya bean meal. General associate members consist of companies or firms which have a continuing trading interest in the soya bean meal futures market.
- (11) Floor membership may be transferred provided that the transferee is elected in accordance with the Articles. Associate membership may also be transferred in accordance with SOMFA's rules.
- (12) The Committee is now required to give reasons when it takes decisions affecting the members' rights of membership. An appeal procedure applies if the Committee refuses an application for membership, refuses to grant permission for a transfer of membership, or refuses to approve a change in the directorship, partnership, nature of business, legal status or beneficial ownership of a member. The procedure also applies if the Committee suspends a member for more than seven days, or refuses to reinstate a member, or expels a member or otherwise determines that a membership shall cease. In these cases, if the candidate or member is dissatisfied with the Committee's decision, that candidate or member

may ask the Committee to reconsider its decision, making such representations and supplying such information as it considers relevant.

- (13) The rules require that a member must generally be a member of the Association of Futures Brokers and Dealers Limited (AFBD). However, this requirement is not mandatory for all members. A member is excused from this obligation if he is (a) not a floor member and has no place of business in the UK, or (b) engages in business exclusively on his own account or on behalf of a related company, or (c) falls within a category of member which is excused membership of the AFBD by the AFBD itself. The AFBD is one of seven self-regulatory organizations (SROs) which it is expected will be recognized by the Securities and Investments Board (SIB), which was set up in anticipation of the Financial Services Act which stipulates that the only persons allowed to carry on investment business in the UK are 'authorized persons' or certain 'exempted persons'. Members of the SOMFA will be so authorized by virtue of being members of the AFBD. In order to become a member of the AFBD applicants have to fulfil certain qualitative criteria which reflect the AFBD's primary object, i.e. to promote and maintain a system of supervision of the conduct of business by commodity, financial and other futures brokers and dealers, particularly with a view to the protection of the interests of their clients. These criteria relate to the suitability of members' financial and business standing, and eligibility in other respects such as reliability, training, experience and financial resources.
- (14) The rules provide that 'a' commission must be charged by every member on every transaction effected for another party (whether or not that other party is a member), but the rates of commission are freely negotiable. Where a member adopts a different position in two adjacent trading months ('a straddle') these may be executed for one commission provided that both positions are closed simultaneously.

II. LEGAL ASSESSMENT

- (15) The notified rules and regulations of SOMFA are to be considered as agreements within the meaning of Article 85 of the EEC Treaty.
- (16) The articles, rules and regulations of the SOMFA were drawn up taking into account the representations by the Commission in relation to various other terminal markets in London. The Commission has already granted negative clearance in respect of the rules of these associations by Deci-

sions 85/563/EEC ⁽¹⁾ (sugar), 85/564/EEC ⁽²⁾ (cocoa), 85/565/EEC ⁽³⁾ (coffee) and 85/566/EEC ⁽⁴⁾ (rubber).

- (17) The rules and regulations as originally notified specified the minimum net rates of commission which could be charged by a member. The rules specified rates of commission which varied according to who was paying and who was receiving the commission, and whether or not the contract was registered in the client's own name. The rates were cheaper if the contract was registered in the client's own name with the ICCH. They were also lower where the payer was a full member than where the payer was an associate member. The highest rate of commission applied where the payer was a non-member.
- (18) The rules specified that the rates of commission were the minimum net rates which could be charged by members, and that no portion of this commission could be returned by a member to his client or agent in any shape or form, whether directly or indirectly. The Committee was given powers to examine suspected infringements and had the power to suspend or expel offending members.
- (19) The Commission considered this system of specified minimum commission rates to be a form of price-fixing and that it violated Article 85 (1) of the EEC Treaty. SOMFA was requested to abandon the system of fixed minimum rates. The system has now been completely abolished and references to the system in the rules and regulations have been deleted. The rules now provide that 'a' commission must be charged by every member on every transaction effected for another party (whether or not that other party is a member) but the rates of commission are freely negotiable. The Commission believes that this obligation is not appreciably restrictive of competition because it only entails the obligation to charge 'a' commission, without any reference to the commission which is to be charged. It follows that complete freedom exists to negotiate the actual commission rates.
- (20) Furthermore, as a result of the representations by the Commission, amendments have been made to the rules concerning membership so that membership is now open, and the criteria by which applications for membership are judged are objective (see Facts, paragraph 8 above). The Committee is now required to give reasons when it takes decisions affecting the members' rights of membership. To protect the rights of actual or potential members an appeal procedure has been introduced.

⁽¹⁾ OJ No L 369, 31. 12. 1985, p. 25.

⁽²⁾ OJ No L 369, 31. 12. 1985, p. 28.

⁽³⁾ OJ No L 369, 31. 12. 1985, p. 31.

⁽⁴⁾ OJ No L 369, 31. 12. 1985, p. 34.

- (21) The publications in the *Official Journal of the European Communities*, pursuant to Article 19 (3) of Regulation No 17, did not elicit any representations.
- (22) The articles of association and the rules and regulations of SOMFA as outlined above do not contain any clauses which constitute appreciable restrictions on competition within the common market. Therefore the Commission, on the basis of the facts in its possession, has no grounds for action under Article 85 (1). Consequently, the Commission is able to issue a negative clearance pursuant to Article 2 of Regulation No 17,

EEC Treaty in respect of the articles of association and rules and regulations of the GAFTA Soya Bean Meal Futures Association as notified on 11 April 1975.

Article 2

This Decision is addressed to The GAFTA Soya Bean Meal Futures Association Limited, whose registered office is at Baltic Exchange Chambers, 24/28 St Mary Axe, London EC 3 A 8EP, United Kingdom.

Done at Brussels, 10 December 1986.

HAS ADOPTED THIS DECISION :

Article 1

On the basis of the facts in its possession the Commission has no grounds for action under Article 85 (1) of the

For the Commission

Peter SUTHERLAND

Member of the Commission

COMMISSION DECISION

of 10 December 1986

relating to a proceeding under Article 85 of the EEC Treaty

(IV/29.688 — The London Grain Futures Market)

(Only the English text is authentic)

(87/45/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 Article 85 and 86 of the Treaty ⁽¹⁾, as last amended by the Act of Accession of Spain and Portugal, and in particular Article 2 thereof,

Having regard to the notification and application for negative clearance submitted on 22 August 1978 relating to the articles of association and the regulations of the London Grain Futures Market,

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. FACTS

- (1) The London Grain Futures Market (LGFM) was set up and is run under the auspices of the Grain and Feed Trade Association (GAFTA) and is one of many commodity markets established in London. The commodity markets are self-regulatory organizations run by committees of management, aided by secretariats and using powers given to them by their members in market rule books. The LGFM Committee consists of 13 members of whom four are elected by the members of the LGFM, seven are nominated by the Council of GAFTA (which is in turn largely elected from among the members of GAFTA), and two are nominated annually by the UK Agricultural Supply Trade Association Limited. Although the markets are self-regulating, there is an element of supervision by the Bank of England and, increasingly, supervision of the members by

the Association of Futures Brokers and Dealers Limited (AFBD).

- (2) The object of the LGFM is to set up and administer a terminal market in London for grain. A terminal market, or a futures market, provides organized facilities for concluding contracts for the purchase and sale of a commodity to be delivered at named future dates. Futures markets have been developed primarily to enable persons involved in commodity trading to protect themselves from the risks of adverse price movements.
- (3) The LGFM provides a market floor for trading and price-making, determines various technical questions, such as allowable delivery months and standard contract terms, and procures the provision of clearing and settlement facilities. Trading is done on the floor of the market where dealers face each other in a ring, making bids and offers through the system known as 'open outcry'.
- (4) The International Futures Markets in London are among the principal markets used in international commodity merchandising and they contribute to the stability and smooth operation of world trade and to world pricing mechanisms. The relative size of the LGFM compared with its most important competitors is shown below :

Annual volumes of trade in barley
(1980 to 1985)

(metric tonnes)

Year	London ⁽¹⁾	Winnipeg ⁽²⁾
1980/81	5 766 230	
1981/82	3 489 183	
1982/83	3 497 718	
1983/84	3 567 316	9 596 140
1984/85	2 276 438	5 737 400

⁽¹⁾ One tonne contract.

⁽²⁾ 20 tonnes contract.

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No C 251, 8. 10. 1986, p. 5.

Annual volumes of trade in wheat (1980 to 1985)

Year	(metric tonnes)				
	London ⁽¹⁾	Winnipeg ⁽²⁾	Minneapolis ⁽³⁾	Mid-America ⁽³⁾	Chicago ⁽³⁾
1980/81	6 432 448				
1981/82	4 855 147				
1982/83	5 763 182		1 405 016	1 237 736	14 386 624
1983/84	6 810 414	2 270 880	1 252 832	1 497 224	11 010 968
1984/85	6 018 310	2 169 960	1 101 192	1 285 608	7 876 304

⁽¹⁾ One tonne contract.

⁽²⁾ 20 tonnes contract.

⁽³⁾ 5 000 bushels contract (one tonne = 36,7437 bushels).

- (5) There are currently two contracts being traded on the LGFM:

- (a) The barley contract which is for barley of EEC origin, of a standard and quality specified in detail in Regulation 21 of the Regulations of the LGFM, for delivery to the buyer's lorry in bulk from a store registered by the Committee of the LGFM on the mainland of Great Britain;
- (b) A wheat contract for grade B wheat of EEC origin, of a standard and quality specified in detail in Regulations 21b of the Regulations of the LGFM, for delivery to the buyer's lorry in bulk from a store registered by the Committee on the mainland of Great Britain.

Unless otherwise determined by the Committee, trading is for delivery in the months of September, November, January, March and May for both barley and wheat and also for July in the case of wheat.

- (6) All contracts traded on the LGFM must be registered with the clearing house of GAFTA. The clearing house was set up by GAFTA for the purpose of regulating transactions in futures contracts and its principal purpose is to facilitate the transmission of documents, payments, settlements, notices and other relevant matters between members on the terms of the Regulations of the LGFM. Subject to certain conditions set out in the Articles of GAFTA, GAFTA operates a guarantee system for the due fulfilment of contracts made by members of the LGFM in whose name such contracts are registered.
- (7) There are two classes of membership of the LGFM. The first class consists of full members who are allowed to trade on the floor of the market. The Regulations provide that full membership shall be limited to 58 members. The second class of

member consists of associate members. Their number is not limited.

- (8) The criteria specified in the Regulations for full members require an applicant for membership to meet certain financial requirements. To become a full member the applicant must satisfy the Committee that it is actively interested in the trading of grain and has a genuine place of business, as approved by the Committee.
- (9) Associate members must have a genuine place of business, as approved by the Committee, within a Member State of the EEC.
- (10) All members must be members of GAFTA, but any person who is engaged (or who has been engaged) in the grain trade and any corporation wheresoever situated, engaged in the grain trade, is eligible for membership of GAFTA and there may be up to 1 000 members of GAFTA at any one time, which number may be increased.
- (11) A member may generally sell his membership certificate provided that the purchaser is elected in accordance with the Regulations of the LGFM.
- (12) The Committee is now required to give reasons when it takes decisions affecting the members' rights of membership. An appeal procedure applies if the Committee refuses an application for membership, refuses to grant permission for the sale of a membership certificate, suspends a member for more than seven days, expels a member or if a member is deemed to have resigned upon ceasing to meet the criteria for his class of membership. In these cases, if the candidate or member is dissatisfied with the Committee's decision, that candidate or member may ask the Committee to reconsider its decision, making such representations and supplying such information as it considers relevant.

- (13) The regulations require that a member must generally be a member of the Association of Futures Brokers and Dealers Limited (AFBD). However, this requirement is not mandatory for all members. A member is excused from this obligation if he is (a) not a full member and has no place of business in the UK, or (b) engages in business exclusively on his own account or on behalf of a related company, or (c) falls within a category of member which is excused membership of the AFBD by the AFBD itself. The AFBD is one of seven self-regulatory organizations (SROs) which it is expected will be recognized by the Securities and Investments Board (SIB), which was set up in anticipation of the Financial Services Act, which stipulates that the only persons allowed to carry on investment business in the UK are 'authorized persons' or certain 'exempted persons'. Members of the LGFM will be so authorized by virtue of being members of the AFBD. In order to become a member of the AFBD, applicants have to fulfil certain qualitative criteria which reflect the AFBD's primary object, i.e. to promote and maintain a system of supervision of the conduct of business by commodity, financial and other futures brokers and dealers, particularly with a view to the protection of the interests of their clients. These criteria relate to the suitability of members' financial and business standing, and eligibility in other respects such as reliability, training, experience and financial resources.
- (14) The regulations of the LGFM provide that 'a charge of commission shall be made by every member in respect of every London grain futures transaction affected for another party, whether or not a member, but the rates of commission are freely negotiable. Both transactions of a 'straddle' may be executed for one commission provided that both are closed simultaneously (a 'straddle' arises where a purchase is made under one contract against a simultaneous sale under another contract for the same kind of grain for a different delivery month or for a different kind of grain for the same or a different delivery month).
- in respect of the rules of these associations by Decisions 85/563/EEC⁽¹⁾ (sugar), 85/564/EEC⁽²⁾ (cocoa), 85/565/EEC⁽³⁾ (coffee) and 85/566/EEC⁽⁴⁾ (rubber).
- (17) The regulations as originally notified specified the minimum net rates of commission which were chargeable in respect of grain futures. The rules specified rates of commission which varied according to the nature of the client. The rates were higher for associate members than for full members, and were still higher for non-members. A special rate could be obtained where a 'day trade' took place, where the buying and selling trade took place on the same day and was closed out on that day. The regulations prohibited any form of deductions from the minimum commissions, and any arrangement effecting or intended to effect, directly or indirectly, a deduction from the minimum rates was deemed to be a violation of the regulations.
- (18) The Commission considered that the above system of specified minimum commission rates was a form of price-fixing that violated Article 85 (1) of the EEC Treaty. The LGFM was requested to abandon the system of fixed minimum rates. The system has now been completely abolished and references to the system in the regulations have been deleted. The regulations no longer contain any form of minimum commission but simply provide that 'a charge' of commission must be made by every member in respect of every contract for third parties (whether or not that third party is a member). Complete freedom exists to negotiate the actual commission rates and accordingly the Commission believes that this obligation is not appreciably restrictive of competition.
- (19) Furthermore, as a result of representations by the Commission, amendments have been made to the regulations concerning membership so that membership is now open and that the criteria by which applications for membership are judged are objective. The Committee is required to give reasons when it takes decisions affecting the members' rights of membership. To protect the rights of actual or potential members, an appeal procedure has been introduced.

II. LEGAL ASSESSMENT

- (15) The notified regulations of the LGFM are to be considered as agreements within the meaning of Article 85 of the EEC Treaty.
- (16) The regulations of the LGFM take into account the representations of the Commission in relation to various other terminal markets in London. The Commission has already granted negative clearance
- (20) The publications in the *Official Journal of the European Communities*, pursuant to Article 19 (3) of Regulation No 17, did not elicit any representations.

⁽¹⁾ OJ No L 369, 31. 12. 1985, p. 25.

⁽²⁾ OJ No L 369, 31. 12. 1985, p. 28.

⁽³⁾ OJ No L 369, 31. 12. 1985, p. 31.

⁽⁴⁾ OJ No L 369, 31. 12. 1985, p. 34.

- (21) The articles of association of GAFTA and the regulations of the LGFM as outlined above do not contain clauses which constitute appreciable restrictions on competition within the common market. Therefore the Commission, on the basis of the facts in its possession, has no grounds for action under Article 85 (1). Consequently, the Commission is able to issue a negative clearance pursuant to Article 2 of Regulation No 17,

EEC Treaty in respect of the articles of association and the regulations of the London Grain Futures Market as notified on 22 August 1978.

Article 2

This Decision is addressed to the London Grain Futures Market, whose registered office is at Baltic Exchange Chambers, 24/28 St Mary Axe, London EC 3A 8EP, United Kingdom.

HAS ADOPTED THIS DECISION :

Done at Brussels, 10 December 1986.

Article 1

On the basis of the facts in its possession the Commission has no grounds for action under Article 85 (1) of the

For the Commission

Peter SUTHERLAND

Member of the Commission

COMMISSION DECISION

of 10 December 1986

relating to a proceeding under Article 85 of the EEC Treaty
(IV/30.176 — The London Potato Futures Association Limited)

(Only the English text is authentic)

(87/46/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to the notification and application for negative clearance submitted on 16 September 1980 relating to the articles of association and the regulations of the London Potato Futures Association Limited,

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. FACTS

- (1) The London Potato Futures Association Limited (LPFAL) is one of many commodity markets established in London. The commodity markets are self-regulatory organizations run by committees of management selected by members from amongst themselves, aided by secretariats, and using powers given to them by their members in market rule books. Although the markets are self-regulating, there is an element of supervision by the Bank of England and, increasingly, supervision of the members by the Association of Futures Brokers and Dealers Limited (AFBD).
- (2) The object of the LPFAL is to set up and to administer a terminal market in London for potatoes. A terminal market, or a futures market, provides organized facilities for concluding contracts for the purchase and sale of a commodity to be delivered at named future dates. Futures

markets have been developed primarily to enable persons involved in commodity trading to protect themselves from the risks of adverse price movements.

- (3) The LPFAL provides a market floor for trading and price-making, determines various technical questions such as allowable delivery months and standard contract terms, and procures the provision of clearing and settlement facilities. Trading is done on the floor of the market where dealers face each other in a ring, making bids and offers through the system known as 'open outcry'.
- (4) The International Futures Markets in London are among the principal markets used in international commodity merchandising and they contribute to the stability and smooth operation of world trade and to world pricing mechanisms. The relative size of the LPFAL compared with its most important competitors is shown below :

Annual volumes of trade (tonnes traded) in potatoes
1982 to 1985

Year	London ⁽¹⁾	New York ⁽²⁾	Paris/Lille ⁽³⁾
1982	113 125		
1983	230 204		
1984	196 581	26 595	123 320
1985	116 819	16 903	294 240

⁽¹⁾ This data relates to the 40-tonnes contract mentioned below, as the 10-tonnes contract only started trading in February 1986.

⁽²⁾ One lot is currently 50 000 lbs.

⁽³⁾ One lot is currently 20 tonnes.

- (5) There are currently two contracts being traded on the LPFAL :
 - (a) The potato contract, which is for one or more lots of 40 tonnes of potatoes in closed bags of a variety, quality and condition specified in detail in Rules 8.04 and 8.04 A of the rules of the LPFAL, for delivery from a store registered with the LPFAL nominated by the seller, on the mainland of Great Britain ;

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No C 251, 8. 10. 1986, p. 7.

(b) A cash settlement contract for one or more lots of 10 tonnes of potatoes of the type forming the basis of the Potato Marketing Board weekly average ex-farm price, defined in detail in Rule 12.04 of the rules of the LPFAL. There is no provision for physical delivery but any contract remaining open at the close of trading on the last day of trading is settled cash according to formulate set out in Rules 12.05 and 12.06 of the rules of the LPFAL.

The trading rules provide that delivery months shall be February, April, May and November in each year, except in the case of potatoes subject to cash settlement, where the delivery months are July, August and September in each year.

- (6) All contracts traded on the LPFAL must be registered with the International Commodities Clearing House Limited (ICCH), an independent service company, which provides clearing and settlement facilities for the LPFAL. ICCH has substantial capital and reserves and is wholly owned by six clearing banks. The principal functions of ICCH are to maintain and organize a 'daily clearing' of all trades and provide a guarantee for due fulfilment of contracts, in accordance with the rules of the LPFAL, to clearing members in whose names such contracts are registered.
- (7) There are two classes of membership of the LPFAL. The first class consists of voting members known as floor members, who are allowed to trade on the floor of the market. The articles provide that the number of floor members with which it is proposed to register the Association is three, whereas this number may be increased. The number of floor members is not limited. The second class of members consists of non-voting members known as associate members. Their number is not limited. Non-voting members have to pass all contracts through a floor member.
- (8) The criteria specified in the Articles for floor members require an applicant for membership to meet certain financial requirements. A detailed statement of the criteria in force at the time of application may be obtained from the Secretary. To become a floor member the applicant must satisfy the Committee that it is actively interested in the trading of potatoes and carries on business from a properly-established office in London. Firms and companies whose principal place of business is not within the member countries of the EEC are not eligible for floor membership.
- (9) All floor members must be members of the ICCH and register their contracts with the ICCH which,

in return for its fee, guarantees the performance of the contracts.

- (10) There are two sub-categories of associate members. Trade associate members consist of companies or firms which have a continuing interest in the production, trading or consumption of physical potatoes. General associate members consist of companies or firms which have a continuing trading interest in the LPFAL.
- (11) Floor membership may be transferred provided that the transferee is elected in accordance with the Articles. Associate membership is also transferable, provided that the proposed transferee is elected in accordance with the regulations.
- (12) The Committee is now required to give reasons when it takes decisions affecting the members' rights of membership. An appeal procedure applies if the Committee refuses an application for membership, refuses to grant permission for a transfer of membership or refuses to approve a change in the directorship, partnership, nature of business, legal status or beneficial ownership of a member. The procedure also applies if the Committee suspends a member for more than seven days, or refuses to reinstate a member, or expels a member, or otherwise determines that a membership shall cease. In these cases, if the candidate or member is dissatisfied with the Committee's decision, that candidate or member may ask the Committee to reconsider its decision, making such representations and supplying such information as it considers relevant.
- (13) The regulations require that a member must generally be a member of the Association of Futures Brokers and Dealers Limited (AFBD). However, this requirement is not mandatory for all members. A member is excused from this obligation if he is (a) not a floor member and has no place of business in the United Kingdom, or (b) engages in business exclusively on his own account or on behalf of a related company, or (c) falls within a category of member which is excused membership of the AFBD by the AFBD itself. The AFBD is one of seven self-regulatory organizations (SROs) which it is expected will be recognized by the Securities and Investments Board (SIB), which was set up in anticipation of the Financial Services Act, which stipulates that the only persons allowed to carry on investment business in the United Kingdom are 'authorized persons' or certain 'exempted persons'. Members of the LPFAL will be so authorized by virtue of being members of the AFBD. In order to become a member of the AFBD, applicants have to fulfil certain qualitative criteria which reflect the AFBD's primary object, i.e. to promote and maintain a system of supervision of the conduct of business by commodity,

financial and other futures brokers and dealers, particularly with a view to the protection of the interests of their clients. These criteria relate to the suitability of members' financial and business standing and eligibility in other respects such as reliability, training, experience and financial resources.

- (14) The regulations provide that 'a' commission must be charged by every member on every transaction effected for another party (whether or not that other party is a member) but the rates of commission are freely negotiable. Where a member adopts a different position in two adjacent trading months ('a straddle') these may be executed for one commission provided that both positions are closed simultaneously.

II. LEGAL ASSESSMENT

- (15) The notified regulations of the LPFAL are to be considered as agreements within the meaning of Article 85 of the EEC Treaty.
- (16) The articles and regulations of the LPFAL take into account the representations made by the Commission in relation to various other terminal markets in London. The Commission has already granted negative clearance in respect of the rules of these associations by Decisions 85/563/EEC ⁽¹⁾ (sugar), 85/564/EEC ⁽²⁾ (cocoa), 85/565/EEC ⁽³⁾ (coffee) and 85/566/EEC ⁽⁴⁾ (rubber).
- (17) The regulations as originally notified specified the minimum net rates of commission which could be charged by a member. The regulations specified rates of commission which varied according to the client and whether or not the contract was cleared through the clearing house or through a floor member. The rates were lowest for a floor member whose name was disclosed and where the contract was cleared through the clearing house. The rates were higher for associate members and still higher for non-members. In these latter two cases, the rates were higher where the contract was cleared through a floor member than where it was cleared through the clearing house. Where contracts were opened and closed out on the same day through the same broker half the rates of commission had to be charged.

- (18) The regulations provided that the minimum commission could not be the subject of any deductions in any form whatsoever. Any arrangement effecting or intended to effect, directly or indirectly, a deduction from the specified minimum commission rates was deemed to be a violation of the regulations. The Committee had power to examine suspected infringements and offending members could be expelled by the Committee.

- (19) The Commission considered this system of specified minimum commission rates to be a form of price-fixing that violated Article 85 (1) of the EEC Treaty. The LPFAL was requested to abandon the system of fixed minimum rates. The system has now been abolished and references to the system in the regulations have been deleted. The regulations now simply provide that 'a' commission must be charged by every member on every transaction effected for another party (whether or not that other party is a member), but the rates of commission are freely negotiable. The Commission believes that this obligation is not appreciably restrictive of competition because it only entails the obligation to charge 'a' commission without any reference to the commission which is to be charged. It follows that complete freedom now exists to negotiate the actual commission rates.

- (20) Furthermore, as a result of representations by the Commission, amendments have been made to the regulations concerning membership so that membership is now open and the criteria by which applications for membership are judged are objective. The Committee is now required to give reasons when it takes decisions affecting the members' rights of membership. To protect the rights of actual or potential members an appeal procedure has been introduced.

- (21) The publications in the *Official Journal of the European Communities*, pursuant to Article 19 (3) of Regulation No 17, did not elicit any representations.

- (22) The articles of association and the regulations of the LPFAL in their amended form no longer contain any clauses which constitute appreciable restrictions on competition within the common market. Therefore, the Commission, on the basis of the facts in its possession, has no grounds for action under Article 85 (1). Consequently, the Commission is able to issue a negative clearance pursuant to Article 2 of Regulation No 17,

⁽¹⁾ OJ No L 369, 31. 12. 1985, p. 25.

⁽²⁾ OJ No L 369, 31. 12. 1985, p. 28.

⁽³⁾ OJ No L 369, 31. 12. 1985, p. 31.

⁽⁴⁾ OJ No L 369, 31. 12. 1985, p. 34.

HAS ADOPTED THIS DECISION :

Exchange Chambers, 24/28 St Mary Axe, London EC 3A
8EP, United Kingdom.

Article 1

On the basis of the facts in its possession the Commission has no grounds for action under Article 85 (1) of the EEC Treaty in respect of the articles of association and the regulations of the London Potato Futures Association as notified on 16 September 1980.

Done at Brussels, 10 December 1986.

Article 2

This Decision is addressed to the London Potato Futures Association Limited, whose registered office is at Baltic

For the Commission

Peter SUTHERLAND

Member of the Commission

COMMISSION DECISION

of 10 December 1986

relating to a proceeding under Article 85 of the EEC Treaty

(IV/31.614 — The London Meat Futures Exchange Limited)

(Only the English text is authentic)

(87/47/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to the notification and application for negative clearance submitted on 24 July 1985 relating to the articles of association and the rules and regulations of the London Meat Futures Exchange Limited,

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. FACTS

- (1) The London Meat Futures Exchange Limited (LMFEL) is one of many commodity markets established in London. The commodity markets are self-regulatory organizations run by committees of management selected by members from amongst themselves, aided by secretariats and using powers given to them by their members in market rule books. Although the markets are self-regulating, there is an element of supervision by the Bank of England and, increasingly, supervision of the members by the Association of Futures Brokers and Dealers Limited (AFBD).
- (2) The object of the LMFEL is to set up and to administer a terminal market in London for various meat products. A terminal market, or a futures market, provides organized facilities for concluding contracts for the purchase and sale of a commodity to be delivered at named future dates. Futures markets have been developed primarily to enable

persons involved in commodity trading to protect themselves from the risks of adverse price movements.

- (3) The LMFEL provides a market floor for trading and price-making, determines various technical questions such as allowable delivery months and standard contract terms, and procures the provision of clearing and settlement facilities. Trading is done on the floor of the market where dealers face each other in a ring, making bids and offers through the system known as 'open outcry'.
- (4) The International Futures Markets in London are among the principal markets used in international commodity merchandising and they contribute to the stability and smooth operation of world trade and to world pricing mechanisms. The relative size of the LMFEL compared with its most important competitors is shown below :

Annual volumes of trade (lots traded) in pig meat

Year	London ⁽¹⁾	Chicago ⁽²⁾	Mid-America ⁽³⁾
1984	24 263	2 169 030	112 877
1985	15 479	1 719 861	74 338

(¹) One lot is currently 50 pig carcasses.

This LMFEL contract commenced trading on 16. 3. 1984.

(²) One lot is currently 30 000 lbs.

(³) One lot is currently 15 000 lbs.

- (5) Two new contracts commenced trading on 2 June 1986 :
 - (a) A live cattle cash settlement contract for lots of 5 000 kilograms. This contract is for settlement against the meat and livestock commission certified medium steer price.
 - (b) A pig contract for cash settlement of lots of 3 250 kilograms. This is for settlement against the meat and livestock commission average for all pigs price.

In respect of each contract dealing is generally up to 13 months forward with all months other than December being delivery months.

(¹) OJ No 13, 21. 2. 1962, p. 204/62.

(²) OJ No C 251, 8. 10. 1986, p. 8.

- (6) All contracts traded on the LMFEL must be registered with the International Commodities Clearing House Limited (ICCH), an independent service company, which provides clearing and settlement facilities for the LMFEL. ICCH has substantial capital and reserves and is wholly owned by six clearing banks. The principal functions of ICCH are to maintain and organize a 'daily clearing' of all trades and provide a guarantee for due fulfilment of contracts, in accordance with the rules of the LMFEL, to clearing members in whose names such contracts are registered.
- (7) There are two classes of membership of the LMFEL. The first class consists of voting members known as floor members who are allowed to trade on the floor of the market. The rules set no limit to the number of floor members and there are at present 20 floor members. The second class of member consists of non-voting members known as associate members. Their number is similarly not limited.
- (8) The criteria specified in the articles for floor members require an applicant for membership to meet certain financial requirements. A detailed statement of the criteria in force at the time of application may be obtained from the Secretary. To become a floor member the applicant must satisfy the Committee that it is actively interested in the trading of meat and carries on business from a properly established office in the United Kingdom.
- (9) All floor members must be members of the ICCH and must register their contracts with the ICCH which, in return for its fee, guarantees the performance of the contracts.
- (10) Associate members are companies or firms which have a continuing interest in the production, processing, trading or consumption of meat, or will have a continuing trading interest in the market.
- (11) Floor membership may be transferred provided that the transferee is elected in accordance with the articles. Associate membership is not transferable.
- (12) The Committee is now required to give reasons when it takes decisions affecting the members' rights of membership. An appeal procedure applies if the Committee refuses an application for membership, refuses to grant permission for a transfer of membership (or determines that a floor member shall transfer its floor membership), or refuses to approve a change in the directorship, partnership, nature of business, legal status or beneficial ownership of a member. The procedure also applies if the Committee suspends a member for more than seven days, or refuses to reinstate a member, or expels a member, or otherwise determines that a membership shall cease. In these cases, if the candidate or member is dissatisfied with the Committee's decision that candidate or member may ask the Committee to reconsider its decision, making such representations and supplying such information as it considers relevant.
- (13) The Rules require that a member must generally by a member of the Association of Futures Brokers and Dealers Limited (AFBD). However, this requirement is not mandatory for all members. A member is excused from this obligation if he is (a) not a floor member and has no place of business in the United Kingdom, or (b) engages in business exclusively on his own account or on behalf of a related company, or (c) falls within a category of member which is excused membership of the AFBD by the AFBD itself. The AFBD is one of seven self-regulatory organisations (SROs) which it is expected will be recognized by the Securities and Investments Board (SIB) which was set up in anticipation of the Financial Services Act, which stipulates that the only persons allowed to carry on investment business in the United Kingdom are 'authorized persons' or certain 'exempted persons'. Members of the LMFEL will be so authorized by virtue of being members of the AFBD. In order to become a member of the AFBD applicants have to fulfil certain qualitative criteria which reflect the AFBD's primary object, i.e. to promote and maintain a system of supervision of the conduct of business by commodity, financial and other futures brokers and dealers, particularly with a view to the protection of the interests of their clients. These criteria relate to the suitability of members' financial and business standing, and eligibility in other respects such as reliability, training, experience and financial resources.
- (14) Contracts traded on the floor of the market between floor members may be made free of commission. Commission must be charged on all other contracts between members or between members and non-members, but rates of commission are freely negotiable. Provision is made for an additional commission where meat is tendered in fulfilment of a contract by a deliverer who is not a clearing member of ICCH in whose name the contract is registered. This extra commission (which is freely negotiable) is paid to the clearing member in whose name the contract is registered with ICCH.

II. LEGAL ASSESSMENT

- (15) The notified rules and regulations of the LMFEL are to be considered as agreements within the meaning of Article 85 of the EEC Treaty.
- (16) The rules and regulations of the LMFEL take into account the representations made by the Commission in relation to various other terminal markets in London. The Commission has already granted negative clearance to the rules of these associations by Decisions 85/563/EEC ⁽¹⁾ (sugar), 85/564/EEC ⁽²⁾ (cocoa), 85/565/EEC ⁽³⁾ (coffee) and 85/566/EEC ⁽⁴⁾ (rubber).
- (17) Accordingly, the rules provide that business concluded on the floor of the market between floor members may be transacted free of commission. Commission must be charged on all other transactions between members or between members and non-members. The Commission believes that this obligation is not appreciably restrictive of competition because it only entails the obligation to charge 'a' commission without any reference to the commission which is to be charged. It follows that complete freedom exists to negotiate the actual commission rates.
- (18) Furthermore, as a result of representations by the Commission, amendments have been made to the rules concerning membership so that membership is now open and the criteria by which applications for membership are judged are objective (see Facts, paragraph 8 above). The Committee is now required to give reasons when it takes decisions affecting the members' rights of membership. To protect the rights of actual or potential members an appeal procedure has been introduced.
- (19) The publications in the *Official Journal of the European Communities*, pursuant to Article 19 (3) of Regulation No 17, did not elicit any representations.
- (20) The articles of association and the rules and regulations of the LMFEL as outlined above do not contain clauses which constitute appreciable restrictions on competition within the common market. Therefore the Commission, on the basis of the facts in its possession, has no grounds for action under Article 85 (1). Consequently the Commission is able to issue a negative clearance pursuant to Article 2 of Regulation No 17,

HAS ADOPTED THIS DECISION :

Article 1

On the basis of the facts in its possession the Commission has no grounds for action under Article 85 (1) of the EEC Treaty in respect of the articles of association and the rules and regulations of the London Meat Futures Exchange Limited as notified on 24 July 1985.

Article 2

This Decision is addressed to the London Meat Futures Exchange Limited, whose registered office is at Baltic Exchange Chambers, 24/28 St Mary Axe, London EC 3A 8EP, United Kingdom.

Done at Brussels, 10 December 1986.

For the Commission

Peter SUTHERLAND

Member of the Commission

⁽¹⁾ OJ No L 369, 31. 12. 1985, p. 25.

⁽²⁾ OJ No L 369, 31. 12. 1985, p. 28.

⁽³⁾ OJ No L 369, 31. 12. 1985, p. 31.

⁽⁴⁾ OJ No L 369, 31. 12. 1985, p. 34.

CORRIGENDA

Corrigendum to Commission Regulation (EEC) No 69/87 of 12 January 1987 on the supply of various lots of butteroil as food aid

(Official Journal of the European Communities No L 11 of 13 January 1987)

Page 5, Annex, lot D:

read: '10. Packaging: 5 kg'.

Corrigendum to Commission Regulation (EEC) No 93/87 of 14 January 1987 fixing the import levies on rice and broken rice

(Official Journal of the European Communities No L 13 of 15 January 1987)

Page 17, Annex, subheading ex 10.06 B II b) 2, column Portugal:

for: '72,16',

read: '13,90'.

Corrigendum to Commission Regulation (EEC) No 139/87 of 19 January 1987 on the emergency supply of beef to the most deprived persons

(Official Journal of the European Communities No L 17 of 20 January 1987)

Page 19, Article 4 should read as follows :

'Article 4

Commission Regulation (EEC) No 1687/76⁽³⁾ is hereby amended as follows :

The following point 39 and the footnote relating thereto are added to Part II of the Annex entitled 'Products subject to a use and/or destination other than that mentioned under 1':

"39. Commission Regulation (EEC) No 139/87 of 19 January 1987 on the emergency supply of beef to the most deprived persons⁽³⁹⁾

— Section 104 :

- destinados a las personas más desfavorecidas — Reglamento (CEE) n° 139/87
- til de socialt dårligst stillede — forordning (EØF) nr. 139/87
- bestimmt für stark benachteiligte Personen — Verordnung (EWG) Nr. 139/87
- προοριζόμενο για απόρους — κανονισμός (ΕΟΚ) αριθ. 139/87
- for distribution to the most deprived persons — Regulation (EEC) No 139/87
- destinés aux personnes les plus démunies — règlement (CEE) n° 139/87
- destinate ai più indigenti — regolamento (CEE) n. 139/87
- bestemd voor hulpbehoevenden — Verordening (EEG) nr. 139/87
- destinados às pessoas mais desfavorecidas — Regulamento (CEE) n° 139/87.

⁽³⁹⁾ OJ No L 17, 20. 1. 1987, p. 19."

COMMISSION OF THE EUROPEAN COMMUNITIES

REPORT ON SOCIAL DEVELOPMENTS

YEAR 1985

Brussels — Luxembourg / April 1986

**Addendum to the 'Nineteenth General Report on the Activities of the European Communities'
in accordance with Article 122 of the EEC Treaty**

Every year the Commission publishes its annual Social Report, which gives an outline of the main developments in the social field which have taken place in the countries of the European Community during the past year.

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- A. Introduction
- B. Social developments in the Community in 1984
- C. Statistical appendix

223 pp

CB-46-86-565-EN-C

ISBN 92-825-6403-7

Published in: Danish, Dutch, English, French, German, Greek, Italian, Spanish, Portuguese

Price (excluding VAT) in Luxembourg:

Bfrs 800

£ Irl 12.90

£ UK 11.30

\$ US 17.00



OFFICE FOR OFFICIAL PUBLICATIONS OF THE EUROPEAN COMMUNITIES
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COUNCIL OF THE EUROPEAN COMMUNITIES

THIRTY-SECOND REVIEW OF THE COUNCIL'S WORK

1 January — 31 December 1984

The annual review of the work of the Council of the European Communities examines the different subjects which fell within the Council's scope during the year concerned.

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285 pp

Published in: Danish, Dutch, English, French, German, Greek, Italian

Catalogue No: BX-44-85-371-EN-C

ISBN 92-824-0291-6

Price (excluding VAT) in Luxembourg:

Bfrs 300 £ Ir1 4.80 £ UK 3.80 \$ US 5.50



OFFICE FOR OFFICIAL PUBLICATIONS OF THE EUROPEAN COMMUNITIES
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