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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (Euratom, ECSC, EEC) No 3018/87

of 5 October 1987

introducing special transitional measures for the recruitment of overseas staff of the European Association for Cooperation as officials of the European Communities

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing a Single Council and a Single Commission of the European Communities, and in particular Article 24 thereof,

Having regard to the proposal from the Commission⁽¹⁾, submitted after consulting the Staff Regulations Committee,

Having regard to the opinion of the European Parliament⁽²⁾,

Having regard to the opinion of the Court of Justice,

Whereas staff of the European Association for Cooperation serving in the ACP States carry out a representative function for the Commission which has increased in the course of time and is now on a scale which justifies appointing them officials;

Whereas the entry into force of this Regulation does not affect the special temporary measures adopted by Regulation (ECSC, EEC, Euratom) No 3517/85⁽³⁾ for the recruitment of Spanish and Portuguese nationals as officials of the European Communities;

Whereas it is for the Council, acting by a qualified majority on a proposal from the Commission and after consulting the other institutions concerned, to amend the Staff Regulations of Officials of the European Communities laid down by Regulation (EEC, Euratom, ECSC) No 259/68⁽⁴⁾ as last amended by Regulation (Euratom, ECSC, EEC) No 793/87⁽⁵⁾,

HAS ADOPTED THIS REGULATION:

Article 1

Staff members holding a contract of employment as delegate, adviser or attaché with the European Association for Cooperation on 1 January 1988 and still under contract on the date this Regulation comes into force may be

appointed officials of the Commission of the European Communities and assigned to one of the posts earmarked for this purpose in the Commission's establishment plan for 1988.

Probationer staff members holding a contract of employment may be appointed probationer officials.

Article 2

The staff members referred to in Article 1 shall be appointed, by way of derogation from the second and third subparagraphs of Article 4, Article 28 (a), Article 28 (d) and Article 29 of the Staff Regulations of officials of the European Communities, and, in the case of those referred to in the first subparagraph of Article 1, by way of derogation also from Article 34 of the Staff Regulations, following an opinion from and *ad hoc* committee set up by the appointing authority to examine their qualifications and ability.

Article 3

Officials appointed under this Regulation shall be appointed, if necessary by way of derogation from Articles 31 and 32 of the Staff Regulations of Officials of the European Communities, to the category, grade and step whose basic salary corresponds to the basic salary received from the Association. Grading shall be determined by the appointing authority on the following basis: grades I, II and III of the Association shall correspond to category A under the Staff Regulations and grades IV and V of the Association shall correspond to category B under the Staff Regulations.

Seniority in grade shall be reckoned from the date of appointment as an official.

Seniority in step shall be that acquired with the Association.

Article 4

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

⁽¹⁾ OJ No C 74, 3. 4. 1986, p. 15.

⁽²⁾ OJ No C 255, 13. 10. 1986, p. 245.

⁽³⁾ OJ No L 335, 13. 12. 1985, p. 55.

⁽⁴⁾ OJ No L 56, 4. 3. 1968, p. 1.

⁽⁵⁾ OJ No L 79, 21. 3. 1987, p. 1.

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

Done at Luxembourg, 5 October 1987.

For the Council

The President

N. WILHJELM

COUNCIL REGULATION (Euratom, ECSC, EEC) No 3019/87

of 5 October 1987

laying down special and exceptional provisions applicable to officials of the European Communities serving in a third country

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing a Single Council and a Single Commission of the European Communities, and in particular Article 24 thereof,

Having regard to the Staff Regulations of officials of the European Communities and the conditions of employment of other servants of the European Communities laid down by Regulation (EEC, Euratom, ECSC) No 259/68 ⁽¹⁾, as last amended by Regulation (Euratom, ECSC, EEC) No 793/87 ⁽²⁾,

Having regard to the proposal from the Commission ⁽³⁾, submitted after consulting the Staff Regulations Committee,

Having regard to the opinion of the European Parliament ⁽⁴⁾,

Having regard to the opinion of the Court of Justice,

Whereas there should be special provisions for officials serving in third countries, on account of special living conditions there;

Whereas it is for the Council, acting by a qualified majority on a proposal from the Commission and after consulting the other institutions concerned, to amend the Staff Regulations of Officials of the European Communities,

HAS ADOPTED THIS REGULATION:

Article 1

The Staff Regulations of officials of the European Communities is amended as follows:

1. After Article 101 the following Title and Article are inserted:

*TITLE VIIIa***SPECIAL AND EXCEPTIONAL PROVISIONS APPLICABLE TO OFFICIALS SERVING IN A THIRD COUNTRY***Article 101a*

Without prejudice to the other provisions of the Staff Regulation, Annex X lays down the special and exceptional provisions applicable to officials serving in a third country.

2. The following Annex is added:

*ANNEX X***Special and exceptional provisions applicable to officials serving in a third country**

CHAPTER 1

GENERAL PROVISIONS

Article 1

This Annex lays down the special and exceptional provisions applicable to officials of the European Communities serving in a third country.

Only nationals of Member States of the Communities may be recruited to serve in such a country, the appointing authority not being permitted to invoke the exception provided for in Article 28 (a) of the Staff Regulations.

General implementing provisions shall be adopted in accordance with Article 110 of the Staff Regulations.

Article 2

By decision of the appointing authority in the interests of the service, officials shall be transferred periodically, if necessary without regard to vacant posts.

Posts to be filled by officials serving outside the Community need not be declared vacant until the transfer procedure referred to in the first subparagraph ("the mobility procedure") has been completed.

Article 3

In order to allow retraining periods of limited duration as part of the mobility procedure provided for in Article 2, the appointing authority may decide to assign an official serving outside the Community to a post in a Member State of the European Communities; such assignments, which shall not be preceded by a vacancy notice, may not be for more than four years. By way of derogation from the first subparagraph of Article 1, the appointing authority may decide, on the basis of general implementing provisions, that the official shall remain subject to certain provisions of this Annex for the duration of this temporary assignment, excluding Articles 5, 10 and 12 thereof.

⁽¹⁾ OJ No L 56, 4. 3. 1968, p. 1.

⁽²⁾ OJ No L 79, 21. 3. 1987, p. 1.

⁽³⁾ OJ No C 284, 11. 11. 1986, p. 8.

⁽⁴⁾ OJ No C 255, 13. 10. 1986, p. 245.

CHAPTER 2

OBLIGATIONS

Article 4

An official shall carry out his duties at the place to which he is assigned on recruitment or on transfer in the interests of the service following the mobility procedure.

Article 5

If the institution provides the official with accommodation which corresponds to the composition of his dependent family, he shall be required to reside in it.

CHAPTER 3

WORKING CONDITIONS

Article 6

An official shall, per calendar year, be entitled to annual leave of five calendar days for each month of service.

Article 7

In the year in which an official takes up or ceases to perform his duties in a third country, he shall be entitled to five calendar days leave for each complete month of service, to five calendar days for an incomplete month consisting of more than 15 days and to two and a half calendar days for an incomplete month of 15 days or less.

Where an official, for reasons other than the requirements of the service, has not used up his annual leave before the end of the current calendar year, the amount of leave which may be carried over to the following year shall not exceed 20 calendar days.

Article 8

By way of exception, the appointing authority may, by special reasoned decision, grant an official rest leave on account of particularly difficult living conditions at his place of employment. For each such place, the appointing authority shall determine the town(s) where rest leave may be taken.

Article 9

1. Annual leave may be taken all at once or in several periods, according to what the official desires and taking account of the requirements of the service. It must, however, include at least one period of 20 consecutive calendar days.

2. The rest leave referred to in Article 8 may not exceed a period of 15 calendar days for each year of service. It may not be combined with annual leave, nor may it be carried over from one year to the next.

The period of rest leave shall be extended by the addition of travelling time calculated in accordance with Article 7 of Annex V to the Staff Regulations.

CHAPTER 4

EMOLUMENTS AND SOCIAL SECURITY BENEFITS

Section 1

EMOLUMENTS AND FAMILY ALLOWANCES

Article 10

1. An allowance for living conditions shall be fixed, according to the official's place of employment, as a percentage of a reference amount. This reference amount shall comprise the total basic salary, plus the expatriation allowance, household allowance and dependent child allowance, less the compulsory deductions referred to in the Staff Regulations or in the regulations adopted to implement them.

Where an official is employed in a country in which living conditions can be deemed equivalent to those normally obtaining in the Community, no such allowance shall be payable.

In the case of other places of employment, the allowance for living conditions shall be fixed as follows.

The parameters taken into account for fixing the allowance for living conditions shall be the following:

- health and hospital environment,
- security,
- climate,

to which three parameters shall be applied a weighting of 1:

- degree of isolation,
- other local conditions,

to which two parameters shall be applied a weighting of 0,5.

Each parameter shall have the following value:

0: where conditions are normal but not equivalent to those normally obtaining in the Community,

2: where conditions are difficult compared with those normally obtaining in the Community,

4: where conditions are very difficult compared with those normally obtaining in the Community.

The allowance shall be fixed as a percentage of the reference amount referred to in the first subparagraph, in accordance with the following scale :

- 10 % where the value equals 0,
- 15 % where the value is greater than 0 but not greater than 2,
- 20 % where the value is greater than 2 but not greater than 5,
- 25 % where the value is greater than 5 but not greater than 8,
- 35 % where the value is greater than 8.

The allowance for living conditions fixed for each place of employment shall be reviewed and, where appropriate, adjusted each year by the appointing authority after the opinion of the Staff Committee has been obtained.

2. If living conditions at the place of employment are such as to put the official at personal risk, a temporary additional allowance shall be paid to him by special reasoned decision of the appointing authority. This allowance shall be fixed as a percentage of the reference amount referred to in the first subparagraph of paragraph 1 :

- at 5 % where the authority advises its staff not to settle their families in the place of employment,
- at 10 % where the authority decides to reduce temporarily the number of staff serving in the place of employment.

Article 11

Remuneration, as also the allowances referred to in Article 10, shall be paid in Belgian francs in Belgium. They shall be subject to the weighting applicable to the remuneration of officials employed in Belgium.

Article 12

At the request of the official, the appointing authority may decide to pay all or part of his remuneration in the currency of the country of employment. In that event, it shall be subject to the weighting for the place of employment and shall be converted on the basis of the corresponding exchange rate.

In duly substantiated exceptional cases, the appointing authority may make all or part of this payment in a currency other than that of the country of employment in such a way as to maintain purchasing power.

Article 13

In order to ensure as far as possible that officials, enjoy equivalent purchasing power irrespective of their place of employment, the Council shall determine the weighting referred to in Article 12 every six months. The Council shall, by the written procedure within

one month, act on a proposal from the Commission by the qualified majority provided for in the first eventuality set out in the second subparagraph of Article 148 (2) of the Treaty establishing the European Economic Community and of Article 118 of the Treaty establishing the European Atomic Energy Community. Should a Member State request formal examination of the Commission proposal, the Council shall act within two months.

Where however, in the case of a given country, the variation in the cost of living measured on the basis of the weighting and the corresponding exchange rate is found to have exceeded 5 % since the last adjustment, the Commission shall decide on interim measures for adjusting the weighting and shall inform the Council thereof as soon as possible.

Article 14

The Commission shall submit an annual report to the Council on the application of this Annex and in particular on the fixing of the rate of the allowance for living conditions as provided for in Article 10.

Article 15

On the conditions laid down by the appointing authority, the official shall receive an education allowance to cover the actual education costs incurred, payment of the allowance being made on the production of supporting documents. Except in cases deemed exceptional by the appointing authority, this allowance shall not exceed three times the doubled maximum education allowance.

Article 16

Reimbursements due to officials shall be paid in either Belgian francs or the currency of the country of employment, on the basis of a reasoned request from the official.

Officials may opt to have installation or resettlement allowances paid in either Belgian francs or the currency of the place of installation or resettlement; in the latter case, they shall be subject to the weighting fixed for the place in question and converted at the corresponding exchange rate.

Section 2

RULES RELATING TO THE REIMBURSEMENT OF EXPENSES

Article 17

An official not in furnished accommodation provided by the institution who, for reasons beyond his control, is obliged to change his residence at the place of employment shall, by special reasoned decision of the

appointing authority, be reimbursed the expenses incurred in respect of removal of furniture and personal effects, on production of supporting documents and in accordance with the rules on removals.

In such cases, he shall have his actual installation expenses reimbursed on production of supporting documents, subject to a ceiling equal to half the installation allowance.

Article 18

An official who, at his place of employment, is staying at a hotel because the accommodation provided for in Article 5 cannot yet be allocated to him or is no longer available to him or who, for reasons beyond his control, has not been able to take possession of his accommodation shall be reimbursed the hotel expenses of himself and his family on production of the hotel bills, after prior authorization by the appointing authority.

He shall also receive half the daily allowance.

The expenses referred to in the first and second subparagraphs shall be reimbursed subject to the limits laid down in Article 10 of Annex VII to the Staff Regulations, except where the appointing authority takes a special decision that there is a case of *force majeure*.

Where hotel accommodation cannot be provided, the official shall be entitled to reimbursement of the actual cost of renting temporary accommodation, after prior approval by the appointing authority.

Article 19

An official who does not have the use of a staff car for travel relating to official business within his area of activity shall receive a mileage allowance for the use of his own car. The amount of the allowance shall be fixed by the appointing authority.

Article 20

An official shall be entitled to travel expenses for rest leave from his place of employment to the authorized place of leave for himself and, if he is entitled to the household allowance, for his spouse and dependents if they live with him.

Where travel by train is impossible or impracticable, reimbursement shall be by special decision on production of the air tickets, whatever the distance.

Article 21

An official who is obliged to change his place of residence in order to comply with Article 20 of the Staff Regulations and Article 4 of this Annex and who does not move house shall be entitled, on taking up his duties, to reimbursement of the cost of transporting his personal effects, subject to the conditions laid down by the appointing authority, on production of supporting documents.

Where, following a transfer, an official is obliged to change his place of residence in order to comply with Article 20 of the Staff Regulations, the institution shall, depending on the type of accommodation that can be provided at the place of employment and subject to the conditions laid down by the appointing authority, bear the actual cost of moving part or all of his furniture and personal effects from their location at the time to the place of employment or of transporting his personal effects or of storage. Reimbursement may be made for any or all of these costs.

In the event of termination of service or death, the institution shall, subject to the conditions laid down by the appointing authority, bear the actual cost of moving an official's furniture and personal effects from their location at the time to his place of origin or of transporting his personal effects from the place of employment to his place of origin. Reimbursement may be made for any or all of these costs.

In the event of the death of an unmarried official, reimbursement shall be made to those entitled under him.

Article 22

The temporary accommodation allowance and the cost of transporting the personal effects of his spouse and dependants shall be advanced to a probationer official by the institution.

In the event of the probationer official not being established at the end of his probationary period, the institution may in exceptional cases take steps to recover up to half of these sums on the basis of the provisions laid down by the appointing authority.

Article 23

Where the official is not provided with accommodation by the institution, his rent shall be reimbursed, provided that the accommodation corresponds to the level of his duties and to the composition of his dependent family.

Section 3

SOCIAL SECURITY BENEFITS

Article 24

The official, his spouse, his children and other persons dependent on him shall be covered by supplementary sickness insurance for the difference between expenditure actually incurred and payments from the scheme provided for in Article 72 of the Staff Regulations; no reimbursement shall be made under Article 72 (3).

Half the premium shall be paid by the official and half by the institution. However, the official's contribution shall not exceed 0,6 % of his basic salary, any balance shall be paid by the institution.

The official, his spouse, his children and other persons dependent on him shall be insured for repatriation on health grounds in the case of an emergency or extreme emergency; the premium shall be paid entirely by the institution.

Article 25

The spouse, children and other persons dependent on the official shall be insured against accidents occurring outside the Community in the countries appearing on a list adopted for this purpose by the appointing authority.

Half the premium shall be paid by the official and half by the institution.

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

Done at Luxembourg, 5 October 1987.

CHAPTER 5

DISCIPLINE

Article 26

If an official covered by Title VIIIa of the Staff Regulations is the subject of a disciplinary procedure, the disciplinary board shall include two members based at a seat of the institution and drawn by lot respectively from each list referred to in the second and third subparagraphs of Article 5 (1) of Annex II to the Staff Regulations.

CHAPTER 6

TRANSITIONAL PROVISIONS

Article 27

In accordance with implementing rules to be adopted by the appointing authority after the opinion of the Staff Committee has been obtained, an official or a member of the staff covered by Regulation (Euratom, ECSC, EEC) No 3018/87⁽¹⁾ shall, for a period not exceeding the duration of the assignment being carried out when these provisions enter into force and for a maximum of five years, receive remuneration at least equal to that which he was receiving the day before entry into force of these provisions.

⁽¹⁾ OJ No L 286, 9. 10. 1987, p. 1.

Article 2

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

For the Council

The President

N. WILHJELM

COMMISSION REGULATION (EEC) No 3020/87

of 8 October 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 1900/87⁽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⁾, as last amended by Regulation (EEC) No 1636/87⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 1944/87⁽⁵⁾ and subsequent amending Regulations;

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

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

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

Whereas these exchange rates being those recorded on 7 October 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 1944/87 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 9 October 1987.

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

Done at Brussels, 8 October 1987.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 182, 3. 7. 1987, p. 40.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 185, 4. 7. 1987, p. 38.

ANNEX

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

CCT heading No	Description	(ECU/tonne)	
		Levies	
		Portugal	Third country
10.01 B I	Common wheat, and meslin	—	182,88
10.01 B II	Durum wheat	41,18	242,78 ⁽¹⁾ ⁽²⁾
10.02	Rye	30,05	154,38 ⁽³⁾
10.03	Barley	17,51	180,88
10.04	Oats	82,52	135,08
10.05 B	Maize, other than hybrid maize for sowing	—	165,88 ⁽³⁾ ⁽⁴⁾ ⁽⁵⁾
10.07 A	Buckwheat	17,51	119,87
10.07 B	Millet	17,51	112,85 ⁽⁶⁾
10.07 C II	Grain sorghum, other than hybrid sorghum for sowing	17,89	170,40 ⁽⁶⁾ ⁽⁷⁾
10.07 D I	Triticale	⁽⁷⁾	⁽⁷⁾
10.07 D II	Canary seed; other cereals	17,51	36,23 ⁽⁸⁾
11.01 A	Wheat or meslin flour	3,32	269,70
11.01 B	Rye flour	55,73	229,80
11.02 A I a)	Durum wheat groats and meal	77,08	389,56
11.02 A I b)	Common wheat groats and meal	2,86	290,56

⁽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 Council 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 3021/87

of 8 October 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 1900/87⁽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⁾, as last amended by Regulation (EEC) No 1636/87⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 1945/87⁽⁵⁾ and subsequent amending Regulations;

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

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

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

Whereas these exchange rates being those recorded on 7 October 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 coming from 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 coming from third countries shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 9 October 1987.

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

Done at Brussels, 8 October 1987.

For the Commission

Frans ANDRIESEN

Vice-President⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.⁽²⁾ OJ No L 182, 3. 7. 1987, p. 40.⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.⁽⁵⁾ OJ No L 185, 4. 7. 1987, p. 41.

ANNEX

to the Commission Regulation of 8 October 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 10	1st period 11	2nd period 12	3rd period 1
10.01 B I	Common wheat, and meslin	0	8,52	8,52	8,65
10.01 B II	Durum wheat	0	0	0	0
10.02	Rye	0	0	0	0
10.03	Barley	0	0	0	0
10.04	Oats	0	0	0	0
10.05 B	Maize, other than hybrid maize for sowing	0	0	0	0
10.07 A	Buckwheat	0	0	0	0
10.07 B	Millet	0	8,56	8,57	8,65
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	12,11	12,11	12,11

B. Malt

CCT heading No	Description	(ECU/tonne)				
		Current 10	1st period 11	2nd period 12	3rd period 1	4th period 2
11.07 A I a)	Unroasted malt, obtained from wheat, in the form of flour	0	15,17	15,17	15,40	15,40
11.07 A I b)	Unroasted malt, obtained from wheat, other than in the form of flour	0	11,33	11,33	11,50	11,50
11.07 A II a)	Unroasted malt, other than that obtained from wheat, in the form of flour	0	0	0	0	0
11.07 A II b)	Unroasted malt, other than that obtained from wheat, other than in the form of flour	0	0	0	0	0
11.07 B	Roasted malt	0	0	0	0	0

COMMISSION REGULATION (EEC) No 3022/87

of 8 October 1987

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 1915/87⁽²⁾, and in particular Article 16 (2) thereof,Having regard to Council Regulation (EEC) No 1514/76 of 24 June 1976 on imports of olive oil originating in Algeria⁽³⁾, as last amended by Regulation (EEC) No 798/87⁽⁴⁾, and in particular Article 5 thereof,Having regard to Council Regulation (EEC) No 1521/76 of 24 June 1976 on imports of olive oil originating in Morocco⁽⁵⁾, as last amended by Regulation (EEC) No 799/87⁽⁶⁾, and in particular Article 5 thereof,Having regard to Council Regulation (EEC) No 1508/76 of 24 June 1976 on imports of olive oil originating in Tunisia⁽⁷⁾, as last amended by Regulation (EEC) No 413/86⁽⁸⁾, and in particular Article 5 thereof,Having regard to Council Regulation (EEC) No 1180/77 of 17 May 1977 on imports into the Community of certain agricultural products originating in Turkey⁽⁹⁾, as last amended by Regulation (EEC) No 800/87⁽¹⁰⁾, and in particular Article 10 (2) thereof,Having regard to Council Regulation (EEC) No 1620/77 of 18 July 1977 laying down detailed rules for the importation of olive oil from Lebanon⁽¹¹⁾;Whereas by Regulation (EEC) No 3131/78⁽¹²⁾ the Commission decided to use the tendering procedure to fix levies on olive oil;Whereas Article 3 of Council Regulation (EEC) No 2751/78 of 23 November 1978 laying down general rules for fixing the import levy on olive oil by tender⁽¹³⁾ specifies that the minimum levy rate shall be fixed for each of the products concerned on the basis of the situation on the world market and the Community market and of the levy rates indicated by tenderers;

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

Article 3

This Regulation shall enter into force on 9 October 1987.

⁽¹⁾ OJ No 172, 30. 9. 1966, p. 3025/66.⁽²⁾ OJ No L 183, 3. 7. 1987, p. 7.⁽³⁾ OJ No L 169, 28. 6. 1976, p. 24.⁽⁴⁾ OJ No L 79, 21. 3. 1987, p. 11.⁽⁵⁾ OJ No L 169, 28. 6. 1976, p. 43.⁽⁶⁾ OJ No L 79, 21. 3. 1987, p. 12.⁽⁷⁾ OJ No L 169, 28. 6. 1976, p. 9.⁽⁸⁾ OJ No L 48, 26. 2. 1986, p. 1.⁽⁹⁾ OJ No L 142, 9. 6. 1977, p. 10.⁽¹⁰⁾ OJ No L 79, 21. 3. 1987, p. 13.⁽¹¹⁾ OJ No L 181, 21. 7. 1977, p. 4.⁽¹²⁾ OJ No L 370, 30. 12. 1978, p. 60.⁽¹³⁾ OJ No L 331, 28. 11. 1978, p. 6.

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

Done at Brussels, 8 October 1987.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX I

Minimum import levies on olive oil

CCT heading No	Non-member countries
15.07 A I a)	60,00 ⁽¹⁾
15.07 A I b)	60,00 ⁽¹⁾
15.07 A I c)	60,00 ⁽¹⁾
15.07 A II a)	70,00 ⁽²⁾
15.07 A II b)	96,00 ⁽³⁾

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

(a) Lebanon : 0,60 ECU/100 kg ;

(b) Tunisia : 12,69 ECU/100 kg, provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force ;

(c) Turkey : 22,36 ECU/100 kg, provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force ;

(d) Algeria and Morocco : 24,78 ECU/100 kg, provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force.

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

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

(b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by 3,09 ECU/100 kg.

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

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

(b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by 5,80 ECU/100 kg.

ANNEX II

Import levies on other olive oil sector products

CCT heading No	Non-member countries
07.01 N II	13,20
07.03 A II	13,20
15.17 B I a)	30,00
15.17 B I b)	48,00
23.04 A II	4,80

COMMISSION REGULATION (EEC) No 3023/87

of 8 October 1987

amending Regulation (EEC) No 2734/87 and increasing to 150 000 tonnes the quantity of bread-making rye 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 1900/87 ⁽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 2418/87 ⁽⁴⁾,

Whereas Commission Regulation (EEC) No 2734/87 ⁽⁵⁾, opens a standing invitation to tender for the export of 50 000 tonnes of bread-making rye held by the German intervention agency; whereas, in a communication of 5 October 1987, Germany informed the Commission of the intention of its intervention agency to increase by 100 000 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of bread-making rye held by the German intervention agency for which a standing invitation to tender for export has been opened should be increased to 150 000 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 2734/87 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 2734/87 is replaced by the following:

Article 2

1. The invitation to tender shall cover a maximum of 150 000 tonnes of bread-making rye to be exported to all third countries.

2. The regions in which the 150 000 tonnes of bread-making rye are stored are listed in Annex I hereto.

Article 2

Annex I to Regulation (EEC) No 2734/87 is replaced by the Annex hereto.

Article 3

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

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

Done at Brussels, 8 October 1987.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 182, 3. 7. 1987, p. 40.

⁽³⁾ OJ No L 202, 9. 7. 1982, p. 23.

⁽⁴⁾ OJ No L 223, 11. 8. 1987, p. 5.

⁽⁵⁾ OJ No L 262, 12. 9. 1987, p. 9.

*ANNEX**ANNEX I*

<i>(tonnes)</i>	
Place of storage	Quantity
Schleswig-Holstein / Hamburg	93 752
Niedersachsen / Bremen	36 002
Nordrhein-Westfalen	20 066
Rheinland-Pfalz	454'

COMMISSION REGULATION (EEC) No 3024/87

of 8 October 1987

fixing the amounts to be levied in the beef sector on products which left the United Kingdom during the week 21 to 27 September 1987

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1347/86 of 6 May 1986 on the granting of a premium for the slaughter of certain adult bovine animals in the United Kingdom ⁽¹⁾, as amended by Regulation (EEC) No 467/87 ⁽²⁾,

Having regard to Commission Regulation (EEC) No 1695/86 of 30 May 1986 laying down detailed rules for the application of the premium for the slaughter of certain adult bovine animals for slaughter in the United Kingdom ⁽³⁾, and in particular Article 7 (1) thereof,

Whereas, under Article 3 of Regulation (EEC) No 1347/86, an amount equivalent to the amount of the variable slaughter premium granted in the United Kingdom is levied on meat and meat preparations from animals on which it has been paid, when they are consigned to other Member States or to non-member countries;

Whereas, under Article 7 (1) of Regulation (EEC) No 1695/86 the amounts to be charged on departure from the territory of the United Kingdom of the products listed

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

Whereas, accordingly, the amounts to be levied on products which left the United Kingdom during the week 21 to 27 September 1987 should be fixed,

HAS ADOPTED THIS REGULATION:

Article 1

Pursuant to Article 3 of amended Regulation (EEC) No 1347/86, the amounts to be levied on the products referred to in Article 7 (1) of Regulation (EEC) No 1695/86 which left the territory of the United Kingdom during the week 21 to 27 September 1987 shall be those set out in the Annex.

Article 2

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

It shall apply with effect from 21 September 1987.

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

Done at Brussels, 8 October 1987.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 119, 8. 5. 1986, p. 40.

⁽²⁾ OJ No L 48, 17. 2. 1987, p. 1.

⁽³⁾ OJ No L 146, 31. 5. 1986, p. 56.

ANNEX

Amounts to be levied on products which left the territory of the United Kingdom during
the week 21 to 27 September 1987

<i>(ECU/100 kg net weight)</i>		
CCT heading No	Description	Amount
ex 02.01 A II a) and ex 02.01 A II b)	Meat of adult bovine animals, fresh, chilled or frozen :	
	1. Carcases, half-carcases or 'compensated' quarters	26,26474
	2. Separated or unseparated forequarters	21,01179
	3. Separated or unseparated hindquarters	31,51769
	4. Other :	
	aa) Unboned (bone-in)	21,01179
	bb) Boned or boneless	35,98269
ex 02.06 C I a)	Meat salted, in brine, dried or smoked, of adult bovine animals :	
	1. Unboned (bone-in)	21,01179
	2. Boned or boneless	29,94180
ex 16.02 B III b) 1	Other prepared or preserved meat or meat offal, containing meat or offal of adult bovine animals :	
	aa) Uncooked ; mixtures of cooked meat or offal and uncooked meat or offal :	
	11. Containing 80 % or more by weight of beef meat excluding offals and fat	29,94180
	22. Other	21,01179

COMMISSION REGULATION (EEC) No 3025/87
of 8 October 1987
fixing the import levies on white sugar and raw sugar

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

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 229/87 ⁽²⁾, and in particular Article 16 (8) thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 2054/87 ⁽³⁾, as last amended by Regulation (EEC) No 3016/87 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2054/87 to the infor-

mation known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 9 October 1987.

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

Done at Brussels, 8 October 1987.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 25, 28. 1. 1987, p. 1.

⁽³⁾ OJ No L 192, 11. 7. 1987, p. 38.

⁽⁴⁾ OJ No L 285, 8. 10. 1987, p. 32.

ANNEX

to the Commission Regulation of 8 October 1987 fixing the import levies on white sugar and raw sugar

<i>(ECU/100 kg)</i>		
CCT heading No	Description	Levy
17.01	Beet sugar and cane sugar, in solid form:	
	A. White sugar: flavoured or coloured sugar	52,10
	B. Raw sugar	43,96 ⁽¹⁾

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

COMMISSION REGULATION (EEC) No 3026/87

of 8 October 1987

prolonging the first suspension of the advance fixing of the export refund for
wheat gluten

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 1900/87 ⁽²⁾, and in particular the first subparagraph of Article 16 (7) thereof,

Whereas Article 16 (7) of Regulation (EEC) No 2727/75 provides that the provisions concerning advance fixing of the refund may be suspended if the market situation shows that the application of these provisions is causing or is likely to cause difficulties ;

Whereas Commission Regulation (EEC) No 2959/87 ⁽³⁾ suspended advance fixing of the export refund for wheat gluten. whereas the reasons which led to that suspension

still exist ; whereas it is important, therefore, to continue that measure for a limited period, which will make it possible to monitor the situation ;

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

In Article 1 of Regulation (EEC) No 2959/87 '9 October 1987' is hereby replaced by '30 October 1987'.

Article 2

This Regulation shall enter into force on 9 October 1987.

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

Done at Brussels, 8 October 1987.

For the Commission

Frans ANDRIESEN

Vice-President⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.⁽²⁾ OJ No L 182, 3. 7. 1987, p. 40.⁽³⁾ OJ No L 279, 2. 10. 1987, p. 14.

COMMISSION REGULATION (EEC) No 3027/87

of 8 October 1987

altering the export refunds 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 1900/87⁽²⁾, and in particular the fourth subparagraph of Article 16 (2) 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 1907/87⁽⁴⁾, and in particular the fifth subparagraph of Article 17 (2) thereof,Whereas the export refunds on products processed from cereals and rice were fixed by Regulation (EEC) No 2901/87⁽⁵⁾;

Whereas it follows from applying the rules, criteria and other provisions contained in Regulation (EEC) No 2901/87 to the information at present available to the

Commission that the export refunds at present in force should be altered as shown in the Annex to this Regulation;

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (d) of Regulation (EEC) No 2727/75 and in Article 1 (1) (c) of Regulation (EEC) No 1418/76 and subject to Regulation (EEC) No 2744/75⁽⁶⁾ as fixed in the Annex to Regulation (EEC) No 2901/87 are hereby altered as shown in the Annex to this Regulation in respect of the products set out therein.

Article 2

This Regulation shall enter into force on 9 October 1987.

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

Done at Brussels, 8 October 1987.

For the Commission

Frans ANDRIESEN

Vice-President⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.⁽²⁾ OJ No L 182, 3. 7. 1987, p. 40.⁽³⁾ OJ No L 166, 25. 6. 1976, p. 1.⁽⁴⁾ OJ No L 182, 3. 7. 1987, p. 51.⁽⁵⁾ OJ No L 277, 30. 9. 1987, p. 8.⁽⁶⁾ OJ No L 281, 1. 11. 1975, p. 65.

ANNEX

to the Commission Regulation of 8 October 1987 altering the export refunds on products processed from cereals and rice

Number in nomenclature used for refunds	Nomenclature in simplified wording	(ECU/tonne) Refund
11.01 C (I)	Barley flour, of an ash content, referred to dry matter, not exceeding 0,9 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,9 % by weight	172,77
11.01 C (II)	Barley flour not included under No 11.01 C (I)	117,48
11.01 D (I)	Oat flour, of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of a crude fibre content, referred to dry matter, not exceeding 1,8 % by weight, of a moisture content not exceeding 11 % and of which the peroxydase is virtually inactivated	213,10
11.01 D (II)	Oat flour not included under No 11.01 D (I)	—
11.01 E (I)	Maize flour, of a fat content, referred to dry matter, not exceeding 1,3 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,8 % by weight (?)	168,38
11.01 E (II)	Maize flour, of a fat content, referred to dry matter, exceeding 1,3 % but not exceeding 1,7 % by weight and of a crude fibre content, referred to dry matter, not exceeding 1 % by weight (?)	144,32
11.01 E (III)	Maize flour not included under No 11.01 E (I) and (II) (?)	—
11.01 F	Rice flour	—
11.02 A III (a)	Barley groats and meal, of an ash content, referred to dry matter, not exceeding 1 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,9 % by weight	178,53
11.02 A III (b)	Barley groats and meal not included under No 11.02 A III (a)	—
11.02 A IV (a)	Oat groats and meal, of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of a tegument content not exceeding 0,1 %, of a moisture content not exceeding 11 % and of which the peroxydase is virtually inactivated	213,10
11.02 A IV (b)	Oat groats and meal not included under No 11.02 A IV (a)	—
11.02 A V (a)	Maize groats and meal, of a fat content, referred to dry matter, not exceeding 0,9 % by weight and a crude fibre content, referred to dry matter, not exceeding 0,6 % by weight (1) (8)	216,49
11.02 A V (b)	Maize groats and meal, of a fat content, referred to dry matter, not exceeding 1,3 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,8 % by weight (1) (8)	168,38
11.02 A V (c)	Maize groats and meal, of a fat content, referred to dry matter, exceeding 1,3 % by weight but not exceeding 1,7 % by weight and of a crude fibre content, referred to dry matter, not exceeding 1 % by weight (1) (8)	144,32
11.02 A VI	Rice groats and meal	—
11.02 B I a) 1 (aa)	Hulled (shelled or husked) barley, of an ash content, referred to dry matter, not exceeding 1 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,9 % by weight (?)	172,77
11.02 B I a) 1 (bb)	Hulled (shelled or husked) barley not included under No 11.02 B I a) 1 (aa) (?)	—
11.02 B I a) 2 (aa)	Clipped oats	—

Number in nomenclature used for refunds	Nomenclature in simplified wording	(ECU/tonne) Refund
11.02 B I a) 2 bb) (11)	Hulled (shelled or husked) oats, of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of tegument content not exceeding 0,5 % of a moisture content not exceeding 11 % and of which the peroxydase is virtually inactivated ⁽²⁾	189,39
11.02 B I a) 2 bb) (22)	Hulled (shelled or husked) oats, not included under No 11.02 B I a) 2 bb) (11) ⁽²⁾	—
11.02 B I b) 1 (aa)	Hulled and sliced or kibbled barley, of an ash content, referred to dry matter, not exceeding 1 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,9 % by weight ('Grütze' or 'Grutten') ⁽²⁾	172,77
11.02 B I b) 1 (bb)	Hulled and sliced or kibbled barley, not included under No 11.02 B I b) 1 (aa) ('Grütze' or 'Grutten') ⁽²⁾	—
11.02 B I b) 2 (aa)	Hulled and sliced or kibbled oats, of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of a tegument content not exceeding 0,1 %, of a moisture content not exceeding 11 % and of which the peroxydase is virtually inactivated ('Grütze' or 'Grutten') ⁽²⁾	201,23
11.02 B I b) 2 (bb)	Hulled and sliced or kibbled oats not included under No 11.02 B I b) 2 (aa) ('Grütze' or 'Grutten') ⁽²⁾	—
11.02 B II a) (1)	Hulled (shelled or husked) wheat, not sliced or kibbled ⁽²⁾	—
11.02 B II c) (1)	Hulled and sliced or kibbled maize of a fat content, referred to dry matter, not exceeding 0,9 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,6 % by weight ('Gruetze' or 'Grutten') ^{(2) (8)}	180,41
11.02 B II c) (2)	Hulled and sliced or kibbled maize of a fat content, referred to dry matter, not exceeding 1,3 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,8 % by weight ('Gruetze' or 'Grutten') ^{(2) (8)}	138,31
11.02 C III (a)	Pearled barley, of an ash content, referred to dry matter, not exceeding 1 % by weight (without talc) — 1st category ⁽³⁾	230,36
11.02 C III (b)	Pearled barley, of an ash content, referred to dry matter, not exceeding 1 % by weight (without talc) — 2nd category ⁽³⁾	184,29
11.02 C IV	Pearled oats ⁽³⁾	—
11.02 D I	Wheat not otherwise worked than kibbled	108,00
11.02 D II	Rye not otherwise worked than kibbled	105,00
11.02 E I b) 1 (aa)	Flaked barley, of an ash content, referred to dry matter, not exceeding 1 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,9 % by weight	172,77
11.02 E I b) 1 (bb)	Flaked barley not included under 11.02 E I b) 1 (aa)	—
11.02 E I b) 2 (aa)	Flaked oats, of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of a tegument content not exceeding 0,1 %, of a moisture content not exceeding 12 % and of which the peroxydase is virtually inactivated	236,74
11.02 E I b) 2 (bb)	Flaked oats, of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of a tegument content exceeding 0,1 % but not exceeding 1,5 %, of a moisture content not exceeding 12 % and of which the peroxydase is virtually inactivated	189,39
11.02 E I b) 2 (cc)	Flaked oats not included under Nos 11.02 E I b) 2 (aa) and 11.02 E I b) 2 (bb)	—
11.02 E II a	Flaked wheat	124,44
ex 11.02 E II c) (1)	Flaked maize, of a fat content, referred to dry matter, not exceeding 0,9 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,7 % by weight	192,43

(ECU/tonne)

Number in nomenclature used for refunds	Nomenclature in simplified wording	Refund
ex 11.02 E II c) (2)	Flaked maize, of a fat content, referred to dry matter, not exceeding 1,3 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,8 % by weight	156,35
ex 11.02 E II c) (3)	Flaked maize, of a fat content, referred to dry matter, exceeding 1,3 % but not exceeding 1,7 % by weight and of a crude fibre content, referred to dry matter, not exceeding 1 % by weight	—
11.02 E II d) 1	Flaked rice	—
11.02 F I	Wheat pellets	124,44
11.02 F III	Barley pellets	117,48
11.02 F IV	Oat pellets	—
11.02 F V	Maize pellets	122,68
11.02 G I	Wheat germ, whole, rolled, flaked or ground	30,50
11.02 G II	Germ of cereals other than wheat, whole, rolled, flaked or ground	30,07
11.07 A I a)	Unroasted malt, obtained from wheat, in the form of flour	217,16
11.07 A II a)	Unroasted malt, other than that obtained from wheat, in the form of flour	205,02
11.08 A I	Maize starch (*)	176,43
11.08 A II	Rice starch (*)	286,54
11.08 A III	Wheat starch (*)	216,00
11.08 A IV	Potato starch (*)	176,43
11.08 A V	Starches other than maize, rice, wheat, or potato starch (*)	—
11.09 A	Dried wheat gluten, of a protein content, referred to dry matter, of 82 % or more by weight ($N \times 6,25$)	108,00
17.02 B II a)	Glucose and malto-dextrine, other than glucose containing, in the dry state, 99 % or more by weight of the pure product, in the form of white crystalline powder, whether or not agglomerated (*)	230,46
17.02 B II b)	Malto-dextrine and malto-dextrine syrup; glucose and glucose syrup not containing, in the dry state, 99 % or more by weight of the pure product, other than glucose in the form of white crystalline powder, whether or not agglomerated (*)	176,43
17.02 F II a)	Caramel, other than caramel containing 50 % or more by weight of sucrose in the dry matter, in the form of powder, whether or not agglomerated	241,49
17.02 F II b)	Caramel, other than caramel containing 50 % or more by weight of sucrose in the dry matter, other than in the form of powder	167,61
21.07 F II	Flavoured or coloured glucose syrup, and malto-dextrine syrup	176,43
23.02 A I a)	Brans sharps and other residues derived from the sifting, milling or working of maize or rice of a starch content not exceeding 35 % by weight	28,60
23.02 A I b) 2	Brans, sharps and other residues derived from the sifting, milling or working of maize or rice, of a starch content exceeding 35 % by weight, and not having undergone a denaturing process, or of a starch content exceeding 45 % by weight and having undergone denaturing process	28,60
23.02 A II a)	Brans, sharps and other residues derived from the sifting, milling or working of cereals other than maize or rice, of a starch content not exceeding 28 % by weight and of which the percentage which passes through a sieve with an aperture of 0,2 mm does not exceed 10 % by weight or of which the sifted product has an ash content, calculated on dry matter, not exceeding 1,5 % by weight	28,60
23.02 A II b)	Brans, sharps and other residues derived from the sifting, milling or working of cereals other than maize or rice, not included under No 23.02 A II a)	28,60
23.03 A I	Residues from the manufacture of starch from maize (excluding concentrated steeping liquors), of a protein content, calculated on dry matter, of 63 % or more by weight ($N \times 6,25$)	88,22

-
- (1) The export refund is paid in respect of maize, groats and meal :
- of which a percentage not exceeding 30 % passes through a sieve with an aperture of 315 microns,
 - of which a percentage not exceeding 5 % passes through a sieve with an aperture of 150 microns.
- (2) 'Hulled grains' are grains corresponding to the definition given in the Annex to Regulation (EEC) No 821/68 (OJ No L 149, 29. 6. 1968, p. 46).
- (3) 'Pearled grains' are grains corresponding to the definition given in the Annex to Regulation (EEC) No 821/68 (OJ No L 149, 29. 6. 1968, p. 46).
- (4) Pursuant to Regulation (EEC) No 2730/75 the product falling within subheading 17.02 B I enjoys the same export refund as the product falling within subheading 17.02 B II.
- (5) The export refund is granted on products falling within this subheading which have a starch content of not less than 85 % by weight.
- (6) The export refund is granted on products falling within this subheading which have a starch content of not less than 78 % by weight.
- (7) The analytical method to be used for the determination of the fatty matter content is that printed in Annex I (method A) to Directive 84/4/EEC (OJ No L 15, 18. 1. 1984, p. 28).
- (8) The procedure to be followed for the determination of the fatty matter content is as follows :
- the sample has to be crushed so that 90 % or more can pass through a sieve with an aperture of 500 microns and 100 % can pass through a sieve with an aperture of 1 000 microns,
 - the analytical method to be used afterwards is that which is printed in Annex I (Method A) to Directive 84/4/EEC (OJ No L 15, 18. 1. 1984, p. 28).
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COMMISSION REGULATION (EEC) No 3028/87
of 8 October 1987
fixing the amount of the subsidy on oil seeds

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

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 1915/87⁽²⁾, and in particular Article 27 (4) thereof,

Having regard to Council Regulation (EEC) No 1678/85 of 11 June 1985 fixing the conversion rates to be applied in agriculture⁽³⁾, as last amended by Regulation (EEC) No 2594/87⁽⁴⁾,

Having regard to Council Regulation (EEC) No 1569/72 of 20 July 1972 laying down special measures for colza, rape and sunflower seed⁽⁵⁾, as last amended by Regulation (EEC) No 1869/87⁽⁶⁾, and in particular Article 2 (3) thereof,

Having regard to the opinion of the Monetary Committee;

Whereas the target price and the monthly increments in the target price for colza, rape and sunflower seed for the 1987/88 marketing year have been fixed in Council Regulations (EEC) No 1917/87⁽⁷⁾ and (EEC) No 1918/87⁽⁸⁾;

Whereas the amount of the subsidy referred to in Article 27 of Regulation No 136/66/EEC was fixed by Commission Regulation (EEC) No 2945/87⁽⁹⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2945/87 to the information known to the Commission that the amount of the subsidy at present in force should be altered to the amount set out in the Annexes hereto,

HAS ADOPTED THIS REGULATION:

Article 1

1. The amounts of the subsidy and the exchange rates referred to in Article 33 (2) and (3) of Commission Regulation (EEC) No 2681/83⁽¹⁰⁾ shall be as set out in the Annexes hereto.
2. The amount of the compensatory aid referred to in Article 14 of Council Regulation (EEC) No 475/86⁽¹¹⁾ shall be as shown in Annex III to this Regulation for sunflower seed harvested in Spain.
3. The amount of the special subsidy provided for by Council Regulation (EEC) No 1920/87⁽¹²⁾ for sunflower seed harvested and processed in Portugal is fixed in Annex III.

Article 2

This Regulation shall enter into force on 9 October 1987.

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

Done at Brussels, 8 October 1987.

For the Commission

Frans ANDRIESSEN

Vice-President

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

⁽²⁾ OJ No L 183, 3. 7. 1987, p. 7.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 11.

⁽⁴⁾ OJ No L 245, 29. 8. 1987, p. 11.

⁽⁵⁾ OJ No L 167, 25. 7. 1972, p. 9.

⁽⁶⁾ OJ No L 176, 1. 7. 1987, p. 30.

⁽⁷⁾ OJ No L 183, 3. 7. 1987, p. 14.

⁽⁸⁾ OJ No L 183, 3. 7. 1987, p. 16.

⁽⁹⁾ OJ No L 278, 1. 10. 1987, p. 69.

⁽¹⁰⁾ OJ No L 266, 28. 9. 1983, p. 1.

⁽¹¹⁾ OJ No L 53, 1. 3. 1986, p. 47.

⁽¹²⁾ OJ No L 183, 3. 7. 1987, p. 18.

ANNEX I

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

(amounts per 100 kilograms)

	Current 10	1st period 11	2nd period 12	3rd period 1	4th period 2	5th period 3
1. Gross aids (ECU):						
— Spain	0,000	0,000	0,000	0,000	0,000	0,000
— Portugal	0,000	0,000	0,000	0,000	0,000	0,000
— Other Member States	24,350	23,464	23,333	23,967	23,932	24,176
2. Final aids:						
(a) Seed harvested and processed in:						
— Federal Republic of Germany (DM)	58,97	56,94	56,68	58,27	58,22	59,11
— Netherlands (Fl)	65,58	63,26	62,93	64,71	64,64	65,59
— BLEU (Bfrs/Lfrs)	1 167,50	1 124,63	1 118,22	1 148,15	1 146,35	1 153,40
— France (FF)	177,10	170,00	168,57	172,96	172,51	174,95
— Denmark (Dkr)	210,88	202,90	201,66	207,26	206,87	207,26
— Ireland (£ Irl)	19,686	18,895	18,761	19,268	19,220	19,338
— United Kingdom (£)	14,246	13,495	13,340	13,787	13,707	13,724
— Italy (Lit)	37 556	36 010	35 621	36 499	36 391	36 568
— Greece (Dr)	2 476,98	2 276,38	2 224,88	2 313,03	2 286,12	2 264,84
(b) Seed harvested in Spain and processed:						
— in Spain (Pta)	0,00	0,00	0,00	0,00	0,00	0,00
— in another Member State (Pta)	3 701,59	3 563,61	3 516,10	3 603,10	3 596,15	3 603,80
(c) Seed harvested in Portugal and processed:						
— in Portugal (Esc)	0,00	0,00	0,00	0,00	0,00	0,00
— in another Member State (Esc)	4 806,68	4 634,42	4 602,40	4 697,69	4 685,93	4 652,08

ANNEX II

Aids to colza and rape seed 'double zero'

(amounts per 100 kilograms)

	Current 10	1st period 11	2nd period 12	3rd period 1	4th period 2	5th period 3
1. Gross aids (ECU):						
— Spain	2,500	2,500	2,500	2,500	2,500	2,500
— Portugal	2,500	2,500	2,500	2,500	2,500	2,500
— Other Member States	26,850	25,964	25,833	26,467	26,432	26,676
2. Final aids:						
(a) Seed harvested and processed in:						
— Federal Republic of Germany (DM)	64,93	62,91	62,64	64,23	64,18	65,07
— Netherlands (Fl)	72,27	69,94	69,61	71,40	71,32	72,28
— BLEU (Bfrs/Lfrs)	1 287,66	1 244,79	1 238,38	1 268,31	1 266,52	1 273,56
— France (FF)	195,79	188,69	187,26	191,65	191,20	193,64
— Denmark (Dkr)	232,77	224,79	223,55	229,14	228,76	229,14
— Ireland (£ Irl)	21,764	20,973	20,839	21,346	21,298	21,416
— United Kingdom (£)	15,886	15,136	14,980	15,427	15,347	15,364
— Italy (Lit)	41 549	40 002	39 613	40 492	40 384	40 560
— Greece (Dr)	2 797,83	2 597,23	2 545,73	2 633,88	2 606,97	2 585,69
(b) Seed harvested in Spain and processed:						
— in Spain (Pta)	385,53	385,53	385,53	385,53	385,53	385,53
— in another Member State (Pta)	4 087,12	3 949,15	3 901,63	3 988,63	3 981,68	3 989,33
(c) Seed harvested in Portugal and processed:						
— in Portugal (Esc)	429,31	429,31	429,31	429,31	429,31	429,31
— in another Member State (Esc)	5 235,99	5 063,73	5 031,71	5 127,00	5 115,25	5 081,39

ANNEX III

Aids to sunflower seed

(amounts per 100 kilograms)

	Current 10	1st period 11	2nd period 12	3rd period 1	4th period 2
1. Gross aids (ECU):					
— Spain	3,440	3,440	3,440	3,440	3,440
— Portugal	0,000	0,000	0,000	0,000	0,000
— Other Member States	34,752	34,913	34,623	35,018	35,335
2. Final aids:					
(a) Seed harvested and processed in (1):					
— Federal Republic of Germany (DM)	83,83	84,23	83,61	84,65	85,41
— Netherlands (Fl)	93,42	93,86	93,11	94,27	95,13
— BLEU (Bfrs/Lfrs)	1 667,33	1 675,00	1 660,89	1 679,25	1 694,45
— France (FF)	254,60	255,69	252,99	255,46	257,76
— Denmark (Dkr)	301,83	303,19	300,51	303,96	306,71
— Ireland (£ Irl)	28,304	28,425	28,149	28,443	28,700
— United Kingdom (£)	20,979	21,044	20,753	21,002	21,189
— Italy (Lit)	54 098	54 322	53 656	54 115	54 602
— Greece (Dr)	3 777,66	3 759,81	3 675,94	3 717,09	3 749,68
(b) Seed harvested in Spain and processed:					
— in Spain (Pta)	530,49	530,49	530,49	530,49	530,49
— in another Member State (Pta)	4 115,86	4 140,36	4 067,12	4 115,71	4 164,04
(c) Seed harvested in Portugal and processed:					
— in Portugal (Esc)	0,00	0,00	0,00	0,00	0,00
— in Spain (Esc)	7 043,55	7 063,09	6 998,91	7 050,81	7 104,93
— in another Member State (Esc)	6 814,98	6 833,89	6 771,79	6 822,02	6 874,38
3. Compensatory aids:					
— in Spain (Pta)	4 069,37	4 093,87	4 020,63	4 068,85	4 117,17
4. Special aid:					
— in Portugal (Esc)	6 814,98	6 833,89	6 771,79	6 822,02	6 874,38

(1) For seed harvested in the Community as constituted at 31 December 1985 and processed in Spain, the amounts shown in 2 (a) to be multiplied by 1,0335380.

ANNEX IV

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

(value of 1 ECU)

	Current 10	1st period 11	2nd period 12	3rd period 1	4th period 2	5th period 3
DM	2,077630	2,072890	2,068100	2,063770	2,063770	2,050070
Fl	2,337390	2,334230	2,331190	2,327580	2,327580	2,316810
Bfrs/Lfrs	43,128400	43,112300	43,091200	43,040000	43,040000	42,990600
FF	6,916690	6,923110	6,928610	6,934480	6,934480	6,952970
Dkr	7,987560	8,005040	8,021750	8,035540	8,035540	8,083150
£ Irl	0,775028	0,776056	0,777162	0,778675	0,778675	0,783238
£	0,694315	0,696035	0,697836	0,699769	0,699769	0,705141
Lit	1 498,96	1 504,57	1 510,81	1 516,95	1 516,95	1 535,31
Dr	158,98900	160,36600	161,64400	162,91000	162,91000	166,52900
Esc	163,49400	164,19700	164,87800	165,96900	165,96900	169,08400
Pta	137,95900	138,40300	138,98700	139,81600	139,81600	142,18600

COMMISSION REGULATION (EEC) No 3029/87

of 8 October 1987

fixing the export refunds on cereals and on wheat or rye flour, groats and meal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EEC) No 1900/87 ⁽²⁾, and in particular the fourth subparagraph of Article 16 ⁽²⁾,

Having regard to the opinion of the Monetary Committee,

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

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

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

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

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

vary the refund for certain products according to destination;

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

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 % a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85 ⁽⁶⁾, as last amended by Regulation (EEC) No 1636/87 ⁽⁷⁾;
- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded over a given period in relation to the Community currencies referred to in the previous indent and the aforesaid coefficient;

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

The refund on export to Portugal has not been fixed.

Article 2

This Regulation shall enter into force on 9 October 1987.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 182, 3. 7. 1987, p. 40.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

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

⁽⁵⁾ OJ No L 168, 27. 7. 1971, p. 16.

⁽⁶⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁷⁾ OJ No L 153, 13. 6. 1987, p. 1.

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

Done at Brussels, 8 October 1987.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX

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

CCT heading No	Description	(ECU/tonne) Refund
10.01 B I	Common wheat and meslin for exports to : — Switzerland, Austria and Liechtenstein — zone II b) — zones I, II a), III, V, VI and VII — Brazil — Ceuta and Melilla — other third countries	107,00 112,00 20,00 118,95 117,00 15,00
10.01 B II	Durum wheat for exports to : — zones I b), II and III — other third countries	165,00 ⁽³⁾ 25,00 ⁽³⁾
10.02	Rye for exports to : — Switzerland, Austria and Liechtenstein — other third countries	10,00 25,00
10.03	Barley for exports to : — Switzerland, Austria and Liechtenstein — zone II b) — other third countries	112,00 117,00 25,00
10.04	Oats for exports to : — Switzerland, Austria and Liechtenstein — other third countries	85,00 95,00
10.05 B	Maize, other than hybrid maize for sowing for exports to : — Switzerland, Austria and Liechtenstein — Canary Islands — other third countries	0 0 0
10.07 B	Millet	—
10.07 C II	Grain sorghum, other than hybrid sorghum for sowing	—
ex 11.01 A	Wheat flour : — of an ash content of 0 to 520 — of an ash content of 521 to 600 — of an ash content of 601 to 900 — of an ash content of 901 to 1 100 — of an ash content of 1 101 to 1 650 — of an ash content of 1 651 to 1 900	159,00 159,00 142,00 133,00 124,00 113,00

CCT heading No	Description	(ECU/tonne) Refund
ex 11.01 B	Rye flour : — of an ash content of 0 to 700 — of an ash content of 701 to 1 150 — of an ash content of 1 151 to 1 600 — of an ash content of 1 601 to 2 000	159,00 159,00 159,00 159,00
11.02 A I a)	Durum wheat groats and meal — of an ash content of 0 to 1 300 ⁽¹⁾ — of an ash content of 0 to 1 300 ⁽²⁾ — of an ash content of 0 to 1 300 — of an ash content of more than 1 300	275,00 ⁽³⁾ 260,00 ⁽³⁾ 232,00 ⁽³⁾ 219,00 ⁽³⁾
ex 11.02 A I b)	Common wheat groats and meal : — of an ash content of 0 to 520	159,00

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

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

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

N.B. The zones are those defined in Regulation (EEC) No 1124/77 (OJ No L 134, 28. 5. 1977), as last amended by Regulation (EEC) No 1548/87 (OJ No L 144, 4. 6. 1987).

COMMISSION REGULATION (EEC) No 3030/87

of 8 October 1987

fixing the corrective amount applicable to the refund on cereals

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 1900/87⁽²⁾,

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

Having regard to the opinion of the Monetary Committee,

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

Whereas Council Regulation (EEC) No 2744/75 of 29 October 1975 on the import and export system for products processed from cereals and from rice⁽⁴⁾, as last amended by Regulation (EEC) No 1906/87⁽⁵⁾, made possible the fixing of a corrective amount for certain products listed in Article 1 (c) of Regulation (EEC) No 2727/75;

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

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

exports and the need to avoid disturbances on the Community market;

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

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

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

Whereas it may be altered in the period between fixings;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁷⁾, as last amended by Regulation (EEC) No 1636/87⁽⁸⁾,
- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded over a given period in relation to the Community currencies referred to in the preceding indent and the aforesaid coefficient;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 9 October 1987.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 182, 3. 7. 1987, p. 40.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No L 281, 1. 11. 1975, p. 65.

⁽⁵⁾ OJ No L 182, 3. 7. 1987, p. 49.

⁽⁶⁾ OJ No L 131, 22. 5. 1975, p. 15.

⁽⁷⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁸⁾ OJ No L 153, 13. 6. 1987, p. 1.

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

Done at Brussels, 8 October 1987.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX

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

CCT heading No	Description	(ECU/tonne)						
		Current 10	1st period 11	2nd period 12	3rd period 1	4th period 2	5th period 3	6th period 4
10.01 B I	Common wheat and meslin	0	0	0	— 6,00	— 6,00	0	0
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	— 6,00	— 6,00	—	—
10.04	Oats	0	0	0	0	0	—	—
10.05 B	Maize other than hybrid maize for sowing	0	0	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	—	—
11.01 B	Rye flour	0	0	0	0	0	—	—
11.02 A I a)	Durum wheat groats and meal	0	0	0	0	0	—	—
11.02 A I b)	Common wheat groats and meal	0	0	0	0	0	—	—

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 1548/87 (OJ No L 144, 4. 6. 1987).

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 29 July 1987

relating to a proceeding under Article 86 of the EEC Treaty (IV/32.279 —
BBI/Boosey & Hawkes : Interim measures)

(Only the English text is authentic)

(87/500/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Whereas :

Having regard to the Treaty establishing the European Economic Community,

I. THE FACTS

The nature of the present Decision

Having regard to Council Regulation No 17 of 6 February 1962, First Regulation implementing Articles 85 and 86 of the Treaty ⁽¹⁾, as last amended by the Act of Accession of Spain and Portugal, and in particular Articles 3 and 16 thereof,

Having regard to the application of Brass Band Instruments Ltd and others dated 12 March 1987 alleging an infringement of Article 86 of the Treaty by Boosey & Hawkes plc and requesting the Commission to adopt interim measures,

Having regard to the Commission Decision of 27 April 1987 to open a proceeding in this case,

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

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

- (1) This Decision provides for interim measures pending a final decision on the application made under Article 3 of Regulation No 17 by three United Kingdom undertakings : Brass Band Instruments Ltd ('BBI'), Gabriel's Horn House (Band Instrument Company) Ltd ('GHH'), both of Portsmouth, Hampshire, and RCN Music ('RCN') of Luton, Bedfordshire, alleging that an infringement of Article 86 of the EEC Treaty had been committed by Boosey & Hawkes plc ('B&H') of Edgware, Middlesex.

The undertakings

- (2) The activities of B&H include the manufacture and sale of musical instruments. Prior to the present case it was the only British manufacturer of brass wind instruments. It had total world-wide sales (all products) in 1985 of £ 38 million (ECU 67 million).
- (3) GHH is a major retailer of brass band instruments and, prior to the present case, had the second largest sales of B&H instruments in the United Kingdom. In 1985 its total turnover was £ 480 000 (ECU 840 000), of which 70 % was in B&H brass band instruments.
- RCN is a repairer of brass band instruments for manufacturers, dealers and private customers which has in the past carried out contract repair work for B&H.

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

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

- (4) In April 1986 the principals of GHH and RCN founded a company, BBI, for the purpose of manufacturing and marketing a broad range of instruments for brass bands. BBI will operate from premises in Luton adjoining those of RCN and will receive certain marketing and financial support services from RCN and GHH.

The background

Brass bands

- (5) B&H is one of the world's largest manufacturers of musical instruments. It is particularly known for its brass wind instruments. Its efforts in the brass sector are aimed particularly at supplying the needs of British-style brass bands. These bands originated in the North of England, where interest is particularly strong, but the 'brass band movement' has spread to many other countries including the Netherlands, Belgium, Denmark and Germany. Brass bands are distinguished from other types of bands using wind instruments (e.g. Marching, Fanfare, Harmonie or wind bands) by their all-brass instrumentation, (as laid down in championship rules), their musical repertoire and their distinctive sound. There is a strong emphasis on inter-band contests, and B&H is closely involved in the organization and promotion of the two major competitions, namely the United Kingdom National Championships and the European Brass Band Championships. The Championship rules which govern the instrumentation of the competing bands influence the composition of British-style brass bands generally.

- (6) Brass band instrumentation comprises soprano cornets (Eb), cornets (Bb), flugel horns, tenor horns, baritones, trombones, euphoniums, and tubas (BBband EEb). B&H manufactures several broad ranges of brass instruments to suit the particular requirements of different customer categories (contesting brass bands, educational, etc.). Its 'Sovereign' range is aimed particularly at contesting brass bands and its '700' range provides a slightly cheaper alternative while still being intended for competing bands. All the leading contesting brass bands in England are composed almost entirely of B&H instruments, and amongst enthusiasts as a whole the first preference is always for B&H. Typically a competing band will consist of 85 % to 90 % B&H instruments. The so-called 'background brass' instruments, i.e. tenor horns, baritones,

euphoniums and tubas, will almost invariably all be B&H instruments. There is some room for substitution in the case of 'foreground brass' (only 15 % of the instruments in the typical band) where the trombones and, to a lesser extent, cornets may be made by other manufacturers. According to the applicants, demand in the Community for brass band instruments is currently worth an estimated 10 million ECU, a figure contested by B&H as being too high. Only one other manufacturer in the world — Yamaha — currently makes a broad range of instruments intended for brass bands. B&H instruments usually command a substantial price premium over the equivalent Yamaha instruments. Despite this price difference, Yamaha has so far made only a limited impression on the market.

BBI

- (7) BBI was set up by the principals of RCN (who were former employees of B&H) and of GHH specifically to compete with the B&H 'Sovereign' range of brass band instruments. BBI based some of its designs on instruments made by B&H's predecessors but in order to avoid copyright problems used only instruments made before 1912 when the United Kingdom Copyright Act came into force. A large proportion of components for BBI's instruments were to be made under contract by a German manufacturer and then assembled in the Luton factory. BBI plans to market a broad range by direct selling to brass bands, in contrast to B&H which sells primarily through specialist brass band dealers. B&H believed that the direct selling methods of BBI would enable that firm to undercut the prices of its retail dealer network, while offering a product of the same technical excellence. According to information reaching B&H, BBI intended to manufacture at the rate of 200 instruments per month, some 40 % of B&H's current production.

The complaint

- (8) The applicants allege that, as soon as B&H became aware in late November 1986 of the existence of BBI and of its connections with GHH and RCN, it took a series of abusive actions to ensure that the new manufacturing venture was eliminated before it could become established.

Certain actions were said to have been aimed directly at BBI but others were (it is alleged) intended to undermine it indirectly by damaging the existing retail and repair businesses of the individuals behind the new venture.

- (9) The most significant allegations may be summarized as follows:

- (a) that B&H had pursued unjustified litigation in the United Kingdom against BBI for breach of copyright which it (B&H) eventually had to abandon but which had the effect of imposing a heavy financial burden on the applicants and of delaying the launching of the new range at a critical time;
- (b) that B&H had managed for some time effectively to cut off BBI's source of components in Germany by bringing an unjustified legal action for 'slavish copying' against the supplier (B&H lost both the initial proceedings and the later appeal);
- (c) that B&H had taken reprisals against GHH and RCN by withdrawing credit facilities and closing their account without notice, refusing them all further supplies of instruments and spare parts, harassing them by oppressive legal proceedings for debt, and in the case of GHH, attempting (unsuccessfully) to procure the finance company with which it worked to repossess GHH's stock.

- (10) The present application for interim measures is concerned particularly with the refusal of supplies to GHH and RCN. No supplies have been made to either GHH or RCN since 8 December 1986 although all outstanding liabilities to B&H have been cleared since March. According to the applicants, their existing businesses are commercially dependent upon B&H and unless supplies are resumed there is a real and substantial risk of their bankruptcy with consequential harmful effects upon BBI.

The arguments of B&H

- (11) The present Decision is not directly concerned with the allegations of vexatious litigation and other harassing tactics but only with the closure of accounts and refusals to supply.

In relation to this refusal to supply, B&H argues that its decision summarily to cut off GHH and RCN was not motivated by any desire to foreclose competition. The reason given to the applicants at the time was that they were bad payers. In the present proceedings B&H maintains this position and argues further that it was, and still is, entitled to refuse to do business with GHH and RCN because they had been 'disloyal and dishonest' in their dealings with B&H. Serious allegations (which

are strongly denied by the applicants) are made which relate to a period of several years ago.

B&H also argues that whether or not its charges are in fact well founded is irrelevant, the important factor being that it strongly believes them to be justified, so that were it now to be required to resume supplies to RCN or GHH on any terms whatever, the morale of its employees would be seriously damaged.

The documentary evidence

- (12) It is correct that just before B&H became aware of the impending entry into the market of BBI it was strengthening its credit control and negotiations were in progress with GHH regarding a rolling payment scheme to clear its arrears (the sums owed to B&H on 'open account' were in addition to those due to the financing agents Borg Warner).

The applicants make the point that at this stage there was no talk from B&H that its account would abruptly be closed, and that the negotiations were being conducted in an amicable fashion. Further, it is said that a large part of the outstanding moneys related to quality disputes and goods which GHH had returned to B&H as defective. It says that it has always met its liabilities to the financing agents on time. Whatever the truth on this point may be, it appears from the documentary evidence obtained by the Commission during an investigation at B&H under Article 14 of Regulation No 17 that B&H regarded the arrival of BBI as a serious threat.

Internal reports and board minutes from November 1986 to February 1987 stress the 'competitive threat' from BBI and refer to 'strenuous efforts to combat this new competitor'.

The documentary evidence so far obtained would appear to support the applicants' claim that the actions taken against GHH and RCN were part of these efforts.

A report from the Chairman of the Board dated 28 November 1986 describes the new operation as a 'serious threat' to B&H and identifies GHH (said to be 'one of our best customers') as being behind it. The report sets out the action already taken by B&H to meet the threat. The first step listed is as follows: 'We are issuing a writ on GHH for the total amount owed to us (i.e. about £ 36 000) and financing agents Borg Warner are taking similar actions on the debt owing to them of about £ 119 000 and also trying to repossess the instruments'.

As for the allegations of fraud and misconduct made by B&H, the available evidence does not support the argument that they were the main reason for the decision to stop supplies. At this stage B&H does not wish details of its evidence to be revealed to the applicants. It would therefore be inappropriate, particularly at the stage of interim measures, for the Commission to consider whether the allegations are well founded or not. If they are relevant, they will have to be resolved either in the main proceedings or in some other appropriate forum.

The effect on the applicants

- (13) According to the applicants, the actions taken by B&H against them have had serious effects. In the first place, the launching by BBI of the new range had been delayed for at least several months. The legal proceedings brought in England and Germany (although ultimately unsuccessful) meant that BBI could not begin operations even on a limited scale until recently at a time of year when very few instruments are sold. The effect of the various actions taken against GHH and RCN has (they claim) not only been to hinder the conduct of those businesses but also to put at risk the personal financial positions of their principals and consequently the viability of BBI. Statements made by GHH at the beginning of the dispute which might indicate that GHH could shift its business to other suppliers are explained as an expression of defiance or as bluff. Stocks of B&H instruments at GHH have fallen to only one third of normal levels and a considerable part is not readily saleable. Evidence has been provided by the applicants of the cumulative financial effect of the actions taken by B&H against BBI both directly and through GHH and RCN. The original working capital available to finance BBI has been exhausted. It is now said to be reliant upon overdraft facilities which are close to the limit set by the banks. The liabilities of BBI are secured against the private assets of the proprietors of GHH and RCN. If the new venture is abandoned the repercussions would extend to their businesses and to their personal finances.

II. LEGAL ASSESSMENT

Conditions for ordering interim measures

- (14) The Commission's power under Article 3 of Regulation No 17 to require the termination of an

infringement of the competition rules includes the power to order interim measures in cases where, *inter alia*, the conduct complained of has the effect of injuring other undertakings and it is essential to ensure that pending a final decision no irreparable damage is caused (Case 792/79 R Camera Care v. Commission ⁽¹⁾).

It is not necessary for the Commission to make a definitive finding that an infringement has occurred. However, before it will grant interim measures in a case such as the present the Commission requires to be satisfied that:

- there is a reasonably strong *prima facie* case establishing an infringement,
- there is a likelihood of serious and irreparable harm to the applicants unless measures are ordered,
- there is an urgent need for protective measures.

Any measures the Commission takes must be of a temporary and conservatory nature and restricted to what is required in the given situation. The Commission must also have regard to the legitimate interests of the undertaking which is the subject of the interim measures. The interim measures may not go beyond the framework of the Commission's powers to order the termination of an infringement in the final decision.

Application of these principles to the present case

Prima facie case of infringement

- (15) The main points at issue in this respect are (i) whether B&H holds a dominant position, and (ii) whether its behaviour constitutes an abuse. At this stage the Commission does not have to make a final determination on these points. The question here is whether legal and factual elements exist showing a reasonably strong *prima facie* case.

Dominant position

- (16) The dominant position referred to in Article 86 relates to a position of economic strength enjoyed by an undertaking which enables it to prevent effective competition being maintained on the relevant market by giving it the power to behave to an appreciable extent independently of its competitors, customers and ultimately of consumers (Case 27/76 United Brands v. Commission ⁽²⁾).

⁽¹⁾ (1980) ECR 119, p. 130.

⁽²⁾ (1978) ECR 207.

Besides the ability to behave independently of competitive pressures, this may also involve the ability to exclude existing competition or prevent the entry of newcomers.

Relevant market

- (17) To determine whether an undertaking is dominant it is necessary to identify the 'relevant market', i.e. the area of competition in which the market power of the allegedly dominant undertaking (and of any actual or potential competitors) is to be judged.

There are many producers of musical instruments supplying the Community. It is not alleged that B&H is dominant in this broad market or even in the wind or brass sectors as a whole. Brass instruments may be used by orchestras, by pupils in schools, or in a variety of types of professional or amateur bands. Within a broad product market, sub-markets may exist which constitute relevant markets for the purposes of the application of EEC competition rules. The essential question is whether the sub-market is sufficiently distinct in commercial reality to allow a supplier which dominates it the power to exclude competition or control prices.

B&H's efforts in the brass field are directed principally towards the particular needs of British-style brass bands. It is in this specialized market segment that BBI intended to compete with B&H (a fact remarked upon by B&H in its own documents). The evidence produced by the applicants indicated that this sector may reasonably constitute an identifiable market (or sub-market) in the Community with its own peculiar conditions of supply and demand. B&H now disputes the existence of any such identifiable market, but it is significant that in several of its own internal documents a discrete 'brass band' market is distinguished (in which it is said to be dominant).

The fact that a market is defined in relatively narrow terms does not exclude the application of Article 86 (Case 26/75 *General Motors v. Commission* ⁽¹⁾; Case 22/78 *Hugin v. Commission* ⁽²⁾). This may be the case particularly where there are significant barriers to entry.

B&H's market position

- (18) On the assumption that the area of effective competition is the one defined above, the evidence

would support the applicants' argument that B&H is dominant. According to the applicants, B&H has a market share of some 80 % to 90 %. As its own documents show, B&H instruments are the 'automatic first choice' of all the top brass bands. The only serious competitor to B&H in this segment so far has been Yamaha, a Japanese manufacturer which after 20 years has, despite its size and resources, been unable to make a significant impression on the specialized brass band market. Competition from other musical instrument producers is peripheral. A high market share does not however on its own create a presumption of dominance. Where, however, a producer enjoying this attribute is able to control prices or restrict the entry of new competitors to the market, the requirements of Article 86 may be met.

Other factors which tend in the present case to support a preliminary finding of dominance include the strong buyer preference for B&H instruments, the price premium of B&H instruments over currently available substitutes, B&H's influence over access to the market by potential competitors through the dependence upon it of retail dealers and its technical lead and experience, its close identification with the brass band 'movement' and the probability of success (unless it is prevented) of the exercise of its market power against the applicants in the present case.

Abuse of dominant position

- (19) A course of conduct adopted by a dominant undertaking with a view to excluding a competitor from the market by means other than legitimate competition on the merits may constitute an infringement of Article 86.

In the present case the documentary evidence indicates that B&H embarked on a course of conduct intended to remove the competitive threat from BBI, and that its withdrawal of supplies from GHH and RCN was part of that plan.

It is well established that refusal of supplies by a dominant producer to an established customer without objective justification may constitute an abuse under Article 86 (Case 27/76 *United Brands v. Commission*; Cases 6/73 and 7/73 *Commercial Solvents* ⁽³⁾).

⁽¹⁾ (1975) ECR 1367.

⁽²⁾ (1979) ECR 1869.

⁽³⁾ (1974) ECR 223.

On the facts of the present case, the dependence of GHH and RCN on B&H products is such that there was a substantial likelihood of their going out of business as a result of the withholding of supplies.

The injury to competition would be aggravated where (as is alleged here) the stated purpose of the action is indirectly to prevent the entry into the market of a potential competitor to the dominant producer.

A dominant undertaking may always take reasonable steps to protect its commercial interests, but such measures must be fair and proportional to the threat. The fact that a customer of a dominant producer becomes associated with a competitor or a potential competitor of that manufacturer does not normally entitle the dominant producer to withdraw all supplies immediately or to take reprisals against that customer.

There is no obligation placed on a dominant producer to subsidize competition to itself. In the case where a customer transfers its central activity to the promotion of a competing brand it may be that even a dominant producer is entitled to review its commercial relations with that customer and on giving adequate notice terminate any special relationship. However, the refusal of all supplies to GHH and RCN, and the other actions B&H has taken against them as part of its reaction to the perceived threat of BBI, would appear in the circumstances of the present case to go beyond the legitimate defence of B&H's commercial interests.

Effect on trade between Member States

- (20) According to the applicants, B&H now has a virtual monopoly of the brass band instruments market in the Community. If BBI enters the market it would be the only serious competitor of B&H in this sector. BBI's planned operation will rely to a significant extent on the import of components to the United Kingdom from other Member States. Its new range of instruments will be marketed in other Member States besides the United Kingdom. The elimination of BBI as a competitor would thus have both a direct and a potential effect upon trade between Member States and affect the structure of competition in the relevant market sector.

Conclusion

- (21) On the documentary evidence currently available, the Commission considers that a sufficient *prima facie* case of abuse under Article 86 has been established for it to order limited interim measures. It

may be however that following a full examination of the case B&H will be able to establish that its actions against GHH and RCN had a valid commercial justification. The present Decision does not pre-empt any ultimate finding to that effect or on the other aspects of the alleged abuse of dominant position.

Likelihood of irreparable harm

- (22) On the basis of the evidence obtained there is good reason to suppose that unless B&H is forthwith required to resume supplies to GHH and RCN those two undertakings will soon be forced to cease trading, with consequential effects upon the viability of BBI. There would also be serious personal financial consequences for the owners of those businesses. An eventual finding in the main decision that B&H had abused its dominant position under Article 86 would be illusory if meanwhile BBI and the other undertakings had been put out of business. If the applicants go into liquidation, B&H will be confirmed as effectively the only producer of instruments suitable for brass bands in the Community.

Urgency

- (23) The particular urgency in the present case arises from the fact that, although BBI is in theory now free to recommence the introduction of its new range, its continued existence is linked financially and commercially to that of GHH and RCN. These two undertakings have been refused supplies of instruments and spare parts by B&H since the beginning of the year and as a result their commercial activities are severely inhibited.

The order

- (24) The Commission therefore intends to make an order which will as far as possible ensure that the applicants are not put out of business pending the final outcome of the administrative procedure by the very means of which the applicants complain. In the present case the most urgent need is to require B&H to resume supplies of its instruments, spare parts and materials to GHH and RCN.

The terms applicable to GHH should be equivalent to those which were applied before the cessation of supplies. Given the state of relations between B&H and the applicants, it would however be inappropriate to require B&H to extend them credit. Delivery should therefore be made against cash or banker's draft. However, if payment is made in this way, GHH should be given the usual 5 % rebate for prompt payment.

As regards supplies of spare parts and materials to the repair business of RCN, B&H should charge prices which are reasonable, although payment should be made in cash.

As regards the duration of the order, it is appropriate to draw a distinction between GHH and RCN. Since it could be said that GHH could not expect to retain indefinitely its special status as a B&H main dealer once the new BBI range comes in, it is fair to limit any order to such limited period as is necessary to enable it to adjust. The Commission considers that a reasonable period is until the end of 1987. During and after that period however GHH should be able to obtain supplies from other dealers and B&H should not prevent it from doing so. ('Guidelines' issued by B&H to its dealers discourage the practice.) In the case of RCN, its legitimate need for B&H spare parts and materials will persist in the foreseeable future not only to recondition B&H instruments taken in part-exchange but also to meet the needs of consumers. According to the applicants, RCN is the major specialist repairer of brass band instruments in the United Kingdom.

- (25) The Commission considers that the legitimate interests of B&H will not be affected adversely by the present Decision. GHH was considered its 'best customer' prior to the dispute and B&H cannot be harmed by resuming supplies on a cash basis for a limited period. The susceptibilities of B&H as to the effect on employees' morale if its management is compelled to supply the applicants are not a decisive consideration.

The Commission has as a condition for granting the present interim measures required GHH and RCN to undertake to deal fairly with B&H instruments and in particular not publicly to denigrate them or use them as a bait or loss-leader. In the event of any breach of this undertaking the Commission reserves the right to amend or cancel the present Decision.

Finally, it is necessary to make provision for periodic penalty payments in the event of any default under the terms of this Decision and to make provision for reporting in the event that B&H is for genuine reasons unable to meet a particular order,

HAS ADOPTED THIS DECISION:

Article 1

Boosey & Hawkes (including its subsidiary companies) ('B&H') is hereby required to meet within seven days of

receipt any reasonable order placed in writing (including by telex or telefax) after the notification of this Decision by GHH or RCN for B&H musical instruments or spare parts or materials intended for the repair or maintenance of B&H instruments, provided that, if the applicants choose to obtain the said instruments or spare parts ex works, B&H is entitled to insist that collection be made by an independent carrier.

Article 2

1. Subject to paragraph 3, B&H is required to make supplies to GHH on terms and conditions equivalent to those applied immediately before the closure of its account. Supplies to RCN shall be made at reasonable prices.
2. B&H shall notify the Commission forthwith of any change in its list prices and terms of trade.
3. B&H shall not be required to supply GHH or RCN except against payment in cash or by banker's draft but in such a case it shall afford GHH the normal cash settlement discount (currently 5 %) granted to 'approved accounts'.
4. Save as otherwise provided in this Decision, B&H's standard terms of delivery for the United Kingdom shall apply to all transactions with GHH and RCN.

Article 3

B&H shall take all reasonable steps by way of quality control procedures to ensure that the instruments supplied to GHH are of merchantable quality and free from defects and that the spare parts and materials supplied to RCN are similarly fit for their intended purpose and free from defects. In the event that any item ordered cannot immediately be supplied, B&H shall forthwith inform the Commission by telex of the reasons for non-availability and indicate the steps it proposes to take to meet the order within a reasonable time or the reasons why it is not possible to do so.

Article 4

B&H shall not prevent or seek to prevent GHH from obtaining supplies of B&H brass band instruments from any B&H recommended brass band dealer.

Article 5

A penalty of 1 000 ECU per day shall be payable in respect of any period during which B&H fails to comply with the provisions of this Decision.

Article 6

The provisions of this Decision as regards the obligation to supply GHH shall continue until 31 December 1987. As regards the other obligations, this Decision shall apply until the termination of the administrative procedure in the present case.

Article 7

This Decision is addressed to Boosey & Hawkes plc, Sonorous Works, Deansbrook Road, Edgware, Middlesex, United Kingdom.

Done at Brussels, 29 July 1987.

For the Commission

Peter SUTHERLAND

Member of the Commission

CORRIGENDA

Corrigendum to Commission Regulation (EEC) No 2837/87 of 23 September 1987 amending Regulation (EEC) No 2640/87 and establishing the fixing of the import levy for millet

(Official Journal of the European Communities No L 271 of 24 September 1987)

On page 10, Article 1 reads as follows :

'Article 1

The text of Article 1 of Regulation (EEC) No 2640/87 is replaced as follows :

"Article 1

Advance fixing of the import levy for cereals falling within subheading 10.07 C II of the Common Customs Tariff is suspended for the period 1 September to 18 December 1987."
