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Cereal foods - marketing



THE CENTRE FOR EUROPEAN AGRICULTURAL STUDIES

E.E.C. ORGANISATION

OF THE

CEREALS MARKET:

PRINCIPLES AND CONSEQUENCES

by

Michel Louis Debatisse

1981

WYE COLLEGE
(University of London)
ASHFORD, KENT

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Occasional Paper No.10
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ISSN 0306 2902
ISBN 0905378 27 X

Price: £7.50

FOREWORD

Cereals are one of the most heavily protected products entering the world market, and so the world market signals do not get through to domestic producers and consumers. A prime example of the isolation of the two, and the consequent distortions, is the cereal marketing regime under the Common Agricultural Policy of the EEC, as described in this Occasional Paper.

Professor Debatisse, a faculty member of IGIA, the Institut de Gestion Internationale Agro-Alimentaire at Cergy (Institute of International Business Studies of the Agri-Food Industry), has gained a wide reputation for his researches into both the French and the international grain trade in the context of the CAP.

This Occasional Paper is a product of the working relationship between IGIA and the Centre for European Agricultural Studies. Both organisations are grateful to the EC Directorate General for Research, Science and Education (DG XII-A-1) for financial assistance which made the translation of this publication possible and hence available to a wider audience of students and others interested in the workings of the CAP.

March 1981

Bernard Yon
Director,
IGIA.

Ian G. Reid,
Director,
CEAS.

CONTENTS

	Page
<u>INTRODUCTION</u>	
The basic policy options	1
<u>1. ORGANISATION OF THE INTRA-COMMUNITY CEREALS MARKET</u>	4
A. The Target Price : Intervention Price System	5
B. Intervention technique for supporting the cereals market	11
<u>2. THE EUROPEAN ECONOMIC COMMUNITY'S EXTERNAL CEREALS TRADE</u>	12
A. Protection against cereals imported from non-member countries : the levy	12
B. Aid to cereals export : refunds	16
<u>3. THE VARIOUS PROBLEMS CREATED BY THE ORGANISATION OF THE COMMUNITY CEREALS MARKET</u>	22
A. Problems on the internal market	24
a) High price to consumers	25
b) Substitution in demand	26
(i) Obligation to incorporate powdered milk	28
(ii) Development of the "silo" system	30
c) Rigidity of agricultural supply	31
B. Problems with respect to external trade	32
a) Failure to observe Community barriers	34
b) Speculation on levies and refunds	36
c) Consequences for exports of cereal-based processed products	40
C. The cost of this policy	41
<u>APPENDIX</u> : Regulations (EEC) Nos. 376/70, 193/75, 2727/75, 2746/75, 1569/77.	

EEC ORGANISATION OF THE CEREALS MARKETS

PRINCIPLES AND CONSEQUENCES

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INTRODUCTION

The basic policy options

In the cereals sector there are two possible basic policy options open to the Member States of the European Community: One is concerned with security of food supplies; the second perceives a situation in which the EEC, as in the case of the United States, Canada, Australia and Argentina, becomes a major world exporter of cereals and relies upon them to help meet its energy bill.

Whilst the policy may be ambiguous, the texts on which the Common Agricultural Market is based are extremely clear. If we consult the Treaty of Rome, we find that not all of the economic aspects are covered. Every citizen of any country in the Community is now well aware that it is essential for his country to export. The French, indeed, have frequently heard the President of the Republic repeat the statement that their agriculture is "France's green oil". They are dependent upon agriculture to recover part of the foreign currency lost to them in purchasing energy. But in fact, they will find this export objective to be totally ignored in the general objectives of the Common Agricultural Policy (CAP).

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The Treaty of Rome (March 1957) founding the European Economic Community, assigns five objectives to the Common Agricultural Policy:

- increasing agricultural productivity
- providing the agricultural population with a fair standard of living
- stabilising markets
- ensuring security of supply
- ensuring reasonable prices to consumers and producers.

In July 1958, the Stresa Conference supplemented this list with:

- setting up agricultural structures which are competitive but family-based
- ensuring common prices at a higher level than world rates
- protecting against outside competition.

The political option is clear: self-sufficiency. All of the objectives are aimed at establishing an agricultural system which will guarantee security of food supplies. This aim has been partially attained, and the recent embargoes have shown it to be fundamental.

Exporting is not, however, a CAP objective. Not only is agriculture not the EEC's "green oil", but the production of surplus foodstuffs is felt as a calamity for Brussels, and one which must be avoided at all costs. Financing a surplus is expensive, with the cost of storage or subsidised sales to non-member countries. It is easy to understand, therefore, that the instruments of a dynamic external policy need to be put in train. Under present conditions this would be so expensive that we find a real tendency to run away from the question, postponing the fatal outcome by means of day-to-day measures.

As far as cereals are concerned, they are no exception. The Nine*Member States can depend on cereals to supply their own needs, but with the rigid organisation of markets, cereal exports cannot be expected to increase, thereby offsetting mineral and energy imports.

Whilst the external agricultural policy of the EEC still has to be established, the question of the efficiency of its internal policy also has to be examined. It is operational; but at what cost? Have the objectives of the Treaty of Rome been met in terms of optimal resource use? To provide an answer to these questions, we first have to examine Community Regulations with respect to the cereals markets, and that, in fact, is the object of this document.

The market and pricing policy is one of the principal constituents of the CAP. It is based on three essential principles:

- a) A common market for all Member States. This implies:
 - i) free movement of products,
 - ii) the removal of customs duty and taxes or national subsidies tending to distort competition,
 - iii) common prices,
 - iv) the bringing into line of administrative health regulations,
 - v) stable monetary parities.
- b) Community preference. This principle has led to the establishment of Common Market protection against low price imports and fluctuations in world prices.
- c) Common funding. The CAP is financed through the Guidance and Guarantee Fund (FEOGA).

Control of the cereals market was introduced on 1 July 1967. At that time, the EEC comprised six Member States. Standardisation of their national policies had begun five years previously. The regulation, as dictated by the Council of Ministers of the Community, was frequently amended. It was totally rewritten in Regulation 2727/75,

* (1980).

which is currently still in force, this again having been amended since publication in 1975.

In contrast to the Community sugar market and the opportunities offered to American farmers for cereals and soya in the set-aside programme, there is no quota system in the Community cereals markets. There is no specified production quota. On the contrary, the system is totally regulated through a pricing policy.

Price fixing within the Common Market is governed by very precisely worded regulations. Each year, acting on proposals made by the Commission in Brussels, the Council of Ministers for Agriculture defines a new pricing system. On a large number of points, however, the Commission is free to apply or reject certain conditions, and to interpret certain regulations or decisions in accordance with the interests of the market. This leads to an extremely serious and disturbing degree of uncertainty for those operating in these markets, who are essentially unable to anticipate trends with any degree of reliability. It will, however, be seen that the powerful economic forces of the markets frequently impose an equilibrium which is contrary to the wishes of Brussels.

1. ORGANISATION OF THE INTRA-COMMUNITY
CEREALS MARKET

The common organisation of cereals markets¹ governs the following types of produce:

- a) soft wheat, rye, barley, oats, maize (other than hybrid maize used for sowing), buckwheat, millet, alpist, sorghum and other cereals
- b) hard wheat
- c) products obtained by processing the above, such as flour, meal, semolina.

¹ EEC Regulation No.2727/75.

Products or by-products obtained from processing, and a certain number of forage products used as substitutes for cereals are also covered to a greater or lesser extent by the regulations. These, however, will be discussed only in the third section, and more briefly. The regulation defines a price and exchange system. From these two aspects, the cereals market is subjected to greater control than is the market for any agricultural produce other than, possibly, sugar, for which production quotas at differential prices are laid down every five years.

Clearly, control as complete as this must involve a certain rigidity and, as a result, certain associated adverse effects. These problems are described in the third section of this study: in order to understand them fully, it is necessary to have a relatively detailed description of the Community market organisation.

Control is based on the definition of three prices, which are fixed each year, on the proposal of the Commission of the European Communities, by the Council of Ministers of Agriculture of the Nine* Member States of the Community. These three prices apply to the following season: from 1 August to 31 July of the following year. These fixed prices are based on a standard quality for each cereal. Community pricing is based on a system of:

TARGET PRICE : INTERVENTION PRICE : THRESHOLD PRICE

The threshold price relating to cereals imported from non-member countries will not be examined until the second part of this study.

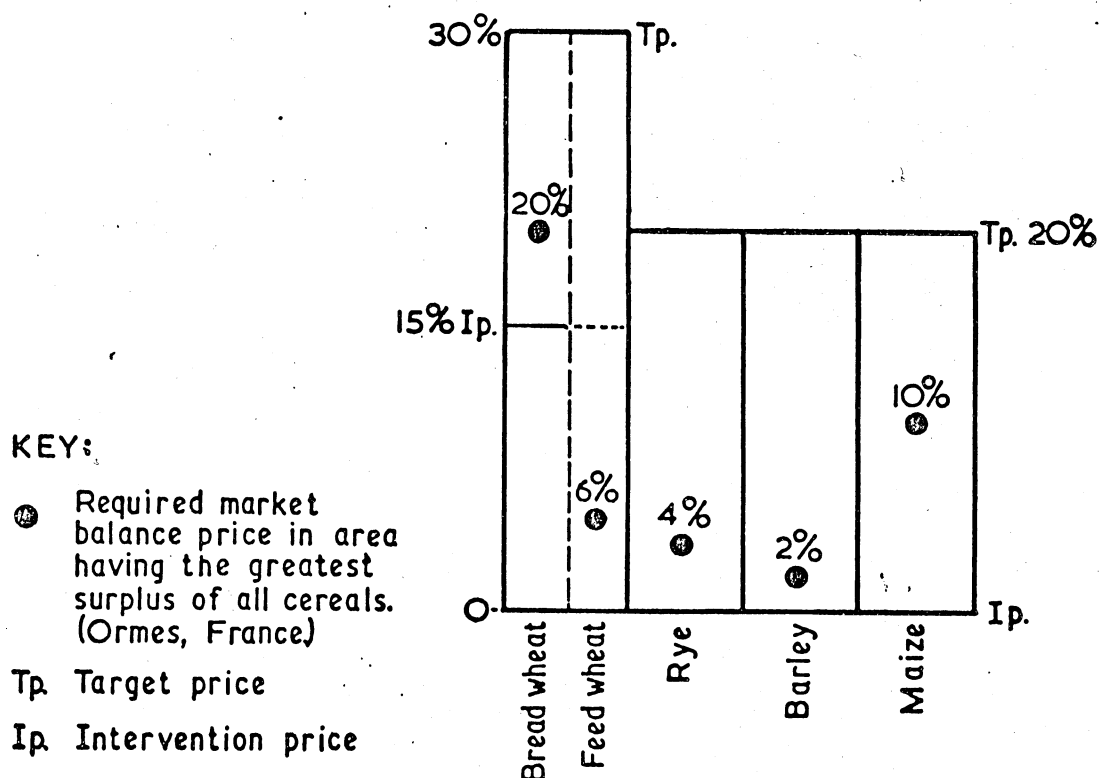
A. The Target Price : Intervention Price System

The system of organising the internal cereals market has been totally re-arranged since the 1976/1977 period. Regionalisation of prices in particular, has simply been abolished. The new system, frequently referred to as the "silo" or even "cathedral" system, as a result of the shape of the associated price diagram¹, has been in force since that time.

¹ See Figures 1 and 2.

* (1980).

Figure 1: The ideal silo: required price organisation



A mechanism for balancing prices on an inter-regional basis ties the target price to the intervention price. To explain this system, we shall begin with the target price.

The target price is a price established as the market equilibrium objective in the area in which cereals are in shortest supply, i.e. Duisburg in Germany. The target price is therefore fixed for this area, where the imbalance between supply and demand is at its greatest.

The target price has to be calculated using the so-called "objective" method. In brief, this objective method takes into account the costs of production factors, the upward trends in yields, and intermediate consumption costs in calculating a price which allows the same technical level to be maintained on technically developed

agricultural enterprises. To this end, a voluntary statistical and accounts organisation, the RICA¹, enables the Community Central Statistics Office to define a statistical average for agricultural enterprises. This theoretical farm produces a certain quantity of all items of Community agricultural produce. The only prices defined by the Council of Minister of Agriculture for all products under a régime are the target prices (in some cases, for specific items of produce, termed "guideline prices" or "objective prices"). The prices proposed "objectively" by the Commission are therefore the target prices. These cover cereals, sugar, olive oil, rapeseed, sunflower, milk, wine, beef and veal, tobacco. In addition, the Commission, in its search for the greatest possible efficiency in managing the markets, takes into account:

- a) the supply and demand balance inside the Community (undoubtedly a difficult question for the forthcoming season), and
- b) the trading position for these items with respect to non-member countries.

Set against the calculations obtained from the objective method, Article 3 of Regulation 2727/75 requires the target price for cereals to be derived from the intervention price at Ormes (France), being the area with the greatest surplus of all cereals. It is probable that secret negotiation between the originators of both types of calculation enables the Commission to put forward a single target price for each cereal. In addition, this same Article 3 cleverly specifies that derivation of the target price from the intervention price must also take into account a further, imprecise factor, viz. "the market element". In this way, the objective and derivational methods are rendered compatible. The derivational method enables the target price at Duisburg to be obtained by adding to the intervention price the various costs involved in transferring grain from the area of Ormes to that of Duisburg. All we have to fix now is the level of the intervention price.

¹ Réseau International du Comptabilité Agricole (RICA).
Farm Account Data Network (FADN).

In its definition of "silo", the Brussels Commission fixes the intervention price such that the equilibrium prices in markets in the area of Ormes are higher by:

- a) 2 per cent in the case of barley
- b) 6 per cent for non-bread grade soft wheat
- c) 10 per cent for maize¹.

However, a single intervention price is established to cover non-bread grade soft wheat, barley and maize. This intervention price applies to the whole of the EEC and constitutes the basis of the silo.

Primarily, the intervention price concerns approved collection agencies for cereals (co-operatives, local traders or certain processors). This is the price at which the nine Member States' intervention offices support the market for the first ten months of the year (from 1 August to 31 May). The farmer may thus be paid a lower price in order to take into account handling costs and any collection agency profit margin.

The first adverse effect of this system, introduced in 1976/77, was a marked tendency on the part of farmers to grow high-yielding varieties which, unfortunately, had a lower protein value. From the 1977 period onwards, a distinction has been made between bread wheats and feed wheats. Since then, soft bread grade wheat should benefit from a 12 to 13 per cent higher market price than the intervention price. In order to make a distinction, this is termed the "reference price". In 1980, the reference price was accepted as an intervention price for bread wheats. The Official Journal of the Communities² described the operational method (a dough test) used for laboratory determination of bread-wheat as distinct from non-bread or feed wheat.

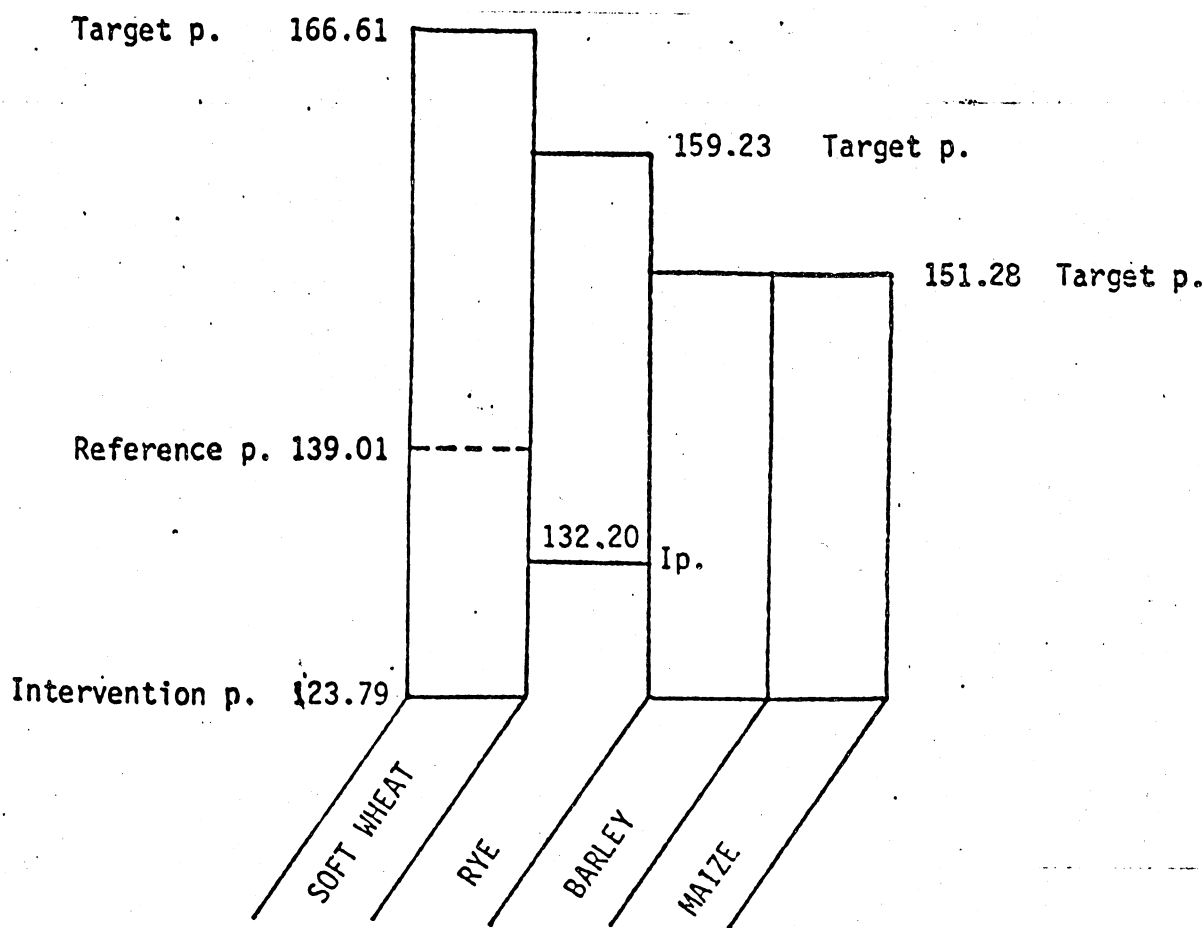
¹ See Figure 1. This market price balance would in fact represent the imbalance of fodder values. In other words, maize would have a nutritional value for cattle such that, even at a price almost 8 per cent higher than that for wheat, it would still be competitive.

² These are described in EEC Regulations Nos. 1831/76, 1155/77, 1549/79.

There is no intervention price for oats or millet. The intervention price for rye is approximately 7 per cent higher than that for barley, maize and soft wheat¹: that for durum wheat is approximately 67 per cent above that of the latter three cereals.

Hence the price scale varies according to area within the Community, from the minimum level of the intervention price (or reference price) to the maximum level of the target price². Regional supply/demand balances are freely adjusted between these two limits as a function of transfer costs (transport + on and off-loading costs + sundry sales administration costs + operator's margin, etc.).

Figure 2: Intervention prices and target prices for 1979/80 period (ua/t)



¹ See Figure 2.

² See Table 2: Intervention prices and target prices, 1967/77 to 1979/80.

Markets also have to be balanced over time. Monthly adjustments, fixed for the past three years at 1.45 ua/tonne, are designed to offset storage costs. These monthly increases avoid any flooding of the market at the very beginning of the season. Putting produce onto the market in this way would lead unavoidably to excessively costly intervention. These increases apply up to and including May. Official collection agencies complain that these adjustments are inadequate. Aid for storage and its financing as offered by certain Member States may perhaps change this view. In any case, how many of them have a true cost accounting system, with reasonable allocation procedure?

Whatever the answers to these questions might be, the monthly increases cannot correspond exactly to the storage costs:

- for certain collection agencies, they will be insufficient, and these agencies will endeavour to spread their grain purchases over the entire duration of the season. They will seek to rid themselves of their stocks as quickly as possible, even to the extent of buying forward. In this way, they will have the storage function carried out by others.
- for others, who are receiving substantial financial aid, these monthly increments will be too high. Indirect Community aid of this kind will represent an additional means of financing their activities. They will therefore endeavour to store the maximum amount, and make the system pay.

The consequences of these points is that in the past low interest financing of French stocks has benefited the importer countries: that is, the other eight*Member States, which waited the maximum possible time before importing. The burden therefore has lain with France, who apparently believed that the Community regulations and monthly increases suited her interests exclusively as the major producer.

* (1980).

B. Intervention techniques for supporting
the cereals markets

The Community regulations¹ list the centres able to undertake intervention. These are intervention centres intended for one or more clearly defined type of cereal. They are located in areas which may at any time have a surplus in that type of cereal. For 1979/80, the EEC has 658 intervention centres for soft wheat. With the exception of bread wheat (where there is a three-month obligation), they are required to receive minimum quality grain throughout the entire year². Payment is made at the adjusted intervention price for the first ten months as indicated above.

The intervention price is defined for a standard quality. A correction (premium or discount) is applied to take into account the quality actually supplied.

The Commission guarantees (intervention A) intervention for the first three months of the year. Over subsequent months, intervention C provides for aid in storage and differential purchasing according to region. The Commission may also encourage exports outside the EEC to restrict any need for intervention which it might foresee.

These intervention stocks may subsequently be either put back onto the domestic market - on condition that they do not disturb that market - or sold to non-member countries, still benefiting from FEOGA refunds³. In both cases, sales are effected by award to the highest bidder (for a return to the domestic market, the price must be at least 1.50 ua/tonne higher than the intervention price applicable at the time of the award)⁴.

When stocks remain at the end of a season, the Commission may agree a compensation allowance. In the case of maize, this is limited to stocks in surplus production areas (all of which are located in France). This aid is extended to malt. The monthly price increases end in May:

¹ EEC Regulations Nos.1487/79 and 1840/79.

² These are described in EEC Regulation No.1569/77.

³ See second part of this study.

⁴ EEC Regulation No.376/60 and amendments.

there was in fact a risk that all quantities in stock at that time would surge into intervention. In this way, the term is extended and users' supplies are maintained without interruption.

The maximum compensation allowance at the end of the year is equivalent to the difference between the target price for the last month in the season, and that for the first month of the new season. In effect, the monthly adjustments have over a period of ten months increased the target price and the intervention price for the season. In May, therefore, it reaches a higher level than that in August of the following season. Collection agencies, cattle feedstuffs compound manufacturers and millers are entitled to receive this allowance if they submit minimum quantities and uniform qualities of grain.

2. THE EUROPEAN ECONOMIC COMMUNITY'S
EXTERNAL CEREALS TRADE

A. Protection against cereals imported from
non-member countries: the levy

Generally speaking, the Community's internal prices, supported by the intervention policy described above, are very much higher than those of external markets. Thus, at the end of February 1980, bread-grade wheat f.o.b. Creil (barge despatching area to the North of Paris) was sold at 950 francs per tonne, whilst at the same time in the production areas of the American Mid-West, the price per tonne was the equivalent of between 650 and 700 francs. At the same time, the relationship between maize prices went from 435 francs per tonne in Chicago to 937 francs per tonne at Creil. A difference such as this between prices in two areas of surplus - hence areas exporting to other regions - is possible only as a result of the system of Community protection against cereals from non-member countries.

The protection system is based on the payment of variable levies on imports into the EEC. All imports into the Community are subject to the presentation of an import certificate¹ issued by the intervention

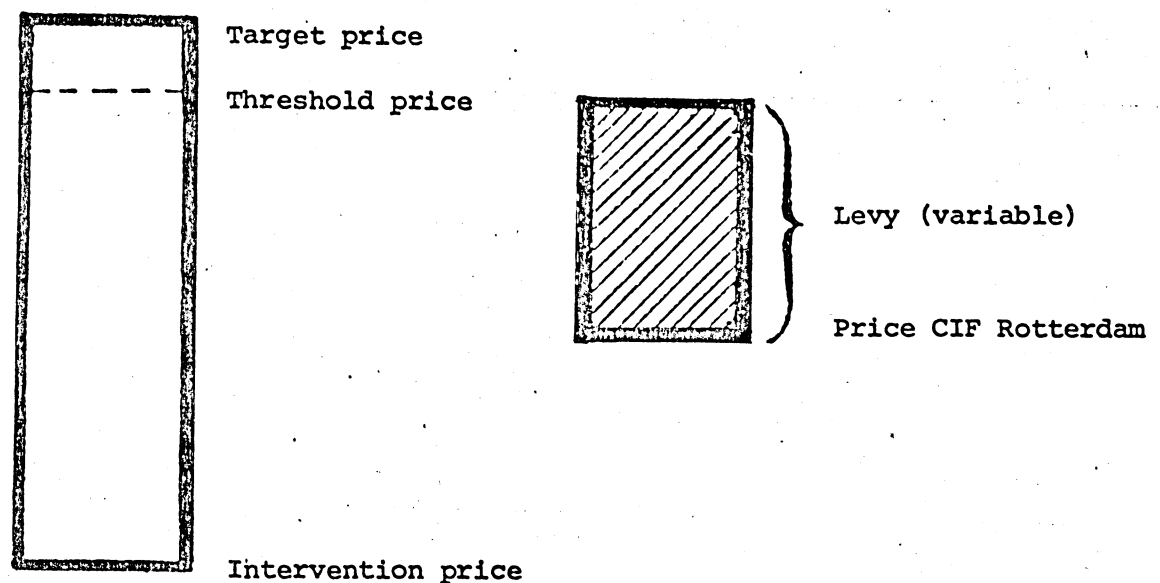
¹ EEC Regulation No.193/75 as amended.

organisation of a Member State, and to payment of a levy. This certificate gives the right to import into any country within the Community. A deposit has to be provided by way of guarantee for the undertaking to import. This certificate may be transferred once to another importer. Its period of validity is fixed by the Commission, being forty-five days at the beginning of 1980.

On the day of importation¹, the levy is calculated by deducting the price c.i.f. Rotterdam from the threshold price of the cereal concerned. The c.i.f. prices applied should relate to grain imported from non-member state countries and purchased under the most favourable conditions: particularly in sufficiently large quantities to be representative on the grounds that they benefit from economies of scale on transport and administrative costs involved in the operation.

Co-efficients are published in the Official Journal of the Communities, in order to relate the prices of the various quantities imported to the standard quality on which the threshold price is based. Quality being equal, it is the lowest price which is used to calculate the levy.

Figure 3: Method of calculating import levies



¹ See Figure 3.

The Brussels Commission has full authority to fix the c.i.f. price which is the most representative and, possibly, to adjust that price. More particularly, it does not have to follow the indications given by the Cereals Committee of brokers, traders and importer consumers at the port of Rotterdam¹.

Let us return to these threshold prices which we have not yet defined². These are calculated and published each year. They are fixed for the port of Rotterdam but are valid for all ports in the EEC. They are fixed at a level such that grain from Rotterdam reaches Duisburg (the area with the greatest shortfall in the EEC) at target price level. Deducted from the target price, therefore, are carriage from Rotterdam to Duisburg, the cost of trans-shipment onto barges, and an agreed profit margin for the importer.

In this way, the EEC is protected by a customs barrier. Cereals from non-member state countries where prices are generally lower, are subject to variable levies to bring them up to the minimum entry price: the threshold price. At the same time, this price forms a maximum limit to fluctuations in the Community's internal prices. In fact, the maximum limit will be the target price since, in order for imported cereals to compete against the Community's cereals in markets with a deficit in a specific type of produce, the varying transfer costs affecting the threshold price have to be taken into account. When internal prices recorded at any particular place reach the level of the threshold price plus the costs of transport from the port of importation to that place, then, but only then, are cereals from non-member states allowed under the rules of free market competition to enter the Community. We should, however, remember that in order for this domestic price stabilisation system to operate satisfactorily, it is essential for the c.i.f. Rotterdam prices to be lower than the threshold prices. In the eyes of the EEC Ministers, the existence of the threshold price justifies the statement whereby, in accordance with the aims of the Treaty of Rome, consumers in the Member States are protected against excessively high increases in the price of their

¹ Het Comité Van Graanhandelaren.

² Table No.1.

TABLE 1: Threshold prices for 1976/77 to 1979/80
(ua/tonne)

	<u>1979/1980</u>	<u>1978/1979</u>	<u>1977/1978</u>	<u>1976/1977</u>
Soft wheat	163,32	159,40	155,15	149,30
Hard wheat	226,15	221,30	221,30	216,10
Barley	147,98	144,25	142,000	135,10
Rye	155,92	152,15	152,15	146,45
Maize	147,98	144,25	142,000	135,10
Oats	142,35	138,75	136,60	130,000
Sorghum/Millet, Buckwheat	145,66	142,000	139,80	133,00

cereals. In fact, only the domestic price of maize has been limited by this maximum barrier, but it might also be commented that direct supply from the United States would have cost even less. Self-sufficiency and farmer protection objectives have prevailed over the interests of the consumer. In the third section of this study, choices such as these will be seen to give rise to numerous upsets and various costs, which are frequently disputed.

B. Aid to cereals export: refunds

As stated in the introduction, the Community regulations are aimed at self-sufficiency.

The system works well only in a situation of deficit on the internal market, and world prices as reflected in the c.i.f. Rotterdam price which are lower than the threshold price. This is quite definitely an easier situation to manage than that recently faced by the EEC, which we shall be examining at a later stage in this study.

However, even within the general context of a global domestic deficit, there is additional flexibility enabling the internal market to be properly balanced. Thus certain types, certain qualities of cereal are in surplus in the EEC. As we shall see, surplus situations such as these are due to a faulty conception of the price structure. Domestic prices are equally affected, and there could be a risk of seeing an accumulation of intervention stocks. The Commission, anxious to rid itself of this burden, is compelled to agree to their being exported. However, world prices are almost always lower than the EEC domestic prices, and in such circumstances, traders can only purchase in the Community for re-sale to non-member countries thanks to financial aid from FEOGA, this variable aid being known as a "refund".

The rules relating to the granting of export refunds¹ require them to be fixed taking into consideration:

- a) the situation and potential development with respect to cereals prices on the internal market and on the world markets

¹ Article 2 of EEC Regulation No.2746/75.

- b) the Community's objective of balancing markets and avoiding surpluses or shortfalls
- c) the economic aspects of exports.

This definition will be seen to be sufficiently vague to leave full discretion to Brussels and its Cereals Market Management Committee. It omits to mention that it must also take into account FEOGA's financial resources, which are not unlimited, as indeed is currently demonstrated.

An export certificate is filed by the trader with an intervention office in one of the Member States, following a very precise administrative procedure. At the same time, he has to pay a guarantee deposit¹.

This certificate may, if the exporter so wishes, mention the amount of refund applicable on the date of filing. It is then said to pre-fix the exporter's refund, and the guarantee deposit paid in this case is higher. Since the certificate can be transferred once, within the limits of the guarantee deposit, pre-fixing has become a means of speculation for certain operators.

The refund value - which varies according to the type of cereal - is fixed each week by the Cereals Market Management Committee, comprising representatives from the Member States. The amount of refund is equal to the difference between:

- (i) The price of the produce as purchased in the EEC and transported on the most favourable terms to the ports and other places of export, and
- (ii) The most favourable rate recorded from the various markets of the non-member importer nations.

¹ EEC Regulation No.193/75, as amended.

It is interesting to note that transport costs to the non-member country are not specified in the regulation. This is no doubt one of the principal reasons which have led exporter nations such as the United States to see refunds as a subsidy pure and simple, providing direct competition on unequal terms with their produce in client countries. It might also be noted that the text of the regulation claims that produce from the exporting country will not alter the state of the market, and hence the price in the country of destination.. We shall be returning to these problems of distortion of markets and cost of the CAP in the third section of this study.

A second procedure for fixing refunds is that of tendering. Here, the Commission draws up an invitation tender¹ which basically sets out the total quantity for which the refund is fixed, together with dates for the submission of bids (at least fifteen days after the notice). Interested parties submit their bids in writing, and put up a deposit. The award is, of course, made to the lowest bidders. If the award is made, they then have to apply for an export certificate which fixes in advance the amount of the refund bid submitted.

Refunds are thus seen as compensation for the price differential between the internal EEC market and the importer country market. For refund purposes, differentiation is made between seven destination areas:

- ZONE I Countries around the Mediterranean, in Europe, North Africa and the Middle East.
- ZONE II Scandinavia, Poland and Baltic ports in the Soviet Union.
- ZONE III Other countries in Eastern Europe and Soviet Union ports in the Black Sea.
- ZONE IV Mexico, Central America, South America, and the West Indies.
- ZONE V Other countries of Africa, Madagascar, Comoro Islands, and Mauritius.

¹ EEC Regulation No.279/75.

ZONE VI Sudan, Ethiopia, Iraq, Iran, the Arab Peninsula.

ZONE VII Far East, Asia, Oceania.

Refunds are paid only on production of proof that produce has actually been exported from the Community and has reached its destination. Although a distinction is made between the different zones in the regulations, the allocation of a single refund amount for a given quantity of cereals apparently no longer requires the destination to be monitored. Exporters endeavour to find the optimum destination in accordance with the amount of refund accepted by the weekly Management Committee.

Exporters can speculate on refunds as a result of pre-fixing (even in the case of allocation). All that is necessary is to succeed in pre-fixing prior to an increase in price on the world market. The regulations¹ do, however, allow the Commission the possibility of applying a corrective factor taking into account aspects which are sufficiently vague to enable almost any action to be taken.

This corrective factor may even vary according to destination (Article 3). This procedure does not, however, seem to have been applied since refund allocation became the rule.

Finally, the regulations provide for conversion of refunds into Community levies as soon as the prices in non-member countries become higher than the threshold prices, so as to prevent any export of cereals towards such destinations, since security of supply within the EEC remains a principal objective. This action was taken between August 1973 and February 1974.

In 1978/79, the EEC's external trade in cereals and cereal equivalents showed a net export balance of approximately 2 million tonnes. This figure covers a net import balance for maize, amounting to approximately 11 million tonnes² and net export balances for barley and wheat.

¹ EEC Regulation No.128/75.

² See Figure 5.

Figure 4: EEC's usable production of cereals, wheat, barley and maize

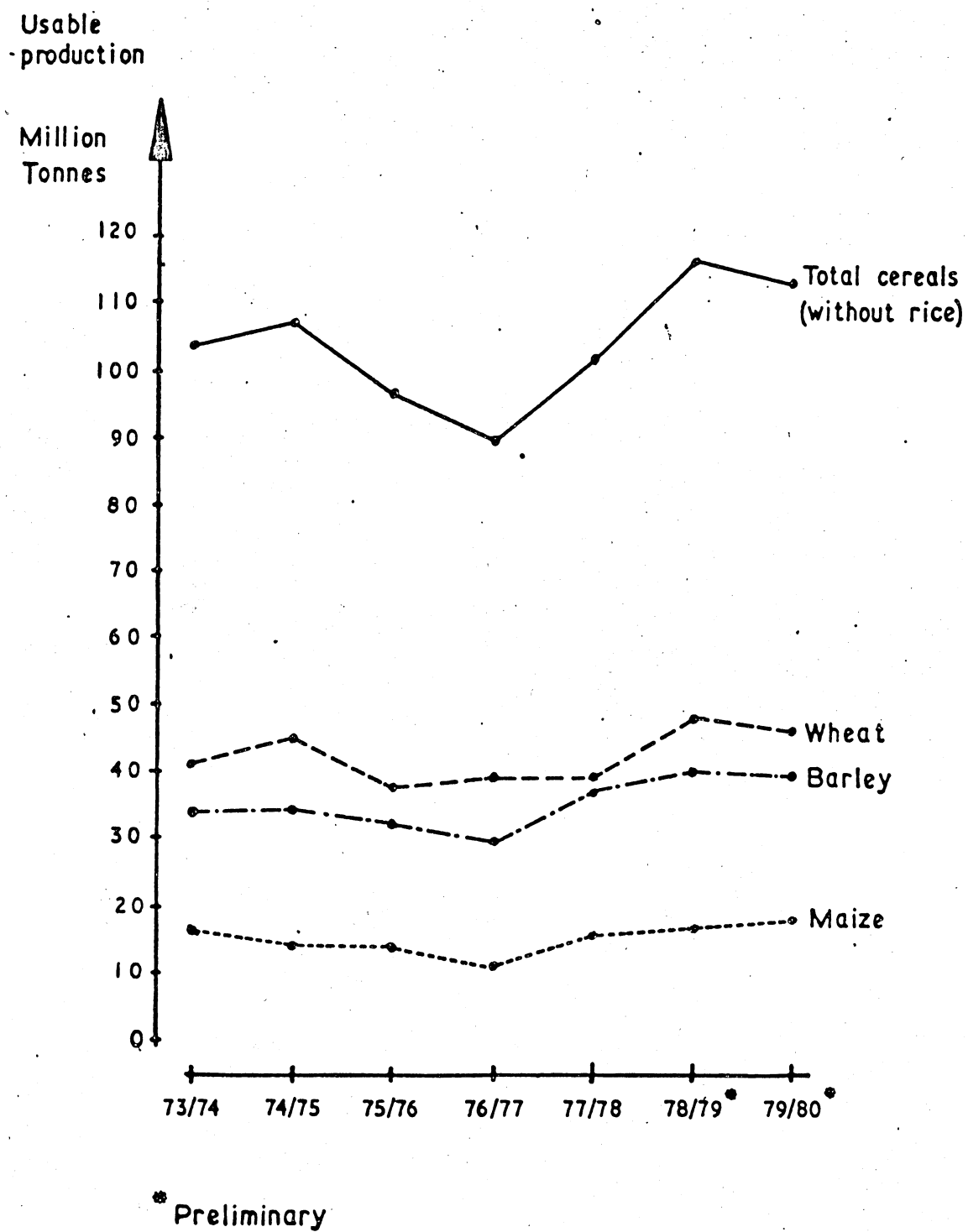
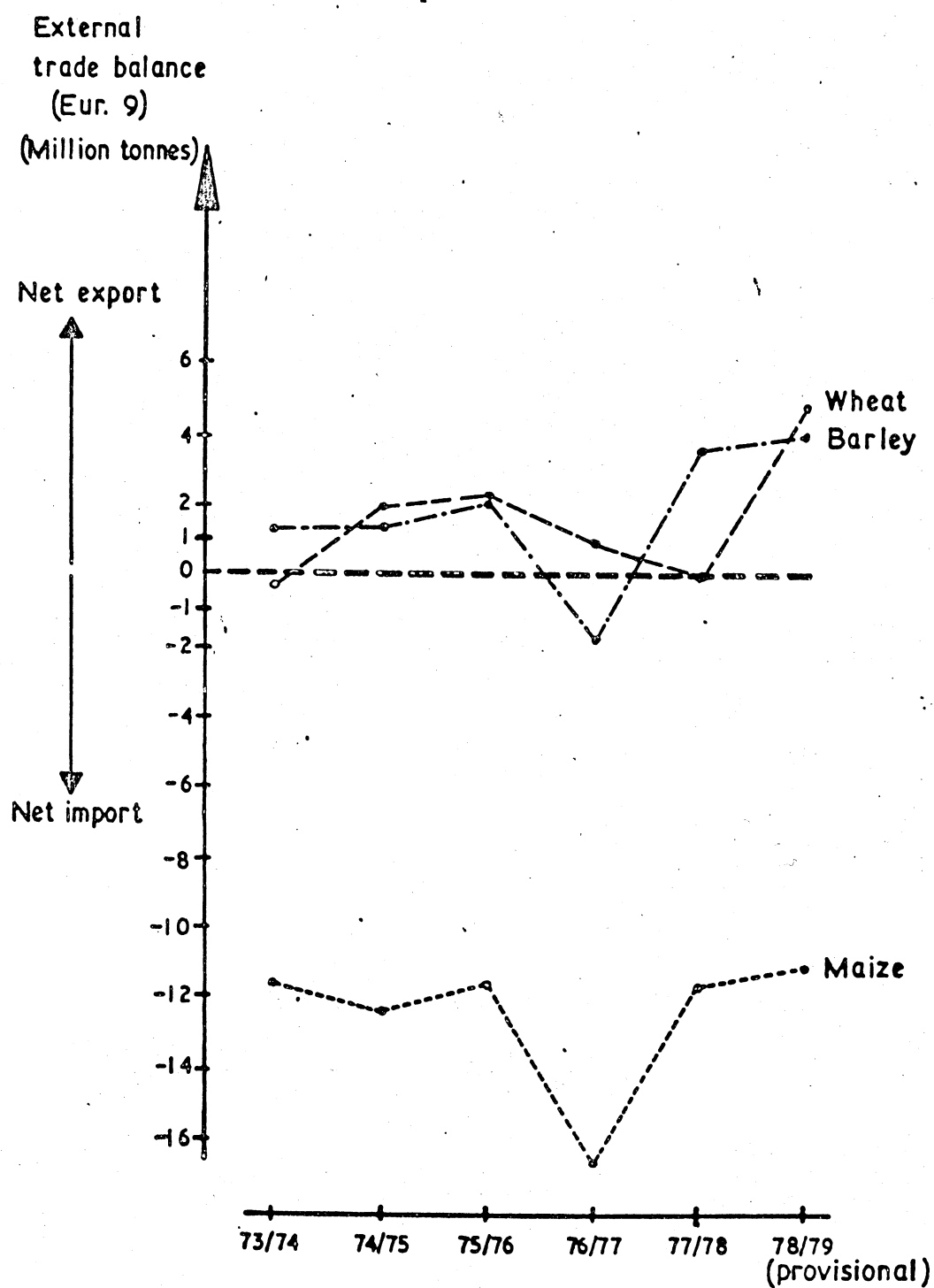


Figure 5: EEC's net external trade balance for wheat, barley and maize



Source: Eurostat

3. THE VARIOUS PROBLEMS CREATED BY THE ORGANISATION
OF THE COMMUNITY CEREALS MARKET

The EEC has a level of cereals production which, excluding rice, set it (in 1977) in fourth position in the world ranking after the United States, USSR and China¹. This represents approximately 10 per cent of world production of wheat, 19 per cent of barley, 4 per cent of maize, and 13 per cent of oats. Inside the EEC, France is the largest producer of cereals, with 43.9 million tonnes, followed by Germany with 22.0 million tonnes, the United Kingdom with 17.3 million tonnes, and Italy with 16.5 million tonnes². In fact, the importance of the cereals sector (approximately 12.3 per cent of Final Agricultural Production in 1978) is even greater if the quantities used for consumption on the farm is included. Consumption derived from own production is estimated at approximately one-third. The statistics for EEC trade with non-member countries have, however, regularly shown a deficit since 1973/74, seen as net imports of:

	<u>Million tonnes</u>
1973/1974	12.2
1974/1975	6.2
1975/1976	9.0
1976/1977	19.9
1977/1978	8.4

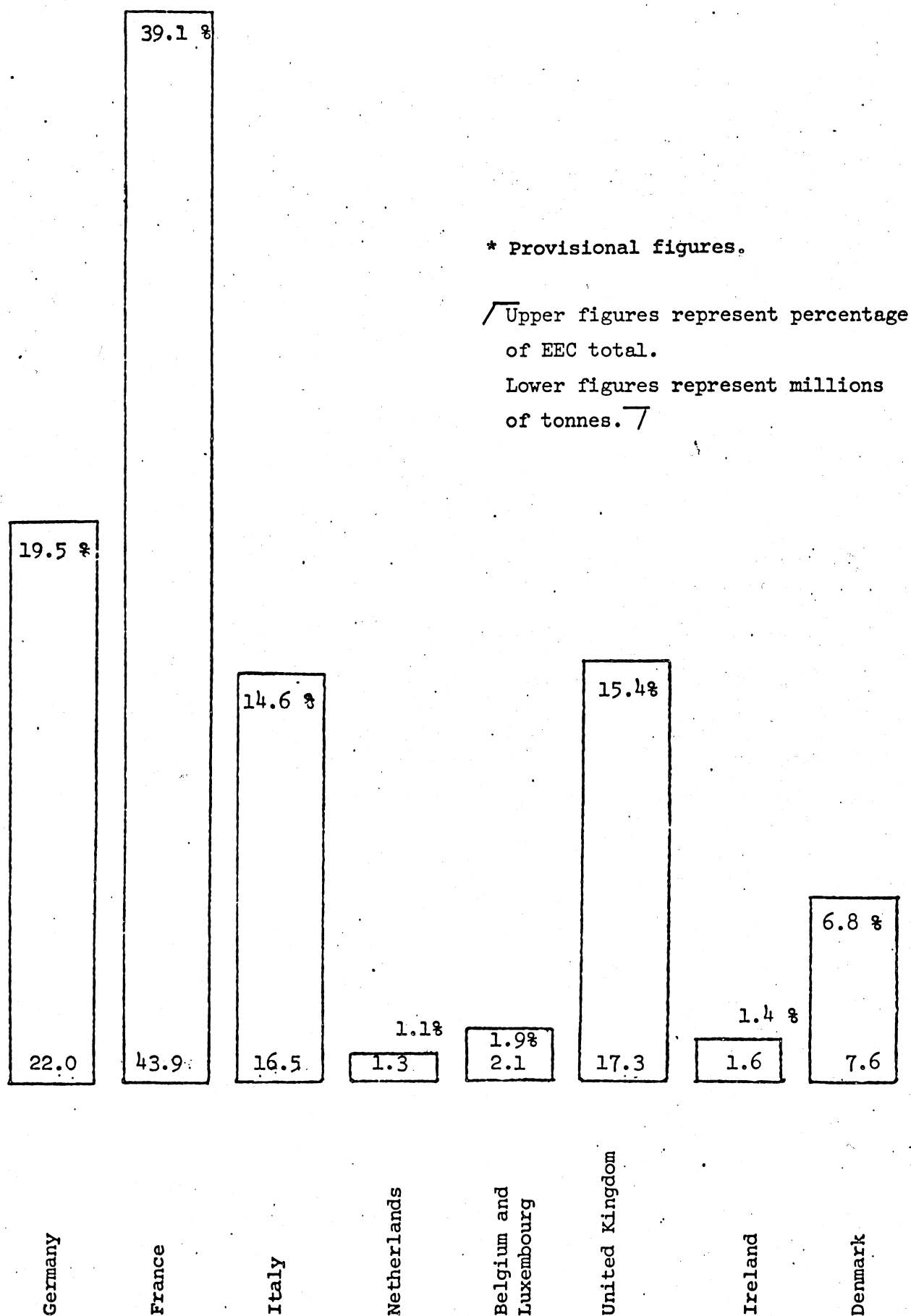
However, 1978/79 was a turning point, with a net export balance of approximately 2 million tonnes, involving an increase in stocks at the end of the season, to approximately 12.5 million tonnes.

The CAP is, of course, one of the essential factors causing these results. Since its introduction, it has offered an area of price stability in the midst of an international market subject to enormous fluctuations. This instability of markets in the rest of the world is primarily due to the climatic factor, this in itself having given rise to extremely large variations in the USSR demand for cereals.

¹ FAO production statistics in millions of tonnes:
United States; 259.7, USSR; 208.8, China; 126, EEC; 103.4

² Preliminary production figures for the 1979/80 season.
Source: Eurostat, Figure 6.

Figure 6: Usable cereals production (excluding rice)
per country in 1979/80*



These stable prices in the EEC are, in addition, extremely profitable. Thus they have enabled EEC farmers better to withstand the increases in the prices of their inputs (energy, fertilisers, machinery). Cereal farming in the EEC has therefore undergone a regular pattern of development, without being too much affected by uncertainties and attack from imported produce.

In this way, the EEC has been able to retain a relative independence which is politically quite appreciable. There nevertheless remain a considerable number of difficulties - even inconsistencies - in the system thus established, when the Council of Ministers of Agriculture in the Community will one day be forced to face. The problems involved may, for the purposes of this study, be divided into two main categories: those affecting the intra-community market, and those concerning relations with non-member countries, both categories having an effect upon one another. All these consequences can, in any event, be translated into financial terms, as an ever-increasing cost of supporting the policy described above.

A. Problems on the internal market

Virtually all of the adverse effects of the EEC's cereals organisation are attributable to the consequences of its pricing policy:

- a) the prices of cereals are reflected in the cost price of products in which they are used, such as products from the bakery and pastries and animal feeding stuff industries.
- b) faced with these high-priced raw materials, cereals users have sought and found many less expensive products to use as substitutes.
- c) finally, there is no longer any incentive to match supply with demand.

It could be claimed that these serious consequences are simply the cost which has to be accepted in order to create a powerful agricultural EEC having a market free from internal barriers. However, even this objective cannot be claimed to have been attained, since there have been no true common prices, given the fluctuations which exist between the various EEC currencies. In addition, the EEC is still the world's largest importer of agricultural foodstuffs, not only tropical products but also cereals and protein products. In 1978, it imported approximately 52 per cent of the world's trade in oilcake and oilseed meals¹.

a) High price to consumers

It is hardly necessary to state that the high cereals prices represent high raw material costs for the primary (milling and semolina) and secondary processing industries (bread, pastries, and pasta making). Although lessened by the increased productivity achieved in these industries, their supply costs are nevertheless to a large extent passed on to their customers.

The phenomenon is all the more delicate to deal with, in that cereals constitute a prime input for livestock production. A little under 10.8 million tonnes of wheat, 26 million tonnes of barley and 21 million tonnes of grain maize were used as animal feedstuff in the Member States in 1977/1978. Pig and poultry farms are the major consumers. It so happens that pig production also benefits from minimum intervention prices known as "base prices". In price negotiations in Brussels, the price of cereal raw materials involved in pig feeding had to be taken into account. The pig breeders' negotiating tack consisted of proposing high technical co-efficients for the use of cereals per kilogramme of pork. The more cereals required, the more costly pork production became, and the more it became necessary to support pork prices at a high level.

¹ Baudin, P., "L'Agriculture Européenne dans le Monde" in l'Europe Verte No.167, January 1980, Direction de l'Agriculture, Commission of the European Community, Brussels.

² Source: Eurostat.

In fact, French pig producers were absolutely insistent on this point. Their foreign colleagues, who used less cereals in their pork production, allowed them to obtain satisfaction. Satisfaction having thus been given to the French pig producers, their next interest lay in reducing the proportion of cereals in the rations used and turning to cheaper sources of protein. Soya cake and manioc won the day.

It was a case of the bitter bit. French breeders discovered later that they were paying more in French francs for their imported purchases than their colleagues in countries with stronger currencies. They then asked for the abolition of the monetary compensation system set up to counteract price distortions due to fluctuations in the exchange rate, arguing that the advantage held by the Netherlands, Germany and Belgium, was not offset by the lower price of cereals used in France. Consequently, they had to admit that the amount of cereals used in pig feed was now considerably lower than it had previously been.

This example of the vicissitudes in the life of the Agricultural Common Market indicates that decisions taken in Brussels on the price of cereals have multiple repercussions on the various users. These include greater liberty on the part of animal feedstuffs manufacturers to modify their supplies.

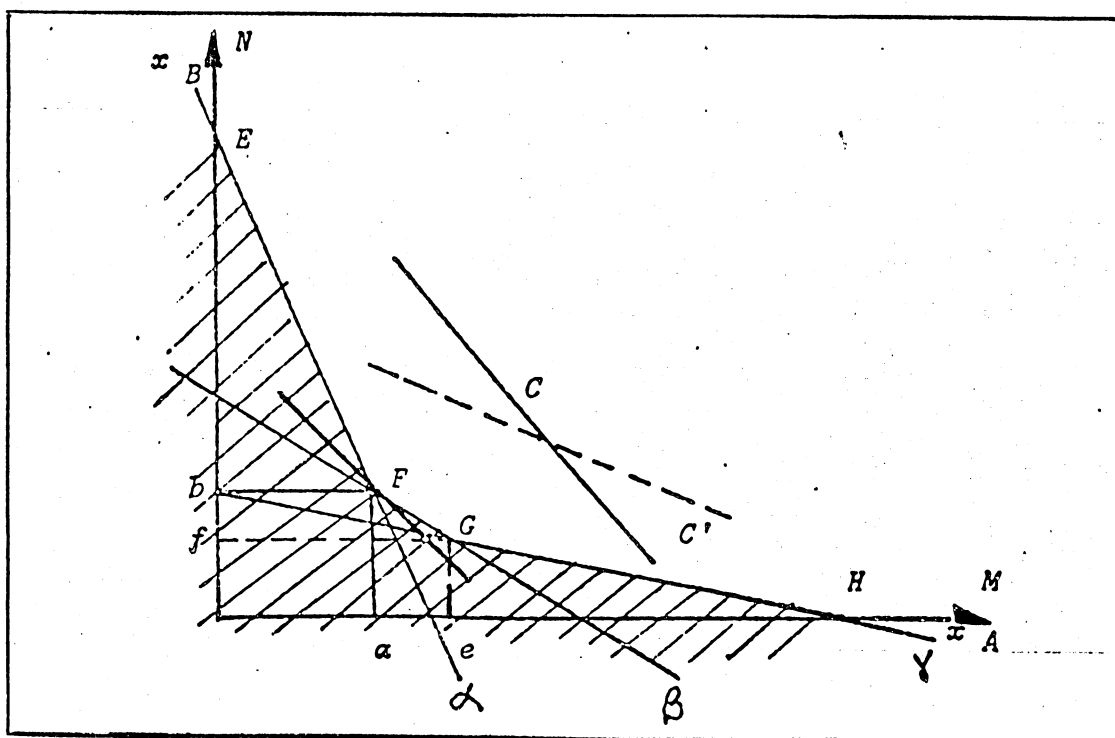
b) Substitution in demand

The EEC animal feedstuffs industry uses highly sophisticated mathematical techniques of linear programming for optimising animal rations. The criterion adopted is the ratio of quality to price of raw materials used. For a given nutritional level of the finished product, the total cost of materials employed is minimised.

Buyers in this industry regularly receive lists giving price brackets within which they should purchase given quantities of raw materials over the forthcoming weeks. If the prices are outside these limits, different quantities will be indicated. In this way, the computer directs purchasing in this sector.

A simple chart¹ illustrates the principle of this method. Constraints X and B represent minimum quantities of energy (X), and nutriment (B and γ) necessary in the ration. The straight lines representing these constraints show the possible combinations of the two raw materials A and B providing these minimum quantities in the ration. The combinations of A and B meeting these constraints are found in the non-hatched area (including the limit NEFGHM).

Figure 7: Consequences of a fluctuation in the relative prices of cereals on supplies to the animal feedstuffs industry



The slope of line C represents the relative prices of products A and B. The minimum expenditure required to meet the nutritional constraints is to be found at point F (quantities Oa of product A and Ob of product B).

¹ See Figure 7.

If there is any change in the relative prices of A and B, the slope of C becomes C' for example. The optimum is then found at G (quantities Oe of product A and Of of product B). In this case, the buyer increases his purchases of A by a quantity ae and reduces those of B by a quantity fb.

The Community problem is in fact that briefly described in the chart. Brussels authorities, based on decisions by the Council of Ministers of Agriculture, upset the natural balance of agricultural prices. Adjustments in the demand from animal feedstuffs manufacturers immediately take this new situation into account¹. It might be imagined that the price ratios defined in Brussels should comply with the product quality ratios. This is difficult to implement in the case of cereals², but the problem arises due to the multitude of alternative sources of nutrient for animal feedstuffs, ranging from different types of oilseed protein cakes (soya and colza occupying an important position) to fish meal or abattoir residues, and between these lucerne, hay, skim milk powder, lacto serum protein extracts, manioc, etc. None of these other raw materials, however, is covered by such favourable Community regulations as those governing the cereals sector. As a result, at the end of the 1970s, the use of wheat in animal feeds has become insignificant (approximately 12 per cent on average for the EEC as a whole).

The use of wheat for human consumption has been remarkably stable since 1970: between 25 and 26 million tonnes for the whole of the EEC. The low rate of incorporation of wheat in animal feedstuffs leaves a considerable surplus of soft wheats. This situation, which is costly for FEOGA, chiefly benefits the market in high protein feeds and manioc. Palliative measures were then taken in return by Brussels as follows:

(i) Obligation to incorporate powdered milk

The stipulation that a certificate is necessary in order to incorporate soya cake into feedstuffs resulted in the immediate

¹ See Tables 2 and 3.

² See principles of the "silo" system.

TABLE 2: Utilisation of cereals in compound feedingstuffs
EEC 1972-1979

<u>Year</u>	<u>Cereals</u>	<u>Compound feedingstuffs</u>	<u>Theoretical % incorporation of cereals</u>
1972	23.6	52.8	44.7
1973	26.7	58.5	45.6
1974	25.8	57.8	44.7
1975	26.1	58.1	44.9
1976	27.9	65.3	42.7
1977	28.7	67.4	41.7
1978	27.6	71.7	38.5
1979	28(e)	77.9	36.0

(e) = estimation AGPE

Source: FEFAC.

TABLE 3: % Utilisation of raw materials in animal
feedingstuffs : Netherlands

<u>Year</u>	<u>Cereals</u>	<u>Oilseed cakes and meals</u>	<u>Other products</u>	<u>Of which manioc</u>	<u>Total</u>
1960/61	63.0	13.0	24.0	-	100
1961/62	62.0	13.6	24.4	-	100
1962/63	62.5	14.4	23.1	-	100
1963/64	59.8	14.8	25.4	-	100
1964/65	56.2	16.4	27.4	1.0	100
1965/66	56.5	18.8	24.7	1.6	100
1966/67	47.4	18.9	33.7	1.5	100
1967/68	43.1	19.0	37.9	2.5	100
1968/69	33.9	19.0	47.1	4.3	100
1969/70	31.4	20.5	48.1	5.3	100
1970/71	33.7	22.9	43.4	5.6	100
1971/72	27.9	25.4	46.7	6.3	100
1972/73	29.8	22.6	47.6	6.3	100
1973/74	31.9	26.3	41.8	8.2	100
1974/75	31.3	24.3	44.4	10.7	100
1975/76	23.8	24.6	51.6	10.3	100
1976/77	18.2	25.2	56.0	14.1	100
1977/78	18.5	26.2	55.3	14.2	100
1978/79	16.6	26.5	56.9	16.9	100

Source: d'après données du Produktshap voor Veeveoder.

creation of a market for incorporation certificates. Certain operators, traditionally using more than the minimum legal rate, resold their certificates to colleagues, who then did not in fact use any more skim milk powder than previously.

(ii) Development of the "silo" system

This system was designed to re-direct to animal feedstuffs part of the cereals going into intervention (i.e. wheat and some barley). It has not had the desired effect, since the principle of dual wheat market (i.e. bread-making and feedgrain qualities) is a failure. The differentiation techniques between feed wheat and bread wheat has led to almost all wheat being considered bread wheat. As a consequence, nearly all varieties of wheat are supported at the reference price, which is substantially higher than the intervention price. At such a high level, this price differentiation has had virtually no effect on the introduction of cereals substitutes in animal feeding.

The silo system was set up at a time when the EEC price system had led to a considerable reduction in the use of wheat, the price of which remained close to the minimum (intervention price) and to a high level of imports of American maize (14 to 15 million tonnes annually), the corresponding price remaining close to the maximum (threshold price). This situation could not be allowed to continue since it meant that it was better to buy imported maize at the threshold price than to buy domestic wheat at the intervention price. These two limits must be allowed to move further apart in order to let the equilibrium prices for different qualities play their allocative role between the various varieties and types of cereals.

The majority of the wheat produced is of bread-making quality, which is too expensive for feedstuffs. These bread varieties are not, however, sufficiently good for EEC milling firms, which are compelled to import improver wheats from Canada, the United States and Argentina.

The agricultural situation facing the EEC clearly shows the difficulties, even the hazards, of attempting to organise markets without being aware of the consequences of the regulations introduced.

c) Rigidity of agricultural supply

All of these economic phenomena are linked together, and we have already considered this consequence of the CAP in earlier developments. The question now arises as to how farmers could be tempted to adapt their supply to market requirements when unequally protected prices quite naturally encourage them to select the most profitable and least risky products? The only slight constraints are geographical - types of soil, climate - and the structure of the farm enterprise.

It is quite understandable that this situation should serve the short-term interests of the agricultural sector, but the latter is at the same time embarking upon a longer-term programme. The rigidity of the system is such that failure to match demand and supply will eventually create an unmanageable situation, resulting in a break which will be extremely hard on the farmers and costly to the Community.

For example, the question might be asked as to what, in the light of current regulations, would encourage farmers to produce more high protein plants (with particular reference to soya). If the answer lies in the creation of new regulations, nothing in the tools currently available in Brussels for forecasting purposes would guarantee the effectiveness of any such new policy; there is nothing which would enable its adverse effects on other products to be foreseen, and in fact nothing to guarantee that it would cost the EEC less. In other words, regulations are introduced without there really being any means of knowing what the effects will be. The overlapping of the various agricultural markets is such that this is not surprising, but an attempt to make projections for EEC agriculture in the same way as the US Department of Agriculture has

done with its own agriculture would show more clearly to the decision-makers the direction in which they were sending the agricultural economy in the short and longer terms.

Their efforts are all the more derisory inasmuch as, although sincerely wishing to protect EEC farmers, they have nevertheless contributed towards strengthening a type of agriculture which in the final analysis is still highly dependent on imports and which generates surpluses that are expensive to export. The Community regulations are so complex that only the largest international trading firms are in a position to tailor their policies to meet them. The Common Market has in fact created an oligopolistic intra-community exchange market for cereals. The introduction of monetary compensatory amounts (MCAs) has been to the advantage of these same organisations, which have become really the only ones aware of how to cover the risk of fluctuations in foreign exchange rates and monetary compensation amounts in order to enter into contracts for future delivery. This political subtlety as demonstrated in the disassociation of the official exchange rates applicable to agricultural goods - the "green rates" - from true and actual exchange rates has created a situation in which the common price objective stated by the Stresa Conference in 1958 has not yet been attained.

Although the results of the CAP inside the EEC are not very satisfactory, the consequences of the policy for trade with non-member countries are also worthy of examination.

B. Problems with respect to external trade

In the introduction we made reference to the ambiguity of the regulations which do not give the CAP any export objective. The levy/refund system described above paradoxically leads even the Commission in Brussels to prefer imports to exports. In the former, FEOGA receives funds as a result of the customs departments charging levies, whilst in the latter it loses funds as a result of the payment of refunds. The situation recalls the first steps taken by

the Exchange Stabilisation Fund set up by France to support the franc. When the franc was weak on the exchange markets, the Fund quite naturally sold foreign currency or gold and bought francs. These were immediately paid over to the Public Treasury. Hence, the latter became richer when the franc was weak. This also enabled it to undertake more public spending, which rapidly weakened the franc even more. It was for this reason that a protective screen was subsequently established, by having the resources of the Exchange Stabilisation Fund managed by the Bank of France for FEOGA. The EEC received more in levies than it paid out in refunds. Admittedly, the dairy sector has caused Brussels more problems than the cereals sector, but since 1979 the need to export more and more Community cereals to non-member countries has only exacerbated the crisis.

One of the aims of the requirement that importers pay levies was to help support internal prices:

- (i) by making imports competitive only at the high level of the threshold price
- (ii) by creating an export aid fund.

This aim was achieved. Imports of American maize and North American and Argentinian wheats of a high bread or semolina quality provided finance for European exports of ungraded wheats, barley flour and malt. The European cereals processors thus had the precise qualities they required, preferring to pay the threshold price level rather than buy the poorer European grades at the intervention price (or reference price in the case of bread-making wheat).

Since 1979, the situation has been reversed. The EEC has become a net surplus cereals producer. It must furthermore be admitted that in the face of high internal prices, the processing industries and various users are not prepared to reduce this cereals surplus. Some foresee it reaching 15 to 17 million tonnes in 1985, to which is to be added the surplus of qualities unusable in the EEC due to price. This will also have to be pushed onto non-member countries, covered

by refunds. The import-export balance with non-member countries is therefore no longer working, and imports of non-controlled raw materials (fish meal, soya, manioc, lucerne, etc.) are contributing to an accentuation of the imbalance. The financial consequences of this situation will therefore seriously worsen over the coming years. It is the cost of this policy which over the next few months will call into question the instruments of the CAP.

a) Failure to observe Community barriers

One of the major problems with respect to external trade is still that of ensuring the observance of regulations. Having introduced the principle of a barrier to the entry of cereals from non-member countries, daily calculation of the amount of levy to be applied to imported grain is extremely delicate, to the extent of being unrealistic. How do we arrive at the most representative c.i.f. Rotterdam price? Declaration of this price by a Committee of specialists cannot be checked. The authorities would only be able to detect gross errors.

Theoretical calculations are useless, since in trading no selling price is ever equal to the purchase price plus costs and a profit margin. It is pointless to try and check the c.i.f. Rotterdam price simply by adding to the f.o.b. Gulf price the costs of transport, handling, financing, insurance and administration, etc. plus a profit margin. The combination of purchasing/sales operations, transport, exchange and hedging frequently enables items to be sold at a lower price than that at which they were purchased, while still making a profit¹. This statement always surprises those who have not been involved in international trade.

The fluctuations in exchange rates - at times quite considerable - constitute an element of uncertainty for the seller or for the buyer of grain for which payment is to be made in foreign currency. Considerable risk is therefore involved - this being all the more serious since cereals markets give traders only minimal margins. Hence the trader has

¹ Debatisse, M.L., Le Commerce International des Céréales; Centre Français du Commerce Extérieur, Paris, February 1979.

to watch the development of foreign currency rates one against another. If he is selling in foreign currency, he runs the risk that the rate of that currency will fall with respect to his own currency. When he collects his payments, he will receive less in his own currency than anticipated.

It is possible for cereals sellers to cover this exchange risk by selling forward to his banker the foreign currency which he is due to receive. The due date is the date on which he receives payment. In this way, he fixes the exchange rate at which he is selling. It is possible to hedge in this way, even in countries where there is exchange control (up to twelve months on cereals in France). International traders frequently endeavour to shunt between foreign currencies, which provides them with an additional speculative aspect that can generate profits having nothing to do with the physical trading of grain.

The c.i.f. Rotterdam price declared in Brussels is quoted in US dollars. No one defines the most representative dollar/European currency rate on the market. This is, in any event, impossible, as everything depends on:

- (i) the best possible financial shunting, and
- (ii) the precise time at which the deal is clinched.

This is one of the many reasons why foreign cereals, particularly American maize, enter the EEC below the threshold price, in spite of the levy.

It should also be noted that there is an exception to the uniform levy, irrespective of the port of entry into the Community. Italy has, since 1967, benefited from an abatement on the levy for its purchases of cereals by sea. In 1979/80, this amounted to 6.04 ECU per tonne.

b) Speculation on levies and refunds

More serious is speculation against the EEC, which is nevertheless authorised by the regulations. The time allowances for pre-fixing on levies and refunds leave room for manoeuvres which are doubtless extremely costly for the FEOGA¹. According to the regulations, the levy for a given type of cereal represents the difference between the threshold price and the price c.i.f. Rotterdam. It varies every day. But an international trader requires a matter of weeks to transport grain to Europe. Hence he does not know how much he will be required to pay on the date of arrival. In order to avoid this serious difficulty, he is allowed, on payment of a guarantee deposit, to undertake to pay the levy within a period of 45 days following his decision. He can take the levy on a day on which it suits him and not pay until the day on which the cereals actually enter the Community. This is pre-fixing. When does he carry out this operation? Figures 8A and 8B show it to be on the day on

Figure 8A: Effect of levy on pre-fixing when the world price increases

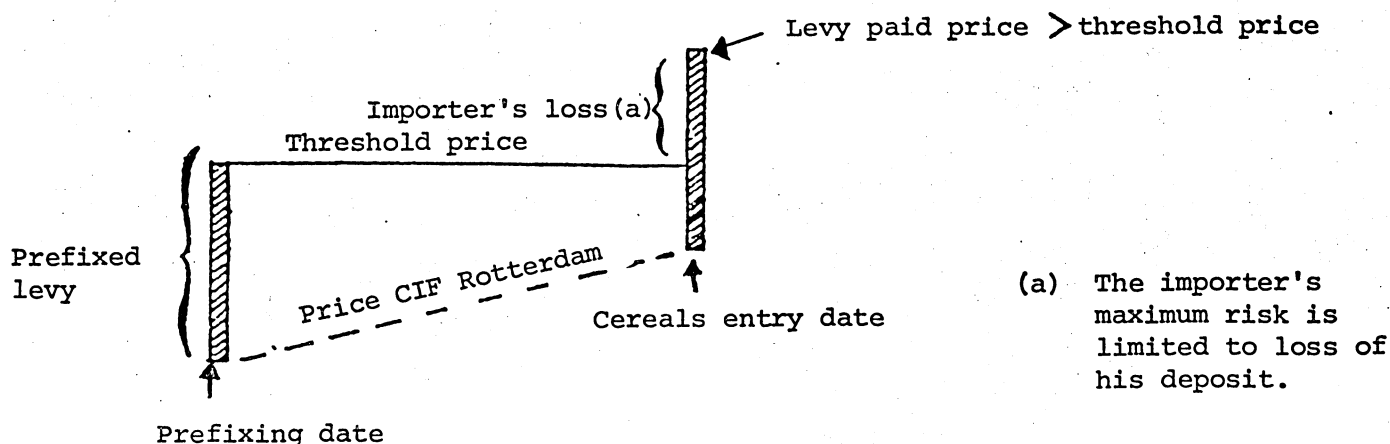
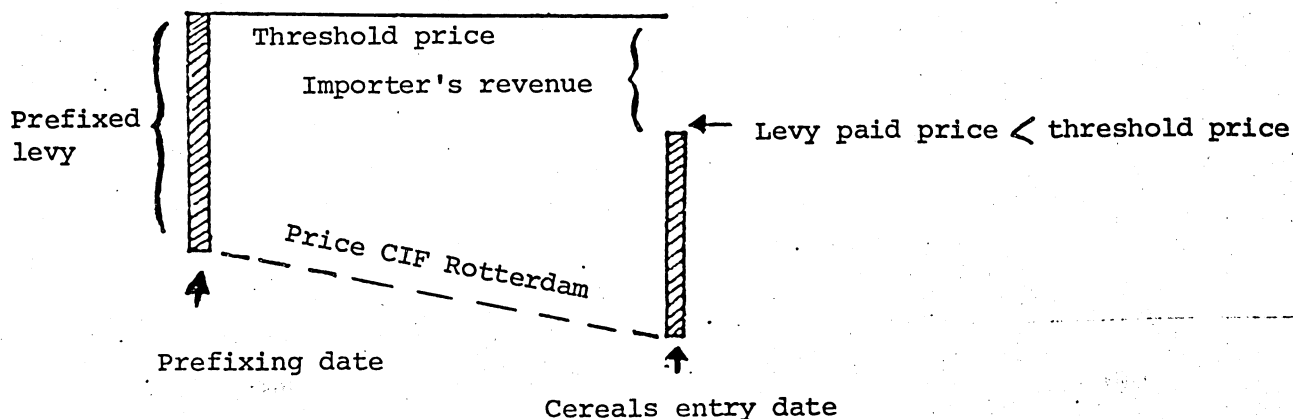


FIGURE 8B : EFFECT OF LEVY PREFIXING WHERE THE WORLD PRICE FALLS



¹ Debatisse, M.L., Dumas, B., Yon, B., "Controlling EEC External Trade by Open Market Intervention", The Banker, March 1980.

which the c.i.f. Rotterdam price seems to him to be high, since if the probability of a reduction in the world price is high, then the probability of an increase in the levy is also high. He will therefore opt for immediate pre-fixing, and when the cereals enter the EEC, the levy paid will be lower than it really should be.

The importer's art is therefore to pre-fix at the time when world prices are about to fall. This situation has even led to a market in pre-fixed levies for those who do not manage to get their produce in within the 45 days, selling their levy to those who failed to pre-fix at the right time. Other operators even speculate pre-fixing, hoping for a drop in world prices without even intending to import.

The game is an unfair one for Brussels, as their risk of not receiving sufficient in levies is not the same as the chance of over-receiving, an upper limit being set in the guarantee deposit which represents the importer's maximum loss.

Conversely, there is also speculation on refunds. These are not pre-fixed but the system is similar in that, following allocation, the exporter has the current month plus a further three months in which to effect export (being liable otherwise to lose his deposit). He holds his produce ready at a port of shipment and then waits for an increase in world prices (Fig.9A) before claiming his refund. His bonded produce is thus in effect subsidised.

If the world price increases, the exporter is also free to sell further afield, since the over-refund will subsidise his transport costs. Conversely, if the world price falls, he will endeavour to export closer to home in order to economise on transport.

Speculation against Brussels, tacitly accepted by the Commission, is truly one-way, since the exporter can at all times cover his risk by hedging in Chicago or Kansas City. How does he use the futures markets to do this? Having obtained his refund (which is paid only when the produce has passed the frontier), he is *ipso facto* in a "long" position on the world market. He hedges by selling futures on

FIGURE 9A : EXPORTER'S REVENUE WHERE THE WORLD PRICE INCREASES

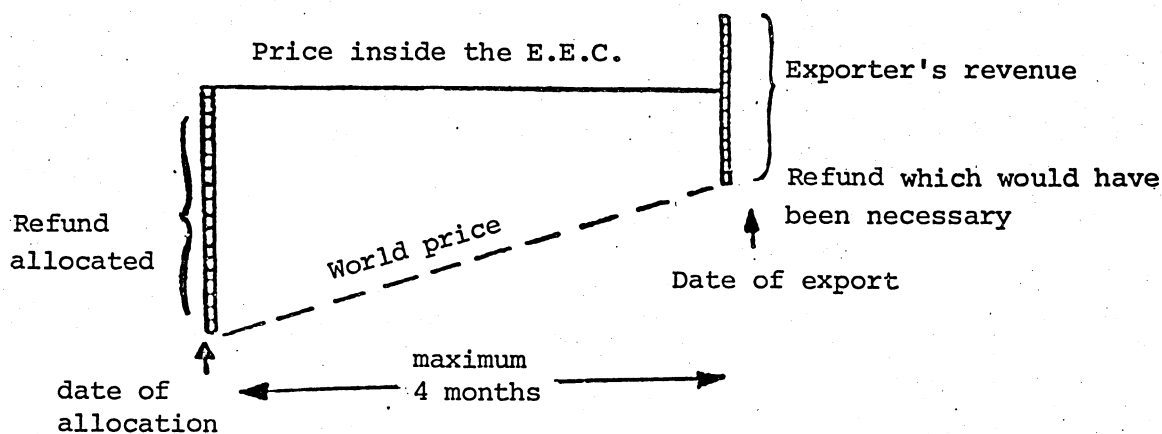
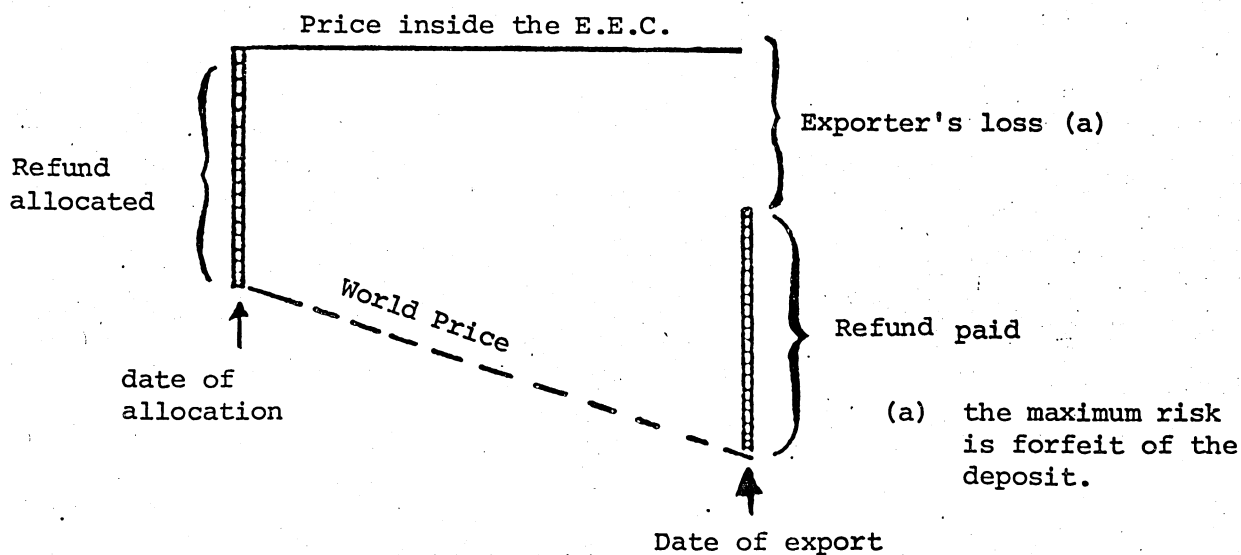


FIGURE 9B : EXPORTER'S LOSS WHERE THE WORLD PRICE DROPS



the same quantity of cereals. Since refunds are evaluated in ECU, he has to hedge the fluctuation of the ECU in relation to the dollar. In due course, i.e. on finding a foreign purchaser, he will buy back his futures contract. If the cash/futures price differential remains constant, he will have totally laid off his risk. If this difference, known as the "basis", fluctuates, then in order to make a profit, he must sell futures only when he is operating on a wide basis.

The risk to FEOGA of paying more than the world market would require is extremely high because the system is paradoxical and even inefficient. It is more profitable for exporters to wait for low world prices before shipping out European cereals.

This phenomenon was noticed particularly during the 1979/80 period. At the beginning of the period in August-September 1979, world prices were relatively high and EEC harvests produced a substantial surplus of wheat and barley. The Commission did not issue any refund allocations. The successful American soya and maize harvest (September-October 1979) brought down all cereal prices on the world market. The EEC still exported only small quantities, as the cost of refunds was beyond the FEOGA budget.

Since the new 1980 budget had not been approved by the European Parliament, and hence was operating under the system of "the monthly twelfth", it was decided at the beginning of January 1980, that exports should be promoted. Then on 4 January 1980, President Carter instigated the embargo on cereals intended for the USSR and brought down world prices. World prices being extremely low, refunds became extremely high and consequently too costly for FEOGA.

It should also be noted that given the high minimum price of cereals, processors frequently mix the poorer qualities with very high quality grain. Flour mills, for example, import American or Canadian wheats, which shows that the threshold price does not act as a disincentive. In the same way, semolina mills import durum wheats

from these same countries and from Argentina. Wet millers who process maize look for waxy maize types which are not produced in Europe. Here again, the threshold prices are not sufficient to re-direct their supply requirements to Community products.

c) Consequences for exports of cereal-based processed products

European industries converting cereals into foods or industrial products (e.g. starch), purchasing their raw materials at a very much higher price than their competitors in non-member countries, consequently offer their processed products at prices which are not competitive on the world market. The problem becomes a wider one at this stage, as the number of companies affected is very high. The first to be involved are:

- (i) Wheat processing: Mills
Bakeries
Pastry and biscuit manufacturers
Semolina mills, pasta manufacturers
Animal feedstuffs, stock rearing
and meat chains
- (ii) Barley processing: Maltsters
Breweries
Distilleries
Animal feedstuffs, stock rearing and
meat chains
- (iii) Maize processing: Animal feedstuffs, stock rearing and
meat chains
Dry milling
Wet milling

For the processing industries, all exports should require refunds in proportion to the cost of cereals used. A procedure such as this is provided, but exact evaluation of the refund is subject to caution. The operator has to convince an official, whose technological

competence is by nature limited, to increase the refund to the level he wishes. There is little doubt that this system frequently provides subsidies for produce where there is no need for them. If the refund is insufficient, or is liable to become so (being at the discretion of the EEC Authorities), no EEC operator will endeavour to develop his internal production above EEC requirements. His new plants designed to supply non-member countries will be set up outside the EEC, where he will benefit from raw materials at the world price. This argument still holds true where world prices are higher than the intra-community price, since the regulations provide for conversion of levies into import refunds, and refunds into export levies.

The anti-economic character of the cereals policy therefore has repercussions on the industrial development of the agricultural foodstuffs sector, and consequently on the entire EEC economy. The trade balance, employment, and prices, very noticeably suffer its effects, yet no one in authority has taken the time to check the validity of the basic theory of this policy.

C. The cost of this policy

Direct costs to the consumer and taxpayer are frequently quoted to justify criticisms of the CAP. The "cereals" item takes second place, after dairy products in the guarantee section of the FEOGA (see Table 4). On the other hand, the cost to the consumer of more expensive raw materials is quite clear.

More serious, however, are the general economic consequences of this situation. Economic decisions can take the wrong direction and, in the long-term, they will prove extremely costly. For example, the storage system set up more than fifteen years ago has not had to be optimised, since the monthly price increases have been such that storage could be considered a permanent objective in the collection agencies' operating policy.

TABLE 4: FEOGA Guarantee Expenditure
(in milliards of EUA)

	<u>FEOGA</u> <u>Guarantee</u> <u>(Gross)</u>	<u>Milk</u>	<u>Beef</u>	<u>Cereals</u>	<u>Export</u> <u>Restitutions</u>	<u>Levies</u> <u>(Import +</u> <u>production)</u>
1973 (12 months)	3.93	1.58	0.02	1.05	1.44	0.54
1974	3.10	1.26	0.32	0.38	0.59	0.66
1975	4.52	1.19	0.92	0.59	0.97	0.62
1976	5.59	2.28	0.62	0.65	1.47	1.17
1977	6.83	2.92	0.47	0.63	2.29	2.00
1978	8.67	4.01	0.64	1.11	3.06	2.28
1979	10.44	4.53	0.75	1.56	4.73	2.14
1980 (provisional)	11.50	4.93	1.38	1.65	5.60	2.22
1981 (draft budget)	12.95	4.45	1.38	2.25	5.88	

Source: EC.Com. (80) 800.

We have also studied the impact of the CAP on the poor allocation of resources and on the misdirection of research in plant breeding due to the inadequacy of price differentials allowed by the regulations. It will take ten years or so to redirect research and develop new cereals varieties which are better suited to manufacturers' and consumers' requirements. Over this same period of time, the outside free market adapts to changes quite regularly; its qualitative advance can only be accentuated.

The options taken as a result of the current policy will weigh heavily on the entire EEC economy for a matter of twenty years. The cost of the CAP will therefore be considerably greater in the long and medium-term than the admittedly heavy direct costs we have to bear today. The commercial agencies working in this sector do not have sufficient incentive to promote the marketing and, more generally, the economic development of cereal products. This situation cannot last indefinitely, and when the time comes the change will, unfortunately, be all the more rapid and at a greater social cost. The direct cost of this policy of supporting markets has indeed become

unbearable for the nine*Community countries. Reforms should not be postponed much longer and they must not ignore the basic principles of the market economy. In conclusion, we would point out that such reforms must go in the direction of redirecting markets by ensuring a greater degree of freedom to prices. This will create a greater risk for producers, collection firms and co-operatives, traders and processors in the cereals network. The new regulations will no longer cover the price fluctuation risks as fully as before and therefore other financial instruments will have to be developed to cover such risks and not leave them to speculators alone. Will the futures markets, currently lying dormant within the EEC, be capable of rising to these challenges?

* (1980).

APPENDIX

28.2.70

Official Journal of the European Communities

No L 47/49

REGULATION (EEC) No 376/70 OF THE COMMISSION

of 27 February 1970

laying down the procedure and conditions for the disposal of cereals held by intervention agencies

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 120/67/EEC¹ of 13 June 1967 on the common organisation of the market in cereals, as last amended by Regulation (EEC) No 2463/69² and in particular Article 7 (5) thereof;

Whereas, in accordance with Article 3 (1) (a) of Council Regulation No 132/67/EEC³ of 13 June 1967 laying down general rules for intervention on the market in cereals, the disposal on the internal market of cereals held by the intervention agency must be on the basis of price conditions such as will not cause a deterioration of the market; whereas this object can be achieved if the selling price corresponds to the market price without being lower than a given level in relation to the intervention price;

Whereas cereals must normally be offered under the price conditions ruling in the area of storage; whereas, nevertheless, in order to facilitate disposal and to avoid storage costs, it should be possible, in exceptional cases, to offer the cereals under price conditions ruling at a marketing centre where they are not stored; whereas the reimbursement of certain transport costs is needed to enable such sales operations to take place;

Whereas, under Article 4 (3) of Regulation No 120/70/EEC, the intervention prices valid for August of the following marketing year also apply in June and July, except for maize; whereas this provision, which corresponds to an economic need for the

taking over but not for the disposal of cereals by the intervention agency, cannot be applied to this Regulation without harming the economy of the system, since cereals bought in by the intervention agency before 1 June could be resold during the same marketing year at a price lower than their buying-in price;

Whereas, in accordance with Article 3 (1) (b) of Regulation No 132/67/EEC, disposals by tender with a view to export must be effected on the basis of price conditions to be determined case by case according to market trends and requirements; whereas such invitations to tender arise from the need for intervention agencies to dispose of the stocks in their possession; whereas, however, they must not cause distortions detrimental to normal exports; whereas, consequently, a minimum price should be fixed in each case by the Commission; whereas, the better to take account of market trends, this minimum price should not be determined until the time limit for the submission of tenders has expired;

Whereas, so that invitations to tender may proceed smoothly in cases where special situations have been taken into account, the tenderer should be required to apply for an export licence with advance fixing of the refund;

Whereas to take into account the position of an exporter, who has been awarded a contract, on the market of certain third countries referred to in Article 3 (1) (a) of Commission Regulation No 473/67/EEC⁴ of 21 August 1967 on import and export licences for cereals, processed cereal products, rice, broken rice and processed rice products, as last amended by Regulation (EEC) No 2247/69⁵ provision should be made for cancelling the contract in certain circumstances;

¹ OJ No 117, 19.6.1967, p. 2269/67.

² OJ No L 312, 12.12.1969, p. 3.

³ OJ No 120, 21.6.1967, p. 2364/67.

⁴ OJ No 204, 24.8.1967, p. 16.

⁵ OJ No L 285, 13.11.1969, p. 9.

Whereas standing invitations to tender and sales by public auction may facilitate the disposal of cereals and such sales procedures are sometimes better suited to commercial practice;

Whereas when inviting tenders for export the lodging of a special deposit guaranteeing that the cereals will not be put back on the Community market should be required;

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

Cereals held by intervention agencies shall be remarketed by way of invitation to tender under the conditions laid down in the following Articles.

Article 2

1. Invitation to tender means offering for sale by inviting tenders, the contract being awarded to the person or persons tendering on the most favourable terms and conditions, in conformity with the provisions of this Regulation.

Each invitation to tender shall be made public. Intervention agencies shall provide all relevant information about the different lots (specific weight, moisture, impurities, crop year), indicate where they are stored and allow those concerned to inspect them.

2. The basis of tenders must be a standard quality of cereal as laid down in Council Regulation (EEC) No 768/69¹ of 22 April 1969.

When the quality of the cereal differs from the standard quality, the accepted tender shall be adjusted by the price increase or reduction adopted in pursuance of Article 7 (5) of Regulation No 120/67/EEC.

3. If the cereals are removed later than the month in which the contract was awarded, the price to be paid by the contractor shall be increased monthly by

an amount not less than the monthly increase in the intervention price.

Article 3

The following provisions shall apply to invitations to tender for a sale on the Community market:

1. A tender for less than 50 metric tons of any one cereal may be refused. For durum wheat, however, this minimum is reduced to 5 metric tons.
2. (a) If the offered cereals are stored at a marketing centre, their selling price must be not less than the local market price and may not, in any circumstances, be lower than the intervention price valid at that centre plus 1.50 units of account per metric ton;
- (b) If the offered cereals are stored elsewhere, the selling price must be not less than the local market price or, failing this, the price on the nearest market. In no circumstances may it be lower than the price for this locality, calculated in accordance with Article 2 (2) of Regulation No 132/67/EEC, plus 1.50 units of account per metric ton; for these purposes the marketing centre shall be chosen by the intervention agency from the three nearest centres within the meaning of Article 1 of that Regulation;
- (c) Exceptionally it may be decided, in accordance with the procedure laid down in Article 26 of Regulation No 120/67/EEC, that, by way of derogation from the provisions of (a) and (b) and under conditions to be determined, cereals may be offered for a marketing centre where they are not stored. In such case the criteria laid down in (a) on the selling prices to be observed shall apply for this centre. If the most advantageous transport costs between the place of storage and the place of destination of the cereal exceed the most advantageous transport costs between the marketing centre for which the cereal is offered and the place of destination, the difference between these costs shall be reimbursed by the intervention agency;
- (d) For application of the provisions of (a), (b) and (c) to common wheat denatured by the intervention agency, the operative market price shall be that for barley and the intervention price shall be the price for this cereal plus 0.50 units of account per metric ton.
3. During June and July the intervention prices operative for the application of paragraph 2 shall, except for maize, be those valid for May.

¹ OJ No L 100, 28.4.1969, p. 8.

Article 4

The provisions of Article 2 and of Article 3, save those of paragraph 2 (c), shall also apply to sales by public auction.

Article 5

1. At the request of a Member State it may be decided, in accordance with the procedure laid down in Article 26 of Regulation No 120/67/EEC, to permit the intervention agency of that Member State to invite tenders for export. In such a decision the Commission shall determine, on the basis of information supplied by that Member State, the following:

- (a) the quantities to be put out to tender;
- (b) the regions where these quantities are stored;
- (c) the places for which the minimum selling price mentioned in paragraph 2 is effective and for which tenders are to be submitted;
- (d) the final date by which tenders must be submitted.

2. When the time limit for the submission of tenders has expired, the Member State concerned shall provide the Commission with a list of the tenders, without names, showing in each case the price, expressed in units of account per metric ton, and the quantity. The Commission, acting in accordance with the procedure referred to in paragraph 1, shall fix the minimum selling price on the basis of such tenders or shall decide to cancel the invitation to tender.

This minimum price shall be fixed at such a level that it does not prejudice other exports of the cereal in question. It shall be fixed in terms of a standard quality of cereal.

3. A tender shall be valid only if it is accompanied by a written undertaking by the tenderer, endorsed by a credit institution, to lodge a special deposit of 10 units of account per metric ton not later than two working days after receipt of notification that the contract has been awarded to him.

This deposit shall only be returned for the quantity in respect of which:

- the contractor furnishes proof that it has been exported or that it has become unfit for human or animal consumption;
- the provisions of paragraph 6 have been applied.

4. A tender may indicate that it shall only be considered as submitted if the award of the contract

relates to the whole quantity tendered for or a specified part thereof.

5. In special cases, the decision to be taken in accordance with paragraph 1 may lay down that a tender is only valid if it is accompanied by an application for an export licence submitted by the tenderer for the quantity tendered for and by an application for advance fixing of a refund resulting from the application of Article 6 of Council Regulation No 139/67/EEC¹ of 21 June 1967. However, that licence shall only be issued for the awarded quantity.

6. If tenders are invited for an export to a country referred to in Article 3 (1) (a) of Regulation No 473/67/EEC and if the provisions of paragraph 5 are applied to this invitation, the intervention agency may, at the request of the contractor, cancel the contract for the quantity in respect of which it is shown that the contractor's offer has not been accepted in that country.

When the provisions of the preceding subparagraph are applied the Member State concerned shall immediately inform the Commission thereof by telex.

7. (a) At the request of a Member State, the decision taken in accordance with paragraph 1 may provide that an invitation to tender should follow a standing tendering procedure.

(b) Under this standing tendering procedure the intervention agency shall lay down the dates on which tenders may be submitted.

(c) After each time limit for the submission of tenders has expired the Member State concerned shall communicate to the Commission a list of the tenders, without names, showing in each case the price expressed in units of account per metric ton, and the quantity. In accordance with the procedure referred to in paragraph 1 the Commission shall fix the minimum selling price on the basis of such tenders or shall decide not to accept any of them.

(d) The provisions of the second subparagraph of paragraph 2 and of paragraphs 3 and 4 shall apply.

8. Except by way of derogation decided on under the procedure referred to in paragraph 1, invitations to tender for export shall not be made for a quantity of less than 500 metric tons.

¹ OJ No 125, 26.6.1967, p. 2453/67.

Article 6

1. At the request of a Member State it may be decided, in accordance with the procedure laid down in Article 26 of Regulation No 120/67/EEC, to dispose of cereals for export by way of public auction. In such a decision the Commission shall determine, on the basis of information supplied by that Member State, the following:

- (a) the quantities for disposal;
- (b) the regions where these quantities are stored;
- (c) the places for which the minimum selling price mentioned in paragraph 3 is effective and for which bids are to be made;
- (d) the date, time and place fixed for the sale by public auction.

2. Sale by public auction may be used only for the disposal of quantities not exceeding 10 000 metric tons.

3. The Commission, acting in accordance with the procedure referred to in paragraph 1, shall fix the minimum selling price not later than one working day before the date referred to in paragraph 1 (d).

4. The special deposit provided for in Article 5 (3) must be lodged not later than two working days after the award of the contract. It shall only be returned for a quantity in respect of which the contractor

furnishes proof that it has been exported or that it has become unfit for human or animal consumption.

5. The provisions of the second subparagraph of Article 5 (2) shall apply.

Article 7

Intervention agencies shall lay down, where necessary, additional provisions and conditions consistent with the provisions of this Regulation.

Article 8

In the week following each sale the Member State concerned shall inform the Commission of the outcome, indicating in particular the selling price, the quantity sold and the place where the cereals were stored when they were put out to tender.

Article 9

Commission Regulation No 160/67/EEC¹ of 23 June 1967 laying down the procedure and conditions for the disposal of cereals held by intervention agencies is hereby repealed.

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

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

Done at Brussels, 27 February 1970.

For the Commission

The President

Jean REY

¹ OJ No 128, 27.6.1967, p. 2545/67.

REGULATION (EEC) No 193/75 OF THE COMMISSION

of 17 January 1975

laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 120/67/EEC ⁽¹⁾ of 13 June 1967 on the common organization of the market in cereals, as last amended by Regulation (EEC) No 85/75 ⁽²⁾, and in particular Articles 12 (2), 15 (5), 16 (6) and 24 thereof and the corresponding provisions of the other Regulations establishing a common organization of the market in respect of agricultural products;

Whereas Community rules relating to the various sectors covered by the common organization of agricultural markets provide that import and export licences and advance fixing certificates are applicable to imports and exports effected in the Community; whereas such a rule requires the adoption of common provisions laying down conditions for the drawing up and use of such licences or certificates and the establishment of Community forms and methods of administrative cooperation between Member States;

Whereas Commission Regulation (EEC) No 1373/70 ⁽³⁾ of 10 July 1970, as last amended by Regulation (EEC) No 2111/74 ⁽⁴⁾, lays down common detailed rules for the application of the system of import and export licences and advance certificates for agricultural products subject to a single price system; whereas the provisions of that Regulation have, however, been frequently and sometimes substantially amended; whereas, therefore, in the interests of clarity and administrative efficiency it is advisable to consolidate the rules in question in a single text, at the same time making certain amendments which

experience has shown to be desirable and clarifying a point in Article 17 in accordance with a Decision of the Court of Justice;

Whereas, in view of international trade practice in respect of the products or goods in question, certain tolerances should be allowed with regard to the quantity of products imported or exported as compared with the quantity indicated on the licence or certificate;

Whereas the Community Regulations which introduce import and export licences provide that all imports into the Community and all exports from it shall be subject to the production of such a licence; whereas it should therefore expressly be made clear that such licences are not required for operations which do not in the strict sense constitute imports or exports;

Whereas the object of import and export licences is the sound administration of the common organization of markets; whereas some transactions relate to small quantities; whereas for purpose of simplifying administrative procedures it would seem desirable to exempt such transactions from the obligation to produce an import or export licence;

Whereas the Community Regulations which introduce the abovementioned licences and certificates provide that their issue shall be conditional upon the giving of security calculated to guarantee that the obligation to import or export will be fulfilled during the period of their validity; whereas it is necessary to define when the obligation to export or import is fulfilled;

Whereas the rules relating to the various sectors subject to the common organization of markets provide that an applicant who wishes his transaction to be subject to the levy or refund obtaining on the day on which his licence application is lodged must lodge his application for such advance fixing at the same time as the licence application and before 13.00 hours; whereas in order to simplify administrative procedures it is desirable to prescribe the same deadline for the lodging of applications for licences issued without advance fixing of the levy or refund;

⁽¹⁾ OJ No 117, 19. 6. 1967, p. 2269/67

⁽²⁾ OJ No L 11, 16. 1. 1975, p. 1.

⁽³⁾ OJ No L 150, 20. 7. 1970, p. 1.

⁽⁴⁾ OJ No L 220, 10. 8. 1974, p. 5.

Whereas in some cases the amount of security required in respect of a licence or certificate may be extremely small; whereas, in order to reduce the administrative load, no security should be required in such cases;

Whereas in the interest of sound administration licences or certificates and extracts therefrom may not be amended after issue; whereas, however, in cases of doubt relating to an error attributable to the issuing agency and concerning the items appearing on the licence or certificate or extract, a procedure should be introduced whereby inaccurate licences or certificates or extracts may be withdrawn and corrected documents issued;

Whereas Commission Regulation (EEC) No 192/75 ⁽¹⁾ laying down detailed rules for the application of export refunds in respect of agricultural products provides that exportation shall be considered to have taken place when the products in respect of which formalities have been completed have left the geographical territory of the Community or reached their destinations, although for reasons of administrative convenience the date of exportation for the purpose of determining the rate of the refund is to be the day on which customs export formalities are completed; whereas, where transactions are carried out under one of the procedures introduced by Council Regulation (EEC) No 441/69 ⁽²⁾ of 4 March 1969 laying down additional general rules for granting export refunds on products subject to a single price system exported unprocessed or in the form of certain goods not covered by Annex II to the Treaty, as last amended by Regulation (EEC) No 1181/72 ⁽³⁾, exportation is considered for the purpose of calculating the period of validity of licences or certificates to have taken place on the day on which the goods or products concerned are placed under one of the abovementioned procedures; whereas for the same reasons these rules should apply for the purposes of this Regulation;

Whereas the Community Regulations which introduce the abovementioned licences and certificates provide that the security shall be forfeit in whole or in part where if importation or exportation is not carried out, or only partly carried out, during the period of validity of the licence or certifi-

cate; whereas the action to be taken in such circumstances should be specified in detail, in particular for cases where non-fulfilment of obligations is due to *force majeure*;

Whereas, in order to simplify administrative procedures, it would seem suitable to provide for the security to be returned in full when the total amount to be forfeit is very small;

Whereas Commission Regulation (EEC) No 304/71 ⁽⁴⁾ of 11 February 1971 on simplification of the Community transit procedure for goods carried by rail, as last amended by the Act of Accession ⁽⁵⁾, provides that if a carriage operation starts within the Community and is to end outside the Community no formalities need be completed at the customs office of the frontier station; whereas where the provisions of Regulation (EEC) No 304/71 apply it seems desirable for the purpose of simplifying administrative procedures to provide special arrangements for the release of the security;

Whereas it may happen that by reason of circumstances beyond the control of the party concerned the document constituting proof of departure from the geographical territory of the Community cannot be produced although the product has left such territory or, in the case of operations as specified in Article 3 of Regulation (EEC) No 192/75, reached its destination; whereas such a situation may impede trade; whereas in such circumstances other documents should be recognized as equivalent;

Whereas the measures provided for in this Regulation are in accordance with the Opinions of all the relevant Management Committees,

HAS ADOPTED THIS REGULATION:

Article 1

Without prejudice to the derogations provided for in specific Community rules for certain products, this Regulation lays down the common detailed rules for the application of the system of import and export licences and advance fixing certificates (hereinafter called 'licences' and 'certificates') established by:

— Article 17 of Regulation No 136/66/EEC (oils and fats),

⁽¹⁾ See page 1 of this Official Journal.

⁽²⁾ OJ No L 59, 10. 3. 1969, p. 3.

⁽³⁾ OJ No L 130, 7. 6. 1972, p. 15.

⁽⁴⁾ OJ No L 35, 12. 2. 1971, p. 31.

⁽⁵⁾ OJ No L 73, 27. 3. 1972, p. 14.

- Article 12 of Regulation No 120/67/EEC (cereals),
- Article 4a of Regulation No 142/67/EEC (colza, rape and sunflower seeds),
- Article 10 of Regulation No 359/67/EEC (rice),
- Article 5a of Regulation No 175/67/EEC (eggs),
- Article 5a of Regulation No 176/67/EEC (poultrymeat),
- Article 11 of Regulation No 1009/67/EEC (sugar),
- Article 13 of Regulation (EEC) No 804/68 (milk and milk products),
- Articles 12a and 15 of Regulation (EEC) No 805/68 (beef and veal),
- Article 6 of Regulation (EEC) No 865/68 (products processed from fruit and vegetables),
- Article 8 of Regulation (EEC) No 816/70 (wine),
- Article 6 of Regulation (EEC) No 2682/72 (agricultural products exported in the form of goods not covered by Annex II to the Treaty).

Article 2

1. The issue of an import or export licence shall establish the right and create the obligation to import or export under that licence and during its period of validity the specified net quantity of the relevant product. Such licence shall or may as the case requires include provision for advance fixing of the levy or refund under the conditions laid down by the rules relating to the relevant sector.

2. The issue of an advance fixing certificate shall create the obligation to import or export under that certificate and during the period of its validity the specified net quantity of the relevant product.

The issue of an advance fixing certificate as referred to in Article 6 of Regulation (EEC) No 2682/72 shall create the obligation to export under that certificate and during its period of validity, in the form of one or more of the goods listed in Annex B or C to that Regulation as specified on the certificate, the quantity indicated in the certificate of the basic product as specified in Annex A to that Regulation.

3. In the cases specified in Article 19 of this Regulation and in cases where such requirement is provided in the specific Community rules for the relevant sector the issue of a licence or certificate shall create the obligation to import from or export to the country or group of countries specified therein.

4. Where the quantity imported or exported exceeds by not more than 5% the quantity indicated in the licence or certificate it shall be considered to have been imported or exported under that licence or certificate.

5. Where the quantity imported or exported falls by not more than 5% below the quantity indicated in the licence, the obligation to import or export shall be considered to have been fulfilled.

Article 3

1. Obligations deriving from licences or certificates shall not be transferable. Rights deriving from licences or certificates shall be transferable by the titular holder of the licence or certificate during the period of its validity. Such transfer, which may be made in favour of a single transferee only for each licence or certificate or extract therefrom, shall relate to quantities not yet attributed to the licence or certificate or extract therefrom.

2. The transfer shall take effect from the time when the agency issuing the licence or certificate endorses thereon or where appropriate on the extract therefrom the name and address of the transferee and the date of the entry, as certified by the stamp of the agency.

3. Such endorsement shall be made on application by the titular holder. The transferee may neither further transfer his rights nor transfer them back to the titular holder.

Article 4

1. No licence or certificate shall be required in respect of products which are not placed in free circulation within the Community or in respect of products the exportation of which constitutes the final stage of a customs procedure under which they were allowed to be imported free of the relevant customs duties, charges having equivalent effect or agricultural levies.

2. However, where compound products or goods qualifying for an export refund on the basis of one or more of their components are exported, only the customs status of each such component shall be taken into account for the purposes of paragraph 1.

3. Where advance fixing of a levy or refund is not requested, no licence shall be required for the purposes of operations:

- as specified in Article 3 of Regulation (EEC) No 192/75, or
- of a non-commercial nature, or
- relating to quantities such that the amount of the security for the corresponding licence would be two units of account or less.

4. For the purposes of paragraph 3 'operations of a non-commercial nature' means:

- (a) imports by or consigned to private individuals, provided that such operations satisfy the requirements of Section II (B) (2) of the preliminary provisions of the Common Customs Tariff;
- (b) exports by private individuals, provided that such operations satisfy *mutatis mutandis* the requirements referred to in (a).

Article 5

1. No application for a licence or certificate shall be considered unless sent or delivered direct to the competent agency on forms printed and made out in accordance with the provisions of Article 13.

However, applications may be sent to the competent agency by telegram or telex. In such cases applications shall include all the information which would have appeared on the form if it had been used; otherwise they shall be refused. Furthermore, Member States may require that the telegram or telex be followed by an application as provided in the preceding subparagraph. This requirement shall not affect the validity of the application by telegram or telex.

Applications containing conditions not provided for in Community rules shall be refused.

2. No application for a licence or certificate shall be accepted unless security has been given in favour of, or proof that such security has been given is furnished to, the competent agency not later than 13.00 hours on the day on which the application for a licence or certificate is lodged or, where proof that the security has been lodged is sent by telegram, unless the telegram was recorded at the issuing telegraph office not later than 13.00 hours and is received by the competent agency not later than 14.30 hours.

3. An application for a licence or certificate may be cancelled by letter, telegram or telex.

An application for a licence or certificate may not be cancelled after 13.00 hours on the day it is lodged; where cancellation is made by telegram such cancellation shall not be valid if the telegram was recorded at the issuing telegraph office after 13.00 hours or if, although recorded not later than 13.00 hours, it reached the competent agency after 14.30 hours.

4. The security shall consist, at the choice of the applicant, either of a cash deposit or of a guarantee issued by an institution satisfying the requirements laid down by the Member State in which the licence or certificate is applied for.

Member States shall inform the Commission of the types of institution authorized to issue guarantees and of the requirements mentioned in the preceding subparagraph, and the Commission shall inform the other Member States thereof.

Where the total amount of the security in respect of any licence or certificate would be two units of account or less, no security shall be required.

Article 6

1. 'The day on which an application for a licence or certificate is lodged' means:

- (a) in the case of an application lodged with the competent agency, the day on which it is so delivered, provided it is delivered not later than 13.00 hours;
- (b) in the case of an application sent by letter or telex to the competent agency, the day on which it is received at that agency, provided it is received not later than 13.00 hours;
- (c) in the case of an application sent by telegram to the competent agency, the day on which it is received at that agency, provided the telegram is recorded at the issuing telegraph office not later than 13.00 hours and is received by the competent agency not later than 14.30 hours.

2. Applications for licences or certificates received either on a non-working day of the competent agency, or on a working day of that agency but after the hours specified in paragraph 1, shall be considered to have been lodged on the first working day of the agency following the day on which they were received.

Where an application for an advance fixing certificate or an application for an import or export licence

which includes an application for advance fixing of the levy or the refund is sent by telegram in accordance with paragraph 1 (c) and received after 14.30 hours, it shall be refused if the applicant has not specified in the telegram that he intended, in case of late arrival of the telegram, to apply for advance fixing of the levy or refund operative on the first working day after receipt of the telegram. Such intention shall be indicated by the words 'without reservation'.

Applications by telegram recorded at the issuing telegraph office after 13.00 hours shall be considered to have been lodged on the following working day even if they arrive on the day of issue; if they arrive on some other day, the rules laid down above concerning the day on which an application by telegram is regarded as being lodged shall apply.

3. The time limits specified in this Article shall be:

- one hour later in Italy during the period known as Summer Time in that Member State,
- one hour earlier in Ireland and the United Kingdom outside the period known as Summer Time in those Member States.

4. For the purposes of this Article, Saturdays shall be considered to be non-working days.

Article 7

Where the application for a licence or certificate, the proof that the security has been lodged or the cancellation of an application for a licence or certificate is sent by telegram and as a result of *force majeure* the telegram, having been recorded not later than 13.00 hours, fails to reach the competent agency by 14.30 hours that agency may decide to disregard the delay.

If an agency accepts a case of *force majeure* as such, the Member State concerned shall immediately notify the Commission, which shall inform the other Member States thereof.

Article 8

1. If the amounts resulting from the conversion of units of account into sums in national currency to be entered on licences or certificates contain three or more decimal places, only the first two shall be given. In such cases where the third place is 5 or more the second place shall be rounded up to the

next unit and where the third place is less than 5, the second place shall remain the same.

2. However, where amounts expressed in units of account are converted into pounds sterling or Irish pounds, the reference to the first two decimal places in the preceding paragraph shall be read as if it were a reference to the first four decimal places. The amount shall be rounded off to the fourth decimal place in the manner specified in paragraph 1 as regards the second decimal place.

Article 9

1. For the purpose of determining their period of validity, licences or certificates shall be considered to have been issued on the day on which the application for them was lodged, that day being included in the calculation of such period of validity.

2. Where a licence or certificate is to become valid on its actual day of issue, that day shall be included in the calculation of its period of validity.

3. Licences and certificates shall be drawn up at least in duplicate. The first copy, called 'Titular Holder's Copy' and marked 'No 1', shall be issued without delay to the applicant and the second, called 'Issuing Agency's Copy' and marked 'No 2', shall be retained by the issuing agency.

Copy No 1 of the licence or certificate shall be submitted to the office responsible for completing:

- (a) in the case of an import licence or of a certificate of advance fixing of the levy, customs import formalities;
- (b) in the case of an export licence or of a certificate of advance fixing of the refund, the customs export formalities relating to:
 - exportation from the Community, or
 - one of the operations as specified in Article 3 of Regulation (EEC) No 192/75, or
 - the placing of products under one of the procedures provided for in Articles 2 and 3 of Regulation (EEC) No 441/69.

After attribution of the quantity and endorsement by the office referred to in the preceding subparagraph, Copy No 1 of the licence or certificate shall be returned to the party concerned.

Article 10

1. On application by the titular holder of the licence or certificate or by the transferee, and on submission of Copy No 1 of the document, one or more extracts therefrom may be issued by the competent agencies of Member States.

Extracts shall be drawn up in at least two copies, the first of which, called 'Titular Holder's Copy' and marked 'No 1', shall be issued or addressed to the applicant and the second, called 'Issuing Agency's Copy' and marked 'No 2', shall be retained by the issuing agency.

The agency issuing the extract shall, on Copy No 1 of the licence or certificate, attribute the quantity for which the extract has been issued, increased by the relevant tolerance. The word 'Extract' shall be entered beside the attributed quantity shown on Copy No 1 of the licence or certificate.

2. Extracts from licences or certificates shall be treated as equivalent to the licences or certificates from which they are extracted, within the limits of the quantity in respect of which they are issued. However, no further extract may be made from an extract of a licence or certificate.

3. Copy No 1 of an extract which has been used or which is out of date shall be returned by the titular holder to the agency which issued the licence or certificate together with Copy No 1 of the licence or certificate from which it derives, so that the agency may adjust the attributions appearing on Copy No 1 of the licence or certificate in the light of those appearing on Copy No 1 of the extract.

Article 11

1. Entries made on licences, certificates or extracts may not be altered after their issue.

2. Where the accuracy of entries on the licence, certificate or extract is in doubt, such licence, certificate or extract shall on the initiative of the party concerned or of the competent authorities of the Member State concerned be returned to the issuing agency.

If the issuing agency considers a correction to be required, it shall withdraw the extract or the licence or certificate as well as any extracts previously issued and it shall issue without delay either a corrected extract or a corrected licence or certificate and the

corrected extracts corresponding thereto. On such further documents, which shall include the entry 'licence (or certificate) corrected on' or 'extracts corrected on', the former attributions shall be reproduced, as appropriate on each copy.

Where the issuing agency does not consider it necessary to correct the licence or certificate or the extract, it shall place thereon the endorsement 'verified on in accordance with Article 11 of Regulation (EEC) No 193/75', and also its stamp.

3. The titular holder must, at the request of the issuing agency, return to that agency the licence or certificate and/or the extracts therefrom.

Where a disputed document is returned or held in accordance with the provisions of this Article, the competent national authorities shall on request give the party concerned a receipt.

Article 12

Where on licences or certificates or on extracts therefrom the space reserved for attributions is insufficient, the attributing authorities may attach thereto one or more extension pages containing spaces for attributions as shown on the back of Copy No 1 of the said licences, certificates or extracts. The attributing authorities shall so place their stamp that one half is on the licence or certificate or extract therefrom and the other on the extension page, and for each further extension page issued a further stamp shall be placed in like manner across such page and the preceding page.

Article 13

1. Subject as provided in the second subparagraph of Article 5 (1), applications for licences or certificates, licences and certificates and extracts therefrom shall be drawn up on forms conforming to the specimens set out in Annex I to this Regulation, such forms being completed in accordance with the instructions appearing thereon and with the specific Community provisions applicable to the relevant product sector.

2. Licence and certificate forms shall be made up in sets containing Copy No 1, Copy No 2 and the Application, together with any extra copies of the licence or certificate, in that order.

However, Member States may prescribe that applicants are to complete only an application form instead of the sets provided for in the preceding subparagraph.

Forms for extracts of licences or certificates shall be made up in sets containing Copy No 1 and Copy No 2, in that order.

3. Forms, including extension pages, shall be printed on white paper free of mechanical pulp, dressed for writing and weighing between 55 and 65 grammes per square metre. Their size shall be 210 × 297 mm; the type space between lines shall be 4.24 mm (one-sixth of an inch); the layout of forms shall be followed precisely. Both sides of Copy No 1 and the side of extension pages on which the attributions must appear shall in addition have a printed guilloche pattern background so as to reveal any falsification by mechanical or chemical means. The guilloche background shall be green for forms relating to imports and sepia brown for forms relating to exports.

4. The Member States shall be responsible for having the forms printed. These may also be printed by printers appointed by the Member State in which they are established. In the latter case, reference to the appointment by the Member State must appear on each form.

Each form shall bear an indication of the printer's name and address or a mark enabling the printer to be identified and, except for the application form and extension pages, and individual serial number. The number shall be preceded by the following letters according to the country issuing the document: B for Belgium, DK for Denmark, D for Germany, F for France, IR for Ireland, I for Italy, L for Luxembourg, NL for the Netherlands and UK for the United Kingdom.

At the time of their issue licences or certificates and extracts may include an issue number allocated by the issuing agency.

5. Applications, licences or certificates and extracts shall be completed in typescript. They shall be printed and completed in one of the official languages of the Community as specified by the competent authorities of the issuing Member State.

6. The stamps of issuing agencies and attributing authorities shall be applied by means of a metal stamp, preferably made of steel. However, an embossing press combined with letters or figures obtained by means of perforation may be substituted for the issuing agency's stamp.

7. The competent authorities of the Member States concerned may, where necessary, require licences

or certificates and extracts therefrom to be translated into their official language or one of them.

Article 14

1. When the levy has been the subject of an application for advance fixing and when, at the time of issue of the licence or certificate, the threshold price in respect of one or more months of validity of the licence is not known, the provisional rate of levy for the months in question shall be shown in section 19. This rate shall be calculated for those months having regard to the known facts and to the threshold price applicable for the last month of the marketing year in progress. In section 20 of the licence or certificate it shall be indicated that the rate is subject to adjustment.

2. Where a certificate, licence or extract therefrom is used for an importation into Germany or Italy, the responsible bodies of those Member States may require that such document contains the adjusted rate or rates of levy. In that case such rate or rates shall, at the request of the titular holder or transferee, be stated in section 19 by the issuing agency as soon as the threshold price is known. This agency shall indicate the date and appose its stamp.

Article 15

Where a disputed document is returned in an extract from a licence or certificate or entries and endorsements appearing thereon is in doubt, the competent national authorities shall return the disputed document or a photocopy thereof to the authorities concerned for checking. The return of documents may also be required by way of random check; in such case only a photocopy of the document shall be returned.

Where a disputed document is returned in accordance with the preceding paragraph, the competent national authorities shall on request send a receipt to the party concerned.

Article 16

1. Where necessary for the proper application of this Regulation, the competent authorities of Member States shall exchange information on licences and certificates and extracts therefrom and on irregularities and infringements concerning them.

2. Member States shall each quarter send to the Commission returns showing for each product sector

the number and kind of irregularities and infringements which have come to their knowledge during the preceding quarter.

3. Licences or certificates and extracts properly issued and entries and endorsements stamped by the authorities of a Member State shall in each of the other Member States have the same legal effects as attach to documents issued and entries or endorsements stamped by the authorities of such Member States.

4. Member States shall communicate to the Commission the names and addresses of the agencies which issue licences or certificates and extracts therefrom, collect levies and pay refunds. The Commission shall publish this information in the *Official Journal of the European Communities*.

Member States shall also forward to the Commission impressions of the official stamps and, where appropriate, of the embossing presses of authorities empowered to act. The Commission shall immediately inform the other Member States thereof.

Article 17

1. As regards the period of validity of licences and certificates:

- (a) the obligation to import shall be considered to have been fulfilled and the right to import under the licence or certificate shall be considered to have been exercised on the day when customs formalities as referred to in Article 9 (3) (a) are completed, subject always to the product concerned being actually put into free circulation;
- (b) the obligation to export shall be considered to have been fulfilled and the right to export under the licence or certificate shall be considered to have been exercised on the day when customs formalities as referred to in Article 9 (3) (b) are completed.

2. Release of the security shall be subject to production of proof:

- (a) as regards imports, of completion of customs formalities as referred to in Article 9 (3) (a) relating to the product concerned;
- (b) as regards exports, of completion of customs formalities as referred to in Article 9 (3) (b) relating to the product concerned; furthermore, in the case of an export from the Community or of an operation as specified in Article 3 of Regulation (EEC) No 192/75, proof shall be required that the product has, within 45 days

from the day of completion of customs export formalities (*force majeure* excepted), as the case may be either left the geographical territory of the Community within the meaning of Article 4 of that Regulation or reached its destination as specified in Article 3 thereof.

3. The proof required under paragraph 2 shall be furnished as follows;

(a) in cases referred to in (2) (a) by production of Copy No 1 of the licence or certificate, and where appropriate of Copy No 1 of the extract or extracts from the licence or certificate, endorsed as provided in Article 9;

(b) in cases referred to in (2) (b) and subject as provided in paragraph 4, by production of Copy No 1 of the licence or certificate, and where appropriate of Copy No 1 of the extract or extracts of the licence or certificate, endorsed as provided in Article 9.

4. Furthermore, in the case of an export from the Community or of an operation as specified in Article 3 of Regulation (EEC) No 192/75, additional proof shall be required.

Such additional proof:

(a) shall be left to the choice of the Member State concerned where

- the issue of the licence or certificate, and
- the completion of customs formalities as referred to in Article 9 (3) (b), and
- departure of the product from the geographical territory of the Community within the meaning of Article 4 of Regulation (EEC) No 192/75 or at its destination as specified in Article 3 of that Regulation.

all take place within the same Member State;

(b) shall in all other cases be furnished by production of a copy or copies of the control copy provided for in Article 1 of Regulation (EEC) No 2315/69.

A copy or photocopy, certified by the competent authority, of such control copy or copies shall be delivered or sent to the party concerned without delay for production to the issuing agency. Where the issue of the licence or certificate and completion of formalities as referred to in Article 9 (3)

(b) both take place within the same Member State, that Member State may provide for the copy or photocopy to be submitted to the issuing agency through official channels.

5. Where on completion of customs export formalities as referred to in Article 9 (3) (b), a product is placed under the procedure provided for in Regulation (EEC) No 304/71 for carriage to a station of destination outside the geographical territory of the Community, the control copy required under the paragraph 4 (b) shall be returned or sent by the office of departure to the party concerned or where appropriate through officials to the agency which issued the licence or certificate. One of the following endorsements shall be entered in the Section 'Control as to use and/or destination':

'Departure from the geographical territory of the Community under Regulation (EEC) No 304/71 procedure';

'Sortie du territoire géographique de la Communauté sous le régime du règlement (CEE) n° 304/71';

'Uitgang uit het geografische grondgebied van de Gemeenschap onder de regeling van Verordening (EEG) nr. 304/71';

'Udgået fra Fællesskabets geografiske område ifølge proceduren i forordning (EØF) nr. 304/71';

'Ausgang aus dem geographischen Gebiet der Gemeinschaft im Verfahren nach Verordnung (EWG) Nr. 304/71';

'Uscita dal territorio geografico della Comunità sotto il regime del regolamento (CEE) n. 304/71'.

In the case referred to in the preceding subparagraph the office of departure may permit the contract of carriage to be varied so that carriage ends within the Community only if it is established:

- that, where the security given in respect of the operation in question has already been released, such security has been renewed; or
- that the necessary steps have been taken by the authorities concerned to ensure that the security is not released.

In any case where the security has been released and it is subsequently found that the product has not been exported, Member States shall take appropriate action.

6. If the party concerned is unable owing to circumstances beyond his control to produce the control copy as referred to in paragraph 4 (b) within the

three months following its issue, he may make application to the competent agency for other documents to be accepted as equivalent, stating the grounds for such application and furnishing supporting documents.

Such supporting documents must include the transport document and one or more of the documents specified in the second, third and fourth subparagraphs of Article 11 (1) of Regulation (EEC) No 192/75.

7. Where a licence or certificate or extract therefrom is lost, issuing agencies may, exceptionally, supply the party concerned with a duplicate thereof, drawn up and endorsed in the same way as the original document and clearly marked with the word 'Duplicate' on each copy.

Duplicates may not be submitted for purposes of carrying out import or export operations.

8. For the purposes of this Regulation:

(a) 'the day on which customs formalities as referred to in Article 9 (3) (a) are completed' means the day on which the customs authorities accept the document by which the declarant states his intention to put the products in question into free circulation or, where the products may be put into free circulation without such statement of intention, the day on which the products are put into free circulation;

(b) 'the day on which customs formalities as referred to in Article 9 (3) (b) are completed' means the day on which the customs authorities accept the document by which the declarant states his intention:

- to export the products in question, and with effect from which those products are placed under customs control until they leave the Community or, in a case as specified in Article 3 of Regulation (EEC) No 192/75, until they have reached their destination; or
- to place the products under customs control with a view to their being placed under one of the procedures provided for in Articles 2 and 3 of Regulation (EEC) No 441/69.

Article 18

1. The security shall be released as soon as the proof referred to in Article 17 (2) and (3) of this Regulation has been furnished.

2. Subject as provided in Articles 19 and 20, where the obligation to import or export has not been

fulfilled the security shall be forfeit in an amount equal to the difference between:

- (a) 95% of the net quantity indicated in the licence or certificate; and
- (b) the net quantity actually imported or exported.

However, if the net quantity imported or exported amounts to less than 5% of the net quantity indicated in the licence or certificate, the whole of the security shall be forfeit.

Furthermore, if the total amount of the security which would be forfeit is two units of account or less for a given licence or certificate, the Member State concerned may release the whole of the security.

3. On application by the titular holder of the document, Member States may release the security by instalments in proportion to the quantities of products in respect of which the proofs referred to in Article 17 (2) and (3) have been furnished, provided that proof has been furnished that a quantity equal to at least 5% of the net quantity indicated in the licence or certificate has been imported or exported.

Article 19

1. Where an export licence or advance fixing certificate is applied for in connection with an invitation to tender issued in an importing third country, a licence or certificate shall be issued only in respect of those quantities for which the applicant has been awarded a contract. The licence or certificate shall be issued only for the purposes of the award in question and an appropriate entry shall be made thereon. The security corresponding to any remaining quantity shall be released.

2. The applicant shall furnish appropriate documentary proof of the award of a contract to him.

If within 21 days following the closing date for the submission of tenders the applicant fails to notify the issuing agency of the outcome of the invitation to tender or to produce appropriate documentary proof to that agency that the closing date for the submission of tenders has been deferred, no licence or certificate shall be issued and the security shall be forfeit.

If the closing date for the submission of tenders is deferred:

- by not more than five days, the application shall remain valid and the period referred to in the

preceding subparagraph for notifying the outcome of the invitation to tender shall be reckoned from the new closing date,

- by more than five days, the application shall no longer be valid and the security shall be released.

3. The provisions of paragraphs 1 and 2 shall apply only if the applicant has submitted an application for a licence which includes an application for advance fixing of a refund for the third country in which the invitation to tender has been issued and specifies therein:

- (a) the closing date for submission of tenders;
- (b) the importing third country and the agency issuing the invitation to tender;
- (c) the total quantity covered by the invitation to tender.

Such application may not be submitted more than 15 days before the closing date for the submission of tenders. The applicant shall produce appropriate documents showing that the particulars submitted pursuant to (a), (b) and (c) are correct.

4. The expression 'invitation to tender' shall be understood to mean the following: open invitations issued by public agencies in third countries, or by international bodies governed by public law, to submit by a given date tenders on which a decision will be taken by those agencies or bodies.

5. Member States shall immediately communicate to the Commission the particulars referred to in paragraph 3 (a), (b) and (c).

6. In special cases provision may be made under the procedure laid down in Article 26 of Regulation No 120/67/EEC on the common organization of the market in cereals, or as appropriate in the corresponding Articles of the other Regulations on the common organization of markets, for exceptions to the foregoing rules.

Article 20

1. Where as a result of *force majeure* importation or exportation cannot be effected during the period of validity of the licence or certificate, the competent agency of the issuing Member State shall decide, at the request of the titular holder, either that the obligation to import or export be cancelled, the security being released, or that the period of validity of the licence or certificate be extended for such

period as may be considered necessary in view of the circumstances invoked. Such extension may be granted after the period of validity of the document has expired.

The decision to cancel or to extend shall be restricted to that quantity of the product which could not be imported or exported by reason of *force majeure*.

Any extension of a licence or certificate shall be recorded by means of an endorsement stamped by the issuing agency on the licence or certificate and where appropriate on its extracts, and the necessary adjustments shall be made.

2. Where circumstances relied upon as constituting *force majeure* relate to the exporting country, in the case of imports, or to the importing country, in the case of exports, such circumstances may be accepted as such only if the issuing agency was notified in good time as to the exporting country or importing country. Notification as to the exporting country or importing country shall be considered as having been made in good time if the circumstances relied upon by way of *force majeure* could not at the time of notification have been foreseen by the applicant.

3. Where the competent agency accepts a case of *force majeure* as such, the Member State concerned

shall immediately notify the Commission, which shall inform the other Member States thereof.

4. The titular holder of the licence or certificate shall furnish proof of the circumstances relied upon as constituting *force majeure*.

Article 21

1. Regulation (EEC) No 1373/70 is hereby repealed.

2. In all Community instruments in which reference is made to Regulation (EEC) No 1373/70 or to Articles of that Regulation, such references shall be treated as references to this Regulation or to the corresponding Articles thereof. A table of equivalence in respect of those Articles is given in Annex II to this Regulation.

Article 22

This Regulation shall enter into force on 1 March 1975.

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

Done at Brussels, 17 January 1975.

For the Commission

The President

François-Xavier ORTOLI

I

(Acts whose publication is obligatory)

REGULATION (EEC) No 2727/75 OF THE COUNCIL

of 29 October 1975

on the common organization of the market in cereals

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament ⁽¹⁾;

Whereas since their adoption the basic provisions concerning the organization of the market in cereals have been amended a number of times; whereas, by reason of their number, their complexity and their dispersal among various Official Journals, these texts are difficult to use and thus lack the clarity which should be an essential feature of all legislation; whereas they should, therefore, be consolidated in a single text;

Whereas the operation and development of the common market in agricultural products must be accompanied by the establishment of a common agricultural policy to include in particular a common organization of agricultural markets which may take various forms depending on the product;

Whereas the common organization of the market in cereals must include a single price system for cereals in the Community; whereas such a system entails fixing annually for the principal products a target price valid for the whole Community, a single

intervention price or a basic intervention price from which are obtained various derived intervention prices at which the relevant agencies must buy in the cereals offered to them and a threshold price to which the price of imported products must be equated by means of a variable import levy;

Whereas the aim of the common agricultural policy is to attain the objectives set out in Article 39 of the Treaty; whereas in the cereals sector, in order to stabilize markets and to ensure a fair standard of living for the agricultural community concerned, intervention agencies should be able to take intervention measures on the market;

Whereas free movement of cereals within the Community should enable shortages in deficit areas to be covered by surpluses in production areas; whereas, so as not to impede this in the case of common wheat, intervention prices derived from the basic price should be fixed in such a way that the differences between them reflect the disparities which, given a normal harvest, arise under natural conditions of price formation on the market, and that the forces of supply and demand may have free play; whereas, as regards the other basic products, shortages in deficit areas could be covered by surpluses in production areas if a single intervention price is fixed corresponding to the lowest intervention prices which would have been fixed in the Community had the system provided for in respect of common wheat been applied to those products;

Whereas, the intervention agencies must be able, in special circumstances, to take intervention measures suited to those circumstances; whereas, however, so that the required uniformity of intervention systems may be maintained, those special circumstances should be assessed and the appropriate measures determined at Community level;

⁽¹⁾ Opinion delivered on 16 October 1975 (not yet published in the Official Journal).

Whereas, the target prices, intervention prices and threshold prices should, in the course of the marketing year, be subject to a certain number of monthly increases in order to take account, among other things, of storage costs and interest charges for storing cereals in the Community and of the need to ensure that the disposal of stocks conforms to market requirements;

Whereas it may prove impossible to give producers of durum wheat sufficient guarantees by fixing a price which takes into account the ratio existing normally on the world market between durum and common wheat prices; whereas this ratio should be respected so far as possible in the Community because of the interchangeability of these two products; whereas provision must therefore be made for the possibility of granting aid to producers of durum wheat;

Whereas in view of the special market situation for cereal starch, potato starch and glucose produced by the 'direct hydrolysis' process it may prove necessary to provide for a production refund of such a nature that the basic products used by this industry can be made available to it at a lower price than that resulting from the application of the system of levies and common prices;

Whereas the creation of a single Community market for cereals involves, apart from a single price system, the introduction of a single trading system at the external frontiers of the Community; whereas a trading system including levies and export refunds, combined with intervention measures, also serves to stabilize the Community market, in particular by preventing price fluctuations on the world market from affecting prices ruling within the Community; whereas, therefore, provision should be made for charging a levy on imports from third countries and for the payment of a refund on exports to these countries, both being designed to cover the difference between prices ruling outside and within the Community; whereas, moreover, in respect of products processed from cereals to which this Regulation applies, account should be taken of the need to ensure a measure of protection for the Community processing industry;

Whereas, in addition to the system described above, and to the extent necessary for its proper working, provision should be made for regulating or, when the situation on the market so requires, prohibiting totally or partially the use of 'inward processing

arrangements'; whereas, moreover, the refund should be fixed in such a way that operations under inward processing arrangements do not lead the Community processing industry to use, with a view to export, basic products imported from third countries in preference to Community basic products;

Whereas the competent authorities must be in a position constantly to follow trade movements in order to assess market trends and to apply the measures laid down in this Regulation as necessary; whereas, to that end, provision should be made for the issue of import and export licences accompanied by the provision of security guaranteeing that the transactions for which such licences are requested are effected;

Whereas the levy system makes it possible to dispense with all other protective measures at the external frontiers of the Community; whereas, however, the common price and levy machinery may in exceptional circumstances prove defective; whereas, in such cases, so as not to leave the Community market without defence against disturbances, the Community should be enabled to take all necessary measures without delay;

Whereas, in a situation of high prices on the world market, provision should be made for appropriate measures to be taken in order to safeguard Community supplies and to stabilize prices on Community markets;

Whereas the establishment of a single market based on a common price system would be jeopardized by the granting of certain aids; whereas, therefore, the provisions of the Treaty which allow the assessment of aids granted by Member States and the prohibition of those which are incompatible with the common market should be made to apply to cereals;

Whereas Italy should be authorized for some years to take measures to reduce the impact of the new system on the level of prices for feed grain in that Member State in order to facilitate the adjustment of the Italian market to that new system;

Whereas the common organization of the market in cereals must include the products of primary processing which contain cereals or certain products which do not contain cereals but which are directly

interchangeable in their use with cereals or with products obtained from cereals;

Whereas the Community is required under international obligations concerning cereals, to furnish certain information about the trends on its market; whereas, therefore, provision should be made for Member States to furnish the Commission with the necessary particulars;

Whereas, in order to facilitate implementation of the proposed measures, a procedure should be provided for establishing close cooperation between Member States and the Commission within a Management Committee;

Whereas the European Economic Community is a party to the International Wheat Agreement; whereas provisions for mobilizing food aid should be adopted; whereas it should be provided that, save in exceptional circumstances, products intended as food aid should be obtained on the Community market; whereas such products are to be purchased on that market, taken from cereal stocks held by intervention agencies or manufactured from such cereals;

Whereas the common organization of the market in cereals must take appropriate account, at the same time, of the objectives set out in Articles 39 and 110 of the Treaty;

Whereas the expenditure incurred by the Member States as a result of the obligations arising out of the application of this Regulation fall on the Community in accordance with the provisions of Articles 2 and 3 of Council Regulation (EEC) No 729/70 ⁽¹⁾ of 21 April 1970 on the financing of the common agricultural policy, as amended by Regulation (EEC) No 1566/72 ⁽²⁾,

HAS ADOPTED THIS REGULATION:

Article 1

The common organization of the market in cereals shall comprise a price and trading system and cover the following products:

CCT heading No	Description of goods
a) 10.01 A	Common wheat and meslin
10.02	Rye
10.03	Barley
10.04	Oats
10.05 B	Maize, other than hybrid maize for sowing
10.07	Buckwheat, millet, canary seed and grain sorghum; other cereals
b) 10.01 B	Durum wheat
c) 11.01 A	Wheat or meslin flour
11.01 B	Rye flour
ex 11.02 A	Wheat groats and meal (common wheat and durum wheat)
d)	the products listed in Annex A to this Regulation

TITLE I.

Prices

Article 2

1. Simultaneously and before 1 August of each year the following prices shall be fixed for the Community for the marketing year beginning during the following calendar year:

- a target price for each of the following: common wheat, durum wheat, barley, maize and rye,
- a basic intervention price for common wheat,
- a guaranteed minimum price for durum wheat.

2. These prices shall be fixed for a standard quality to be determined for each of the above cereals.

3. The target price and the basic intervention price shall be fixed for Duisburg at the wholesale stage, goods delivered to warehouse, not unloaded.

The guaranteed minimum price for durum wheat shall be fixed for the marketing centre of the region with the largest surplus, at the same stage and under the same conditions as the target price.

4. The prices mentioned in this Article and the standard qualities for which they are fixed shall be determined in accordance with the procedure laid down in Article 43 (2) of the Treaty.

Article 3

The marketing year for all products listed in Article 1 shall begin on 1 August and end on 31 July of the following year.

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽²⁾ OJ No L 167, 25. 7. 1972, p. 5.

Article 4

1. In order to guarantee to producers that the market price does not fall below a minimum level, derived intervention prices for common wheat shall be fixed for the Community, in addition to the basic intervention price.

The derived intervention prices shall be fixed for the same standard quality, at the same stage and under the same conditions as the target price, for all marketing centres in the Community except Duisburg. The level of the derived intervention prices shall be fixed in such a way that the differences between them correspond to the disparities in prices to be expected in a normal harvest under natural conditions of price formation on the market and allow the free movement of cereals within the Community in accordance with the requirements of the market.

2. For barley, rye, durum wheat and maize, for which no basic intervention price is laid down, single intervention prices shall be fixed for the Community for all the marketing centres for those cereals. These prices shall correspond to the lowest derived intervention prices which would have been fixed in the Community, had paragraph 1 been applied in respect of the said cereals.

3. Intervention prices shall be valid from 1 August to 31 May of the following year. From 1 June to 31 July the intervention prices valid for August of the following marketing year shall apply.

4. The Council, acting by a qualified majority on a proposal from the Commission, shall lay down each year before 15 March for the following marketing year:

- (a) the marketing centre for common wheat to which the lowest intervention price applies and the price in question in respect of each Member State;
- (b) the principal marketing centres and the derived intervention prices to be applied in those centres;
- (c) the single intervention prices for barley, rye, durum wheat and maize.

5. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt rules for:

- (a) determining marketing centres other than those mentioned in paragraph 4 (b);
- (b) deriving intervention prices valid both for the principal marketing centres and for other centres.

6. The marketing centres mentioned in paragraph 5 (a) and the derived intervention prices valid for those centres shall be determined, after consultation with the Member States concerned, before 15 May of each year for the following marketing year, in accordance with the procedure laid down in Article 26.

Article 5

1. In respect of common wheat, durum wheat, barley, maize and rye a threshold price shall be fixed for the Community in such a way that the selling price for the imported product on the Duisburg market shall be the same as the target price, differences in quality being taken into account.

The threshold price shall be fixed for the same standard quality as the target price.

2. For a standard quality of each of the products listed in Article 1 (a) which are not mentioned in paragraph 1 above, a threshold price shall be fixed for the Community in such a way that the price for those cereals mentioned in paragraph 1 which are in competition with these products shall reach the target price on the Duisburg market.

3. For a standard quality of each of the products listed in Article 1 (c) a threshold price shall be fixed for the Community, account being taken of the objective stated in paragraph 2 and of the need to protect the processing industry.

4. The threshold prices shall be calculated for Rotterdam.

5. The Council, acting by a qualified majority on a proposal from the Commission, shall determine:

- (a) the rules for fixing threshold prices for products referred to in paragraph 3 and the standard quality for products referred to in paragraphs 2 and 3;
- (b) before 15 March of each year, for the following marketing year, the threshold prices for products referred to in paragraphs 1 and 2.

6. Threshold prices for products referred to in paragraph 3 shall be fixed before 15 March of each year for the following marketing year in accordance with the procedure laid down in Article 26.

Article 6

1. The target prices, intervention prices and threshold prices shall be the subject of monthly increases phased over all or part of the marketing year.

2. The Council, acting by a qualified majority on a proposal from the Commission, shall determine before 15 March of each year, for the following marketing year, the number and amount of the monthly increases and in what month they are to apply.

Article 7

1. Throughout the marketing year the intervention agencies designated by Member States shall be obliged to buy in cereals mentioned in Article 4 which are offered to them and have been harvested in the Community, provided that the offers comply with conditions, in particular in respect of quality and quantity, to be determined in accordance with paragraph 5.

2. The intervention agencies shall buy in at the intervention price for the marketing centre at which the cereal is offered, under conditions determined in accordance with paragraphs 4 and 5. If the quality of the cereal is different from the standard quality for which the intervention price has been fixed, the intervention price shall be adjusted in accordance with scales of price increases and reductions. These scales may also include special optional price increases in respect of barley of brewery quality and, in certain regions, in respect of rye of bread-making quality.

3. Under conditions to be laid down in accordance with paragraphs 4 and 5, the intervention agencies:

- shall offer for sale, for export to third countries or for supply to the internal market, the product bought in under the provisions of paragraph 1,
- may likewise offer for sale for the same purposes common wheat and also rye of bread-making quality in respect of which the special price increase has been granted, after having rendered them unfit for human consumption by denaturing.

They may also grant a denaturing premium for common wheat.

4. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules governing intervention and denaturing.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 26, in particular as regards:

- the minimum quality and quantity required of each cereal for it to be eligible for intervention,
- the scales of price increases and reductions applicable for the purposes of intervention,

- the procedures and conditions for taking over by the intervention agencies,
- the procedures and conditions for disposal of produce by the intervention agencies,
- the conditions for granting denaturing premiums and the amount thereof.

Article 8

The Council, acting by a qualified majority on a proposal from the Commission, shall determine the conditions under which intervention agencies may take special intervention measures to prevent substantial purchases being made in pursuance of Article 7 (1) in certain regions of the Community.

The nature and application of such intervention measures shall be determined in accordance with the procedure laid down in Article 26.

Article 9

1. A carry-over payment may be granted in respect of stocks remaining at the end of the marketing year of common wheat, durum wheat, rye, barley and maize harvested in the Community, and of malt.

However, for Member States in which the new harvest is usually available before the beginning of the new marketing year, it may be decided in accordance with the procedure referred to in paragraph 6, that the stock qualifying for the payment at the end of the marketing year may not be greater than that declared at an earlier date, to be determined in each year.

Before 15 March of each year the Council, acting by a qualified majority on a proposal from the Commission, shall decide whether a carry-over payment should be granted in respect of one or more of the abovementioned products, and, if so, to what extent.

2. Any carry-over payment for maize shall be granted only in respect of quantities in stock in areas of surplus production.

3. The carry-over payment for each cereal shall not exceed the difference between the target price valid for the last month of the marketing year and that valid for the first month of the next marketing year.

4. The carry-over payment shall be granted only in respect of stocks which reach a minimum quantity.

5. The amount of the carry-over payment shall be fixed in accordance with the procedure referred to in the third subparagraph of paragraph 1.

6. Detailed rules for the application of this Article, in particular the minimum quantity mentioned in paragraph 4 and the categories of those entitled to it, shall be adopted in accordance with the procedure laid down in Article 26.

Article 10

Where the intervention price for durum wheat valid for the marketing centre of the area with the largest surplus is lower than the guaranteed minimum price, aid shall be granted for the production of this cereal. This aid, of a uniform amount for the whole Community, shall be equal throughout the marketing year to the difference between the guaranteed minimum price and the abovementioned intervention price at the beginning of the marketing year.

The Council, acting by a qualified majority on a proposal from the Commission, shall adopt detailed rules for the application of this Article.

Article 11

1. A production refund may be granted:

(a) for maize and common wheat used in the Community for the manufacture of starch;

(b) for potato starch;

(c) for maize groats and meal used in the Community for the manufacture of glucose by direct hydrolysis;

2. The payment of the production refund for potato starch shall be subject to the condition that the processor has paid a minimum free-at-factory price for the potatoes.

The minimum price to be received by the producer shall consist of the minimum price to be paid by the starch manufacturer plus an amount corresponding to the production refund.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt rules for the application of this Article and fix the amount of the production refund.

TITLE II

Trade with third countries

Article 12

1. Imports into the Community or exports therefrom of any of the products listed in Article 1 shall be subject to the submission of an import or export licence which may be issued by Member States to any applicant irrespective of the place of his establishment in the Community. Where the levy or refund is fixed in advance, the advance fixing shall be noted on the licence which serves as supporting document for such advance fixing.

However, the issue of import licences for wheat and wheat flour shall be suspended in respect of imports from countries which are not parties to the Wheat Trade Convention when compliance with the obligations entered into within the framework of that convention so requires.

The import or export licence shall be valid throughout the Community.

The issue of such licences shall be conditional on the lodging of a deposit guaranteeing that importation or exportation will be effected during the period of validity of the licence; the deposit shall be forfeited in whole or in part if the transaction is not effected, or is only partially effected, within that period.

2. The period of validity of licences and other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 26.

Article 13

1. A levy equal for each product to the threshold price less the cif price shall be charged on imports of the products listed in Article 1 (a), (b) and (c).

2. The cif prices shall be calculated for Rotterdam on the basis of the most favourable purchasing opportunities on the world market, determined for each product on the basis of the quotations and prices of that market after adjustment for any differences in quality as compared with the standard quality for which the threshold price is fixed.

Differences in quality shall be expressed in coefficients of equivalence.

3. Where free quotations on the world market are not a determining factor for the offer price and where

this price is lower than world market prices, a special cif price calculated on the basis of the offer price shall be substituted for the cif price solely for the imports in question.

4. Detailed rules for the application of this Article, and in particular the coefficients of equivalence, the rules for determining cif prices and the margin within which variations in the factors used for calculating the levy do not require any alteration of the levy, shall be adopted in accordance with the procedure laid down in Article 26.

5. The Commission shall fix the levies mentioned in this Article.

Article 14

1. A levy shall be charged on the importation of products referred to in Article 1 (d), consisting of two components:

A. A variable component which may be fixed and revised on a flat-rate basis:

(a) corresponding, in respect of products processed from basic products listed in Article 1 (a), to the incidence on their prime cost of the levies on those basic products;

(b) increased, where appropriate, for processed products which contain both basic products listed in Article 1 (a) and other products, by the amount of the incidence on their prime cost of the levies or customs duties charged on those other products;

(c) fixed, for products which do not contain any basic products listed in Article 1 (a), with reference to market conditions for those Article 1 products which are in competition with them;

B. A fixed component designed to protect the processing industry.

2. Where actual offers from third countries of products referred to in Article 1 (d), do not correspond to the price which results from the price of basic products used in their manufacture plus processing costs, an amount fixed in accordance with the procedure laid down in Article 26 may be added to the levy fixed in accordance with paragraph 1.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt rules for the application of this Article.

4. The Commission shall fix the levies specified in paragraph 1.

Article 15

1. The levy to be charged shall be that applicable on the day of importation.

2. However, as regards imports of products listed in Article 1 (a) and (b), the levy applicable on the day on which application for a licence is lodged, adjusted on the basis of the threshold price which will be in force during the month of importation, shall be applied to an import to be effected during the period of validity of the licence, if the applicant so requests when applying for the licence. In this case, a premium, fixed at the same time as the levy, shall be added to the levy.

3. A decision may be taken in accordance with the procedure laid down in Article 26 to apply the provisions of paragraph 2, in whole or in part, to any of the products listed in Article 1 (c) and (d).

If the carry-over payment envisaged by Article 9 is not granted for malt and if an advance fixing of the levy has been prescribed for this product, the levy shall be adjusted during the first two months of the marketing year on the basis of the threshold price in force during the last month of the preceding marketing year.

4. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt rules for fixing the scale of premiums and adopt measures to be taken in exceptional circumstances.

5. Detailed rules for advance fixing shall be adopted in accordance with the procedure laid down in Article 26.

6. The scale of premiums shall be fixed by the Commission.

7. Where examination of the market situation shows that the application of the provisions concerning the advance fixing of the levy has given rise or may give rise to difficulties, a decision may be taken, in accordance with the procedure laid down in Article 26, to suspend the application of those provisions for the period strictly necessary.

In cases of extreme urgency, the Commission may, after examination of the situation on the basis of all the information available to it, decide to suspend advance fixing for a maximum of three working days.

Applications for licences accompanied by applications for advance fixing lodged during the period of suspension shall be rejected.

Article 16

1. To the extent necessary to enable the products listed in Article 1 to be exported in the state referred to therein or in the form of goods listed in Annex B on the basis of quotations or prices for those products on the world market, the difference between those quotations or prices and prices in the Community may be covered by an export refund.

2. The refund shall be the same for the whole Community. It may be varied according to use or destination.

The refund shall be granted on application.

When the refund is being fixed particular account shall be taken of the need to establish a balance between the use of Community basic products in the manufacture of processed goods for export to third countries and the use of third country products brought in under inward processing arrangements.

Refunds shall be fixed at regular intervals in accordance with the procedure laid down in Article 26.

Where necessary the Commission may, at the request of a Member State or on its own initiative, alter the refunds in the intervening period.

3. The amount of the refund applicable to the export of products listed in Article 1 and of goods listed in Annex B shall be that applicable on the day of exportation.

4. However, in the case of products listed in Article 1 (a) and (b), the refund applicable on the day on which application for the licence is lodged, adjusted for the threshold price which will be in force during the month of exportation, shall be applied to an export to be effected during the period of validity of the licence if the applicant so requests when applying for the licence.

A corrective amount may be fixed. It shall be applied to refunds fixed in advance. The corrective amount

shall be fixed at the same time as the refund according to the same procedure; however, where necessary the Commission may at the request of a Member State or on its own initiative, alter the corrective amounts in the intervening period.

The provisions of the preceding subparagraphs may be applied in whole or in part, to any of the products listed in Article 1 (c) and (d) and to any products listed in Article 1 which are exported in the form of goods specified in Annex B.

If the carry-over payment envisaged by Article 9 is not granted for barley and malt and if advance fixing of the refund has been laid down for malt, the refund on exports, during the first two months of the marketing year, of malt in stock at the end of the preceding marketing year or made from barley in stock at that time shall be adjusted for the threshold price in force in the last month of the preceding marketing year.

5. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for granting export refunds and criteria for fixing the amount of such refunds.

6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 26.

7. Where examination of the market situation shows that the application of the provision concerning the advance fixing of the export refund has given rise or may give rise to difficulties, a decision may be taken, in accordance with the procedure laid down in Article 26, to suspend the application of those provisions for the period strictly necessary.

In cases of extreme urgency, the Commission may, after examination of the situation on the basis of all the information available to it, decide to suspend advance fixing for a maximum of three working days.

Applications for licences accompanied by applications for advance fixing lodged during the period of suspension shall be rejected.

Article 17

To the extent necessary for the proper working of the common organization of the market in cereals, the Council, acting by a qualified majority on a proposal from the Commission, may prohibit in

whole or in part the use of inward processing arrangements:

- in respect of products listed in Article 1 which are intended for the manufacture of products listed in Article 1 (c) and (d),
- and, in special cases, in respect of products listed in Article 1 which are intended for the manufacture of goods listed in Annex B.

Article 18

1. Without prejudice to the provisions of Regulation (EEC) No 2729/75 ⁽¹⁾, the general rules for the interpretation of the Common Customs Tariff and the special rules for its application shall apply to the tariff classification of products covered by this Regulation; the tariff nomenclature resulting from application of this Regulation shall be incorporated in the Common Customs Tariff.

2. Save as otherwise provided in this Regulation or where derogation therefrom is decided by the Council, acting by a qualified majority on a proposal from the Commission, the following shall be prohibited:

- the levying of any customs duty or charge having equivalent effect,
- the application of any quantitative restriction or measure having equivalent effect.

The restriction of import or export licences to a specified category of those entitled to receive them shall be considered to constitute a measure having effect equivalent to a quantitative restriction.

Article 19

1. When the quotations or prices on the world market for one or more of the products mentioned in Article 2 reach the level of Community prices, and when that situation is likely to continue and to deteriorate, thereby disturbing or threatening to disturb the Community market, appropriate measures may be taken.

2. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for the application of this Article.

3. The detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 26.

⁽¹⁾ See page 18 of this Official Journal.

Article 20

1. If by reason of imports or exports the Community market in one or more of the products listed in Article 1 experiences or is threatened with serious disturbances which may endanger the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting by a qualified majority on a proposal from the Commission, shall adopt rules for the application of this paragraph and define the cases in which and the limits within which Member States may take protective measures.

2. If the situation mentioned in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the measures shall be communicated to the Member States and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within 24 hours following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days following the day on which they were communicated. The Council shall meet without delay. It may, acting by a qualified majority, amend or repeal the measures in question.

TITLE III

General provisions

Article 21

Goods listed in Article 1 which are manufactured or obtained from products to which Article 9 (2) and 10 (1) of the Treaty do not apply shall not be admitted to free circulation within the Community.

Article 22

Save as otherwise provided in this Regulation, Articles 92 to 94 of the Treaty shall apply to the production of and trade in the products listed in Article 1.

Article 23

1. When barley, oats, maize, grain sorghum or millet are imported by sea into the Italian Republic, that Member State may reduce the levy.

The amount of the reduction in the levy shall be fixed by the Council, acting by a qualified majority on a proposal from the Commission, at the same time as the prices for each marketing year.

This reduction may be made only if an equal subsidy is granted for deliveries of the same cereals by sea from Member States unless this subsidy has, at the request of the sender of the cereals, been paid to him by the Member State of origin which shall inform the Italian Republic forthwith. The Italian Republic shall keep all Member States informed at all times of the amount of subsidy in force.

2. If Italy makes use of the power conferred by paragraph 1, the Council, acting by a qualified majority on a proposal from the Commission, shall take the measures necessary to prevent discrimination between Community producers and distortions of competition in trade between denatured common wheat, on the one hand, and the cereals referred to in paragraph 1, in particular barley, on the other.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 26.

Article 24

Member States and the Commission shall communicate to each other the information necessary for implementing this Regulation and for complying with the international obligations concerning cereals. Rules for the communication and distribution of such information shall be adopted in accordance with the procedure laid down in Article 26.

Article 25

1. A Management Committee for Cereals (hereinafter called the 'Committee') shall be established consisting of representatives of the Member States and presided over by a representative of the Commission.

2. Within the Committee the votes of Member States shall be weighted in accordance with Article 148 (2) of the Treaty. The Chairman shall not vote.

Article 26

1. Where the procedure laid down in this Article is to be followed, the Chairman shall refer the matter to the Committee, either on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit a draft of the measures to be adopted. The Committee shall deliver its Opinion on the draft within a time limit set by the Chairman according to the urgency of the matter. An Opinion shall be delivered by a majority of 41 votes.

3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the Opinion of the Committee, they shall forthwith be communicated by the Commission to the Council. In that event the Commission may defer application of the measures which it has adopted for not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within one month.

Article 27

The Committee may consider any other question referred to it by its Chairman either on his own initiative or at the request of the representative of a Member State.

Article 28

1. Obligations arising under the food-aid conventions shall be met by the purchase on the Community market of the products specified in Article 1 or by the use of cereals held by intervention agencies.

2. The criteria for mobilizing the products, in particular those governing purchase on the Community market or the use of cereals held by intervention agencies, shall be adopted by the Council, acting by a qualified majority on a proposal from the Commission.

3. In exceptional circumstances products specified in Article 1 may be mobilized by purchases on the world market. Detailed rules for the application of this paragraph shall be adopted in accordance with the procedure laid down in Article 26.

Article 29

This Regulation shall be so applied that appropriate account is taken, at the same time, of the objectives set out in Articles 39 and 110 of the Treaty.

Article 30

1. Council Regulation No 120/67/EEC ⁽¹⁾ of 13 June 1967 on the common organization of the market in cereals, as last amended by Council Regulation (EEC) No 665/75 ⁽²⁾, is hereby repealed.

2. References to the Regulation repealed by paragraph 1 shall be construed as references to this Regulation.

A table is provided in Annex C for the purposes of correlating citations of and references to the Articles of that Regulation with those of this Regulation.

Article 31

This Regulation shall enter into force on 1 November 1975.

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

Done at Luxembourg, 29 October 1975.

For the Council

The President

G. MARCORA

⁽¹⁾ OJ No 117, 19. 6. 1967, p. 2269/67.

⁽²⁾ OJ No L 72, 20. 3. 1975, p. 14.

ANNEX A

CCT heading No	Description of goods
07.06 A	Manioc, arrowroot, salep and other similar roots and tubers with high starch content, excluding sweet potatoes
ex 11.01	Cereal flours: C. Barley flour D. Oat flour E. Maize flour G. Buckwheat flour H. Millet flour IJ. Canary seed flour K. Grain sorghum flour L. Other
ex 11.02	Cereal groats and cereal meal; other worked cereal grains (for example, rolled, flaked, polished, pearled or kibbled, but not further prepared), except husked, glazed, polished or broken rice; germ of cereals, whole, rolled, flaked or ground: ex A. Cereal groats and cereal meal, except groats and meal of wheat and rice B. Hulled grains (shelled or husked), whether or not sliced or kibbled C. Pearled grains D. Grains not otherwise worked than kibbled ex E. Rolled grains; flaked grains, except flaked rice ex F. Pellets, except rice pellets G. Germ of cereals, whole, rolled, flaked or ground
11.06	Flours and meal of sago and of manioc, arrowroot, salep and other roots and tubers falling within heading No 07.06
11.07	Malt, roasted or not
ex 11.08 A	Starches: I. Maze starch III. Wheat starch IV. Potato starch V. Other
11.09	Wheat gluten, whether or not dried

CCT heading No	Description of goods
17.02 B	Glucose and glucose syrup: II. Other
17.05 B	Glucose and glucose syrup, flavoured or coloured
23.02 A	Bran, sharps and other residues derived from the sifting, milling or working of cereals
23.03 A I	Residues from the manufacture of starch from maize (excluding concentrated steeping liquors), of a protein content, calculated on the dry product exceeding 40% by weight
23.07	Sweetened forage; other preparations of a kind used in animal feeding: ex B. Other, containing, separately or together and whether or not mixed with other products, starch, glucose or glucose syrup falling within subheadings 17.02 B and 17.05 B, or milk products (falling within heading No or subheading 04.01, 04.02, 04.03, 04.04, 17.02 A or 17.05 A), except preparations and feedingstuffs containing 50% or more by weight of milk products falling within one or more of the abovementioned headings or subheadings

ANNEX B

CCT heading No	Description of goods
17.02	Other sugars; sugar syrups; artificial honey (whether or not mixed with natural honey); caramel: B. Glucose and glucose syrup: I. Containing, in the dry state, 99% or more by weight of the pure product
17.04	Sugar confectionery, not containing cocoa: B. Chewing gum C. White chocolate D. Other
18 06 C	Chocolate and chocolate goods, whether or not filled; sugar confectionery and substitutes therefor made from sugar substitution products, containing cocoa
19.01	Malt extract
19.02	Preparations of flour, meal, starch or malt extract, of a kind used as infant food or for dietetic or culinary purposes, containing less than 50% by weight of cocoa
19.03	Macaroni, spaghetti and similar products
19.04	Tapioca and sago; tapioca and sago substitutes obtained from potato or other starches
19.05	Prepared foods obtained by the swelling or roasting of cereals or cereal products (puffed rice, corn flakes and similar products)
19.06	Communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products
19.07	Bread, ships' biscuits and other ordinary bakers' wares, not containing added sugar, honey, eggs, fats, cheese or fruit
19.08	Pastry, biscuits, cakes and other fine bakers' wares, whether or not containing cocoa in any proportion
21.01	Roasted chicory and other roasted coffee substitutes; extracts, essences and concentrates thereof: A. Roasted chicory and other roasted coffee substitutes: II. Other (than roasted chicory) B. Extracts, essences and concentrates of the products described under subheading A: II. Other (than extracts, essences and concentrates of roasted chicory)
ex 21.05	Soups and broths in liquid, solid or powder form
21.07	Food preparations not elsewhere specified or included

CCT heading No	Description of goods
22.03	Beer made from malt
29.04	Acyclic alcohols and their halogenated, sulphonated, nitrated or nitrosated derivatives:
	C. Polyhydric alcohols:
	III. Sorbitol
29.10	Acetals and hemiacetals and single or complex oxygen-function acetals and hemiacetals, and their halogenated, sulphonated, nitrated or nitrosated derivatives:
	ex B. Other:
	— Methylglucosides
29.14	Monocarboxylic acids and their anhydrides, halides, peroxides and peracids and their halogenated, sulphonated, nitrated or nitrosated derivatives:
	ex A. Saturated acyclic monocarboxylic acids:
	— Esters of sorbitol
	ex B. Unsaturated acyclic monocarboxylic acids:
	— Esters of sorbitol
29.16	Carboxylic acids with alcohol, phenol, aldehyde or ketone function and other single or complex oxygen-function carboxylic acids and their anhydrides, halides, peroxides and peracids, and their halogenated, sulphonated, nitrated or nitrosated derivatives:
	A. Carboxylic acids with alcohol function:
	V. Gluconic acid and its salts and esters
	ex VIII. Other:
	— Glyceric acid, glycolic acid, saccharonic acid, isosaccharonic acid, heptasaccharic acid and their salts and esters
29.35	Heterocyclic compounds; nucleic acids:
	ex Q. Other:
	Anhydric compounds of sorbitol (for example, sorbitans), excluding maltol and isomaltol
29.43	Sugars, chemically pure, other than sucrose, glucose and lactose; sugar ethers and sugar esters, and their salts, other than products of headings Nos 29.39, 29.41 and 29.42:
	ex B. Other:
	— Sorbose and its salts and esters
35.05	Dextrins and dextrin glues; soluble or roasted starches; starch glues
35.06	Prepared glues not elsewhere specified or included; products suitable for use as glues put up for sale by retail as glues in packages not exceeding a net weight of 1 kg:
	— with a base of sodium silicate emulsions

CCT heading No	Description of goods
38.12	Prepared glazings, prepared dressings and prepared mordants, of a kind used in the textile, paper, leather or like industries: A. Prepared glazings and prepared dressings: I. With a basis of amylaceous substances
38.19	Chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included; residual products of the chemical or allied industries, not elsewhere specified or included: Q. Foundry core binders based on synthetic resins ex T. Other — Sorbitol cracking products
39.02	Polymerisation and copolymerisation products (for example, polyethylene, polytetrahaloethylenes, polyisobutylene, polystyrene, polyvinyl chloride, polyvinyl acetate, polyvinyl chloroacetate and other polyvinyl derivatives, polyacrylic and polymethacrylic derivatives, coumarone — indene resins): ex C. Other: — Adhesives with a base of resin emulsions
39.06	Other high polymers, artificial resins and artificial plastic materials, including alginic acid, its salts and esters; linoxyn: ex B. Other, excluding linoxyn

ANNEX C

Correlation

Regulation No 120/67/EEC

Article 22a

This Regulation

Article 28

REGULATION (EEC) No 2746/75 OF THE COUNCIL

of 29 October 1975

laying down general rules for granting export refunds on cereals and criteria for fixing the amount of such refunds

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 2727/75⁽¹⁾ of 29 October 1975 on the common organization of the market in cereals, and in particular Article 16 (5) thereof;

Having regard to the proposal from the Commission;

Whereas export refunds on products subject to the common organization of the market in cereals must be fixed in accordance with certain criteria which would make it possible to cover the difference between quotations and prices for those products within the Community and on the world market, while respecting the general aims of the common organization; whereas to this end the supply situation and prices for cereals within the Community and the price situation on the world market for cereals and cereal products must be taken into account;

Whereas, in view of the considerable fluctuations in quotations for cereals on the world market over periods of time and the disparity between the prices at which cereals are offered by various countries on that market, a refund should be fixed which, for the purpose of covering the difference between world prices and prices ruling within the Community, particularly in view of costs incurred in placing these products on the market, would take the difference between representative prices within the Community and the most favourable quotations on the world market into account;

Whereas to enable flour, groats and meal to be exported, the prices and quantities of cereals used in the manufacture of these products within the

Community, the value of by-products and the possibilities and conditions for the sale of these products on the world market should be taken into account when the amount of the refund is being fixed;

Whereas the second subparagraph of Article 16 (4) of Regulation (EEC) No 2727/75 provides for the advance fixing of export refunds on flour, groats and meal; whereas, in view of the existence of a future market in international trade in these products, provision should be made for the advance fixing of the refund in respect of exports to be effected at a later date;

Whereas provision must be made for varying the amount of the refund according to the destination of the products, since markets in the countries of destination are at varying distances from Community markets and special conditions apply to imports in certain countries of destinations;

Whereas it is important in certain situations, and particularly in periods of uncertainty or of large price fluctuations on the world markets, to ensure more precise management of exports; whereas the fixing of the refund by means of the tendering procedure seems to be a suitable method for attaining this objective;

Whereas to avoid distortions of competition between individual Community traders, the administrative conditions under which they operate must be identical throughout the Community;

Whereas to ensure Community traders sufficient stability in the amount of the refund, the period for which the amounts may remain unchanged should be fixed subject to any alterations which may be made in the intervening period pursuant to the second sentence of the fourth subparagraph of Article 16 (2) of Regulation (EEC) No 2727/75;

Whereas there does not appear to be any justification for granting a refund on cereals imported from third

⁽¹⁾ See page 1 of this Official Journal.

countries and re-exported to third countries; whereas the reimbursement, under certain conditions, of the levy collected on importation is sufficient to allow these cereals to be placed on the world market again,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down rules for fixing and granting export refunds on the products specified in Article 1 of Regulation (EEC) No 2727/75.

Article 2

The following shall be taken into account when refunds are being fixed:

- (a) the existing situation and the future trend with regard to:
 - prices and availabilities of cereals on the Community market,
 - prices for cereals and cereal products on the world market;
- (b) the aims of the common organization of the market in cereals, which are to ensure equilibrium and the natural development of prices and trade on this market;
- (c) the need to avoid disturbances on the Community market; and
- (d) the economic aspect of the proposed exports.

Article 3

Refunds on the products specified in Article 1 (a) and (b) of Regulation (EEC) No 2727/75 shall be fixed in accordance with the following specific criteria:

- (a) cereal prices ruling on the various representative export markets of the Community;
- (b) the most favourable quotations recorded on the various markets of importing third countries; and
- (c) marketing costs and the most favourable transport charges from the Community markets referred to in (a) to ports or other points of export in the Community serving these markets, as well as costs incurred in placing the goods on the world market.

Article 4

1. For the products specified in Article 1 (c) of Regulation (EEC) No 2727/75 the refund applicable on the day on which the application for an export licence is lodged, adjusted on the basis of the threshold price in force during the month of exportation, shall be applied to exports to be effected during the period of validity of the export licence if the applicant so requests when applying for the licence.

A corrective amount may be fixed. It shall be applied to the refund where this is fixed in advance. The corrective amount shall be fixed at the same time as the refund according to the same procedure; however, when necessary, the Commission, following a request from a Member State or on its own initiative, may modify the corrective amounts in the intervening period.

2. Refunds shall be fixed in accordance with the following specific criteria:

- (a) cereal prices ruling on the various Community markets;
- (b) the quantities of cereals required for the manufacture of the products in question and the value of by-products;
- (c) possibilities and conditions for the sale of those products on the world market.

Article 5

1. The refund for the products specified in Article 1 (a) and (b) of Regulation (EEC) No 2727/75 may be fixed, where appropriate, by means of the tendering procedure. Tenders shall relate to the amount of the refund.

2. Detailed rules for the application of paragraph 1 shall be adopted in accordance with the procedure laid down in Article 26 of Regulation (EEC) No 2727/75.

Article 6

1. The refund may be increased by a compensatory amount in respect of stocks of common wheat, durum wheat, rye, barley and maize harvested within the Community in hand at the end of the marketing year and forming part of that year's crop which are exported in the natural state or in the form of products specified in Article 1 (c) of Regulation (EEC) No 2727/75 between the beginning of the following marketing year and dates still to be determined.

Before 15 March of each year the Council, acting by a qualified majority on a proposal from the Commission, shall, if necessary, determine the cereals to which the provisions of the preceding subparagraph shall apply.

2. The compensatory amount for each cereal shall be equal to the difference between the target price valid for the last month of the marketing year and that valid for the first month of the new marketing year.

This amount shall however be reduced by the amount of the carry-over payment already granted pursuant to Article 9 (2), and, where appropriate, Article 9 (1) of Regulation (EEC) No 2727/75.

3. The compensatory amount shall be granted only if stocks reach a minimum level.

Article 7

Where the world market situation or the specific requirements of certain markets make this necessary, the refund for the Community on the products specified in Article 1 (a), (b) and (c) of Regulation (EEC) No 2727/75 may be varied according to destination.

Article 8

1. The refund shall be paid upon proof:

- that the products have been exported from the Community, and
- that the products specified in Article 1 (a) and (b) of Regulation (EEC) No 2727/75 are of Community origin, except where Article 10 of this Regulation applies.

2. Where Article 7 applies, the refund shall be paid under the conditions laid down in paragraph 1 of this Article, provided it is proved that the product has reached the destination for which the refund was fixed.

Exceptions may be made to this rule in accordance with the procedure referred to in paragraph 3 of this Article, provided conditions are laid down which offer equivalent guarantees.

3. Additional provisions may be adopted in accordance with the procedure laid down in Article 26 of Regulation (EEC) No 2727/75.

Article 9

The refunds for the products specified in Article 1 (a), (b) and (c) of Regulation (EEC) No 2727/75 shall be fixed at least once a month.

Article 10

No export refund shall be granted on products specified in Article 1 (a) and (b) of Regulation (EEC) No 2727/75, which are imported from third countries and re-exported to third countries, unless the exporter proves:

- that the product to be exported and the product previously imported are one and the same, and
- that the levy was collected on importation.

In such cases the refund for each product shall be equal to the levy collected on importation where this levy is lower than the refund applicable on the day of exportation; the refund shall be equal to the refund applicable on the day of exportation where the levy collected on importation is higher than this refund.

Article 11

1. Council Regulation No 139/67/EEC⁽¹⁾ of 21 June 1967 laying down general rules for granting export refunds for cereals and criteria for fixing the amount of such refunds, as last amended by Regulation (EEC) No 87/75⁽²⁾, is hereby repealed.

2. References to the Regulation repealed by paragraph 1 shall be construed as references to this Regulation.

A table is provided in the Annex for the purposes of correlating citations of and references to the Articles of that Regulation with those of this Regulation.

Article 12

This Regulation shall enter into force on 1 November 1975.

⁽¹⁾ OJ No 125, 26. 6. 1967, p. 2453/67.

⁽²⁾ OJ No L 11, 16. 1. 1975, p. 3.

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

Done at Luxembourg, 29 October 1975.

For the Council

The President

G. MARCORA

ANNEX

Correlation

Regulation No 139/67/EEC

Article 4a

Article 5

Article 6

Article 7

Article 8

Article 9

This Regulation

Article 5

Article 6

Article 7

Article 8

Article 9

Article 10

COMMISSION REGULATION (EEC) No 1569/77

of 11 July 1977

fixing the procedure and conditions for the taking over of cereals by intervention agencies

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 1386/77⁽²⁾, and in particular Article 7 (5) thereof,

Whereas intervention prices are fixed in respect of a given standard quality and provision has been made for price increases and reductions to be applied if the quality of the cereals offered does not correspond to that standard;

Whereas cereals of inadequate quality for use or storage should not be accepted for intervention; whereas, in fixing the minimum quality, the diversity of climatic conditions in the different regions of the Community should be taken into consideration;

Whereas, in order to simplify the management of intervention operations and, in particular, to permit the establishment of homogeneous lots for each type of cereal offered to intervention, a minimum quantity, below which the intervention agency is not obliged to accept the offer, should be fixed;

Whereas, however, it may be necessary to provide for a greater minimum tonnage in certain Member States, so that intervention agencies may take account of pre-existing conditions and practices of the wholesale trade in those countries;

Whereas the conditions under which cereals are offered to and taken over by the intervention agencies must be as uniform as possible throughout the Community in order to avoid any discrimination between producers; whereas minimum quality characteristics should therefore be laid down; whereas, however, it may be appropriate for the Member States to apply, concurrently with the provisions of this Regulation, certain provisions of their own which are suited to their own climatic conditions and commercial practices;

Whereas Commission Regulation (EEC) No 1492/71 of 13 July 1971 fixing the procedure and conditions

for the taking over of cereals by intervention agencies⁽³⁾, as last amended by Regulation (EEC) No 1832/76⁽⁴⁾, has been the subject of numerous amendments; whereas, in the interest of clarity, it should be replaced by this Regulation;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit laid down by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Any holder of a homogeneous batch of not less than 80 tonnes of common wheat, rye, barley or maize or 15 tonnes of durum wheat, harvested within the Community, shall be entitled to offer such cereals to the intervention agency. However, the intervention agencies may fix a greater minimum tonnage.

Article 2

1. In order to be accepted for intervention, the cereals must be sound, fair and of marketable quality.

2. They shall be regarded as sound, fair and of marketable quality if they are of the typical colour of the cereal in question, free from abnormal smell and live pests (including mites) at every stage of their development and if they meet the minimum quality requirements set out in the Annex hereto.

3. For purposes of this Regulation, the definitions of matter other than basic cereals of unimpaired quality shall be those set out in Annex I to Council Regulation (EEC) No 2731/75 of 29 October 1975 fixing standard qualities for common wheat, rye, barley, maize and durum wheat⁽⁵⁾, with the addition, as regards maize, of those set out in the first and second indents of Article 4 (c) of that Regulation.

4. In the event of particularly unfavourable climatic conditions, provision may be made under the procedure laid down in Article 26 of Regulation (EEC) No 2727/75 for derogations from paragraph 2 in respect of the marketing year in question and of specified regions of the Community. Under such derogations:

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 158, 29. 6. 1977, p. 1.

⁽³⁾ OJ No L 157, 14. 7. 1971, p. 18.

⁽⁴⁾ OJ No L 203, 29. 7. 1976, p. 26.

⁽⁵⁾ OJ No L 281, 1. 11. 1975, p. 22.

- the percentage of matter which is not basic cereal of unimpaired quality may be increased to not more than 15 %,
- the percentage of sprouted grains may be increased to not more than 12 %,
- the percentage of shrivelled common wheat or barley may be increased to not more than 15 %,
- the percentage of 'mitadiné' grains in durum wheat may be increased to not more than 60 %.

Article 3

1. An offer for intervention shall be made in writing to an intervention agency.
2. Acceptance of the offer by the intervention agency shall be given with the least possible delay, together with necessary particulars of the conditions under which the goods will be taken over. Any objection to the conditions must be made within 48 hours of receipt of the acceptance.
3. The price to be paid to the seller shall be the price valid for the month specified as the month of delivery⁽¹⁾ at the time of the acceptance of the offer, as established in accordance with Article 2 of Council Regulation (EEC) No 2738/75 of 29 October 1975 laying down general rules for intervention on the market in cereals⁽¹⁾, for goods delivered to the store but not inloaded, account being taken of the increases and reductions to be determined.

This price may however be increased by charges related to entry into storage depot after the offer has been accepted by the intervention agency.

4. Payment shall be made as soon as possible after the cereals are taken over.

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

Done at Brussels, 11 July 1977.

Article 4

1. The date of the take-over shall be agreed between the seller and the intervention agency.
2. The actual take-over of the cereals shall be effected by the intervention agency in the presence of the seller or his duly authorized agents.
3. Where agreement as to the quality and characteristics of the cereal offered cannot be reached, samples taken by both parties shall be submitted for analysis to a laboratory duly approved by the competent authorities. The results of such analysis shall be final.
4. The seller and the intervention agency may be represented by their respective agents.

Article 5

The intervention agencies shall, where necessary, adopt additional procedures and conditions for taking over, compatible with this Regulation, to take account of any special conditions existing in their Member State; in particular, they may request periodic stock returns.

Article 6

Regulation (EEC) No 1492/71 is hereby repealed with effect from 1 August 1977.

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

It shall apply with effect from 1 August 1977.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 49.

ANNEX

	Durum wheat	Common wheat	Rye	Bailey	Maize
1. Maximum moisture content ⁽¹⁾	from 14 to 16 %	from 14 to 16 %	from 14 to 16 %	from 14 to 16 %	from 14 to 16 %
2. Maximum percentage of matter which is not basic cereal of unimpaired quality	10 %	12 %	12 %	12 %	12 %
of which :					
(a) broken grains	5 %	5 %	5 %	5 %	10 %
(b) impurities consisting of grains	5 %	12 %	5 %	12 %	5 %
of which :					
— shrivelled grains		12 %		12 %	
— other cereals	3 %	{ 5 %		{ 5 %	
— grains damaged by pests					
— grains in which the germ is discoloured					
— mottled grains					
— grains damaged by heat during drying	0.50 %	3 %	3 %	3 %	3 %
(c) sprouted grains ⁽¹⁾	from 4 to 6 %	from 6 to 8 %	from 6 to 8 %	from 6 to 8 %	from 6 to 8 %
(d) miscellaneous impurities (Schwarzbesatz)	3 %	3 %	3 %	3 %	3 %
of which :					
— harmful weed seeds	0.10 %	0.10 %	0.10 %	0.10 %	0.10 %
— damaged grains, within which grains damaged by spontaneous heating	0.05 %				
— extraneous matter :					
— husks					
— ergot	0.05 %	0.05 %	0.05 %	0.05 %	0.05 %
— decayed grains					
— dead insects and fragments of insects					
3. Maximum percentage of :					
— 'mitadiné' grains, wholly or partially	50 %				
— grains of common wheat	4 %				
4. Minimum specific weight	76 kg/hl	from 68 to 72 kg/hl ⁽¹⁾	68 kg/hl	63 kg/hl ⁽²⁾	—

⁽¹⁾ The maximum percentages and specific weights shall be fixed by the intervention agencies according to region and to harvest and storage conditions.

⁽²⁾ For winter bailey, however, the minimum specific weight may be fixed at 55 kg/hl by the intervention agencies of Member States.