alpha acid content of these products is not lower than that of the hops they have been prepared from.'

4. The last subparagraph of Article 7 (3) (b) shall be replaced by the following:

'It shall be possible for a group or union to authorize its members to market all or a part of their produce themselves in accordance with rules laid down and supervised by the group or union;'

5. The following subparagraph shall be added to Article 12 (5):

'(c) The amount of aid to be fixed may be lower in the case of those producers who do not belong to a recognized producer group which markets all the produce of its members as referred to in Article 7 (3) (b). The amount of aid to be fixed in this case shall be at least 50 % of the amount of aid which is fixed for the different groups of hop varieties according to the provisions of Article 12 (5) (a) and (6) of the present Regulation.'

Article 2

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

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

Proposal for a Council Regulation (EEC) prohibiting to honour Iraqi claims with regard to contracts and transactions affected by the United Nations Security Council resolution 661 (1990) and related resolutions

(91/C 204/05)

SEC(91) 1363 final

(Submitted by the Commission on 12 July 1991)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Whereas, under Regulations (EEC) No 2340/90 (1) and (EEC) No 3155/90 (2), both as last amended by Regulation (EEC) No 1194/91 (3), the Community has taken measures to prevent trade by the Community as regards Iraq;

Whereas as a consequence of the embargo against Iraq economic operators in the Community and third countries are exposed to the risk of claims by the Iraqi side;

Whereas it is necessary to protect operators against such claims and to prevent Iraq from obtaining compensation for negative effects of the embargo;

Whereas the Security Council of the United Nations adopted resolution 687 (1991) of 3 April 1991 which, in its paragraph 29, deals with claims by Iraq in relation with contracts and transactions affected by measures taken by the Security Council in resolution 661 (1990) and related resolutions;

Whereas the Community and its Member States have agreed to establish a Community instrument in order to ensure a uniform implementation, throughout the Community, of paragraph 29 of Security Council resolution 687 (1991);

Whereas such a uniform implementation is necessary to achieve the aims of the Treaty establishing the European Economic Community; whereas no other powers are available in the Treaty than in Article 235;

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

(1) OJ No L 213, 9. 8. 1990, p. 1.
(2) OJ No L 304, 1. 11. 1990, p. 1.
(3) OJ No L 115, 8. 5. 1991, p. 37.

HAS ADOPTED THIS REGULATION:

Article 1

For the purpose of the present Regulation:

1. 'contract' or 'transaction' means: any contract or transaction, including guarantees, bonds (e.g. performance bonds, bid bonds), stand-by credits, subcontracts;

2. 'claim' means any demand or action on the side of a party to a contract or a transaction for the fulfilment of an obligation resulting from or connected with such a contract or transaction by another party, such as:

   — a demand to pay a bond or guarantee,

   — a demand to continue or to start activities foreseen under a contract or transaction,

   — a demand to provide indemnity for a payment made under a contract or a transaction,

   — a demand for an injunction from a court, for an arbitral award or for the execution of such injunction or award;

3. 'measures taken by the Security Council in resolution 661 (1990) and related resolutions' means measures of the United Nations Security Council, and measures introduced by the European Communities, any country or international organization in pursuance of the relevant decisions of the Security Council, or any other action authorized by the Security Council in respect of the invasion of Kuwait by Iraq, such as military activities in connection with the liberation of Kuwait;

4. 'person or body in Iraq' includes any person or body resident in Iraq, any body incorporated or constituted under law of Iraq and any body controlled by any persons or bodies resident in Iraq or bodies incorporated or constituted under the law of Iraq.

Article 2

As from 3 April 1991, it shall be prohibited to honour any claim made by the Government of Iraq, or any person or body in Iraq, or any person claiming through or for the benefit of any such person or body, directly or indirectly, in connection with any contract or other transaction where its performance was affected by reason of the measures taken by the Security Council in resolution 661 (1990) and related resolutions.

Article 3

Without prejudice to existing prohibitions with regard to commercial and financial relations with Iraq, Article 2 does not apply, when:

(a) a claimant has obtained a judgment from a court or an award or an equivalent decision that the performance of the contract or transaction was not affected by measures mentioned in Article 2;

and

(b) the judgment, award or equivalent decision was obtained within the jurisdiction of a country that had faithfully implemented the measures taken by the Security Council in resolution 661 (1990) and related resolutions, and in particular paragraph 29 of resolution 687 (1991).

Article 4

The onus of proving that the performance of the contract or transaction was not affected by measures mentioned in Article 2, shall be on the person making a claim.

Article 5

The Member States will take the necessary measures to ensure the effectiveness of the disposition of Articles 2, 3 and 4.

Article 6

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

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