

Official Journal

of the European Communities

ISSN 0378-6978

L 69

Volume 31

15 March 1988

English edition

Legislation

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 660/88**of 14 March 1988****fixing the import levies on cereals and on wheat or rye flour, groats and meal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) 3989/87⁽²⁾, and in particular Article 13 (5) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EEC) No 1636/87⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 4047/87⁽⁵⁾ and subsequent amending Regulations;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central

rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Regulation (EEC) No 1676/85,

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

Whereas these exchange rates being those recorded on 11 March 1988;

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

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 4047/87 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies to be charged on products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 2727/75 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 15 March 1988.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 377, 31. 12. 1987, p. 1.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 378, 31. 12. 1987, p. 99.

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

Done at Brussels, 14 March 1988.

For the Commission

Frans ANDRIESSEN

Vice-President

ANNEX

to the Commission Regulation of 14 March 1988 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CN code	Levies	
	Portugal	Third country
0709 90 60	12,29	172,39
0712 90 19	12,29	172,39
1001 10 10	68,97	261,68 ⁽¹⁾ ⁽²⁾
1001 10 90	68,97	261,68 ⁽¹⁾ ⁽²⁾
1001 90 91	7,16	188,89
1001 90 99	7,16	188,89
1002 00 00	47,51	167,70 ⁽³⁾
1003 00 10	41,19	173,76
1003 00 90	41,19	173,76
1004 00 10	97,72	140,56
1004 00 90	97,72	140,56
1005 10 90	12,29	172,39 ⁽²⁾ ⁽³⁾
1005 90 00	12,29	172,39 ⁽²⁾ ⁽³⁾
1007 00 90	35,81	178,76 ⁽⁴⁾
1008 10 00	41,19	100,13
1008 20 00	41,19	155,46 ⁽⁴⁾
1008 30 00	41,19	63,42 ⁽²⁾
1008 90 10	(7)	(7)
1008 90 90	41,19	63,42
1101 00 00	26,15	280,05
1102 10 00	81,28	249,54
1103 11 10	120,58	419,28
1103 11 90	26,31	300,53

⁽¹⁾ Where durum wheat originating in Morocco is transported directly from that country to the Community, the levy is reduced by 0,60 ECU/tonne.

⁽²⁾ In accordance with Council Regulation (EEC) No 486/85 the levies are not applied to imports into the French overseas departments of products originating in the African, Caribbean and Pacific States or in the 'overseas countries and territories'.

⁽³⁾ Where maize originating in the ACP or OCT is imported into the Community the levy is reduced by 1,81 ECU/tonne.

⁽⁴⁾ Where millet and sorghum originating in the ACP or OCT is imported into the Community the levy is reduced by 50 %.

⁽⁵⁾ Where durum wheat and canary seed produced in Turkey are transported directly from that country to the Community, the levy is reduced by 0,60 ECU/tonne.

⁽⁶⁾ The import levy charged on rye produced in Turkey and transported directly from that country to the Community is laid down in Council Regulation (EEC) No 1180/77 and Commission Regulation (EEC) No 2622/71.

⁽⁷⁾ The levy applicable to rye shall be charged on imports of the product falling within subheading 1008 90 10 (triticale).

COMMISSION REGULATION (EEC) No 661/88

of 14 March 1988

fixing the premiums to be added to the import levies on cereals, flour and malt

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 3989/87⁽²⁾, and in particular Article 15 (6) thereof,Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EEC) No 1636/87⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 4048/87⁽⁵⁾ and subsequent amending Regulations;

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

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

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

Whereas these exchange rates being those recorded on 11 March 1988;

Whereas, on the basis of today's cif prices and cif forward delivery prices, the premiums at present in force, which are to be added to the levies, should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

1. The premiums referred to in Article 15 of Regulation (EEC) No 2727/75 to be added to the import levies fixed in advance in respect of cereals and malt coming from Portugal shall be zero.
2. The premiums referred to in Article 15 of Regulation (EEC) No 2727/75 to be added to the import levies fixed in advance in respect of cereals and malt coming from third countries shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 15 March 1988.

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

Done at Brussels, 14 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.⁽²⁾ OJ No L 377, 31. 12. 1987, p. 1.⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.⁽⁵⁾ OJ No L 378, 31. 12. 1987, p. 102.

ANNEX

to the Commission Regulation of 14 March 1988 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

CN code	(ECU/tonne)			
	Current 3	1st period 4	2nd period 5	3rd period 6
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	0	0	0
1001 10 90	0	0	0	0
1001 90 91	0	0,36	0,36	0,36
1001 90 99	0	0,36	0,36	0,36
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	0	0	0
1004 00 90	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0,50	0,50	0,50

B. Malt

CN code	(ECU/tonne)				
	Current 3	1st period 4	2nd period 5	3rd period 6	4th period 7
1107 10 11	0	0,64	0,64	0,64	0,64
1107 10 19	0	0,48	0,48	0,48	0,48
1107 10 91	0	0	0	0	0
1107 10 99	0	0	0	0	0
1107 20 00	0	0	0	0	0

COMMISSION REGULATION (EEC) No 662/88
of 14 March 1988
fixing the import levies on milk and milk products

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

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

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EEC) No 3904/87 ⁽²⁾, and in particular Article 14 (8) thereof,

Whereas the import levies on milk and milk products were fixed by Commission Regulation (EEC) No 4041/87 ⁽³⁾, as last amended by Regulation (EEC) No 510/88 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 4041/87 to the prices known to the Commission that the levies at present in

force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

1. The import levies referred to in Article 14 (2) of Regulation (EEC) No 804/68 shall be as set out in the Annex hereto.

2. There shall be no levy for imports from Portugal, including the Azores and Madeira, for milk and milk products listed in Article 1 of Regulation (EEC) No 804/68.

Article 2

This Regulation shall enter into force on 16 March 1988.

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

Done at Brussels, 14 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 370, 30. 12. 1987, p. 1.

⁽³⁾ OJ No L 378, 31. 12. 1987, p. 82.

⁽⁴⁾ OJ No L 52, 26. 2. 1988, p. 44.

ANNEX

to the Commission Regulation of 14 March 1988 fixing the import levies on milk and milk products

(ECU/100 kg net weight, unless otherwise indicated)

CN code	Note	Import levy
0401 10 10		18,46
0401 10 90		17,25
0401 20 11		25,75
0401 20 19		24,54
0401 20 91		31,89
0401 20 99		30,68
0401 30 11		82,89
0401 30 19		81,68
0401 30 31		160,21
0401 30 39		159,00
0401 30 91		269,48
0401 30 99		268,27
0402 10 11		130,07
0402 10 19		122,82
0402 10 91	(¹)	1,2282/kg + 32,27
0402 10 99	(¹)	1,2282/kg + 25,02
0402 21 11		195,22
0402 21 17		189,97
0402 21 19		189,97
0402 21 91		236,50
0402 21 99		229,25
0402 29 11	(¹) (³)	1,8997/kg + 32,27
0402 29 15	(¹)	1,8997/kg + 32,27
0402 29 19	(¹)	1,8997/kg + 25,02
0402 29 91	(¹)	2,2925/kg + 32,27
0402 29 99	(¹)	2,2925/kg + 25,02
0402 91 11		30,88
0402 91 19		30,88
0402 91 31		38,60
0402 91 39		38,60
0402 91 51		160,21
0402 91 59		159,00
0402 91 91		269,48
0402 91 99		268,27
0402 99 11		53,76
0402 99 19		53,76
0402 99 31	(¹)	1,5658/kg + 28,65
0402 99 39	(¹)	1,5658/kg + 27,44
0402 99 91	(¹)	2,6585/kg + 28,65
0402 99 99	(¹)	2,6585/kg + 27,44

(ECU/100 kg net weight, unless otherwise indicated)

CN code	Note	Import levy
0403 10 11		28,16
0403 10 13		34,30
0403 10 19		85,30
0403 10 31	(¹)	0,2212/kg + 31,06
0403 10 33	(¹)	0,2826/kg + 31,06
0403 10 39	(¹)	0,7926/kg + 31,06
0403 90 11		130,07
0403 90 13		195,22
0403 90 19		236,50
0403 90 31	(¹)	1,2282/kg + 32,27
0403 90 33	(¹)	1,8997/kg + 32,27
0403 90 39	(¹)	2,2925/kg + 32,27
0403 90 51		28,16
0403 90 53		34,30
0403 90 59		85,30
0403 90 61	(¹)	0,2212/kg + 31,06
0403 90 63	(¹)	0,2826/kg + 31,06
0403 90 69	(¹)	0,7926/kg + 31,06
0404 10 11		24,34
0404 10 19	(¹)	0,2434/kg + 25,02
0404 10 91	(²)	0,2434/kg
0404 10 99	(²)	0,2434/kg + 25,02
0404 90 11		130,07
0404 90 13		195,22
0404 90 19		236,50
0404 90 31		130,07
0404 90 33		195,22
0404 90 39		236,50
0404 90 51	(¹)	1,2282/kg + 32,27
0404 90 53	(¹)	1,8997/kg + 32,27
0404 90 59	(¹)	2,2925/kg + 32,27
0404 90 91	(¹)	1,2282/kg + 32,27
0404 90 93	(¹)	1,8997/kg + 32,27
0404 90 99	(¹)	2,2925/kg + 32,27
0405 00 10		278,26
0405 00 90		339,48
0406 10 10		286,99
0406 10 90		333,62
0406 20 10	(³)	397,57
0406 20 90		397,57
0406 30 10	(³)	221,01
0406 30 31	(³)	215,52
0406 30 39	(³)	221,01
0406 30 90	(³)	317,73
0406 40 00	(³)	157,44
0406 90 11	(³)	253,75

(ECU/100 kg net weight, unless otherwise indicated)

CN code	Note	Import levy
0406 90 13	(³)	247,01
0406 90 15	(³)	247,01
0406 90 17	(³)	247,01
0406 90 19	(³)	397,57
0406 90 21	(³)	253,75
0406 90 23	(³)	236,90
0406 90 25	(³)	236,90
0406 90 27	(³)	236,90
0406 90 29	(³)	236,90
0406 90 31	(³)	236,90
0406 90 33		236,90
0406 90 35	(³)	236,90
0406 90 37	(³)	236,90
0406 90 39	(³)	236,90
0406 90 50	(³)	236,90
0406 90 61		397,57
0406 90 63		397,57
0406 90 69		397,57
0406 90 71		286,99
0406 90 73		236,90
0406 90 75		236,90
0406 90 77		236,90
0406 90 79		236,90
0406 90 81		236,90
0406 90 83		236,90
0406 90 85		236,90
0406 90 89	(³)	236,90
0406 90 91		286,99
0406 90 93		286,99
0406 90 97		333,62
0406 90 99		333,62
1702 10 90	(⁴)	42,54
2106 90 51		42,54
2309 10 15		94,54
2309 10 19		122,78
2309 10 39		115,67
2309 10 59		96,87
2309 10 70		122,78
2309 90 35		94,54
2309 90 39		122,78
2309 90 49		115,73
2309 90 59		97,06
2309 90 70		122,78

-
- (¹) The levy on 100 kg of product falling within this subheading is equal to the sum of the following:
- (a) the amount per kilogram shown, multiplied by the weight of milk and milk cream contained in 100 kg of product; and
 - (b) the other amount indicated.
- (²) The levy on 100 kg of product falling within this subheading is equal to:
- (a) the amount per kilogram shown, multiplied by the weight of the dried milk contained in 100 kg of product plus, where appropriate,
 - (b) the other amount indicated.
- (³) Products falling within this subheading imported from a third country under special arrangements concluded between that country and the Community for which an IMA 1 certificate issued under the conditions provided for in Regulation (EEC) No 1767/82 is issued are subject to the levies in Annex I to that Regulation.
- (⁴) Lactose and lactose syrup falling within subheading 1702 10 10 are subject, pursuant to Regulation (EEC) No 2730/75, to the same levy as that applicable to lactose falling within subheading 1702 10 90.
-

COMMISSION REGULATION (EEC) No 663/88

of 11 March 1988

continuing the measures referred to in Regulations (EEC) No 723/78 and (EEC) No 1024/78 on market research measures within and outside the Community in respect of milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1079/77 of 17 May 1977 on a co-responsibility levy and on measures for expanding the markets in milk and milk products⁽¹⁾, as last amended by Regulation (EEC) No 1894/85⁽²⁾, and in particular Article 4 thereof,

Whereas the market research measures within and outside the Community, first carried out pursuant to Commission Regulation (EEC) No 723/78⁽³⁾ and (EEC) No 1024/78⁽⁴⁾, and most recently continued by Commission Regulation (EEC) No 1150/86⁽⁵⁾, have proved an effective means of expanding the markets in milk products within and outside the Community; whereas they should therefore be continued in the medium term;

Whereas the research institutes, organizations and private undertakings in the Community possessing the necessary qualifications and experience should be invited again to propose detailed research programmes which these organizations would themselves carry out;

Whereas the research institutes, organizations and private undertakings who will be responsible for the measures must satisfy certain requirements; whereas the activities of such operators must not be liable to clash with the aim pursued in promoting the disposal of milk products for direct consumption; whereas it is therefore essential that operators whose activities also cover the production, distribution or sales promotion of products which imitate milk and milk products should be barred from the implementation of the measures;

Whereas, as regards the other arrangements, the provisions of the earlier Regulation, amended in the light of relevant experience, may be repeated;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. Under the conditions laid down in this Regulation, encouragement shall be given to research work designed

to expand the markets for Community milk and milk products inside and outside the Community.

Such work shall include the following:

- (a) research into new or improved products;
- (b) where a special case is made, research aimed at improving the marketing of dairy products in the Community;
- (c) the search for new markets or the possibility of extending existing markets outside the Community. Research work, destined to countries which had been already subject to enquiries under Regulation (EEC) No 1024/78, may be considered only in especially justified cases;
- (d) scientific examination of the nutritional aspects of the consumption of milk and its constituents;
- (e) in particularly justified cases, the evaluation and dissemination of the results obtained by research work.

Work intended to continue measures carried out or being carried out under Commission Regulations (EEC) No 282/84⁽⁶⁾ and (EEC) No 1150/86 cannot be considered except if the results obtained justify their continuation and/or until the complementary aspects are examined.

2. Measures liable to prejudice existing Community trade in milk products with the country concerned shall not be taken into consideration.

3. The measures referred to in paragraph 1 shall be eligible for financing only if they have begun after 31 March 1988 and shall be completed within two years of signature of the contract referred to in Article 5 (3), in any event before 1 December 1990. In exceptional cases, however, a longer period may be agreed in accordance with Article 5 (2) to ensure maximum effectiveness of the measure concerned.

4. The time limit fixed in paragraph 3 shall not prevent subsequent agreement to an extension of that time limit where the party to a contract before the fixed expiry date, makes the appropriate application to the competent authority and proves that, due to exceptional circumstances beyond his control, he is unable to meet the deadline originally stipulated. The time limit must not be extended by more than six months.

⁽¹⁾ OJ No L 131, 26. 5. 1977, p. 6.

⁽²⁾ OJ No L 182, 3. 7. 1987, p. 32.

⁽³⁾ OJ No L 98, 11. 4. 1978, p. 5.

⁽⁴⁾ OJ No L 334, 18. 12. 1979, p. 13.

⁽⁵⁾ OJ No L 105, 22. 4. 1986, p. 8.

⁽⁶⁾ OJ No L 32, 3. 2. 1984, p. 25.

Article 2

1. The research work referred to in Article 1 shall be proposed and carried out by research institutes, organizations or undertakings situated within the Community and which:

- (a) have the necessary qualifications and experience;
- (b) give suitable guarantees to ensure the satisfactory completion of the work.

Proposals put forward by research institutes, organizations or undertakings whose activities are exclusively or in part concerned with the production, distribution or sales promotion of products which imitate milk and milk products shall not be taken into consideration.

2. Community financing shall be limited to 75 % of expenditure incurred in respect of the work referred to in Article 1 (1).

In exceptional cases the Community's financial contribution may be raised to 90%, if the work is of interest to the entire Community and directly involves at least four Member States.

3. The financing of general expenses incurred for the measures referred to in Article 1 (1) shall be limited to 2 % of the total approved cost.

Article 3

1. The parties referred to in Article 2 (1) shall be invited to transmit before 1 June 1988 to the competent authority appointed by their Member State, hereinafter called 'the competent authority', detailed proposals concerning the measures referred to in Article 1 (1).

If this deadline is not met, the proposal shall be regarded as null and void.

2. Further details for submission of proposals shall be as set out in the notice from the competent authorities published in *Official Journal of the European Communities* No C 312 of 6 December 1986, page 7.

Article 4

1. Complete proposals shall include:

- (a) the name and address of the party concerned;
- (b) all details concerning the research measures proposed, indicating the time required for completion, the expected results and any third parties which may be involved;
- (c) the price net of tax asked for carrying out these research measures, expressed in the currency of the Member State on whose territory the party concerned is established, giving an itemized breakdown of this amount and showing the corresponding financing plan;
- (d) the desired form of payment of the Community contribution in accordance with Article 7 (1) (a) or (b);
- (e) the most recent report available on the party's activities unless this is already in the possession of the competent authorities.

2. Proposals shall be valid only where:

- (a) they are submitted by a party fulfilling the conditions laid down in Article 2 (1);
- (b) they are accompanied by an undertaking to comply with the provisions of this Regulation.

Article 5

1. Before 1 August 1988 the competent authorities shall:

- (a) examine all proposals submitted and any supporting documents to check that they are in the right form and contain the information required. They shall ensure that the proposals comply with the provisions of Article 4 and shall ask applicants for further details if necessary;
- (b) compile a list of all the proposals received and send it to the Commission together with copies of each proposal and a reasoned opinion indicating whether or not the proposal conforms with the Regulation.

2. After consulting the groups concerned and following examination of the proposals by the Management Committee for Milk and Milk Products in accordance with Article 31 of Council Regulation (EEC) No 804/68⁽¹⁾, the Commission shall establish before 1 October 1988 a list of the proposals selected for financing.

3. The competent authorities shall conclude before 1 December 1988 contracts with those parties whose proposals have been selected in at least three copies and signed by the interested party and competent competent authority.

The competent authorities shall for this purpose use the standard form of contracts to be provided by the Commission.

4. The competent authorities shall inform each applicant as soon as possible of the decision taken in respect of his proposal.

Article 6

1. The contract referred to in Article 5 (3) shall:

- (a) include the details referred to in Article 4 (1) or make reference to them; and
- (b) supplement those details, where necessary by additional conditions resulting from the application of Article 5 (1).

2. The competent authority shall forward a copy of the contract to the Commission without delay.

3. The competent authority shall ensure compliance with the agreed conditions in particular by means of on-the-spot checks within the Community.

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

Article 7

1. The intervention agency concerned shall pay to the party in question, in accordance with the choice given in the latter's proposal, either :

- (a) within six weeks of the date of signature of the contract and the list of clauses and conditions, a single payment on account amounting to 60 % of the agreed Community contribution ; or
- (b) at four-monthly intervals, four equal instalments each amounting to 20 % of the agreed Community contribution, the first such instalment being paid within six weeks of the date of signature of the contract.

However, while a contract is being performed, the intervention agency may :

- defer payment of an instalment either wholly or in part where it finds, in particular during the checks referred to in Article 6 (3), irregularities in carrying out the measures concerned or a substantial interval between the due date for payment of the instalment and the date when the party concerned will actually incur the forecast expenditure,
- in exceptional cases, advance payment of an instalment either wholly or in part with the Commission's prior agreement where the party concerned shows that he must incur a substantial part of the expenditure at a date found to be significantly earlier than that laid down for payment of the Community contribution towards the said expenditure.

2. The payment of each instalment shall be conditional upon the competent authority of a security equal to the amount of the instalment, plus 10 %.

Where a contract is concluded with a public institution, the lodging of security referred to in the previous sentence and in paragraph 3 (b) may be dispensed with, provided that there exists in some other form a guarantee equivalent to that referred to in paragraph 4, in the event of failure to comply with the conditions set out in paragraph 3.

3. The release of securities and payment of the balance shall be conditional upon :

- (a) confirmation by the competent authority that the party concerned has fulfilled its obligations as laid down in the contract ;

- (b) transmission to the Commission and to the competent authority of the report referred to in Article 8 (1), and verification of the details contained in this report by the intervention agency. However, on reasoned request by the party concerned, the remainder can be released after the measure has been completed, and after submission of the report referred to in Article 8, and on condition that securities equal to the total amount of the Community contribution plus 10 % have been lodged ; and
- (c) the competent authority finding that the party concerned, or any third party named in the contract, have spent their own contribution for the purposes laid down.

4. To the extent that the conditions set out in paragraph 3 are not fulfilled, securities shall be forfeit. In this event, the amount in question shall be deducted from the expenditure of the Guarantee Section of the European Agricultural Guidance and Guarantee Fund, and more particularly from that arising out of the measures referred to in Article 4 of Regulation (EEC) No 1079/77.

Article 8

1. Each party responsible for the research referred to in Article 1 (1) shall submit to the competent authority, within four months of the final date fixed in the contract for completion of the measures, a detailed report on the utilization of the Community funds allocated and on the foreseeable results of the measures in question, in particular concerning the evolution of the sales of milk and milk products.

2. The competent authority shall send a final certificate and a copy of the final report to the Commission for all completed contracts.

3. The results may only be published with the express authorization of the Commission.

Article 9

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, 11 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

COMMISSION REGULATION (EEC) No 664/88

of 11 March 1988

continuing the promotional and publicity measures in respect of milk and milk products referred to in Regulation (EEC) No 723/78

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1079/77 of 17 May 1977 on a co-responsibility levy and on measures for expanding the markets in milk and milk products⁽¹⁾, as last amended by Regulation (EEC) No 1894/87⁽²⁾, and in particular Article 4 thereof,

Whereas the promotional and publicity measures first carried out pursuant to Commission Regulation (EEC) No 723/78⁽³⁾, and last continued by Regulation (EEC) No 568/87⁽⁴⁾, have proved an effective means of expanding the markets in milk products in the Community; whereas they should therefore be continued during the 1988/89 milk year;

Whereas the organizations representing the dairy sector in one or more Member States or in the Community should be invited again to propose detailed programmes which these organizations would themselves carry out;

Whereas the organizations who will be responsible for the measures must satisfy certain requirements; whereas, in particular, care must be taken to ensure that Community milk products are promoted; whereas the guidelines to be followed in this context were laid down in Commission communication 86/C 272/03 concerning State involvement in the promotion of agricultural and fisheries products⁽⁵⁾; whereas the activities of such operators must not be liable to clash with the aim pursued in promoting the disposal of milk products for direct consumption; whereas it is therefore essential that operators whose activities also cover the production, distribution or sales promotion of products which imitate milk and milk products should be barred;

Whereas an integrated market survey should be carried out to ascertain the effectiveness of the measures implemented;

Whereas the other rules can, for the most part, be drawn from the earlier Regulations, account being taken of relevant experience;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. Publicity and promotional measures advocating human consumption of milk and milk products in the Community shall be encouraged under the conditions laid down in this Regulation.

2. The following shall qualify as measures within the meaning of paragraph 1:

seminars, courses and conferences designed to provide personnel engaged in marketing milk and milk products with information and training or to aid such persons in spreading awareness about the consumption of these products.

3. These measures shall be carried out within a year of the signature of the contract referred to in Article 5 (3) and in any case before 1 September 1989. However, a longer time limit may be agreed in exceptional cases in accordance with Article 5 (2) to ensure maximum effectiveness of the measure in question.

4. The time limit fixed in paragraph 3 shall not prevent subsequent agreement to an extension of that limit where the party to a contract, before the fixed expiry date, makes the appropriate application to the competent authority and proves that, due to exceptional circumstances beyond his control, he is unable to meet the deadline originally stipulated. However, this extension may not exceed six months.

5. Subject to a contract as referred to in Article 5 (3) being concluded, measures carried out from 1 February 1988 shall be eligible for the Community contribution.

6. To ascertain the effectiveness of the measures implemented, an integrated, market survey shall be carried out. The Commission shall issue an invitation to tender for this purpose.

⁽¹⁾ OJ No L 131, 26. 5. 1977, p. 6.

⁽²⁾ OJ No L 182, 3. 7. 1987, p. 32.

⁽³⁾ OJ No L 98, 11. 4. 1978, p. 5.

⁽⁴⁾ OJ No L 57, 27. 2. 1987, p. 22.

⁽⁵⁾ OJ No C 272, 28. 10. 1986, p. 3.

Article 2

1. The publicity and promotional measures referred to in Article 1 (1) and (2):
 - (a) shall be proposed by organizations representing the dairy sector in one or more Member States or in the Community;
 - (b) shall be limited to the territory of the Member State or States whose dairy sector is represented by the organization concerned;
 - (c) shall be carried out as far as possible by the organization which has made the proposal. In cases where this organization must use subcontractors, the proposal must contain a duly justified request for a derogation;
 - (d) must:
 - make use of the publicity media best suited to ensure maximum effectiveness for the measure undertaken,
 - take account of the particular conditions obtaining with regard to the marketing and consumption of milk and milk products in the various regions of the Community,
 - be of a general nature and not orientated towards the brands of particular firms,
 - promote Community milk products without reference to their country or region of manufacture; however, this condition does not exclude the mention of the traditional name of a product which includes a specified locality, region or country of the Community,
 - not replace similar measures but, where appropriate, expand them.

Proposals put forward by organizations whose activities are exclusively or in part concerned with the production, distribution or sales promotion of products which imitate milk and milk products shall not be taken into consideration.

2. The Community contribution shall be limited to 90 % of the expenditure incurred. However, the contribution is increased to 100 % in the case of measures for the promotion of concentrated butter.
3. For the purposes of applying paragraph 2, no account shall be taken of administrative expenses incurred in carrying out these measures.
4. Financing of general expenses incurred in carrying out the measures referred to in Article 1 (1) and (2) shall be limited to 2 % of the total amount approved.

Article 3

1. The parties referred to in Article 2 (1) (a) shall be invited to transmit to the competent authority appointed by their Member State, hereinafter called 'the competent

authority', detailed proposals concerning the measures referred to in Article 1 (1) and (2).

Should the proposed measures be carried out wholly or partly in the territory of one or more Member States other than that in which the head office of the organization concerned is situated, the organization shall send a copy of its proposal to each of the competent authorities in the countries concerned.

2. Proposals must reach the competent authority before 1 May 1988. Where this date is not complied with, the proposal shall be considered null and void.
3. Further details for submission of proposals shall be as set out in the notice from the competent authorities published in *Official Journal of the European Communities* No C 312 of 6 December 1986, page 7.

Article 4

1. Complete proposals shall include:
 - (a) the name and address of the party concerned;
 - (b) all details concerning the measures proposed, indicating the time required for completion, the expected results and any third parties which may be involved;
 - (c) the price asked for these measures, net of taxes, expressed in the currency of the Member State in the territory of which the party concerned is established, giving an itemized breakdown of this amount and showing the corresponding financing plan;
 - (d) the desired form of payment of the Community contribution in accordance with Article 7 (1) (a), (b) or (c);
 - (e) the most recent report available on the party's activities, unless this is already in the possession of the competent authority.
2. A proposal shall be valid only where:
 - (a) it is submitted by a party fulfilling the conditions laid down in Article 2 (1) (a);
 - (b) it is accompanied by an undertaking:
 - to comply with the provisions of this Regulation,
 - to spend on publicity measures, in addition to the measures proposed in accordance with Article 1 (1) and (2), the average amount spent annually on such measures during the period 1 January 1975 to 31 December 1977.

Article 5

1. Before 1 June 1988, the competent authorities shall:
 - (a) examine all proposals submitted and any supporting documents to check that they are in the correct form and contain the information required. They shall ensure that the proposals comply with the provisions of Article 4 and shall ask applications for further details if necessary;

(b) compile a list of all the proposals received and send it to the Commission together with copies of each proposal and a reasoned opinion indicating whether or not the proposal conforms with the Regulation.

2. After consulting the relevant interested groups in the milk industry, and following examination of the proposals by the Management Committee for Milk and Milk Products in accordance with Article 31 of Regulation (EEC) No 804/68⁽¹⁾, the Commission shall establish before 1 July 1988 a list of the proposals selected for financing.

3. The competent authorities shall conclude contracts for the measures selected with the parties concerned before 1 September 1988, in at least two copies and signed by the interested party and the competent authority.

The competent authorities shall for this purpose use the standard form contracts to be provided by the Commission.

4. The competent authority shall inform each applicant as soon as possible of the decision taken in respect of his proposal.

Article 6

1. The contract referred to in Article 5 (3) shall :

- (a) include the details referred to in Article 4 (1) or make reference to them ;
- (b) supplement these details, where necessary, by additional provisions arising from the application of Article 5 (1) ;

2. The competent authority shall send the contract to the Commission without delay.

3. The competent authority shall ensure compliance with the agreed conditions in particular by means of on-the-spot checks in the Community.

Article 7

1. The competent authority shall pay to the party in question, in accordance with the choice indicated in the latter's proposal, either :

- (a) within six weeks of the date of signature of the contract, a single payment on account amounting to 60 % of the agreed Community contribution ; or
- (b) at two-monthly intervals, four equal instalments each amounting to 20 % of the agreed Community contribution, the first such instalment being paid within six weeks of the date of signature of the contract ; or

- (c) within six weeks of the date of signature of the contract, a single payment on account amounting to 80 % of the agreed Community contribution ; however, this form of payment may be stipulated only for measures which will be fully completed within a maximum of two months of the date of signature of the contract.

However, while a contract is being performed, the competent authority may :

- defer payment of an instalment either wholly or in part where it finds, in particular during the checks referred to in Article 6 (3), irregularities in carrying out the measures concerned or a substantial interval between the due date for payment of the instalment and the date when the party concerned will actually incur the forecast expenditure,
- in exceptional cases, advance payment of an instalment either wholly or in part if the party concerned submits a reasoned request and shows that he must incur a substantial part of the expenditure significantly earlier than the date laid down for payment of the Community contribution towards the said expenditure.

2. The payment of such instalment shall be conditional upon the lodging with the competent authority of a security equal to the amount of the instalments, plus 10 %.

3. The release of securities and payment of the balance by the competent authority shall be subject to :

- (a) confirmation by the competent authority that the party concerned fulfilled its obligations as laid down in the contract ;
- (b) transmission to the competent authority of the report referred to in Article 8 (1) and verification of the details contained in this report by the competent authority.

However, on reasoned request by the party concerned, the balance can be paid after the measure has been completed, and after submission of the report referred to in Article 8, and on condition that securities equal to the total amount of the Community contribution plus 10 % have been lodged ;

- (c) the competent authority finding that the party concerned, or any third party named in the contract, has spent his own contribution for the purposes laid down.

4. In so far as the conditions set out in paragraph 3 are not fulfilled, the securities shall be forfeit. In this event, the amount in question shall be deducted from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, expenditure, and more particularly from that arising out of the measure referred to in Article 4 of Regulation (EEC) No 1079/77.

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

Article 8

1. Each party responsible for one of the measures referred to in Article 1 (1) and (2) shall submit to the competent authority, within four months of the final date fixed in the contract for completion of the measures, a detailed report on the utilization of the Community funds allocated and on the foreseeable results of the measures in question, in particular concerning the evolution of the sales of milk and milk products.

2. On performance of each contract, the competent authority shall send the Commission a statement to this effect and a copy of the final report.

Article 9

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, 11 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

COMMISSION REGULATION (EEC) No 665/88
of 11 March 1988

laying down detailed rules for imports of olive oil originating in Tunisia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community,

Article 1

Having regard to Council Regulation (EEC) No 3463/87 of 17 November 1987 laying down general rules for imports of olive oil originating in Tunisia⁽¹⁾, and in particular Article 3 thereof,

Whereas, pursuant to Articles 1 and 2 of Regulation (EEC) No 3463/87, the rate of imports of olive oil originating in Tunisia should be determined; whereas the present situation and outlook as regards supplies of olive oil to the Community market permits the disposal of the anticipated quantity without any risk of market disruption provided that imports are not concentrated within a short period each year; whereas it should be laid down that import licences may be issued according to a monthly calendar;

Whereas provision should be made for rules for the issue of import licences in order to ensure equal access for importers of olive oil to the quota in question;

Whereas, pursuant to Article 3 of Regulation (EEC) No 3463/87, provision should be made for the necessary measures to prevent any deflection of trade and in particular to ensure that the levy applicable in the case of third countries is charged if the oil is released for consumption in Spain or Portugal;

Whereas the quantity of oil imported from Tunisia must not exceed a given quantity; whereas the tolerance provided for in Article 8 of Commission Regulation (EEC) No 3183/80 of 3 December 1980 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products⁽²⁾, as last amended by Regulation (EEC) No 2082/87⁽³⁾, should therefore not be allowed;

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

1. Untreated olive oil corresponding to CN codes 1509 10 10 and 1509 10 90, wholly obtained in Tunisia and transported direct from that country to the Community as constituted at 31 December 1985, which qualifies for the special levy provided for in Article 4 of the Additional Protocol to the Cooperation Agreement between the European Economic Community and the Republic of Tunisia may be imported from 1 March of each marketing year. Import licences shall be issued for up to 46 000 tonnes each marketing year.

2. Licences may be issued in accordance with the conditions laid down in this Regulation in respect of up to 5 000 tonnes per month for March, April and October, and 10 000 tonnes per month for May to September. If the quantity authorized for one month is not used entirely during the month in question, the remainder shall be added to the quantity for the following month, but may not be carried over thereafter.

Article 2

1. With a view to the application of the special levy referred to in Article 1, importers must submit an import licence application to the competent authorities of the Member States. Such applications must be accompanied by a copy of the purchase contract concluded with the Tunisian exporter.

2. Import licence applications must be submitted on Mondays and Tuesdays of each week. Member States shall notify the Commission every Wednesday of the data in licence applications received. However, no applications may be submitted in November to the following February inclusive.

3. Each week, the Commission shall draw up a total of the quantities for which import licences have been submitted. It shall authorize the Member States to issue licences until the monthly quota is exhausted; where there is a risk of the monthly quota being exhausted, the Commission shall authorize the Member States to issue import licences in proportion to the quantity available.

4. Once the maximum quantity provided for in the Additional Protocol is reached, the Commission shall inform the Member States.

⁽¹⁾ OJ No L 329, 20. 11. 1987, p. 3.

⁽²⁾ OJ No L 338, 13. 12. 1980, p. 1.

⁽³⁾ OJ No L 195, 16. 7. 1987, p. 11.

5. For the purposes of this Article, where a week begins in one month and finishes in the following month, it must be considered part of the month in which the Thursday falls.

Article 3

Import licences as provided for in Article 2 shall be valid for 60 days from the date of issue but shall not be valid after 31 October each marketing year. However, for the 1987/88 marketing year, licences issued in March shall be valid from 1 April only.

The provisions of Commission Regulation (EEC) No 2041/75 ⁽¹⁾, as last amended by Regulation (EEC) No 2662/87 ⁽²⁾, shall, in the case of import licences without advance fixing of the levy, be applicable as regards the securities and the period for issuing the licences.

Article 4

1. Member States of the Community as constituted at 31 December 1985, in which olive oil originating in Tunisia is released for free circulation in accordance with the conditions laid down in Article 1, shall introduce a system of controls. The latter shall provide, without prejudice to the application of paragraph 2, that in cases where olive oil corresponding to CN codes 1509 10 10 and 1509 10 90 put up in immediate packages of a net capacity of more than five litres or in bulk, is exported to another Member State, the operator must demonstrate to the satisfaction of those Member States that the oil concerned is not of Tunisian origin.

2. Where olive oil has been released for free circulation in accordance with paragraph 1 and is exported to another Member State, the document attesting to the Community status of the product shall bear a reference to the levy collected on release for free circulation and one of the following:

- Aceite de oliva importado de Túnez — Reglamento (CEE) n° 3463/87,
- Olivenolie indført fra Tunesien — Forordning (EØF) nr. 3463/87,
- Olivenöl, eingeführt aus Tunesien — Verordnung (EWG) Nr. 3463/87,
- Ελαιόλαδο εισαχθέν από την Τυνησία — Κανονισμός (ΕΟΚ) αριθ. 3463/87,
- Olive oil imported from Tunisia — Regulation (EEC) No 3463/87,
- Huile d'olive importée de Tunisie — Règlement (CEE) n° 3463/87,
- Olio d'oliva importato dalla Tunisia — Regolamento (CEE) n. 3463/87,
- Olijfolie ingevoerd uit Tunesië — Verordening (EEG) nr. 3463/87,
- Azeite importado da Tunísia — Regulamento (CEE) n° 3463/87.

3. Notwithstanding Article 8 (4) of Regulation (EEC) No 3183/80, the quantity released for free circulation must not exceed that specified in boxes 10 and 11 of the import licence. '0' shall accordingly be entered in box 22 of the said licence.

4. Where olive oil for which the document referred to in paragraph 2, attesting to the Community status of the goods concerned, is released for consumption in Spain or Portugal, an amount equal to the difference between the minimum levy per 100 kilograms applicable on the day the declaration of release for consumption is accepted and the levy collected on release for free circulation in the Community shall be charged in those Member States.

Article 5

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

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

Done at Brussels, 11 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 213, 11. 8. 1975, p. 1.

⁽²⁾ OJ No L 252, 3. 9. 1987, p. 6.

COMMISSION REGULATION (EEC) No 666/88

of 11 March 1988

fixing for the 1987/88 marketing year the special levy applicable to imports of
olive oil originating in Tunisia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,Having regard to the Additional Protocol to the
Cooperation Agreement between the European Economic
Community and the Republic of Tunisia⁽¹⁾, signed on 26
May 1987, and in particular Article 4 (1) thereof,

Whereas Article 4 (1) of that Protocol provides for the
charging of a special levy for each marketing year during
the period between the date of entry into force of the said
Protocol and 31 December 1990, within the limit of a
quantity of 46 000 tonnes of untreated olive oil falling
within CN codes 1509 10 10 and 1509 10 90, wholly
obtained in Tunisia and transported direct from that
country to the Community; whereas that levy is equal to
the difference between the threshold price and the
free-at-frontier price; whereas that free-at-frontier price
should be determined in accordance with the criteria laid
down in Article 4 (2) of the Protocol and the level of the
special levy should be fixed;

Whereas provision should be made for the free-at-frontier
price and the levy to be altered only where there is a
substantial change in the basis of calculation;

Whereas the Management Committee for Oils and Fats
has not delivered an opinion within the time limit set by
its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The free-at-frontier price referred to in Article 4 (1) of the
Additional Protocol to the Cooperation Agreement
between the European Economic Community and the
Republic of Tunisia shall be 171,68 ECU per 100
kilograms.

The levy provided for in Article 4 (1) of that Protocol is
hereby fixed at 5,47 ECU per 100 kilograms.

Article 2

Those amounts shall be altered where there is a
substantial change in the basis of calculation taken into
account pursuant to Article 4 of the Additional Protocol.

Article 3

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

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

Done at Brussels, 11 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 297, 21. 10. 1987, p. 36.

COMMISSION REGULATION (EEC) No 667/88**of 14 March 1988****amending Regulation (EEC) No 756/70 on granting aid for skimmed milk
processed into casein and caseinates**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EEC) No 3904/87 ⁽²⁾, and in particular Article 11 (3) thereof,Whereas the amount of aid for 100 kilograms of skimmed milk processed into casein or caseinates was fixed at 8,85 ECU by Article 2 (1) of Commission Regulation (EEC) No 756/70 ⁽³⁾, as last amended by Regulation (EEC) No 3316/87 ⁽⁴⁾; whereas the amount of aid must be adjusted to take account of the movement of prices for caseins in international trade;

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

HAS ADOPTED THIS REGULATION:

Article 1

In Article 2 (1) of Regulation (EEC) No 756/70, '8,85 ECU' is replaced by '8,45 ECU'.

*Article 2*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 April 1988.

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

Done at Brussels, 14 March 1988.

For the Commission

Frans ANDRIESSEN

Vice-President⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.⁽²⁾ OJ No L 370, 30. 12. 1987, p. 1.⁽³⁾ OJ No L 91, 25. 4. 1970, p. 28.⁽⁴⁾ OJ No L 315, 5. 11. 1987, p. 24.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 22 December 1987

relating to proceedings under Article 85 of the EEC Treaty

(IV/31.206 — Rich Products/Jus-rol)

(Only the English text is authentic)

(88/143/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17, First Regulation implementing Articles 85 and 86 of the Treaty⁽¹⁾, as last amended by the Act of Accession of Spain and Portugal, and in particular Articles 2, 4 and 8 thereof,

Having regard to the application for negative clearance and the notification filed on 25 April 1984 by Jus-rol Limited, Berwick-upon-Tweed, United Kingdom, in respect of an agreement which it concluded on 31 July 1983 with Rich Products Corporation, Buffalo, United States,

Having published a summary⁽²⁾ of the notification in accordance with Article 19 (3) of Regulation No 17,

Having consulted the Advisory Committee on Restrictive Practices and Dominant Positions,

Whereas :

I. THE FACTS

A. The notification

- (1) On 25 April 1984, Jus-rol Limited ('Jus-rol') notified to the Commission, in accordance with

Articles 2 and 4 of Regulation No 17, a know-how licensing agreement which it had concluded on 31 July 1983 with Rich Products Corporation ('Rich Products') with a view to obtaining negative clearance in respect of the application of Article 85 of the EEC Treaty to the agreement or, alternatively, an exemption under Article 85 (3) from the prohibition contained in paragraph 1 of that Article.

Under the agreement, Rich Products authorizes Jus-rol to use its know-how for the manufacture of frozen yeast dough products ('the licensed product').

B. The undertakings

- (2) Rich Products manufactures food products, including non-dairy creamers and frozen yeast doughs. It has production units in the United States and Canada which manufacture products for sale mainly on those markets. At present, Rich Products does not have any production units in the European Community. In 1986, Rich Products had a consolidated annual turnover of approximately US \$ 500 million from total sales, of which approximately (...) ⁽³⁾ represented sales of the licensed product.

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No C 209, 6. 8. 1987, p. 3.

⁽³⁾ In the published version of this Decision, some figures have hereinafter been omitted, pursuant to the provisions of Article 21 of Regulation No 17 concerning non-disclosure of business secrets.

- (3) Jus-rol, a subsidiary of Fitch Lovell plc, United Kingdom, manufactures food products and, in particular, a range of frozen dough products such as puff and shortcrust pastry, *vol-au-vent*, sausage rolls and cornish pasties. These products are all based on non-yeast doughs. Through its agreement with Rich Products, Jus-rol has been able to add frozen yeast dough products to its range of products. Jus-rol's production units are situated solely in the United Kingdom. In the financial year ending 26 April 1986, Jus-rol had an annual turnover of £ 16,9 million from total sales, of which (...) represented sales of the licensed product.

The Fitch Lovell group comprises Fitch Lovell plc and 21 principal operating units, grouped in two divisions (production and distribution), managed by an executive director from the parent company. The group's activity consists of the manufacture and production of a wide range of food products. In the financial year ending 26 April 1986, the Fitch Lovell group as a whole had a turnover of £ 461,2 million from total sales. Jus-rol is the only undertaking in the group which is engaged in the manufacture of licensed product or similar products.

C. The product and the market

- (4) The know-how provided by Rich Products consists of a body of written confidential non-patented information on the process for freezing the yeast used in the licensed product. The written information also relates to the composition, preparation and processing of the licensed product and to production techniques, timing and apparatus. Any improvements and other developments made by Rich Products to the initial know-how also form part of the know-how covered by the agreement. Finally, know-how includes notes of oral discussions between the employees of the two parties with a view to the delivery of technical information.

Dough used in certain bakery products (and in particular in bread) has to contain yeast to ensure that it will rise during the baking process and thus produce the required aerated texture. The freezing of yeast dough products poses technical difficulties, since yeast is a living micro-organism and when frozen to very low temperatures can be killed. Particular precautions are necessary to ensure that the yeast maintains its characteristics during the period in which it is frozen and that the dough subsequently rises when it is baked.

Rich Products, having undertaken a great deal of research work, developed a yeast freezing process which it currently uses in its production units in the United States and Canada. Jus-rol applied to Rich Products for a know-how licence in order to enable it to extend its range of products to include frozen dough products matching in quality products made from non-frozen dough. In view of these considerations, it is evident that the technical know-how is of particular value to Rich Products

and is of great importance for the production of frozen yeast dough by Jus-rol. Therefore, the know-how provided by Rich Products has to be considered as substantial and capable of improving the performance of the licensee who is thus willing to pay royalties for it.

It has to be noted that other firms in the United Kingdom and in other Member States have developed processes which provide the means for freezing the yeast, but they are not easily accessible. In such circumstances, it cannot be considered that the present know-how licence agreement concerns the introduction and protection in the licensed territory of 'new technology' within the meaning of the case law of the Court⁽¹⁾.

- (5) The product covered by the agreement is a frozen yeast dough, which is manufactured by Jus-rol using the know-how provided by Rich Products. The dough is intended to be used in the making of fresh bakery products such as bread. In its premises at Berwick-upon-Tweed, Jus-rol prepares and shapes the dough which is frozen immediately thereafter. Unlike traditional bread dough, which must be used within a short period of time, the licensed product may be stored for an extended period (up to (...)) and can, therefore, be transported considerable distances without deterioration.

The licensed product is sold in frozen form. Jus-rol makes weekly deliveries by refrigerated lorry to shops having in-store bakeries, notably supermarkets, and to hot-bread shops. Such purchasers, being equipped with 'Jus-bake units', can store the product in a freezer and subsequently, on the basis of their expected daily requirements, place the defrosted product in special proving cabinets and then bake it in their ovens for sale to the final consumer. Jus-bake sales are covered by the 'Jus-bake system', which provides for promotions, regular deliveries, appropriate training and after-sales assistance for customers. The above information indicates that transport costs for the licensed product are of considerable importance (on average, (...) of the sales price). However, imports and exports of such products to and from the United Kingdom are possible, both technically and economically.

- (6) Jus-rol does not sell the licensed product directly to final consumers. Although this is theoretically possible, it would be neither economic nor practical since the licensed product is sold in bulk to customers and it would, therefore, be necessary to repackage it into smaller units whilst in a frozen state in order to sell it to consumers. It is also highly improbable that the product would be attractive to final consumers since it has to be placed in a prover as well as baked in an oven before it can be consumed. Although they are free to do so, Jus-rol's customers do not sell the

⁽¹⁾ See judgment of 8 June 1982 in Case 258/78, Nungesser v. Commission, [1982] ECR, p. 2015.

licensed product directly to consumers for the reasons set out above.

right to terminate it on 31 July 1988 subject to the sending of written notice prior to 30 April 1988.

- (7) The agreement enables Jus-rol to put frozen yeast dough on the market. Supermarkets and other retailers of bakery products now have a choice between: (a) buying baked bread from local bakeries; (b) making their own dough which they then bake on their own premises; (c) buying-in par-baked bread (i.e. bread dough which is, say, 70 % baked) whose baking is completed on the premises; or (d) buying frozen yeast dough for baking into fresh bread on the premises.

At present, demand for frozen dough for bakery products is still relatively limited but may be expected to increase considerably in view of the many advantages which the process has over other possible options, namely low capital cost, low labour costs, the small surface area occupied, low hygiene risk and, in particular, the length of possible storage.

- (8) On the United Kingdom market, other producers supply products which may be considered similar to the licensed product. The largest such producer is Freshbake with (...) of the market. Next is Jus-rol with some (...) and the remainder is shared among a dozen other producers specializing in specific sectors of the market.

There are imports of such products into the United Kingdom, in particular by Delifrance.

- (9) Jus-rol began to manufacture the licensed product at the beginning of 1984. So far, manufacture and sales have been limited to the United Kingdom.

Rich Products does not manufacture, nor has it ever, either directly or through distributors, marketed the licensed product in the common market. It has not to date granted licences for the product to any other licensee in the Community except Jus-rol, but stated during the proceedings that it was considering doing so.

D. The agreement notified

- (10) The agreement was concluded on 31 July 1983 for a period of 10 years. Each of the parties has the

(a) *Undertaking given by the licensor to disclose the know-how covered by the agreement*

- (11) The licensor undertakes to disclose promptly (and in any event not later than three months after the entry into force of the agreement) all the information necessary for manufacturing the licensed product ('confidential information'). Such information, which remains the property of the licensor, may be written or oral. In addition, the licensor undertakes to assist the licensee in exploiting the know-how provided. Lastly, provision is made for reciprocal visits by the staff of the two parties.

(b) *Exclusive right to manufacture the licensed product*

- (12) The licensor grants to the licensee, for the entire term of the agreement, the exclusive right to use its know-how for the purpose of manufacturing the licensed product in the United Kingdom. This right carries an obligation on the licensor not to grant other manufacturing licences in the United Kingdom. In addition, the licensor undertakes not to exploit itself in the United Kingdom the know-how made available, either by manufacturing or by directly marketing the product in the licensed territory.

However, the manufacturing licence ceases to be exclusive if the licensee does not pay the minimum royalties provided for by the agreement.

(c) *Restriction to the United Kingdom of the right to manufacture the licensed product*

- (13) The right to manufacture the licensed product is restricted to the United Kingdom. The licensor reserves the right to exploit its know-how in the other Community countries.

(d) *Non-exclusive right to sell the licensed product*

- (14) The licensor grants to the licensee, for the entire term of the agreement, the non-exclusive right so sell the licensed product in all the Member States of the European Community. In all Member States, except the United Kingdom (see above, point 12), the licensor is free to sell the licensed product or to appoint distributors or licensees. During the proceedings, the parties stated that any new licensees could export to the United Kingdom and that Jus-rol would continue to be free to export to the other Member States of the European Community, including those in which Rich Products appoints licensees.

(e) *Obligation on the licensee to keep secret the information provided*

- (15) The licensee undertakes at all times during and after the term of the agreement to maintain the secrecy of the know-how and any other information received from the licensor during the term of the agreement. The secrecy requirement does not apply in the case of: (a) information made available by the licensor which the licensee already possessed; (b) information which was in the public domain when it was made available by the licensor to the licensee or information which subsequently came into the public domain through no fault of the licensee; and (c) information made available to the licensee by a third person who did not derive such information from the licensor.

The licensee may disclose the licensor's know-how only to the staff directly involved in the manufacture of the product and only to the extent that such disclosure is necessary for the manufacture of the product.

The licensee must promptly notify the licensor of any wrongful use or disclosure of the know-how of which it has knowledge. The licensee has the right to take legal action, at its own expense, against the authors of such acts, and the licensor agrees to collaborate with the licensee in the taking of such action. In the event that the licensee does not wish to take such action, or if the action taken is judged unsatisfactory by the licensor, the licensor has the right to take legal action itself at its own expense against the authors of such acts.

(f) *Ban on the granting of sub-licences by the licensee*

- (16) The licensee may not grant sub-licences unless: (a) the sub-licence is given to a wholly-owned

subsidiary of the licensor or of the licensee's parent company; and (b) the written consent of the licensor has been obtained.

(g) *Ban on the use of the know-how by the licensee following termination of the agreement*

- (17) The licensee may not make, use, sell or dispose of the licensed product for at least 10 years following termination of the agreement, unless the contract is terminated through the default of the licensor. Upon termination of the agreement, the licensee must, at the licensor's request, immediately return all the original documents relating to the know-how and may not retain any copies of them.

(h) *Obligation on the licensee to use the know-how only for the manufacture of the licensed product*

- (18) The licensee undertakes to use the know-how only for the manufacture of the licensed product. It should be borne in mind that the licensed product is defined as being any frozen dough product, notably bread, cookies, rolls and speciality dough products, whose manufacture involves any use of the know-how. According to the parties, this definition covers all possible applications of the know-how made available.

(i) *Obligation on the licensee to grant the licensor a licence in respect of improvements*

- (19) The licensee undertakes to grant to Rich Products a non-exclusive licence in respect of any improvements, whether or not patented, made by the licensee to the know-how originally supplied. Such licence will be world-wide, royalty-free and will give Rich Products the right to grant sub-licences to third parties. The licence in respect of improvements will end at the same time that Jus-rol's right to use the original know-how terminates. The obligation relating to improvements is reciprocal in nature, since the concept of know-how supplied includes both the information initially made available and any improvements which Rich Products might make thereto during the term of the agreement.

(j) *Obligation on the licensee to purchase a pre-mix from the licensor*

- (20) The licensee undertakes to purchase from the licensor a pre-mix for the manufacture of the licensed product and to use the pre-mix in the quantity and manner laid down in the know-how made available. The price of the pre-mix shall be consistent with the standard price charged by Rich Products and its weight shall not exceed 1 % of the total weight of each product.

(k) *Obligation on the licensee to pay royalties*

immediately manufacturing the product and continues to be exploited by it.

- (21) In return for the know-how received, the licensee undertakes to pay royalties to the licensor. The royalties are of two types: (a) minimum royalties, the amount of which is progressive and is set for each year; and (b) percentage royalties which are calculated on the basis of the net turnover resulting from sales of the product. Percentage royalties are payable by the licensee only if they are greater in amount than the minimum royalties. The licensee is required to continue to pay the royalties in the event of the know-how coming into the public domain during the term of the agreement.

- (27) While the transfer of technical knowledge is in principle a factor favourable to competition, since it enables firms other than the owner of the know-how to exploit a body of technical knowledge that has not been made public with a view to the manufacture and sale of a product, the contracts governing such transfer must nevertheless be examined in order to determine that the notified licensing agreement does not contain any clauses restrictive of competition that go beyond what is necessary for transferring the knowledge.

(l) *No other clauses governing the behaviour of the parties on the market*

- (22) The agreement notified does not contain any other clauses designed to restrict the business freedom of the parties.

(a) *Clauses covered by Article 85 (1)*

- (28) The exclusive right granted to Jus-rol to manufacture the licensed product in the United Kingdom, as described above (point 12), means that other undertakings cannot obtain, during the term of the agreement, a licence to manufacture the product in the same territory, and equally prevents future licensees, that Rich Products wishes to appoint for other Community countries, from manufacturing the licensed product in the United Kingdom. Consequently, future licensees are excluded in advance from the competitive advantage of being able to manufacture the product themselves in the United Kingdom. Indeed, in the present case, transport costs, although they are not so high as to render imports to the United Kingdom economically non-profitable, do nevertheless have the effect of making less competitive the sales in the United Kingdom of future licensees of other Member States. This is even more true given the fact that the product licensed must be transported in refrigerated lorries and that deliveries are made to customers directly, normally on a weekly basis. Likewise, the obligation on Jus-rol not to manufacture the licensed product outside the territory of the United Kingdom discourages sales of this product by Jus-rol in other Member States.

E. *Observations from third parties*

- (23) Following the publication of a notice pursuant to Article 19 (3) of Regulation No 17, third parties stressed the fact that other private companies have developed know-how which provides the means to preserve, to various degrees, the vitality of yeast in dough throughout long periods of frozen storage.

II. **LEGAL ASSESSMENT**A. **Article 85 (1)**

- (24) Article 85 of the EEC Treaty prohibits as incompatible with the common market all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market.

- (25) The parties concerned are undertakings within the meaning of Article 85 of the EEC Treaty, and the agreement in question is an agreement between undertakings within the meaning of that Article.

- (26) The know-how supplied by the licensor concerns a body of substantial technical knowledge which is not generally known or easily accessible relating to a process for manufacturing a product. The knowledge has enabled the licensee to begin

- (29) With regard to the existence of other processes which provide the means for freezing the yeast, it is not possible to consider that in the present case the exclusivity clauses concern the introduction of new technology in the licensed territory which would necessitate territorial protection. Therefore, given the special facts of the case, the abovementioned clauses have as their object the restriction of competition within the common market within the meaning of Article 85 (1) of the EEC Treaty. Thus, they must be assessed on the basis of Article 85 (3).

- (30) The exclusive manufacturing right granted to Jus-rol and the obligation imposed on it not to manufacture the licensed product outside the licensed territory prevents, on the one hand, future licensees in other Member States from manufacturing the licensed product in the United Kingdom and, on the other, Jus-rol from manufacturing the product in the other Member States of the Community. Consequently, these clauses must be deemed liable to affect trade between the Member States of the Community.

(b) Clauses not covered by Article 85 (1)

- (31) The granting by the licensor to the licensee of a non-exclusive right to sell the product in all the Member States of the European Community does not restrict the licensor's freedom to sell the product in the Member States (except the United Kingdom) either directly or through the intermediary of distributors. In addition, should Rich Products grant licences to other licensees in respect of other territories within the common market, Jus-rol will continue to be free to sell the licensed product in such territories, and the new licensees will be entitled to sell it in the United Kingdom. This clause must therefore be deemed not restrictive of competition within the meaning of Article 85 (1).
- (32) The licensee's obligation not to disclose, throughout the term of the agreement or subsequently, the confidential information supplied by the licensor must be deemed not to be covered by Article 85 (1). The commercial value of know-how, which is a body of technical knowledge not protected by the legal provisions governing industrial property, is dependent on its secrecy. The obligation imposed on the licensee not to disclose the know-how is a necessary condition for maintaining such value and, consequently, for enabling its owner to grant it to other undertakings. This obligation may be maintained after the termination of the licensing agreement as long as the know-how has not come into the public domain. This latter requirement is observed by the agreement notified.
- (33) The same assessment applies to the obligation imposed on the licensee not to grant sub-licences to third parties without the approval of the licensor, since this type of clause protects the licensor's right to use its know-how as it sees fit and to grant licences only to undertakings which enjoy its confidence.
- (34) The obligation imposed on the licensee not to use the know-how for a period of 10 years following termination of the agreement (unless the agreement is terminated through the default of the licensor) and to return to the licensor all the documents

relating to the know-how must be regarded as inherent in this type of agreement and accordingly as not falling within Article 85 of the Treaty. Acknowledgement of the exclusive right which the owner enjoys over its know-how means that the owner is free to decide whether it intends to transfer the confidential information permanently or temporarily in granting a licence. If the granting of a know-how licence meant that the owner would lose the exclusive right to make use of the know-how upon expiry of the licensing agreement, the owner would be less willing to grant a licence. This would ultimately be harmful to the transfer of technical knowledge.

However, the ban on using the know-how after expiry of the agreement would become anti-competitive if the know-how became freely accessible through no fault of the licensee or if the licensee had freely acquired identical knowledge from a third party. Except in such hypothetical situations, the ban on using the know-how following termination of the agreement does not fall within Article 85 (1) of the Treaty.

- (35) The requirement that the licensee should use the know-how solely for the purposes of manufacturing the licensed product is not to be regarded as a restriction of competition within the meaning of Article 85 (1) of the Treaty. In the case in point, the definition of the product in the agreement notified covers all the possible uses of the knowledge supplied by the licensor, with the result that there are no specific uses reserved only to the licensor or to other possible licensees. However, even if this were the case, such an obligation would not be restrictive of competition.
- (36) The obligation imposed on the licensee to grant to the licensor a non-exclusive and reciprocal licence for any improvement, whether or not patented, made by the licensee to the know-how supplied does not, in this particular instance, constitute a restriction of competition within the meaning of Article 85 (1), since this obligation does not deprive the licensee of the possibility of using the improvement itself or of granting licences for this improvement to third parties, in so far as this does not involve disclosing to such third parties the know-how supplied by the licensor. In addition, in the case in point, it has been agreed that the licensor's right to use the improvements made by the licensee ends at the same time as the licensee's right to use the original know-how, so that neither of the parties is placed in a less favourable position than the other upon expiry of the main licence agreement.

On the basis of these considerations, it is clear that the abovementioned obligation is not covered by the prohibition provided for in Article 85 (1) of the Treaty.

(37) The obligation on the licensee to purchase from the licensor a pre-mix whose composition is secret and to use it in the manufacture of the product may be deemed not to restrict competition within the meaning of Article 85 (1) of the Treaty. The difficulties which Jus-rol and other manufacturers experienced in developing a system for manufacturing products similar to the licensed product indicate that the ingredients contained in the pre-mix and, in particular, their proportions and the method of preparing them are essential for the correct application of the manufacturing process. Thus Jus-rol and Rich Products took the view that, in order to ensure consistent quality in the licensed product, it would be necessary for Jus-rol to purchase the pre-mix from Rich Products.

(38) The obligation on Jus-rol to pay a royalty throughout the period of the agreement, regardless of the fact that during such period the know-how may come into the public domain, cannot be deemed restrictive of competition. It should be borne in mind here that the term of the agreement is 10 years, but that each party can terminate it on 31 July 1988. If by that date the know-how no longer offered competitive benefits to the licensee, for example because it had become generally accessible to third parties or had been overtaken by new developments in the technology, the licensee could terminate the contract and thus free itself of the obligation to pay royalties. If such is not the case, the licensee will continue to benefit from the know-how and to be subject to the obligation to pay royalties during the remaining period until the expiry of the agreement in 1993, even if in the meantime the entire know-how were to become generally known or obsolete.

In addition, it must be emphasized that the licence does not relate to a specific and easily-identifiable item of know-how, but to a body of complex technical knowledge in several areas (formulas, manufacturing processes, marketing, etc). This body of information is constantly evolving as a result of the amendments and improvements made by Rich Products and subsequently transmitted to Jus-rol. Consequently, it may be concluded that, in view of the particular nature of the know-how in question, the risk of such information being divulged in its entirety before the expiry of the agreement is particularly slight.

Accordingly, the obligation to pay royalties even after the know-how has become public knowledge or obsolete is not caught by the prohibition laid down in Article 85 (1) of the Treaty.

B. Article 85 (3)

(39) Article 85 (3) stipulated that the provisions of Article 85 (1) may be declared inapplicable in the case of any agreement or category of agreements between undertakings which contributes to promoting the production or distribution of goods or to promoting technical or economic progress, while at the same time allowing consumers a fair share of the resulting benefit, and which does not :

(a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives ; and

(b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

(40) The exclusive manufacturing right granted to Jus-rol and the obligation imposed on it not to manufacture outside the United Kingdom are both, in view of the competitive situation on the relevant markets, the source of advantages corresponding to those permitted by Article 85 (3).

(41) The exclusive manufacturing right contributes to promoting economic and technical progress, since it is an incentive to Jus-rol to undertake the necessary investment for exploiting within the United Kingdom substantial and non-disclosed know-how with a view to manufacturing and distributing yeast doughs that allow fresh products to be prepared in a new way and offer numerous advantages to users, notably supermarkets (see point 5 above). The exclusive manufacturing right thus enables a Community undertaking to manufacture a product using a new technique and helps to increase the number of centres producing bakery products.

Restricting the exclusive manufacturing right to the United Kingdom obliges Jus-rol to focus its production and sales efforts in the United Kingdom and to concentrate on improving the quality of the products manufactured and increasing the quantity produced.

(42) The granting to Jus-rol of an exclusive right to manufacture the licensed product within the United Kingdom has many benefits for users, notably supermarkets, both technically and economically. Supermarkets and other shops wishing to sell fresh bread can rationalize their purchases and their sales, avoid as far as possible being left with unsold quantities and store the licensed product for long periods. This will ultimately benefit both such users of the licensed product and final consumers.

- (43) The exclusive manufacturing right is essential if the abovementioned results are to be achieved. If the licensee were not certain that it would not encounter competition from other licensees appointed in the same territory or from licensees appointed in other parts of the common market, it might be deterred from accepting the risk of manufacturing and selling the licensed product. Such a result would be damaging to the dissemination of a bakery product and would thus prevent competition from developing between the licensed product and similar products within the Community.

Similarly, it may be concluded that the restriction of the right to manufacture the licensed product to the United Kingdom is necessary if undertakings in other Member States of the Community are to be interested in receiving a licence for the know-how and thus contribute to promoting technical progress in their Member States. If an undertaking could not at least rely on being the sole manufacturer of the product in a given territory, there would be a strong disincentive against its carrying out the initial investment necessary for the production of the new product.

- (44) The exclusive manufacturing right will not enable Jus-rol to eliminate competition, since it has to compete with producers in the United Kingdom using similar processes which equally provide the means to manufacture frozen yeast dough (point 8).

C. Article 8 of Regulation No 17

- (45) Under the terms of Article 8 (1) of Regulation No 17, exemption is granted for a specified period. The period of 10 years set for the exclusive manufacturing right and for the obligation on the licensee not to manufacture the product outside the licensed territory does not appear excessive since there are many other competing products on the market and since the free movement of the licensed product will be assured, in view of the fact that both Jus-rol and any future co-licensees in other territories will be able to sell the licensed product freely throughout the common market. In addition, in view of the particular characteristics of the market in question and of the licensed technology, a period of 10 years is necessary in order to ensure that the licensee has access to a

continuous flow of know-how and can recoup his initial investment without having to fear that the licensor will terminate the agreement prematurely. Lastly, the period of the licensee's undertaking not to manufacture the licensed product in the territory reserved to Rich Products is necessary in order to give Rich Products sufficient time to exploit its know-how to the fullest extent by setting up itself or, as is more probable, by granting other manufacturing licences, in other territories of the common market.

On the basis of these considerations, the Commission considers that it can grant an exemption terminating at the end of the period covered by the agreement notified, i.e. on 31 July 1993,

HAS ADOPTED THIS DECISION:

Article 1

Pursuant to Article 85 (3) of the EEC Treaty, the provisions of Article 85 (1) are hereby declared inapplicable to the agreement between the parties specified in Article 3, and notified on 25 April 1984.

Article 2

The exemption shall apply from the day of notification until 31 July 1993.

Article 3

This Decision is addressed to:

- Jus-rol Limited, Tweedside Trading Estate, Berwick-upon-Tweed, United Kingdom,
- Rich Products Corporation, 1150 Niagara Street, Buffalo, New York 14213, United States of America.

Done at Brussels, 22 December 1987.

For the Commission

Peter SUTHERLAND

Member of the Commission

COMMISSION DECISION

of 1 March 1988

allocating to Spain resources to be charged to the 1988 budget year for the supply of food from intervention stocks to designated organizations for distribution to the most deprived persons in the Community

(88/144/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3730/87 of 10 December 1987 laying down the general rules for the supply of food from intervention stocks to designated organizations for distribution to the most deprived persons in the Community⁽¹⁾,

Having regard to Commission Regulation (EEC) No 3744/87 of 14 December 1987 laying down the detailed rules for the supply of food from intervention stocks to designated organizations for distribution to the most deprived persons in the Community⁽²⁾, and in particular Article 10 thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EEC) No 1636/87⁽⁴⁾, and in particular Article 2 (4) thereof,

Whereas in order to implement the scheme for the supply of such food to that section of the population, to be financed from resources available in the 1988 budget year, it is necessary to allocate the resources between the Member States; whereas in order to facilitate the implementation of this scheme it is necessary to specify the rate of exchange to be employed in converting ECU into the national currency and to do so at a rate which reflects economic reality;

Whereas statistical data upon which the numbers of the most deprived persons in each Member State may be estimated is now available;

Whereas on 18 January 1988, Spain requested Commission authorization to initiate the action on its territory and indicated the quantities of produce that it wished to distribute; whereas it is desirable to authorize this action and, subject to any further allocation pursuant to the provisions of Article 4 (2) of Regulation 3744/87, to make a definitive allocation of resources for its implementation;

Whereas, in accordance with the provisions of Article 1 (4) of Commission Regulation (EEC) No 3744/87, the Commission has sought the advice of major organizations familiar with the problems of the most deprived persons in the Community when drawing up this Decision,

HAS ADOPTED THIS DECISION:

Article 1

1. An allocation of the resources referred to in Article 10 of Commission Regulation (EEC) No 3744/87 shall be made as follows: Spain, 20,10 million ECU.

This sum shall be converted into national currency at the rate applicable on 4 January 1988 and published in the *Official Journal of the European Communities*, 'C' series.

2. Subject to the limit set out in paragraph 1, the following quantities of produce may be withdrawn from intervention for distribution in Spain:

- up to 2 200 tonnes of durum wheat,
- up to 1 000 tonnes of butter,
- up to 4 600 tonnes of beef,
- up to 1 340 tonnes of olive oil.

3. The withdrawals referred to in paragraph 2 may be made from 29 February 1988.

Article 2

This Decision is addressed to the Member States.

It shall apply with effect from 15 December 1987.

Done at Brussels, 1 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 352, 15. 12. 1987, p. 1.

⁽²⁾ OJ No L 352, 15. 12. 1987, p. 33.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

COMMISSION DECISION

of 8 March 1988

allocating to Luxembourg resources to be charged to the 1988 budget year for the supply of food from intervention stocks to designated organizations for distribution to the most deprived persons in the Community

(88/145/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3730/87 of 10 December 1987 laying down the general rules for the supply of food from intervention stocks to designated organizations for distribution to the most deprived persons in the Community⁽¹⁾,

Having regard to Commission Regulation (EEC) No 3744/87 of 14 December 1987 laying down the detailed rules for the supply of food from intervention stocks to designated organizations for distribution to the most deprived persons in the Community⁽²⁾, and in particular Article 10 thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EEC) No 1636/87⁽⁴⁾, and in particular Article 2 (4) thereof,

Whereas in order to implement the scheme for the supply of such food to that section of the population, to be financed from resources available in the 1988 budget year, it is necessary to allocate the resources between the Member States; whereas in order to facilitate the implementation of this scheme it is necessary to specify the rate of exchange to be employed in converting ECU into the national currency and to do so at a rate which reflects economic reality;

Whereas statistical data upon which the numbers of the most deprived persons in each Member State may be estimated is now available;

Whereas on 4 January 1988, Luxembourg requested Commission authorization to initiate the action on its territory and indicated the quantities of produce that it wished to distribute; whereas the Commission by Decision 88/37/EEC⁽⁵⁾ granted to Luxembourg an initial allocation of resources; whereas on 8 February 1988

Luxembourg made a request for further support to continue this action; whereas the Commission, by Decision 88/132/EEC⁽⁶⁾, granted to Luxembourg a further allocation of resources; whereas on 26 February 1988 Luxembourg made a third request for further support to continue this action; whereas it is desirable to make, subject to any further allocation pursuant to the provisions of Article 4 (2) of Regulation (EEC) No 3744/87, a definitive allocation of resources for implementation of this action in Luxembourg;

Whereas, in accordance with the provisions of Article 1 (4) of Regulation (EEC) No 3744/87, the Commission has sought the advice of major organizations familiar with the problems of the most deprived persons in the Community when drawing up this Decision,

HAS ADOPTED THIS DECISION:

Article 1

1. An allocation of the resources referred to in Article 10 of Commission Regulation (EEC) No 3744/87 shall be made as follows: Luxembourg, 100 000 ECU.

This sum shall be converted into national currency at the rate applicable on 4 January 1988 and published in the *Official Journal of the European Communities*, 'C' series.

2. Subject to the limit set out in paragraph 1, the following quantities of produce may be withdrawn, from intervention, for distribution in Luxembourg:

- up to 30 tonnes of soft wheat,
- up to 20 tonnes of butter,
- up to 10 tonnes of beef.

3. The withdrawals referred to in paragraph 2 may be made from 7 January 1988.

Article 2

The quantities and the resources allocated to Luxembourg by Commission Decisions 88/37/EEC and 88/132/EEC are included in this Decision.

⁽¹⁾ OJ No L 352, 15. 12. 1987, p. 1.

⁽²⁾ OJ No L 352, 15. 12. 1987, p. 33.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 20, 26. 1. 1987, p. 35.

⁽⁶⁾ OJ No L 64, 10. 3. 1988, p. 33.

Article 3

This Decision is addressed to the Member States.

It shall apply with effect from 15 December 1987.

Done at Brussels, 8 March 1988.

For the Commission

Frans ANDRIESEN

Vice-President

CORRIGENDA

Corrigendum to Commission Regulation (EEC) No 3930/87 of 23 December 1987 fixing the export refunds for products processed from fruit and vegetables as provided for in Article 12 of Council Regulation (EEC) No 426/86

(Official Journal of the European Communities No L 369 of 29 December 1987)

On page 74, in the Annex, after product code 2008 19 10 100 :

Insert the following line :

Product code	Destination of the refunds (*)	Refund (ECU/100 kg net)		
		I (°)	II (°)	III (°)
2008 19 90 100		14,51	13,31	14,51'