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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 3526/88

of 14 November 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) 2221/88⁽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 2401/88⁽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 November 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 2401/88 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 November 1988.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 197, 26. 7. 1988, p. 16.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 205, 30. 7. 1988, p. 96.

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

Done at Brussels, 14 November 1988.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX

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

(ECU/tonne)

CN code	Levies	
	Portugal	Third country
0709 90 60	0,00	132,42
0712 90 19	0,00	132,42
1001 10 10	29,07	185,61 ⁽¹⁾ ⁽²⁾
1001 10 90	29,07	185,61 ⁽¹⁾ ⁽²⁾
1001 90 91	0,00	128,35
1001 90 99	0,00	128,35
1002 00 00	33,13	118,10 ⁽³⁾
1003 00 10	26,87	121,86
1003 00 90	26,87	121,86
1004 00 10	83,03	66,30
1004 00 90	83,03	66,30
1005 10 90	0,00	132,42 ⁽²⁾ ⁽³⁾
1005 90 00	0,00	132,42 ⁽²⁾ ⁽³⁾
1007 00 90	21,52	140,66 ⁽⁴⁾
1008 10 00	26,87	42,89
1008 20 00	26,87	101,56 ⁽⁴⁾
1008 30 00	26,87	0,00 ⁽⁵⁾
1008 90 10	(7)	(7)
1008 90 90	26,87	0,00
1101 00 00	2,95	193,37
1102 10 00	60,06	179,02
1103 11 10	58,31	300,95
1103 11 90	3,91	208,12

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

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

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

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

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

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

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

COMMISSION REGULATION (EEC) No 3527/88

of 14 November 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 2221/88⁽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 2402/88⁽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 November 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 November 1988.

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

Done at Brussels, 14 November 1988.

For the Commission

Frans ANDRIESEN

Vice-President⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.⁽²⁾ OJ No L 197, 26. 7. 1988, p. 16.⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.⁽⁵⁾ OJ No L 205, 30. 7. 1988, p. 99.

ANNEX

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

A. Céréals and flour

(ECU/tonne)

CN code	Current 11	1st period 12	2nd period 1	3rd period 2
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	0	4,51
1001 90 99	0	0	0	4,51
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	7,52
1004 00 90	0	0	0	7,52
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	0	6,31

B. Malt

(ECU/tonne)

CN code	Current 11	1st period 12	2nd period 1	3rd period 2	4th period 3
1107 10 11	0	0	0	8,03	8,03
1107 10 19	0	0	0	6,00	6,00
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 3528/88

of 14 November 1988

on the supply of olive oil as food aid to the United Nations Relief and Works
Agency for Palestinian refugees in the Near East (UNRWA)

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

Having regard to Council Regulation (EEC) No 3972/86
of 22 December 1986 on food-aid policy and food-aid
management ⁽¹⁾, as last amended by Regulation (EEC) No
1870/88 ⁽²⁾, and in particular Article 6 (1) (c) thereof,

Whereas Council Regulation (EEC) No 1420/87 of 21
May 1987 laying down implementing rules for Regulation
(EEC) No 3972/86 on food-aid policy and food-aid man-
agement ⁽³⁾, lays down the list of countries and organiz-
ations eligible for food-aid operations and specifies the
general criteria on the transport of food aid beyond the
fob stage;

Whereas, by its decision of 8 June 1988 on the supply of
food aid to the UNRWA the Commission allocated to the
latter organization 100 tonnes of olive oil;

Whereas it is necessary to provide for the carrying-out of
this measure in accordance with the rules laid down by
Commission Regulation (EEC) No 2200/87 of 8 July

1987 laying down general rules for the mobilization in
the Community of products to be supplied as Community
food aid ⁽⁴⁾; whereas it is necessary to specify the time
limits and conditions of supply and the procedure to be
followed to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

A tendering procedure is hereby initiated for the award of
a contract for the supply of olive oil to the UNRWA in
accordance with the provisions of Regulation (EEC) No
2200/87 and with the conditions laid down in the
Annexes hereto.

Article 2

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

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

Done at Brussels, 14 November 1988.

For the Commission

Frans ANDRIESSEN

Vice-President

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.

⁽²⁾ OJ No L 168, 1. 7. 1988, p. 7.

⁽³⁾ OJ No L 136, 26. 5. 1987, p. 1.

⁽⁴⁾ OJ No L 204, 25. 7. 1987, p. 1.

ANNEX I

1. **Operations Nos⁽¹⁾:** 893 to 896/88
2. **Programme:** 1988
3. **Recipient:** UNRWA Supply Division, PO Box 700, A-1400 Vienna, Telex 135310 UNRWA A.
4. **Representative of the recipient⁽²⁾:**
 - (a) lot 1: UNRWA Field Supply and Transport Officer, West Bank, PO Box 19149, Jerusalem, Israel
 - (b) lot 2: UNRWA Field Supply and Transport Officer, Lebanon, PO Box 947, Beirut, Lebanon
 - (c) lot 3: UNRWA Field Supply and Transport Officer, SAR, PO Box 4313, Damascus, SAR
 - (d) lot 4: UNRWA Field Supply and Transport Officer, Jordan, PO Box 484, Amman, Jordan
5. **Place or country of destination:** see Annex II
6. **Product to be mobilized:** olive oil
7. **Characteristics and quality of the goods⁽³⁾:**

See list published in OJ No C 216, 14. 8. 1987, p. 3 (under III.A.4)
8. **Total quantity:** 100 tonnes net
9. **Number of lots:** four
10. **Packaging and marking:**

See list published in OJ No C 216, 14. 8. 1987, p. 3 (under III.B):

 - in new bunged metal drums, coated inside with food-can varnish or having been subject to a procedure giving equivalent guarantees, of 190 to 200 kilograms (to be indicated in the tender) net weight, fully filled and hermetically sealed in an atmosphere of nitrogen. The drums should be strong enough to withstand a long sea journey. Their composition must not be such as to be harmful to human health or to cause a change in the colour, taste or odour of their contents. Each drum must be fully leakproof.
 - the drums must bear the following particulars: See Annex II.
11. **Method of mobilization:** the Community market
12. **Stage of supply:** free at port of landing — landed
13. **Port of shipment:** —
14. **Port of landing specified by the recipient:** —
15. **Port of landing:**
 - (a) lot 1: Ashdod;
 - (b) lot 2: Beirut;
 - (c) lot 3: Lattakia;
 - (d) lot 4: Aqaba.
16. **Address of the warehouse and, if appropriate, port of landing:** —
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage:** 10. 1. 1989 to 10. 2. 1989
18. **Deadline for the supply:** 15. 2. 1989
19. **Procedure for determining the costs of supply⁽⁴⁾:** tendering
20. **Date of expiry of the period allowed for submission of tenders:** 29. 11. 1988, not later than 12 noon. Tenders shall be valid until 12 midnight on 30. 11. 1988
21. **In the case of a second invitation to tender:**
 - (a) deadline for the submission of tenders: 13. 12. 1988 not later than 12 noon. Tenders shall be considered valid until 12 midnight on 14. 12. 1988
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 24. 1. 1989 to 24. 2. 1989
 - (c) deadline for the supply: 28. 2. 1989.
22. **Amount of the tendering security:** 45 ECU/tonne
23. **Amount of the delivery security:** 10 % of the amount of the tender in ECU
24. **Address for submission of tenders⁽⁵⁾:** Bureau de l'aide alimentaire, à l'attention de Monsieur N. Arend, bâtiment loi 120, bureau 7/58, rue de la Loi, 200, B-1049 Bruxelles, telex: AGREC 22037 B.
25. **Refund payable on request by the successful tenderer:** —

Notes :

- (¹) The operation number is to be quoted in all correspondence.
- (²) Commission delegate to be contacted by the successful tenderer :
See list published in *Official Journal of the European Communities* No C 227 of 27 September 1985, page 4.
- (³) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the products to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded.
The successful tenderer shall supply to the beneficiary or its representative, on delivery, the following documents :
 - certificate of origin,
 - health certificate.
- (⁴) Point (g) of Article 7 (3) of Regulation (EEC) No 2200/87 shall not be applicable to tenders submitted.
- (⁵) In order not to overload the telex, tenderers are requested to provide, before the date and time laid down in point 20 of this Annex, evidence that the tendering security referred to in Article 7 (4) (a) of Regulation (EEC) No 2200/87 has been lodged, preferably :
 - either by porter at the office referred to in point 24 of this Annex,
 - or by telecopier on one of the following numbers in Brussels :
 - 235 01 32
 - 236 10 97
 - 235 01 30
 - 236 20 05.

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

Designación de la partida Parti Bezeichnung der Partie Χαρακτηρισμός της παρτίδας Lot Désignation de la partie Designazione della partita Aanduiding van de partij Designação da parte	Cantidad total de la partida (en toneladas) Totalmængde (i tons) Gesamtmenge der Partie (in Tonnen) Συνολική ποσότητα της παρτίδας (σε τόνους) Total quantity (in tonnes) Quantité totale de la partie (en tonnes) Quantità totale della partita (in tonnellate) Totale hoeveelheid van de partij (in ton) Quantidade total (em toneladas)	Cantidades parciales (en toneladas) Delmængde (i tons) Teilmengen (in Tonnen) Μερικές ποσότητες (σε τόνους) Partial quantities (in tonnes) Quantités partielles (en tonnes) Quantitativi parziali (in tonnellate) Deelhoeveelheden (in ton) Quantidades parciais (em toneladas)	Beneficiario Modtager Empfänger Δικαιούχος Beneficiary Bénéficiaire Beneficiario Begunstigde Beneficiário	País destinatario Modtagerland Bestimmungsland Χώρα προορισμού Recipient country Pays destinataire Paese destinatario Bestemmingsland País destinatário	Inscripción en el embalaje Emballagens påtegning Aufschrift auf der Verpackung Ένδειξη επί της συσκευασίας Markings on the packaging Inscription sur l'emballage Iscrizione sull'imballaggio Aanduiding op de verpakking Inscrição na embalagem
1	49		UNRWA	Israel	Action No 296/88 / olive oil / Gift of the EEC to UNRWA for free distribution to Palestine refugees / Ashdod
2	15		UNRWA	Lebanon	Action No 893/88 / olive oil / Gift of the EEC to UNRWA for free distribution to Palestine refugees / Beirut
3	11		UNRWA	SAR	Action No 894/88 / olive oil / Gift of the EEC to UNRWA for free distribution to Palestine refugees / Lattakia
4	25		UNRWA	Jordan	Action No 895/88 / olive oil / Gift of the EEC to UNRWA for free distribution to Palestine refugees / Aqaba

COMMISSION REGULATION (EEC) No 3529/88

of 14 November 1988

on the supply of refined rape seed oil to Bangladesh as food aid

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

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management⁽¹⁾, as last amended by Council Regulation (EEC) No 1870/88⁽²⁾, and in particular Article 6(1)(c) thereof,

Whereas Council Regulation (EEC) No 1420/87 of 21 May 1987 laying down implementing rules for Regulation (EEC) No 3972/86 on food-aid policy and food-aid management⁽³⁾ lays down the list of countries and organizations eligible for food-aid operations and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, by its Decision of 8 July 1988 on the supply of food aid to Bangladesh the Commission allocated to this country 2 000 tonnes of refined rape seed oil;

Whereas it is necessary to provide for the carrying-out of this measure in accordance with the rules laid down by

Commission Regulation (EEC) No 2200/87 of 8 July 1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid⁽⁴⁾; whereas it is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

A tendering procedure is hereby initiated for the award of a contract for the supply of refined rape seed oil to Bangladesh in accordance with the provisions of Regulation (EEC) No 2200/87 and with the conditions laid down in the Annex hereto.

Article 2

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

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

Done at Brussels, 14 November 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.

⁽²⁾ OJ No L 168, 1. 7. 1988, p. 7.

⁽³⁾ OJ No L 136, 26. 5. 1987, p. 1.

⁽⁴⁾ OJ No L 204, 25. 7. 1987, p. 1.

ANNEX

1. **Operation No⁽¹⁾:** 1012/88
2. **Programme:** 1988
3. **Recipient:** Bangladesh
4. **Representative of the recipient⁽²⁾:** The Secretary, Ministry of Food, Bangladesh secretariat, Dhaka, Bangladesh
5. **Place or country of destination:** Bangladesh
6. **Product to be mobilized:** rape seed oil
7. **Characteristics and quality of the goods⁽³⁾:** see list published in OJ No C 216, 14. 8. 1987, page 3 (under III.A.1)
8. **Total quantity:** 2 000 tonnes net
9. **Number of lots:** one
10. **Packaging and marking:** see list published in OJ No C 216, 14. 8. 1987, page 3 (under III.B):
 - new drums of 200 litres or 200 kilograms,
 - the drums must carry the following wording:
‘ACTION No 1012/88 / COLZA OIL / GIFT OF THE EUROPEAN ECONOMIC COMMUNITY’
11. **Method of mobilization:** the Community market
12. **Stage of supply:** free at port of landing — landed
13. **Port of shipment:** —
14. **Port of landing specified by the recipient:** —
15. **Port of landing:** Chittagong
16. **Address of the warehouse and, if appropriate, port of landing:** —
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage:** 10. 1. 1989 to 10. 2. 1989
18. **Deadline for the supply:** 21. 2. 1989
19. **Procedure for determining the costs of supply⁽⁴⁾:** tendering
20. **Date of expiry of the period allowed for submission of tenders:** 29. 11. 1988 not later than 12 noon. Tenders shall be valid until 12 midnight on 30. 11. 1988
21. **In the case of a second invitation to tender:**
 - (a) deadline for the submission of tenders: 13. 12. 1988 not later than 12 noon. Tenders shall be considered valid until 12 midnight on 14. 12. 1988
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: from 24. 1. 1989 to 24. 2. 1989
 - (c) deadline for the supply: 7. 3. 1989
22. **Amount of the tendering security:** 15 ECU/tonne
23. **Amount of the delivery security:** 10 % of the amount of the tender in ECU
24. **Address for submission of tenders⁽⁵⁾:**

Bureau de l'aide alimentaire, à l'attention de Monsieur N. Arend, bâtiment Loi 120, bureau 7/58, 200, rue de la Loi, B-1049 Bruxelles, Telex: AGREC 22037 B
25. **Refund payable on request by the successful tenderer:** —

Notes :

- (¹) The operation number is to be quoted in all correspondence.
 - (²) Commission delegate to be contacted by the successful tenderer : Mr J. Fessaguet, Head of EEC Delegation, Dhaka office, House CES (E) 19, Road 128, Gulshan, Dhaka 12, Bangladesh.
 - (³) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the products to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded.
 - (⁴) Point (g) of Article 7 (3) of Regulation (EEC) No 2200/87 shall not be applicable to submission of tenders.
 - (⁵) In order not to overload the telex, tenderers are requested to provide, before the date and time laid down in point 20 of this Annex, evidence that the tendering security referred to in Article 7 (4) (a) of Regulation (EEC) No 2200/87 has been lodged, preferably :
 - either by porter at the office referred to in point 24 of this Annex,
 - or by telecopier on one of the following numbers in Brussels :
 - 235 01 32
 - 236 10 97
 - 235 01 30
 - 236 20 05.
-

COMMISSION REGULATION (EEC) No 3530/88

of 14 November 1988

amending Regulation (EEC) No 2984/88 fixing the yields of olives and olive oil for the 1987/88 marketing year in Italy, Spain and Portugal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 2210/88⁽²⁾, and in particular Article 5 (5) thereof,Having regard to Council Regulation (EEC) No 2261/84 of 17 July 1984 laying down general rules on the granting of aid for the production of olive oil and of aid to olive oil producer organizations⁽³⁾, as last amended by Regulation (EEC) No 892/88⁽⁴⁾, and in particular Article 19 thereof,Whereas Commission Regulation (EEC) No 2984/88⁽⁵⁾ fixed the olive and olive oil yields for each homogeneous production zone; whereas certain errors have been found in Annex II to the said Regulation in respect of the provinces; whereas they should, accordingly, be corrected, in view of the fact that potential recipients have not yet received production aid;

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

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EEC) No 2984/88 is hereby amended as follows:

The figures for the provinces of Almeria, Ciudad Real (zone 4), Salamanca (zone 1), Tarragona (zone 3) are replaced by the figures in the Annex I hereto.

Article 2

Annex II to Regulation (EEC) No 2984/88 is hereby amended as follows:

1. The figures for the provinces of Brescia, Pisa, Pistoia, Perugia, Bari, Lecce and Messina are replaced by the figures in the Annex II hereto.
2. The figures for the provinces of Benevento and Oristano are deleted.

*Article 3*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 3 October 1988.

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

Done at Brussels, 14 November 1988.

For the Commission

Frans ANDRIESEN

Vice-President⁽¹⁾ OJ No 472, 30. 9. 1966, p. 3025/66.⁽²⁾ OJ No L 197, 26. 7. 1988, p. 1.⁽³⁾ OJ No L 208, 3. 8. 1984, p. 3.⁽⁴⁾ OJ No L 89, 6. 4. 1988, p. 1.⁽⁵⁾ OJ No L 270, 30. 9. 1988, p. 1.

ANEXO I — BILAG I — ANHANG I — ΠΑΡΑΡΤΗΜΑ I — ANNEX I — ANNEXE I —
ALLEGATO I — BIJLAGE I — ANEXO I

D. ESPAÑA — SPANIEN — SPANIEN — ΙΣΠΑΝΙΑ — SPAIN — ESPAGNE — SPAGNA — SPANJE
— ESPANHA

Provincia Provins Provinz Επαρχία Province Province Provincia Provincie Província	Zona Zone Zone Ζώνη Zone Zone Zona Zone Zona	kg aceitunas/árbol kg oliven/træ kg Oliven/Baum Χιλιόγραμμα ελαιοκάρπου/δένδρο Olives kg/tree kg olives/arbore kg olive/albero kg olijven/boom kg azeitonas/árvore	kg aceite/100 kg aceitunas kg olie/100 kg oliven kg Öl/100 kg Oliven Χιλιόγραμμα ελαιολάδου/ 100 χιλιόγραμμα ελαιοκάρπου Oil kg/100 kg olives kg huile/100 kg olives kg olio/100 kg olive kg olie/100 kg olijven kg azeite/100 kg azeitonas
Almería		15	21
Ciudad Real	4	10	19
Salamanca	1	18	15
Tarragona	3	13	22

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

A. ITALIA — ITALIEN — ITALIEN — ITALIA — ITALY — ITALIE — ITALIA — ITALIE — ITÁLIA

Brescia :

1. Comuni di :

Darfo Boario Terme, Iseo, Limone sul Garda, Marone, Monte Isola, Sale Marasino, Sulzano.

2. Comuni di :

Calvagese della Riviera, Gargnano, Gavardo, Manerba del Garda, Moniga del Garda, Muscoline, Padenghe sul Garda, Polpenazze del Garda, Puegnago sul Garda, San Felice del Benaco, Soiano del Lago, Tignale, Toscolano-Maderno, Tremosine.

3. Comuni di :

Corte Franca, Desenzano del Garda, Gardone Val Trompia, Lonato, Monticelli Brusati, Ome, Pozzolengo, Provaglio d'Iseo, Roe Volciano, Salò.

4. *

Pisa :

1. Comuni di :

Capannoli, Casciana Terme, Chianni, Crespina, Fauglia, Laiatico, Lari, Lorenzana, Orciano Pisano, Palaia, Peccioli, Santa Luce, Terricciola, Castelfranco di Sotto, Montopoli in Val d'Arno, Ponsacco, Pontedera, San Minato, Santa Croce sull'Arno, Santa Maria a Monte, Castelnuovo di Val di Cecina, Montecatini Val di Cecina, Pomarance, Volterra. Calcinaia, Cascina, Pisa.

2. Comuni di :

Bientina, Buti, Calci, San Giuliano Terme, Vecchiano, Vicopisano, Casale Marittimo, Castellina Marittima, Guardistallo, Montescudaio, Monteverdi Marittimo, Riparbella.

Pistoia :

1. Comuni di :

Abetone, Agliana, Cutigliano, Montale, Pistoia, Ponte Buggianese, Sambuca Pistoiese, San Marcello Pistoiese, Chiesina Uzzanese, Pescia, Piteglio, Uzzano.

2. Comuni di :

Monsummano Terme, Pieve a Nievole, Serravalle Pistoiese, Lamporecchio, Larciano, Quarrata.

3. Comuni di :

Buggiano, Marliana, Massa e Cozzile, Montecatini Terme.

Perugia :

1. Comuni di :

Castiglione del Lago, Città della Pieve, Magione, Paciano, Panicale, Passignano sul Trasimeno, Piegaro, Tuoro sul Trasimeno.

2. Comuni di :

Bastia, Bettona, Bevagna, Cannara, Castel Ritaldi, Collazzone, Corciano, Deruta, Fratta Todina, Giano dell'Umbria, Gualdo Cattaneo, Marsciano, Massa Martana, Monte Castello di Vibio, Montefalco, Perugia, Todi, Torgiano, Assisi, Campello sul Clitunno, Foligno, Spello, Spoleto, Trevi, Cascia, Cerreto di Spoleto, Citeria, Città di Castello, Costacciaro, Fossato di Vico, Gualdo Tadino, Gubbio, Lisciano Niccone, Monteleone di Spoleto, Monte Santa Maria Tiberina, Montone, Nocera Umbra, Norcia, Pietralunga, Poggiodorno, Preci, San Giustino, Sant'Anatolia di Narco, Scheggia e Pascalupo, Scheggino, Sellano, Sigillo, Umbertide, Valfabbrica, Vallo di Nera, Valtopina.

Bari :

1. Comuni di :

Altamura, Gravina in Puglia, Noci, Poggiorsini, Santeramo in Colle, Spinazzola, Alberobello, Gioia del Colle, Locorotondo, Minervino Murge, Putignano.

2. Comuni di :

Adelfia, Bari, Casamassima, Castellana Grotte, Cellamare, Conversano, Modugno, Noicattaro, Rutigliano, Sammichele di Bari, Triggiano, Turi, Valenzano, Cassano delle Murge, Sannicandro di Bari, Toritto.

3. Comuni di :

Acquaviva delle Fonti, Binetto, Bitetto, Bitonto, Bitritto, Capurso, Giovinazzo, Grumo Appula, Palo del Colle, Ruvo di Puglia, Terlizzi, Trani, Canosa di Puglia, Polignano a Mare, Andria Barletta.

4. Comuni di :

Bisceglie, Corato, Mola di Bari, Molfetta.

5. Comuni di :

Monopoli.

Lecce :

1. Comuni di :

Alezio, Alliste, Gallipoli, Matino, Melissano, Parabita, Racale, Sannicola, Taviano, Tuglie, Ugento.

2. Comuni di :

Calimera, Carpignano Salentino, Lecce, Lizzanello, Melendugno, Otranto, Surbo, Trepuzzi, Vernole.

3. Comuni di :

Acquarica del Capo, Alessano, Casarano, Castrignano del Capo, Collepasso, Corsano, Cutrofiano, Gagliano del Capo, Miggiano, Montesano Salentino, Morciano di Leuca, Patù, Presicce, Ruffano, Salve, Scorrano, Specchia, Supersano, Taurisano.

4. Comuni di :

Andrano, Bagnolo del Salento, Botrugno, Cannole, Caprarica di Lecce, Castri di Lecce, Castrignano de Greci, Cavallino, Corigliano d'Otranto, Cursi, Diso, Giuggianello, Giurdignano, Lequiel, Maglie, Martano, Martignano, Melpignano, Minervino di Lecce, Muro Leccese, Nociglia, Ortelle, Palmariggi, Poggiardo, Sanarica, San Cesario di Lecce, San Donato di Lecce, San Pietro in Lana, Santa Cesarea Terme, Sogliano Cavour, Soleto, Spongano, Sternatia, Surano, Tiggiano, Tricase, Uggiano la Chiesa, Zollino S. Cassiano, Castro.

5. Comuni di :

Aradeo, Arnesano, Campi Salentina, Carmiano, Copertino, Galatina, Galatone, Guagnano, Leverano, Monteroni di Lecce, Nardò Neviano, Novoli, Salice Salentino, Seclì, Squinzano, Veglie, Porto Cesareo.

Messina :

1. Comuni di :

Mandanici, Pagliara, Capo d'Orlando, Capri Leone, Caronia, Gioiosa Marea, Mistretta, Motta d'Affermo, Patti, Reitano, San Marco d'Alunzio, Sant'Agata di Militello, Santo Stefano di Camastra, Acquedolci, Torrenova.

2. Comuni di :

Ali Terme, Barcellona Pozzo di Gotto, Castelmola, Castoreale, Condò, Falcone, Forza d'Agro, Furci Siculo, Furnari, Gaggi, Giardini-Naxos, Graniti, Gualtieri Sicaminò, Itala, Letojanni, Mazzarà Sant'Andrea, Merì, Messina, Milazzo, Monforte San Giorgio, Nizza di Sicilia, Oliveri, Pace del Mela, Roccalumera, Roccavaldina, Rodi Milici, Rometta, San Filippo del Mela, San Pier Niceto, Sant'Alessio Siculo, Santa Teresa di Riva, Saponara, Scaletta Zanclea, Spadafora, Taormina, Torregrotta, Valdina, Venetico, Villafranca Tirrena, Terme Vigliatore, Ali, Antillo, Basicò, Calsalvecchio Siculo, Fiumedinisi, Gallodoro, Limina, Mongiuffi Melia, Montalbano Elicona, Roccafiorita, Santa Lucia del Mela, Savoca, Tripi ; Fondachelli-Fantina, Francavilla di Sicilia, Malvagna, Moto Alcantara, Motta Camastra, Novara di Sicilia, Roccella Valdemone.

3. Comuni di :

Brolo, Castell'Umberto, Ficarra, Frazzano, Galati Mamertino, Librizzi, Longi, Mirto, Montagnareale, Naso, Piraino, Raccuia, San Piero Patti, San Salvatore di Fitalia, Sant'Angelo di Brolo, Sinagra, Tortorici, Ucria.

4. Comuni di :

Alcara Li Fusi, Militello Rosmarino, Pettineo, San Fratello, Tusa.

5. Comuni di :

Capizzi, Castel di Lucio, Cesarò, Floresta, Santa Domenica Vittoria, San Teodoro, Leni, Lipari, Malfa, Santa Marina Salina.

COMMISSION REGULATION (EEC) No 3531/88

of 14 November 1988

amending Regulation (EEC) No 2728/88 on the reduction of the buying-in price for wine as referred to Article 44 of Regulation (EEC) No 822/87

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine ⁽¹⁾, as last amended by Regulation (EEC) No 2964/88 ⁽²⁾, and in particular Article 44 thereof,

Whereas the amount withheld when the buying-in-price for wine is reduced as provided for in Commission Regulation (EEC) No 2728/88 ⁽³⁾ is not justified for wine and categories of wine produced in a Member State not authorizing an increase in alcoholic strength; whereas that Regulation should be supplemented accordingly;

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

Article 1

Article 1 of Regulation (EEC) No 2728/88 is hereby amended as follows:

1. The following is added to the second subparagraph of paragraph 1:

'wine and categories of wine in respect of which the Member States do not authorize or have not authorized an increase in alcoholic strength for the wine year in question.';

2. paragraph 4 is deleted.

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 September 1988.

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

Done at Brussels, 14 November 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ No L 269, 29. 9. 1988, p. 5.

⁽³⁾ OJ No L 241, 1. 9. 1988, p. 106.

COMMISSION REGULATION (EEC) No 3532/88

of 14 November 1988

fixing for the 1988/1989 marketing year the minimum purchase price for oranges delivered for industrial processing and the financial compensation payable after processing

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 2601/69 of 18 December 1969 laying down special measures to encourage the processing of certain varieties of oranges ⁽¹⁾, as last amended by Regulation (EEC) No 2241/88 ⁽²⁾, and in particular Articles 2 (3) and 3 (2) thereof,

Having regard to Council Regulation (EEC) No 3391/87 ⁽³⁾, as last amended by Regulation (EEC) No 2241/88, concerning measures for the processing of certain varieties of oranges, and in particular Article 2 (2) thereof,

Whereas, pursuant to Article 2 of Regulation (EEC) No 2601/69, the minimum price which processors must, under the terms of the contracts, pay to producers is to be calculated on the basis of the purchase price, plus 10 % of the basic price, of the varieties which, by reason of their characteristics, are usually sent for processing:

Whereas experience has shown that, besides oranges of the 'Biondo comune' variety, the products concerned are Class III blood oranges; whereas the minimum price should consequently be fixed on the basis of the average purchase price for the marketing year in progress, valid under Council Regulation (EEC) No 2239/88 ⁽⁴⁾, and Commission Regulation (EEC) No 3587/86 ⁽⁵⁾, as last amended by Regulation (EEC) No 2040/88 ⁽⁶⁾, for oranges of those varieties, plus 10 % of the average basic price over the same period;

Whereas, pursuant to Article 3 of Regulation (EEC) No 2601/69, the financial compensation must be so fixed that the difference between the minimum price and the financial compensation does not vary, in relation to that for the previous marketing year, by an amount greater than the amount resulting from the increase in the minimum price; whereas the increase in the said difference must be not less than 50 % of the increase in the minimum price;

Whereas 'Shamouti' oranges are included in the list of varieties of oranges eligible for aid processing under Regulation (EEC) No 2601/69 in order to ensure that the purposes for which they are used tend to be in keeping with their characteristics and to limit the quantities concerned; whereas, under Regulation (EEC) No 3391/87, arrangements similar to those laid down in Regulation (EEC) No 2601/69 are, again for limited quantities, applicable to the Cadenera, Castellana and Macetera varieties of biondo oranges;

Whereas the intrinsic characteristics of the Cadenera, Castellana and Macetera varieties are the same of those of the 'Biondo comune' variety, the minimum purchase price and financial compensation for which are set by this Regulation;

Whereas Articles 119 (2) and 305 (2) of the Act of Accession provide that, from the first move towards alignment, the minimum prices applicable, as the case may be, in Spain and Portugal are to be aligned on the common minimum price in accordance with the mechanism provided for in Articles 70 and 238 of the said Act and the financial compensation applicable in Spain and Portugal respectively at each move towards alignment is to be that of the Community as constituted at 31 December 1985 less the difference between on the one hand the common minimum price and on the other the minimum prices applicable, as the case may be, in Spain and Portugal;

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

⁽¹⁾ OJ No L 324, 27. 12. 1969, p. 21.

⁽²⁾ OJ No L 198, 26. 7. 1988, p. 11.

⁽³⁾ OJ No L 323, 13. 11. 1987, p. 2.

⁽⁴⁾ OJ No L 198, 26. 7. 1988, p. 2.

⁽⁵⁾ OJ No L 334, 27. 11. 1986, p. 1.

⁽⁶⁾ OJ No L 179, 9. 7. 1988, p. 30.

HAS ADOPTED THIS REGULATION :

Article 1

1. For the 1988/89 marketing year, the minimum prices to be paid to producers are hereby fixed at the levels set out below :

(a) for oranges of the 'Biondo comune', Shamouti, Cadenera, Castellana and Macetra varieties :

(ECU/100 kg net)

Spain	Portugal	Other Member States
10,16	8,34	11,20

(b) for blood oranges of the varieties :

(ECU/100 kg net)

	Spain	Portugal	Other Member States
— Moro, Tarocco en Sanguinello	13,47	11,06	14,86
— Sanguigno	10,49	8,62	11,57

2. These minimum prices shall be for goods ex-producers' packing stations.

Article 2

For the 1987/88 marketing year, the financial compensation granted to processors is hereby fixed at the levels set out below :

(a) for oranges of the 'Biondo comune', Shamouti, Cadenera, Castellana and Macetra varieties :

(ECU/100 kg net)

Spain	Portugal	Other Member States
5,35	3,53	6,39

(b) for oranges of the varieties :

(ECU/100 kg net)

	Spain	Portugal	Other Member States
— Moro, Tarocco en Sanguinello	8,66	6,25	10,05
— Sanguigno	5,68	3,81	6,76

Article 3

The amounts referred to in Articles 1 and 2 shall apply to oranges which satisfy at least the minimum quality and size requirements laid down for Class III.

Article 4

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, 14 November 1988.

For the Commission

Frans ANDRIESEN

Vice-President

COMMISSION REGULATION (EEC) No 3533/88
of 14 November 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 1109/88 ⁽²⁾, and in particular Article 14 (8) thereof,

Whereas the import levies on milk and milk products were fixed by Commission Regulation (EEC) No 2353/88 ⁽³⁾, as last amended by Regulation (EEC) No 3326/88 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2353/88 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 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 November 1988.

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

Done at Brussels, 14 November 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 110, 29. 4. 1988, p. 27.

⁽³⁾ OJ No L 204, 29. 7. 1988, p. 34.

⁽⁴⁾ OJ No L 295, 28. 10. 1988, p. 8.

ANNEX

to the Commission Regulation of 14 November 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		16,05
0401 10 90		14,84
0401 20 11		22,67
0401 20 19		21,46
0401 20 91		28,71
0401 20 99		27,50
0401 30 11		75,37
0401 30 19		74,16
0401 30 31		146,55
0401 30 39		145,34
0401 30 91		247,52
0401 30 99		246,31
0402 10 11		107,28
0402 10 19		100,03
0402 10 91	(¹)	1,0003/kg + 29,99
0402 10 99	(¹)	1,0003/kg + 22,74
0402 21 11		156,66
0402 21 17		149,41
0402 21 19		149,41
0402 21 91		198,01
0402 21 99		190,76
0402 29 11	(¹) (²)	1,4941/kg + 29,99
0402 29 15	(¹)	1,4941/kg + 29,99
0402 29 19	(¹)	1,4941/kg + 22,74
0402 29 91	(¹)	1,9076/kg + 29,99
0402 29 99	(¹)	1,9076/kg + 22,74
0402 91 11		34,27
0402 91 19		34,27
0402 91 31		42,84
0402 91 39		42,84
0402 91 51		146,55
0402 91 59		145,34
0402 91 91		247,52
0402 91 99		246,31
0402 99 11		49,76
0402 99 19		49,76
0402 99 31	(¹)	1,4292/kg + 26,37
0402 99 39	(¹)	1,4292/kg + 25,16
0402 99 91	(¹)	2,4389/kg + 26,37
0402 99 99	(¹)	2,4389/kg + 25,16

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

CN code	Note	Import levy
0403 10 11		25,08
0403 10 13		31,12
0403 10 19		77,78
0403 10 31	(¹)	0,1904/kg + 28,78
0403 10 33	(¹)	0,2508/kg + 28,78
0403 10 39	(¹)	0,7174/kg + 28,78
0403 90 11		107,28
0403 90 13		156,66
0403 90 19		198,01
0403 90 31	(¹)	1,0003/kg + 29,99
0403 90 33	(¹)	1,4941/kg + 29,99
0403 90 39	(¹)	1,9076/kg + 29,99
0403 90 51		25,08
0403 90 53		31,12
0403 90 59		77,78
0403 90 61	(¹)	0,1904/kg + 28,78
0403 90 63	(¹)	0,2508/kg + 28,78
0403 90 69	(¹)	0,7174/kg + 28,78
0404 10 11		17,27
0404 10 19	(¹)	0,1727/kg + 22,74
0404 10 91	(²)	0,1727/kg
0404 10 99	(²)	0,1727/kg + 22,74
0404 90 11		107,28
0404 90 13		156,66
0404 90 19		198,01
0404 90 31		107,28
0404 90 33		156,66
0404 90 39		198,01
0404 90 51	(¹)	1,0003/kg + 29,99
0404 90 53	(¹)	1,4941/kg + 29,99
0404 90 59	(¹)	1,9076/kg + 29,99
0404 90 91	(¹)	1,0003/kg + 29,99
0404 90 93	(¹)	1,4941/kg + 29,99
0404 90 99	(¹)	1,9076/kg + 29,99
0405 00 10		255,28
0405 00 90		311,44
0406 10 10		260,18
0406 10 90		310,95
0406 20 10	(³)	386,46
0406 20 90		386,46
0406 30 10	(³)	201,90
0406 30 31	(³)	196,24
0406 30 39	(³)	201,90
0406 30 90	(³)	298,62
0406 40 00	(³)	157,44
0406 90 11	(³)	246,28

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

CN code	Note	Import levy
0406 90 13	(³)	237,13
0406 90 15	(³)	237,13
0406 90 17	(³)	237,13
0406 90 19	(³)	386,46
0406 90 21	(³)	246,28
0406 90 23	(³)	214,23
0406 90 25	(³)	214,23
0406 90 27	(³)	214,23
0406 90 29	(³)	214,23
0406 90 31	(³)	214,23
0406 90 33		214,23
0406 90 35	(³)	214,23
0406 90 37	(³)	214,23
0406 90 39	(³)	214,23
0406 90 50	(³)	214,23
0406 90 61		386,46
0406 90 63		386,46
0406 90 69		386,46
0406 90 71		260,18
0406 90 73		214,23
0406 90 75		214,23
0406 90 77		214,23
0406 90 79		214,23
0406 90 81		214,23
0406 90 83		214,23
0406 90 85		214,23
0406 90 89	(³)	214,23
0406 90 91		260,18
0406 90 93		260,18
0406 90 97		310,95
0406 90 99		310,95
1702 10 90	(⁴)	36,85
2106 90 51		36,85
2309 10 15		77,44
2309 10 19		100,45
2309 10 39		94,35
2309 10 59		78,39
2309 10 70		100,45
2309 90 35		77,44
2309 90 39		100,45
2309 90 49		94,35
2309 90 59		78,39
2309 90 70		100,45

-
- (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 Council Regulation (EEC) No 2730/75, to the same levy as that applicable to lactose falling within subheading 1702 10 90.
-

COMMISSION REGULATION (EEC) No 3534/88

of 14 November 1988

abolishing the countervailing charge on apples originating in Australia

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 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 2238/88⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,Whereas Commission Regulation (EEC) No 3078/88⁽³⁾, as amended by Regulation (EEC) No 3278/88⁽⁴⁾, introduced a countervailing charge on apples originating in Australia;

Whereas for this product originating in Australia there were no prices for six consecutive working days; whereas

the conditions specified in Article 26 (1) of Regulation (EEC) No 1035/72 are therefore fulfilled and the countervailing charge on imports of apples originating in Australia can be abolished,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3078/88 is hereby repealed.

Article 2

This Regulation shall enter into force on 15 November 1988.

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

Done at Brussels, 14 November 1988.

For the Commission

Frans ANDRIESEN

Vice-President⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.⁽²⁾ OJ No L 198, 26. 7. 1988, p. 1.⁽³⁾ OJ No L 274, 6. 10. 1988, p. 39.⁽⁴⁾ OJ No L 291, 25. 10. 1988, p. 65.

COMMISSION REGULATION (EEC) No 3535/88
of 14 November 1988
fixing the import levies on white sugar and raw sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 2306/88 ⁽²⁾, and in particular Article 16 (8) thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 2336/88 ⁽³⁾, as last amended by Regulation (EEC) No 3457/88 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2336/88 to the infor-

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 15 November 1988.

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

Done at Brussels, 14 November 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 201, 27. 7. 1988, p. 65.

⁽³⁾ OJ No L 203, 28. 7. 1988, p. 22.

⁽⁴⁾ OJ No L 303, 8. 11. 1988, p. 18.

ANNEX

to the Commission Regulation of 14 November 1988 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy
1701 11 10	36,38 ⁽¹⁾
1701 11 90	36,38 ⁽¹⁾
1701 12 10	36,38 ⁽¹⁾
1701 12 90	36,38 ⁽¹⁾
1701 91 00	45,00
1701 99 10	45,00
1701 99 90	45,00 ⁽²⁾

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

⁽²⁾ In accordance with Article 16 (2) of Regulation (EEC) No 1785/81 this amount is also applicable to sugar obtained from white and raw sugar containing added substances other than flavouring or colouring matter.

COMMISSION REGULATION (EEC) No 3536/88

of 14 November 1988

altering the import levies on products processed from cereals and rice

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

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EEC) No 2221/88 ⁽²⁾, and in particular Article 14 (4) thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽³⁾, as last amended by Regulation (EEC) No 2229/88 ⁽⁴⁾, and in particular Article 12 (4) thereof,

Having regard to Council Regulation No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy ⁽⁵⁾, as last amended by Regulation (EEC) No 1636/87 ⁽⁶⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the import levies on products processed from cereals and rice were fixed by Commission Regulation (EEC) No 3384/88 ⁽⁷⁾, as last amended by Regulation (EEC) No 3481/88 ⁽⁸⁾;

Whereas Council Regulation (EEC) No 1906/87 ⁽⁹⁾ as amended by Council Regulation (EEC) No 2744/75 ⁽¹⁰⁾ as regards products falling within CN codes 2302 10, 2302 20, 2302 30 and 2302 40;

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

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

of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Regulation (EEC) No 1676/85,

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

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

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

Whereas the levy on the basic product as last fixed differs from the average levy by more than 3,02 ECU per tonne of basic product; whereas, pursuant to Article 1 of Commission Regulation (EEC) No 1579/74 ⁽¹¹⁾, as last amended by Regulation (EEC) No 1740/78 ⁽¹²⁾, the levies at present in force must therefore be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies to be charged on products processed from cereals and rice covered by Regulation (EEC) No 2744/75 as fixed in the Annex to amended Regulation (EEC) No 3384/88 are hereby altered to the amounts set out in the Annex.

Article 2

This Regulation shall enter into force on 15 November 1988.

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

Done at Brussels, 14 November 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 197, 26. 7. 1988, p. 16.

⁽³⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽⁴⁾ OJ No L 197, 26. 7. 1988, p. 30.

⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁶⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁷⁾ OJ No L 299, 1. 11. 1988, p. 1.

⁽⁸⁾ OJ No L 305, 10. 11. 1988, p. 31.

⁽⁹⁾ OJ No L 182, 3. 7. 1987, p. 49.

⁽¹⁰⁾ OJ No L 281, 1. 11. 1975, p. 65.

⁽¹¹⁾ OJ No L 168, 25. 6. 1974, p. 7.

⁽¹²⁾ OJ No L 202, 26. 7. 1978, p. 8.

ANNEX

to the Commission Regulation of 14 November 1988 altering the import levies on products processed from cereals and rice

(ECU/tonne)

CN code	Import levies	
	Third countries (other than ACP or OCT)	ACP or OCT
1102 20 10 (?)	241,79	235,75
1102 20 90 (?)	136,61	133,59
1102 90 30 (?)	127,00	120,96
1102 90 90 (?)	146,26	143,24
1103 12 00 (?)	127,00	120,96
1103 13 11 (?)	232,79	226,75
1103 13 19 (?)	241,79	235,75
1103 13 90 (?)	136,61	133,59
1103 19 10 (?)	218,53	212,49
1103 19 90 (?)	146,26	143,24
1103 29 10 (?)	218,53	212,49
1103 29 30 (?)	127,00	120,96
1103 29 40 (?)	241,79	235,75
1103 29 90 (?)	146,26	143,24
1104 12 10 (?)	71,56	68,54
1104 12 90 (?)	140,44	134,40
1104 19 30 (?)	218,53	212,49
1104 19 50 (?)	241,79	235,75
1104 19 99 (?)	258,81	252,77
1104 22 10 (?)	123,98	120,96
1104 22 30 (?)	123,98	120,96
1104 22 50 (?)	110,54	107,52
1104 22 90 (?)	71,56	68,54
1104 23 10 (?)	212,57	209,55
1104 23 30 (?)	212,57	209,55
1104 23 90 (?)	136,61	133,59
1104 29 10*20 (?) (?)	160,03	157,01
1104 29 10*30 (?) (?)	227,71	224,69
1104 29 10*40 (?) (?)	227,71	224,69
1104 29 10*90 (?) (10)	227,71	224,69
1104 29 30*20 (?) (?)	191,90	188,88
1104 29 30*30 (?) (?)	227,71	224,69
1104 29 30*40 (?) (?)	227,71	224,69
1104 29 30*90 (?) (10)	227,71	224,69
1104 29 95 (?)	123,43	120,41
1104 29 99 (?)	146,26	143,24
1104 30 90	104,27	98,23
1106 20 91	223,36	199,18 (?)
1106 20 99	231,41	207,23 (?)
1108 12 00	223,36	202,81
1108 13 00	223,36	202,81
1108 14 00	223,36	101,40 (?)
1108 19 90	223,36	101,40
1702 30 91 (?)	361,26	264,54
1702 30 99 (?)	269,30	202,81
1702 40 90 (?)	269,30	202,81
1702 90 50	269,30	202,81
1702 90 75	373,85	277,13
1702 90 79	259,22	192,73
2106 90 55	269,30	202,81
2303 10 11	433,28	251,94

(²) For the purpose of distinguishing between products falling within heading Nos 1101, 1102, 1103 and 1104 and those falling within subheadings 2302 10, 2302 20, 2302 30 and 2302 40, products falling within heading Nos 1101, 1102, 1103 and 1104 shall be those meeting the following specifications:

- a starch content (determined by the modified Ewers polarimetric method), referred to dry matter, exceeding 45 % by weight,
- an ash content, by weight, referred to dry matter (after deduction of any added minerals), not exceeding 1,6 % for rice, 2,5 % for wheat, 3 % for barley, 4 % for buckwheat, 5 % for oats and 2 % for other cereals.

Germ of cereals, whole, rolled, flaked or ground, falls in all cases within heading Nos 1103 and 1104.

(³) Pursuant to Regulation (EEC) No 2730/75 the customs treatment in respect of glucose and glucose syrup of subheadings 1702 30 91, 1702 30 99 and 1702 40 90 shall also apply to glucose and glucose syrup of subheadings 1702 30 51 and 1702 30 59.

(⁴) In accordance with Regulation (EEC) No 486/85 the levy shall not be charged on the following products originating in the African, Caribbean and Pacific States and in the overseas countries and territories:

- arrow-root falling within subheading 0714 90 10,
- flours and meal of arrow-root falling within subheading 1106 20,
- arrow-root starch falling within subheading 1108 19 90.

(⁷) Taric code: rye.

(⁸) Taric code: millet.

(⁹) Taric code: sorghum.

(¹⁰) Taric code: others.

COMMISSION REGULATION (EEC) No 3537/88

of 14 November 1988

opening a standing invitation to tender for the resale on the Community market
of 112 000 tonnes of sorghum held by the Spanish intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,Having regard to Council Regulation (EEC) No 1799/87
of 25 June 1987 on special arrangements for imports of
maize and sorghum into Spain from 1987 to 1990 ⁽¹⁾, and
in particular Article 4 (2) thereof,Whereas pursuant to Article 4 of Regulation (EEC) No
1799/87 the Spanish intervention agency has purchased
300 000 tonnes of sorghum on the world market;Whereas 188 000 tonnes of sorghum was sold on the
internal market; whereas it is advisable, in the light of the
situation on the market in fodder in Spain, to put up for
sale on the internal market the remaining quantities of
sorghum held by the Spanish intervention agency and to
lay down the conditions applicable to that sale;Whereas the provisions of Commission Regulation (EEC)
No 1836/82 of 7 July 1982 laying down the procedure
and conditions for the disposal of cereals held by
intervention agencies ⁽²⁾, as last amended by Regulation
(EEC) No 2418/87 ⁽³⁾, will ensure that the requirements of
Article 4 (2) of Regulation (EEC) No 1799/87 are met and
constitute a suitable framework for operation of the
tendering procedure;Whereas pursuant to Article 2 (3) of Regulation (EEC) No
1799/87 the cereals in question must be used or
processed in Spain; whereas in order to ensure that this
requirement is met successful tenderers should be obliged
to lodge a security to be released on presentation of the
proof specified in certain provisions of Commission
Regulation (EEC) No 3105/87 of 16 October 1987 laying
down detailed rules for the application of the special
arrangements for imports of maize and sorghum into
Spain from 1987 to 1990 ⁽⁴⁾, as last amended by
Regulation (EEC) No 3106/88 ⁽⁵⁾; whereas, moreover, the
provisions of Commission Regulation (EEC) No 569/88
of 16 February 1988 laying down common detailed rules
for verifying the use and/or destination of products from
intervention ⁽⁶⁾, as last amended by Regulation (EEC) No3333/88 ⁽⁷⁾, should apply to verification of satisfactory
utilization of the cereals;Whereas the measures provided for in this Regulation are
in accordance with the opinion of the Management
Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The Spanish intervention agency shall sell by tender on
the Spanish market 112 000 tonnes of sorghum purchased
pursuant to Article 4 (1) of Regulation (EEC) No 1799/87.The sale shall be operated in accordance with the terms
of this Regulation and with those of Titles I and III of
Regulation (EEC) No 1836/82.

Article 2

1. Tenderers shall undertake to process or use in Spain
not later than 30 June 1989 any products that they are
awarded, unless prevented from doing so by *force
majeure*.2. Successful tenderers shall lodge security of 20 ECU
per tonne with the Spanish intervention agency against
discharge of the obligation mentioned in paragraph 1.
Security shall be lodged within two working days at the
latest of that on which the notice of award is received.

Article 3

1. The obligation mentioned in Article 2 (1) shall be
considered a primary requirement as defined in Article 20
of Commission Regulation (EEC) No 2220/85 ⁽⁸⁾. It shall
not be considered to have been discharged fulfilled until
the tenderer provides the proof specified in the first and
second paragraphs of Article 6 of Regulation (EEC) No
3105/87.2. Regulation (EEC) No 569/88 shall apply in the field
covered by this Regulation.⁽¹⁾ OJ No L 170, 30. 6. 1987, p. 1.⁽²⁾ OJ No L 202, 9. 7. 1982, p. 23.⁽³⁾ OJ No L 223, 11. 8. 1987, p. 5.⁽⁴⁾ OJ No L 294, 17. 10. 1987, p. 15.⁽⁵⁾ OJ No L 277, 8. 10. 1988, p. 28.⁽⁶⁾ OJ No L 55, 1. 3. 1988, p. 1.⁽⁷⁾ OJ No L 295, 28. 10. 1988, p. 34.⁽⁸⁾ OJ No L 205, 3. 8. 1985, p. 5.

Article 4

1. The time limit for submission of tenders in response to the first individual invitation to tender shall be 24 November 1988.

2. The time limit for submission of tenders in response to the final individual invitation to tender shall be 26 January 1989.

3. Tenders must be lodged with the Spanish intervention agency:

Servicio Nacional de Productos Agrarios (SENPA),
Beneficencia 8,
E-28004 Madrid,
(Telex: 23427 SENPA E — Tel. 232 34 88).

Article 5

The Spanish intervention agency shall notify the Commission, at the latest by Tuesday of the week following the time limit for submission of tenders, of the quantities and average prices of the various lots sold.

Article 6

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

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

Done at Brussels, 14 November 1988.

For the Commission

Frans ANDRIESEN

Vice-President

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 7 November 1988

relating to exceptional Community aid for the reconstruction of the areas
stricken by earthquakes which took place in Greece in September 1986

(88/561/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European
Parliament ⁽¹⁾,

Whereas those living in certain areas of Greece have been
seriously affected by the earthquakes of September 1986,
with an ensuing need to help offset the effects of this
disaster on their economic and social well-being;

Whereas the areas stricken by these earthquakes extend
over, in particular, the town of Kalamata and its
surroundings in the nomos of Messinia;

Whereas steps should be taken to deal quickly and
efficiently with this quite exceptional situation;

Whereas the European Investment Bank is able to grant
loans out of its own resources to help achieve this
objective;

Whereas an interest subsidy chargeable to the general
budget of the European Communities should be provided
on these loans;

Whereas the Treaty has not provided, for the adoption of
the measures in question, powers other than those
provided for in Article 235,

HAS DECIDED AS FOLLOWS:

Article 1

The ultimate recipients of the loans granted by the
European Investment Bank out of its own resources for
investment projects carried out in the areas devastated by
the earthquakes of September 1986 in Greece shall be
entitled to an interest subsidy chargeable to the general
budget of the European Communities, up to the
equivalent of a capital value of ECU 100 million in all.

On the basis of projects put forward by the Greek
authorities, the Commission shall grant this subsidy at a
rate of three percentage points per annum for up to 12
years.

Article 2

This Decision shall take effect from 1 January 1989.

Done at Brussels, 7 November 1988.

For the Council

The President

P. ROUMELIOTIS

⁽¹⁾ OJ No C 187, 18. 7. 1988, p. 186.

COUNCIL DIRECTIVE**of 8 November 1988****amending Directive 82/606/EEC relating to the organization by Member States of surveys on the earnings of permanent and seasonal workers employed in agriculture****(88/562/EEC)**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 213 thereof,

Whereas Directive 82/606/EEC⁽¹⁾ provides that Member States shall conduct in 1988 a survey on the earnings of permanent and seasonal workers employed in agriculture;

Whereas the abovementioned Directive provides that participation by the Community in the costs of the survey shall cease after 1986;

Whereas the accession of the new Member States and the extension of the survey to non-permanent workers makes it necessary to provide for participation in the costs to continue for the 1988 survey,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Articles 7 and 8 of Directive 82/606/EEC are hereby replaced by the following:

'Article 7

Member States shall receive, in respect of the surveys carried out up to 1988 inclusive, a flat-rate sum for

each holding surveyed. This sum shall be charged against appropriations allocated for this purpose in the general budget of the European Communities.

Article 8

The Council shall review this Directive for the first time at the beginning of 1990.

To this end, the Commission shall submit a report to the Council no later than the beginning of 1990 on the experience gained in carrying out the surveys provided for pursuant to this Directive.

This report shall be accompanied by proposals concerning the arrangements to be implemented, if required, for subsequent years (following 1990).'

Article 2

This Directive is addressed to the Member States.

Done at Brussels, 8 November 1988.

For the Council

The President

A. PEONIS

⁽¹⁾ OJ No L 247, 23. 8. 1982, p. 22.

COMMISSION

COMMISSION DECISION

of 13 October 1988

relating to a proceeding under Article 85 of the EEC Treaty
(IV/31.498 — Delta Chemie/DDD)

(Only the German and English texts are authentic)

(88/563/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17 of 6 February 1962, First Regulation implementing Articles 85 and 86 of the Treaty⁽¹⁾, as last amended by the Act of Accession of Spain and Portugal, and in particular Articles 2, 4, 6 and 8 thereof,

Having regard to the application of 14 March 1985 by the undertakings DDD Limited situated at Watford, United Kingdom, and Delta Chemie situated at Neu-Isenburg, Federal Republic of Germany, for negative clearance or alternatively exemption under Article 85 (3) of an agreement which they had signed on 15 January 1985,

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

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

Whereas :

I. THE FACTS

A. The notification

- (1) DDD Limited (hereinafter DDD), a company incorporated under English law and having its registered place of business at Watford (United Kingdom), applied to the Commission on 14 March 1985 for negative clearance or alternatively exemption of an agreement which it concluded on 15 January 1985 with Delta Chemie (hereinafter

called DC), a company governed by German law and having its registered place of business at Neu-Isenburg (Federal Republic of Germany).

Under the agreement, which effectively continues the operation of a previously existing oral exclusive distribution agreement, DC appoints DDD as its exclusive distributor for the sale of a range of products for the removal of certain stains from fabrics in the United Kingdom, Ireland and Greece, as well as in a large number of other countries outside the common market. DC also transfers to DDD its know-how for the manufacture and sale of these products in the same territory.

B. The undertakings

- (2) DC sells a range of pharmaceutical products, cosmetics and toiletries, as well as stain removers which are produced by its fully-owned subsidiary Gisapharm. In 1986 it had a turnover of DM ...⁽³⁾ of which DM ... derived from sales of the products which are the subject of the notified agreement. Its share of the German stain-removers market is estimated at ... %.
- (3) DDD sells certain pharmaceutical, toiletry and household products, manufactured by its subsidiaries in the United Kingdom. In 1986 its total turnover was £ % of this turnover, £ ... concerned the contract products, more than ... % of which are sold in the United Kingdom. Its share of the British stain-removers market is estimated at approximately ... %.

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No C 152, 10. 6. 1988, p. 2.

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

C. The products and the market

- (4) The products concerned by the agreement are products for the removal of stains (either in liquid or powder form, called 'Stain Devils' and 'Stain Salts' — in German 'Fleckenteufel' and 'Fleckensalz') and a product for the removal of unwanted colours (called 'Colour Run' — in German 'Entfärber-Teufel'). The first two products remove certain specific types of stains from fabrics, the second product restores the white or other original colours of a fabric after a 'mixed wash' accident. These products, which are intended to be sold to the general public, differ from universal stain removers which may be used for all types of stains.

Stain Devils and Colour Run were put on the market for the first time in Germany during the period 1960 to 1970. DC bought the trade mark and the know-how which is necessary for their manufacture in 1971. The other product, Stain Salts, was developed by DC itself and put on the German market in the beginning of the 1980s.

At present DC is selling its products in other Member States either directly or through exclusive distributors which it has appointed in Italy, the Netherlands, Denmark, France, Portugal and Spain. DC's share of the stain-removers market is approximately ... % in Denmark, ... % in Italy, ... % in Luxembourg and ... % in the Netherlands. This share is insignificant in Belgium. DC's market shares in France, Spain and Portugal are not yet available, because the products were only launched on these markets in 1987.

These products were imported and sold in the United Kingdom from 1983 to 1985 by DDD according to an oral exclusive distribution contract, which is effectively continued by the present agreement. When the demand for the products became sufficiently important to justify local production, DDD requested and obtained from DC a manufacture and sale licence in the United Kingdom, Greece, Ireland plus many other countries, mainly outside Europe. DDD's share of the stain-removers market is approximately ... % in Ireland. These products have not yet been sold in Greece.

DDD commenced manufacturing the products under the trade mark 'Stain Devils' (1) in April

1986. This company does not own any production plant outside the United Kingdom. It considers the existing demand for the products insufficient to justify the considerable investment which would be necessary to erect a new plant abroad. DDD never manufactured such products before 1986.

DC's products compete, both in Germany and in the United Kingdom, with universal stain removers produced by numerous other companies. In the United Kingdom these companies include Pletmester, Dylon (K2R), Johnson Wax (Goddards), Nicholas Kiwi (Dab-it-off) and Henkel (SIL). DDD states that competition will increase due to the imminent arrival of Danish and Australian competitors on the British market.

The manufacture of the contract products requires, according to the notifying undertakings, important investments in specialized equipment, including installations made of stainless steel and machinery for the extraction of emissions and gases. The marketing of these products necessitates a continuous investment in order to establish and maintain an important stock of products.

D. The know-how

- (5) In the light of the confidential information provided by the parties to the Commission, it is concluded that the know-how licensed by DC to DDD consists of knowledge, information and experience, all of which has not yet entered the public domain. This know-how concerns the manufacture, packaging and sale of a range of original products which satisfy specific needs.

The manufacture of these products requires a specific mixture of certain chemical agents. This mixture differs according to the nature of the stain remover concerned. The licensed know-how therefore also includes instructions and technical standards which are necessary for the proper functioning of the production and packaging process. Compliance with these instructions and standards is essential because of the dangerous emissions and gases which are developed during the production process and because of the toxic nature of stain removers.

This substantial know-how is described in formulae and technical documents disclosed to the licensee. Furthermore, in order to ensure a correct application of this know-how, the licensor will give him the appropriate advice. Specialized technicians will also be put at his disposal.

(1) The other contract products, i.e. 'Stain Salts' and 'Colour Run' are imported by DDD from Germany.

The notified agreement has thus enabled a transfer of valuable technical knowledge and its effective exploitation by a company other than the company that developed it. Consumers in the countries concerned by this agreement are now able to buy new products which are locally manufactured and which are adapted to the requirements of the market.

E. The notified agreement

- (6) The agreement was concluded on 15 January 1985 for a duration of 20 years commencing retroactively as of 1 January 1984. This agreement which continues the operation of an oral exclusive distribution contract, concerns the distribution, manufacture and sale by DDD in the United Kingdom, Ireland and Greece as well as in a large number of countries outside the common market, of a range of products which remove certain stains from fabrics or restore their white or original colours. These stain removers and bleachers already are or will be manufactured by DDD according to DC's confidential industrial know-how. The products are sold by the licensee in the licensed territory under the registered trademarks and trade names 'Stain Devils', 'Stain Salts' and 'Colour Run' which belong to DC.
- (7) DC appoints DDD as its exclusive distributor for the sale of the imported products and grants it a licence for the manufacture and sale of these products in the licensed territory (Article 1 (a)).

DC undertakes *vis-à-vis* DDD not to appoint any other person, firm or company as its distributor for the sale of the products in this territory (Article 1 (b) (i)) and not to license any other person, firm or company to manufacture the products in this territory (Article 1 (b) (ii)).

DC undertakes to refer to DDD all inquiries for the products received from any person, firm or company in the licensed territory. It reserves the right, however, to sell the products in this territory to any person who expresses a desire to purchase from the licensor rather than the licensee (Article 2 (a)). Reciprocally, DDD agrees to refer to the licensor all inquiries for the products received from any person, firm or company in the licensed

territory who expresses a desire to deal directly with the licensor rather than the licensee (Article 2 (b)).

In the light of the explanations given by the parties during the procedure in this case, these obligations must be interpreted as follows:

- (a) DDD benefits from an exclusive licence for the manufacture of the products. This licence gives DDD the legally enforceable assurance that it is the only company authorized by DC to manufacture the products in the licensed territory. This is because the licensor undertakes not to manufacture these products itself in this territory.

The right to manufacture the licensed products is contractually limited to the licensed territory, which is, as far as it concerns the Community market, the United Kingdom, Ireland and Greece. The licensee is not therefore entitled to manufacture these products in other Member States of the Community and in respect of these States. The licensor reserves for himself the possibility to manufacture or to grant manufacturing licences. DC has not yet used this possibility;

- (b) in relation to the distribution and sale of the products, DC has only undertaken not to appoint any distributor other than DDD in the territory. This means, according to the parties, that DDD does not benefit from any protection against parallel imports by third parties nor from protection against passive competition (i.e. against sales which were not solicited) from DC's distributors established in other territories. Moreover, DDD also has to suffer passive competition from the licensor himself, who has reserved the right to sell the products in the licensed territory if the customer prefers to deal with him. In such event, DDD does not obtain any financial compensation.

Conversely, the provisions of the licence agreement do not prevent DDD from selling the products in other Member States. As regards the distribution agreements concluded between DC and its distributors in other Member States, the latter are free to sell the products in the territories of their fellow distributors, of the licensee and of possible future fellow licensees in response to non-solicited inquiries from customers established in these territories.

- (8) DDD undertakes to manufacture the products strictly in accordance with the methods of manufacture furnished by DC (a), to market them for sale in packaging materials according to the specimen or specifications determined by DC (b), and to make no alternations in the formulae and methods of manufacture without prior written consent of DC (c) (Article 3).
- (9) So long as the formulae and methods of manufacture of the products are not in the public domain or generally known by the industry, DDD shall not during the term of the agreement :
- (a) use the formulae and methods otherwise than in the manufacture of the products ; nor
 - (b) divulge them, in whole or in part, except as may be required by law (Article 4). This obligation of secrecy subsists after the expiry of the agreement. Moreover, DDD may not use DC's know-how on the expiry of the agreement in so far as this know-how remains secret. It shall also cease to use DC's trade marks and trade names (Article 16).
- (10) DC undertakes to provide DDD with all information relating to the know-how including any modifications or improvements in respect of the manufacture and marketing of the products (a), to give advice to DDD in all matters concerning the manufacture and marketing of the products and to assist DDD in promoting sales of these products (b), and, if requested to do so by DDD, to procure the attendance at its premises of personnel skilled in the preparation, manufacture, marketing and sale of the products (c) (Article 5).
- (11) DDD undertakes :
- to comply with existing and future laws and regulations concerning the manufacture, sale and advertising of the products and to use its best endeavours to obtain all relevant authorizations and approvals necessary for these activities (a),
 - to advertise at its own expense (b),
 - to use its best endeavours to develop the market for the products, to establish or employ an organization for their distribution, to promote their sales and market them effectively (c), and
 - to provide the licensor all information on the modifications or improvements which it may develop in respect of the manufacture and marketing of the products (d) (Article 10).
- At the Commission's request the parties to the agreement have modified this last clause. The licensor's right to use the licensee's modifications and improvements which cannot be used independently of the know-how licensed by DC for the manufacture of the products, will cease concurrently with the termination of the rights set out in the first Article of the agreement.
- (12) DDD undertakes to manufacture and maintain a sufficient stock of products to meet the requirements in the licensed territory (Article 7). The agreement does not lay down any minimum quantities to be manufactured, stored or sold.
- (13) DDD must pay DC a licence fee of 4,5 % of its United Kingdom wholesale price as published, for the contract sold by DDD in the licensed territory. The payment of this fee by the licensee is the financial compensation for the know-how transfer and for the right to use the licensed trade mark during the term of the agreement.
- The prices of the products and discounts are determined by DDD (Articles 9 and 8).
- (14) DDD is obliged to keep records of all raw materials purchased for the manufacture of the products, the quantity of products manufactured and sold, the invoices of customers and all the advertising expenditure in respect of the products. It must send each month to DC full particulars of its sales of the products. DC has the right to request examination of DDD's documents and accounts (Articles 11 and 12).
- (15) The parties have agreed to maintain the industrial property rights forming the subject matter of the agreement and to take all necessary steps against third parties who, in the licensor's opinion, infringe those rights. The latter shall bear all costs and expenditure connected therewith.

DDD undertakes to take due care to the observation of the infringements in the licensed territory and to cooperate with DC in the prosecution and prevention of such infringements (Article 6).

The parties have indicated that this clause must not be interpreted as prohibiting DDD from challenging the licensed rights.

- (16) On the expiry of the agreement, DDD must immediately cease any use of the industrial property rights, trade marks, know-how and trade names granted to it by DC (Article 16).

- (17) DDD may not grant any sub-licences without DC's prior written approval (Article 1 (a)).

- (18) The agreement also contains a clause by which DDD undertakes during the validity of the rights granted not to take part in the manufacture, sale or distribution of any products which, by their nature or by their use, are similar to the licensed products in name, appearance or method of manufacture, either directly or indirectly without the previous written agreement of DC. DDD is, however, authorized to manufacture and package such products for customers who sell them themselves or have them sold by their agents (Article 13).

At the Commission's request this clause has been amended and now includes provisions whereby the previous consent of the licensor to the licensee for the manufacture or sale will not be withheld, if satisfactory assurance exists that no breach of licensee's obligations under Article 4 and Article 10 (b) and (c) will occur.

- (19) The general duration of the agreement has been fixed at 20 years, commencing retroactively as of 1 January 1984. At the Commission's request the parties have limited this duration on a specific point. The obligation of the licensor not to appoint any person, firm or company other than the licensee for the distribution of the products made by the licensor in the licensed territory is now only valid for 10 years commencing on the date of signature of the agreement, provided that the licensee also manufactures these products. The duration of this obligation had to be shortened, because it directly affects the trade between Member States. The term of 10 years is sufficient for DDD to master the acquired technology, to

launch the resulting products on its market and to obtain a sufficiently strong position which does not require continued protection against other suppliers of these products.

Article 14 (b) lists the events that entitle each of the parties to terminate the agreement. Article 15 states in detail how the finished or semi-finished products shall be disposed of at the end of the contract.

- (20) No observations were made by third parties to the Commission after publication of a notice pursuant to Article 19 (3) of Regulation No 17.

II. LEGAL ASSESSMENT

A. Application of Article 85 (1)

- (21) Article 85 (1) of the Treaty prohibits as incompatible with the common market all agreements between undertakings and concerted practices which may affect trade between Member States and which may have as their object or effect the prevention, restriction or distortion of competition within the common market.

- (22) DC and DDD are undertakings within the meaning of Article 85 (1). The agreement concluded between them is an agreement between undertakings within the meaning of that provision.

- (23) The agreement has as its object the grant of a licence by DC to DDD for the transfer of certain technical knowledge, information and experience which is not in the public domain, and which concerns the manufacture, packaging and marketing of a range of products for the removal of stains from fabrics and a bleaching agent. However, the agreement, as it has been implemented by the parties, allows DDD to import the contract products made by DC until, depending on their commercial success, DDD decides to manufacture them under licence in the contract territory. This initial distribution phase continues the operation of an oral exclusive distribution contract. Under this oral contract, DDD has been importing the products since 1983, so that they were already known to users in Britain when the new agreement was concluded.

The initial distribution phase allows the licensee to acquire a firm position in the market before he takes the risk of manufacturing the products in the licensed territory. In this way, he began to manufacture the 'Stain Devils' in 1986 when their sales had already reached a substantial volume.

Therefore, the grant of the licence for the know-how and the ancillary trade mark does not concern the introduction or the protection of a new technology within the meaning of the judgment of the Court of Justice in case No 258/78 ⁽¹⁾.

It has to be noted furthermore that some contract products were marketed for the first time in Germany between 1960 and 1970. Others were introduced on that market at the beginning of the 1980s.

- (24) However, the transfer of secret technical knowledge is in principle an element which encourages competition because it enables other undertakings than the holder of the know-how to exploit this information to manufacture and sell a product. Nevertheless it is necessary to examine whether or not the agreement effecting such a transfer contains any clauses which are restrictive of competition.

(a) *Clauses falling within Article 85 (1)*

- (25) By granting to DDD the exclusive right to manufacture the products in the licensed territory (in the Community: the United Kingdom, Ireland and Greece), the licensor deprives itself, for the duration of the agreement, of the possibility of conferring on other undertakings established within the territory the right to manufacture the products. Equally, this exclusive right prevents any future licenses that DC may appoint in other EEC Member States, or the existing exclusive distributors that DC has already appointed in certain Member States, from manufacturing the products in the territory reserved to DDD. As a result of this, these licenses and distributors are excluded from the competitive advantage of local manufacture. In particular, this advantage consists of a reduction of transport costs and of the possibility of directly adapting production capacity to local demand as well as to the requirements of national laws and regulations. Furthermore, DC itself is prevented from manufacturing the products within the territory itself. Thus, the licensee is protected from the competition of any other under-

taking capable and willing to manufacture within the territory.

Equally, the exclusive manufacturing right granted to the licensee implies, by its very nature, that it is prohibited from manufacturing these products outside the licensed territory. This limitation affects DDD's competitive position regarding the sale of the products in the Member States not reserved to it.

- (26) DC appoints DDD as exclusive distributor of the products within the licensed territory. This concession relates not only to the products manufactured by DC and imported by DDD, but equally to the products which DDD already manufactures. The exclusive nature of the licence implies that the licensor may not grant a similar licence to any other undertaking in the licensed territory. As a result of this, no other undertaking may obtain the products at the same conditions as DDD within the territory. Furthermore, the exclusivity from which DDD benefits is reinforced by the obligation of the licensor to refer in principle to DDD all inquiries by purchasers established within the territory unless the purchasers prefer to be supplied by DC. The licensor is thus limited in the manner in which it may compete with DDD.
- (27) As a result of the exclusive licence, not only is the freedom of action of the parties to the agreement restrained, but equally the position of third parties who may wish to distribute the contract products is perceptibly modified. In fact, competition at the level of distribution is particularly important in relation to trade-marked products, when they are, as in the present case, individualized by their characteristics. This individualization of the products which is emphasized by the trade marks, enables consumers to express their preference for the contract products as against comparable products.
- (28) In the field of the above, it appears that the exclusive grant of the right to manufacture the products in the territory and the appointment of DDD as exclusive licensee, restricts competition within the meaning of Article 85 (1) of the Treaty.
- (29) The agreement is likely to affect trade between Member States. Firstly, it prevents undertakings situated in Member States other than those within the licensed territory from manufacturing the products within that territory. Secondly, it determines the conditions under which the products are imported and/or marketed in the territory. As a result of this, trade between Member States develops under conditions other than those that would exist in the absence of the agreement.

(1) Judgment of 8. 6. 1982, (1982) ECR 2015.

(b) *Clauses not falling within Article 85 (1)*

- (30) The obligations on the licensee to manufacture the products strictly in accordance with the methods of manufacture communicated to him by the licensor, to market the products in packages strictly conforming to specimens or specifications proposed by the licensee and accepted by the licensor, and not to modify the formulae of manufacturing methods without the agreement of the latter, do not fall within Article 85 (1) of the Treaty. All these obligations are inspired by the legitimate desire of the licensor to ensure the strict conformity of the products manufactured by the licensee with his own products. This is particularly important, because the products carry either the registered trade-mark or the commercial name belonging to the licensor, and because any change in the quality of a trademarked product has an effect on the goodwill of that trade-mark, thus affecting the legitimate interest of its holder. This applies equally to the legitimate interests of the licensor in ensuring that the products manufactured under licence which contain active chemical ingredients be packaged in packages providing maximum, transport security and usability for purchasers.
- (31) The prohibition upon the licensee from using the formulae and the manufacturing processes (i.e. the technical know-how transmitted by the licensor) for other uses than the manufacture of the licensed products, for as long as these formulae and processes are not within the public domain, is equally not restrictive of competition within the meaning of Article 85 (1), because it constitutes the corollary to the acknowledged right of the licensor to dispose freely of his know-how and, as a result, to limit the use by third parties solely to the manufacture of the licensed products. If this was not the case the holder of the right may be deprived of a more or less important part of the receipts from his know-how.
- (32) Similarly, the obligation imposed upon the licensee not to divulge, even after the expiry of the agreement, the know-how communicated to him by the licensor for as long as the know-how remains secret, does not fall within Article 85 (1). In fact, the commercial value of know-how rests very largely in its confidential character, and each disclosure brings prejudice to the holder of that know-how. Such an obligation must be considered to be necessary in the context of the present type of agreement. Furthermore, since the validity of know-how, is not limited in time by the expiry of a period of legal protection, as is the case for a trade mark, it is legitimate for its holder to impose upon a licensee the obligation to respect its secrecy for so long as this know-how has not entered in the public domain and is freely accessible to all interested parties.
- (33) The licensee is required to communicate to the licensor all information relative to modifications or improvements that the licensee may make to the manufacture or to the marketing of the products. This obligation which corresponds to a similar reciprocal undertaking by the licensor gives effect to the legitimate wish of the licensor to ensure that the manufacture of the licensed products by the licensee remains in conformity with the prescriptions relative to the formulae and methods which he instigated and does not compromise the maintenance of the quality of the products. These products which are marketed under the trade marks and commercial names of the licensor have to be of equal quality, whatever their place of manufacture and must benefit from the most recent improvements which may be made by one or other party together undertaking the commercial exploitation of the same basic technique. Such an obligation is not restrictive of competition in the present case. The licensee remains free to communicate his own information to third parties in so far as this does not result in the communication of know-how of the licensor, including all the information communicated by the latter during the course of the contract. He is also free to use his own modifications and improvements after the expiry of the contract, in each case in so far as the use of this does not require the use of the know-how belonging exclusively to the licensor, equally for as long as this know-how is not freely accessible. However, it has been agreed between the parties that, at the request of the Commission, at the expiry of the contract the licensor will no longer have the right to use the improvements made by the licensee which are inextricably linked to the basic know-how. The licensee therefore does not find himself in the situation whereby, at the expiry of the contract, the licensee is unable to use his own improvements when these are inextricably tied to the know-how that he no longer has the right to exploit, whereas the licensor continues to be able to use these improvements communicated by the licensee. The parties will therefore have to freely renegotiate their agreement in the event that they wish to continue the initial know-how as improved by the developments made by the licensee.

- (34) DDD is obliged not to manufacture or distribute similar products to those covered by the licence without the prior agreement of DC. The licensee is however permitted to manufacture and package such similar products on behalf of clients who sell these products themselves or via their agents. In addition, it is stated that the prior agreement of DC will be given should sufficient certainty exist that the licensee will respect his contractual obligations.

This obligation is not restrictive of competition within the meaning of Article 85 (1). It enables the licensor to ensure that the licensee does not use its know-how for the manufacture of products other than those under the contract. Furthermore, in accepting this obligation, the licensee agrees to make his best efforts to exploit the know-how and thus to sell the licenced product. Without this safeguard, the licensor may not have agreed to grant the licence.

- (35) The obligation upon the licensee to cease immediately using the intellectual property rights (i.e. trade marks, commercial names, know-how) at the expiry of the agreement, is an essential condition for the conclusion of licensing agreements and for this reason does not fall within the provisions of Article 85 (1). In fact, any company having succeeded in developing a unique and secret know-how is free to dispose of it as it chooses. As the company cannot be obliged to share the know-how with other undertakings, it may remain the sole and unique holder of the know-how, in so far as it has not fallen into the public domain due to disclosure. This undertaking must therefore be able to limit in time the grant of its know-how and to refuse its use by a licensee at the expiry of the agreement. Although such an obligation has as a consequence the removal of the licensee from the market for the licensed products at the expiry of the agreement, the necessary conditions for the transfer of technical knowledge should prevail. Without these conditions this element of public interest may not be safeguarded.

- (36) The prohibition upon the licensee from granting sub-licences without the prior written agreement of the licensor does not constitute a restriction of competition under Article 85 (1), taking account of the fact that it remains the sole right of the owner of the know-how to decide whether or not a third party should be granted a licence to use that know-how.

B. Article 85 (3)

- (37) Under Article 85 (3), the provisions of Article 85 (1) may be declared inapplicable in the case of any agreement which contributes to improving the production or distribution of goods or to the promotion of technical or economic progress, while allowing consumers a fair share of the resultant benefit, and which does not :

- (a) impose on the undertakings concerned restrictions which are not indispensable for the attainment of these objectives ;
- (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

- (38) Commission Regulation (EEC) No 1983/83⁽¹⁾ concerns the application of Article 85 (3) of the Treaty to categories of exclusive distribution agreements. According to Article 1 of the Regulation, Article 85 (1) is declared inapplicable to agreements to which only two undertakings are party and whereby one party agrees with the other to supply certain goods for resale within the whole or a defined area of the common market only to that other.

The notified agreement provides that DDD is appointed by DC as exclusive distributor for the licensed territory. However, this exclusivity is not exempted under Article 1 of Regulation (EEC) No 1983/83 for various reasons.

- (39) The distribution exclusivity of which DDD benefits within the licensed territory falls, above all, within the context of a larger group of contractual relations which envisage the transfer of the know-how necessary for the manufacture of the licensed products. However, it is correct that the notified agreement envisages a period during which DDD operates as exclusive distributor for the products manufactured by DC.

This period is however only temporary. It permits DDD to organize and set up on the stain remover market so that it might subsequently justify the investment necessary for the manufacturing installation. Furthermore, the period of exclusive distribution differs according to the category of the contract products. Certain of these products, the 'Stain Devils', are already manufactured by DDD, whilst others, 'Stain Salts' and 'Colour Run', are still manufactured by DC and imported by DDD.

⁽¹⁾ OJ No L 173, 30. 6. 1983, p. 1.

(40) In the light of this, Regulation (EEC) No 1983/83 does not apply to the notified agreement, which must be classified as a know-how licensing agreement. It therefore remains to consider the individual application for Article 85 (3) to the agreement as a whole.

(41) The manufacturing and distribution exclusivity contributes to promoting technical and economic progress, because it encourages DDD to undertake the investments necessary to exploit in the territory the licence of substantial secret know-how with the aim of manufacturing and marketing a series of original stain removers which are different from universal stain removers. The exclusivity thus granted to a Community undertaking offers the possibility to manufacture the products according to a specific technique and contributes to the increase in number of production centres of stain removers in the common market. In fact, it should be noted that DDD and DC were not competitors before the conclusion of the agreement, and that, as a result of this agreement, DDD has been able to become a competing manufacturer.

The exclusive distributorship for the products which are still made by DC enables DDD to obtain a view of the whole commercial situation of the market for stain removers in the licensed territory. DDD may thus better decide when to commence the production of the products and what level of production capacity is appropriate for that manufacture.

The limitation of the right to manufacture to the licensed territory obliges DDD to concentrate its efforts on manufacturing and selling the products within this territory and to devote itself to improving the quality of the products manufactured and also to the increase of their quantities.

(42) Consumers may be expected to benefit from these improvements because the contracted products which are adapted to their particular requirements will be more easily available. They also benefit from speedy delivery. Moreover, they have the choice of being supplied by DDD or by DC for the products manufactured by both these companies.

An increase in price which might result from the protection reserved to DDD appears unlikely owing to the effect of actual and potential competition. In effect, the contract products sold by DDD in the licensed territory are subject not only to the competition of other producers, but are also

exposed to the competition of parallel imports from Member States outside the licensed territory.

(43) The manufacturing and distribution exclusivity is indispensable to the attainment of the abovementioned results. In effect, if the licensee did not have the certainty that he would not be subject to the competition of other licensees which would be appointed within the same geographic territory, he may be led not to accept the risk of manufacturing and selling the licensed products. This result would be harmful to the distribution of stain-removing products and equally would hinder the development of competition between the licensed products and similar products in the common market.

Equally, the limitation of the right to manufacture the products to the licensed territory is necessary so that the undertakings situated in the Member States outside this territory may themselves be interested to receive a licence regarding the know-how in question and to contribute in this manner in these States to the promotion of technical progress.

(44) One may appraise the obligation of the licensor to transmit in principle to the licensee all requests coming from purchasers established in the licensed territory in the same way. The licensee would be discouraged from making the investments necessary for the manufacture of the licensed products if the licensor was free to compete with the licensee himself. This restriction of the freedom of the licensor to compete with the licensee is, furthermore, strictly limited because DC may supply any party, whether or not he intends to resell the products, established in the licensed territory who wishes to be supplied by DC.

(45) The contract products distributed by DDD are in competition with comparable products sold in and outside the licensed territory by other undertakings. The parties to the agreement expect further competitors to enter the markets on the territory in question, such that this competition will increase even more. Further, DDD benefits from no absolute territorial protection from direct and indirect imports from Member States where DC and its exclusive distributors operate. As a result of this the agreement does not give to the undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

(c) *Articles 6 and 8 of Regulation No 17*

(46) Article 8 of Regulation 17 provides that a decision in application of Article 85 (3) of the Treaty shall be issued for a specified period and conditions and obligations may be attached thereto. According to

Article 6 of the same Regulation, the Commission must specify the date from which the decision takes effect. This date may not be earlier than the date of notification.

- (47) The length of the agreement is 20 years from 1 January 1984. This duration does not appear excessive taking account of the presence on the market of numerous other competing products and because the free circulation of the contracted products is assured. DDD is free to sell the products outside the licensed territory and DC as well as the exclusive distributors in the Member States outside the territory may sell to purchasers established within this territory if they so wish.

Furthermore, taking account of the particular circumstances of the market in question and of the licensed technology, it appears that the provisions setting out the duration of the agreement are necessary to guarantee to the licensee access to a continuing stream of know-how and also to amortize the investment without fear that the licensor will prematurely terminate the agreement. In this respect it should be noted that this investment represents a considerable proportion of the financial means of the licensee.

- (48) In order to guarantee that DC does not unduly refuse its prior agreement that DDD may undertake activities which are competitive to the manufacture and sale of the licensed products, it is necessary to impose upon the parties, in conformity with Article 8 of the Regulation, the obligation to inform the Commission of each request for such type of authorization that is refused by DC, accompanied with a statement of the reasons for this refusal. This obligation enables the Commission to examine whether or not the agreement results in the practice of absolutely prohibiting DDD to undertake competing activities.
- (49) The agreement was concluded between DC and DDD on 15 January 1985. It entered into force with retroactive effect on 1 January 1984 and expires on 31 December 2004. The agreement was notified on 14 March 1985.

The exemption that the Commission considers it may grant on the base of the abovementioned considerations, takes effect on 14 March 1985 and

will last until the expiry of the notified agreement, on 31 December 2004. However, it is noted that the contract provides a different duration of 10 years for the obligation for the licensor not to appoint a different licensee than DDD for the sale of products manufactured by DC in the territory, if DDD manufactures these products as well,

HAS ADOPTED THIS DECISION:

Article 1

The provisions of Article 85 (1) of the Treaty establishing the European Economic Community are hereby, pursuant to Article 85 (3) of the said Treaty, declared inapplicable to the agreement notified on 14 March 1985 between the undertakings specified in Article 4.

Article 2

The undertakings specified in Article 4 shall inform the Commission of all refusals of a request for authorization made pursuant to Article 13 of the agreement referred to in Article 1 of this Decision.

The exemption shall apply with effect from the date of notification and until 31 December 2004.

Article 4

This Decision is addressed to:

1. Delta Chemie,
Hans Bockler Straße 5,
6078 Neu Isenburg,
Germany;
2. DDD Limited,
Rickmansworth Road 94,
Watford,
Herts. WD1 7 JJ,
United Kingdom.

Done at Brussels, 13 October 1988.

For the Commission

Peter SUTHERLAND

Member of the Commission

COMMISSION DECISION

of 7 November 1988

making an initial allocation to Belgium of part of the resources to be charged to the 1989 budget year for the supply of food from intervention stocks to designated organizations for distribution to the most deprived persons in the Community

(88/564/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 the most deprived persons in the Community⁽¹⁾,

Having regard to Commission Regulation (EEC) No 3744/87 of 14 December 1987 down the detailed rules for the supply of food from intervention stocks to the most deprived persons in the Community⁽²⁾, as last amended by Regulation (EEC) No 3315/88⁽³⁾, and in particular Article 2 (3) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽⁴⁾, as last amended by Regulation (EEC) No 1636/87⁽⁵⁾, and in particular Article 2 (4) thereof,

Whereas, on 28 October 1988, Belgium requested Commission authorization to initiate already in 1988 the action on its territory to be financed by resources chargeable to the 1989 budget and indicated the quantities of produce that it wished to distribute, whereas it is desirable to initiate the scheme now in Belgium by making an allocation to that country, whereas this allocation shall not exceed 50 % of the resources allocated by Commission decision to Belgium in respect of the plan for 1988;

Whereas, in order to facilitate the implementation of this scheme, it is necessary to specify the rate of exchange to be employed in converting the ECU into the national currency and to do so at a rate which reflects economic reality;

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. The allocation for Belgium of the appropriations referred to in Article 2 of Regulation (EEC) No 3744/87 to be charged to the 1989 budget shall be ECU 640 000.

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

2. Subject to the limit set out in paragraph 1, 215 tonnes of beef may be withdrawn, from intervention, for distribution in Belgium.

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

Article 2

This Decision is addressed to the Member States. It is applicable from 7 November 1988.

Done at Brussels, 7 November 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 293, 27. 10. 1988, p. 68.

⁽⁴⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁵⁾ OJ No L 153, 13. 6. 1987, p. 1.