

Official Journal

of the European Communities

ISSN 0378-6978

L 351

Volume 35

2 December 1992

English edition

Legislation

Contents

I Acts whose publication is obligatory

Commission Regulation (EEC) No 3472/92 of 1 December 1992 fixing the import levies on cereals and on wheat or rye flour, groats and meal	1
Commission Regulation (EEC) No 3473/92 of 1 December 1992 fixing the premiums to be added to the import levies on cereals, flour and malt	3
Commission Regulation (EEC) No 3474/92 of 1 December 1992 amending Regulation (EEC) No 1341/92 increasing to 600 000 tonnes the quantity of durum wheat held by the Italian intervention agency for which a standing invitation to tender for export has been opened	5
Commission Regulation (EEC) No 3475/92 of 26 November 1992 opening individual sales by invitation to tender for the export of vinous alcohol held by intervention agencies	7
Commission Regulation (EEC) No 3476/92 of 26 November 1992 opening individual sales by invitation to tender for the export of vinous alcohol held by intervention agencies	9
* Commission Regulation (EEC) No 3477/92 of 1 December 1992 laying down detailed rules for the application of the raw tobacco quota system for the 1993 and 1994 harvests	11
* Commission Regulation (EEC) No 3478/92 of 1 December 1992 laying down detailed rules for the application of the premium system for raw tobacco ...	17
Commission Regulation (EEC) No 3479/92 of 1 December 1992 abolishing the corrective amount on the import of artichokes into the Community of Ten from Spain	25
Commission Regulation (EEC) No 3480/92 of 1 December 1992 amending Regulation (EEC) No 3385/92 introducing a countervailing charge on fresh lemons originating in Turkey	26

Commission Regulation (EEC) No 3481/92 of 1 December 1992 amending Regulation (EEC) No 3117/92 introducing a countervailing charge on fresh lemons originating in South Africa	27
--	----

II *Acts whose publication is not obligatory*

Council

92/541/EEC, Euratom :

* Council Decision of 18 November 1992 appointing a member of Economic and Social Committee	28
--	-----------

92/542/EEC :

* Council Decision of 23 November 1992 providing medium-term financial assistance for Estonia, Latvia and Lithuania	29
--	-----------

92/543/EEC :

* Council Decision of 23 November 1992 authorizing the Federal Republic of Germany to apply a measure derogating from Article 2 (1), read in conjunction with Article 13 B (d) (1) and (2), of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes	31
---	-----------

92/544/EEC :

* Council Decision of 23 November 1992 authorizing the French Republic to apply measures derogating from Article 17 and Article 22 (3), (4) and (5) of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes	32
---	-----------

92/545/EEC :

* Council Decision of 23 November 1992 authorizing the Kingdom of the Netherlands to apply a measure derogating from Article 21 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes	33
---	-----------

92/546/EEC :

* Council Decision of 23 November 1992 authorizing the United Kingdom to apply a measure derogating from Article 28e (1) of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes	34
--	-----------

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 3472/92**of 1 December 1992****fixing the import levies on cereals and on wheat or rye flour, groats and meal**

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

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EEC) No 1738/92 ⁽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 2205/90 ⁽⁴⁾, and in particular Article 3 thereof,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 1820/92 ⁽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 the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent;

Whereas these exchange rates being those recorded on 30 November 1992;

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 1820/92 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 2 December 1992.

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

Done at Brussels, 1 December 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 1.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 185, 4. 7. 1992, p. 1.

ANNEX

to the Commission Regulation of 1 December 1992 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Levy (°)
0709 90 60	132,62 (°) (°)
0712 90 19	132,62 (°) (°)
1001 10 10	169,64 (°) (°) (°)
1001 10 90	169,64 (°) (°) (°)
1001 90 91	141,77
1001 90 99	141,77 (°)
1002 00 00	156,13 (°)
1003 00 10	124,02
1003 00 90	124,02 (°)
1004 00 10	114,96
1004 00 90	114,96
1005 10 90	132,62 (°) (°)
1005 90 00	132,62 (°) (°)
1007 00 90	138,42 (°)
1008 10 00	47,40 (°)
1008 20 00	109,84 (°)
1008 30 00	35,74 (°)
1008 90 10	(°)
1008 90 90	35,74
1101 00 00	211,28 (°) (°)
1102 10 00	231,38 (°)
1103 11 10	275,46 (°) (°)
1103 11 90	227,36 (°)

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

(°) In accordance with Regulation (EEC) No 715/90 the levies are not applied to products imported directly into the French overseas departments, originating in the African, Caribbean and Pacific States.

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

(°) Where millet and sorghum originating in the ACP is imported into the Community the levy is applied in accordance with Regulation (EEC) No 715/90.

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

(°) 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.

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

(°) On importation into Portugal the levy is increased by the amount specified in Article 2 (2) of Regulation (EEC) No 3808/90.

(°) No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC, except if paragraph 4 of the same Article applies.

(°) An amount equal to the amount fixed by Regulation (EEC) No 1825/91 is to be levied in accordance with Article 101 (4) of Decision 91/482/EEC.

(°) Products falling within this code, imported from Poland, Czechoslovakia or Hungary under the Interim Agreements concluded between those countries and the Community, and in respect of which EUR.1 certificates issued in accordance with Regulation (EEC) No 585/92 have been presented, are subject to the levies set out in the Annex to that Regulation.

COMMISSION REGULATION (EEC) No 3473/92

of 1 December 1992

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 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 1738/92 ⁽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 2205/90 ⁽⁴⁾, and in particular Article 3 thereof,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 1821/92 ⁽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 the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent;

Whereas these exchange rates being those recorded on 30 November 1992;

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

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 2 December 1992.

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

Done at Brussels, 1 December 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 1.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 185, 4. 7. 1992, p. 4.

ANNEX

to the Commission Regulation of 1 December 1992 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

(ECU/tonne)

CN code	Current 12	1st period 1	2nd period 2	3rd period 3
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	0
1001 90 99	0	0	0	0
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	0	0	0
1004 00 90	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	0

B. Malt

(ECU/tonne)

CN code	Current 12	1st period 1	2nd period 2	3rd period 3	4th period 4
1107 10 11	0	0	0	0	0
1107 10 19	0	0	0	0	0
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 3474/92
of 1 December 1992**

amending Regulation (EEC) No 1341/92 increasing to 600 000 tonnes the quantity of durum wheat held by the Italian intervention agency for which a standing invitation to tender for export has been opened

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EEC) No 1738/92 ⁽²⁾, and in particular Article 7 (6) thereof,

Having regard to Commission Regulation (EEC) No 1836/82 of 7 July 1982 laying down the procedure and conditions for the disposal of cereals held by the intervention agencies ⁽³⁾, as last amended by Regulation (EEC) No 3043/91 ⁽⁴⁾,

Whereas Commission Regulation (EEC) No 1341/92 ⁽⁵⁾, as amended by Regulation (EEC) No 2096/92 ⁽⁶⁾, opened a standing invitation to tender for the export of 400 000 tonnes of durum wheat held by the Italian intervention agency; whereas, in a communication of 8 October 1992, Italian informed the Commission of the intention of its intervention agency to increase by 200 000 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of durum wheat held by the Italian intervention agency for which a standing invitation to tender for export has been opened should be increased to 600 000 tonnes;

Whereas this increase in the quantity put out to tender makes it necessary to alter the list of regions and quantities in store; whereas Annex I to Regulation (EEC) No 1341/92 must therefore be amended;

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 2 of Regulation (EEC) No 1341/92 is replaced by the following:

Article 2

1. The invitation to tender shall cover a maximum of 600 000 tonnes of durum wheat to be exported to all third countries.
2. The regions in which the 600 000 tonnes of durum wheat are stored are stated in Annex I to this Regulation.

Article 2

Annex I to Regulation (EEC) No 1341/92 is replaced by the Annex hereto.

Article 3

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

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

Done at Brussels, 1 December 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 1.

⁽³⁾ OJ No L 202, 9. 7. 1982, p. 23.

⁽⁴⁾ OJ No L 288, 18. 10. 1991, p. 21.

⁽⁵⁾ OJ No L 145, 27. 5. 1992, p. 15.

⁽⁶⁾ OJ No L 210, 25. 7. 1992, p. 12.

ANNEX

ANNEX I

(tonnes)	
Place of storage	Quantity
Agrigento	1 162
Alessandria	3 403
Ancona	32 431
Bari	89 088
Bologna	6 406
Cagliari	13 492
Caltanissetta	11 584
Catania	12 524
Catanzaro	25 815
Crotone	22 640
Cuneo	6 570
Ferrara	66 845
Firenze	2 500
Foggia	52 816
Frosinone	1 430
La Spezia	1 983
Latina	992
Livorno	16 234
Macerata	6 193
Matera	9 000
Messina	2 872
Napoli	10 000
Oristano	2 739
Palermo	14 602
Parma	9 169
Perugia	1 740
Pesaro	5 062
Potenza	5 750
Ravenna	32 660
Reggio Emilia	1 542
Roma	11 000
Rovigo	17 152
Siena	20 799
Siracusa	3 908
Terni	1 012
Torino	8 577
Trapani	2 047
Treviso	10 057
Verona	2 366
Viterbo	53 838'

COMMISSION REGULATION (EEC) No 3475/92**of 26 November 1992****opening individual sales by invitation to tender for the export of vinous alcohol held by intervention agencies**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (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 1756/92 ⁽²⁾,

Having regard to Council Regulation (EEC) No 3877/88 of 12 December 1988 laying down general rules for the disposal of alcohol obtained from the distillation operations referred to in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by intervention agencies ⁽³⁾,

Whereas Commission Regulation (EEC) No 1780/89 ⁽⁴⁾, as last amended by Regulation (EEC) No 2864/92 ⁽⁵⁾, lays down detailed rules for the disposal of alcohol obtained from distillation as provided for in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by intervention agencies;

Whereas, in view of the cost of storing alcohol, individual sales by invitation to tender should be opened for vinous alcohol obtained from distillation as provided for in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by the Spanish intervention agency;

Whereas individual sales by invitation to tender should be organized for the export of alcohol to certain third countries for end use as motor fuel; whereas these countries should be given an assurance of greater continuity of supply;

Whereas the invitations to tender opened by this Regulation relate to certain third countries where there is some guarantee that exports of vinous alcohol will not disturb their markets in alcohol and spirituous beverages; whereas the amount of and detailed rules for the release of the performance security may be adapted accordingly;

Whereas sales should be organized separately for dispatch to certain countries in Central America and to Caribbean countries covered by the Caribbean Basin Initiative, in

particular to take account of certain extra costs resulting from the difference in distance and the possibilities of securing onward or return freight in the countries concerned by the Caribbean Basin Initiative;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. Two individual sales by invitation to tender Nos 86/92 to 87/92 shall be held of a total quantity of 200 000 hl of alcohol obtained from distillation as provided for in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by the Spanish intervention agency.

Each of the individual invitations to tender Nos 86/92 and 87/92 shall cover 100 000 hl of alcohol at 100 % vol.

2. The alcohol offered for sale:

- shall be for export to outside the European Economic Community,
- must be imported into and dehydrated in one of the following third countries:
 - Guatemala,
 - Belize,
 - Honduras, including the Swan Islands,
 - El Salvador,
 - Costa Rica,
- must be used only as motor fuel.

Article 2

The location and reference numbers of the vats concerned, the quantity of alcohol contained in each vat, the alcoholic strength and the characteristics of the alcohol shall be specified in the notices of individual invitation to tender Nos 86/92 to 87/92.

Article 3

The sales shall take place in accordance with Regulation (EEC) No 1780/89, and in particular Articles 10 to 17 and 29 to 38 thereof.

⁽¹⁾ OJ No L 84, 27. 3. 1987, p. 1.
⁽²⁾ OJ No L 180, 1. 7. 1992, p. 27.
⁽³⁾ OJ No L 346, 15. 12. 1988, p. 7.
⁽⁴⁾ OJ No L 178, 24. 6. 1989, p. 1.
⁽⁵⁾ OJ No L 286, 1. 10. 1992, p. 48.

However :

- one half of the performance security shall be released by the intervention agency holding the alcohol on removal of the quantity concerned from the agency's stores when the successful tenderer furnishes proof that that quantity has been placed under customs supervision in the territory of one of the third countries listed in Article 1 (2),
- the remainder of the performance security shall be released in accordance with Article 33 (3) (b) of Regulation (EEC) No 1780/89.

In addition, to be admissible, tenders must indicate the place where end use of the alcohol awarded is to take place and must include an undertaking by the tenderer to the effect that the alcohol will be sent to that destination and used for that purpose. Tenders must also include a statement by the tenderer to the effect that he has binding commitments with an operator in the motor fuel sector in one of the third countries listed in Article 1 (2) who has undertaken to dehydrate the alcohol awarded in one of these countries and to export it for use solely in the motor fuel sector.

Article 4

The specific conditions applying to the two individual sales by invitation to tender and the name and address of

the intervention agency concerned shall be given in the notices of individual invitation to tender Nos 86/92 to 87/92 and published in the *Official Journal of the European Communities*.

Article 5

By way of derogation from Article 14 of Regulation (EEC) No 1780/89, the closing date laid down in notices of invitation to tender Nos 86/92 to 87/92 for the submission of tenders shall be the tenth day following the date of publication of notices of individual sale by invitation to tender.

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, 26 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 3476/92

of 26 November 1992

opening individual sales by invitation to tender for the export of vinous alcohol held by intervention agencies

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (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 1756/92 ⁽²⁾,

Having regard to Council Regulation (EEC) No 3877/88 of 12 December 1988 laying down general rules for the disposal of alcohol obtained from the distillation operations referred to in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by intervention agencies ⁽³⁾,

Whereas Commission Regulation (EEC) No 1780/89 ⁽⁴⁾, as last amended by Regulation (EEC) No 2864/92 ⁽⁵⁾, lays down detailed rules for the disposal of alcohol obtained from distillation as provided for in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by intervention agencies;

Whereas, in view of the cost of storing alcohol, individual sales by invitation to tender should be opened for vinous alcohol obtained from distillation as provided for in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by the French and Italian intervention agencies;

Whereas individual sales by invitation to tender should be organized for the export of alcohol to certain third countries for end use as motor fuel; whereas these countries should be given an assurance of greater continuity of supply;

Whereas the invitations to tender opened by this Regulation relate to certain third countries where there is some guarantee that exports of vinous alcohol will not disturb their markets in alcohol and spirituous beverages; whereas the amount of and detailed rules for the release of the performance security may be adapted accordingly;

Whereas sales should be organized separately for dispatch to certain countries in Central America and to Caribbean countries covered by the Caribbean Basin Initiative, in particular to take account of certain extra costs resulting from the difference in distance and the possibilities of securing onward or return freight in the countries concerned by the countries concerned by the Caribbean Basin Initiative;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. Two individual sales by invitation to tender Nos 88/92 to 89/92 shall be held of a total quantity of 200 000 hl of alcohol obtained from distillation as provided for in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by the Italian and French intervention agencies.

Each of the individual invitations to tender Nos 88/92 and 89/92 shall cover 100 000 hl of alcohol at 100 % vol.

2. The alcohol offered for sale:

— shall be for export to outside the European Economic Community,

— must be imported into and dehydrated in one of the following third countries:

- St Christopher and Nevis,
- Haiti,
- Bahamas,
- Dominican Republic,
- Antigua and Barbuda,
- Dominica,
- British Virgin Islands and Montserrat,
- Jamaica,
- St Lucia,
- St Vincent, including the Northern Grenadines,
- Barbados,
- Trinidad and Tobago,
- Grenada, including the Southern Grenadines,
- Aruba,
- Netherlands Antilles: Curaçao, Bonaire, St Eustace, Saba and the southern part of St Martin,
- Guyana,
- Virgin Islands of the United States,

— must be used only as motor fuel.

Article 2

The location and reference numbers of the vats concerned, the quantity of alcohol contained in each vat, the alcoholic strength and the characteristics of the alcohol shall be specified in the notices of individual invitation to tender Nos 88/92 to 89/92.

⁽¹⁾ OJ No L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 27.

⁽³⁾ OJ No L 346, 15. 12. 1988, p. 7.

⁽⁴⁾ OJ No L 178, 24. 6. 1989, p. 1.

⁽⁵⁾ OJ No L 286, 1. 10. 1992, p. 48.

Article 3

The sales shall take place in accordance with Regulation (EEC) No 1780/89, and in particular Articles 10 to 17 and 29 to 38 thereof.

However:

- one half of the performance security shall be released by the intervention agency holding the alcohol on removal of the quantity concerned from the agency's stores when the successful tenderer furnishes proof that that quantity has been placed under customs supervision in the territory of one of the third countries listed in Article 1 (2),
- the remainder of the performance security shall be released in accordance with Article 33 (3) (b) of Regulation (EEC) No 1780/89.

In addition, to be admissible, tenders must indicate the place where end use of the alcohol awarded is to take place and must include an undertaking by the tenderer to the effect that the alcohol will be sent to that destination and used for that purpose. Tenders must also include a statement by the tenderer to the effect that he has binding commitments with an operator in the motor fuel sector in one of the third countries listed in Article 1 (2)

who has undertaken to dehydrate the alcohol awarded in one of these countries and to export it for use solely in the motor fuel sector.

Article 4

The specific conditions applying to the two individual sales by invitation to tender and the names and addresses of the intervention agency concerned shall be given in the notices of individual invitation to tender Nos 88/92 to 89/92 and published in the *Official Journal of the European Communities*.

Article 5

By way of derogation from Article 14 of Regulation (EEC) No 1780/89, the closing date laid down in notices of invitation to tender Nos 88/92 to 89/92 for the submission of tenders shall be the tenth day following the date of publication of notices of individual sale by invitation to tender.

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, 26 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 3477/92**of 1 December 1992****laying down detailed rules for the application of the raw tobacco quota system
for the 1993 and 1994 harvests**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organization of the market in raw tobacco ⁽¹⁾, and in particular Articles 11, 14 and 27 thereof,

Whereas Article 9 of Regulation (EEC) No 2075/92 introduces a quota system for the various groups of tobacco varieties; whereas the quantities available by group of varieties are to be distributed between the Member States by the Council in accordance with the procedure laid down in Article 43 (2) of the Treaty;

Whereas the allocation of a certain quantity conferring entitlement to the premium for a given harvest does not imply the acquisition of any right as regards subsequent harvests;

Whereas time limits should be set for the quotas to be allocated sufficiently early to enable producers and processors to take account of such factors as far as possible in tobacco production;

Whereas Article 9 (3) of Regulation (EEC) No 2075/92 provides for processing quotas to be allocated to the first processors in proportion to the average quantities delivered for processing during the reference period; whereas that period covers 1989, 1990 and 1991; whereas deliveries should be grouped by harvest in order to take account in particular of overruns in the maximum guaranteed quantities fixed pursuant to Council Regulation (EEC) No 727/70 of 21 April 1970 on the common organization of the market in raw tobacco ⁽²⁾, as last amended by Regulation (EEC) No 860/92 ⁽³⁾;

Whereas the method for calculating quotas must be adjusted so as to bar speculative tobacco production in excess of the maximum guaranteed quantities applicable pursuant to Regulation (EEC) No 727/70; whereas that adjustment must entail reducing the quantities in question in proportion to the overrun; whereas, however, provision should be made to ensure that reduction does

not apply to producers who have not contributed to the overrun in the maximum guaranteed quantities; whereas to that end basic reference quantities should, where necessary, be allocated to them;

Whereas care should be taken to ensure that processors share out their quotas fairly and without discrimination between the producers who have delivered tobacco to them during the reference periods concerned; whereas, however, it should be possible for processors not to issue cultivation certificates to certain producers for reasons of rationalization and quality improvement;

Whereas account should be taken of the conversion programmes provided for in Article 14 of Regulation (EEC) No 2075/92 and of certain producers' need to switch to producing varieties more in line with market requirements by setting aside for them some of the quantities available; whereas account should be taken in addition of the particular situation of producers in the former German Democratic Republic;

Whereas provision should be made for cultivation certificates to be issued to producers on the basis of their tobacco deliveries during the 1989, 1990 and 1991 harvests in order to permit producers to change processors from one harvest to another on presentation of the certificate; whereas Member States must be permitted to raise the quantities to be taken into consideration in order to take account of the particular situation of certain producers;

Whereas the quantities allocated to certain producers must be made available to other producers where the persons entitled do not conclude cultivation contracts;

Whereas provisions should be laid down to enable account to be taken of tobacco processed in a Member State other than that of production; whereas in that case the quantity of raw tobacco in question should be taken over in the Member State of production and the processors should be required to use the resulting processing quotas for producers in that Member State;

Whereas the same principles must apply where the Member State chooses, pursuant to Article 9 (4) of Regulation (EEC) No 2075/92, to allocate quotas directly to producers; whereas in that case it must inform the Commission of its intention sufficiently early for the latter to be able to check that the data necessary for allocating quotas directly to the producers exist;

⁽¹⁾ OJ No L 215, 30. 7. 1992, p. 70.

⁽²⁾ OJ No L 94, 28. 4. 1970, p. 1.

⁽³⁾ OJ No L 91, 7. 4. 1992, p. 1.

Whereas the possibility of transferring quotas should be restricted to cases economically justified by the transfer of ownership of the processor or the transfer of the producer's holding;

Whereas account should be taken of the joint operation of a production unit by members of a family, in particular as regards minimum quantities per cultivation certificate and the prevention of fraud;

Whereas temporary quota transfers must not be allowed, in order to prevent the circumvention of the restrictions laid down in the quota arrangements; whereas work done under contract by processors on behalf of other processors may, however, be permitted so that those holding quotas may use them in full even if their processing capacity proves insufficient; whereas, however, the possibility of allocating quotas to undertakings which do not themselves process a substantial proportion of the tobacco purchased from producers should be ruled out;

Whereas provision should be made for the resolution of disputes, if any, through joint bodies;

Whereas a definition should be laid down of the role which could be played by the inter-branch organizations in the management and monitoring of the system of quotas; whereas provision should also be made to ensure that the data and documents belonging to processors are available for use when checks are being carried out; whereas temporary provisions will be needed for the period in which the inter-branch organizations have yet to be recognized pursuant to Council Regulation (EEC) No 2077/92⁽¹⁾;

Whereas Member States must now take appropriate action to equip themselves with the means necessary for distributing the quotas direct to producers from the 1995 harvest onwards;

Whereas the processing capacity of a new undertaking should be established in the light both of existing practice in first processing and of the undertaking's level of technology;

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

HAS ADOPTED THIS REGULATION:

TITLE I

General provisions

Article 1

This Regulation lays down detailed rules governing the application of the quotas provided for in Article 9 of Regulation (EEC) No 2075/92 and their repercussions on producers with regard to the 1993 and 1994 harvests.

⁽¹⁾ OJ No L 215, 30. 7. 1992, p. 80.

Article 2

For the purposes of this Regulation:

- first processing means the processing of raw tobacco supplied by a producer (grower) into a stable, storable product, packaged in good-quality homogeneous bales or parcels which meet the requirements of the final users (manufacturers),
- processing undertaking means any natural or legal person operating, in his own name and on his own account, one or more establishments for the first processing of raw tobacco, having appropriate plant and equipment,
- producer means any natural or legal person or group thereof who delivers raw tobacco produced by himself or by the members of the group to a processing undertaking in his or the group's own name and on his or its own account, under a cultivation contract concluded by him or in his name,
- Member State of production means the Member State in which the raw tobacco delivered to a processing undertaking was produced,
- Member State of processing means the Member State in which the first processing of the tobacco takes place.

TITLE II

Processing quotas

Article 3

1. The Member States shall set processing quotas for each processor and each group of varieties as defined in the Annex to Regulation (EEC) No 2075/92 by 15 January 1993 for the 1993 harvest and 15 December 1993 for the 1994 harvest at the latest.
2. The Member States shall determine the data which must appear in quota allocation applications and the deadline by which they must reach the competent authority.
3. No quota shall be allocated to a processor which does not undertake to issue cultivation certificates in accordance with Article 9.

Article 4

The allocation of a quota or the issue of a cultivation certificate for a harvest shall be without prejudice to the allocation of quotas or the issue of cultivation certificates for subsequent harvests.

Article 5

1. Quotas of processors shall be equal to the average quantity each produces as a percentage of the total average quantities calculated in accordance with Article 9 of Regulation (EEC) No 2075/92 and Articles 6 and 7 of this Regulation, such percentage being applied to the specific guarantee threshold of the Member State for the group of varieties in question, without prejudice to the third subparagraph of Article 9 (3) of Regulation (EEC) No 2075/92.

2. Processing undertakings' percentages shall be expressed to at least four decimal places. Quotas shall be expressed in kilograms.

Article 6

1. The average quantities delivered for processing by each processor shall be calculated by group of varieties in accordance with this Article.

2. For the purposes of calculating the average quantities delivered for processing, all the tobacco from a harvest shall be deemed to be delivered during the year of the harvest in question.

However, the quantities of tobacco delivered by producers located outside the production areas specified in accordance with Article 5 (a) of Regulation (EEC) No 2075/92 shall not be taken into account in the calculation referred to in the previous subparagraph.

3. Where the harvest has not exceeded the maximum guaranteed quantity fixed for a variety of tobacco pursuant to Regulation (EEC) No 727/70, the total quantity delivered to the processing undertaking from that harvest shall be taken into account.

4. Subject to the provisions of Article 7, where the quantities of the various varieties of tobacco from the 1989, 1990 or 1991 harvests delivered to processors exceed the maximum guaranteed quantity fixed pursuant to Regulation (EEC) No 727/70, those quantities shall be multiplied by a coefficient of reduction. The coefficient of reduction shall be equal to the maximum guaranteed quantity in question, divided by the total quantity of tobacco delivered.

Article 7

1. Where the quantities of the various varieties of tobacco delivered to the processor do not exceed the maximum guaranteed quantity fixed pursuant to Regulation (EEC) No 727/70 in the 1989 or 1990 harvests but do exceed the maximum guaranteed quantity in the fol-

lowing harvest or harvests, each processor shall obtain a basic reference quantity.

The basic reference quantity shall be equal to the quantity delivered to the processor in question in the most recent harvest where the maximum guaranteed quantity was not exceeded. This basic reference quantity shall be taken into account in respect of the following harvest or harvests, within the limit of the quantity actually delivered.

2. Where the total quantity of tobacco delivered giving rise to the allocation of basic reference quantities is higher than the maximum guaranteed quantity for the following harvest or harvests, the basic reference quantities shall be reduced so that their amount does not exceed the maximum guaranteed quantity in question.

3. To calculate the coefficient of reduction referred to in Article 6 (4), the maximum guaranteed quantity and the total quantity of tobacco delivered shall be reduced by the total of all the basic reference quantities for the harvest in question. This coefficient of reduction shall not apply to the quantities delivered to the processor over and above their basic reference quantities.

Article 8

1. Where tobacco produced in one Member State is processed in another Member State, the processing quotas shall be allocated in accordance with this Article, without prejudice to other provisions of this Title.

2. The Member State of processing shall inform the Member State of production of the quantities of raw tobacco from the Member State of production delivered for processing to each processor by group of varieties in 1989, 1990 and 1991.

3. The information shall be forwarded by 15 December 1992 at the latest for the 1993 harvest and by 15 November 1993 at the latest for the 1994 harvest.

4. When the processing quotas are calculated, the Member State of production shall treat processors established in another Member State in the same way as the processors established in its own territory.

Where the Member State of production has decided to allocate the quotas direct to producers, it shall reserve a corresponding amount of its specific guarantee threshold for processors located in another Member State.

5. After the processing quotas have been allocated, the Member State of production shall immediately inform the Member State of processing of the processing quota to be allocated to each processor concerned on the basis of the quantities of raw tobacco coming from the Member State of production. The Member State of processing shall immediately inform the processor thereof.

6. Processing quotas calculated by reference to tobacco produced in another Member State may only be used to process tobacco produced in the same Member State of production.

Article 9

1. For each group of varieties, processors shall issue cultivation certificates, if need be at the request of the interested party, within the limit of their processing quotas to producers located in a production area recognized in accordance with Article 5 (a) of Regulation (EEC) No 2075/92, in proportion to the tobacco from the same group of varieties which they deliver in the 1989, 1990 and 1991 harvests. For the purposes of calculating such deliveries in cases where the maximum guaranteed quantities fixed for the 1989, 1990 and/or 1991 harvest are exceeded, the provisions of Article 6 shall apply *mutatis mutandis*. The abovementioned cultivation certificates shall indicate in particular the holder of the certificate, the group of varieties and the quantity of tobacco for which they are valid.

2. The Member States shall determine the procedures for the issuing of the cultivation certificates, as well as the measures to be taken for the prevention of fraud in accordance with Article 20 (1) of Regulation (EEC) No 2075/92.

They may lay down minimum quantities (not exceeding 500 kilograms) for the issue of cultivation certificates.

3. Where a producer shows proof that his production has been abnormally low during a given harvest as a result of exceptional circumstances, the Member State shall calculate, at the request of the producer concerned, the quantity to be taken into consideration for that harvest in making out his cultivation certificate. The reference quantity of the relevant processing undertaking shall be adjusted accordingly. The Member States shall notify the Commission of any decisions they intend to take.

4. Italy and Greece respectively may establish a reserve of leaf tobacco belonging to other groups of varieties, for allocation as a priority to producers undertaking conversion programmes in accordance with Article 14 of Regulation (EEC) No 2075/92.

Germany is hereby authorized to allocate a maximum of 35 % of the threshold to producers whose holdings are located in the territory of the former German Democratic Republic.

5. Where the guarantee threshold fixed for a group of varieties for a particular harvest and a particular Member State in accordance with Article 9 (2) of Regulation (EEC) No 2075/92 is higher than the guarantee threshold or the maximum guaranteed quantity fixed pursuant to Regulation (EEC) No 727/70 for the previous harvest, the quantity exceeding that guarantee threshold or that

maximum guaranteed quantity shall be distributed, at their request, between all the producers who have delivered tobacco to the processor in question in proportion to the quantities delivered. The Member States may provide for coefficients of equivalence in order to take account of the different yields of the various varieties of tobacco and the various production areas.

Where applicable, the quantities available under the first subparagraph shall be reduced by those set aside for the purposes of paragraph 4.

6. Cultivation certificates shall be issued by 1 March of the year of harvest at the latest.

Article 10

1. Each producer shall deliver tobacco from any given group of varieties to a single processing undertaking only. Where he obtains a cultivation certificate from several processors to which he delivered tobacco from the 1989, 1990 and 1991 harvests and from the same group of varieties, the quantities shall be aggregated within the processing undertaking to which he delivered tobacco from the 1991 harvest. If the producer has delivered tobacco to several processors during the harvest, he shall indicate the undertaking from which he wishes to receive the cultivation certificate.

However, producer groups which are producers for the purposes of the third indent of Article 2 may deliver their production to several processors.

2. Producers may conclude cultivation contracts with a processing undertaking other than that which issued the cultivation certificate, on presentation of the latter.

3. The Member State shall transfer quotas between processors where the application of this Article so requires.

Article 11

1. Cultivation certificates which have not been used to conclude contracts at the date fixed for the purpose must be returned to the processor in question by the producer no later than 10 working days after that date.

2. If the producer does not return the certificate to the processor within the time limit laid down, his reference quantity for the following harvest and for the same group of varieties shall be reduced by 0,5 % per day overdue, up to a maximum of 15 %.

3. Quantities entered in unutilized cultivation certificates and other quantities which may be available shall be distributed by the processors fairly and on the basis of objective criteria before 1 April of the year of harvest. Such criteria may be laid down by the inter-branch organizations recognized in accordance with the provisions of Regulation (EEC) No 2077/92.

TITLE III**Production quotas***Article 12*

If a Member State contemplates allocating quotas direct to producers in accordance with Article 9 (4) of Regulation (EEC) No 2075/92, it shall so inform the Commission before 15 December of the year in question, indicating the sources of data available for calculating quotas.

Article 13

The provisions of Title II shall apply *mutatis mutandis*, subject to the following conditions:

1. The cultivation certificates shall be replaced by production quota statements issued by the competent authority in the Member State;
2. Pursuant to Article 11, production quota statements unused by producers must be returned to the authorities which made them out. The available quantities shall be shared out among the producers concerned on the basis of the criteria referred to in Article 11 (3).

TITLE IV**Transfer of rights***Article 14*

Except in the cases provided for in this Title, quotas may not be transferred or be the subject of transactions, whether for a consideration or free of charge and quantities produced by a producer or processed by a processing undertaking may not be taken into account for the benefit of another producer or another processor, for the purposes of calculating the latter's quota.

Article 15

1. The lease or any other form of temporary disposal of a processing undertaking or part thereof to another natural or legal person shall not entail the transfer of the processing quota.

For the purposes of calculating the processing quota, quantities processed by a person leasing processing facilities shall be taken into account.

2. Where a processor is taken over by another processor, the quotas allocated to the former and the quantities serving to calculate its future quotas shall be allocated to the undertaking taking it over.
3. Where a processor ceases to operate without being taken over by another processor or where it relinquishes

its whole quota or part thereof, or where it does not undertake to issue cultivation certificates in accordance with Article 9 thereof, the quota or the part still available thereof shall be distributed proportionately between the other processors. However, no additional distribution of processing quotas may take place after 30 May of the year of the harvest in question. The rights of producers who have delivered tobacco to a processor relinquishing its quota or part thereof shall be transferred to the other processing undertakings in accordance with rules to be laid down by the Member State.

4. Where raw tobacco is processed under contract, that quantity shall be deemed to have been processed by the undertaking on whose behalf processing took place, provided that the latter undertaking itself processes at least 50 % of the quota allocated to it or of the reference quantity laid down.

Article 16

1. Where a tobacco-producing holding is transferred to another party on any ground whatever, and in particular as a result of sale or lease, or in the event of an inheritance, the new incumbent shall be entitled to the cultivation certificate or quota for the whole reference period, unless the contract specifies otherwise.

2. Where part only of a tobacco-producing holding is transferred to another party, the new incumbent shall be entitled to the cultivation certificate or quota in proportion to the agricultural areas taken over. However, the parties concerned may agree that entitlement shall continue to be held by the person formerly entitled thereto.

3. Reference quantities and rights acquired by a producer leasing the areas he farms shall continue to be held by him when the lease terminates.

4. Where several members of a family jointly farm, or have farmed, a tobacco holding, they must request that only one cultivation certificate or quota statement be issued on the basis of the aggregated quantities to which they are entitled.

TITLE V**Final and transitional provisions***Article 17*

The Member States may provide that disputes relating to the distribution or transfer of quotas or production certificates must be submitted to an arbitration body. The Member States shall lay down the rules governing the membership and the decision-making procedures of such bodies; the latter must comprise an equal number of representatives of producers and processors.

Article 18

1. The Member States shall verify the allocation of quotas by processing undertakings in accordance with the provisions laid down to that end. Inter-branch organizations recognized in accordance with the provisions of Regulation (EEC) No 2077/92 may take part in such checks, in the management of quotas and in particular in the application of the provisions of the third subparagraph of Article 9 (3) of Regulation (EEC) No 2075/92.

2. For the purpose of applying paragraph 1 processors shall allow the competent authorities and the organizations in question access to the data and documents necessary for the allocation of quotas and the preparation of cultivation certificates, and their use.

Article 19

For the 1993 harvest, the Member States may, for the purpose of applying Articles 11 (3) and 12, bring together on a joint basis the existing recognized professional organizations until such time as the inter-branch organizations recognized pursuant to Regulation (EEC) No 2077/92 have been set up.

Article 20

The Member States shall establish a computerized database which shall contain, for each processor and each producer, information identifying their establishments or their holdings, the quotas or the quantities appearing on

cultivation certificates allocated to them and any other information which may be useful for monitoring the quota system and for the distribution of quotas direct to producers from the 1995 harvest onwards.

Article 21

Where a quota or a cultivation certificate covers a producer group which is also a producer of tobacco in accordance with the third indent of Article 2, the Member State shall ensure that the quantity is distributed fairly between all members of the group. In that case, the provisions of Title II shall apply *mutatis mutandis* to distribution between the members of the group; however, with the agreement of all the producers concerned, the group may undertake a different distribution with a view to improved organization of production.

Article 22

For the purposes of the third subparagraph of Article 9 (3) of Regulation (EEC) No 2075/92, the Member State shall estimate the processing capacity of undertakings by reference to the processing capacity of existing undertakings taking account in particular of any technical dissimilarities or differences in equipment.

Article 23

This Regulation shall enter into force on the seventh 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, 1 December 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 3478/92

of 1 December 1992

layin down detailed rules for the application of the premium system for raw tobacco

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organization of the market in raw tobacco⁽¹⁾, and in particular Article 7 thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽²⁾, as last amended by Regulation (EEC) No 2205/90⁽³⁾, and in particular Article 5 (3) thereof,

Whereas the recognized production areas should be fixed for each group of varieties of tobacco on the basis of the traditional production areas for the purposes of granting the premium; whereas Member States should be permitted to limit those areas in order, in particular, to improve quality;

Whereas the points which must be included in cultivation contracts must be specified; whereas contracts must be limited to one harvest so that account can be taken of future changes in quotas; whereas sufficiently early final dates for the conclusion and registration of contracts should be fixed to enable them to guarantee, from the very beginning of the year of harvest, both stable outlets to producers for the coming harvest and regular supplies to processors;

Whereas, when a cultivation contract is concluded with a group of producers, the essential details of each individual producer must also be notified to permit effective management and control;

Whereas raw tobacco eligible for the premium must be of sound and fair merchantable quality and free of certain characteristics which prevent normal marketing;

Whereas provision should be made for the settlement of disputes, if any, through joint bodies;

Whereas premiums are to be paid for the quantity of leaf tobacco delivered by producers to processors irrespective of variations in quality, provided that the minimum quality requirements are fulfilled; whereas, however, the

premium should be adjusted where the moisture content of tobacco delivered differs by up to 3 % from the moisture content to be fixed for each group of varieties on the basis of reasonable quality requirements;

Whereas the period of delivery of the tobacco to processors should be limited in order to prevent fraudulent carry-over from one harvest to another;

Whereas the conditions governing the payment of premiums and purchase prices should be laid down in order to prevent fraud; whereas, however, it is the responsibility of the Member States to determine further management and control arrangements pursuant to Article 20 (1) of Regulation (EEC) No 2075/92;

Whereas the premiums must permit Community tobacco producers to dispose of their production under satisfactory conditions of competition compared with imported tobacco, account being taken of Community production costs; whereas provision should be made whereby the premium, expressed in national currency, shall be identical for all producers concerned who deliver their tobacco to processors over a given period of time, by applying the conversion rate applicable at the beginning of the said marketing period;

Whereas premiums may be paid only after a full and final check on all deliveries from the harvest, to guarantee that the operations concerned have actually been carried out and that the quota arrangements have been complied with; whereas, however, the payment of advances to processors on the amounts they are to pay to producers should be provided for on condition that an adequate security is lodged;

Whereas special conditions should be laid down governing the processing of tobacco in Member States other than the Member State in which it has been produced;

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

HAS ADOPTED THIS REGULATION:

Production areas

Article 1

1. For each group of varieties, the production areas referred to in Article 5 (a) of Regulation (EEC) No 2075/92 shall be as laid down in Annex 1 hereto.

⁽¹⁾ OJ No L 215, 30. 7. 1992, p. 70.

⁽²⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽³⁾ OJ No L 201, 31. 7. 1992, p. 9.

Member States may specify more restricted production areas, especially in the interests of quality.

2. The production areas shall be the subject of an annual review in order that they may be adapted, if necessary, to quantitative and qualitative developments on the market.

Cultivation contract

Article 2

1. Cultivation contracts as referred to in Article 5 (c) of Regulation (EEC) No 2075/92 shall be concluded between a producer or groups of producers on the one hand and the processor who carries out the first processing and market preparation operations on the other.

2. Cultivation contracts shall be concluded by group of varieties. They shall commit the processor to taking delivery of the quantity of leaf tobacco provided for in the contract and the producer or group of producers to deliver that quantity to the processor, to the extent that their actual production so allows.

3. Cultivation contracts shall include at least the following details:

- (a) the parties to the contract,
- (b) the reference of the cultivation certificate or, where quotas are directly allocated to producers, of the quota statement of the producers concerned,
- (c) the variety of tobacco covered by the contract,
- (d) the maximum quantity to be delivered,
- (e) the exact location where the tobacco is produced (production area as referred to in Article 1 thereof, province, commune and identification of the parcel or place),
- (f) the area of the parcel concerned, excluding service roads and enclosures,
- (g) the purchase price, excluding the premium,
- (h) the quality to which the price refers,
- (i) the minimum quality requirements agreed,
- (j) an undertaking whereby the processor undertakes to pay the producer or group of producers an amount at least equal to the premium for the quantity covered by the contract and actually delivered,
- (k) the period of payment of the purchase price, which may not exceed one month from the end of each delivery.

4. Contracts shall be valid for one harvest only.

Article 3

1. Cultivation contracts shall be concluded, except in cases of *force majeure*, by 15 March of the year of the harvest covered by the contract at the latest. However, that date shall be deferred to 10 April of the same year for contracts concluded as a result of the allocation of addi-

tional quantities pursuant to Article 11 (3) of Commission Regulation (EEC) No 3477/92⁽¹⁾.

2. Except in cases of *force majeure*, processors must submit the concluded cultivation contracts for registration to the competent body before 1 April of the year of the harvest covered by the contract. However, that date shall be 20 April of the same year for the registration of contracts concluded as a result of the allocation of additional quantities pursuant to Article 11 (3) of Regulation (EEC) No 3477/92.

3. If the period for the conclusion of contracts provided for in paragraph 1 or for the submission of cultivation contracts provided for in paragraph 2 is exceeded by a maximum of 10 working days, the premium reimbursed shall be reduced by 20 %.

4. The competent body shall be that of the Member State in which processing is to take place. Where processing is to take place in a Member State other than that in which the tobacco was grown, the competent body of the Member State in which processing is to take place shall send a copy of the registered contract immediately to the competent body of the producer Member State.

If that body does not itself carry out checks on the premium system it shall send a copy of the registered contract to the control agency referred to in Article 20 (2) of Regulation (EEC) No 2075/92 or to the department responsible for carrying out checks where the Member State concerned does not have such an agency.

5. Member States shall send the names and addresses of the bodies responsible for the registration of contracts to the Commission. The Commission shall publish a list of those bodies in the 'C' Series of the *Official Journal of the European Communities*.

Article 4

Where a cultivation contract is concluded between a processor and a group of producers, it shall be accompanied by a list containing the names of the producers concerned, their respective areas in accordance with Article 2 (3) (f) and details of their cultivation certificates or their quota statements.

Article 5

Cultivation contracts concluded pursuant to Council Regulation (EEC) No 727/70⁽²⁾ for a duration extending beyond the 1992 harvest shall cease to apply from the 1993 harvest.

Minimum quality requirements

Article 6

Tobacco delivered to processors must be of sound, fair and merchantable quality and free from any of the characteristics given in Annex 2. The contracting parties may agree on stricter quality requirements.

⁽¹⁾ See page 11 of this Official Journal.

⁽²⁾ OJ No L 94, 28. 4. 1970, p. 1.

Article 7

The Member States may provide that disputes concerning the quality of tobacco delivered to the first processor shall be submitted to an arbitration body. The Member States shall lay down the rules governing the membership and the decision-making procedures of such bodies; the latter must include one or more representatives of producers and processors, in equal numbers.

Payment of premiums, reimbursement and advances

Article 8

1. The premium to be paid to the producer by the processor and the quantity to be set off against the cultivation contract or quota statement of the party concerned shall be calculated on the basis of the weight of leaf tobacco of the variety concerned taken over by the processor and meeting the minimum quality requirements. However, where the moisture content differs from the level laid down in Annex 3 for the variety concerned, the weight shall be adjusted accordingly for each percentage point, up to a maximum of 3 % moisture.

2. The moisture content shall be determined in accordance with one of the methods given in Annex 4.

Article 9

1. Except in cases of *force majeure*, producers shall deliver their entire production to the first processor by 15 May (at the latest) of the year following the year of the harvest, otherwise they shall forfeit entitlement to the premium.

2. Each producer shall notify the control authority in writing by 25 May at the latest of the quantities of leaf tobacco not delivered to a first processor by 15 May and of the place of storage of such tobacco. The competent authority shall take action to ensure that tobacco not delivered to a first processor by 15 May is not declared as coming from the subsequent harvest.

3. If the control authority establishes the presence of tobacco which is not covered by the declaration referred to in paragraph 2 hereof, the quantity to be covered by the cultivation certificate or quota statement to which the producer is entitled for the following harvest shall be reduced by twice the quantity not declared.

Article 10

An amount equal to the premium shall be paid to the producer by the processing undertaking within one month of the end of each delivery under contract. Payment to the producer by the processor or group of producers of an amount equal to the premium, and

payment of the purchase price, may only be made by bank or postal transfer.

Article 11

The agricultural conversion rate to be used for converting premiums and advances on premiums into national currency shall be the rate applicable on 1 August of the year of harvest for deliveries up to 31 December of that year and that applicable on 1 January of the following year for deliveries thereafter. Processors shall pay premiums to producers in the currency of the Member State in which the tobacco was harvested.

Article 12

1. The premiums paid to producers shall be reimbursed to the processors, on application, on the basis of a control certificate issued by the competent authorities after verification of all deliveries from the harvest to the processor concerned for the group of varieties in question. The controls shall ensure that no tobacco may be presented more than once for verification and that the tobacco undergoes normal first processing and market preparation.

2. The Member States shall ensure that tobacco processes is subsequently marketed.

Article 13

Applications for reimbursement of premiums paid to producers must include, for each delivery, harvest and group of varieties, at least the following:

- (a) the date of the cultivation contract relating to the delivery concerned, the date of registration of the contract and the official number given to the contract;
- (b) the variety of tobacco delivered;
- (c) the name of the vendor;
- (d) the quantity of tobacco delivered;
- (e) the date on which delivery was begun;
- (g) the purchase price or prices paid, with particulars of the qualities to which those prices refer;
- (h) proof of payment to the producer of an amount equal to the premium;
- (i) the original of the cultivation certificate or of the quota statement issued to the producer.

Article 14

1. Where leaf tobacco originating in or imported from a third country undergoes first processing and market preparation in the Community, the Member State concerned shall decide upon the checks necessary to prevent any premium being paid for that tobacco.

2. Member States shall provide mutual assistance in the case of trade in leaf tobacco between them.

Article 15

1. On application by processors, the Member State shall pay an advance on the premiums to be paid to producers on the basis of a statement of premiums payable, issued by the competent control authority. This statement shall be issued on the basis of cultivation contracts concluded by processors and of deliveries made or planned.

Where within six weeks from the date of receipt advances have not been used by processors for the payment of premiums to producers or reimbursed to the Member State, interest shall be payable on the amount still available, at a rate to be determined by the Member State. Such interest shall be booked to the EAGGF.

2. Payment of advances shall be subject to the lodging of a security equal to the amount of the premium plus 15 %.

3. Securities shall be released on presentation of the certificate referred to in Article 12.

4. The provisions of Commission Regulation (EEC) No 2220/85 ⁽¹⁾ shall apply save as otherwise provided for in this Regulation.

Article 16

The certificates referred to in Article 12 must be presented by 31 December of the second year following the year of harvest, at the latest. Where an advance has been paid, the security shall be forfeit in respect of premiums for which the proof required for release has not been provided within the abovementioned time limit.

Article 17

1. Premiums shall be reimbursed or advanced to the processor by the Member States in which the tobacco was harvested.

2. Where tobacco is processed in a Member State other than that in which it was harvested, the Member State in which it is processed shall, after carrying out the requisite checks, provide the producer Member State with all the information necessary to enable it to pay the premium or release the security.

Article 18

This Regulation shall enter into force on the seventh 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, 1 December 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 205, 3. 8. 1985, p. 5.

ANNEX I

Recognized production areas

Group of varieties in accordance with the Annex to Regulation (EEC) No 2075/92	Member State	Production areas
I. Flue-cured	Germany	Schleswig-Holstein, Lower Saxony, Franconia, Rhine valley and adjacent valleys, Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt, Thuringia
	Greece	Stereia Hellas, Thessaly, Macedonia, Thrace, Peloponnese, Epirus
	France	Aquitaine, Midi-Pyrénées, Auvergne-Limousin, Champagne-Ardenne, Alsace-Lorraine, Rhône-Alpes, Franche-Comté, Provence, Val-de-Loire, Centre, Poitou-Bretagne, Charente, Languedoc-Roussillon, Normandy, Burgundy, Nord-Pas-de-Calais, Picardy, Ile-de-France
	Italy	Friuli, Veneto, Lombardy, Piedmont, Tuscany, Marche, Umbria, Lazio, Abruzzi, Molise, Campania, Basilicata, Apulia, Calabria
	Spain	Extremadura, Andalusia, Castile-Leon, Castile-La Mancha
	Portugal	Beira Interior, Ribatejo Oeste, Alentejo, Autonomous Region of the Azores
II. Light air-cured	Germany	Rhine valley and adjacent valleys, Mittelfranken, Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt, Thuringia
	Greece	Macedonia, Thessaly
	France	Aquitaine, Midi-Pyrénées, Auvergne-Limousin, Alsace-Lorraine, Rhône-Alpes, Franche-Comté, Val-de-Loire, Centre, Poitou-Bretagne, Burgundy, Charente, Languedoc-Roussillon
	Italy	Veneto, Lombardy, Piedmont, Umbria, Emilia-Romagna, Lazio, Abruzzi, Molise, Campania, Basilicata, Apulia, Sicily, Friuli, Tuscany, Marche
	Spain	Extremadura, Andalusia, Castile-Leon, Castile-La Mancha
	Portugal	Beiras, Ribatejo Oeste, Entre Douro e Minho, Trás-os-Montes, Autonomous Region of the Azores
III. Dark air-cured	Belgium	Flandres, Hainaut, Namur, Luxembourg
	Germany	Rhine valley and adjacent valleys, Mittelfranken, Brandenburg, Mecklenburg-Western Pomerania
	France	Aquitaine, Midi-Pyrénées, Languedoc-Roussillon, Auvergne-Limousin, Poitou-Bretagne, Charente, Val-de-Loire, Centre, Rhône-Alpes, Provence, Franche-Comté, Alsace-Lorraine, Champagne-Ardenne, Picardy, Nord-Pas-de-Calais, Normandy, Burgundy, Réunion
	Italy	Friuli, Trentino, Veneto, Tuscany, Lazio, Molise, Campania, Apulia, Sicily
	Spain	Extremadura, Andalusia, Castile-Leon, Castile-La Mancha, Valencia (Comunidad autónoma), Navarre, Rioja, Catalonia, Madrid, Galicia, Asturias, Cantabria, zone of Compezo in the Basque region, La Palma (Canary Islands)
IV. Fire-cured	Italy	Veneto, Tuscany, Umbria, Lazio, Campania
	Spain	Extremadura, Andalusia
V. Sun-cured	Greece	Epirus, Sterea Hellas, Thessaly, Peloponnese, Macedonia, Thrace and Islands
	Italy	Lazio, Abruzzi, Campania, Basilicata, Apulia, Sicily
VI. Basmás	Greece	Thrace, Macedonia, Sterea Hellas, Thessaly
VII. Katerini and similar varieties	Greece	Macedonia, Sterea Hellas, Epirus, Thessaly
VIII. Kaba Koulak classic, Elassona, Myrodata Agrinion, Zichomyrodata	Greece	Macedonia, Thessaly, Sterea Hellas, Thrace, Epirus, Peloponnese and Islands

*ANNEX II***Minimum quality requirements**

Tobacco eligible for the premium referred to in Article 3 of Regulation (EEC) No 2075/92 must be of sound and fair merchantable quality having regard to the typical characteristics of the variety concerned and must not contain any of the following:

- (a) pieces of leaf;
- (b) leaf badly torn by hail;
- (c) leaf with serious damage on more than one-third of the surface;
- (d) leaf diseased or attacked by Insects on more than 25 % of the surface;
- (e) leaf marked by pesticides;
- (f) leaf which is unripe or distinctly green in colour;
- (g) leaf damaged by frost;
- (h) leaf attacked by mould or rot;
- (i) leaf with uncured veins, moist or attacked by rot or with pulpy or prominent stems;
- (j) leaf from suckers or side-shoots;
- (k) leaf having an unusual odour for the variety in question;
- (l) leaf with soil still adhering;
- (m) leaf with moisture content exceeding by more than three points the moisture content fixed in Annex III.

*ANNEX III***Moisture content referred to in Article 8**

Group of varieties	Moisture content (%)
I. Flue cured	16
II. Light air-cured	
Germany, France,	22
other Member States	20
III. Dark air-cured	
Belgium, Germany, France	26
other Member States	22
IV. Fire-cured	22
V. Sun-cured	16
VI. Basmás	16
VII. Katerini	16
VIII. Kaba Koulak classic, Elassona, Myrodata Agrinion, Zichnomyrodata	16

ANNEX IV

Community methods for the determination of the moisture content of raw tobacco

I. METHODS TO BE USED

A. *Beaudesson method*

1. Apparatus

Beaudesson EM10 drying oven: a warm air electric dryer in which the air is passed over the sample to be dried by forced convection by means of a special ventilation fan. The moisture content is determined by weighing before and after drying, the balance being calibrated in such a way that the reading given by the 10 g quantity used corresponds directly to the moisture content value in % (per cent).

2. Procedure

A 10 g quantity is weighted out in a pan with a perforated base and then put into the drying column, where it is supported by a spiral ring. The oven is turned on for five minutes, during which time the warm air causes the sample to dry at a temperature of about 100 °C. At the end of five minutes, an automatic timer stops the process. The temperature of the air at the end of the drying process is recorded from a built-in thermometer. The sample is weighed and its moisture content is read directly and corrected if necessary by the addition or subtraction of tenths of a per cent according to the temperature reading, using the scale provided with the apparatus.

B. *Brabender method*

1. Apparatus

Brabender oven: an electric dryer consisting of a thermostated cylindrical chamber, ventilated by forced convection, into which are simultaneously placed 10 metal pans, each containing 10 g of tobacco. These pans are put onto a table, which can be rotated by means of a central handwheel into 10 different positions, allowing each of the pans, after drying, to be placed in a position where it can be weighed within the apparatus: a system of levers allows each of the pans to be placed successfully on the arm of a built-in balance, without the necessity of removing the samples from the chamber. The balance has an optical read-out scale, and gives a direct reading for the moisture content. A second balance is attached to the apparatus, the being used only to weigh out the initial quantities.

2. Procedure

The thermostat is set at 110 °C.

The chamber is set to preheat: minimum period 15 minutes.

Ten 10 g quantities are weighted out.

The oven is filled.

The samples are dried for 50 minutes.

Weights for determination of the gross moisture content are read.

C. *Other methods*

Member States may use other methods of measurement, based in particular on the determination of the electrical resistance or dielectric properties of the batch concerned, on condition that the results are calibrated on the basis of an examination of a representative sample using one of the methods referred to in A and B.

II. SAMPLING

The following is the procedure to be followed for the sampling of leaf tobacco for determination of its moisture content using one of the methods referred to in I.A and B:

1. Selection of samples

Select from each bale a number of leaves proportional to its weight.

The number of leaves selected should be sufficient to be properly representative of the bale as a whole.

The sample must include equal quantities of leaf from the outside of the bale, leaf from the centre and leaf from a position intermediate between these.

2. Homogenization

All the leaves selected are mixed together in a plastic bag and several kilograms of them are chopped up (cutting width 0,4/2 mm).

3. Sub-sampling

After chopping, mix the chopped leaves thoroughly and withdraw a representative sample.

4. Measurement

Measurement must be carried out on the whole of this reduced sample and precautions should be taken to ensure that:

- no variations in moisture content occur (air- and water-tight bag or container),
 - the homogeneity of the sample is not affected by the setting of waste.
-

COMMISSION REGULATION (EEC) No 3479/92**of 1 December 1992****abolishing the corrective amount on the import of artichokes into the
Community of Ten from Spain**

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 3709/89
of 4 December 1989 laying down general rules for imple-
menting the Act of Accession of Spain and Portugal as
regards the compensatory mechanism for imports of fruit
and vegetables from Spain ⁽¹⁾, and in particular Article 4
(2) thereof,

Whereas Article 152 of the Act of Accession introduces
from 1 January 1990 a compensatory mechanism for
imports into the Community as constituted on 31
December 1985, hereinafter called 'the Community of
Ten', of fruit and vegetables from Spain for which a
reference price is fixed with regard to third countries;

Whereas Regulation (EEC) No 3709/89 lays down general
rules for applying the said compensatory mechanism and
Commission Regulation (EEC) No 3820/90 ⁽²⁾ lays down
detailed rules for applying the said compensatory
mechanism;

Whereas Commission Regulation (EEC) No 3436/92 ⁽³⁾
introduces a corrective amount on imports of artichokes
into the Community of Ten from Spain;

Whereas Article 3 (4) of Regulation (EEC) No 3709/89
lays down the conditions under which a corrective
amount introduced pursuant to Article 3 (1) of the said
Regulation is to be abolished; whereas the said conditions
certain abolition of the corrective amount on imports of
artichokes into the Community of Ten from Spain,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3436/92 is hereby repealed.

Article 2

This Regulation shall enter into force on 2 December
1992.

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

Done at Brussels, 1 December 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 363, 13. 12. 1989, p. 3.
⁽²⁾ OJ No L 366, 29. 12. 1992, p. 43.

⁽³⁾ OJ No L 347, 28. 11. 1992, p. 61.

COMMISSION REGULATION (EEC) No 3480/92**of 1 December 1992****amending Regulation (EEC) No 3385/92 introducing a countervailing charge on fresh lemons originating in Turkey**

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 1754/92⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Commission Regulation (EEC) No 3385/92⁽³⁾ introduced a countervailing charge on fresh lemons originating in Turkey;

Whereas Article 26 (1) of Regulation (EEC) No 1035/72 laid down the conditions under which a charge intro-

duced in application of Article 25 of that Regulation is amended; whereas if those conditions are taken into consideration the countervailing charge on the import of fresh lemons originating in Turkey must be altered,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 of Regulation (EEC) No 3385/92 'ECU 3,78' is hereby replaced by 'ECU 12,13'.

Article 2

This Regulation shall enter into force on 2 December 1992.

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

Done at Brussels, 1 December 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 23.

⁽³⁾ OJ No L 344, 26. 11. 1992, p. 24.

COMMISSION REGULATION (EEC) No 3481/92**of 1 December 1992****amending Regulation (EEC) No 3117/92 introducing a countervailing charge on
fresh lemons originating in South Africa**

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 1754/92⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Commission Regulation (EEC) No 3117/92⁽³⁾ introduced a countervailing charge on fresh lemons originating in South Africa;

Whereas Article 26 (1) of Regulation (EEC) No 1035/72 laid down the conditions under which a charge intro-

duced in application of Article 25 of that Regulation is amended; whereas if those conditions are taken into consideration, the countervailing charge on the import of fresh lemons originating in Uruguay must be altered,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 of Regulation (EEC) No 3117/92 ECU 2,34 is hereby replaced by ECU 4,44.

Article 2

This Regulation shall enter into force on 2 December 1992.

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

Done at Brussels, 1 December 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 23.

⁽³⁾ OJ No L 312, 29. 10. 1992, p. 21.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 18 November 1992

appointing a member of Economic and Social Committee

(92/541/EEC, Euratom)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European economic Community, and in particular Articles 193 to 195 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 165 to 167 thereof,

Having regard to the Convention on certain Institutions common to the European Communities, and in particular Article 5 thereof,

Having regard to the Council Decision of 24 September 1990 appointing the members of the Economic and Social Committee for the period ending on 20 September 1994 ⁽¹⁾,

Whereas a seat has become vacant on the Economic and Social Committee following the death of Mr Pedro Vidal, notified to the Council on 30 June 1992;

Having regard to the nominations submitted by the Portuguese Government on 24 September 1992,

Having obtained the opinion of the Commission of the European Communities,

HAS DECIDED AS FOLLOWS:

Sole Article

Mr Maria Luísa Freire de Andrade Santiago is hereby appointed member of the Economic and Social Committee in place of Mr Pedro Vidal for the remainder of his term of office, which runs until 20 September 1994.

Done at Brussels, 18 November 1992.

For the Council

The President

CHALKER OF WALLASEY

⁽¹⁾ OJ No L 290, 23. 10. 1990, p. 13.

COUNCIL DECISION**of 23 November 1992****providing medium-term financial assistance for Estonia, Latvia and Lithuania**

(92/542/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 of the Commission⁽¹⁾ submitted following consultation with the Monetary Committee,

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

Whereas Estonia, Latvia and Lithuania are undertaking fundamental political and economic reforms and have decided to adopt a market economy model;

Whereas the financial support of the reforms from the Community will strengthen mutual confidence and bring Estonia, Latvia and Lithuania closer to the Community;

Whereas trade, commercial and economic links between the Community and Estonia, Latvia and Lithuania are expected to develop within the framework of the 1992 Cooperation Agreements;

Whereas in Article 1 thereof these Agreements make express reference to the observance of the principles set out in the Final Declaration of Helsinki and in the Paris Charter, which provide for the observance of human rights and minority rights;

Whereas Estonia, Latvia and Lithuania have requested financial assistance from the International Monetary Fund (IMF), the Group of 24 industrial countries (G-24) and the Community, and whereas, over and above the overall estimated financing which could be provided by the IMF and the World Bank to these countries, a global residual financial gap of some US\$ 600 million remains to be covered, in order to provide the necessary financing assurances to the stand-by arrangements that these countries are expected to conclude with the IMF on the basis of their economic adjustment and reform programmes;

Whereas the financial gap estimates have been provided by the IMF in close consultation with the Commission and the G-24;

Whereas the Commission as co-ordinator of assistance from G-24 has invited them to provide medium-term financial assistance to Estonia, Latvia and Lithuania;

Whereas the grant by the Community of medium-term loans to Estonia, Latvia and Lithuania are appropriate measures to support their balances of payments and to strengthen those countries' reserve positions;

Whereas the question of the risks associated with guarantees from the general budget of the European Communities will be examined in the context of the renewal in 1992 of the Interinstitutional Agreement on budgetary discipline and improvement of the budgetary procedure;

Whereas the Community loan should be managed by the Commission;

Whereas the Treaty does not provide for the adoption of this Decision, powers other than those of Article 235,

HAS DECIDED AS FOLLOWS:

Article 1

1. The Community shall grant to Estonia, Latvia and Lithuania medium-term loan facilities of a maximum amount of ECU 40 million, 80 million and 100 million respectively in principal, with a maximum duration of seven years, with a view to ensuring sustainable balance-of-payments situations and strengthening the reserve positions.

2. To this end the Commission is empowered to borrow, on behalf of the Community, the necessary resources that will be placed at the disposal of Estonia, Latvia and Lithuania in the form of loans.

3. These loans will be managed by the Commission in full consultation with the Monetary Committee and in a manner consistent with any Agreements reached between the IMF and Estonia, Latvia and Lithuania.

Article 2

1. The Commission is empowered to negotiate with the Estonian, Latvian and Lithuanian authorities, after consultation with the Monetary Committee, the economic policy conditions attached to the loan. These conditions shall be consistent with the agreements referred to in Article 1 (3) and with arrangements made by G-24.

⁽¹⁾ OJ No C 266, 15. 10. 1992, p. 8.

⁽²⁾ Opinion delivered on 30 October 1992 (not yet published in the Official Journal).

2. The Commission shall verify at regular intervals, in collaboration with the Monetary Committee and in close coordination with the G-24 and the IMF, that the economic policies in Estonia, Latvia and Lithuania are in accordance with the objectives of these loans and that their conditions are being fulfilled.

Article 3

1. The loans shall be made available to Estonia, Latvia and Lithuania separately, on a case-by-case basis. Each loan shall be released in two instalments.

2. The first instalment shall be released in each case as soon as a 'stand-by arrangement' has been agreed with the IMF. Subject to Article 2 (2), the second instalment shall be released on the basis of a satisfactory track record in the implementation of this arrangement and not before the second quarter of 1993.

3. The funds shall be paid to the central banks.

Article 4

1. The respective borrowing and lending operations referred to in Article 1 shall be carried out using the same value date and must not involve the Community in the transformation of maturities, in any exchange or interest-rate risk, or in any other commercial risk.

2. The Commission shall take the necessary steps, if Estonia, Latvia or Lithuania so decide, to include in the respective loan conditions, and also to exercise, an early repayment clause.

3. At the request of Estonia, Latvia and Lithuania, and if circumstances permit an improvement in the interest rate on the respective loans, the Commission may refinance all or part of its initial borrowings or restructure the corresponding financial conditions. Refinancing or restructuring operations shall be carried out in accordance with the conditions set out in paragraph 1 and shall not have the effect of extending the average duration of the borrowing concerned or increasing the amount, expressed at the current exchange rate, of capital outstanding at the date of these operations.

4. All related costs incurred by the Community in concluding and carrying out the operation under this Decision shall be borne by Estonia, Latvia and Lithuania as appropriate.

5. The Monetary Committee shall be kept informed of developments in the operations referred to in paragraphs 2 and 3.

Article 5

At least once a year the Commission shall send to the European Parliament and to the Council a report, which will include an assessment on the implementation of this Decision.

Done at Brussels, 23 November 1992.

For the Council

The President

N. LAMONT

COUNCIL DECISION

of 23 November 1992

authorizing the Federal Republic of Germany to apply a measure derogating from Article 2 (1), read in conjunction with Article 13 B (d) (1) and (2), of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

(92/543/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value-added tax : uniform basis of assessment ⁽¹⁾, and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas the Eighteenth Directive 89/465/EEC ⁽²⁾ repeals, as from 1 January 1991, the transitional derogation provided for in Article 28 (3) (b) of Directive 77/388/EEC, read in conjunction with point 13 of Annex F thereto, which allowed Member States to continue to exempt the management of credit and credit guarantees by a person or a body other than the one which granted the credits ;

Whereas, pursuant to Article 27 (1) of Directive 77/388/EEC, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measures for derogation from that Directive in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance ;

Whereas the Federal Republic of Germany, by letter received by the Commission on 19 December 1990, requested authorization to retain the tax exemption for the management of credit and credits guarantees by a person or a body other than the one which granted the credit ; whereas this measure constitutes a derogation from Article 2 (1), read in conjunction with Article 13 B (d) (1) and (2), of Directive 77/388/EEC, according to which such services effected for consideration within the territory of a country by a taxable person acting as such shall be subject to value added tax ;

Whereas the other Member States were informed of the Federal Republic of Germany's request on 18 January 1991 ;

Whereas arrangements for taxing such services would pose considerable technical difficulties in the Federal Republic of Germany as regards establishment by the

undertakings concerned of the taxable transactions and the deductible amounts of input tax relating to them and as regards control by the tax administration ;

Whereas the authorization requested may be granted under certain conditions ;

Whereas the derogation is to be temporary, in order to allow an assessment of the effects of the authorization granted by this Decision after a certain period of application ; whereas, before expiration of this authorization, the Federal Republic of Germany shall endeavour to overcome the practical difficulties necessitating this derogation ;

Whereas this derogation will effect the Community's own resources accruing from value added tax only to a negligible extent,

HAS ADOPTED THIS DECISION :

Article 1

By way of derogation from Article 2 (1), read in conjunction with Article 13 B (d) (1) and (2), of Directive 77/388/EEC, the Federal Republic of Germany is hereby authorized, until 31 December 1995, to exempt the supply of services in respect of the management of credit and credit guarantees by a person or a body other than the one which granted the credits.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 23 November 1992.

For the Council

The President

N. LAMONT

⁽¹⁾ OJ No L 145, 13. 6. 1977, p. 1, as last amended by Directive 91/680/EEC (OJ No L 376, 31. 12. 1991, p. 1).

⁽²⁾ OJ No L 226, 3. 8. 1989, p. 21.

COUNCIL DECISION**of 23 November 1992****authorizing the French Republic to apply measures derogating from Article 17 and Article 22 (3), (4) and (5) of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes****(92/544/EEC)**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value-added tax : uniform basis of assessment ⁽¹⁾, and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas, pursuant to Article 27 (1) of the aforementioned Directive, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measures for derogation from that Directive in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance ;

Whereas the French Republic, by letter received by the Commission on 12 March 1992, applied for authorization to introduce arrangements for the tax payable by authors to be withheld at source, with deductible input tax calculated on a flat-rate basis, and an option for authors to waive expressly their inclusion in this scheme ;

Whereas these arrangements constitute a derogation from Article 17 of the aforementioned Directive concerning the origin and scope of the right to deduct and from Article 22 (3), (4) and (5) of the Directive concerning the obligations of persons liable for payment ;

Whereas the other Member States were informed of the French Republic's application on 10 April 1992 ;

Whereas the proposed simplification of the arrangements for charging the tax will make it easier for authors to accept the status of taxable person ;

Whereas the application may be granted on certain conditions ;

Whereas the authorization should be temporary, so that the effects of application of the arrangements can be assessed ;

Whereas the Commission will submit a report to the Council by 31 December 1996 on the application of the derogations, accompanied, where appropriate, by a proposal for a Decision to extend the authorization ;

Whereas this derogation should have no effect on the Community's own resources accruing from value-added tax,

HAS ADOPTED THIS DECISION :

Article 1

By way of derogation from Article 17 and Article 22 (3), (4) and (5) of Directive 77/388/EEC, the French Republic is hereby authorized from 1 January 1992 to 31 December 1996 :

- to introduce arrangements for withholding at source the tax payable by authors where the royalties they receive are paid publishers, royalty collection and distribution companies or producers,
- to calculate authors' deductible input tax by applying a flat rate of 0,80 % to their royalties. The amount determined in this way shall be exclusive of any other deduction.

Article 2

In the light of a report from the Commission on the application of the authorization referred to in Article 1, accompanied, where appropriate, by a proposal for a Decision, the Council, acting on the basis of that proposal, shall decide before 31 December 1996 whether the said authorization is to be extended.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 23 November 1992.

For the Council

The President

N. LAMONT

⁽¹⁾ OJ No L 145, 13. 6. 1977, p. 1, as last amended by Directive 981/680/EEC (OJ No L 376, 31. 12. 1991, p. 1).

COUNCIL DECISION

of 23 November 1992

authorizing the Kingdom of the Netherlands to apply a measure derogating from Article 21 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

(92/545/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value-added tax : uniform basis of assessment ⁽¹⁾, and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas, pursuant to Article 27 (1) of the said Directive, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measures for derogation from that Directive in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance;

Whereas the Kingdom of the Netherlands, by letter received by the Commission on 11 February 1992, requested authorization to introduce in the ready-to-wear clothing industry a special measure for derogation from Article 21 (1) (a) of the Sixth Directive;

Whereas the purpose of the measure is to combat fraud occurring in the relationship between ready-to-wear clothing firms working for large stores on the one hand, and small workshops (subcontractors) to which those firms have put the work out on the other; whereas this type of fraud, which consists in the subcontractor invoicing VAT to the contractor but not paying it over to the tax authorities, while the contractor deducts the tax, is difficult to combat under the present system of collecting VAT;

Whereas the scheme planned by the Kingdom of the Netherlands involves, in the ready-to-wear clothing industry, collecting from the contractor the VAT normally due from the subcontractor under Article 21 of Directive 77/388/EEC;

Whereas the derogation will not have a negative effect on the Community's own resources accruing from value-added tax;

Whereas the scheme will be temporary, which will permit an assessment of the effects of the derogation after a period of application;

Whereas the Commission will present a report to the Council before 31 December 1996 on the application of this authorization, accompanied, where appropriate, by a proposal for a Decision to extend the said authorization;

Whereas the other Member States were informed of the request of the Kingdom of the Netherlands on 10 March 1992,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 21 (1) (a) of Directive 77/388/EEC, the Kingdom of the Netherlands is hereby authorized to apply until 31 December 1996 in the ready-to-wear clothing industry a scheme for shifting the obligation to pay over VAT to the tax authorities from the subcontractor to the clothing firm (the contractor).

Article 2

In the light of a report from the Commission on the application of the authorization referred to in Article 1, accompanied, where appropriate, by a proposal for a Decision, the Council, acting on the basis of that proposal, shall decide, by 31 December 1996, whether the said authorization is to be extended.

Article 3

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 23 November 1992.

*For the Council**The President*

N. LAMONT

⁽¹⁾ OJ No L 145, 13. 6. 1977, p. 1, as last amended by Directive 91/680/EEC (OJ No L 376, 31. 12. 1991, p. 1).

COUNCIL DECISION

of 23 November 1992

authorizing the United Kingdom to apply a measure derogating from Article 28e (1) of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

(92/546/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value-added tax: uniform basis of assessment⁽¹⁾, and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas, pursuant to Article 27 (1) of Directive 77/388/EEC, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measures for derogation from that Directive in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion and avoidance;

Whereas Council Directive 91/680/EEC of 16 December 1991 supplementing the common system of value-added tax and amending Directive 77/388/EEC with a view to the abolition of fiscal frontiers⁽²⁾ introduces the concept of intra-Community acquisitions of goods; whereas the arrangements for taxing such acquisitions pose certain problems in the United Kingdom concerning the taxable amount;

Whereas the United Kingdom was authorized by a Council Decision⁽³⁾, deemed to have been adopted on 11 April 1987 in accordance with the procedure laid down by Article 27 (4) of Directive 77/388/EEC, to introduce in certain circumstances special measures to determine the taxable amount of supplies and importations of goods, and of supplies of services; whereas the authorization of 11 April 1987 does not extend to cover intra-Community acquisitions;

Whereas the United Kingdom, by letter officially received by the Commission on 27 April 1992, requested the

authorized derogation to be extended so as to cover intra-Community acquisitions of goods;

Whereas the other Member States were informed on 21 May 1992 of the United Kingdom's request;

Whereas the purpose of this derogation is to prevent persons having certain family, legal or business ties, specified in national legislation, from artificially reducing the price of intra-Community acquisitions so as to benefit from a more advantageous tax position than would otherwise be possible;

Whereas the measure envisaged by the United Kingdom consists of enabling the relevant authorities to direct that the open market value of the relevant transaction shall be used, where the value of the transaction would otherwise be less than the open market value;

Whereas the proposed measure is limited in scope in so far as it would only be applicable to intra-Community acquisitions made by persons who are not fully taxable persons;

Whereas the proposed measure constitutes a derogation from Article 28e (1) of Directive 77/388/EEC;

Whereas the authorization requested will be temporary;

Whereas the derogation will have a favourable effect on the Community's own resources arising from value-added tax,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 28e (1) of Directive 77/388/EEC, the United Kingdom is hereby authorized until 31 December 1996 to introduce a special measure allowing the appropriate authorities to direct that the open market value be taken as the taxable amount for intra-Community acquisitions of goods, where the person by whom the goods are acquired is not a fully taxable person, and where there exist certain family, legal or business ties, specified in the national legislation, between the person by whom the goods are acquired and the supplier.

⁽¹⁾ OJ No L 145, 13. 6. 1977, p. 1, as last amended by Directive 91/680/EEC (OJ No L 376, 31. 12. 1991, p. 1).

⁽²⁾ OJ No L 376, 31. 12. 1991, p. 1.

⁽³⁾ OJ No L 132, 21. 5. 1987, p. 22.

Article 2

This Decision is addressed to the United Kingdom.

Done at Brussels, 23 November 1992.

For the Council

The President

N. LAMONT
