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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1096/88

of 25 April 1988

establishing a Community scheme to encourage the cessation of farming

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, an in particular Article 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

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

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas, given the outlook in the medium and long term for both the Community and world markets for agricultural products, the achievement of market balance calls for a prices policy that is likely, during the period of adjustment to the new situation, to entail serious income difficulties for that section of the farming population whose holdings are structurally the weakest;

Whereas it is appropriate that provision should be made for measures to help farmers who are over the age of 55, since they generally have serious difficulty in adjusting to the new situation;

Whereas a scheme to encourage the early cessation of farming constitutes a measure which would enable such persons to stop farming on reasonable terms by providing them with an adequate income;

Whereas such a measure would not only help to reduce production potential and so aid market stability but also help to improve farm structures by increasing both the size of holdings and the number of potentially viable holdings;

Whereas, if agricultural production is discontinued on the agricultural area concerned, the annual allowance must be supplemented by an annual premium per hectare, particularly if the said area is afforested;

Whereas the disappearance of holdings employing elderly family helpers and elderly paid workers in full-time agricultural work may entail for such persons the loss of their employment and income; whereas they should therefore be provided with a source of income by the grant of an annual allowance;

Whereas the diversity of the causes, nature and gravity of the structural problems in agriculture may call for regional differentiation of solutions, subject to adjustment with the passage of time; whereas a contribution must be made to the overall economic and social development of each region concerned; whereas the best results will be obtained if Member States, using Community criteria, themselves implement the common measure through their own legislative, regulatory and administrative mechanisms;

Whereas all the measures planned are in the interest of the Community and are designed to attain the objectives listed in Article 39 (1) (a) of the Treaty, including the structural changes necessary for the satisfactory functioning of the common market; whereas these measures therefore constitute a common measure within the meaning of Article 6 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy ⁽⁴⁾, as last amended by Regulation (EEC) No 3769/85 ⁽⁵⁾; whereas it is, in addition, advisable to strengthen the Community financing of measures aimed at reducing production potential or to concentrate such financing on weakly structured regions the composite indicator of which, representing the economic and agricultural situation, is less than 85 % of the Community average;

Whereas it is appropriate that, two years after the date on which this Regulation enters into force, an examination be carried out of the way in which the measures in question operate, in particular of the way in which Community financial participation operates;

⁽¹⁾ OJ No C 236, 2. 9. 1987, p. 10.

⁽²⁾ OJ No C 49, 22. 2. 1988, p. 97.

⁽³⁾ OJ No C 319, 30. 11. 1987, p. 32.

⁽⁴⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽⁵⁾ OJ No L 362, 31. 12. 1985, p. 17.

Whereas, since the Community will help to finance the common measure, it must be able to ascertain whether the action taken by the Member States to apply it is consonant with the objectives to be attained; whereas, to this end, a procedure should be introduced for close cooperation between the Member States and the Commission through the agency of the Standing Committee on Agricultural Structures instituted by Article 1 of the Council Decision of 4 December 1962 on the coordination of policies on the structure of agriculture ⁽¹⁾ and involving, in the case of financial matters, consultation of the European Agricultural Guidance and Guarantee Fund Committee, as provided for in Articles 11 to 15 of Regulation (EEC) No 729/70;

Whereas the European Parliament and the Council should be able to examine annually, on the basis of a report to be presented by the Commission, the results obtained from the Community and national measures applied, so that they can assess the need for supplementing or adjusting the arrangements introduced,

HAS ADOPTED THIS REGULATION:

Article 1

With a view to assisting the adjustment and reorganization of agricultural structures and thus helping to restore the balance between production and market outlets, a common measure within the meaning of Article 6 (1) of Regulation (EEC) No 729/70, to be implemented by the Member States, is hereby introduced in order to establish a scheme to encourage the cessation of farming.

Article 2

1. Member States may:

- exclude all or part of their territory from the application of all or some of the measures provided for in Article 3,
- differentiate the application of such measures from one region to another.

2. This Regulation shall not restrict the freedom of Member States to adopt, within the scope of this Regulation, additional aid measures the conditions or terms of which differ from those laid down herein, provided that such measures are adopted in accordance with Articles 92, 93 and 94 of the Treaty.

Article 3

1. The scheme provided for in Article 1 may comprise:

- the grant of an annual allowance to farmers practising farming as their main occupation, subject to the conditions laid down in Articles 4 and 5,
- the grant of a supplementary annual premium per hectare, subject to the conditions laid down in Article 6,
- the grant of an annual allowance to permanent paid agricultural workers and permanent family helpers, subject to the conditions laid down in Article 11.

2. Member States may replace the annual allowances referred to in paragraph 1, depending on the age of the recipient, by the payment of a single lump sum of equivalent effect.

They may also replace the annual allowance referred to in the first indent of paragraph 1 by the supplementary premium per hectare referred to in the second indent of paragraph 1 plus an increment to ensure equivalent effect.

Article 4

1. The annual allowance referred to in the first indent of Article 3 (1) may be granted to farmers who practise farming as their main occupation within the meaning of Article 2 (5) of Council Regulation (EEC) No 797/85 of 12 March 1985 on improving the efficiency of agricultural structures ⁽²⁾, as last amended by Regulation (EEC) No 1137/88 ⁽³⁾, who are over 55 years of age and who permanently cease all farming activities, provided that:

- either agricultural production on the agricultural area of the holding is halted throughout the whole period from the time of cessation of farming to the time when the farmer reaches the normal retirement age as fixed by the social security arrangement currently applicable to farming in the Member State concerned. This period must be not less than five years but for this purpose it may be extended, where appropriate, beyond the normal retirement age.

In the case of leased holdings, Member States may permit up to one-third of the area to be taken over by the owner without the cessation of production on that fraction of the area,

- or the agricultural area of the holding is used to enlarge that of one or more other agricultural holdings the farmer or farmers of which, at latest once the area is increased, practise farming as their main occupation and undertake not to increase production of surplus products on the total area of their holding after enlargement. Surplus products shall be those for which there are, systematically at Community level, no normal non-subsidized outlets.

2. Member States may permit the beneficiaries of the annual allowance to continue to farm up to 10 %, but not

⁽¹⁾ OJ No L 136, 17. 12. 1962, p. 2892/62.

⁽²⁾ JO No L 93, 30. 3. 1985, p. 1.

⁽³⁾ OJ No L 108, 29. 4. 1988, p. 1.

more than 1 hectare of the area of the holding, provided that commercial production is definitively halted.

Article 5

1. 'Cessation of agricultural production' shall be taken to mean:

- either allocation of the agricultural area of the holding to afforestation or to a non-agricultural use compatible with the preservation of the quality of the environment,
- or the halting of agricultural production on the areas of the holding; in this case, the farmer who ceases farming may be required to maintain the agricultural area with a view, in particular, to the preservation of the countryside, provided that all commercial production is discontinued.

2. The cessation of production within the meaning of paragraph 1 may be effected on equivalent agricultural areas of other holdings following an exchange of parcels as a consolidation measure which enables production costs to be reduced or afforestation to proceed in a rational manner.

Article 6

1. The supplementary annual premium per hectare referred to in the second indent of Article 3 (1) shall be granted to beneficiaries meeting the conditions set forth in the first indent of Article 4 (1) and in Article 5, per hectare of agricultural area actually withdrawn from agricultural production.

2. Member States may also lay down rules whereby the premium referred to in paragraph 1 may be paid in whole or in part:

- in the case of a leased holding, to the owners of the agricultural area on which production is discontinued,
- to an agency accepting responsibility for maintenance of the farmland withdrawn from agricultural production.

Article 7

1. If the recipient of the annual allowance referred to in the first indent of Article 4 (1) discontinues milk production, the reference quantities allocated under Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as

last amended by Regulation (EEC) No 773/87 ⁽²⁾, and released under the arrangement referred to in the first indent of Article 4 (1) of this Regulation shall be suspended for the duration of payment of the annual allowance, and for at least five years, unless the recipient of the annual allowance receives compensation for the definitive abandonment of milk production as provided for in Council Regulation (EEC) No 1336/86 of 6 May 1986 fixing compensation for the definitive discontinuation of milk production ⁽³⁾, as last amended by Regulation (EEC) No 776/87 ⁽⁴⁾.

The reference quantities withdrawn pursuant to this Article may not be reallocated for the duration of such suspension.

2. The supplementary annual premium per hectare referred to in the second indent of Article 3 (1) shall not be eligible for a financial contribution from the European Agricultural Guidance and Guarantee Fund (hereinafter referred to as 'the Fund') if it is paid in respect of areas for which a premium for the definitive abandonment of areas under vines is paid pursuant to Council Regulation (EEC) No 777/85 of 26 March 1985 on the granting, for the 1985/86 to 1989/90 wine years, of permanent abandonment premiums in respect of certain areas under vines ⁽⁵⁾, as last amended by Regulation (EEC) No 1135/86 ⁽⁶⁾.

Article 8

Member States shall adopt decisions:

- as regards the age of recipients,
- as regards the use of the areas on which agricultural production is discontinued,
- as regards the amount and duration of the annual allowance, taking into account the age of the recipients and the economic and social situation of agriculture in their country,
- as regards any distribution of the annual allowance between two or more joint farmers,
- as regards the amount and duration of the supplementary premium per hectare, taking into account, in particular, the value of the land in terms of yield and the cost of its maintenance as referred to in the second indent of Article 5 (1),
- as regards the procedures for providing proof making it possible to ascertain that the condition referred to in the second indent of Article 4 (1) concerning non-increased production is complied with.

⁽²⁾ OJ No L 78, 20. 3. 1987, p. 1.

⁽³⁾ OJ No L 119, 8. 5. 1986, p. 21.

⁽⁴⁾ OJ No L 78, 20. 3. 1987, p. 8.

⁽¹⁾ OJ No L 88, 28. 3. 1985, p. 8.

⁽²⁾ OJ No L 103, 19. 4. 1986, p. 32.

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

Article 9

1. The Fund shall contribute, as provided in paragraph 2, towards the expenditure incurred by Member States pursuant to the first indent of Article 4 (1) and Article 6, within the following limits:

- the maximum eligible amount of the allowance shall be 3 000 ECU per year per holding. The Member States may distribute the annual allowance among two or more joint farmers where all such farmers simultaneously satisfy the conditions laid down in the first subparagraph of Article 4 (1). Where appropriate, assistance from the Fund shall be limited to the amount of the annual allowance supplementing the retirement pension paid to the recipient under the national social security arrangements,
- a maximum duration of 10 years but not beyond the recipient's 70th birthday,
- the maximum eligible amount of the supplementary premium shall be 250 ECU per hectare per year for the period during which agricultural production is actually discontinued on the area concerned, provided that the said period does not exceed that specified in the second indent.

If the agricultural area farmed by the recipient of the supplementary premium per hectare undergoes afforestation, the period of eligibility for the premium shall be extended to a maximum of 20 years and, in the case of farmers who do not qualify for the allowance referred to in Article 15 (3) of Regulation (EEC) No 797/85, the eligible amount shall be increased by a maximum of 50 ECU per hectare per year,

- the maximum eligible amount shall be 350 ECU per hectare per year or, in the case of afforestation, 400 ECU per hectare per year if the annual allowance is replaced by the supplementary premium per hectare. However, the maximum eligible amount resulting from the increase in the premium may not exceed the maximum amount of the annual allowance referred to in the first indent.
2. The Fund shall reimburse to the Member States 50 % of the eligible expenditure referred to in paragraph 1.

Article 10

1. The Fund shall contribute, as provided in paragraphs 2 and 3, towards the expenditure incurred by Member States in applying the scheme referred to in the second indent of Article 4 (1), subject to the following limits and conditions:

- the maximum eligible amount of the annual allowance shall be 3 000 ECU per year per holding. The Member States may distribute the annual allowance among two or more joint farmers where all such farmers simultaneously satisfy the requirements referred to in the first indent of Article 4 (1). Where appropriate, assistance from the Fund shall be limited to the amount of the annual allowance granted supplementing the retirement pension paid to the recipients under the national social security arrangements,

- the allowance shall be paid for a maximum duration of 10 years but not beyond the recipient's 70th birthday.

2. To determine the Community contribution to eligible expenditure, a Community list classifying the regions of the Community shall be adopted according to the procedure laid down in Article 14, by category.

This list shall be established on the basis of a composite indicator weighted as follows:

- (a) 75 %, the level of economic development measured by the indicator of the gross domestic product per inhabitant; and
- (b) 25 %, the share of agriculture in total employment, measured by the number of non-agricultural working persons as a ratio of total employment.

3. The Fund shall reimburse eligible expenditure to Member States, according to the category of the region in which the relevant abandoned holding is located, on the basis of the following percentages:

- 50 % where the regional composite indicator is less than 75 % of the Community indicator,
- 25 % where the regional composite indicator is equal to or more than 75 % but less than 85 % of the Community indicator.

Article 11

1. Member States may grant an annual allowance to permanent paid workers and permanent family workers aged between 55 and the normal age of retirement fixed for the agricultural sector under the social security arrangements of the Member State concerned:

- who have been engaged in agricultural work for at least five years before lodging an application and who have spent at least 50 % of their working time in agricultural work during this period,
- who have been engaged in agricultural work on the holding for which the farmer receives the annual allowance pursuant to Article 3 for at least the last two years before the application was lodged,
- who are covered by the social security arrangements,
- who undertake not to engage in any further agricultural work.

2. Member States shall determine the amount of the annual allowance taking due account, *inter alia*, of the economic and social situation of agriculture in their country and of that of the recipients. Member States may replace this allowance by a single lump-sum payment of equivalent effect.

3. The Fund shall contribute, as provided in paragraph 4, towards the expenditure incurred by Member States in applying the scheme referred to in paragraph 1:

- where the scheme applied to the abandoned farm is eligible under the terms of Articles 9 or 10,
- up to a maximum eligible amount of the allowance of 2 000 ECU per year for a paid worker or a family helper,
- provided that at most two allowances are paid per farm,
- subject to a maximum duration of 10 years, but not exceeding the normal age of retirement referred to in paragraph 1.

4. The Fund shall refund to the Member States:

- 50 % of eligible expenditure in the cases referred to in Article 9,
- in the cases referred to in Article 10:
 - 50 % of eligible expenditure in the areas referred to in the first indent of Article 10 (3),
 - 25 % of eligible expenditure in the areas referred to in the second indent of Article 10 (3).

Article 12

1. The estimated period of time required for carrying out the common measure shall be 10 years.

2. Two years after the entry into force of this Regulation, the detailed rules for its application and, in particular, the financial aspects shall be reviewed by the Council, on a proposal from the Commission.

3. The Fund's total contribution to the cost of the common measure is estimated at 465 million ECU for the first five years.

Article 13

1. The Member States shall forward to the Commission:

- drafts of all laws, regulations or administrative provisions which they propose to adopt pursuant to this Regulation,
- the text of any existing provisions which may make it possible to implement this Regulation.

2. When submitting, pursuant to paragraph 1, drafts of laws, regulations or administrative provisions or the text of existing provisions, the Member States shall also submit an explanatory memorandum showing the relationship at regional level between the measures in question and

economic and structural conditions in the agricultural sector together with proof that the measures are in keeping with the aim that stimulation of agricultural production through aid granted under this Regulation should be avoided.

3. The Commission shall examine drafts forwarded in accordance with the first indent of paragraph 1 for the purpose of determining whether, having regard to the objectives of this Regulation and to the need for a proper connection between the various measures, such drafts comply with the Regulation and thus satisfy the conditions for a financial contribution by the Community to the common measure referred to in Article 1. Within two months of the receipt of any draft, the Commission shall, after consulting the Standing Committee on Agricultural Structures, hereinafter referred to as 'the Committee', issue an opinion thereon.

4. Member States shall, on enactment of any law, regulation or administrative provision as referred to in paragraph 3, forward the text thereof to the Commission.

Article 14

1. With regard to provisions the texts of which are forwarded pursuant to the second indent of Article 13 (1) or to Article 13 (4), the Commission shall examine whether, having regard to the objectives of this Regulation and to the need for a proper connection between the various measures, such provisions satisfy the conditions for a financial contribution by the Community to the common measure referred to in Article 1. Within two months of the receipt of any text, the Commission representative shall, after consulting the Fund Committee on the financial aspects, submit a draft Decision thereon to the Committee.

2. The Committee shall issue its opinion within a time limit to be fixed by its Chairman according to the urgency of the matters for examination. It shall decide by a majority of 54 votes, the votes of Member States being weighted as laid down in Article 148 (2) of the Treaty. The Chairman shall not vote.

3. The Commission shall adopt the Decision. However, if the Decision is not in accordance with the opinion issued by the Committee, it shall immediately be communicated to the Council. In that event, the Commission may defer application of the Decision for a period not exceeding one month from the date of its communication.

The Council, voting as provided for in Article 43 (2) of the Treaty, may adopt a different Decision within one month.

Article 15

1. Measures taken by Member States shall not be eligible for a financial contribution from the Community unless a

favourable Decision under Article 14 has been taken in respect of the provisions relating thereto.

2. The financial contribution from the Community shall be provided only in respect of eligible expenditure arising in connection with aid granted pursuant to decisions taken after the date on which this Regulation enters into force.

Article 16

Detailed rules for the application of Articles 9 (2), 10 (3) and 11 (4) shall be adopted in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 17

1. Applications for reimbursement shall relate to expenditure incurred by Member States in the course of a given calendar year and shall be submitted to the Commission before 1 July of the following year.

2. The grant of aid from the Fund shall be decided on in accordance with Article 7 (1) of Regulation (EEC) No 729/70.

3. Payments on account may be authorized by the Commission.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 18

Before 1 August each year, the Community and national measures in force relating to this Regulation shall be examined in the context of an annual report which the Commission shall present to the European Parliament and the Council and for which Member States shall send all necessary documentation to the Commission.

The Council shall evaluate the results of such measures, taking into consideration the rate of structural development required to achieve the objectives of the common agricultural policy, the effect on the production objectives of the Community and on the harmonious development of the regions of the Community, and the financial implications of the measures in question.

If necessary, the Council shall, in accordance with the procedure laid down in Article 43 of the Treaty, adopt appropriate provisions.

Article 19

This Regulation shall enter into force on the third day following that 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 Luxembourg, 25 April 1988.

For the Council

The President

H.-D. GENSCHER

COUNCIL REGULATION (EEC) No 1097/88

of 25 April 1988

amending Regulation (EEC) No 2727/75 on the common organization of the market in cereals

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

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

Whereas, in view of the growing imbalance in the Community between supply and demand in cereals, certain measures to restore sound conditions in the sector in question were introduced by Regulation (EEC) No 2727/75 ⁽³⁾, as last amended by Regulation (EEC) No 3989/87 ⁽⁴⁾; whereas those measures involve in particular the introduction of a co-responsibility levy determined on the basis of the various factors which will enable a definition to be given of that production which requires financial support in order to ensure its disposal and allow an assessment to be made of the resulting charges on the budget, furthermore bearing in mind imports of cereal substitute products on the Community market;

Whereas those measures are not however liable to be sufficient to control production, the increase of which may lead to an uncontrollable rise in expenditure; whereas better control of production could be achieved by fixing a maximum guaranteed quantity above which certain measures to stabilize the market in cereals and thereby to curb expenditure in the sector in question are taken; whereas, to that end, an additional co-responsibility levy should be introduced to be collected provisionally at the beginning of the marketing year and full or partial reimbursement of which will be decided as the case may be, after it is established that the maximum guaranteed quantity has not been exceeded or that the amount by which it has been exceeded is lower than a certain percentage; whereas, in order to simplify administration, provision should be made of the possibility of fixing a minimum amount below which reimbursement will not be made; whereas, moreover, where the maximum guaranteed quantity is exceeded in a marketing year, account should be taken of this for the fixing of intervention prices for the following marketing year;

Whereas the maximum guaranteed quantity must be established so that it reflects the Community's total cereal requirements;

Whereas, in view of the difficulties arising in the application of the co-responsibility levy arrangements provided for in Article 4 of Regulation (EEC) No 2727/75, provision should be made for that levy and the additional levy to be collected throughout the Community at the time of placing on the market or of sale to intervention by producers;

Whereas there are grounds for laying down the principle of exempting small producers from the co-responsibility levy, and the additional co-responsibility levy, whereas it will be for the Council to adopt, before the beginning of the 1988/89 marketing year, the conditions for implementing such an exemption;

Whereas under the set-aside scheme for arable land introduced by Council Regulation (EEC) No 797/85 of 12 March 1985 on improving the efficiency of agricultural structures ⁽⁵⁾, as last amended by Regulation (EEC) No 1137/88 ⁽⁶⁾, there is provision for exemption from the co-responsibility levy for those producers undertaking to set aside at least 30 % of their arable land under that programme; whereas that exemption is limited to 20 tonnes of marketed cereals; whereas, on monitoring grounds, such exemption should be effected in the form of a reimbursement;

Whereas, in view of the particular nature of the cereal seed sector, it seems appropriate to exempt that sector from the co-responsibility levy in order to maintain production of certified seed at the present level; whereas, however, such exemption must be restricted to certified seed;

Whereas, moreover, in view of the early nature of harvests in the southern regions of the Community, difficulties may arise in the application of the measures contemplated; whereas that situation may be remedied by providing that the measures in question are to apply in those Member States during the period from 1 June to 31 May;

Whereas Article 8 of Regulation (EEC) No 2727/75 provides for the possibility of taking special intervention measures, the aim being to support the market in certain regions, should the situation so dictate; whereas the early nature of harvests may create conditions justifying the application of such measures;

Whereas the measures provided for in this Regulation shall apply to Portugal from the beginning of the second stage of the transitional period laid down in the Act of Accession to the European Communities,

⁽¹⁾ OJ No C 84, 31, 3. 1988, p. 27.

⁽²⁾ Opinion delivered on 14 April 1988 (not yet published in the Official Journal).

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽⁴⁾ OJ No L 377, 31. 12. 1987, p. 1.

⁽⁵⁾ OJ No L 93, 30. 3. 1985, p. 1.

⁽⁶⁾ OJ No L 108, 29. 4. 1988, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2727/75 is amended as follows:

1. Article 4 is replaced by the following:

'Article 4

1. A co-responsibility levy shall be payable by producers in respect of the cereals referred to in Article 1 (a) and (b) which are produced in the Community and placed on the market or sold to an intervention agency pursuant to Articles 7 and 8. These arrangements shall apply for the 1988/89 to 1991/92 marketing years.

However, the following shall be exempted from the co-responsibility levy:

- small producers on conditions that the Council will adopt on a proposal from the Commission by a qualified majority before the beginning of the 1988/89 marketing year,
- producers who meet the conditions laid down in Article 1a (6) of Regulation (EEC) No 797/85 in the form of reimbursement,
- cereal seed, for quantities of seed certified within the meaning of Directive 66/402/EEC (*), under conditions to be adopted in accordance with the procedure laid down in paragraph 5 of this Article.

2. The amount, per unit, of the levy shall be fixed annually before the beginning of the marketing year, in accordance with the procedure laid down in Article 43 (2) of the Treaty.

3. When the amount of the co-responsibility levy is determined, account shall be taken of imports into the Community of the products listed in Annex D.

4. The levy provided for in this Article shall be regarded as forming part of the intervention measures designed to stabilize agricultural markets and shall be allocated to the financing of expenditure in the cereals sector.

5. Detailed rules for the application of this Article, and in particular the definition of placing on the market, and the necessary transitional measures shall be adopted in accordance with the procedure laid down in Article 26.

6. The Commission shall consult with trade interests on the use of the product of the levy.

7. For the purposes of applying this Article, for cereals other than maize and grain sorghum, produced in Italy, Greece, Spain and Portugal, 'marketing year' shall mean the period from 1 June to 31 May.

(*) OJ No 125, 11. 7. 1966, p. 2309/66.'

2. The following Article is inserted:

'Article 4b

1. When the prices provided for in Article 3 (1) are fixed, the Council shall fix, in accordance with the same procedure, for a period of three marketing years a maximum guaranteed quantity for all the cereals referred to in Article 1 (a) and (b). For the fixing of that quantity, account shall be taken of the overall consumption of cereals in the Community and of imports of the products listed in Annex D. However, for the 1988/89, 1989/90, 1990/91 and 1991/92 marketing years, the maximum guaranteed quantity shall be fixed at 160 million tonnes.

2. For each marketing year of the period referred to in Article 4 (1), an additional co-responsibility levy shall be payable by producers. That additional levy shall be equal to 3 % of the intervention price applicable to common wheat of breadmaking quality at the beginning of the marketing year in question. The provisions of Article 4 (1), (4), (6) and (7) shall apply to that additional levy. Where cereal production in a marketing year is equal to or less than the maximum guaranteed quantity fixed for that marketing year, the additional levy shall be reimbursed in full to producers. Where the amount by which the maximum guaranteed quantity exceeded is less than 3 %, the additional levy shall be reimbursed in part. That reimbursement shall correspond to the difference between the additional levy paid and that resulting from the recorded amount by which the maximum guaranteed quantity is exceeded.

However, in accordance with the procedure laid down in Article 26, a minimum amount may be set, below which no reimbursement is made.

3. If the cereal production in a marketing year exceeds the maximum guaranteed quantity fixed for that marketing year, the intervention prices for the following marketing year shall be reduced by 3 %. This reduction shall be made by the Commission each year before the marketing year begins.

In such cases, the Council, acting by a qualified majority on a proposal from the Commission, shall adjust the target prices in accordance with the rules on derivation laid down in Article 3 (4).

4. For the purposes of applying this Article, the Commission shall establish each year before 1 March whether or not the cereal production from the current marketing year has exceeded the maximum guaranteed quantity fixed for that marketing year.

5. Detailed rules for the application of this Article and in particular the amount of the additional levy shall be adopted in accordance with the procedure laid down in Article 26.'

3. Article 8 (1) is replaced by the following:

Article 2

'1. Where the market situation in certain Community regions so dictates, taking into account, *inter alia*, the early nature of the harvest, special intervention measures may be decided on.'

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

It shall apply with effect from the 1988/89 marketing year.

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

Done at Luxembourg, 25 April 1988.

For the Council

The President

H.-D. GENSCHER

COUNCIL REGULATION (EEC) No 1098/88

of 25 April 1988

amending Regulation No 136/66/EEC on the establishment of a common organization of the market in oils and fats

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

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

Whereas, for rape seed on the one hand and for sunflower seed on the other, it is advisable to set the maximum guaranteed quantity at one and the same time for 1988/89, 1989/90 and 1990/91; whereas, for the purposes of the system of maximum guaranteed quantities, it is advisable to estimate production after the beginning of the marketing year in order to make the estimates concerned more accurate; whereas Article 27a of Regulation (EEC) No 136/66/EEC ⁽³⁾, as last amended by Regulation (EEC) No 3994/87 ⁽⁴⁾, should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Article 27a of Regulation (EEC) No 136/66/EEC is hereby amended as follows:

1. Paragraph 1 is replaced by the following:

'1. The Council, acting in accordance with the procedure laid down in Article 43 (2) of the Treaty, shall

fix, for periods of three marketing years, and beginning with the 1988/89, 1989/90 and 1990/91 marketing years, maximum guaranteed quantities for Community colza and rape seed and Community sunflower seed.'

2. Paragraph 3 is replaced by the following:

'3. Where the estimate of rape or sunflower seed production made before the end of the second month of the marketing year exceeds the maximum guaranteed quantity for the seed concerned and for the marketing year in question, the amount of the aid for that marketing year shall be reduced by the incidence on the target price of a coefficient which reflects the extent of the difference.

Where application of the foregoing subparagraph to actual production instead of to the production estimated at the beginning of the marketing year would result in a different reduction in the amount of the aid from that actually applied, the amount of aid for the following marketing year shall be adjusted to take account of that situation.'

Article 2

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

It shall apply to rape seed from 1 July 1988 and to sunflower seed from 1 August 1988.

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

Done at Luxembourg, 25 April 1988.

For the Council
The President
H.-D. GENSCHER

⁽¹⁾ OJ No C 84, 31. 3. 1988, p. 10.

⁽²⁾ Opinion delivered on 14 April 1988 (not yet published in the Official Journal).

⁽³⁾ OJ No 172, 30. 9. 1966, p. 3025/66.

⁽⁴⁾ OJ No L 377, 31. 12. 1987, p. 31.

COUNCIL REGULATION (EEC) No 1099/88

of 25 April 1988

amending Regulation (EEC) No 1594/83 on the subsidy for oil seeds

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 1098/88⁽²⁾, and in particular Article 27a (5) thereof,

Having regard to the proposal from the Commission⁽³⁾,

Whereas the coefficient referred to in Article 27a (3) of Regulation No 136/66/EEC should be adjusted in order to establish the reduction in the subsidy for rape and sunflower seed which arises from the application of the system of maximum guaranteed quantities; whereas the rules for determining this coefficient should appear in Regulation (EEC) No 1594/83⁽⁴⁾, as last amended by Regulation (EEC) No 2132/87⁽⁵⁾;

Whereas, in certain circumstances, the amount of the subsidy can be established only on a provisional basis; whereas, before the subsidy can be paid, these provisional amounts must be replaced by amounts which have been finalized,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1594/83 is hereby amended as follows:

1. Article 1 (2) is replaced by the following:

'2. The coefficient referred to in Article 27a (3) of Regulation No 136/66/EEC shall be equal:

- for the 1988/89 marketing year: to 0,45 %,
- for subsequent marketing years: to 0,50 %,

for each production tranche of 1 % of the maximum guaranteed quantity which, over and above the said quantity, is attained by the estimated production.'

2. Article 1 (3) is repealed.

3. The first subparagraph of Article 10 (2) is replaced by the following:

'2. The subsidy shall be paid to the holder of the "identification" part of the certificate referred to in Article 4, in the Member State in which the seeds are placed under control, provided that the amount of the subsidy has been finalized and:

- in the case of the seeds referred to in 1 (a), provided that proof of processing has been furnished,
- in the case of the seeds referred to in 1 (b), provided that proof of incorporation has been furnished.'

Article 2

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

It shall apply to rape seed as from 1 July 1988 and to sunflower seed as from 1 August 1988.

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

Done at Luxembourg, 25 April 1988.

For the Council

The President

H.-D. GENSCHER

⁽¹⁾ OJ No 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ See page 10 of this Official Journal.

⁽³⁾ OJ No C 84, 31. 3. 1988, p. 13.

⁽⁴⁾ OJ No L 163, 22. 6. 1983, p. 44.

⁽⁵⁾ OJ No L 200, 21. 7. 1987, p. 1.

COUNCIL REGULATION (EEC) No 1100/88

of 25 April 1988

fixing, for the 1988/89, 1989/90 and 1990/91 marketing years, the maximum guaranteed quantities for rape seed and sunflower seed

THE COUNCIL 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, and in particular Article 89 (1) and Article 234 (2) thereof,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the common organization of the market in oils and fats ⁽¹⁾, as last amended by Regulation (EEC) No 1098/88 ⁽²⁾, and in particular Article 27a (1) thereof,

Having regard to the proposal from the Commission ⁽³⁾,

Having regard to the opinion of the European Parliament ⁽⁴⁾,

Whereas, in accordance with Article 27a of Regulation No 136/66/EEC, maximum guaranteed quantities are to be laid down for rape seed and sunflower seed;

Whereas, in view of the medium-term outlook, production levels in recent years and the foreseeable trend in demand, the maximum guaranteed quantities for the 1988/89, 1989/90 and 1990/91 marketing years should be fixed;

Whereas, pursuant to Article 96 and 294 of the Act of Accession, as adjusted by Regulation (EEC) No 1455/86 ⁽⁵⁾, maximum guaranteed quantities are to be fixed specifically for Spain and Portugal,

HAS ADOPTED THIS REGULATION:

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

Done at Luxembourg, 25 April 1988.

Article 1

For each of the marketing years 1988/89, 1989/90 and 1990/91, the maximum guaranteed quantities referred to in Article 27a of Regulation No 136/66/EEC are hereby fixed:

- (a) for rape seed, at:
- 4 500 000 tonnes for the Community as constituted on 31 December 1985,
 - 12 900 tonnes for Spain,
 - 1 300 tonnes for Portugal;
- (b) for sunflower seed, at:
- 2 000 000 tonnes for the Community as constituted on 31 December 1985,
 - 1 411 800 tonnes for Spain,
 - 63 600 tonnes for Portugal for the 1988/89 marketing year,
 - 75 700 tonnes for Portugal for the 1989/90 marketing year,
 - 90 000 tonnes for Portugal for the 1990/91 marketing year.

Article 2

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

It shall apply:

- with effect from 1 July 1988 as regards rape seed,
- with effect from 1 August 1988 as regards sunflower seed.

For the Council

The President

H.-D. GENSCHER

⁽¹⁾ OJ No 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ See page 10 of this Official Journal.

⁽³⁾ OJ No C 84, 31. 3. 1988, p. 16.

⁽⁴⁾ Opinion delivered on 14 April 1988 (not yet published in the Official Journal).

⁽⁵⁾ OJ No L 133, 21. 5. 1986, p. 10.

COUNCIL REGULATION (EEC) No 1101/88

of 25 April 1988

amending Regulation (EEC) No 1491/85 laying down special measures in respect of soya beans

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

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

Whereas, in the case of soya beans, it is advisable to set the same maximum guaranteed quantity for each of the three 1988/89, 1989/90 and 1990/91 marketing years; whereas, for the purposes of the system of maximum guaranteed quantities, it is advisable to estimate production after the beginning of the marketing year in order to make the estimates more accurate; whereas Article 3a of Regulation (EEC) No 1491/85 ⁽³⁾, as last amended by Regulation (EEC) No 4002/87 ⁽⁴⁾, should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Article 3a of Regulation (EEC) No 1491/85 is hereby amended as follows:

1. Paragraph 1 is replaced by the following:

'1. The Council, acting in accordance with the procedure laid down in Article 43 (2) of the Treaty, shall fix for periods of three marketing years, and for the first time for the 1988/89, 1989/90 and 1990/91 marketing years, a maximum guaranteed quantity for soya beans produced in the Community.'

2. Paragraph 3 is replaced by the following:

'3. Where the production of soya beans, as estimated before the end of the second month of the marketing year, exceeds the maximum guaranteed quantity for the beans concerned and for the marketing year in question, the amount of the aid for that marketing year shall be reduced by the incidence on the guide price of a coefficient which reflects the extent of the difference.'

Where the first subparagraph, when applied to actual production instead of estimated production at the beginning of the marketing year, would lead to a different reduction in the amount of the aid than that actually applied, the amount of aid for the following marketing year shall be adjusted to take account of that situation.'

Article 2

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

It shall apply with effect from 1 September 1988.

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

Done at Luxembourg, 25 April 1988.

For the Council

The President

H.-D. GENSCHER

⁽¹⁾ OJ No C 84, 31. 3. 1988, p. 11.

⁽²⁾ Opinion delivered on 14 April 1988 (not yet published in the Official Journal).

⁽³⁾ OJ No L 151, 10. 6. 1985, p. 15.

⁽⁴⁾ OJ No L 377, 31. 12. 1987, p. 45.

COUNCIL REGULATION (EEC) No 1102/88

of 25 April 1988

amending Regulation (EEC) No 2194/85 adopting general rules concerning special measures
for soya beans

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,Having regard to Council Regulation (EEC) No 1491/85 of
23 May 1985, laying down special measures in respect of
soya beans ⁽¹⁾, as last amended by Regulation (EEC) No
1101/88 ⁽²⁾, and in particular Article 3a (5) thereof,Having regard to the proposal from the Commission ⁽³⁾,Whereas the coefficient referred to in Article 3a (3) of
Regulation (EEC) No 1491/85 should be adjusted in order
to establish the reduction in the aid for soya beans which
arises from the application of the system of maximum
guaranteed quantities; whereas the rules for determining
this coefficient are laid down in Regulation (EEC) No
2194/85 ⁽⁴⁾, as last amended by Regulation (EEC) No
2809/87 ⁽⁵⁾;Whereas, in certain circumstances, the amount of the aid can
be established only on a provisional basis; whereas the
provisional amounts must be finalized before the aid is
paid,

HAS ADOPTED THIS REGULATION:

*Article 1*Regulation (EEC) No 2194/85 is hereby amended as
follows:This Regulation shall be binding in its entirety and directly applicable in all Member
States.

Done at Luxembourg, 25 April 1988.

1. Article 1a is replaced by the following:

*'Article 1a*The coefficient referred to in Article 3a (3) of Regulation
(EEC) No 1491/85 shall be equal:

- for the 1988/89 marketing year: to 0,45 %,
- for subsequent marketing years: to 0,50 %,

for each production tranche of 1 % of the maximum
guaranteed quantity which, over and above the said
quantity, is attained by the estimated production.'2. In Article 3, the first subparagraph is replaced by the
following:'The aid shall be paid to the first purchaser once the
amount thereof has been finalized and after verification
that the beans have either:

- (a) where the first purchaser is the processor, been
processed in the Community for the production of
oil or for other uses in food for human consumption
or animal feedingstuffs; or
- (b) where the first purchaser is someone other than the
processor, been sold or delivered to a processor in
the Community for the production of oil or for other
uses in food for human consumption or animal
feedingstuffs.'

*Article 2*This Regulation shall enter into force on the day of its
publication in the *Official Journal of the European
Communities*.

It shall apply with effect from 1 September 1988.

*For the Council**The President*

H.-D. GENSCHER

⁽¹⁾ OJ No L 151, 10. 6. 1985, p. 15.⁽²⁾ See page 13 of this Official Journal.⁽³⁾ OJ No C 84, 31. 3. 1988, p. 14.⁽⁴⁾ OJ No L 204, 2. 8. 1985, p. 1.⁽⁵⁾ OJ No L 268, 19. 9. 1987, p. 62.

COUNCIL REGULATION (EEC) No 1103/88

of 25 April 1988

fixing, for the 1988/89, 1989/90 and 1990/91 marketing years, the maximum guaranteed quantity for soya beans

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1491/85 of 23 May 1985 laying down special measures in respect of soya beans ⁽¹⁾, as last amended by Regulation (EEC) No 1101/88 ⁽²⁾, and in particular Article 3a (1) thereof,

Having regard to the proposal from the Commission ⁽³⁾,

Having regard to the opinion of the European Parliament ⁽⁴⁾,

Whereas, in accordance with Article 3a of Regulation (EEC) No 1491/85, a maximum guaranteed quantity is to be fixed for soya beans;

Whereas, in view of the medium-term outlook, production levels in recent years and the foreseeable trend in demand, the

maximum guaranteed quantity for the 1988/89, 1989/90 and 1990/91 marketing years should be fixed,

HAS ADOPTED THIS REGULATION:

Article 1

For each of the marketing years 1988/89, 1989/90 and 1990/91, the maximum guaranteed quantity referred to in Article 3a of Regulation (EEC) No 1491/85 is hereby fixed at 1 300 000 tonnes.

Article 2

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

It shall apply with effect from 1 September 1988.

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

Done at Luxembourg, 25 April 1988.

For the Council

The President

H.-D. GENSCHER

⁽¹⁾ OJ No L 151, 10. 6. 1985, p. 15.

⁽²⁾ See page 13 of this Official Journal.

⁽³⁾ OJ No C 84, 31. 3. 1988, p. 17.

⁽⁴⁾ Opinion delivered on 14 April 1988 (not yet published in the Official Journal).

COUNCIL REGULATION (EEC) No 1104/88

of 25 April 1988

amending Regulation (EEC) No 1431/82 laying down special measures for peas, field beans and sweet lupins

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

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

Whereas there has in recent years been an exceptionally sharp increase in the Community's production of peas, field beans and sweet lupins; whereas it is advisable that production should grow at a more moderate and steady pace; whereas to this end a system should be introduced whereby, if production exceeds a given maximum guaranteed quantity, the aid and the minimum price are reduced by an amount related to the difference between production and the said maximum guaranteed quantity; whereas Regulation (EEC) No 1431/82 ⁽³⁾, as last amended by Regulation (EEC) No 4004/87 ⁽⁴⁾, should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The following Article is inserted in Regulation (EEC) No 1431/82:

'Article 3a

1. The Council, acting in accordance with the procedure provided for in Article 43 (2) of the Treaty, shall fix, for periods of three marketing years, and for the first time for the 1988/89, 1989/90 and 1990/91 marketing years, a maximum guaranteed quantity for Community-grown peas, field beans and sweet lupins taken together, as referred to in Article 1.

The maximum guaranteed quantity shall be fixed in the light of production during a reference period and the foreseeable trend in demand.

3. Where the production of peas, field beans and sweet lupins, as estimated before the end of the second month of the marketing year, exceeds the maximum guaranteed quantity for the marketing year in question, the amount of the aid for that marketing year shall be reduced:

- in the case of peas and field beans, by the incidence of a coefficient reflecting such excess on the guide price for those products,
- in the case of sweet lupins, by the incidence of a coefficient reflecting such excess on the minimum price for those products plus the difference between the guide price and the minimum price for peas.

In cases where the first paragraph, had it been applied to the actual level of production instead of to the estimate of that production as made at the beginning of the marketing year, would have resulted in a different reduction in the amount of the aid, the amount of aid for the following marketing year shall be adjusted accordingly.

4. In cases where paragraph 3 is applied, the minimum price shall be adjusted by the same amount as the aid.

5. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt the rules for calculating the coefficient referred to in the first subparagraph of paragraph 3.

6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 12 of Regulation (EEC) No 1117/78.'

Article 2

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

⁽¹⁾ OJ No C 84, 31. 3. 1988, p. 12.

⁽²⁾ Opinion delivered on 14 April 1988 (not yet published in the Official Journal).

⁽³⁾ OJ No L 162, 12. 6. 1982, p. 28.

⁽⁴⁾ OJ No L 377, 31. 12. 1987, p. 47.

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

Done at Luxembourg, 25 April 1988.

For the Council
The President
H.-D. GENSCHER

COUNCIL REGULATION (EEC) No 1105/88

of 25 April 1988

amending Regulation (EEC) No 2036/82 adopting general rules concerning special measures
for peas, field beans and sweet lupins

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation (EEC) No 1431/82 of
18 May 1982 laying down special measures for peas, field
beans and sweet lupins ⁽¹⁾, as last amended by Regulation
(EEC) No 1104/88 ⁽²⁾, and in particular Article 3a (5)
thereof,

Having regard to the proposal from the Commission ⁽³⁾,

Whereas the coefficient referred to in Article 3a (3) of
Regulation (EEC) No 1431/82 should be determined in
order to establish the reduction of the aid for peas, field beans
and sweet lupins which arises from the application of the
system of maximum guaranteed quantities; whereas the rules
for determining this coefficient should be incorporated into
Regulation (EEC) No 2036/82 ⁽⁴⁾, as last amended by
Regulation (EEC) No 3527/86 ⁽⁵⁾;

Whereas, in certain circumstances, the amount of the aid can
be established only on a provisional basis; whereas the
amount must be finalized before the aid is paid,

Article 1

Regulation (EEC) No 2036/82 is hereby amended as
follows:

1. The following Article is inserted:

'Article 3b

The coefficient referred to in Article 3a (3) of Regulation
(EEC) No 1431/82 shall be equal:

- for the 1988/89 marketing year: 0,45 %,
- for subsequent marketing years: to 0,50 %,

for each production tranche of 1 % of the maximum
guaranteed quantity which, over and above the said
quantity, is attained by the estimated production.'

2. In Article 10, the following subparagraph is added:

'The aid shall be paid once the amount thereof has been
finalized.'

Article 2

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

It shall apply with effect from 1 July 1988.

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

Done at Luxembourg, 25 April 1988.

For the Council

The President

H.-D. GENSCHER

⁽¹⁾ OJ No L 162, 12. 6. 1982, p. 28.

⁽²⁾ See page 16 of this Official Journal.

⁽³⁾ OJ No C 84, 31. 3. 1988, p. 15.

⁽⁴⁾ OJ No L 219, 28. 7. 1982, p. 1.

⁽⁵⁾ OJ No L 326, 21. 11. 1986, p. 1.

COUNCIL REGULATION (EEC) No 1106/88

of 25 April 1988

fixing, for the 1988/89, 1989/90 and 1990/91 marketing years, the maximum guaranteed quantity for peas, field beans and sweet lupins

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1431/82 of 18 May 1982 laying down special measures for peas, field beans and sweet lupins ⁽¹⁾, as last amended by Regulation (EEC) No 1104/88 ⁽²⁾, and in particular Article 3a (1) thereof,

Having regard to the proposal from the Commission ⁽³⁾,

Having regard to the opinion of the European Parliament ⁽⁴⁾,

Whereas, in accordance with Article 3a of Regulation (EEC) No 1431/82, a maximum guaranteed quantity is to be fixed for peas, field beans and sweet lupins;

Whereas, in view of the medium-term outlook and production levels in recent years, the maximum guaranteed

quantity for the 1988/89, 1989/90 and 1990/91 marketing years should be fixed,

HAS ADOPTED THIS REGULATION:

Article 1

For each of the marketing years 1988/89, 1989/90 and 1990/91, the maximum guaranteed quantity referred to in Article 3a of Regulation (EEC) No 1431/82 is hereby fixed at 3 500 000 tonnes.

Article 2

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

It shall apply with effect from 1 July 1988.

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

Done at Luxembourg, 25 April 1988.

For the Council

The President

H.-D. GENSCHER

⁽¹⁾ OJ No L 162, 12. 6. 1982, p. 28.

⁽²⁾ See page 16 of this Official Journal.

⁽³⁾ OJ No C 84, 31. 3. 1988, p. 17.

⁽⁴⁾ Opinion delivered on 14 April 1988 (not yet published in the Official Journal).

COUNCIL REGULATION (EEC) No 1107/88

of 25 April 1988

amending Regulation (EEC) No 1785/81 on the common organization of the markets in the sugar sector

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

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

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Whereas, according to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽³⁾ as last amended by Regulation (EEC) No 3993/87 ⁽⁴⁾, certain sugars containing added substances other than colouring and flavoured agents must be treated as raw sugars; whereas, because of their very nature, sugars containing those added substances should not be treated differently from flavoured or coloured sugars; whereas, moreover, to avoid customs difficulties when such products are traded and so ensure better administration of the customs nomenclature, sugars containing the added substances in question should, for these purposes, be treated as flavoured or coloured sugars;

Whereas the processing of sugar cane in Spain is, in volume terms, a marginal industry which, before that State's accession to the Community, survived thanks to related activities dependent on the State-trading arrangements for importing molasses and distillates used in the manufacture of rum; whereas those related activities had to cease because of accession; whereas, until crops to replace sugar cane can be grown in the areas where it is currently produced, certain adjustments should be provided for; whereas the quantities of sugar involved are not very large and, since they are marketed very swiftly, tend not to remain in storage; whereas the compensation system for storage costs should, accordingly, be applied progressively to this sugar from the 1988/89 marketing year until the end of the period covered by the system for the alignment of sugar prices which is provided for in the Treaty of the Accession of Spain to the Community;

Whereas the growing of sugar beet and the sugar beet processing industry are of great social and economic

importance to the autonomous region of the Azores; whereas the intervention price for white sugar for Portugal applies to both mainland Portugal and the autonomous region of the Azores; whereas, however, this price, which is determined according to rules agreed during the accession negotiations, was initially calculated with reference to the average of the ex-factory prices for mainland refineries and to the derived intervention price for white sugar in the United Kingdom, on which price it must be aligned at the end of a transitional period of seven years following accession; whereas the intervention price for white sugar in Portugal was thus determined; whereas the intervention price for white sugar in Portugal was thus determined on the basis of the refining costs of efficient undertakings refining large volumes of raw sugar, costs which are not comparable with those of a small undertaking producing relatively minor quantities of beet sugar; whereas, moreover, the basic price for sugar beet in the Azores is higher than that for the United Kingdom, because of the beet's low technical yield and the production problems arising from excessive fragmentation of the production plots and insufficient mechanization; whereas, accordingly, there are grounds for providing for Community measures to enable the sugar beet processing industry in the Azores to make adjustments over a certain period, until the expiry of the price-alignment system provided for in the Treaty of Accession to the Community; whereas the most suitable step would be to grant, as an intervention measure during that period, Community aid in respect of the difference between the derived intervention price for white sugar for the United Kingdom and the intervention price for white sugar for Portugal, so as to give economic support to the Portuguese processing industry as the latter price moves in stages towards the derived intervention price for the United Kingdom and is aligned on that price at the end of that period;

Whereas the common organization of the markets in the sugar sector has, since the 1981/82 marketing year, been based on the principle that producers should be financially liable for all the losses resulting from the disposal of the Community's surplus production in relation to internal consumption under a system of price and marketing guaranteed differentiated according to the production quotas allocated to each undertaking; whereas it was decided to apply that principle and that system for a further five marketing years from 1986/87 to 1990/91 in order to curb production in the Community, where there is considerable technical production capacity while the world market for sugar is characterized by constant overproduction in relation to consumption and hence by ever-increasing surplus stocks and low prices; whereas, however, the basic A and B quantities and the A and B quotas for undertakings producing sugar and isoglucose were fixed only for the first two marketing years 1986/87 and 1987/88 in view in

⁽¹⁾ OJ No C 49, 22. 2. 1988, p. 100.

⁽²⁾ OJ No C 356, 31. 12. 1987, p. 42.

⁽³⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽⁴⁾ OJ No L 377, 31. 12. 1987, p. 24.

particular of the instability of world market prices for sugar and the cyclical nature of the trend in question;

Whereas Article 23 (3) of Regulation (EEC) No 1785/81 provides that the Council must, before 1 January 1988 in respect of the marketing years 1988/89, 1989/90 and 1990/91, determine in particular the basic production quantities for A and B sugar and isoglucose and the allocation of the resulting costs for producers in the context of the quota arrangements laid down until the 1990/91 marketing year;

Whereas, on the one hand, in the light of the medium-term outlook for the world sugar market, it is equally unlikely that the downward trend will be reversed, with prices making a significant and lasting recovery, and that the present decline will worsen; whereas it will, on the other hand, be difficult to adjust unilaterally the price and marketing guarantees given to the Community producers until an international agreement on sugar is reached which contains clauses binding on all the signatory countries; whereas, moreover, there is a risk that, in the present situation, any reduction in the guarantees covering this sector might result in some of the beet-growing areas covered by the quotas being given over to other types of farming financed only partly, if at all, by the producers themselves; whereas it is desirable that the present basic quantities of sugar and isoglucose should therefore be kept at the same level during the remaining three marketing years from 1988/89, 1989/90 and 1990/91 and the self-financing arrangements for the sector should be reinforced so as to ensure that all future losses resulting from the disposal of the Community's surplus production are covered, in respect of each marketing year, by the producers' financial contributions;

Whereas the producers' contributions take the form of a basic production levy which is charged on all production of A and B sugar but which is limited to 2 % of the intervention price for white sugar and a B levy which is charged on the production of B sugar but which is subject to a limit of 37,5 % of that price; whereas isoglucose producers under some conditions pay a proportion of those contributions; whereas because of the limits referred to above, the objective of making sugar production self-financing cannot, under the abovementioned circumstances be achieved in respect of each marketing year; whereas an additional levy should therefore be charged for that purpose;

Whereas, in particular in the interests of equal treatment, the additional levy should be calculated for each undertaking on the basis of its share in the revenue generated by the production levies which it has paid in respect of the marketing year in question; whereas, therefore, a coefficient should be determined for the Community as a whole which represents, in respect of that marketing year, the ratio between the total loss recorded and the total revenue generated by the production levies in question; whereas conditions should also be laid down under which beet and

sugar cane sellers are to contribute to eliminating the uncovered part of the loss for the marketing year concerned;

Whereas the Treaty of Accession of Spain and Portugal specifically fixed for mainland Portugal quantities of basic A and B sugar which were incorporated into market organization Regulation (EEC) No 1785/81; whereas those quantities represent a total of 60 000 tonnes of white sugar; whereas the second subparagraph of Article 24 (1) of that Regulation provides that, with regard to Portugal, that country must allocate, for its mainland region and within the limit of those basic quantities, an A quota and a B quota to each undertaking situated in that region which is likely to start up sugar production;

Whereas sugar production quotas are allocated to each undertaking on the basis of objective production during a particular reference period; whereas, however, with regard to mainland Portugal where no sugar beet was grown at the time of accession, the Treaty of Accession allowed for the possibility of allocating quotas to an undertaking without reference to production figures, on condition that the undertaking was in a position to start production immediately, i. e. that it had the necessary technical capacity;

Whereas mainland Portugal has recently commenced production of sugar beet and should, according to plan, increase production, by means of an experimental phase during the 1987/88 marketing year, to reach 54 000 tonnes (7 000 tonnes sugar) in 1988/89 and 135 000 tonnes (equivalent to 17 000 tonnes sugar) in 1990/91, which is the last marketing year covered by the present quota system; whereas, however, the sugar-producing undertaking situated in that region does not yet have the technical facilities needed to start production; whereas, to allow more sugar beet to be grown, provision should be made for transitional measures under which quotas could be allocated to that undertaking; whereas accordingly, sugar obtained from beet harvested in Portugal and produced by a sugar-producing undertaking to which quotas have been allocated but which is situated in another Member State should, from 1987/88 until 1990/91, a period generally considered as sufficient for installing the technical production facilities needed for a sugar factory, be considered as having been produced by the undertaking situated in mainland Portugal which owns the processed beet,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1785/81 is hereby amended as follows:

1. Article 1 (2) (a) and (b) is replaced by the following:

(a) "white sugars" means sugars, not flavoured or coloured or containing any other added substances, containing, in the dry state, 99,5 % or more by weight of sucrose, determined by the polarimetric method;

(b) "raw sugars" means sugars, not flavoured or coloured or containing any other added substances, containing, in the dry state, less than 99,5 % by weight of sucrose, determined by the polarimetric method;

2. The following second and third subparagraphs are added to Article 8 (1):

'However, as regards sugar obtained from cane harvested in Spain and marketed in that Member State during the marketing years 1988/89 to 1991/92, the compensation system provided for in the first subparagraph shall apply under the conditions laid down in the third subparagraph and shall apply in its entirety to such sugar with effect from the 1992/93 marketing year.

The amount of the storage levy and of the flat-rate reimbursement fixed for each of the marketing years in question shall be applied at the following rates:

- (a) 0 % for sugar marketing during the 1988/89 marketing year
- (b) 25 % for sugar marketed during the 1989/90 marketing year
- (c) 50 % for sugar marketed during the 1990/91 marketing year
- (d) 75 % for sugar marketed during the 1991/92 marketing year.'

3. The following paragraph is added to Article 9:

'4a. As an intervention measure during the period 1987/88 to 1991/92 Community aid shall be granted for the adaptation of the white sugar beet processing industry in the autonomous region of the Azores.

The aid shall be granted, within the limit of the A and B quotas for the sugar-producing undertaking situated in the autonomous region of the Azores, in respect of the quantity of white sugar produced during each of the marketing years referred to in the first subparagraph. The amount of aid per 100 kilograms produced during each marketing year shall be equal to the difference between the derived intervention price, for all the areas of the United Kingdom, for the white sugar in question, and the intervention price for Portugal for the said white sugar.'

4. Article 16 (2) is replaced by the following:

'2. The levies on white sugar, raw sugar and molasses shall be equal to the threshold price minus the cif price. For flavoured and coloured sugars and those containing other added substances, obtained from white sugar or raw sugar, the levy on white sugar shall apply.'

5. Article 23 (2) and (3) is replaced by the following:

'2. For the 1988/89, 1989/90 and 1990/91 marketing years, and without prejudice to Articles 24 (1a) and 25, the A and B quotas of sugar-producing undertakings and isoglucose-producing undertakings shall be those which obtained in the 1987/88 marketing year.

3. For the 1988/89, 1989/90 and 1990/91 marketing years, the basic A and B production quantities for sugar and isoglucose shall be those laid down in Article 24 (2) for the 1986/87 and 1987/88 marketing years.

4. The Council, acting in accordance with the procedure laid down in Article 43 (2) of the Treaty, shall determine before 1 January 1991 the system to be applied from 1 July 1991.'

6. The second and third subparagraphs of Article 24 (1) are replaced by the following paragraph:

'1a. With regard to Portugal, that country shall allocate, for its mainland region under the conditions of this Title and within the limit of the basic A and B quantities fixed for that region in paragraph 2, an A quota and a B quota to each undertaking situated in that region which is likely to start up sugar production.

Before such allocation Portugal may use for the benefit of the A and B quotas of the undertaking situated in the autonomous region of the Azores up to 10 % of the basic A and B quantities fixed in respect of mainland Portugal.

However, as a transitional measure, if an undertaking which is intended for sugar production, which is approved as such by Portugal and which is situated in its mainland region is not likely to start up sugar production that Member State may allocate to it, without prejudice to paragraph 2, an A quota and a B quota during the marketing years from 1987/88 to 1990/91.

For the purposes of the third subparagraph, where a sugar-producing undertaking which is situated in another Member State and to which production quotas have been allocated processes sugar beet harvested in Portugal and purchased by the undertaking situated in Portugal in accordance with the provisions of this Regulation, the sugar obtained as a result shall be considered as having been produced by the Portuguese undertaking in question.

The sum of the quotas allocated for each of the marketing years referred to in the third subparagraph may not exceed the quantity of sugar which may thus be produced during the marketing year in question.'

7. In Article 28 (2), the introductory words are replaced by the following:

'2. Before the end of each of the 1988/89, 1989/90 and 1990/91 marketing years, a cumulative recording shall be made of the 1986/87 to 1989/90 marketing years which precede the year of recording.'

8. Article 28 (5), (6) and (7) is replaced by the following:

'5. Where the figures recorded pursuant to paragraph 1 show that, because of the ceiling placed on the basic production levy and the B levy fixed in paragraphs 3 and 4, the foreseeable total loss for the current marketing year is likely not to be covered by the receipts expected from those levies, the maximum percentage referred to in the first indent of paragraph 4 shall be adjusted to the extent necessary to cover the said total loss but without exceeding 37,5 %.

The revised maximum percentage for the B levy shall be fixed for the current marketing year before 15 September of that marketing year. At the same time the percentage referred to in the second subparagraph of Article 5 (2) shall be adjusted accordingly.

6. The Council, acting by a qualified majority on a proposal from the Commission, may decide that all or part of the losses resulting from any granting of the production refunds referred to in Article 9 (3) must be included in the total loss referred to in paragraph 1 (e) of this Article.

7. The levies referred to in this Article shall be collected by the Member States.

8. Detailed rules for the application of this Article and in particular:

- the amounts of the levies to be collected,
- the revised maximum percentage for the B levy,
- the adjusted minimum price for B beet corresponding to the revised maximum percentage for the B levy.'

9. The following Article is inserted after Article 28:

'Article 28a

1. Where, in respect of a particular marketing year, the total loss recorded pursuant to Article 28 (1) and 2 is

not fully covered by the receipts from the production levies for that marketing year after application of Article 28 (3) to (5), an additional levy shall be charged to manufacturers, without prejudice to Article 5, so as to cover fully that part of the total loss in question which is not covered by the said receipts.

2. The additional levy shall be calculated for each sugar-producing undertaking and each isoglucose-producing undertaking by multiplying the total amount of the production levies payable by the undertaking in respect of the marketing year in question by a coefficient to be determined. This coefficient shall represent, for the Community as a whole, the ratio between the total loss recorded for the marketing year in question pursuant to Article 28 (1) and (2) and the receipts from the basic production levy and the B levy owed by sugar manufacturers and isoglucose manufacturers for that marketing year, the ratio being reduced by 1.

3. The additional levy shall be paid by the manufacturers in question before the 15th day of December following the marketing year in respect of which it is payable.

Sugar manufacturers may require that sellers of Community-produced beet or Community-produced cane, as the case may be, refund part of the additional levy in question which has been collected. Such refund may at most be equal to the maximum amount contributed by the beet or cane sellers, as provided for by Article 28, towards the basic production levy and the B levy for the marketing year in question multiplied by the coefficient referred to in paragraph 2.

The refund referred to in the second subparagraph shall be effected on beet delivered under the marketing year in question. However, the parties concerned may agree that the refund shall be effected on beet delivered under the following marketing year.

4. For the purposes of the information recorded pursuant to Article 28 (2), account shall be taken of the revenue generated by charging the additional levy referred to in paragraph 1.

5. Detailed rules for the application of this Article, and in particular the coefficient referred to in paragraph 2, shall be adopted in accordance with the procedure laid down in Article 41.'

10. The second subparagraph of Article 32a (1) is replaced by the following:

'In the marketing years 1986/87 to 1990/91, the elimination levy designed to eliminate a deficit of 80

million ECU for each marketing year shall apply in accordance with the particulars set out in paragraphs 2 and 3.'

11. In Article 32a (4), 'during the marketing years 1986/87 and 1987/88' is replaced by 'during the marketing years 1986/87 to 1990/91.'

Article 2

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

2. It shall apply from 1 July 1988, with the exception of Article 1 (3) and (6) which shall apply from the beginning of the 1987/88 marketing year.

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

Done at Luxembourg, 25 April 1988.

For the Council

The President

H.-D. GENSCHER

COUNCIL REGULATION (EEC) No 1108/88

of 25 April 1988

introducing a special elimination levy in the sugar sector for the 1987/88 marketing year

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

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

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Whereas Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽³⁾, as last amended by Regulation (EEC) No 1107/88 ⁽⁴⁾, provides for the application of production quota arrangements for the 1986/87 to 1990/91 marketing years and fixes the basic quantities of A and B production for the 1986/87 and 1987/88 marketing years; whereas the basic quantities of A and B production and the charges to which producers will be liable under these arrangements for the 1988/89 to 1990/91 marketing years must be determined by 1 January 1988;

Whereas the aim of the production quota arrangements in the sugar sector is to convert production to the possibilities for disposal and ensure that all losses resulting from the Community's surplus production are covered by the producers' financial contributions; whereas these contributions are made by collecting a levy on basic production that applies to all production of A and B sugar but which may not exceed 2 % of the intervention price for white sugar and a B levy on production of B sugar which may not exceed 37,5 % of the intervention price; whereas manufacturers of isoglucose share in these contributions under certain conditions;

Whereas the estimates made pursuant to Article 28 (1) and (2) of Regulation (EEC) No 1785/81 as regards consumption, production, exportable surpluses and total losses for the 1987/88 marketing year suggest with virtual certainty that not only will overall losses not be covered as a result of the limits placed on such contributions, but that the scale of these losses is such as to call into question the implementation of the self-financing principle in this sector; whereas, moreover, because of the severe budgetary constraints on the Community, it is out of the question

for the Community to stand in for the producers in question and assume responsibility, even on a temporary basis, for the abovementioned deficit;

Whereas it is desirable, until sufficient time has elapsed, not to call into question before the date laid down the production quota arrangements that must, in any case, apply to the 1986/87 and 1987/88 marketing years; whereas, however, owing to the likely scale of the loss not covered by the producers' contributions for the 1987/88 marketing year, this loss should be eliminated by making provision for the introduction of a special elimination levy for the 1987/88 marketing year; whereas, in such circumstances, this special elimination levy should be collected at the same time as the payment of the balance of the production levies for the 1987/88 marketing year, namely before 15 December 1988;

Whereas the special elimination levy should be drawn up for each undertaking on the basis of its share in the revenue derived from the production levies that it will have paid in respect of the 1987/88 marketing year; whereas, for this purpose, a coefficient valid for the Community as a whole and representing, for the 1987/88 marketing year, the ratio between, on the one hand, the total loss recorded pursuant to Article 28 (1) and (2) of Regulation (EEC) No 1785/81 and, on the other hand, all the revenue derived from the production levies in question should be determined; whereas provision should also be made for the sellers of beet and the sellers of cane to share in the elimination of the outstanding loss for the 1987/88 marketing year;

Whereas the participation of sugar beet sellers and sugar cane sellers in the elimination of the loss not covered by the 1987/88 marketing year may be hindered in particular when not only the sugar beet delivered during that year has been entirely paid for by the manufacturers but also the bulk of the sugar beet delivered during the 1988/89 year; whereas sugar beet growers or sugar cane growers should therefore be enabled to pay their part of the levy in respect of the sugar beet delivered during the 1987/88 or the 1988/89 marketing year; whereas irrespective of the marketing year adopted for such participation, the latter should not exceed that resulting from the 1987/88 marketing year,

HAS ADOPTED THIS REGULATION:

Article 1

Without prejudice to Title III and Title IIIa of Regulation (EEC) No 1785/81, a special elimination levy shall be charged to manufacturers of sugar and isoglucose if the total loss for the 1987/88 marketing year recorded pursuant to Article 28 (1) and (2) of the said Regulation is not entirely

⁽¹⁾ Opinion delivered on 14 April 1988 (not yet published in the Official Journal).

⁽²⁾ OJ No C 356, 31. 12. 1987, p. 42.

⁽³⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽⁴⁾ See page 20 of this Official Journal.

covered by the revenue from the production levies owed by those manufacturers. This levy shall be collected in order to fully eliminate that part of the total loss in question that is not covered by the revenue from the production levies.

For the purpose of the calculation referred to in Article 28 (2) of Regulation (EEC) No 1785/81, account shall be taken of the revenue derived from the collection of the special levy within the meaning of the first subparagraph of this paragraph.

2. The special elimination levy shall be calculated for each sugar-producing undertaking and each isoglucose-producing undertaking by multiplying the amount owed by the undertaking as a production levy for the 1987/88 marketing year by a coefficient to be determined. This coefficient shall represent for the Community the ratio between the total loss recorded for the 1987/88 marketing year pursuant to Article 28 (1) and (2) of Regulation (EEC) No 1785/81 and the revenue from the production levies owed by the sugar and isoglucose manufacturers in respect of the 1987/88 marketing year, this ratio shall be reduced by a factor of 1.

The special elimination levy shall be paid before 15 December 1988.

3. Without prejudice to the second paragraph, sugar manufacturers may require, depending on the case, from

sellers of beet or of cane grown in the Community, reimbursement up to 60 % of the special elimination levy in question. Reimbursement shall be made in respect of beet delivered during the 1987/88 or 1988/89 marketing years.

Irrespective of the abovementioned marketing year during which reimbursement as referred to in the first paragraph is made, it shall at most be equal to the amount of the beet or cane sellers' participation in the payment of the production levies provided for in Regulation (EEC) No 1785/81 for the 1987/88 marketing year multiplied by the coefficient referred to in paragraph 2.

4. Detailed rules for the application of this Article and of the coefficient referred to in paragraph 2 shall be adopted according to the procedure provided for in Article 41 of Regulation (EEC) No 1785/81.

Article 2

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 Luxembourg, 25 April 1988.

For the Council

The President

H.-D. GENSCHER

COUNCIL REGULATION (EEC) No 1109/88

of 25 April 1988

amending Regulation (EEC) No 804/68 on the common organization of the market in milk and milk products

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

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

Whereas Article 5c of Regulation (EEC) No 804/68 ⁽³⁾, as last amended by Regulation (EEC) No 3904/87 ⁽⁴⁾, introduced for a period of five years, with the aim of restoring equilibrium on the milk market, an arrangement for an additional levy on quantities of milk delivered or purchased exceeding a reference quantity established in respect of the milk producer or purchaser; whereas it is now clear that the results obtained from these arrangements will not suffice to achieve the objective of adaptation of supply to demand by the end of the five-year period; whereas the duration of the said arrangement must be extended to eight 12-month periods;

Whereas the guaranteed overall quantities for the sixth, seventh and eighth periods of application of the said arrangements should be set at the level taken for the fifth 12-month period;

Whereas Article 7a of Regulation (EEC) No 804/68 makes provision, during the application of the said arrangements, for the possibility of adopting measures to reduce quantities bought in; whereas the reasons for extending the said arrangements also entail extension of the period referred to in the said Article for the same duration,

Article 1

Regulation (EEC) No 804/68 is hereby amended as follows:

1. In the first subparagraph of Article 5c (1), 'during five periods' is replaced by 'during eight periods'.
2. In the third subparagraph of Article 5c (3), point (c) is replaced by the following:

'(c) for each of the four 12-month periods from 1 April 1988 to 31 March 1992, the guaranteed total quantity shall be, in thousands of tonnes:

Belgium:	3 121,861
Denmark:	4 735,540
Germany:	22 753,310
Greece:	520,890
Spain:	4 560,500
France:	24 964,980
Ireland:	5 121,600
Italy:	8 534,060
Luxembourg:	257,050
Netherlands:	11 619,630
United Kingdom:	14 869,687.'

3. In the first subparagraph of Article 7a (1), 'until the end of the fifth 12-month period of application of the additional-levy arrangements' is replaced by 'until the end of the eighth 12-month period of application of the additional-levy arrangements'.

Article 2

This Regulation shall enter into force on the day following that 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 Luxembourg, 25 April 1988.

For the Council

The President

H.-D. GENSCHER

⁽¹⁾ OJ No C 84, 31. 3. 1988, p. 22.

⁽²⁾ Opinion delivered on 14 April 1988 (not yet published in the Official Journal).

⁽³⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽⁴⁾ OJ No L 370, 30. 12. 1987, p. 1.

COUNCIL REGULATION (EEC) No 1110/88

of 25 April 1988

amending Regulation (EEC) No 857/84 adopting general rules for the application of the levy referred to in Article 5c of Regulation (EEC) No 804/68 in the milk and milk products sector

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EEC) No 1109/88 ⁽²⁾, and in particular Article 5c (6) thereof,

Having regard to the proposal from the Commission ⁽³⁾,

Whereas Council Regulation (EEC) No 857/84 ⁽⁴⁾, as last amended by Regulation (EEC) No 1889/87 ⁽⁵⁾, laid down the general rules for the application of the additional levy referred to in Article 5c of Regulation (EEC) No 804/68;

Whereas Article 4a of Regulation (EEC) No 857/84 authorizes, for the five additional levy application periods, regional and national allocations of non-utilized reference quantities with adjustment according to the levy payers and the regions; whereas, given its flexibility, this arrangement

should be retained, in view of certain situations, as long as the said levy is chargeable;

Whereas the first subparagraph of Article 5c (1) of Regulation (EEC) No 804/68 introduces the additional levy system for eight consecutive 12-month periods; whereas the amount of the guaranteed overall quantity of direct sales by Member States until 31 March 1992 should be established accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 857/84 is amended as follows:

1. In Article 4a (1), 'For the five additional levy application periods' is replaced by 'For the eight additional levy application periods'.
2. In the first subparagraph of Article 9 (4), 'For the five additional levy application periods' is replaced by 'For the eight additional levy application periods'.
3. The Annex is replaced by the following:

'ANNEX

Quantities referred to in Article 6 (2) (milk producers selling directly to the consumer) of this Regulation and periods of application referred to in Article 5c (2) of Regulation (EEC) No 804/68

(000 tonnes)

	2. 4. 1984 to 31. 3. 1985	1. 4. 1985 to 31. 3. 1986	1. 4. 1986 to 31. 3. 1987	1. 4. 1987 to 31. 3. 1988	1. 4. 1988 to 31. 3. 1989	1. 4. 1989 to 31. 3. 1990	1. 4. 1990 to 31. 3. 1991	1. 4. 1991 to 31. 3. 1992
Belgium	480	450	400	387,660	380,809	380,809	380,809	380,809
Denmark	1	1	1	0,980	0,970	0,970	0,970	0,970
Germany	305	130	130	94,400	93,100	93,100	93,100	93,100
Greece	116	116	46	45,080	44,620	44,620	44,620	44,620
Spain	—	750	750	685,000	677,500	677,500	677,500	677,500
France	1 183	1 014	874	756,520	747,780	747,780	747,780	747,780
Ireland	16	16	16	15,680	15,520	15,520	15,520	15,520
Italy	1 116	1 116	1 116	1 093,680	1 082,520	1 082,520	1 082,520	1 082,520
Luxembourg	1	1	1	0,980	0,970	0,970	0,970	0,970
Netherlands	145	95	95	93,100	92,150	92,150	92,150	92,150
United Kingdom	398	395,426	395,426	387,517	383,563	383,563	383,563	383,563'

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ See page 27 of this Official Journal.

⁽³⁾ OJ No C 84, 31. 3. 1988, p. 23.

⁽⁴⁾ OJ No L 90, 1. 4. 1984, p. 13.

⁽⁵⁾ OJ No L 182, 3. 7. 1987, p. 39.

Article 2

This Regulation shall enter into force on the day following that 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 Luxembourg, 25 April 1988.

For the Council
The President
H.-D. GENSCHER

COUNCIL REGULATION (EEC) No 1111/88

of 25 April 1988

amending Regulation (EEC) No 775/87 temporarily withdrawing a proportion of the reference quantities mentioned in Article 5c (1) of Regulation (EEC) No 804/68 on the common organization of the market in milk and milk products

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EEC) No 1109/88 ⁽²⁾, and in particular Article 5c (6) thereof,

Having regard to the proposal from the Commission ⁽³⁾,

Whereas Regulation (EEC) No 775/87 ⁽⁴⁾ provided for the temporary withdrawal of a proportion of the reference quantities referred to in Article 5c of Regulation (EEC) No 804/68 from the fourth period of application of the additional levy arrangements onwards; whereas these arrangements were renewed for three 12-month periods by Regulation (EEC) No 1109/88; whereas, accordingly, the amount of the compensation for the quantities withdrawn during these three periods should be fixed;

Whereas the third subparagraph of Article 2 (1) of Regulation (EEC) No 775/87 states that the temporary withdrawal of quantities of a further 1,5 % during the fifth 12-month period is to be compensated by the payment of compensation or by an appropriate reduction in the co-responsibility levy rate; whereas since this withdrawal of quantities must be compensated for during the period up to the end of the eighth period of the additional levy arrangements by the direct payment of compensation, the alternative provided for in the abovementioned provision is no longer relevant;

Whereas in view of the changes in the additional levy arrangements, certain provisions of Regulation (EEC) No 775/87 should be adapted,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 775/87 is hereby amended as follows:

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ See page 27 of this Official Journal.

⁽³⁾ OJ No C 84, 31. 3. 1988, p. 25.

⁽⁴⁾ OJ No L 78, 20. 3. 1987, p. 5.

1. In the second subparagraph of Article 1 (1), 'for the fifth period' is replaced by 'for each of the next four periods'.

2. Article 2 (1) is replaced by the following:

'1. Compensation shall be paid to the producers concerned for the quantities withdrawn. Such compensation shall be:

- for the fourth and fifth 12-month periods, 10 ECU per 100 kilograms,
- for the sixth 12-month period, 8 ECU per 100 kilograms,
- for the seventh 12-month period, 7 ECU per 100 kilograms,
- for the eighth 12-month period, 6 ECU per 100 kilograms.

For each 12-month period, the compensation shall be paid to those entitled during the last quarter of the relevant 12-month period or during the first quarter of the following 12-month period.'

3. In the second paragraph of Article 4, 'in the fourth and fifth 12-month periods' is deleted.

4. In Article 5, paragraph 2 is replaced by the following:

'2. At the end of the fourth 12-month period and at the end of each of the ensuing periods of application of the additional levy arrangements, the Commission shall assess the results obtained from the application of Articles 3 and 4 and shall, if necessary, submit appropriate proposals to the Council.'

5. Article 8 is replaced by the following:

'Article 8

On the basis of the internal and external market outlook and stock position, the Council acting by a qualified majority on a proposal from the Commission, may decide to revise the rate of withdrawal stipulated in Article 1. In that event, the compensation provided for in Article 2 shall not be granted for the part of the reference quantity no longer withdrawn.'

Article 2

This Regulation shall enter into force on the day following that 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 Luxembourg, 25 April 1988.

For the Council

The President

H.-D. GENSCHER

COUNCIL REGULATION (EEC) No 1112/88

of 25 April 1988

amending Regulation (EEC) No 777/87 as regards the period of application of the intervention measures for butter and skimmed-milk powder

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community,

Article 1

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EEC) No 1109/88 ⁽²⁾, and in particular the first subparagraph of Article 7a (1),

Having regard to the proposal from the Commission ⁽³⁾,

Whereas Council Regulation (EEC) No 777/87 of 16 March 1987 modifying the intervention arrangements for butter and skimmed-milk powder ⁽⁴⁾ provides that the measures laid down by that Regulation are to apply to the end of the fifth 12-month period of application of the additional levy arrangements provided for in Article 5c of Regulation (EEC) No 804/68; whereas, in view of the extension of those arrangements for an additional period of three 12-month periods, the period of application of the said measures should also be extended,

Regulation (EEC) No 777/87 is hereby amended as follows:

1. Article 1 (2) is replaced by the following:

'2. The buying in of skimmed-milk powder provided for in Article 7 (1) of Regulation (EEC) No 804/68 may be suspended as soon as the quantities offered for intervention in the period from 1 March to 31 August each year exceed 100 000 tonnes.'

2. In Article 2 the terms 'of the fifth 12-month period' are hereby replaced by the terms 'of the eighth 12-month period'.

Article 2

This Regulation shall enter into force on the day following that 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 Luxembourg, 25 April 1988.

For the Council

The President

H.-D. GENSCHER

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ See page 27 of this Official Journal.

⁽³⁾ OJ No C 84, 31. 3. 1988, p. 26.

⁽⁴⁾ OJ No L 78, 20. 3. 1987, p. 10.

COUNCIL REGULATION (EEC) No 1113/88

of 25 April 1988

amending Regulation (EEC) No 1035/72 on the common organization of the market in fruit and vegetables

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the Act of Accession of Spain and Portugal, and in particular Articles 89 (2) and 234 (3) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

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

Whereas Regulation (EEC) No 1035/72 ⁽³⁾, as last amended by Regulation (EEC) No 223/88 ⁽⁴⁾, provides for a prices and intervention system for a certain number of products in the fruit and vegetables sector,

Whereas producers should be made more aware of the real needs of the market in fruit and vegetables; whereas this should be achieved, where appropriate, by defining a quantity which may be bought in, in excess of which the financial liability should be borne by the producers;

Whereas the consequence of the liability of the producers must be a reduction in the basic and buying-in prices applying in the following marketing year;

Whereas an intervention threshold mechanism of this sort has already been introduced into the common organization of the market for tomatoes, by Regulation (EEC) No 1926/87 ⁽⁵⁾, and for satsumas, clementines, mandarins and nectarines, by Regulation (EEC) No 223/88; whereas provision should be made for a mechanism for fixing intervention thresholds for all the other products which are liable to be the subject of intervention and which are listed in Annex II to Regulation (EEC) No 1035/72;

Whereas in so far as in Spain, during the so-called 'verification of convergence' phase, such products are bought in and give rise to Community financing in accordance with Article 133 (3) of the Act of Accession, provision should be made for the fixing of a quantity of those products in excess of which financial liability will be borne by the producers;

Whereas, in view of the specific provisions of the Act of Accession and in particular Article 265 thereof, no provision

need be made during the first stage of transition for the application of similar measures in Portugal,

HAS ADOPTED THIS REGULATION:

Article 1

The following Article is hereby inserted in Regulation (EEC) No 1035/72:

'Article 16b

1. Where the market in a product listed in Annex II is affected by or is likely to be affected by imbalances giving rise or liable to give rise to the buying in of significant quantities pursuant to Articles 15, 15a, 15b, 19 and 19a, an intervention threshold shall be fixed, before the beginning of the marketing year, for those products and if intervention exceeds the said threshold by a quantity assessed, according to the product, on the basis of the quantity bought in during one marketing year or the average quantity bought in over several marketing years, financial liability shall be borne by the producers.

Any exceeding of the intervention threshold shall result in a reduction in the basic and buying-in prices applying during the following marketing year; such reductions may not however exceed 20 %.

Reductions resulting from the application of this paragraph shall not be taken into account in subsequent marketing years for the fixing of the basic and buying-in prices in accordance with the criteria laid down in Article 16 (2) and (3).

2. If, during the so-called verification of convergence phase referred to in Article 131 of the Act of Accession, a threshold is fixed pursuant to paragraph 1 of this Article for a given product in the Community as constituted at 31 December 1985 and if quantities of that product are bought in in Spain in accordance with the applicable provisions, the Council, in accordance with the procedure laid down in paragraph 3 of this Article, shall fix for Spain an intervention threshold in excess of which financial liability shall be borne by the producers under the conditions which it shall lay down.

Any reduction in prices in the Community as constituted at 31 December 1985, decided pursuant to paragraph 1 of this Article, shall not be taken into account for the application in Spain and Portugal of the price discipline provided for in Article 135 (1) and Article 265 (1) respectively of the Act of Accession.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall lay down:

— the rules for applying this Article,

⁽¹⁾ OJ No C 84, 31. 3. 1988, p. 29.

⁽²⁾ Opinion delivered on 14 April 1988 (not yet published in the Official Journal).

⁽³⁾ OJ No L 118, 18. 5. 1972, p. 1.

⁽⁴⁾ OJ No L 23, 28. 1. 1988, p. 1.

⁽⁵⁾ OJ No L 183, 3. 7. 1987, p. 24.

- the criteria and methods for fixing the intervention thresholds,
- the financial consequences of intervention in excess of the thresholds for each of the products concerned.

4. (a) The Commission shall, where appropriate, establish in good time before the beginning of the period laid down for the withdrawals whether the thresholds provided for in paragraph 1 have been exceeded;
- (b) The Commission shall adopt, as the need arises, measures for the application of this Article in accordance with the procedures laid down in Article 33.

5. The provisions of this Article shall not apply to tomatoes, on the one hand, and to satsumas, clementines, mandarins and nectarines, on the other hand, during the period of application of Articles 16 (3a) and 16a respectively.'

Article 2

This Regulation shall enter into force on the day following that 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 Luxembourg, 25 April 1988.

For the Council

The President

H.-D. GENSCHER

COUNCIL REGULATION (EEC) No 1114/88

of 25 April 1988

amending Regulation (EEC) No 727/70 on the common organization of the market in raw tobacco

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Article 1

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

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

Whereas, in order to curb any increase in the Community's tobacco production and at the same time to discourage the growing of varieties which are difficult to dispose of, provision should be made for a proportional reduction in the prices and premiums if production exceeds a maximum guaranteed quantity fixed for each harvest; whereas certain costs are added to the intervention price to obtain the derived intervention price; whereas the application of the reduction coefficient to the derived intervention price must not affect such costs;

Whereas the maximum quantity must be established particularly in the light of production statistics and the market situation; whereas in order to continue to implement a policy aimed at encouraging the most sought-after varieties and to take account of specific socio-economic and regional features of tobacco production, a maximum guaranteed quantity should be fixed for each variety or group of varieties; whereas provision should be made, for a limited period, for a ceiling on any reduction in the prices and premiums; whereas Regulation (EEC) No 727/70 ⁽³⁾ as last amended by Regulation (EEC) No 1974/87 ⁽⁴⁾ should be amended accordingly,

The following paragraph is hereby added to Article 4 of Regulation (EEC) No 727/70:

'5. Each year and in accordance with the procedure provided for in Article 43 (2) of the Treaty, the Council shall fix a maximum guaranteed quantity, in particular in the light of market requirements and the socio-economic and agricultural conditions of the regions concerned, for each variety or group of varieties of Community-produced tobacco for which prices and premiums are fixed. The overall maximum quantity for the Community shall be fixed at 385 000 tonnes of leaf tobacco for each of the 1988, 1989 and 1990 harvests.

Without prejudice to Articles 12a and 13, for each 1 % by which the maximum guaranteed quantity is exceeded per variety or group of varieties, the intervention prices and the premiums concerned shall suffer a reduction of 1 %. A correction corresponding to the reduction of the premium shall be applied to the norm price of the harvest in question.

The reductions referred to in the second subparagraph shall not exceed 5 % for the 1988 harvest and 15 % for the 1989 and 1990 harvests.

For the purposes of applying this paragraph, the Commission shall establish before 31 July whether production exceeds the maximum guaranteed quantity for a variety or group of varieties.

Detailed rules for the application of this paragraph shall be adopted in accordance with the procedure laid down in Article 17.'

Article 2

This Regulation shall enter into force on the day following that 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 Luxembourg, 25 April 1988.

For the Council

The President

H.-D. GENSCHER

⁽¹⁾ OJ No C 84, 31. 3. 1988, p. 31.

⁽²⁾ Opinion delivered on 14 April 1988 (not yet published in the Official Journal).

⁽³⁾ OJ No L 94, 28. 4. 1970, p. 1.

⁽⁴⁾ OJ No L 184, 3. 7. 1987, p. 30.

COUNCIL REGULATION (EEC) No 1115/88

of 25 April 1988

amending Regulation (EEC) No 1837/80 on the common organization of the market in sheepmeat and goatmeat

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission ⁽¹⁾,

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

Whereas the common organization of the market in sheepmeat and goatmeat provides for certain measures in the form of premiums and intervention prices the purposes of which is to ensure that producers receive a fair income; whereas, however, in view of the existing potential for disposal on the Community market and of the latter's international undertakings, production of sheepmeat and goatmeat should not be encouraged once herd numbers exceed a level determined in the light of the market situation; whereas, to that end, provision should be made for a reduction in the guarantee provided for by the measures in question; whereas, however, differences in the support arrangements provided for by the rules in force may lead to encouragement of production in different ways in the regions where such differences in arrangements apply; whereas this measure should therefore be applied separately in region 5 should the United Kingdom decide to apply the variable premium arrangement there;

Whereas the maximum guaranteed level should be fixed at the level of ewe numbers in the regions in question at 31 December 1987;

Whereas the Council will have to review the stabilization mechanism, including the maximum guaranteed level, in connection with the adjustment of the market organization both internally and externally;

Whereas Regulation (EEC) No 1837/80 ⁽³⁾, as last amended by Regulation (EEC) No 794/87 ⁽⁴⁾ should be amended accordingly,

HAS ADOPTED THE REGULATION:

Article 1

The following Article is hereby added to Regulation (EEC) No 1837/80:

⁽¹⁾ OJ No C 84, 31. 3. 1988, p. 32.

⁽²⁾ Opinion delivered on 14 April 1988 (not yet published in the Official Journal).

⁽³⁾ OJ No L 183, 16. 7. 1980, p. 1.

⁽⁴⁾ OJ No L 79, 21. 3. 1987, p. 3.

Article 9a

1. The maximum guaranteed level is hereby fixed at 63 400 000 head of ewes broken down as follows:

- 18 100 000 head for region 5,
- 45 300 000 head for the other regions.

2. For each marketing year:

- if the estimate of ewe numbers for the marketing year exceeds the maximum guaranteed level for that year, the premium provided for in Article 5 shall be reduced for both ewes and nanny-goats by the effect on the basic price of a coefficient representing a reduction of 1 % for each 1 % by which the maximum guaranteed level is exceeded;
- where the mechanism provided for in the first indent, applied to the actual ewe numbers recorded for the preceding marketing year, leads to a premium different from that calculated, the correction shall be made at the time of fixing the definitive premium for ewes for the marketing year in question or, failing that, shall be included in the calculation of the premium for the following marketing year.

3. Should paragraph 2 be applied, the intervention price provided for in Article 7 (2) and the 'guide level' referred to in Article 9, used for calculating the variable premium, shall be reduced by the same percentage as that by which the basic price is reduced pursuant to the first indent of paragraph 2.

4. Should the United Kingdom apply Article 9, paragraphs 2 and 3 shall apply separately to region 5 on the one hand and to all the other regions on the other.

5. Detailed rules for the application of this Article, and in particular the arrangements applicable to the 1988 marketing year, and the coefficient and the amounts referred to in paragraphs 2 and 3 shall be adopted in accordance with the procedure laid down in Article 26.

This Article shall apply to the 1988 marketing year from 23 May 1988.

6. The Council shall review the stabilization mechanism, referred to above, within the context of the adjustment of the common organization of the markets relating to that sector. That adjustment shall also concern external aspects and shall take into account market requirements.'

Article 2

This Regulation shall enter into force on the day following that 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 Luxembourg, 25 April 1988.

For the Council
The President
H.-D. GENSCHER
