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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3771/88**of 28 November 1988****laying down, in respect of hops, the amount of aid to producers for the 1987 harvest**

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 Council Regulation (EEC) No 1696/71 of 26 July 1971 on the common organization of the market in hops⁽¹⁾, as last amended by Regulation (EEC) No 3998/87⁽²⁾, and in particular Article 12 (7) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament⁽³⁾,

Whereas Article 12 of Regulation (EEC) No 1696/71 provides that aid may be granted to hop producers to enable them to achieve a fair income; whereas the amount of this aid is fixed per hectare and differs according to varieties, taking into account the average return on the areas in full production compared with the average returns for previous harvests, the current position of the market and trends in costs;

Whereas an examination of the results of the 1987 harvest shows the need to fix aid for certain groups of varieties of hops cultivated in the Community,

HAS ADOPTED THIS REGULATION:

Article 1

1. For the 1987 harvest, aid shall be granted to the producers of hops cultivated in the Community for the groups of varieties set out in the Annex.

2. The amount of the aid shall be as set out in the Annex.

Article 2

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

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

Done at Brussels, 28 November 1988.

For the Council

The President

Y. POTTAKIS

⁽¹⁾ OJ No L 175, 4. 8. 1971, p. 1.

⁽²⁾ OJ No L 377, 31. 12. 1987, p. 40.

⁽³⁾ OJ No C 290, 14. 11. 1988.

*ANNEX***Aid granted to hop producers for the 1987 harvest**

Group of varieties	(ecu/ha)
Aromatic	330
Bitter	380
Others	370

COMMISSION REGULATION (EEC) No 3772/88

of 2 December 1988

fixing the import levies on cereals and on wheat or rye flour, groats and meal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) 2221/88⁽²⁾, and in particular Article 13 (5) thereof,

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

Having regard to the opinion of the Monetary Committee,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 2401/88⁽⁵⁾ and subsequent amending Regulations;

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

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

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

Whereas these exchange rates being those recorded on 1 December 1988;

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

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2401/88 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 3 December 1988.

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

Done at Brussels, 2 December 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 197, 26. 7. 1988, p. 16.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 205, 30. 7. 1988, p. 96.

ANNEX

to the Commission Regulation of 2 December 1988 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Levies	
	Portugal	Third country
0709 90 60	1,10	136,04
0712 90 19	1,10	136,04
1001 10 10	32,91	187,25 ⁽¹⁾ ⁽²⁾
1001 10 90	32,91	187,25 ⁽¹⁾ ⁽²⁾
1001 90 91	0,00	135,54
1001 90 99	0,00	135,54
1002 00 00	35,82	116,68 ⁽³⁾
1003 00 10	29,59	125,10
1003 00 90	29,59	125,10
1004 00 10	85,40	76,39
1004 00 90	85,40	76,39
1005 10 90	1,10	136,04 ⁽²⁾ ⁽³⁾
1005 90 00	1,10	136,04 ⁽²⁾ ⁽³⁾
1007 00 90	24,28	145,06 ⁽⁴⁾
1008 10 00	29,59	45,70
1008 20 00	29,59	118,92 ⁽⁴⁾
1008 30 00	29,59	0,00 ⁽⁵⁾
1008 90 10	⁽⁷⁾	⁽⁷⁾
1008 90 90	29,59	0,00
1101 00 00	1,50	203,60
1102 10 00	64,00	177,20
1103 11 10	64,33	303,56
1103 11 90	0,72	218,98

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

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

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

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

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

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

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

COMMISSION REGULATION (EEC) No 3773/88

of 2 December 1988

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 2221/88⁽²⁾, and in particular Article 15 (6) thereof,Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EEC) No 1636/87⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 2402/88⁽⁵⁾ and subsequent amending Regulations;

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

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

these currencies recorded for a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient;

Whereas these exchange rates being those recorded on 1 December 1988;

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 3 December 1988.

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

Done at Brussels, 2 December 1988.

For the Commission

Frans ANDRIESEN

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

ANNEX

to the Commission Regulation of 2 December 1988 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

CN code	(ECU/tonne)			
	Current 12	1st period 1	2nd period 2	3rd period 3
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	0	0	0
1001 10 90	0	0	0	0
1001 90 91	0	1,50	1,50	1,50
1001 90 99	0	1,50	1,50	1,50
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	3,73	3,73	3,73
1004 00 90	0	3,73	3,73	3,73
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	2,10	2,10	2,10

B. Malt

CN code	(ECU/tonne)				
	Current 12	1st period 1	2nd period 2	3rd period 3	4th period 4
1107 10 11	0	2,67	2,67	2,67	2,67
1107 10 19	0	2,00	2,00	2,00	2,00
1107 10 91	0	0	0	0	0
1107 10 99	0	0	0	0	0
1107 20 00	0	0	0	0	0

COMMISSION REGULATION (EEC) No 3774/88**of 2 December 1988****fixing the import levies on rice and broken rice**

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

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

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice⁽¹⁾, as last amended by Regulation (EEC) No 2229/88⁽²⁾, and in particular Article 11 (2) thereof,

Having regard to Commission Regulation (EEC) No 883/87 of 23 March 1987 laying down detailed rules for the application of Council Regulation (EEC) No 3877/86 on imports rice of the long-grain aromatic Basmati variety falling within CN code 1006 10, 1006 20 and 1006 30⁽³⁾, and in particular Article 8 thereof,

Whereas the import levies on rice and broken rice were fixed by Commission Regulation (EEC) No 2699/88⁽⁴⁾, as last amended by Regulation (EEC) No 3732/88⁽⁵⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2699/88 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies to be charged on the products listed in Article 1 (1) (a) and (b) of Regulation (EEC) No 1418/76 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 5 December 1988.

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

Done at Brussels, 2 December 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 197, 26. 7. 1988, p. 30.

⁽³⁾ OJ No L 80, 24. 3. 1987, p. 20.

⁽⁴⁾ OJ No L 307, 12. 11. 1988, p. 17.

⁽⁵⁾ OJ No L 328, 1. 12. 1988, p. 5.

ANNEX

to the Commission Regulation of 2 December 1988 fixing the import levies on rice and broken rice

(ECU / tonne)

CN code	Portugal	Third countries (except ACP or OCT) (¹)	ACP or OCT (¹) (²) (³)	Arrangement in Regulation (EEC) No 3877/86
1006 10 91	—	303,29	148,04	—
1006 10 99 (⁴)	—	301,42	147,11	226,07
1006 20 10	—	379,11	185,95	—
1006 20 90 (⁴)	—	376,77	184,78	282,58
1006 30 11	13,05	503,06	239,60	—
1006 30 19 (⁴)	12,97	586,42	281,32	439,82
1006 30 91	13,90	535,76	255,53	—
1006 30 99 (⁴)	13,90	628,65	301,97	471,49
1006 40 00	0	119,58	56,79	—

(¹) Subject to the application of the provisions of Articles 10 and 11 of Regulation (EEC) No 486/85 and of Regulation No 551/85.

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

(³) The import levy on rice entering the overseas department of Réunion is specified in Article 11a of Regulation (EEC) No 1418/76.

(⁴) The amount is applicable to medium-grain and long-grain rice, as defined in paragraph 2 of Annex A of Regulation (EEC) No 1418/76, as amended by Regulation (EEC) No 3877/87 (OJ No L 365, 24. 12. 1987, p. 1).

N.B. The levies are to be converted into national currencies using the specific agricultural conversion rates fixed in Commission Regulation (EEC) No 3294/86 (OJ No L 304, 30. 10. 1986, p. 25).

COMMISSION REGULATION (EEC) No 3775/88

of 2 December 1988

fixing the premiums to be added to the import levies on rice and broken rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EEC) No 2229/88 ⁽²⁾, and in particular Article 13 (6) thereof,Whereas the premiums to be added to the levies on rice and broken rice were fixed by Commission Regulation (EEC) No 2700/88 ⁽³⁾, as last amended by Regulation (EEC) No 3733/88 ⁽⁴⁾;

Whereas, on the basis of today's cif prices and cif forward delivery prices, the premiums at present in force, which

are to be added to the levies, should be altered to the amounts shown in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

1. The premiums to be added to the import levies fixed in advance in respect of rice and broken rice originating in Portugal shall be zero.

2. The premiums to be added to the import levies fixed in advance in respect of rice and broken rice originating in third countries shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 5 December 1988.

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

Done at Brussels, 2 December 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 197, 26. 7. 1988, p. 30.

⁽³⁾ OJ No L 241, 1. 9. 1988, p. 30.

⁽⁴⁾ OJ No L 328, 1. 12. 1988, p. 7.

ANNEX

to the Commission Regulation of 2 December 1988 fixing the premiums to be added to the import levies on rice and broken rice

CN code	(ECU/tonne)			
	Current 12	1st period 1	2nd period 2	3rd period 3
1006 10 91	0	0	0	—
1006 10 99 ⁽¹⁾	0	0	0	—
1006 20 10	0	0	0	—
1006 20 90 ⁽¹⁾	0	0	0	—
1006 30 11	0	0	0	—
1006 30 19 ⁽¹⁾	0	0	0	—
1006 30 91	0	0	0	—
1006 30 99 ⁽¹⁾	0	0	0	—
1006 40 00	0	0	0	0

⁽¹⁾ The amount is applicable to medium-grain and long-grain rice, as defined in paragraph 2 of Annex A of Regulation (EEC) No 1418/76, as amended by Regulation (EEC) No 3877/87 (OJ No L 365, 24. 12. 1987, p. 1).

COMMISSION REGULATION (EEC) No 3776/88

of 2 December 1988

altering the specific agricultural conversion rates applicable in the rice sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ⁽¹⁾, as last amended by Regulation (EEC) No 1636/87 ⁽²⁾, and in particular Article 2 (4) thereof,

Having regard to Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture ⁽³⁾, as last amended by Regulation (EEC) No 1889/87 ⁽⁴⁾, and in particular Article 9 (2) thereof,

Whereas by Commission Regulation (EEC) No 3294/86 ⁽⁵⁾, as last amended by Regulation (EEC) No 3682/88 ⁽⁶⁾, specific agricultural conversion rates to be applied in the rice sector were established; whereas those conversion rates must be altered pursuant to Articles 2 and 3 of Commission Regulation (EEC) No 3153/85 ⁽⁷⁾, as last amended by Regulation (EEC) No 3770/87 ⁽⁸⁾;

Whereas Regulation (EEC) No 3153/85 lays down detailed rules for the calculation of monetary compensatory amounts; whereas the spot market rate for the Spanish peseta recorded in accordance with Regulation (EEC) No 3153/85 during the period 23 to 29 November 1988, requires the specific agricultural conversion rate applicable for Spain to be altered pursuant to Article 9 (2) of Regulation (EEC) No 1677/85,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EEC) No 3294/86 is replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on 5 December 1988.

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

Done at Brussels, 2 December 1988.

For the Commission

Franis ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽²⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 6.

⁽⁴⁾ OJ No L 182, 3. 7. 1987, p. 1.

⁽⁵⁾ OJ No L 304, 30. 10. 1986, p. 25.

⁽⁶⁾ OJ No L 321, 26. 11. 1988, p. 11.

⁽⁷⁾ OJ No L 310, 21. 11. 1985, p. 4.

⁽⁸⁾ OJ No L 355, 17. 12. 1987, p. 16.

*ANNEX***Specific agricultural conversion rate for rice**

(Regulation (EEC) No 3294/86)

1 ECU	= Bfs	48,2869
	= DM	2,34113
	= Dkr	8,93007
	= Dr	192,844
	= Pta	152,208
	= FF	7,85183
	= £Irl	0,873900
	= Lit	1 725,91
	= Fl	2,63785
	= £	0,736198

COMMISSION REGULATION (EEC) No 3777/88**of 2 December 1988****amending Regulation (EEC) No 1787/87 introducing the buying-in of beef in respect of certain Member States and qualities and fixing the buying-in prices for beef**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation No 805/68 of 27 June 1968 on the common organization of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EEC) No 2248/88 ⁽²⁾, and in particular Article 6a ⁽⁴⁾ thereof,

Whereas Commission Regulation (EEC) No 1787/87 ⁽³⁾, as last amended by Regulation (EEC) No 3714/88 ⁽⁴⁾, introduced the buying-in of beef in respect of certain Member States or regions thereof and quality groups, and fixed the buying-in prices in the beef sector;

Whereas, pursuant to the abovementioned Article 6a ⁽⁴⁾ and to Article 3 ⁽²⁾ of Commission Regulation (EEC) No

2226/78 ⁽⁵⁾, as last amended by Regulation (EEC) No 3492/88 ⁽⁶⁾, the buying-in prices should be replaced, on the basis of the data and prices available to the Commission, by the list of Member States or regions thereof and the quality groups eligible for intervention annexed to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to amended Regulation (EEC) No 1787/87 is hereby replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on 12 December 1988.

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

Done at Brussels, 2 December 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 198, 26. 7. 1988, p. 24.

⁽³⁾ OJ No L 168, 27. 6. 1987, p. 22.

⁽⁴⁾ OJ No L 325, 29. 11. 1988, p. 44.

⁽⁵⁾ OJ No L 261, 26. 9. 1978, p. 5.

⁽⁶⁾ OJ No L 306, 11. 11. 1988, p. 20.

*ANNEX**ANNEX I***Member States or regions within a Member State and groups of qualities**

Member State/Region	Groups of qualities (category and class)
Belgium	AU, AR, AO
Denmark	CR
Germany	AU, AR, CR
Spain	— — —
France	AU, AR
Ireland	—
Italy	AO
Luxembourg	AR, AO
Netherlands	AR
Great Britain	CU
Northern Ireland	CU, CR

COMMISSION REGULATION (EEC) No 3778/88**of 2 December 1988****opening a standing invitation to tender for the export of 113 000 tonnes of bread-making wheat held by the Danish intervention agency**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 2221/88⁽²⁾, and in particular Article 7 (6) thereof,Whereas Article 3 of Council Regulation (EEC) No 1581/86 of 23 May 1986 laying down general rules for intervention on the market in cereals⁽³⁾ provides that cereals held by the intervention agencies shall be disposed of by invitation to tender;Whereas Commission Regulation (EEC) No 1836/82⁽⁴⁾, as last amended by Regulation (EEC) No 2418/87⁽⁵⁾, lays down the procedure and conditions for the disposal of cereals held by intervention agencies;

Whereas it is appropriate, in the present market situation, to open a tender for the export of 113 000 tonnes of bread-making wheat held by the Danish intervention agency;

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

HAS ADOPTED THIS REGULATION:

Article 1

The Danish intervention agency may, on the conditions laid down in Regulation (EEC) No 1836/82, open a standing invitation to tender for the export of 113 000 tonnes of bread-making wheat held by it.

Article 2

1. The invitation to tender shall cover a maximum of 113 000 tonnes of bread-making wheat to be exported to all third countries.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.⁽²⁾ OJ No L 197, 26. 7. 1988, p. 16.⁽³⁾ OJ No L 139, 24. 5. 1986, p. 36.⁽⁴⁾ OJ No L 202, 9. 7. 1982, p. 23.⁽⁵⁾ OJ No L 223, 11. 8. 1987, p. 5.

2. The regions in which the 113 000 tonnes of bread-making wheat are stored are listed in Annex I hereto.

Article 3

The export licences shall be valid from their date of issue, within the meaning of Article 9 of Regulation (EEC) No 1836/82, until the end of the third month following.

Tenders submitted in response to this invitation to tender may not be accompanied by applications for export certificates under Article 43 of Commission Regulation (EEC) No 3183/80⁽⁶⁾.*Article 4*

1. By way of derogation from Article 7 (1) of Regulation (EEC) No 1836/82, the time limit for submission of tenders under the first partial invitation to tender shall expire on 7 December 1988 at 1 p.m. (Brussels time).

2. The time limit for submission of tenders under the last partial invitation to tender shall expire on 21 December 1988 at 1 p.m. (Brussels time).

3. The tenders shall be lodged with the Danish intervention agency.

Article 5

The Danish intervention agency shall notify the Commission of the tenders received not later than two hours after expiry of the time limit for the submission thereof. Notification shall be given as specified in the table in Annex II hereto.

*Article 6*This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.⁽⁶⁾ OJ No L 338, 13. 12. 1980, p. 1.

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

Done at Brussels, 2 December 1988.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX I

<i>(tonnes)</i>	
Place of storage	Quantity
Sjælland	113 000

ANNEX II

Standing invitation to tender for the export of 113 000 tonnes of bread-making wheat held by the Danish intervention agency

(Regulation (EEC) No 3778/88)

1	2	3	4	5	6	7
Tender No	Consignment No	Quantity (tonnes)	Offer price (ECU/tonne) ⁽¹⁾	Price increases (+) or reductions (—) (ECU/tonne)	Commercial costs (ECU/tonne)	Destination
1						
2						
3						
etc.						

⁽¹⁾ This price includes the increases or reductions relating to the lot to which the tender refers.

COMMISSION REGULATION (EEC) No 3779/88

of 2 December 1988

on the reimbursement of the co-responsibility levy in the cereals sector provided for in Regulations (EEC) No 2040/86 and (EEC) No 1432/88 in respect of first-stage processing undertaken on a producer's account

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 2221/88⁽²⁾, and in particular Articles 4 (5) and 4b thereof,

Whereas, in its judgment of 29 June 1988 in Case 300/86, the Court of Justice of the European Communities declared invalid the second subparagraph of Article 1 (2) of Commission Regulation (EEC) No 2040/86 of 30 June 1986 laying down detailed rules for the application of the co-responsibility levy in the cereals sector⁽³⁾, as then amended by Regulation (EEC) No 2572/86⁽⁴⁾, inasmuch as that provision distinguished between first-stage processing of cereals with a view to utilization on the farm depending on whether processing was carried out directly by the producer or by a third party on the latter's account; whereas, in accordance with the abovementioned provision, only first-stage processing operations carried out directly by the producer were exempt from the co-responsibility levy;

Whereas the same difference in treatment arises in Regulation (EEC) No 1432/88⁽⁵⁾, as last amended by Regulation (EEC) No 2869/88⁽⁶⁾, which replaces Regulation (EEC) No 2040/86 from 1 July 1988;

Whereas the Court ruled that it is for the Community legislator to take appropriate measures to re-establish equality of treatment of operators; whereas it is sufficient to note that the burden of the levy is borne by cereals producers only, through the fact that it is passed on; whereas the equality of treatment of operators should therefore be re-established by reimbursing sums collected from producers who have not benefited from the aid provided for in Commission Regulation (EEC) No 2096/86 of 3 July 1986 laying down detailed rules for the

application of a direct aid scheme for small producers of cereals⁽⁷⁾, as last amended by Regulation (EEC) No 3852/87⁽⁸⁾;

Whereas the conditions under which the sums collected are to be reimbursed and the proof required for the purpose should be specified;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The competent agencies designated by the Member States shall reimburse before 30 June 1989 to producers, on application by the latter, the amounts of co-responsibility levies withheld:

- on processing operations on the producer's account as referred to in the second sentence of Article 1 (2) of Regulation (EEC) No 2040/86, the product obtained from which has been used on the holding of the producer for animal feed,
- on operations for the processing of cereals delivered or made available to an undertaking by a producer (work under contract) for subsequent utilization on his holding by 26 July 1988 pursuant to Article 1 (2) of Regulation (EEC) No 1432/88.

2. Paragraph 1 shall not apply where the amounts which it provides for have been compensated for by grant of the aid provided for by Regulation (EEC) No 2096/86.

Article 2

Operators who have collected co-responsibility levies for operations referred to in Article 1 but who have not yet paid the relevant sums to the Member States shall pay the said sums before the end of the month following the date of entry into force of this Regulation.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 197, 26. 7. 1988, p. 16.

⁽³⁾ OJ No L 173, 1. 7. 1986, p. 65.

⁽⁴⁾ OJ No L 229, 15. 8. 1986, p. 25.

⁽⁵⁾ OJ No L 131, 27. 5. 1988, p. 37.

⁽⁶⁾ OJ No L 257, 17. 9. 1988, p. 22.

⁽⁷⁾ OJ No L 180, 4. 7. 1986, p. 19.

⁽⁸⁾ OJ No L 363, 23. 12. 1987, p. 18.

The preceding paragraph shall not apply where the operators have reimbursed the sums in question to the producers. In such case:

- the said operators shall forward to the competent authorities a list of reimbursements made with the names of the persons concerned, and
- the Member State shall not make the reimbursement provided for in Article 1 to the producers.

Article 3

Applications for reimbursement must be lodged before 31 March 1989 and shall include at least the following information:

- the amounts concerned and the date on which collection took place,
- the names and addresses of the processors.

Applications as referred to above must be accompanied by:

- proof, to the satisfaction of the competent authority, that the cereals in question have undergone the operations referred to in Article 1 and that the amounts applied for have actually been paid,
- a statement by the producer to the effect that the cereals used were produced on his holding and that the amounts concerned do not comprise sums compensated for under Regulation (EEC) No 2096/86.

Article 4

Member States shall take additional measures required, in particular as regards controls, to ensure reimbursement in accordance with this Regulation. They may also request operators to provide any information in addition to that set out in Article 3.

Article 4

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

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

Done at Brussels, 2 December 1988.

For the Commission

Frans ANDRIESEN

Vice-President

COMMISSION REGULATION (EEC) No 3780/88**of 2 December 1988****amending Regulation (EEC) No 2681/83 laying down detailed rules for the application of the subsidy system for oil seeds**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the common organization of the market in oils and fats ⁽¹⁾, as last amended by Regulation (EEC) No 2210/88 ⁽²⁾, and in particular Article 27 (5) thereof,Whereas Article 1 (1) (b) of Council Regulation (EEC) No 1594/83 of 14 June 1983 on the subsidy for oil seeds ⁽³⁾, as last amended by Regulation (EEC) No 2215/88 ⁽⁴⁾, provides that the aid referred to in Article 27 of Regulation No 136/66/EEC is also to be granted for colza, rape and sunflower seed processed in the Community for incorporation in feedingstuffs; whereas Commission Regulation (EEC) No 2681/83 ⁽⁵⁾, as last amended by Regulation (EEC) No 3378/88 ⁽⁶⁾, should therefore be adapted accordingly;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2681/83 is hereby amended as follows:

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

‘(b) the incorporation of oil seeds into feedingstuffs.’

2. In Article 2 (3), ‘colza or rape seed which is crushed’ is replaced by ‘oil seeds which are crushed’.

*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 August 1988.

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

Done at Brussels, 2 December 1988.

For the Commission

Frans ANDRIESEN

Vice-President⁽¹⁾ OJ No 172, 30. 9. 1966, p. 3025/66.⁽²⁾ OJ No L 197, 26. 7. 1988, p. 1.⁽³⁾ OJ No L 163, 22. 6. 1983, p. 44.⁽⁴⁾ OJ No L 197, 26. 7. 1988, p. 9.⁽⁵⁾ OJ No L 266, 22. 9. 1983, p. 1.⁽⁶⁾ OJ No L 296, 29. 10. 1988, p. 71.

COMMISSION REGULATION (EEC) No 3781/88
of 2 December 1988
amending the import levies on milk and milk products

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

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

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EEC) No 1109/88 ⁽²⁾, and in particular Article 14 (8) thereof,

Whereas the import levies on milk and milk products were fixed by Commission Regulation (EEC) No 3723 ⁽³⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 3723/88 to the prices

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

HAS ADOPTED THIS REGULATION:

Article 1

The import levies referred to in Article 14 of Regulation (EEC) No 804/68, set out in the Annex to Regulation (EEC) No 3723/88, are as amended in the Annex hereto.

Article 2

This Regulation shall enter into force on 3 December 1988.

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

Done at Brussels, 2 December 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 110, 29. 4. 1988, p. 27.

⁽³⁾ OJ No L 326, 30. 11. 1988, p. 6.

ANNEX

to the Commission Regulation of 2 December 1988 altering the import levies on milk and milk products

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

CN code	Note	Import levy
0401 10 10		16,00
0401 10 90		14,79
0401 20 11		22,53
0401 20 19		21,32
0401 20 91		28,43
0401 20 99		27,22
0401 30 11		74,40
0401 30 19		73,19
0401 30 31		144,47
0401 30 39		143,26
0401 30 91		243,83
0401 30 99		242,62
0402 10 11		107,28
0402 10 19		100,03
0402 10 91	(¹)	1,0003/kg + 29,74
0402 10 99	(¹)	1,0003/kg + 22,49
0402 21 11		143,36
0402 21 17		136,11
0402 21 19		136,11
0402 21 91		183,65
0402 21 99		176,40
0402 29 11	(¹) (²)	1,3611/kg + 29,74
0402 29 15	(¹)	1,3611/kg + 29,74
0402 29 19	(¹)	1,3611/kg + 22,49
0402 29 91	(¹)	1,7640/kg + 29,74
0402 29 99	(¹)	1,7640/kg + 22,49
0402 91 11		34,27
0402 91 19		34,27
0402 91 31		42,84
0402 91 39		42,84
0402 91 51		144,47
0402 91 59		143,26
0402 91 91		243,83
0402 91 99		242,62
0402 99 11		49,76
0402 99 19		49,76
0402 99 31	(¹)	1,4084/kg + 26,12
0402 99 39	(¹)	1,4084/kg + 24,91
0402 99 91	(¹)	2,4020/kg + 26,12
0402 99 99	(¹)	2,4020/kg + 24,91

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

CN code	Note	Import levy
0403 10 11		24,94
0403 10 13		30,84
0403 10 19		76,81
0403 10 31	(¹)	0,1890/kg + 28,53
0403 10 33	(¹)	0,2480/kg + 28,53
0403 10 39	(¹)	0,7077/kg + 28,53
0403 90 11		107,28
0403 90 13		143,36
0403 90 19		183,65
0403 90 31	(¹)	1,0003/kg + 29,74
0403 90 33	(¹)	1,3611/kg + 29,74
0403 90 39	(¹)	1,7640/kg + 29,74
0403 90 51		24,94
0403 90 53		30,84
0403 90 59		76,81
0403 90 61	(¹)	0,1890/kg + 28,53
0403 90 63	(¹)	0,2480/kg + 28,53
0403 90 69	(¹)	0,7077/kg + 28,53
0404 10 11		19,03
0404 10 19	(¹)	0,1903/kg + 22,49
0404 10 91	(²)	0,1903/kg
0404 10 99	(²)	0,1903/kg + 22,49
0404 90 11		107,28
0404 90 13		143,36
0404 90 19		183,65
0404 90 31		107,28
0404 90 33		143,36
0404 90 39		183,65
0404 90 51	(¹)	1,0003/kg + 29,74
0404 90 53	(¹)	1,3611/kg + 29,74
0404 90 59	(¹)	1,7640/kg + 29,74
0404 90 91	(¹)	1,0003/kg + 29,74
0404 90 93	(¹)	1,3611/kg + 29,74
0404 90 99	(¹)	1,7640/kg + 29,74
0405 00 10		251,41
0405 00 90		306,72
0406 10 10		262,30
0406 10 90		313,77
0406 20 10	(³)	392,18
0406 20 90		392,18
0406 30 10	(³)	202,66
0406 30 31	(³)	198,30
0406 30 39	(³)	202,66
0406 30 90	(³)	299,38
0406 40 00	(³)	157,44
0406 90 11	(³)	248,56

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

CN code	Note	Import levy
0406 90 13	(³)	232,42
0406 90 15	(³)	232,42
0406 90 17	(³)	232,42
0406 90 19	(³)	392,18
0406 90 21	(³)	248,56
0406 90 23	(³)	217,05
0406 90 25	(³)	217,05
0406 90 27	(³)	217,05
0406 90 29	(³)	217,05
0406 90 31	(³)	217,05
0406 90 33		217,05
0406 90 35	(³)	217,05
0406 90 37	(³)	217,05
0406 90 39	(³)	217,05
0406 90 50	(³)	217,05
0406 90 61		392,18
0406 90 63		392,18
0406 90 69		392,18
0406 90 71		262,30
0406 90 73		217,05
0406 90 75		217,05
0406 90 77		217,05
0406 90 79		217,05
0406 90 81		217,05
0406 90 83		217,05
0406 90 85		217,05
0406 90 89	(³)	217,05
0406 90 91		262,30
0406 90 93		262,30
0406 90 97		313,77
0406 90 99		313,77
1702 10 90	(⁴)	36,85
2106 90 51		36,85
2309 10 15		77,44
2309 10 19		100,45
2309 10 39		94,57
2309 10 59		79,07
2309 10 70		100,45
2309 90 35		77,44
2309 90 39		100,45
2309 90 49		94,57
2309 90 59		79,07
2309 90 70		100,45

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

COMMISSION REGULATION (EEC) No 3782/88**of 2 December 1988**

authorizing Germany and France not to apply in certain areas the measures provided for in Regulation (EEC) No 1442/88 on the granting, for the 1988/89 to 1995/96 wine years, of permanent abandonment premiums in respect of wine-growing areas

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1442/88 of 24 May 1988 on the granting, for the 1988/89 to 1995/96 wine years, of permanent abandonment premiums in respect of wine-growing areas⁽¹⁾, and in particular Article 12 (1) thereof,

Whereas Germany has submitted a reasoned application for all areas under vines on slopes with a gradient equal to and greater than 30 % to be excluded from the scope of the measures provided for in Regulation (EEC) No 1442/88; whereas those areas under vines are high-quality wine-growing areas with typical characteristics peculiar to German wines; whereas those areas under vines are a fundamental feature of the landscape of the regions concerned; whereas support and special encouragement within the framework of the national quality policy has been provided for the production of wine on such slopes; whereas those areas may not be used for other purposes; whereas, the wine-growing potential of those areas is less than 10 % of the national wine-growing potential;

Whereas France has lodged an application for a series of vineyards to be excluded from the scope of the measures provided for in Regulation (EEC) No 1442/88 on various grounds; whereas, as regards a first category of areas, for which all areas planted with wine-grape varieties are to be exempted, there are major risks of depopulation and environmental damage and in particular risks of fire arising from the abandonment of vineyards, which have been allowed to run to scrubland wild; whereas, as regards a second category of areas to be exempted on the basis of the vine varieties planted, there are risks of the quality policy being put in question; whereas the first part of those areas involves new designations of origin, which need all the vine varieties making up that designation in order to express their originality; whereas the other part of those areas involves, certain vine varieties planting of which has been encouraged for many years and which provide the essential characteristics required

for wines of the designation; whereas, as regards a third category of areas, areas which have qualified for a vineyard restructuring premium granted pursuant to Council Regulation (EEC) No 458/80 of 8 February 1980 on collective projects for the restructuring of vineyards⁽²⁾, as last amended by Regulation (EEC) No 388/88⁽³⁾, or other restructuring programmes should be exempted in order not to put in question the quality policy conducted; whereas, the production potential for each of those areas, was calculated in accordance with the method set out in Article 12 (4) of Regulation (EEC) No 1442/88 on the basis of the analytical data on areas and annual production by vine variety and by designation of origin available from the Office National Interprofessionnel des Vins and the Institut National des Appellations d'Origine; whereas the wine-growing potential of those areas as a whole is less than 10 % of the national wine-growing potential;

Whereas, in view of the Member States' delay in forwarding applications for exclusion from areas for the first wine year of application of the measure, such exemptions may only be decided by the Commission after the commencement of that wine year; whereas, to take account of the special situation of producers in the areas concerned who have already submitted an application and taken all the relevant measures, transitional provisions should be adopted for processing such applications;

The Management Committee for Wine has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Pursuant to Article 12 (1) of Regulation (EEC) No 1442/88, Germany is hereby authorized not to apply the measures for the permanent abandonment of

⁽¹⁾ OJ No L 132, 28. 5. 1988, p. 3.

⁽²⁾ OJ No L 57, 29. 2. 1980, p. 27.

⁽³⁾ OJ No L 39, 12. 2. 1988, p. 1.

wine-growing areas provided for in that Regulation in all areas under vines on slopes with a gradient equal to or greater than 30 %.

Article 2

France is hereby authorized under Article 12 (1) of Regulation (EEC) No 1442/88 not to apply the measures for the permanent abandonment of wine-growing areas provided for in that Regulation in all the wine-growing areas listed in the Annex hereto.

Article 3

The Member States shall take into consideration applications lodged before the entry into force of this Regulation and relating to the areas concerned if the applicant proves to the satisfaction of the competent authorities that he has already taken measures directly or indirectly linked to grubbing-up operations.

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

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

Done at Brussels, 2 December 1988.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX

(Wine-growing areas in respect of which France is authorized not to apply the measures provided for in Regulation (EEC) No 1442/88)

1. *Areas under wine-grape vine varieties in the following areas*

- Fitou, Côtes du Luberon, Côtes du Ventoux, Bandol and Cassis quality wine psr production areas,
- Coteaux du Quercy vin de pays geographical area,
- Île de Ré.

2. *Areas planted within a quality wine psr production area with vine varieties laid down for the quality wines psr of the area concerned*

- Pécharmant, Côtes du Brulhois, Tursan, Chateameillant, Reuilly, Madiran, Pacherenc du Vic Bilh, Lavilledieu, Marcillac, Entraygues and Fel, Estaing, Côtes de Saint Mont, Anjou Village (excepting Savennières, Bonnezeaux, Chaumes and Quart de Chaumes quality wine psr areas), Saumur (excepting the Saumur Champigny quality wine psr area), Haut Poitou, Côtes du Vivarais, Clairette de Die, Châtillon en Diois, Coteaux du Tricastin, Côtes Roannaises, Côtes du Forez, Coteaux du Lyonnais, Bugey, Coteaux du Giennois, Vin de Savoie, Crépy, Seyssel and the Jura and Corsican quality wines psr areas,
- Production area of wine for the production of Armagnac in respect of vine varieties suitable for such production.

3. *Areas under the vine varieties indicated in the following areas:*

- Quality wine psr area : Cot, Pinot noir, Pinot gris, Pinot Meunier, Gamay, Sauvignon, Cabernet, Chardonnay. For sub-regions of the Touraine area, certain vine varieties are added :
 - Touraine Azay quality wine psr area : Chenin and Grolleau vine varieties,
 - Touraine Mesland, Touraine Amboise and Montlouis quality wine psr area : Chenin vine variety,
 - Rest of Touraine area : Chenin vine variety qualifying for a restructuring premium,
- Orléannais quality wine psr area : Pinot noir, Pinot Meunier, Cabernet, Auvernot blanc and Auvernot gris, Gamay and Sauvignon,
- Valençay and Cheverny area : Gamay, Cot, Pinot noir, Cabernet, Sauvignon and Chardonnay together with the Romorantin vine variety for Cheverny quality wine psr,
- Corbières quality wine psr area and unirrigable areas in Minervois quality wine psr area : Grenache noir, Syrah and Mourvedre vine varieties,
- Blanquette de Limoux quality wine psr area : Chardonnay vine variety,
- Saint-Jean de Minervois quality wine psr area : Muscat Petits grains vine variety,
- Cabardès quality wine psr area : Grenache, Syrah, Cot, Cabernet Franc, Cabernet Sauvignon, Merlot and Fer vine varieties,
- Coteaux du Languedoc quality wine psr area : Grenache noir, Grenache blanc, Syrah, Mourvedre, Picpoul blanc, Malvoisie, Clairette, Marsanne, Roussane and Rolle vine varieties,
- Coteaux du Loir and Jasnières quality wine psr area : Chenin, Pineau d'Aunis, Gamay noir, Pinot noir, Cabernet and Cot vine varieties,
- Fiefs vendéens quality wine psr area : Chenin, Sauvignon, Chardonnay, Gamay noir, Pinot noir, Cabernet and Négrette vine varieties,
- Gaillac quality wine psr area : Duras, Syrah, Fer Servadou, Sauvignon, and Len de l'El vine varieties on lots not adjoining the main holding, of an area equal to or less than 3 hectares,
- Cantons of Monfort, Amou, Mugron, Saint-Sever, Hagetmau, Peyrehorade, and Dax in the department of Landes : Tannat, Cabernet Franc and Cabernet Sauvignon vine varieties.

4. *Areas qualifying for a vineyard restructuring premium*

(not covered in preceding headings)

- Languedoc-Roussillon region,
- Provence-Alpes and Côte-d'Azur region,
- Midi-Pyrénées region,
- Corsica,
- Departments of Dordogne, Lot-et-Garonne, Pyrénées-Atlantiques, Drôme and Ardèche,
- Anjou quality wine psr area.

COMMISSION REGULATION (EEC) No 3783/88**of 2 December 1988****altering the export refunds on white sugar and raw sugar exported in the natural state**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 2306/88 ⁽²⁾, and in particular the second subparagraph of Article 19 (4) thereof,Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EEC) No 3635/88 ⁽³⁾, as last amended by Regulation (EEC) No 3737/88 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 3635/88 to the information known to the Commission that the export refunds

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, as fixed in the Annex to amended Regulation (EEC) No 3635/88, are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 3 December 1988.

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

Done at Brussels, 2 December 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 201, 27. 7. 1988, p. 65.

⁽³⁾ OJ No L 317, 24. 11. 1988, p. 5.

⁽⁴⁾ OJ No L 328, 1. 12. 1988, p. 15.

ANNEX

to the Commission Regulation of 2 December 1988 altering the export refunds on white sugar and raw sugar exported in the natural state

(ECU)

Product code	Amount of refund	
	per 100 kg	per percentage point of sucrose content and per 100 kg net of the product in question
1701 11 90 100	34,09 ⁽¹⁾	
1701 11 90 910	32,82 ⁽¹⁾	
1701 11 90 950	⁽²⁾	
1701 12 90 100	34,09 ⁽¹⁾	
1701 12 90 910	32,82 ⁽¹⁾	
1701 12 90 950	⁽²⁾	
1701 91 00 000		0,3706
1701 99 10 100	37,06	
1701 99 10 910	35,82	
1701 99 10 950	35,82	
1701 99 90 100		0,3706

⁽¹⁾ Applicable to raw sugar with a yield of 92 % ; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 5 (3) of Regulation (EEC) No 766/68.

⁽²⁾ Fixing suspended by Commission Regulation (EEC) No 2689/85 (OJ No L 255, 26. 9. 1985, p. 12), as amended by Regulation (EEC) No 3251/85 (OJ No L 309, 21. 11. 1985, p. 14).

COMMISSION REGULATION (EEC) No 3784/88

of 2 December 1988

altering the import levies on products processed from cereals and rice

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

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

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

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

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

Having regard to the opinion of the Monetary Committee,
Whereas the import levies on products processed from cereals and rice were fixed by Commission Regulation (EEC) No 3689/88 ⁽⁷⁾, as amended by Regulation (EEC) No 3755/88 ⁽⁸⁾;

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

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

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

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

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

Whereas these exchange rates being those recorded on 1 December 1988;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

The import levies to be charged on products processed from cereals and rice covered by Regulation (EEC) No 2744/75 as fixed in the Annex to amended Regulation (EEC) No 3689/88 are hereby altered to the amounts set out in the Annex.

Article 2

This Regulation shall enter into force on 3 December 1988.

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

Done at Brussels, 2 December 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 197, 26. 7. 1988, p. 16.

⁽³⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽⁴⁾ OJ No L 197, 26. 7. 1988, p. 30.

⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁶⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁷⁾ OJ No L 321, 26. 11. 1988, p. 28.

⁽⁸⁾ OJ No L 328, 1. 12. 1988, p. 57.

⁽⁹⁾ OJ No L 182, 3. 7. 1987, p. 49.

⁽¹⁰⁾ OJ No L 281, 1. 11. 1975, p. 65.

⁽¹¹⁾ OJ No L 168, 25. 6. 1974, p. 7.

⁽¹²⁾ OJ No L 202, 26. 7. 1978, p. 8.

ANNEX

to the Commission Regulation of 2 December 1988 altering the import levies on products processed from cereals and rice

CN code	Import levies (ECU/tonne)	
	Third countries (other than ACP or OCT)	ACP or OCT
1102 90 90 ⁽²⁾	150,72	147,70
1103 19 90 ⁽²⁾	150,72	147,70
1103 21 00 ⁽²⁾	252,24	246,20
1103 29 90 ⁽²⁾	150,72	147,70
1104 19 10 ⁽²⁾	252,24	246,20
1104 19 99 ⁽²⁾	266,68	260,64
1104 29 10*10 ⁽²⁾ ⁽⁹⁾	184,94	181,92
1104 29 10*30 ⁽²⁾ ⁽⁹⁾	234,70	231,68
1104 29 10*40 ⁽²⁾ ⁽⁹⁾	234,70	231,68
1104 29 10*90 ⁽²⁾ ⁽¹⁰⁾	234,70	231,68
1104 29 30*10 ⁽²⁾ ⁽⁹⁾	221,87	218,85
1104 29 30*30 ⁽²⁾ ⁽⁹⁾	234,70	231,68
1104 29 30*40 ⁽²⁾ ⁽⁹⁾	234,70	231,68
1104 29 30*90 ⁽²⁾ ⁽¹⁰⁾	234,70	231,68
1104 29 91 ⁽²⁾	142,54	139,52
1104 29 99 ⁽²⁾	150,72	147,70
1104 30 10	108,63	102,59
1107 10 11	254,35	243,47
1107 10 19	192,80	181,92
1108 11 00	306,07	285,52
1109 00 00	700,46	519,12
2302 10 10	61,45	55,45
2302 10 90	124,82	118,82
2302 20 10	61,45	55,45
2302 20 90	124,82	118,82
2302 30 10	61,45	55,45
2302 30 90	124,82	118,82
2302 40 10	61,45	55,45
2302 40 90	124,82	118,82

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

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

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

(*) Taric code: wheat.

(*) Taric code: millet.

(*) Taric code: sorghum.

(*) Taric code: others.

COMMISSION REGULATION (EEC) No 3785/88
of 2 December 1988
fixing the import levies on white sugar and raw sugar

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

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

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

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 2336/88⁽³⁾, as last amended by Regulation (EEC) No 3767/88⁽⁴⁾;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 3 December 1988.

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

Done at Brussels, 2 December 1988.

For the Commission
Frans ANDRIESEN
Vice-President

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 201, 27. 7. 1988, p. 65.

⁽³⁾ OJ No L 203, 28. 7. 1988, p. 22.

⁽⁴⁾ OJ No L 330, 2. 12. 1988, p. 18.

ANNEX

to the Commission Regulation of 2 December 1988 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy
1701 11 10	34,96 ⁽¹⁾
1701 11 90	34,96 ⁽¹⁾
1701 12 10	34,96 ⁽¹⁾
1701 12 90	34,96 ⁽¹⁾
1701 91 00	43,26
1701 99 10	43,26
1701 99 90	43,26 ⁽²⁾

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

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

COMMISSION REGULATION (EEC) No 3786/88

of 2 December 1988

altering the basic amount of the import levies on syrups and certain other products in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EEC) No 2306/88⁽²⁾, and in particular Article 16 (8) thereof,Whereas the import levies on syrups and certain other sugar products were fixed by Commission Regulation (EEC) No 3734/88⁽³⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 3734/88 to the information known to the Commission that the basic amount

of the levy on syrups and certain other sugar products at present in force should be altered,

HAS ADOPTED THIS REGULATION:

Article 1

The basic amounts of the import levy on the products listed in Article 1 (1) (d) of Regulation (EEC) No 1785/81, as fixed in the Annex to Regulation (EEC) No 3734/88 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 3 December 1988.

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

Done at Brussels, 2 December 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 201, 27. 7. 1988, p. 65.

⁽³⁾ OJ No L 328, 1. 12. 1988, p. 9.

ANNEX

to the Commission Regulation of 2 December 1988 altering the basic amount of the import levies on syrups and certain other products in the sugar sector

(ECU)

CN code	Basic amount per percentage point of sucrose content and per 100 kg net of the product in question	Amount of levy per 100 kg of dry matter
1702 20 10	0,4326	—
1702 20 90	0,4326	—
1702 30 10	—	53,75
1702 40 10	—	53,75
1702 60 10	—	53,75
1702 60 90	0,4326	—
1702 90 30	—	53,75
1702 90 60	0,4326	—
1702 90 71	0,4326	—
1702 90 90	0,4326	—
2106 90 30	—	53,75
2106 90 59	0,4326	—
—		

COMMISSION REGULATION (EEC) No 3787/88

of 2 December 1988

amending Regulation (EEC) No 2936/88 enabling Member States to authorize preventive withdrawals of apples

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 2238/88⁽²⁾, and in particular Article 15a (2) thereof,

Whereas Commission Regulation (EEC) No 2936/88⁽³⁾ enables Member States to authorize preventive withdrawals of apples and apportion between them the maximum quantity to which preventive withdrawals may relate;

Whereas the estimated production of apples in respect of the 1988/89 marketing year has been revised upwards, to 7 200 000 tonnes; whereas preventive withdrawals may relate to no more than 40 % of the expected surpluses in relation to a production figure of 6 200 000 tonnes, that is, 400 000 tonnes; whereas, therefore, the distribution by Member State of the quantity in question should also be revised;

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 2 (1) of Regulation (EEC) No 2936/88 is hereby replaced by the following:

1. Preventive withdrawals may not relate to more than 400 000 tonnes distributed by Member State in the following manner:

Belgium	13 300 tonnes
Denmark	850 tonnes
Germany	27 700 tonnes
Greece	24 000 tonnes
France	154 600 tonnes
Ireland	750 tonnes
Italy	159 000 tonnes
Luxembourg	100 tonnes
Netherlands	11 700 tonnes
United Kingdom	8 000 tonnes.

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 Brussels, 2 December 1988.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 198, 26. 7. 1988, p. 1.

⁽³⁾ OJ No L 264, 24. 9. 1988, p. 42.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 14 November 1988

relating to a proceeding under Article 85 of the EEC Treaty

(IV/32.358 — ServiceMaster)

(Only the English text is authentic)

(88/604/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to the application for negative clearance and notification submitted on 3 June 1987 by ServiceMaster Limited (England) of a standard form franchise agreement concerning the provision of housekeeping, cleaning and maintenance services in the Community,

Having regard to the summary of the application and notification published⁽²⁾ pursuant to Article 19 (3) of Regulation No 17,

After consulting the Advisory Committee on Restrictive Practices and Dominant Position,

Whereas :

I. THE FACTS

- (1) ServiceMaster has notified a standard form service franchise agreement for use in all the EEC Member States. The agreement concerns the supply of housekeeping, cleaning and maintenance services to both commercial and domestic customers. ServiceMaster has applied for a negative clearance

or alternatively an exemption decision under Article 85 (3) of the Treaty.

- (2) Following observations made by the Commission, ServiceMaster has agreed to make certain amendments to its notified agreement. The amended agreement was communicated to the Commission on 10 May 1988.
- (3) Reference is made to the notice published pursuant to Article 19 (3) of Regulation No 17⁽³⁾, for a more extensive description of the ServiceMaster franchise system and its relevant clauses which are mentioned or discussed hereinafter only in so far as is necessary for the reasoning of the Commission. The facts set out in the Article 19 (3) notice form part of this Decision.
- (4) The Commission did not receive any observations from interested third parties following publication of the said notice.

II. LEGAL ASSESSMENT

A. Article 85 (1)

- (5) The franchise network set up by ServiceMaster by means of the notified standard form agreement is a service franchise; it concerns the supply of housekeeping, cleaning and maintenance service to commercial and domestic customers according to the instructions of ServiceMaster and, on an ancillary basis, the supply of goods directly linked to the provision of those services. The Service-

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No C 218, 20. 8. 1988, p. 3.

⁽³⁾ And notified annexed to the present Decision.

Master franchise includes a uniform presentation of the contract services based on the use of a common name, a substantial package of technical, commercial and administrative know-how relating to the provision of the services and continuing assistance provided by ServiceMaster. The franchisees are proprietors of their businesses, which they operate for their own account and at their own risk. In exchange for the right to exploit a ServiceMaster franchise and certain ServiceMaster intellectual property rights related to trade marks and copyrights, the franchisees have to make various financial contributions and are bound by obligations aimed at preserving the uniformity and quality standards of the ServiceMaster system.

- (6) The Commission considers that, despite the existence of specific matters, service franchises show strong similarities to distribution franchises and can therefore basically be treated in the same way as the distribution franchises already exempted by the Commission⁽¹⁾. This basic premise relies on the fact that the EEC competition rules apply without distinction to both products and services. This does not prevent the Commission from taking into account in individual cases certain specific characteristics relating to the provision of services.

In particular, know-how is often more important in the supply of service than in the supply of goods because each service requires the execution of particular work and creates a close personal relationship between the provider of the service and the receiver of the service. Therefore, the protection of the franchisor's know-how and reputation can be even more essential for service franchises than for distribution franchises where mainly the goods advertise the business by carrying the trademark of the producer or distributor. Also certain services, as for instance the ServiceMaster services, are executed at the customer's premises, while goods are usually sold at the premises of the retailer. Services of this type further reinforce the link between the provider of the services and the customer.

Provisions not falling within Article 85 (1)

The following provisions of the ServiceMaster franchise agreement do not fall within Article 85 (1).

⁽¹⁾ See Commission Decision 87/407/EEC, Computerland (OJ No L 222, 10. 8. 1987, p. 12); 87/14/EEC, Yves Rocher (OJ No L 8, 10. 1. 1987, p. 49); 87/17/EEC, Pronuptia (OJ No L 13, 15. 1. 1987, p. 39).

(a) *Provisions aimed at preventing the know-how and other assistance given by the franchisor from benefiting competitors.*

- (7) The franchisee's obligation to preserve, before and after the termination of the agreement, the secrecy of all information and know-how and to impose a similar obligation on his employees. The commercial value of know-how is dependent on its secrecy. The obligation not to disclose the know-how is a necessary condition for maintaining such value and for enabling ServiceMaster to grant it to other potential franchisees.
- (8) The franchisee's obligation to use the know-how and intellectual property rights licensed solely for the purposes of exploitation of the ServiceMaster franchise. This field-of-use restriction is necessary to protect the franchisor's know-how because it lends itself to use with competitive services provided by either the franchisee or other competitors.
- (9) The franchisee's obligation, after termination of the agreement, to cease using the know-how package of ServiceMaster unless this know-how package as a whole has fallen into the public domain otherwise than in breach of obligation. This post-term use ban on know-how is essential for the protection of the franchisor's right to this know-how. As long as its know-how has not become accessible to the public, the franchisor has the right to limit the transfer thereof to a fixed period of time, in this case to the lifetime of the franchise agreement. If the franchisor lost the exclusive right to make use of its know-how after expiry of the franchise agreement, it could not prevent competitors from using its know-how.
- (10) The franchisee's obligation, during the term of the agreement, not to be engaged in a competing business, except through the acquisition of a financial interest not exceeding 5 % in the capital of a publicly-quoted company. This non-competition obligation is necessary to avoid the risk that the know-how supplied by ServiceMaster to its franchisees might benefit competitors, even indirectly. The limitation of the acquisition of a financial interest in a publicly-quoted company to 5 % of the share capital is intended to ensure that the franchisees do not become involved in the operation of such a company, with the risk of transferring know-how to a competing business. Although the prohibition against acquiring

non-controlling financial interest in the capital of a competing publicly-quoted company can be a restriction of competition falling within Article 85 (1), in this particular case it is not considered to be an appreciable restriction because the franchisees are generally small undertakings for which the prohibition against acquiring more than 5 % of a publicly-quoted company does not normally constitute a real hindrance in the development of their own activities. Furthermore, the franchisees are completely free in the acquisition of financial interests in non-competing companies.

- (11) The franchisee's obligation, after the termination of the agreement, not to be engaged, for a period of one year, in a competing business within any territory within which he has provided services prior to the termination of the agreement. In addition, the franchisee may not solicit, for a period of one year, customers who have been, during the period of two years prior to the termination of the agreement, his customers.

This post-term non-competition and non-solicitation obligation is acceptable both as regards its duration and its geographical extent. This obligation is necessary to prevent the ex-franchisee from using the know-how and clientele he has acquired for his own benefit or for the benefit of ServiceMaster's competitors. It is further necessary to allow ServiceMaster a limited time period to establish a new outlet in the ex-franchisee's territory. This assessment does not prejudice any relief available to franchisees under national law upon termination of the contract.

- (12) The prohibition on the franchisee against selling the franchised business or against assigning the franchise agreement to a third party without ServiceMaster's approval. This prohibition is clearly indispensable to protect the know-how and assistance provided by the franchisor.

(b) *Provisions which allow the franchisor to safeguard the common identity and reputation of the franchise network*

- (13) The franchisee's obligation to use ServiceMaster's know-how and to apply the trading methods developed by ServiceMaster is an obligation which is inherent in the franchise system and ensures the standards of uniformity and quality of the franchise network.

- (14) The franchisee's obligation to communicate to ServiceMaster any improvements he makes in the operation of the business. This grant-back obligation is made on a non-exclusive and

reciprocal basis. It will improve the efficiency of the ServiceMaster franchise network by creating a free interchange of improvements between all franchisees.

- (15) The franchisee's obligation to obtain ServiceMaster's prior approval for the location his franchise premises. This obligation is necessary to ensure that a bad choice does not damage the reputation of the network which is a concern of the whole franchise network.

- (16) The franchisee's obligation to devote the necessary time and attention to the ServiceMaster business and to use his best endeavours to promote and increase the turnover of that business. This promotion obligation is intended to oblige the franchisee to concentrate his efforts on the development of his business. This obligation is acceptable in the light of the concern to preserve the reputation and uniform identity of the network by creating an efficient franchise system devoting all its efforts to the provision of the ServiceMaster services.

- (17) The franchisee's obligation to purchase certain cleaning equipment and certain chemicals used in the operation of the business from ServiceMaster or other suppliers nominated or approved by ServiceMaster. This purchase obligation is essential for the efficient working of the business and acts as a form of quality control. The obligation does not prevent franchisees from obtaining supplies of equipment and goods of equivalent quality from third-party suppliers. ServiceMaster will not withhold its approval of suppliers proposed by franchisees if the goods of those suppliers chemicals, the requirements of safety, non-toxicity, biodegradability and effectiveness. The franchisee is also free to purchase the required goods from any other ServiceMaster franchisee.

- (18) The franchisee's obligation to obtain the approval of ServiceMaster for the carrying-out of advertising. This control concerns the nature of advertisements, but not selling prices, with the object of ensuring conformity with the ServiceMaster brand image.

- (19) The franchisee's obligation to submit to inspections of his premises by ServiceMaster and to present financial statements. This obligation allows the franchisor to verify whether the franchisee is operating in accordance with the ServiceMaster methods of operation and is fulfilling his financial obligations. In so far as this right of inspection is not abused to discipline franchisees in their sales activities outside their own territory or in the determination of their sales prices, it cannot be considered restrictive of competition.

(c) *Other provisions*

- (20) The recommendation of sales prices to franchisees is not a restriction of competition since franchisees remain entirely free to determine their own prices for the supply of services and home-care products.
- (21) The franchisee's obligation to resell home care products only with the consent of ServiceMaster and only to customers serviced by the franchisee. This restriction on the resale of home-care products is based on the legitimate concern that the franchisee must concentrate on his primary business which is the provision of services, rather than the resale of goods.

Provisions falling within Article 85 (1)

The following provisions of the ServiceMaster franchise agreement fall within Article 85 (1).

- (22) The combined effect of the clause which prohibits the franchisee from setting up further outlets outside his own territory, and the territorial protection clause which prevents the franchisee from actively seeking customers outside his territory, results in a certain degree of market-sharing between the franchisees, thus restricting competition within the ServiceMaster network.

This territorial protection is, however, limited by two elements: the franchisee holds a non-exclusive right only within his territory with regard to ServiceMaster itself and each franchisee is entitled to provide services to non-solicited customers outside his territory.

- (23) Trade between Member States is affected by the prohibition imposed upon franchisees against setting up outlets in other Member States and against actively seeking customers in territories of franchisees of other Member States. These prohibitions lead to market-sharing between the franchisees of the different Member States. This effect on intra-Community trade is likely to be appreciable. ServiceMaster has notified a standard form agreement which it will use for the establishment of a European-wide franchise network. At the present time, ServiceMaster is only developing this network. However, when assessing the appreciable effect on trade between Member States the Commission must also take into account the likely future development of such a network. In this respect it must be considered that ServiceMaster is an important competitor in the market which is capable of setting up a great number of outlets throughout the EEC as it has done before in the United States and Canada where ServiceMaster has over 2 900 franchisees. ServiceMaster already has a 6 % market share in the United Kingdom and

reckons that its EEC market share will exceed 5 % in the near future. Given this context, the Commission considers that there exists a sufficient probability that the restrictions contained in the notified standard form agreement are, at the least, such as to affect intra-Community trade appreciably. The notified standard form franchise agreement therefore falls within Article 85 (1). It is thus necessary to examine whether that agreement can be granted an exemption under Article 85 (3).

B. Article 85 (3)

- (24) The ServiceMaster standard form franchise agreement contributes, through the combined effect of all its provisions, to improving the supply of the services concerned for the following reasons:

- it helps ServiceMaster rapidly to penetrate new markets with only limited investments, in this case the markets of all 12 Member States,
- this rapid development of a European-wide service network increases inter-brand competition with other service providers in the various markets concerned,
- it helps a great number of small undertakings to enter a new market by allowing them to set up outlets more rapidly and with a higher chance of success because they receive the benefit of ServiceMaster's name and reputation, and of its technical, commercial and administrative know-how,
- it permits an intensive servicing of customers through the personal commitment of independent traders.

- (25) The ServiceMaster standard form franchise agreement allows consumers a fair share of the benefit resulting from the above improvements in the supply of services. First, the network as a whole is intended to provide a better and uniformly high-quality service to consumers. Secondly, as already mentioned in the preceeding paragraph, consumers will benefit from the efficient service which the franchisee will be encouraged to provide as an independent trader who has a personal and direct interest in the success of his business. Thirdly, the freedom which consumers enjoy to obtain services elsewhere in the network will force franchisees to pass on to consumers a reasonable part of the benefits of this intra-brand competition. Finally, because of strong inter-brand competition, the franchisees can be expected to offer better services and prices.

- (26) The provisions falling within Article 85 (1) are indispensable to the establishment and existence of the franchise network: the limited territorial protection granted to the franchisees is necessary to obtain and protect their investment, comprising

inter alia the cost of the establishment and maintenance of the business premises, the payment of the initial franchise fee, the acquisition of the necessary means of transport for the carrying out of the services at the customers' premises and the acquisition of special equipment. The limited territorial protection is also necessary to ensure that the franchisees will concentrate their service activity on their own territory. On the other hand, the franchisees retain passive service rights in other territories and remain free in the determination of their sales prices.

- (27) The ServiceMaster standard form franchise agreement does not afford its members the possibility of eliminating competition in respect of a substantial part of the services concerned.

The inter-brand competition in the market concerned is both very strong and open: the market for cleaning, housekeeping and maintenance services is highly competitive, with a large number of firms supplying similar or identical services. It is also a market with no barriers to entry, with the result that new suppliers can at any time challenge any attempt by ServiceMaster or its franchisees to increase their prices.

Intra-brand competition within the ServiceMaster network itself is also preserved: the limited territorial protection does not grant the franchisees any marketing or customer exclusivity. Franchisees are free to provide services to non-solicited customers resident outside their own territory. This brings about a certain degree of price competition between franchisees, who are free to determine their sales prices.

- (28) The notified agreement therefore meets all the requirements for an exemption under Article 85 (3).

C. Articles 6 and 8 of Regulation No 17

- (29) The agreement as notified by ServiceMaster on 3 June 1987 contained a number of provisions which did not fulfill the conditions for an exemption, in particular provisions relating to the territorial protection which originally excluded any intra-brand competition between franchisees. Following observations made by the Commission, ServiceMaster agreed to make a certain number of amendments to its agreement. ServiceMaster communicated the amended agreement to the Commission on 10 May 1988. Therefore, the date on which the exemption can take effect is the date of communication of the amended agreement.
- (30) It is appropriate in this case, in view of the highly competitive nature of the market concerned and the absence of any barriers to entry to that market, to grant the exemption for a period of 10 years

HAS ADOPTED THIS DECISION:

Article 1

Pursuant to Article 85 (3) of the EEC Treaty, the provisions of Article 85 (1) are hereby declared inapplicable from 10 May 1988 until 9 May 1998 to the standard form service franchise agreement which ServiceMaster concludes with its franchisees within the EEC.

Article 2

This Decision is addressed to ServiceMaster Ltd, 50 Commercial Square, Freeman's Common, Leicester LE2 7SR, United Kingdom.

Done at Brussels, 14 November 1988.

For the Commission

Peter SUTHERLAND

Member of the Commission