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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 986/89

of 10 April 1989

on the accompanying documents for carriage of wine products and the relevant records to be kept

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine⁽¹⁾, as last amended by Regulation (EEC) No 4250/88⁽²⁾, and in particular Articles 18 (4), 19 (8), 21 (4), 23 (4), (3) and 81 thereof,

Whereas in view of the establishment of the single market in the Community, which will entail the abolition of economic boundaries between Member States, it is important to endow the authorities responsible for supervising the stocking and marketing of wine products with the means necessary to carry out effective checks in accordance with uniform rules laid down at Community level;

Whereas Article 71 (1) of Regulation (EEC) No 822/87 provides that wine products may be put into circulation within the Community only with an officially checked accompanying document; whereas paragraph 2 of the said Article 71 provides that natural or legal persons who hold wine products are to be obliged to keep goods inwards and outwards registers in respect of those products; whereas the Commission therefore adopted Regulation (EEC) No 1153/75⁽³⁾, as last amended by Regulation (EEC) No 418/86⁽⁴⁾;

Whereas in order to lay down uniform rules applicable throughout the Community and to simplify the administrative formalities for the public, the existing Community rules on the subject to date should be revised in the light of experience and taking into account the requirements of the single market;

Whereas supervision of the carriage of wine products in bulk requires special attention, particularly as regards authenticity; whereas the approved commercial document differs from a simple commercial document in that it bears a serial number allocated by the competent authority and a reference to that authority and, as a standardized document based on the framework form

drawn up under the auspices of the United Nations Economic Commission for Europe, is immediately suitable for use in supervising the movement of wine products; whereas use of the approved commercial document, in conjunction with the recording in registers of entry and withdrawal, makes it possible to retrace the route taken by the product so transported; whereas it is therefore desirable to provide that this approved commercial document accompany all wine products carried in bulk; whereas, in order to allow the parties concerned to adapt gradually to the new system, the use of accompanying documents as provided for in Regulation (EEC) No 1153/75 should be permitted during a transitional period;

Whereas, in comparison with the carriage of wine products in bulk, the danger of illegal operations with respect to wine products in labelled containers of a nominal volume of not more than five litres fitted with a recognized non-reusable closing device is relatively small; whereas the consignor should be allowed to transport such products under cover of a simple commercial document from 1 January 1991; whereas a list of non-reusable closing devices recognized by the competent authorities of at least one Member State, which could be amended where necessary at the request of a Member State, should be drawn up;

Whereas, in order to avoid needlessly complicating administrative formalities, provision should be made for no document to be required to accompany the carriage of wine products answering certain criteria;

Whereas, for the purpose of ensuring that the documents accompanying the carriage of wine products constitute an effective means for supervising the movement and stocking of these products, rules must be laid down concerning the completion and use of such documents;

Whereas a certificate of origin for quality wines produced in specified regions or of provenance for table wines entitled to a geographical ascription is required for export and, in some cases, for intra-Community trade; whereas, in order to simplify administrative formalities and release the competent authorities from routine work, rules should

⁽¹⁾ OJ No L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ No L 373, 31. 12. 1988, p. 55.

⁽³⁾ OJ No L 113, 1. 5. 1975, p. 1.

⁽⁴⁾ OJ No L 48, 26. 2. 1986, p. 8.

be laid down allowing the approved commercial document to be considered, under certain conditions, as attesting to the origin of the abovementioned wines;

Whereas documents accompanying the carriage of wine products and the relevant entries made in the registers constitute a whole; whereas, in order to ensure that by consulting the registers the competent authorities are able effectively to monitor the movement and stocking of wine products, in particular in the course of cooperation between those authorities in the different Member States, the rules concerning the keeping of records should be harmonized at Community level;

Whereas the substances used in certain oenological practices, especially enrichment, acidification and sweetening, are particularly open to the danger of fraudulent use; whereas records must therefore be kept concerning those substances to enable the competent authorities to supervise the movement and use thereof;

Whereas an accompanying document completed in accordance with Regulation (EEC) No 1153/75 may be required, under provisions adopted by some Member States in accordance with the abovementioned Regulation, to include additional particulars for purposes other than those of this Regulation, in particular in connection with the application of tax laws in the Member State in question; whereas, until such a time as tax provisions are harmonized at Community level for the purposes of completing the internal market, Member States should be able to require, for carriage of wine products on their territory, additional particulars to be entered on the document accompanying carriage;

Whereas in order to achieve a smoother transition from the rules in force until this Regulation becomes applicable to the rules laid down herein, the Member States should be authorized to derogate from certain rules in this Regulation during a transitional period; whereas, in order to increase the effectiveness of the controls, the Member States should be authorized to lay down certain additional provisions concerning documents accompanying carriage operations starting on their territory or consisting in an obligation for the consignee;

Whereas certain provisions of Commission Regulations (EEC) No 1594/70⁽¹⁾, as last amended by Regulation (EEC) No 418/86⁽²⁾, (EEC) No 1698/70⁽³⁾, as last amended by Regulation (EEC) No 807/73⁽⁴⁾, (EEC) No 2152/75⁽⁵⁾ and (EEC) No 2247/73⁽⁶⁾, as last amended by Regulation (EEC) No 418/86, should be incorporated in this Regulation and amended where necessary in the light of experience;

Whereas the provisions of Regulation (EEC) No 1153/75 are replaced by those of this Regulation; whereas, however, in order to facilitate transition from the arrangements applicable before the entry into force of this Regulation to the arrangements laid down herein, provision should be made for Regulation (EEC) No 1153/75 to be repealed in two stages, thereby permitting the continued use of the accompanying document provided for in that Regulation during the transitional period;

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

HAS ADOPTED THIS REGULATION:

Article 1

Carriage within the customs territory of the Community of the products referred to in Article 1 (2) of Regulation (EEC) No 822/87 shall be accompanied by the following documents:

- a commercial document, or
- an approved commercial document, or
- up to 31 December 1990, an accompanying document.

Article 2

1. For the purposes of this Regulation:

- (a) 'competent authority' means an authority made responsible by a Member State for the implementation of this Regulation;
- (b) 'producer' means any natural or legal person or group of such persons who has or has had in his possession fresh grapes, grape must or new wine still in fermentation, and who processes them or has them processed on his behalf into wine;
- (c) 'retailer' means any natural or legal person or group of such persons whose business activity includes the sale of wine in small quantities — to be defined by each Member State, having regard to the special features of trade and distribution — directly to the consumer, but not those who use cellars equipped for storing and, if appropriate, for bottling wines in large quantities, who have packaging facilities or who engage in itinerant trading in wine transported in bulk;
- (d) 'commercial document' means an invoice or delivery note, containing at least the following particulars:
 - in the case of invoices, the complete names and addresses of the seller and the buyer, and of the consignee if he is not the buyer,
 - in the case of delivery notes, the complete names and addresses of the consignor and the consignee,

⁽¹⁾ OJ No L 173, 6. 8. 1970, p. 23.

⁽²⁾ OJ No L 48, 26. 2. 1986, p. 8.

⁽³⁾ OJ No L 190, 26. 8. 1970, p. 4.

⁽⁴⁾ OJ No L 78, 27. 3. 1973, p. 9.

⁽⁵⁾ OJ No L 219, 19. 8. 1975, p. 7.

⁽⁶⁾ OJ No L 230, 18. 8. 1973, p. 12.

- the date of issue,
- a number enabling the document to be identified,
- a description of the product transported in accordance with Community and national provisions in force,
- the total quantity dispatched,
- the number and nominal capacity of the containers holding the product;

(e) 'approved commercial document' means a commercial document which is in accordance with the model and instructions in Annexes I and II. In addition to the particulars listed in (d) above, except the fourth indent, it shall include:

- a pre-printed serial number forming part of a continuous series allocated by the competent authority or a body empowered for the purpose and a reference to such authority or body;
- for carriage in bulk as referred to in Article 3 (1):
 - of wines, the actual alcoholic strength,
 - of non-fermented products, the refractive index or the density,
 - of fermenting products, the total alcoholic strength,
 - of wines whose residual sugar content exceeds four grams per litre, in addition to the actual alcoholic strength, the total alcoholic strength;

(f) 'accompanying document' means a document complying with the provisions of Title I of Regulation (EEC) No 1153/75 and which, for carriage in bulk as referred to in Article 3 (1) includes the particulars provided for in the second indent of point (e) above;

(g) 'recognized closing device' means a closing device for containers of a nominal capacity of not more than five litres, as listed in Annex III.

2. Each Member State may make one or more competent authorities responsible for implementing this Regulation.

3. Member States may provide that approved commercial documents to be completed for carriage beginning on their territory shall be validated:

- by the seller or consignor applying to it the prescribed stamp or using a stamping device approved by the competent authority or an agency empowered by the said authority, or
- by means of the authority's or agency's mark.

TITLE I

Accompanying documents for wine products

Article 3

For carriage in bulk

1. All carriage within the customs territory of the Community of unpackaged wine products falling within the scope of Article 9 (2) of the Treaty, in quantities of more than 60 litres, shall be effected under cover of the original of:

- an approved commercial document,
- or
- until 31 December 1990, an accompanying document.

2. Notwithstanding paragraph 1, no document shall be required to accompany the carriage:

- (a) of grapes, whether or not pressed, or grape must, undertaken by the grape producers themselves or on their behalf from their own vineyards or another establishment belonging to them, where the total road distance does not exceed 40 km and such carriage is:
 - in the case of individual producers: to their wine-making establishments,
 - in the case of producers belonging to groups: to the groups' wine-making establishments.

In exceptional cases, the 40 km maximum distance may be increased to 70 km by the competent authorities;

- (b) of grapes, whether or not pressed, undertaken by the producers themselves or on their behalf by third parties other than the consignees from their own vineyards:

- where such carriage is to the wine-making establishment of a third party located within the same wine-growing zone,
- and where the total road distance does not exceed 40 km. In exceptional cases the competent authorities may extend this maximum distance to 70 km;

- (c) of wine vinegar;

- (d) of any product, where the competent authority has authorized such carriage, within the same local administrative unit or to a local administrative unit in the immediate vicinity, where the product:

- is transported between two establishments of the same undertaking, subject to the application of Article 14 (2) (a),

or

- does not change owner and where the carriage is effected for the purpose of vinification, processing, storage or bottling;
- (e) of grape marc and wine lees :
 - to a distillery, where the product is accompanied by a delivery note as laid down by the competent authorities of the Member State where carriage begins,
 - where carriage is effected for the purpose of withdrawing the product from the wine-marking process pursuant to Article 35 (4) of Regulation (EEC) No 822/87.

Article 4

For carriage in small containers

1. All carriage within the customs territory of the Community of any wine product falling within the scope of Article 9 (2) of the Treaty, in containers of a nominal volume of not more than 60 litres, shall be effected under cover of the original of :
 - until 31 December 1990, an approved commercial document or an accompanying document, and
 - from 1 January 1991, a commercial document.
2. Notwithstanding paragraph 1, no document shall be required to accompany the carriage :
 - (a) of products in labelled containers fitted with a recognized non-reusable closing device bearing an indication enabling the bottler to be identified and of a normal volume of not more than five litres, where the total quantity does not exceed :
 - five litres in the case of concentrated grape must, whether or not rectified,
 - 100 litres for all other products ;
 - (b) of wine or grape juice intended for diplomatic representation, consulates and similar establishments, within the limits of the allowances granted them ;
 - (c) of wine or grape juice :
 - contained in private household removals, and not intended for sale,
 - on board ships, aircraft or trains to be consumed there ;
 - (d) by private individuals, of wine and grape must in fermentation intended for the personal consumption of the consignee or his family, by private individuals, other than in the case of carriage referred to in (a), where the quantity transported does not exceed 30 litres ;
 - (e) of any product intended for scientific or technical experiments, where the total quantity transported does not exceed one hectolitre ;

- (f) of a commercial sample ;
- (g) of samples for an official agency or laboratory.

Exemptions from the requirement for any document to accompany carriage as provided for under (a) to (e) in the first subparagraph shall be subject to the condition that consignors, other than retailers or private individuals disposing from time to time of the product to other private individuals, can at any time prove the accuracy of all entries laid down for the records provided for in Title II or other records provided for by the Member State concerned.

3. Notwithstanding paragraph 1, the approved commercial document may be used after 31 December 1990 for the purposes of Article 9.

Article 5

1. The forms of the approved commercial document shall be printed in one of the official languages of the Community, to be specified by the competent authorities of the Member State in which they are issued.

The forms shall be completed for export in one of the official languages of the Community. They may in addition be completed in any other language as determined by commercial usage and need.

If necessary, the competent authority of the Member State of destination involved in the carriage of the products accompanied by a commercial document, an approved commercial document or an accompanying document, or any agency empowered by that authority, may request that that document be translated into its official language or into one of its official languages. This translation must not delay the carriage in question for any longer than is strictly necessary.

2. The individual serial number issued for an approved commercial document shall be preceded by the following letters to indicate the Member State in which the document was issued : BE for Belgium, DK for Denmark, DE for Germany, EL for Greece, ES for Spain, FR for France, IRL for Ireland, IT for Italy, LU for Luxemburg, NL for the Netherlands, PT for Portugal and UK for the United Kingdom.

3. Where an approved commercial document or accompanying document is made out for carriage of bulk products, it shall indicate, in addition to the particulars set out in the specimen in Annex I to this Regulation and the specimens in the Annexes to Regulation (EEC) No 1153/75 ;

- the wine-growing zone in accordance with the demarcations shown in Annex IV to Regulation (EEC) No 822/87 from which the product transported originates, using the following abbreviations : A, B, C I (a), C I (b), C II, C III (a) and C III (b),
- the operations which the products transported have undergone in accordance with the instructions in Annex II.

Article 6

1. All natural or legal persons, groups of persons or traders not holding stocks who have their domicile or registered place of business within the customs territory of the Community, and who carry out or have carried out a carriage operation involving a wine product in bulk or small quantity must complete on their own responsibility:

- an approved commercial document, or
- where provided for by this Regulation, a commercial document.

2. The competent authority of the Member State in which the persons or groups of persons referred to in paragraph 1 have their domicile or registered place of business may temporarily or permanently refuse those persons authorization to complete approved commercial documents where they are found to have committed a serious infringement of Community provisions in the wine sector or national provisions adopted pursuant thereto.

In that case, the consignor shall complete as and when transport operations take place a commercial document containing all the particulars required for the approved commercial document, with the exception of the information referred to in the first indent of Article 2 (1) (e). He shall submit each document thus completed to the competent authority or to the empowered agency for authentication.

Authentication shall include entry of the date and of a stamp.

3. All persons or bodies completing accompanying documents for carriage of a wine product and persons who have held such products shall keep a copy of such documents.

Article 7

1. The accompanying document for carriage operations shall be regarded as having been completed where it contains all the particulars provided for in this Regulation and, where appropriate, Title I of Regulation (EEC) No 1153/75.

In addition, for the carriage to a distillery of wine fortified for distillation, the approved commercial document and, where appropriate, the accompanying document must satisfy the requirements of the fifth indent of Article 26a (2) of Council Regulation (EEC) No 2179/83⁽¹⁾.

2. Commercial documents, approved commercial documents or accompanying documents may be used only for a single carriage operation.

A single such document may cover more than one batch of the same category of products transported together from any one consignor to any one consignee.

3. The date on which carriage commences shall be indicated on the approved commercial document, the accompanying document or the commercial document intended to accompany the carriage of the product.

Where a document referred to in the second subparagraph of Article 6 (2) or where the approved commercial document or the accompanying document is completed by the competent authority or any agency empowered by that authority, the document shall be valid only if carriage commences not later than the fifth working day following, as appropriate, the date of authentication or the date of issue.

4. Where products are transported in separate compartments of the same transport container or are mixed during carriage, an approved commercial document or accompanying document must be completed for each portion, whether transported separately or making up a mixture. Such documents shall mention, in accordance with the rules laid down by each Member State, the use of the product of mixing.

However, consignors or empowered persons may be authorized by Member States to complete a single approved commercial document or accompanying document. In such cases the Member State shall give appropriate instructions as to how proof is to be furnished concerning the category, origin and quantity of the various loads.

5. Without prejudice to the first subparagraph of paragraph 6, particulars once entered on approved commercial documents, commercial documents and accompanying document and control copies may no longer be altered.

6. Where it is found that carriage for which a commercial document, an approved commercial document or an accompanying document is required takes place without such a document or under cover of a document containing false, erroneous or incomplete particulars, the competent authority of the Member State where this is discovered or any other agency responsible for ensuring compliance with Community and national provisions in the wine sector shall take the measures necessary:

- to regularize such carriage, either by correcting any errors or by completing a new document,
- where appropriate, to penalize any irregularities in proportion to their seriousness, in particular by applying the provisions referred to in the first subparagraph of Article 6 (2).

The competent authority or other agency referred to in the first subparagraph shall stamp documents corrected or completed in accordance with this provision.

⁽¹⁾ OJ No L 212, 3. 8. 1983, p. 1.

Regularization of irregularities may not delay the carriage operation in question for any longer than is strictly necessary.

In the event of serious or repeated irregularities, the competent regional or local authority as regards the place of unloading shall inform the competent regional or local authority as regards the place of loading. In the case of intra-Community carriage, such information shall be forwarded in accordance with Council Regulation (EEC) No 359/79⁽¹⁾.

7. Where it is impossible to regularize carriage operations within the meaning of the first subparagraph of paragraph 6, the competent authority or the agency that discovered the irregularity shall hold up the transport. It shall inform the consignor that the carriage is being held up and of the consequences incurred. These measures may include a ban on marketing the product.

8. Where part or all of a product carried under cover of an accompanying document is refused by the consignee, the latter shall write the words 'REFUSED by the consignee' on the back of the document, together with the date and his signature, plus, where appropriate, an indication of the quantity refused, in litres or kilograms.

In that case the product may be returned to the consignor under cover of the same accompanying document or may be kept on the premises of the carrier until a new document is completed to accompany the product when it is redispached.

Article 8

1. When commercial documents, approved commercial documents or accompanying documents are completed:

- (a) the actual alcoholic strength of the wine, excluding new wine still in fermentation, or the total alcoholic strength of new wine still in fermentation and grape must in fermentation shall be expressed in % vol and tenths of % vol;
- (b) the refractive index of grape must shall be obtained by the measuring method recognized by the Community. It shall be expressed by the potential alcoholic strength in % vol. This may be replaced by the density expressed in grams per cubic centimetre;
- (c) the density of fresh grape must with fermentation arrested by the addition of alcohol shall be expressed in grams per cubic centimetre and the actual alcoholic strength of that product shall be expressed in % vol and tenths of % vol;
- (d) the sugar content of concentrated grape must, rectified concentrated grape must, and concentrated grape juice shall be expressed by the content in grams, per litre and per kilogram, of total sugars;

- (e) the actual alcoholic strength of grape marc and of wine lees may also be indicated (optional) and expressed in litres of pure alcohol per decitonne.

This information shall be expressed using the tables of equivalence recognized by the Community, contained in the rules on analysis methods.

Without prejudice to the Community provisions laying down limits for certain wine products, the following tolerances shall be allowed, in addition to the margins of error provided for by the analysis method used pursuant to Regulation (EEC) No 1108/82⁽²⁾:

- as regards total or actual alcoholic strength, 0,2 % vol more or less,
- as regards density, a tolerance of six units more or less to the fourth decimal place ($\pm 0,0006$),
- as regards the sugar content, 3 % more or less.

2. A tolerance of 1,5 % of the total quantity shall be allowed when indicating the quantity of products carried in bulk.

Article 9

1. Approved commercial documents or accompanying documents completed in accordance with this Regulation and the national measures taken for its implementation shall be considered as attesting the designation of origin of quality wines *psr* or the provenance of table wines entitled to a geographical ascription:

- where they are completed by consignors who are themselves producers of the wine carried in question and who neither acquire nor sell wine products obtained from grapes harvested in specified regions or wine-growing areas other than those whose names they use to designate wine obtained from their own production,
- if the particulars of the documents have been certified as accurate thereon by the competent authority or a body empowered by the competent authority,
- if they have been completed by the competent authority or an agency or, as appropriate, another body empowered by the latter in accordance with Article 6 (2), second subparagraph.

2. Where the approved commercial documents or accompanying documents are completed in accordance with the first indent of paragraph 1, the consignor may request the competent authority or the competent regional or local body as regards the place of loading, when submitting the made-out document:

⁽¹⁾ OJ No L 54, 5. 3. 1979, p. 136.

⁽²⁾ OJ No L 133, 14. 5. 1982, p. 1.

(a) to enter the following in the appropriate place on the front of approved commercial documents or accompanying documents:

— for quality wines psr:

'this document attests the origin of the quality wine psr set out herein';

— for table wines entitled to a geographic ascription:

'This document attests the provenance of the table wines set out herein';

and:

(b) to validate the information thus given by means of a stamp, with the date and the signature of the person responsible.

Those statements shall also be entered and confirmed on approved commercial documents or accompanying documents where the procedure provided for in the second and third indents of paragraph 1 is applied.

3. Member States' competent authorities may permit consignors meeting the conditions of paragraph 4 themselves to fill in, or have pre-printed, the attestations concerning the designation of origin of quality wines psr or provenance of table wines on the blanks of the approved commercial document or of the accompanying document, and may allow:

(a) the attestations to be validated in advance by the stamp of the competent authority, or of the competent regional or local body, together with the signature of a person authorized by that authority or body and the date; or

(b) the attestations to be validated by the consignors by means of a special stamp authorized by the competent authorities and conforming to the model in Annex IV. The stamp may be pre-printed on the forms provided printing is carried out by a printer approved for the purpose.

4. The authorization referred to in paragraph 3 shall be granted only to consignors:

- who regularly dispatch quality wines psr and/or table wines entitled to a geographical ascription, and
- after it is ascertained, following an initial request, that the inward and outward registers are kept in accordance with Title II and thus enable the accuracy of the particulars in the documents to be checked.

The competent authorities may refuse authorization to consignors not offering such guarantees as those authorities consider appropriate. They may cancel the authorization, in particular where consignors no longer comply with the conditions laid down in this paragraph or no longer offer the guarantees required.

5. Consignors to whom the authorization referred to in paragraph 3 is granted shall be obliged to take all neces-

sary steps to guard the special stamp or the forms bearing the stamp of the competent authority or of the competent local or regional body or the special stamp.

6. In trade with third countries only accompanying documents or approved commercial documents completed in accordance with paragraph 1 on export from the Member State of production shall certify:

- for quality wines psr, that the designation of origin of the product complies with the relevant Community and national provisions,
- for table wines designated pursuant to Article 72 (2) and (3) of Regulation (EEC) No 822/87, that the geographical ascription of the product complies with the relevant Community and national provisions.

However, in the case of export from a Member State which is not the Member State of production, the accompanying document or the approved commercial document completed in accordance with the second and third indents of paragraph 1 under cover of which the product is exported shall attest the designation of origin or the geographical ascription where it indicates:

- the serial number,
- the date of completion, and
- the name and address of the authority or body referred to in paragraph 2,

entered on the documents under cover of which the product was transported before being exported, and on which the designation of origin or provenance has been certified.

7. Approved commercial documents or accompanying documents shall attest the designation of origin of wine made from grapes harvested in a third country where the document is drawn up using the particulars on the V I 1 document completed in accordance with Council Regulation (EEC) No 3590/85⁽¹⁾ and where the approved commercial document or the accompanying document shows:

- the number of the V I 1 document in question,
- the date of completion of that document,
- the name and head office of the authority of the third country which completed that document or authorized the completion of that document by a producer.

8. In the case of the dispatch or export of a product obtained before 1 September 1979 from a Member State other than the Member State of production, approved commercial documents or accompanying documents:

- shall be completed and certified by the competent authority of the Member State of dispatch or export or the body empowered by that authority,
- shall show the particulars corresponding to those referred to in the second subparagraph of paragraph 6 relating to a document used for stock accounts which

⁽¹⁾ OJ No L 343, 20. 12. 1985, p. 20.

is considered by the department competent for the territory as reliable and under cover of which the product was transported previously.

Article 10

1. Where the consignee is established within the customs territory of the Community, the original of the commercial document or approved commercial document or the original of the accompanying document shall accompany the product from the place of loading to the place of unloading, where it shall be handed to the consignee or his representative.

2. Where the consignee is established outside the customs territory of the Community, the original of the commercial document or approved commercial document or the original of the accompanying document shall be presented in support of the export declaration at the competent customs office of the exporting Member State. The customs office shall ensure that the type, the date and the number of the document presented are indicated on the export declaration and that the type, the date and the number of the export declaration are indicated on the original of the approved commercial document, the commercial document or the accompanying document. The customs office shall enter on the latter document and stamp as authentic one of the following: 'EXPORTE', 'UDFORT', 'AUSGEFÜHRT', 'EXPORTED', 'ESPORTATO', 'UITGEVOERD', 'EEXAXØEN', 'EXPORTADO' and shall hand that document to the exporter or his representative.

If the customs office of exit from the customs territory of the Community is not the customs office referred to in the first subparagraph, carriage between the two offices shall be effected under a customs procedure. If export does not take place, the export declaration shall be cancelled and Article 5 of Council Directive 81/177/EEC⁽¹⁾ shall apply and this shall be noted on the commercial document, approved commercial document or accompanying document.

3. The references referred to in the first subparagraph of paragraph 2 shall specify at least the type, date and number of the document and, as regards the export declaration, the name and address of the competent regional or local authority as regards export.

4. Where, in trade with EFTA countries, a document constituting evidence of the Community status of the goods is issued for wine, whether or not put up in bottles, the document shall, in the section 'Description of goods', indicate the description in accordance with Community and national provisions and the quantity of wine carried. These indications shall be taken from the original of the accompanying document under cover of which the wine was carried to the customs office where the document constituting evidence of Community status is issued; the nature, date and number of the document referred to

above which accompanied carriage previously shall also be noted on the document constituting evidence of Community status.

Where a document constituting evidence of Community status of the goods issued by the customs authorities of the EFTA countries in presented in respect of a wine as referred to in the first subparagraph being brought back into the territory of the Community, such document shall be regarded as equivalent to the accompanying document for carriage as far as the customs office either of destination in the Community or where the product is released to the market, provided that the document bears in the section 'Description of goods' the information specified in the first subparagraph.

The relevant customs office in the Community shall stamp a copy or photocopy of the document delivered by the consignee or his representative and return it to him for the purposes of this Regulation.

5. For quality wines psr and table wines entitled to a geographical ascription exported to third countries under cover of an accompanying document in accordance with this Regulation, the said document, attesting to the origin or provenance of the products must be presented in support of any other documents to the competent authority when such wines are released for free circulation in the Community, where the wine in question neither meets the conditions laid down in paragraph 4 nor constitutes goods returned within the meaning of Council Regulation (EEC) No 754/76⁽²⁾ and its implementing provisions. Provided that the supporting documents are deemed satisfactory the customs office in question shall endorse a copy or photocopy of the certificate of denomination of origin furnished by the consignee or his representative and return it to him for the purposes of this Regulation.

6. Where wines made from grapes harvested in the Community, in containers of no more than five litres, labelled in accordance with the Community and national provisions in force at the date of bottling and exported before the date of entry into force of this Regulation re-enter the customs territory of the Community, such export shall be attested by an official or commercial document and the commercial document completed by the consignor in the third country shall rank as an accompanying document for carriage on the territory of the Community. This provision shall apply only to quality wines psr and, in the case of wines made from grapes harvested before 1970, to wines equivalent to quality wines psr.

The customs office concerned in the Community shall endorse a copy or photocopy of the said document supplied by the consignee or his representative and shall return it to him for the purposes of this Regulation.

⁽¹⁾ OJ No L 83, 30. 3. 1981, p. 40.

⁽²⁾ OJ No L 89, 2. 4. 1976, p. 1.

Article 11

If during carriage, by reason of *force majeure* or some unforeseen accident, a load for which a commercial document, an approved commercial document or an accompanying document is prescribed has to be split up or is wholly or partially lost, the carrier shall request the competent authority where the incident took place to make a statement of the facts.

In so far as he is able, the carrier shall also notify the competent authority nearest to the place where the incident took place for it to take the necessary steps to regularize the carriage operation in question. Such measures may delay the carriage operation in question only for the time strictly necessary for it to be regularized.

Article 12

For carriage of any of the wine products listed under (a) and (b) the following shall be completed:

- an approved commercial document and a copy thereof using carbon or NCR paper or any other form of copy authorized by the competent authority,
- until 31 December 1990, an accompanying document and a control copy:

(a) products of Community origin:

- wine suitable for yielding table wine,
- wine intended to be processed into quality wine psr.
- grape must in fermentation,
- concentrated grape must, whether or not rectified, if the quantity carried is more than 60 litres,
- fresh grape must with fermentation arrested by the addition of alcohol,
- grape juice in bulk or put up in containers of a nominal capacity of more than five litres,
- concentrated grape juice,
- wine lees,
- grape marc intended for a distillery or other industrial processing, except in the cases referred to in Article 3 (2) (e),
- piquette,
- wine fortified for distillation,
- wine from grapes of varieties not listed as wine grape varieties in the Annex to Commission Regulation (EEC) No 3800/81⁽¹⁾ for the administrative unit in which they were harvested,
- products which may not be offered or delivered for direct human consumption;

(b) products not originating in the Community:

- fresh grapes, excluding table grapes,
- grape must,
- concentrated grape must,
- grape must in fermentation,
- concentrated grape must, whether or not rectified, if the quantity carried is more than 60 litres,
- fresh grape must with fermentation arrested by the addition of alcohol,
- grape juice in bulk or put up in containers of a nominal capacity of more than five litres,
- concentrated grape juice,
- liqueur wine for the preparation of products not falling within CN code 2204,
- wine lees,
- grape marc,
- piquette,
- wine fortified for distillation,
- products which may not be offered or delivered for direct human consumption.

The copy referred to in the first subparagraph shall be forwarded by the swiftest method, not later than the first working day after that on which the goods leave the place of loading, by the consignor to the competent authority within whose territory the place of loading falls. The competent authority shall forward the copy by the swiftest method, not later than the first working day after that on which it is presented, or issued if the competent authority completes it, to the competent authority within whose territory the place of unloading falls.

TITLE II

Records

Article 13

1. Natural or legal persons and groups of persons who, for whatever purposes of their trade or commercial purposes, hold wine products shall be required to keep records.

However:

(a) records need not be kept by:

- retailers,
- those selling drinks for consumption only of the premises;

(b) entry in records shall not be required for wine vinegar.

2. Member States may provide that:

(a) traders who do not hold stocks shall be required to keep records in accordance with the rules and procedures they shall specify;

(b) natural and legal persons and groups of persons who hold stocks of or offer for sale solely wine products in small containers meeting the conditions as regards presentation referred to in Article 4 (2) (a) shall not be required to keep records, provided that the entry and withdrawal of products and stocks may be checked at any time on the basis of other supporting documents, in particular financial accounts.

⁽¹⁾ OJ No L 381, 31. 12. 1981, p. 1.

3. Persons required to keep records shall record the entry and withdrawal of each batch of products as referred to in paragraph 1 to or from their premises or their accounts and such of the operations specified in Article 16 (1) as are carried out.

Those persons must also be able to present, for each annotation in the records of the entry and withdrawal of products, a commercial document, an approved commercial document, accompanying document or any other supporting document.

Article 14

1. Records shall consist :

- either of fixed leaves numbered consecutively,
- or of a suitable modern accounting system, approved by the competent authorities, provided that the particulars which should be entered in the records appear therein.

However, Member States may provide that :

- (a) the records kept by traders not effecting any of the operations specified in Article 16 (1) nor performing any oenological practices may take the form of the totality of the commercial documents, approved commercial documents or accompanying documents ;
- (b) the records kept by producers may take the form of annotations on the reverse side of the harvest, production or stock declarations provided for in Commission Regulation (EEC) No 3929/87 ⁽¹⁾.

2. The records shall be kept separately for each undertaking, on the premises where the products are held.

However,

- (a) where products are held in various stores belonging to the same undertaking in the same local administrative unit or in such a unit in the immediate vicinity, the competent authorities may grant authorization, where appropriate by giving instructions, for the records to be held at the registered place of business of the undertaking ;
- (b) the holder of the records may entrust the keeping of the records to an undertaking specializing in the subject,

on the condition that a check of the entry and withdrawal of products and stocks at the actual place where the products are held is possible at all times on the basis of other supporting documents.

3. For products entered in the records separate accounts shall be kept for :

- each of the categories set out either in Annex I to Regulation (EEC) No 822/87 or in Article 2 of Council Regulation (EEC) No 339/79 ⁽²⁾,
- each quality wine psr and products for processing into quality wines psr made from grapes harvested in the same specified region,

- each table wine designated by the name of a geographical area and products for processing into such table wines made from grapes harvested in the same wine-growing area.

When a quality wine psr is downgraded, this shall be mentioned in the records.

4. Member States shall determine the maximum percentages which losses resulting from evaporation, warehousing, various processing operations or changes in product category may represent.

Where actual losses exceed :

- during carriage, the tolerances referred to in Article 8 (2), and
- in the cases referred to in the first subparagraph, the maximum percentages fixed by the Member States,

the holder of the records shall report this in writing, within a period laid down by the Member States, to the competent authority or a local or regional body which shall take the necessary measures.

Member States shall specify the method whereby entries are to be made in the records, whatever form they take, concerning :

- the personal consumption of the producer or his family,
- any accidental changes in the volume of products.

Article 15

1. For every entry or withdrawal of products the records shall give :

- the date of the operation,
- the actual quantity entered and withdrawn,
- the product concerned, described in accordance with the relevant Community and national provisions,
- a reference to the commercial document, approved commercial document or accompanying document.

In the cases referred to in Article 9 (6), (7) and (8) a reference to the document under cover of which the product was previously transported shall be entered in the register of withdrawals.

2. Once a year, at a date which may be fixed by the Member States, the records of entry and withdrawal of products must be closed. An inventory of stocks shall be made in the framework of the annual balance sheet. Existing stocks must be recorded as an entry in the records at a date following the annual balance sheet. If the annual balance sheet shows differences between the theoretical stocks and the actual stocks, this must be noted in the closed books.

⁽¹⁾ OJ No L 369, 29. 12. 1987, p. 59.

⁽²⁾ OJ No L 54, 5. 3. 1979, p. 57.

Article 16

1. The records shall mention the following operations :

- increasing the alcoholic strength,
- acidification,
- de-acidification,
- sweetening,
- coupage,
- bottling,
- distillation,
- the production of sparkling wine, aerated sparkling wine, semi-sparkling wine and aerated semi-sparkling wine,
- the production of liqueur wine,
- the production of concentrated grape must, whether or not rectified,
- fortifying wine for distillation,
- other processes involving the addition of alcohol,
- processing into aromatized wine.

Where an undertaking is granted authorization to keep simplified records as provided for in the second subparagraph of Article 14 (1), the competent authority may accept the duplicates of the notifications provided for in Article 23 of Regulation (EEC) No 822/87 made as laid down in Article 5 of Regulation (EEC) No 1594/70 as equivalent to entries in the records as regards operations for increasing the alcoholic strength, acidification and deacidification.

2. For each of the operations specified in paragraph 1, records other than those referred to in paragraph 3 shall mention :

- the operation carried out and the date,
- the nature and the quantities of the products used,
- the quantity of product obtained by means of the operation,
- the quantity of product used in increasing the alcoholic strength, acidification and de-acidification, sweetening and fortifying for distillation,
- the description of the products before and after the operation, in accordance with the relevant Community or national provisions,
- the markings on the containers in which the products entered in the records were contained before the operation and are contained after the operation,
- in the case of bottling, the number of bottles filled and their content,
- in the case of contract bottling, the name and address of the bottler within the meaning of Article 3a of Commission Regulation (EEC) No 3282/73 ⁽¹⁾.

Where a change occurs in a product without its undergoing one of the operations referred to in the first sub-

paragraph of paragraph 1, in particular in the case of fermentation of grape must, the quantities and the type of product obtained after the change shall be noted in the records.

When wine is fortified for distillation, the particulars referred to in the first indent of Article 25 (2) and the fifth indent of Article 26a (2) of Regulation (EEC) No 2179/83 shall also be mentioned in the records.

3. For the production of sparkling wine, the registers of cuvées referred to in the second subparagraph of Article 7 (2) of Regulation (EEC) No 358/79 shall record, for each cuvée prepared :

- the date of preparation,
- the date of bottling for quality sparkling wines and quality sparkling wines psr,
- the volume of the cuvée and the description, the volume and the actual and potential alcoholic strength of each of its constituents,
- each of the practices listed in Article 5 of Regulation (EEC) No 358/79 ⁽²⁾,
- the amount of 'liqueur de tirage' used,
- the amount of sweetener used,
- the number of bottles obtained, specifying where appropriate the type of sparkling wine, using a term relating to its residual sugar content provided the term appears on the label.

4. For the production of liqueur wine, the records shall show for each batch being prepared :

- the date of addition of any of the products listed in point 14 (i), (ii) or (iii) of Annex I to Regulation (EEC) No 822/87,
- the nature and volume of the product added.

Article 17

1. Holders of records shall also be required to keep individual records or accounts of the entry and withdrawal of the following products and materials held by them for whatever purpose, including use on their own premises :

- sucrose,
- concentrated grape must,
- rectified concentrated grape must,
- products used for acidification,
- products used for de-acidification,
- spirits distilled from wine.

⁽¹⁾ OJ No L 337, 6. 12. 1973, p. 20.

⁽²⁾ OJ No L 54, 5. 3. 1979, p. 130.

The keeping of individual records or accounts shall not provide exemption from the notifications referred to in Article 23 (2) of Regulation (EEC) No 822/77.

2. The individual records or accounts referred to in paragraph 1 shall show separately for each product:

(a) in respect of entries:

- the name or business name and address of the supplier, referring where appropriate to the document which accompanied carriage of the product,
- the quantity concerned,
- the date of entry;

(b) in respect of withdrawals:

- the quantity concerned,
- the date of use or withdrawal,
- where appropriate, the name or business name and address of the consignee.

Article 18

1. The particulars indicated below shall be entered in the individual records or accounts as follows:

- those referred to in Articles 13, 14 and 15, in the case of entries, on the working day following reception and, in the case of withdrawals, not later than the third working day following dispatch,
- those referred to in Article 16, not later than the first working day following the operation and for those particulars relating to enrichment, on the day itself,
- those referred to in Article 17, in the case of entries and withdrawals, not later than the working day following reception or dispatch and, in the case of uses, the day of use.

However, Member States may authorize longer time limits not exceeding 30 days, particularly where computerized records are used, provided that a check can still be made on entries and withdrawals at any time on the basis of other supporting documents.

2. Notwithstanding the first subparagraph of paragraph 1 and subject to any provisions adopted by the Member States pursuant to Article 19, consignments of the same product may be entered in the withdrawal register in the form of a monthly total where the product is put up solely in the containers referred to in Article 4 (2) (a).

Article 19

1. Member States may authorize adaptation of existing records and lay down additional rules or more stringent requirements for the keeping and checking of records. In particular, they may require that separate accounts be kept for specified products or that separate records be kept for certain categories of product or for certain operations specified in Article 16 (1).

2. Where Article 6 (2) is applied, the Member State may lay down that the competent authority may keep the records itself or entrust the task to a body empowered to that end.

TITLE III

GENERAL AND TRANSITIONAL PROVISIONS

Article 20

1. Until such time as tax provisions are harmonized at Community level for the purposes of completing the internal market, Member States may, with a view to the application of their laws in this area:

- for carriage beginning and ending on their territory without passing through the territory of another Member State, and
- for carriage other than as referred to in the first indent, for the part of the journey within their territory

require additional particulars to be entered on the accompanying document, except in the cases provided for in Article 4 (2) (b) to (g). Such particulars shall be indicated in Section 23.

Where the consignor and the consignee of the product are established in two different Member States, the particulars referred to in the first subparagraph which are required by the Member State where carriage ends may be added on release to the market in the latter Member State, in an official language other than that in which the approved commercial document, the commercial document or the accompanying document is completed.

2. In the case referred to in paragraph 1, Member States may not require the document accompanying carriage completed at the time of dispatch to be replaced by another document, nor delay the carriage in question beyond the time strictly required to complete formalities for release to the market.

3. During a transitional period expiring on 31 December 1990:

- (a) the accompanying document shall be completed by the competent authority or local or regional body of the Member State on whose territory carriage begins in accordance with information supplied by the consignor and on his responsibility.

The authority or body may authorize the persons or groups of persons referred to in Article 6 (1) to complete accompanying documents in their stead. In that event, the accompanying documents shall be stamped in advance by the said authority or body;

- (b) Member States may refrain from authorizing the use of commercial documents or approved commercial documents accompanying carriage beginning in their territory;

(c) Member States shall be authorized not to apply the derogations provided for in Article 3 (2):

- for carriage beginning and ending on their territory without passing through the territory of another Member State,
- for carriage other than as referred to in the first indent, for the part of the journey within their territory.

4. In addition, Member States may:

- (a) make provision for stock accounts to be kept of closing devices used for putting up products in containers of a nominal volume of not more than five litres as referred to in Article 4 (2) (a) to be released to the market on their territory, and for indicating special particulars thereon;
- (b) make provision for commercial documents, approved commercial documents and accompanying documents completed on their territory for the description of the product transported to be supplemented by an official quality control number provided that the product has such a number;
- (c) permit, for carriage beginning and ending on their territory without passing through the territory of another Member State and for a transitional period expiring on 31 August 1992, the details of the density of the grape must to be replaced by that of the density expressed by the potential alcoholic strength in % vol or degrees Oechsle;
- (d) lay down that commercial documents, approved commercial documents and accompanying documents completed on their territory shall indicate not only the date but also the time on which carriage started;
- (e) lay down, further to Article 3 (2), that no approved commercial document or accompanying document is required for carriage of grapes, whether or not pressed, or of grape must by producers who belong to a group of producers and have produced the grapes or grape must themselves or by a group of producers having the product in question in their possession or on behalf of such producers or of such a group of producers to a collection point or to the wine-making establishments of that group, provided such carriage begins and ends within the same wine-growing zone and, where the product in question is intended for processing into quality wine *psr*, within the specified region concerned, including an immediately adjacent area;
- (f) lay down:
 - that the consignor is to complete one or more copies of documents accompanying carriage operations starting on their territory,
 - that the consignee is to complete one or more copies of documents accompanying carriage operations which began in another Member State or in a third country and which end on their territory.

In such cases, they shall determine the use of such copies.

5. Member States may not, on grounds relating to the closing devices used, prohibit or hinder the movement of products put up in containers of a nominal capacity of not more than five litres as referred to in Article 4 (2) (a) where the closing device or type of packaging used appears on the list in Annex III.

However, Member States may, for products put up on their own territory, prohibit the use of certain closing devices or types of packaging appearing in the list in Annex III or make the use of closing devices subject to certain conditions.

Article 21

1. Without prejudice to any more stringent provisions which may have been adopted by Member States for the application of their legislation or national procedures laid down for other purposes, the commercial documents, the approved commercial documents, the accompanying documents and the copies required under this Regulation must be kept for at least five years from the end of the calendar year during which they were completed.

2. The records provided for in this Regulation and the documents concerning the operations entered therein must be kept for at least five years after the accounts to which they refer have been closed.

Where in a record one or more accounts relating to insignificant quantities of wine are not yet closed, such accounts may be carried over to another record, a reference to such carry-over being made in the original record.

In such case, the period of five years prescribed in paragraph 2 shall begin on the day of the carry-over.

Article 22

1. Within three months of the entry into force of this Regulation, each Member State shall notify the Commission of:

- the name and address of the authority or authorities competent for implementation of this Regulation,
- where appropriate, the name and address of any bodies empowered by a competent authority for the purposes of implementing this Regulation.

Member States shall also notify the Commission of:

- any subsequent changes concerning the competent authorities and bodies referred to in the first subparagraph,
- the measures they have taken for the purpose of implementing this Regulation, where those measures are of specific value for the purposes of cooperation between Member States as referred to in the second subparagraph of Article 2 (3).

2. The Commission shall publish the particulars referred to in paragraph 1 in the 'C' series of the *Official Journal of the European Communities* and shall keep them up to date.

Article 23

The following are hereby deleted:

- from 31 August 1989, Articles 1 (1) and (3), 4 (4), 5 and 9 to 12 of Regulation (EEC) No 1153/75,
- from 31 December 1990, the other Articles of that Regulation,

- Articles 6, 7 (2) and 8 of Regulation (EEC) No 1594/70,
- Article 5 of Regulation (EEC) No 1698/70,
- Article 2 of Regulation (EEC) No 2152/75,
- Articles 1 and 2 of Regulation (EEC) No 2247/73.

Article 24

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*. It shall apply from 1 September 1989.

However, Articles 3 (2) (a) and 8 (1) (e) shall apply from the date of entry into force of this Regulation.

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

Done at Brussels, 10 April 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

Conisgnor/Seller		Date and number of invoice Other references	
Consignee		Buyer (if not the consignee)	
Information concerning carriage		Details of sale and payment	
Marks and numbers — No of container — No and type of packages — Description of goods		Quantity ⁽¹⁾	Amount
For official use only			

THIS DOCUMENT IS TO ACCOMPANY THE PRODUCTS AND TO BE HANDED TO THE CONSIGNEE.

⁽¹⁾ Quantity in litres or other units.

ANNEX II

INSTRUCTIONS FOR COMPLETING THE APPROVED COMMERCIAL DOCUMENT

A. GENERAL RULES

1. The boxes marked by the lines on the specimen of the approved commercial document in Annex I are to be understood as instructions as to where the particulars laid down are to be indicated on the form.
2. The form must preferably be completed by typewriter. If it is completed by hand, it must be filled out in a legible and indelible manner.
3. The form must not contain any erasures or overwritten words. Any mistake made in completing the form means it cannot be used and a new form must be completed.
4. Copies must be made by authenticated photocopy or using NCR or carbon paper.

B. SPECIAL RULES

1. Indications referring to the consignor, the seller, the consignee, the buyer or the carrier :
give surname and first name, or business name, and full address including any postal code.
2. Other indications referring to carriage (facultative) :
indicate :
 - (a) the type of means of transport (lorry, van, tanker, motor car, railway wagon, rail tanker, vessel, aircraft) ;
 - (b) the registration number or, in the case of vessels, the name ;
 - (c) the date on which carriage begins and, where the Member State on whose territory carriage begins so requires, the time of departure.

In the case of a change of the means of transport, the carrier loading the product must enter on the verso of the document ;

- the date of departure,
- the type of means of transport and the registration number for vehicles and, for vessels, the name,
- his surname and first name, or business name, and full address including the postal code.

3. Indications referring to the description of the product :

- (a) *Category of the product*

Indicate the category into which the products fall using an expression conforming to Community rules which gives the most accurate description of the product, e.g. :

- table wine,
- quality wines psr,
- grape must,
- grape must for quality wine psr,
- imported wine.

- (b) *Description of product*

Enter :

- the marks, identification numbers, number and type of packages or, in the case of products transported in containers, the identification numbers of the container and in the case of products transported in tanks, the words 'in bulk' with, where appropriate, the number of the tank compartment,
- the description of the products in accordance with Council Regulation (EEC) No 355/79 ⁽¹⁾ and Commission Regulation (EEC) No 997/81 ⁽²⁾ and the national provisions in force.

4. Wine-growing zone

Give the wine-growing zone in which the product transported originates in accordance with Annex IV to Regulation (EEC) No 822/87, using the following abbreviations :

A, B, C I (a), C I (b), C II, C III (a) and C III (b).

The wine-growing zone need not be indicated where the carriage takes place entirely within the same wine-growing zone or where the product carried has been packaged.

⁽¹⁾ OJ No L 54, 5.3. 1979, p. 99.

⁽²⁾ OJ No L 106, 16. 4. 1981, p. 1.

5. Operations performed

Indicate also the operations which products transported in bulk may have undergone, using the following figures between the brackets :

- 0 : the product has undergone none of the following operations ;
- 1 : the product has been fortified ;
- 2 : the product has been acidified ;
- 3 : the product has been de-acidified ;
- 4 : the product has been sweetened ;
- 5 : the product has been fortified for distillation ;
- 6 : a product originating in a geographical unit other than that indicated in the description has been added to the product ;
- 7 : a product obtained from a vine variety other than that indicated in the description has been added to the product ;
- 8 : a product harvested during a year other than that indicated in the description has been added to the product.

Examples

- A wine originating in zone B which has been fortified is indicated B (1).
- A grape must originating in zone C III (b) which has been acidified is indicated C III (b) (2).

6. Actual and potential alcoholic strength, density, etc. :

See Article 8.

7. Net quantity

Give the net quantity :

- of grapes, concentrated grape must, rectified concentrated grape must, concentrated grape juice, grape marc and wine lees in tonnes or kilograms, expressed by the symbols 't' and 'kg',
 - of other products in hectolitres or litres, expressed by the symbols 'hl' and 'l'.
-

*ANNEX III***List of closing devices approved in the Community for small containers filled with wine products as referred to in Article 2 (1) (g)**

1. Cylindrical stoppers made of cork or other inert substance, covered or not with a pre-moulded or foil capsule which is torn on opening.

The capsule may be made of :

- aluminium,
- metal alloy,
- shrink-plastic,
- PVC with aluminium top.

2. Flanged stoppers made of cork or other inert substance fully inserted into the neck of the bottle, filled with a metal or plastic capsule covering both the neck of the bottle and the stopper and destroyed on opening.

3. Mushroom-shaped stoppers made of cork or other inert substance, secured by ties or fastenings which must be broken on opening, the whole being sometimes covered with metal or plastic foil.

4. Aluminium or tin screw tops, filled on the inside with a disc in cork or inert material and a safety seal which is torn off or destroyed on opening (pilfer-proof seals).

5. Plastic screw-top capsules.

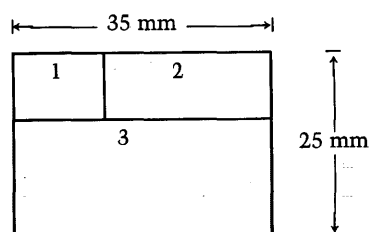
6. Tear-off caps made of :

- aluminium,
- plastic,
- a combination of the above.

7. Metal crown stoppers fitted on the inside with a disc in cork or inert material.

8. Closing devices which form part of packaging which cannot be re-used after being opened, such as :

- tin cans,
 - aluminium cans,
 - cardboard containers,
 - plastic containers,
 - containers made of a combination of the above materials,
 - flexible plastic bags,
 - flexible bags in a combination of aluminium and plastic,
 - tetrahedrons in aluminium foil.
-

*ANNEX IV***SPECIAL STAMP**

1. Device of Member State
 2. Competent authority or competent regional or local authority
 3. Validation
-

COMMISSION REGULATION (EEC) No 987/89

of 17 April 1989

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 166/89⁽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 14 April 1989;

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 18 April 1989.

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

Done at Brussels, 17 April 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 20, 25. 1. 1989, 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 17 April 1989 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CN code	Levies	
	Portugal	Third country
0709 90 60	23,43	128,12
0712 90 19	23,43	128,12
1001 10 10	57,12	188,95 ⁽¹⁾ ⁽²⁾
1001 10 90	57,12	188,95 ⁽¹⁾ ⁽²⁾
1001 90 91	33,89	122,36
1001 90 99	33,89	122,36
1002 00 00	61,56	115,60 ⁽⁶⁾
1003 00 10	52,12	117,78
1003 00 90	52,12	117,78
1004 00 10	43,18	84,45
1004 00 90	43,18	84,45
1005 10 90	23,43	128,12 ⁽²⁾ ⁽³⁾
1005 90 00	23,43	128,12 ⁽²⁾ ⁽³⁾
1007 00 90	46,77	137,89 ⁽⁴⁾
1008 10 00	52,12	24,47
1008 20 00	52,12	15,20 ⁽⁴⁾
1008 30 00	52,12	0,00 ⁽⁵⁾
1008 90 10	⁽⁷⁾	⁽⁷⁾
1008 90 90	52,12	0,00
1101 00 00	61,97	185,83
1102 10 00	100,71	176,37
1103 11 10	102,11	305,67
1103 11 90	65,30	199,07

⁽¹⁾ Where durum wheat originating in Morocco is transported directly from that country to the Community, the levy is reduced by ECU 0,60/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 ECU 1,81/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 ECU 0,60/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 (OJ No L 142, 9. 6. 1977, p. 10) and Commission Regulation (EEC) No 2622/71 (OJ No L 271, 10. 12. 1971, p. 22).

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

COMMISSION REGULATION (EEC) No 988/89

of 17 April 1989

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 Regulation (EEC) No 2727/75 of the Council of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 166/89⁽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 14 April 1989;

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 18 April 1989.

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

Done at Brussels, 17 April 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 20, 25. 1. 1989, 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 17 April 1989 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

CN code	(ECU/tonne)			
	Current 4	1st period 5	2nd period 6	3rd period 7
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	1,62	1,62	1,62
1001 10 90	0	1,62	1,62	1,62
1001 90 91	0	0	0	0
1001 90 99	0	0	0	0
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	0	0	0
1004 00 90	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	0

B. Malt

CN code	(ECU/tonne)				
	Current 4	1st period 5	2nd period 6	3rd period 7	4th period 8
1107 10 11	0	0	0	0	0
1107 10 19	0	0	0	0	0
1107 10 91	0	0	0	0	0
1107 10 99	0	0	0	0	0
1107 20 00	0	0	0	0	0

COMMISSION REGULATION (EEC) No 989/89

of 17 April 1989

relating to classification criteria applicable to anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles of CN codes 6101, 6102, 6201 and 6202

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

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs tariff ⁽¹⁾, as last amended by Regulation (EEC) No 20/89 ⁽²⁾, and, in particular, its Article 9,

Whereas in order to ensure the uniform application of the combined nomenclature annexed to Regulation (EEC) No 2658/87, with regard to the tariff classification of anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles falling within, amongst others, CN codes 6101, 6102, 6201 and 6202, it is necessary to specify certain characteristics of the said garments;

Whereas these articles fall in a category of garments generally worn over other clothing and they ensure a protection against the weather;

Whereas such protection cannot be ensured by garments without sleeves or with short sleeves; for this reason it is

necessary to specify that the anoraks, wind-cheaters and similar articles mentioned above must have long sleeves;

Whereas the Nomenclature Committee has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Only garments which have long sleeves are classified as anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles falling within CN codes 6101, 6102, 6201 and 6202.

Article 2

This Regulation shall enter into force 21 days after 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, 17 April 1989.

For the Commission

Christiane SCRIVENER

Member of the Commission

⁽¹⁾ OJ No L 256, 7. 9. 1987, p. 1.

⁽²⁾ OJ No L 4, 6. 1. 1989, p. 19.

COMMISSION REGULATION (EEC) No 990/89

of 17 April 1989

amending Regulation (EEC) No 891/89 on special detailed rules for the application of the system of import and export licences for cereals and rice

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 166/89 ⁽²⁾, and in particular Articles 12 (2) and 16 (6) thereof,Whereas, pursuant to Commission Regulation (EEC) No 891/89 ⁽³⁾, the refund for exports is fixed in advance on application; whereas in that case exports outside the Community are subject to the presentation of an export license issued pursuant to Commission Regulation (EEC) No 3719/88 ⁽⁴⁾;

Whereas, on account of budgetary constraints, the additional grant of export refunds for wheat flour and durum-wheat meal for the 1988/89 marketing year must be limited; whereas, to control the granting of such refunds, provision should be made for licences for the export of the products in question with advance fixing of the refund to be issued after a period of reflection with, where applicable, a uniform percentage reduction in quantities, and provision should be made for applications for licences to be withdrawn after the percentage reduction is fixed, where the quantity allocated is no longer of interest to the operator in question; whereas Regulation (EEC) No 891/89 should be amended accordingly;

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 9 (4) of Regulation (EEC) No 891/89 is hereby replaced by the following:

'4. Until 1 July 1989, export licences for products falling within CN codes 1101 00 00 and 1103 11 10 with advance fixing of the refund shall be issued on the fourth working day following the day on which the application is submitted.

If applications for export licences referred to in this paragraph exceed the quantities which may be exported for the 1988/89 marketing year under a refund, the Commission shall fix a uniform percentage reduction in the quantities. Applications for licences may be withdrawn within two days of the date of publication of the percentage reduction.'

*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, 17 April 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.⁽²⁾ OJ No L 20, 25. 1. 1989, p. 16.⁽³⁾ OJ No L 94, 7. 4. 1989, p. 13.⁽⁴⁾ OJ No L 331, 2. 12. 1988, p. 1.

COMMISSION REGULATION (EEC) No 991/89

of 17 April 1989

fixing the maximum buying-price and the quantities of beef bought in for the first partial invitation to tender under Regulation (EEC) No 908/89

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

Having regard to Council Regulation (EEC) 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 571/89⁽²⁾, and in particular Article 6 (7) thereof,

Whereas, pursuant to Commission Regulation (EEC) No 859/89 of 29 March 1989 laying down detailed rules for the application of intervention measures in the beef and veal sector⁽³⁾, an invitation to tender was opened by Commission Regulation (EEC) No 908/89 of 7 April 1989 on the buying-in of beef by invitation to tender⁽⁴⁾;

Whereas, in accordance with Article 11 (1) of Regulation (EEC) No 859/89, a maximum buying-price is to be fixed per category for quality R 3, where appropriate, for each partial invitation to tender in the light of the tenders received; whereas, in accordance with Article 12 of that Regulation, only tenders lower than or equal to the maximum price are to be accepted;

Whereas, in accordance with Article 12 (2) of the abovementioned Regulation it could be decided to refuse the offers of the tender;

Whereas, after the tenders submitted for the first partial invitation to tender were examined and taking account, pursuant to Article 6 (1) of Regulation (EEC) No 805/68, of the requirements for reasonable support of the market

and the seasonal trend in slaughterings, the maximum buying-price and the quantities which may be accepted into intervention should be fixed for category A and no offer should be accepted for category C;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the first partial invitation to tender opened by Regulation (EEC) No 908/89:

(a) for category A:

- the maximum buying-price shall be ECU 284,00 per 100 kilograms of carcasses or half-carcasses of quality R 3,
- the maximum quantity shall be fixed at 3 054,7 tonnes;

(b) for category C all offers shall be refused.

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, 17 April 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 61, 4. 3. 1989, p. 43.

⁽³⁾ OJ No L 91, 4. 4. 1989, p. 5.

⁽⁴⁾ OJ No L 95, 8. 4. 1989, p. 22.

COMMISSION REGULATION (EEC) No 992/89**of 17 April 1989****fixing the amounts to be levied in the beef sector on products which left the United Kingdom during the week 27 March to 2 April 1989**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1347/86 of 6 May 1986 on the granting of a premium for the slaughter of certain adult bovine animals in the United Kingdom ⁽¹⁾, as amended by Regulation (EEC) No 467/87 ⁽²⁾,Having regard to Commission Regulation (EEC) No 1695/86 of 30 May 1986 laying down detailed rules for the application of the premium for the slaughter of certain adult bovine animals for slaughter in the United Kingdom ⁽³⁾, as amended by Regulation (EEC) No 3988/87 ⁽⁴⁾, and in particular Article 7 (1) thereof,

Whereas, under Article 3 of Regulation (EEC) No 1347/86, an amount equivalent to the amount of the variable slaughter premium granted in the United Kingdom is levied on meat and meat preparations from animals on which it has been paid, when they are consigned to other Member States or to non-member countries;

Whereas, under Article 7 (1) of Regulation (EEC) No 1695/86 the amounts to be charged on departure from the territory of the United Kingdom of the products listed

in the Annex to the said Regulation must be fixed each week by the Commission;

Whereas, accordingly, the amounts to be levied on products which left the United Kingdom during the week 27 March to 2 April 1989 should be fixed,

HAS ADOPTED THIS REGULATION:

Article 1

Pursuant to Article 3 of amended Regulation (EEC) No 1347/86, the amounts to be levied on the products referred to in Article 7 (1) of Regulation (EEC) No 1695/86 which left the territory of the United Kingdom during the week 27 March to 2 April 1989 shall be those set out in the Annex.

*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 27 March 1989.

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

Done at Brussels, 17 April 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission⁽¹⁾ OJ No L 119, 8. 5. 1986, p. 40.⁽²⁾ OJ No L 48, 17. 2. 1987, p. 1.⁽³⁾ OJ No L 146, 31. 5. 1986, p. 56.⁽⁴⁾ OJ No L 376, 31. 12. 1987, p. 31.

ANNEX

to the Commission Regulation of 17 April 1989 fixing the amounts to be levied in the beef sector on products which left the United Kingdom during the week 27 March to 2 April 1989

(ECU/100 kg net weight)	
CN code	Amount
0201 10 10	26,26474
0201 10 90	26,26474
0201 20 21	26,26474
0201 20 29	26,26474
0201 20 31	21,01179
0201 20 39	21,01179
0201 20 51	31,51769
0201 20 59	31,51769
0201 20 90	21,01179
0201 30 00	35,98269
0202 10 00	26,26474
0202 20 10	26,26474
0202 20 30	21,01179
0202 20 50	31,51769
0202 20 90	21,01179
0202 30 10	35,98269
0202 30 50	35,98269
0202 30 90	35,98269
0206 10 95	35,98269
0206 29 91	35,98269
0210 20 10	21,01179
0210 20 90	29,94180
0210 90 41	29,94180
1602 50 10 (1)	29,94180
1602 50 10 (2)	21,01179

(1) Containing 80 % or more by weight of beef meat.

(2) Other.

COMMISSION REGULATION (EEC) No 993/89
of 17 April 1989
abolishing a countervailing charge on cucumbers originating in Poland

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 2238/88⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Commission Regulation (EEC) No 896/89⁽³⁾ introduced a countervailing charge on cucumbers originating in Poland;

Whereas for cucumbers originating in Poland there were no prices for six consecutive working days; whereas the

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 896/89 is hereby repealed.

Article 2

This Regulation shall enter into force on 18 April 1989.

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

Done at Brussels, 17 April 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 118, 20.5.1972, p. 1.

⁽²⁾ OJ No L 198, 26.7.1988, p. 1.

⁽³⁾ OJ No L 94, 7.4.1989, p. 27.

COMMISSION REGULATION (EEC) No 994/89**of 17 April 1989****amending for the tenth time Regulation (EEC) No 151/89 introducing a countervailing charge on fresh lemons originating in Turkey**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 2238/88⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Commission Regulation (EEC) No 151/89⁽³⁾, as last amended by Regulation (EEC) No 782/89⁽⁴⁾, introduced a countervailing charge on fresh lemons originating in Turkey;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 of Regulation (EEC) No 151/89 'ECU 36,64' is hereby replaced by 'ECU 27,19'.

Article 2

This Regulation shall enter into force on 18 April 1989.

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

Done at Brussels, 17 April 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 198, 26. 7. 1988, p. 1.

⁽³⁾ OJ No L 17, 21. 1. 1989, p. 45.

⁽⁴⁾ OJ No L 84, 29. 3. 1989, p. 39.

COMMISSION REGULATION (EEC) No 995/89
of 17 April 1989
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 950/89⁽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 18 April 1989.

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

Done at Brussels, 17 April 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽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 101, 13. 4. 1989, p. 30.

ANNEX

to the Commission Regulation of 17 April 1989 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy
1701 11 10	32,82 ⁽¹⁾
1701 11 90	32,82 ⁽¹⁾
1701 12 10	32,82 ⁽¹⁾
1701 12 90	32,82 ⁽¹⁾
1701 91 00	39,44
1701 99 10	39,44
1701 99 90	39,44 ⁽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 (OJ No L 151, 30. 6. 1968, p. 42).

⁽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.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 15 November 1988

relating to aid which the Belgian Government has granted to a petrochemicals company at Ottignies/Louvain-la-Neuve (SA Belgian Shell)

(Only the French and Dutch texts are authentic)

(89/254/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the first subparagraph of Article 93 (2) thereof,

Having given notice in accordance with the above Article to interested parties to submit their comments, and having regard to those comments,

Whereas :

I

By letter dated 22 December 1987, received on 4 January 1988, the Belgian Government notified a plan to grant investment aid to SA Belgian Shell at Ottignies/Louvain-la-Neuve under the Expansion Law of 17 July 1959.

The investment aid is to be granted for the creation of a research laboratory for the development of new, technologically advanced petrochemical products and the improvement of existing products such as epoxy resins, polyurethanes, elastomers, polypropylene, polyethylene, polybutylene, polyvinyl chloride and expansible polystyrene. The research will also investigate new applications for these products. It is not planned to start production at Louvain-la-Neuve.

In view of the considerable volume of trade in petrochemicals between Community countries, the Commission considered that the measure in question was an aid pursuant to Article 92 (1) of the EEC Treaty and that, according to the information at its disposal and that made

available by the Belgian authorities, it did not *prima facie* satisfy the conditions for exemption pursuant to Article 92 (3). It therefore opened the procedure provided for in Article 93 (2) in respect of that aid.

By letter dated 11 February 1988 it gave the Belgian Government notice to submit its comments. Comments were also invited from the other Member States by letter dated 29 April and from other interested parties by letter dated 3 May 1988.

II

The Belgian Government, in reply to the opening of the Article 93 (2) procedure, sent its comments by letter dated 7 April 1988, received on 14 April 1988.

It argued that the laboratory to be assisted had been specifically designed to undertake basic and experimental applied research in order to identify and assess new potential applications and to develop, at the stage of basic industrial research, innovative high technology products capable of satisfying new, predetermined needs.

Within the framework of the procedure, four other Member States, an enterprise in the relevant sector and one association submitted observations.

III

The measures proposed by the Belgian authorities consist in a direct grant of 15,6 % of planned investment (Bfrs 217 015 million in aid for an investment of Bfrs 1 391 125 million) and in a five-year exemption from property tax with a net grant equivalent of 9,56 %.

The Community petrochemicals market is characterized by strong competition and considerable intra-Community trade.

The petrochemicals industry in Europe comprises a large number of companies, both independent and subsidiaries of national and multinational chemical and oil companies, located in various Member States and employing between 550 000 and 600 000 persons.

In 1987, total turnover in the Community petrochemicals industry reached ECU 99 180 million. Exports to Member States accounted for ECU 39 800 million, or 40,13 % of turnover.

In 1986, intra-Community trade in unsaturated ethylene and propene not for carburation or combustion attained a volume of ECU 693 million and 294 million respectively. The figures for unsaturated butenes, butadienes and methylbutadienes, and styrene were ECU 204 million and 457 million.

The recipient of the planned aid, Belgian Shell, is one of the trading firms belonging to the Royal Dutch-Shell Group that are established in the Member States and market petroleum and petrochemical products manufactured at the Group's production centres in Europe. Thus the chief market for Belgian Shell is Belgium (94 % of petroleum products and 68 % of petrochemical products are sold in Belgium). The company obtains 17,4 % of its turnover from petrochemical products, of which 32 % were exported to other Member States in 1986.

In view of the above considerations, the situation in the market in question and the position of the firm in question on that market, the aid envisaged is liable to affect trade between Member States and distort competition within the meaning of Article 92 (1) of the EEC Treaty by favouring the undertaking concerned.

When a State aid strengthens the position of some undertakings in relation to their competitors in the Community, it must be regarded as affecting such competitors.

The aid in question distorts competition by reducing the cost of investing in the laboratory which gives the undertaking concerned a competitive advantage over other producers in the petrochemicals industry.

IV

Article 92 (1) provides that aid meeting the criteria laid down therein is in principle incompatible with the common market. The exceptions provided for in Article

92 (2) are not applicable in this case because of the nature of the proposed assistance and its objectives.

According to Article 92 (3) of the Treaty, aid which may be regarded as compatible with the common market must be determined in the context of the Community as a whole and not in that of a single Member State. In order to ensure the proper functioning of the common market and having regard to the principle embodied in Article 3 (f) of the Treaty, the exceptions provided for in Article 92 (3) must be construed narrowly when any aid scheme or any individual aid award is scrutinized.

In particular, the exceptions may be invoked only when the Commission is satisfied that, without the aid, market forces alone would be insufficient to encourage the recipients to attain one of the objectives of the exceptions.

Applying the exceptions to cases not contributing to such an objective or where aid is not needed to this end would mean conferring advantages on the industries or undertakings of certain Member States, thus artificially strengthening their financial position, adversely affecting trading conditions between Member States and distorting competition without any justification based on grounds of the common interest referred to in Article 92 (3).

The Belgian Government was unable to provide, and the Commission to find, any reason for classifying the aid in any of the categories of exception pursuant to Article 92 (3).

Article 92 (3) (a) and (c) allows exceptions for aid that promotes or facilitates the development of certain areas, but there is no region in Belgium which has an abnormally low standard of living or serious underemployment within the meaning of subparagraph (c); as regards the exception in subparagraph (c), the Ottignies/Louvain-la-Neuve area in the province of Brabant where the investment in question is located, was not included in special regional aid zones in Commission Decision 82/740/EEC⁽¹⁾ on the definition of development areas in Belgium.

As for the exceptions provided for in subparagraph (b) of Article 92 (3), it is clear that the aid is not intended to promote the execution of a project of common European interest or to remedy a serious disturbance in the Belgian economy. A specific aid for a single company in the petrochemicals sector would not remedy the type of situations described in Article 93 (3) (b), and the Belgian Government has not put forward any such justification for the aid in question. The Commission has therefore come

⁽¹⁾ OJ No L 312, 9. 11. 1982, p. 18.

to the same conclusions as those contained in the Court of Justice Judgment of 8 March 1988 in joined Cases 62/87 and 72/87, point 22 *et seq.*

As to the exception in Article 92 (3) (c) for aid to facilitate the development of certain economic activities, it must be concluded that whilst the aid facilitates the development of the undertaking in question, at the same time it affects trading conditions to an extent contrary to the common interest.

As the Community framework for State aids for research and development shows⁽¹⁾, the Commission is in favour of aid for research or development projects.

The aid in question, however, is not aimed at financing certain specific R & D projects but contributes essentially to the purchase of land and the construction of a building to house the laboratory in question (86,9 % of total cost of project). The purchase of scientific and data-processing equipment, however, represents only 13,1 % of total costs. Furthermore, although the laboratory will be carrying out so-called 'experimental' industrial basic and applied research, in the sense that its planned to establish a permanent dialogue with universities and industry, it will initially be given traditional petrochemical development work, including techniques for the application of polymers.

The activities of the company building the laboratory to be assisted are limited to marketing the petroleum and petrochemical products of Royal Dutch-Shell. As a result, the exploitation of the results of the research conducted in the laboratory will be entrusted to the Group's various production centres. Thus aid granted to the laboratory would benefit not Shell but also the whole Royal Dutch-Shell group.

The Community petrochemicals market is affected by a certain degree of instability reflected in large cyclical fluctuations of supply and demand. The overcapacity which arose in the second half of the 1970s led to a crisis in the early 1980s entailing extensive losses. Although the sector has now returned to profit, following capacity cuts and a rise in demand, capacity increases in certain sub-sectors such as propylene and ethylene and the emergence of new non-Community producers (Gulf countries, South-East Asia, Eastern Europe) is liable to lead once again to overcapacity.

It is in the interest of any company in the sector wishing to maintain or improve its position on the market to identify and assess new potential applications for petrochemical products and to design new products.

In view of the difficult market situation that could arise with the appearance of overcapacity and the arrival of new producers, approval of the proposal to grant aid for the Belgian Shell laboratory would mean putting its competitors at a disadvantage which could cause an unjustified drop in their sales and/or compel them in the medium term to withdraw from the market.

Taking account of the financial position of the parent company and its interest in having the laboratory, it is concluded that the aid in question is not necessary and that market forces alone should suffice for the investment to be achieved without an aid grant.

Consequently, the aid in question does not facilitate the development of the industry in question and alters trading conditions to an extent contrary to the common interest within the meaning of Article 92 (3) (c).

The aid proposed by the Belgian Government does not therefore meet the conditions required for application of any of the exceptions provided for in Article 92 (3) of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

Belgium shall not implement the proposal notified to the Commission by letter dated 22 December 1987 to grant aid for an investment programme implemented at Ottignies/Louvain-la-Neuve by SA Belgian Shell.

Article 2

Belgium shall inform the Commission, within two months of the notification of this Decision, of the measures it has taken to comply therewith.

Article 3

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 15 November 1988.

For the Commission

Peter SUTHERLAND

Member of the Commission

⁽¹⁾ OJ No C 83, 11. 4. 1986, p. 2.

COMMISSION DECISION

of 28 March 1989

on the clearance of certain Member States' accounts in respect of expenditure incurred in 1980, 1981, 1982 and 1983 on agricultural products supplied as food aid

(Only the Dutch, English, French and Italian texts are authentic)

(89/255/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2681/74 of 21 October 1974 on Community financing of expenditure incurred in respect of the supply of agricultural products as food aid⁽¹⁾, and in particular the second indent of Article 3 (2) thereof,

Having consulted the European Agricultural Guidance and Guarantee Fund Committee,

Whereas the Member States have sent to the Commission the supporting statements required for clearance of the accounts pursuant to Article 7 of Commission Regulation (EEC) No 249/77⁽²⁾, as last amended by Regulation (EEC) No 681/86⁽³⁾;

Whereas, pursuant to Article 1 of Regulation (EEC) No 249/77, only the net quantities taken over by the consignee of the aid at the point of delivery provided for in Community Regulations can be financed;

Whereas expenditure is financed on the basis of the provisions of the mobilization regulations and calls for tender for each operation according to the relevant rules and of Commission Regulation (EEC) No 1974/80 of 22 July 1980 laying down general rules of application for the execution of certain food-aid schemes in the form of cereals and rice⁽⁴⁾ and Regulation (EEC) No 1354/83 of 17 May 1983 laying down general rules for the mobilization and supply of skimmed-milk powder, butter and butteroil as food aid⁽⁵⁾;

Whereas some of the relevant expenditure does not meet this requirement and must be disallowed; whereas the amounts concerned for Belgium are Bfrs 320 573 for 1980, Bfrs 531 893 for 1981, Bfrs 32 987 328 for 1982 and Bfrs 4 492 219 for 1983; for Italy Lit 149 156 750 for 1982 and Lit 244 340 332 for 1983; for the United Kingdom £ 315 for 1980, £ 81 153, 93 for 1982 and £

24 427, 30 for 1983; for France FF 132 566, 07 for 1980, FF 824,72 for 1981, FF 14 475,85 for 1982 and FF 2 695 452,07 for 1983; and for the Netherlands Fl 7 948,94 for 1980 and Fl 7 671,67 for 1982.

Whereas the reserves entered at points 7 and 8 of the Annex to Commission Decision 83/548/EEC of 7 November 1983 on the clearance of the 1975 accounts⁽⁶⁾ submitted by Belgium in respect of food aid expenditure on agriculture products can be withdrawn;

Whereas the reserves entered at points 6, 7 and 8 of the Annex to Commission Decision 84/591/EEC of 12 November 1984 on the clearance of the 1976 accounts⁽⁷⁾ submitted by Belgium in respect of food aid expenditure on agricultural products can be withdrawn;

Whereas the reserve entered at point 7 of the Annex to Commission Decision 84/593/EEC of 12 November 1984 on the clearance of the 1978 accounts⁽⁸⁾ submitted by Belgium in respect of food aid expenditure on agricultural products can be withdrawn;

Whereas verification shows that an additional amount of Bfr 1 139 507 qualifies for Community financing in respect of 1981 for Belgium;

Whereas, as regards 1980, a clearance reserve must be entered in respect of the operation concerning 1 300 tonnes of butteroil carried out under Regulation (EEC) No 2494/79 by Belgium;

Whereas, as regards 1982, clearance reserves must be entered in respect of the aid operations carried out by Belgium, in particular those carried out pursuant to Regulations (EEC) No 2936/81 — lots AK, AL, AH and AI (2 000 tonnes of skimmed-milk powder), (EEC) No 93/82 (974 tonnes of wheat flour), (EEC) No 3611/81 and (EEC) No 1058/82 (550 tonnes of wheat flour);

Whereas, as regards 1983, a clearance reserve must be entered in respect of the aid operation concerning 500 tonnes per lot G of skimmed-milk powder carried out by Belgium pursuant to Regulation (EEC) No 2600/81;

⁽¹⁾ OJ No L 288, 25. 10. 1974, p. 1.

⁽²⁾ OJ No L 34, 5. 2. 1977, p. 21.

⁽³⁾ OJ No L 62, 5. 3. 1986, p. 7.

⁽⁴⁾ OJ No L 192, 26. 7. 1980, p. 11.

⁽⁵⁾ OJ No L 142, 1. 6. 1983, p. 1.

⁽⁶⁾ OJ No L 322, 19. 11. 1983, p. 45.

⁽⁷⁾ OJ No L 325, 12. 12. 1984, p. 1.

⁽⁸⁾ OJ No L 325, 12. 12. 1984, p. 5.

Whereas the reserves entered at point 6 of Commission Decisions 84/610/EEC and 84/613/EEC of 12 November 1984 on the clearance of the 1976 and 1979 accounts⁽¹⁾, submitted by Italy in respect of food aid expenditure on agricultural products, can be withdrawn;

Whereas an additional amount of Lit 12 716 000 arising from the difference between the expenditure charged to the Community budget and that declared for clearance by Italy can be recognized;

Whereas verification shows that an additional amount of Lit 6 058 883 qualifies for Community financing in respect of 1983 for Italy;

Whereas, for 1980, a clearance reserve must be entered in respect of the aid operation carried out by Italy arising from Commission Decision 76/748/EEC of 13 September 1976 relating to the supply of 3 750 tonnes of rice to Niger, pending the outcome of proceedings before courts;

Whereas a clearance reserve must be entered in respect of the United Kingdom in connection with Regulation (EEC) No 30/83, lot H, and Regulation (EEC) No 516/83, lot AA;

Whereas the clearance reserves entered in the Commission Decisions relating to the following clearances of accounts submitted by France in respect of food aid expenditure on agricultural products can be withdrawn; for the 1970/71 programme (Decision 76/64/EEC⁽²⁾), for 1973 (Decision 76/94/EEC⁽³⁾), for 1974 (Decision 77/755/EEC⁽⁴⁾), for 1975 (Decision 83/549/EEC⁽⁵⁾), for 1976 (Decision 84/602/EEC⁽⁶⁾) and for 1979 (Decision 84/605/EEC⁽⁷⁾); thus giving rise to additional expenditure of FF 12 743,48;

Whereas verification shows that additional amounts of FF 135 980,95 for 1980 and FF 184 246,13 for 1982 qualify for Community financing for France;

Whereas for 1982 and 1983 clearance reserves must be entered in respect of aid operations carried out by France using milk products drawn from intervention stocks;

Whereas, for 1982, a clearance reserve must be entered in respect of DM 181 308,18 for aid operations carried out by France under Regulation (EEC) No 2186/82 — 10 000 tonnes of common wheat to Zaïre;

Whereas, for 1983, clearance reserves must be entered in respect of aid operations carried out by France, in particular those carried out under Regulation (EEC) No 298/83 — Lot V — 175 tonnes of butteroil — Guinea Bissau, Regulation (EEC) No 1530/83 — Lot C — 240 tonnes of butteroil — WFP, Regulation (EEC) No 2433/83 — Lot A — 345 tonnes of butteroil — Tunisia, Regulation (EEC) No 2434/83 — Lot A — 1 000 tonnes of skimmed-milk powder — Tunisia, Regulation (EEC) No 1630/82 — 20 000 tonnes of common wheat — UNHCR, Regulation (EEC) No 2779/83 — 5 748,516 tonnes of flour — Egypt, and Regulation (EEC) No 1611/83 — 15 000 tonnes of maize — Mozambique;

Whereas verification shows that an additional amount of Fl 26 516,70 qualifies for Community financing for the Netherlands;

Whereas the Member States had been informed in detail of the corrections to their accounts and have had opportunities to comment;

Whereas this Decision is without prejudice to any financial consequences that may be drawn, on the occasion of a subsequent accounts clearance, from investigations being carried out at the time of this Decision, from irregularities within the meaning of Article 8 of Council Regulation (EEC) No 729/70⁽⁸⁾, as last amended by Regulation (EEC) No 2048/88⁽⁹⁾, or from judgments of the Court of Justice on cases now pending concerning matters which are the subject of this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The accounts of the Member States concerning expenditure financed in respect of food aid in the form of agricultural products in 1980, 1981, 1982 and 1983 are hereby cleared as shown in the Annexes to this Decision.

Article 2

Claims disallowed, remaining chargeable to the Member States, are the following:

Belgium: Bfrs 37 192 506

Italy: Lit 374 722 199

U.K.: £ 105 896,23

France: FF 2 510 348,15

⁽¹⁾ OJ No L 325, 12. 12. 1984, p.p. 38 and 44.

⁽²⁾ OJ No L 11, 20. 1. 1976, p. 21.

⁽³⁾ OJ No L 22, 29. 1. 1976, p. 5.

⁽⁴⁾ OJ No L 313, 22. 11. 1977, p. 9.

⁽⁵⁾ OJ No L 322, 7. 11. 1983, p. 47.

⁽⁶⁾ OJ No L 325, 12. 12. 1984, p. 23.

⁽⁷⁾ OJ No L 325, 12. 12. 1984, p. 29.

⁽⁸⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽⁹⁾ OJ No L 185, 15. 7. 1988, p. 1.

Article 3

The net amount to be recognized as supplementary expenditure by the Netherlands is Fl 10 896,09.

Article 4

The amounts referred to in Article 2 must be credited to the Commission's accounts within one month of notification of this Decision.

Article 5

This Decision is addressed to the Kingdom of Belgium, the Italian Republic, the United Kingdom, the French Republic and the Kingdom of the Netherlands.

Done at Brussels, 28 March 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX I

Clearance of the accounts of the departments and agencies empowered by the Kingdom of Belgium to pay expenditure arising from food aid operations in agricultural products

	(Bfrs)
1. Funds available after clearance of the 1979 accounts	225 143 932
2. Advance payments authorized in respect of:	
1980	1 603 500 000
1981	3 303 200 000
1982	3 116 400 000
1983	<u>1 233 000 000</u>
3. Total available to cover expenditure for these years	<u>9 481 243 932</u>
4. Expenditure effected in respect of these years and recognized as chargeable to Chapter 92: food aid expenditure from the general budget of the European Communities	
1980	1 853 994 528
1981	3 014 280 329
1982	3 285 608 545
1983	<u>1 336 529 283</u>
	<u>9 490 412 685</u>
5. Funds available after clearance of the accounts for these years	<u>— 9 168 753</u>

6. Reservations

1980

(a) *Regulation (EEC) No 2494/79 — 1 300 tonnes — butteroil — Egypt*

A reserve must be entered in respect of DM 16 532 because of doubts as to the exact quantity contained in the 800 butteroil receptacles. The Member State must provide additional information. The claim is provisionally accepted.

1982

(b) *Regulation (EEC) No 2936/81 — 1 500 tonnes — lots AK and AL — skimmed-milk powder — China*

In view of legal proceedings against the successful tenderer, a reserve must be entered in respect of an amount of Bfrs 6 374 970 provisionally accepted pending the outcome of the proceedings.

(c) *Regulation (EEC) No 2936/81 — 500 tonnes — lots AH and AI — skimmed-milk powder — China*

A clearance reserve is entered in respect of a total of Bfrs 7 685 613 provisionally deducted from the expenditure claimed pending the outcome of proceedings brought against the successful tenderer.

(d) *Regulation (EEC) No 93/82 — 974 tonnes — wheat flour — Djibouti*

Legal proceedings having been started against the successful tenderer, an amount of Bfrs 14 080 665 must be deducted subject to study of the judgment to be handed down in this case.

(e) *Regulations (EEC) No 3611/81 and (EEC) No 1058/82 — 550 tonnes — wheat flour — ICRC*

In view of legal proceedings now under way, a clearance reserve must be entered. In the mean time the amount at issue — Bfrs 1 667 050 — is provisionally deducted from the expenditure declared.

1983

(f) *Regulation (EEC) No 2600/81 — lot G — 500 tonnes — skimmed-milk powder — Somalia*

In view of doubts as to the quantity which actually arrived, the Member States must provide further documents and information. In the mean time, a clearance reservation is entered in respect of an amount of Bfrs 1 269 659 deducted provisionally from the expenditure declared.

7. Reservations withdrawn

The following reserves, entered in connection with the 1975, 1976 and 1978 clearances concerning expenditure claimed by the Kingdom of Belgium are withdrawn.

(a) 1975

Reserve entered at points 7 and 8 of the Annex to Commission Decision 83/548/EEC.

(b) 1976

Reservation entered at points 6, 7 and 8 of the Annex to Commission Decision 84/591/EEC.

(c) 1978

Reservation entered at point 7 of the Annex to Commission Decision 84/593/EEC.

ANNEX II**Clearance of the accounts of the departments and agencies empowered by the Italian Republic to pay expenditure arising from food aid operations in agricultural products**

	(Lit)
1. Funds available after clearance of the 1979 accounts	8 737 848 935
2. Advance payments authorized in respect of:	
1980	25 960 000 000
1981	28 850 000 000
1982	37 100 000 000
1983	<u>12 820 000 000</u>
3. Total available to cover expenditure for these years	<u>113 467 848 935</u>
4. Expenditure effected in respect of these years and recognized as chargeable to Chapter 92: food aid expenditure from the general budget of the European Communities	
1980	33 585 300 204
1981	24 308 862 166
1982	38 324 006 815
1983	<u>14 032 616 944</u>
	<u>110 250 786 129</u>
5. Funds available after clearance of the accounts for these years	<u>3 217 062 806</u>

6. Reserve

Commission Decision 76/748/EEC.

3 750 tonnes — rice — Niger

A clearance reserve is formulated pending a decision of the judicial authorities concerning the quality of the merchandise provided.

7. Reserves withdrawn

The reserves entered in the Commission Decision of 12 November 1984 concerning the Italian Republic are withdrawn.

ANNEX III

Clearance of the accounts of the departments and agencies empowered by the United Kingdom to pay expenditure arising from food aid operations in agricultural products

	(£)
1. Funds available after clearance of the 1979 accounts	171 041,36
2. Advance payments authorized in respect of:	
1980	15 130 000,00
1981	8 650 000,00
1982	15 200 000,00
1983	<u>10 550 000,00</u>
3. Total available to cover expenditure for these years	<u>49 701 041,36</u>
4. Expenditure effected in respect of these years and recognized as chargeable to Chapter 92: food aid expenditure from the general budget of the European Communities	
1980	8 326 282,54
1981	15 489 134,28
1982	13 388 392,66
1983	<u>11 113 519,31</u>
	<u>48 317 328,79</u>
5. Funds available after clearance of the accounts for these years	<u>1 383 712,57</u>

6. Reserve

Regulation (EEC) No 30/83 — lot H — 500 tonnes — SMP — fob — Nicaragua

Regulation (EEC) No 516/83 — lot AA — 50 tonnes — SMP — cif — ICRC/Nicaragua

The expenditure declared for 1983 is accepted with a reserve pending the clearance of the declarations for these actions in 1984 and 1985.

ANNEX IV

Clearance of the accounts of the departments and agencies empowered by the French Republic to pay expenditure arising from food aid operations in agricultural products

	(FF)
1. Funds available after clearance of the 1979 accounts	90 612 137,16
2. Advance payments authorized in respect of:	
1980	431 300 000,00
1981	1 032 200 000,00
1982	968 100 000,00
1983	<u>576 200 000,00</u>
3. Total available to cover expenditure for these years	<u>3 098 412 137,16</u>
4. Expenditure effected in respect of these years and recognized as chargeable to Chapter 92: food aid expenditure from the general budget of the European Communities	
1980	461 878 802,34
1981	1 059 481 495,11
1982	886 160 916,97
1983	<u>607 696 392,37</u>
	<u>3 015 217 606,79</u>
5. Funds available after clearance of the accounts for these years	<u>83 194 530,37</u>

6. Reserves

1982

Butteroil

The expenditure declared for actions involving milk products drawn from intervention stocks are cleared with a reserve pending verification with those declared for the years to 31 December 1987 and their concurrence with the corresponding declarations to the EAGGF Guarantee Section.

Regulation (EEC) No 2186/82 — 10 000 tonnes — common wheat — Zaire

A clearance reserve is formulated in respect of DM 181 308,18 pending further investigation of the responsibility of the tenderer in this case.

1983

Regulation (EEC) No 298/83 — lot V — 175 tonnes — butteroil — Guinea Bissau

Arising from the problem of the quantity contained in 53 torn cartons, a clearance reserve is formulated.

Regulation (EEC) No 1530/83 — lot C — 240 tonnes — butteroil — WFP — Morocco

Regulation (EEC) No 2433/83 — lot A — 345 tonnes — butteroil — Tunisia

Regulation (EEC) No 2434/83 — lot A — 1 000 tonnes — skimmed-milk powder — Tunisia

An investigation is underway concerning the quality of the product provided in these three cases. Pending the outcome, a clearance reserve is introduced.

Regulation (EEC) No 1630/82 — 20 000 tonnes — common wheat — UNHCR

A clearance reserve is formulated because of *force majeure* being invoked to justify a delay in shipment; all the details needed in order to recognize *force majeure* are not yet in place.

Regulation (EEC) No 2779/83 — 5 748,516 tonnes — flour — Egypt

Legal proceedings concerning the security have been instituted; a clearance reserve for FF 447 866,88 is therefore formulated.

Regulation (EEC) No 1611/83 — 15 000 tonnes — maize — Mozambique

This action must be the subject of a clearance reserve because of the ongoing inquiry concerning the quality of the merchandise delivered.

7. Reserves withdrawn

The following reserves, introduced in the context of the clearance for the 1970/71 programme, as well as those for the years 1973, 1974, 1975, 1976 and 1979 concerning the expenditure declared by the French Republic are withdrawn:

1970/71 Programme

Reserves formulated by Commission Decision 76/64/EEC.

1973

Reserves formulated by Commission Decision 76/64/EEC.

1974

Reserves formulated by Commission Decision 77/755/EEC.

1975

Reserves formulated by Commission Decision 83/549/EEC.

1976

Reserves formulated by Commission Decision 84/602/EEC.

1979

Reserves formulated by Commission Decision 84/605/EEC.

*ANNEX V***Clearance of the accounts of the departments and agencies empowered by the Netherlands to pay expenditure arising from food aid operations in agricultural products***(Fl)*

1. Funds available after clearance of the 1979 accounts	837 885,27
2. Advance payments authorized in respect of:	
1980	29 160 000,00
1981	80 740 000,00
1982	91 900 000,00
1983	<u>20 600 000,00</u>
3. Total available to cover expenditure for these years	<u>223 237 885,27</u>
4. Expenditure effected in respect of these years and recognized as chargeable to Chapter 92: food aid expenditure from the general budget of the European Communities	
1980	34 929 291,38
1981	57 015 998,23
1982	107 841 951,73
1983	<u>24 136 740,97</u>
	<u>223 923 982,31</u>
5. Funds available after clearance of the accounts for these years	<u>— 686 097,04</u>

COMMISSION DECISION

of 5 April 1989

amending Decision 85/634/EEC authorizing certain Member States to provide for derogations from certain provisions of Council Directive 77/93/EEC in respect of oak wood originating in Canada or the United States of America

(Only the Spanish, Danish, Dutch, German, French and Italian texts are authentic)

(89/256/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Member States of organisms harmful to plants or plant products ⁽¹⁾, as last amended by Directive 89/83/EEC ⁽²⁾, and in particular Article 14 (3) thereof,

Having regard to the request made by the Kingdom of Spain,

Whereas under the provisions of Directive 77/93/EEC, oak wood with bark attached, originating in North American countries, may in principle not be introduced into the Community because of the risk of introducing *Ceratocystis fagacearum*, the cause of oak wilt;

Whereas, however, Article 14 (3) of the abovementioned Directive permits derogations from that rule, provided that it is established that there is no risk of spreading harmful organisms;

Whereas by Commission Decision 85/634/EEC ⁽³⁾, as amended by Decision 86/114/EEC ⁽⁴⁾, the Commission granted such derogations under revised conditions in respect of oak wood originating in Canada or the United States of America;

Whereas the Member States have been consulted on the measures provided for in this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Decision 85/634/EEC is hereby amended as follows:

1. In Article 1 (1), 'Spain' is inserted between 'Germany' and 'France'.
2. In Article 1 (2) (b), 'Valencia' is inserted in the list of ports of unloading after 'Salerno'.
3. In Article 2 first paragraph, 'and Spain', is inserted between 'Italy' and 'may'.

Article 2

This Decision is addressed to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands.

Done at Brussels, 5 April 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 26, 31. 1. 1977, p. 20.

⁽²⁾ OJ No L 32, 3. 2. 1989, p. 29.

⁽³⁾ OJ No L 379, 31. 12. 1985, p. 45.

⁽⁴⁾ OJ No L 99, 15. 4. 1986, p. 21.

CORRIGENDA

Corrigendum to Commission Regulation (EEC) No 2984/88 of 21 September 1988 fixing for the 1987/88 marketing year the yields of olives and olive oil in Italy, Spain and Portugal

(Official Journal of the European Communities No L 270 of 30 September 1988)

On pages 26 to 37, in Annex II, D. Spain:

<i>Province and zone</i>	<i>for:</i>	<i>read:</i>
Almería	Armura de Almanzora	Armuña de Almanzora
	Purchana	Purchena
	Sante Fé de Mondújar	Santa Fe de Mondújar
	Uleita del Campo	Uleila del Campo
Granada	Cúllar-Beza	Cúllar-Baza
Córdoba		
Zone 2	Fern-Núñez	Fernán-Núñez
Huelva		
Zone 2	San suan del Puerto	San Juan del Puerto
Málaga		
Zone 2	Jimena de Libar	Jimera de Libar
Zaragoza		
Zone 1	Cres	Orés
Huesca		
Zone 1	Foradada del Toscar	Foradada de Toscar
Baleares		
Zone 1	San Juan Batista	San Juan Bautista
Zone 2	Andratx	Andraitx
Albacete		
Zone 1	Hunera	Munera
Zone 2	Abengibe	Abengibre
Zone 3	Peñascosa	Peñascosa
	Guadalinar	Guadalimar
Ciudad Real		
Zone 3	Herenchia	Herencia
Cuenca		
Zone 1	Alohujate	Alcohujate
	Leganiel, (Maharros)	Leganiel (Naharros),
Zone 2	Monteagudo de las Salnas	Monteagudo de las Salinas
Zone 3	Fuentelespino de Hoya	Fuentelespino de Moya
	Llenarejos	Henarejos
	Lluerguina	Huergina
	Hoya	Moya
	Marbonete	Narbonete
	Peille	Reillo
Zone 4	Altobücy	Altobuey
	Cosasimarro	Casasimarro
Zone 5	Hero (Carrascosa de)	Haro (Carrascosa de)
Zone 6	Campos del Paraíso	Campos Para
	Fuente de Pedro Maharro	Fuente de Pedro Naharro
	Záira de Zánara	Zafra de Zánara

<i>Province and zone</i>	<i>for :</i>	<i>read :</i>
Guadalajara		
Zone 2	Argón Menares (Castilblanco de) Sobo (Galve de) Mijes La Muerce Diruque	Angón Henares (Castilblanco de) Sorbe (Galve de) Hijes La Huerce Jiruque
Zone 4	Amallones Solmeron	Armallones Salmerón
Toledo		
Zone 2	Membrán	Hambrán
Zone 3	Cobiso Cuadamur Mambroca	Cobisa Guadamur Nambroca
Salamanca		
Zone 1	Fregonoda Minojosa de Duero	Fregeneda Hinojosa de Duero
Barcelona		
Zone 5	Castellcir Capcentelles Tagamanent	Castelleir Campsentelles Tagament
Gerona		
	Montcal Llierca	Monteal Litierca
Lérida		
Zone 1	Palau d'Angelsola Saerós	Palau d'Anglesola Serós
Zone 3	Camerasa El Posal	Camarasa El Poal
Zone 4	Granyanella	Grayanella
Badajoz		
Zone 1	Carrascalejo Miraudilla	El Carrascalejo Mirandilla
Zone 2	Mengabril	Mengabril
Zone 3	Puebla de Sancho Férrez Bienvenide	Puebla de Sancho Pérez Bienvenida
Zone 6	Retamal de Llerena	Retamal
Cáceres		
Zone 1	Muñomoral	Nuñomoral
Zone 4	Albertura Herguijuelo	Abertura Herguijuela
Zone 6	Alcántara Arroya de la Luz Plasenzuela	Alcántara Arroyo de la Luz Plasenzuela

The following is added to zone 3 : '... Deleitosa, Fresnedoso de Ibor.'

<i>Province and zone</i>	<i>for :</i>	<i>read :</i>
Madrid		
	Villanueva	Villanueva
Navarra		
Zone 2	San Adrián	San Adrián
Zone 3	Muruabal	Muruzabal

The following is added to zone 3 : '... Piedramillera, Puente la Reina, Salinas de Oro.'

<i>Province and zone</i>	<i>for :</i>	<i>read :</i>
Valencia		
Zone 4	Segart	Sagart
Alicante		
Zone 1	Alconcer Alfagar Guadalets Muro de Alcoy Penáguila Languart	Alcocer Alfara Guadalest Muro del Alcoy Penáguila Languart
Zone 2	Castella	Castalla
Zone 4	Adsubia Tuelada Alfáz de Pi	Absubia Teulada Alfáz del Pi
Zone 5	Mondón de los Frailes Monforte Granja Guardamar	Hondón de los Frailes Monforte del Cid Granja de Rocamora Guardamar del Segura

Corrigendum to Commission Decision 89/199/ECSC of 3 March 1989 derogating from High Authority Recommendation No 1/64 concerning an increase in the protective duty on iron and steel products at the external frontiers of the Community (137th derogation)

(Official Journal of the European Communities No L 73 of 17 March 1989)

On page 56 in the second section of the table in Article 1 delete 'Benelux 300 0',
and on page 55 in the first section of the table add 'Benelux 300 0' below the entry for Germany.
