# COMMISSION REGULATION (EEC) No 4263/88

## of 21 December 1988

## amending Regulation (EEC) No 1726/70 on the procedure for granting the premium for leaf tobacco

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 727/70 of 21 April 1970 on the common organization of the market in raw tobacco (1), as last amended by Regulation (EEC) No 2267/88 (2), and in particular Article 3 (3) thereof,

Whereas Article 3 of Regulation (EEC) No 727/70 specifies, among other requirements for the granting of the premium, that the purchaser shall have concluded a contract with the producer; whereas Community rules should be laid down which define the nature of such contracts; whereas the relevant requirements concerning the cultivation contract are set out in Article 2 b of Commission Regulation (EEC) No 1726/70 (3), as last amended by Regulation (EEC) No 2824/88 (4);

Whereas it has been found that the wording of cultivation contracts varies from one producer Member State to another; whereas for the sake of more efficient monitoring of the application of the Community provisions, in particular those designed to ensure that the purchaser pays the producer a price which is at least equal to that required for entitlement to the premium, a model cultivation contract should be adopted which sets out all the particulars which must be included therein; whereas, since there will be one model contract for the whole Community, it may be termed 'European cultivation contract (raw tobacco)';

Whereas in order also to ensure the greatest uniformity of application in the Member States of certain requirements as to drying, grading and verification of execution of the contract these should also be incorporated in the model contract;

Whereas additions may be made to the model contract to take account of production requirements specific to certain Member States or areas thereof;

Whereas Article 2b of Regulation (EEC) No 1726/70 stipulates that cultivation declarations and contracts must be concluded before 1 May and registered before 1 July of the year in which they take effect; whereas it has emerged that these periods do not take proper account of cultivation practice; whereas a later period should therefore apply in each case;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 1726/70 is hereby amended as follows:

1. Article 2b is replaced by the following

'Article 2b

1. The cultivation contract referred to in Article 2 (2) (c) shall contain at least the clauses set out as points 1 to 12 in the Annex and shall be concluded between the following parties:

(a) a purchaser of leaf tobacco who will subject that tobacco to first processing and market preparation, hereinafter "the purchaser", and

(b) a tobacco producer or associated producers, hereinafter "the vendor".

2. A declaration of cultivation signed by an individual producer or associated producers as referred to in Article 3 (2) of Regulation (EEC) No 727/70 shall be treated as a cultivation contract.

Such declaration shall be drawn up by variety, for a given area and shall include a requirement whereby an average density of tobacco plants per hectare approved by the contracting parties must be attained.

3. The cultivation contract may be for one or more years. It must be concluded, except in cases of *force majeure,* before 1 June of the year in which it takes effect.

Member States shall notify the Commission of each case of *force majeure.*

4. The contract must specify:

(a) the basic contract price;

(1) OJ No L 94, 28. 4. 1970, p. 1.
(2) OJ No L 199, 26. 7. 1988, p. 18.
(3) OJ No L 191, 27. 8. 1970, p. 1.
(4) OJ No L 254, 14. 9. 1988, p. 9.

(b) the factors serving to determine the final purchase price, including:

— the norm price set for the harvest in question,

— the level of the corresponding premium.

The price may under no circumstances be lower than the intervention price set for the harvest in question.

The norm and intervention prices referred to above shall be those given by application, where appropriate, of the provisions set out in Article 4 (5) of Regulation (EEC) No 727/70.

5. Purchasers as referred to in paragraph 1 (a) and the signatories to the declarations of cultivation referred to in paragraph 2 must:

— register such contracts and declarations with one of the agencies referred to in paragraph 6 before 1 August of the year in which the contract or declaration takes effect, and

— notify that agency before 1 August each year of any change in areas arising from a revision of a contract covering more than one year.

However, if the contracting parties referred to in paragraph 1 are from different Member States, the above operations shall be effected by the vendor, and the agency with which the contract is registered shall send a copy thereof to the agency within whose jurisdiction the other contracting party falls.

If one of the parties referred to in this paragraph is an association of producers the cultivation contract or declarations of cultivation shall be accompanied by a list of the names of the producers and their respective areas of land.

6. Member States shall communicate to the Commission the list of the agencies with which the contracts and declarations referred to in paragraphs 1 and 2 are to be registered. The said list shall be published in the *Official Journal of the European Communities*.

2. The Annex to this Regulation is added as an annex.

*Article 2*

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

It shall apply for the first time in respect of the 1989 harvest.

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

Done at Brussels, 21 December 1988.

*For the Commission*
Frans ANDRIESSEN
*Vice-President*

*ANNEX*

## EUROPEAN COMMUNITY

## EUROPEAN CULTIVATION CONTRACT

**(Raw tobacco)**

The following contract, conforming with Community provisions in force in the tobacco sector and in particular with those of Regulations (EEC) No 727/70 and (EEC) No 1726/70, is concluded between

..... (name and address of purchaser), termed 'the purchaser' below,

and ..... (name and address of producer or associated producers), termed 'the vendor' below.

1. The vendor undertakes to grow tobacco for the 19.. harvest(s) (1) as follows:

   Production area (as provided for in Regulation (EEC) No 727/70): .....

   Province: .....

   Commune: ..... Field location: .....

   Area: ..... ha Variety: ..... Plants/ha: .....

   Maximum production: ..... kg/ha,

   and to dry it in accordance with the requirments for the variety in question.

2. The vendor undertakes to use for execution of this contract only selected tobacco seed or seedlings supplied or approved by the purchaser.

3. During the period covered by this contract the purchaser may, in the presence of the vendor, make checks on compliance with cultivation requirements under the contract and is authorized to take samples against compensation.

4. The vendor undertakes to deliver to the purchaser all the tobacco harvested on the area covered by this contract not exceeding the maximum production given in paragraph 1.

5. The purchaser undertakes to buy all the tobacco, subject to the maximum production given in paragraph 1, harvested on the area covered by the contract that meets the minimum quality standards laid down in Article 6 (2) to Commission Regulation (EEC) No 1727/70 (1).

6. The tobacco must be delivered graded and must be presented in accordance with the requirements for the variety in question.

7. Grading and other delivery requirements:

8. The contract price for the reference quality indicated in the Community rules shall be ..... per kilogram. Pursuant to Article 2b (4) of Regulation (EEC) No 1726/70, this price may under no circumstances be lower than the intervention price set, for the harvest in question, for tobacco of the variety indicated in paragraph 1 above.

   Notwithstanding the provisions of the preceding subparagraph, if the prices or the premium for the tobacco variety indicated in paragraph 1 are adjusted by a Community Regulation, the purchaser and the vendor shall renegotiate the contract price. Where those prices or premiums are adjusted pursuant to Article 4 (5) of Regulation (EEC) No 727/70, the contract price shall be adjusted in line with the change in the price and premiums.

9. The norm price for the ..... harvest has been set by Regulation (EEC) No / at ..... per kilogram and the premium at ..... per kilogram.

(1) OJ No L 191, 27. 8. 1970, p. 5.

10. Payment procedure: .....

.....

.....

11. This contract is concluded for ..... year(s).

12. The purchaser/vendor (1) (2) shall register this contract with ..... (name of agency) before 1 August and shall notify that agency each year before 1 August of any change in areas resulting from any revision of this contract.

13. Court of jurisdiction: .....

.....

14. This contract shall be governed by ..... law

.....

.....

Done at .....

on .....

Signature of vendor

.....

Signature of purchaser

.....

(1) Delete as appropriate.
(2) Vendor only if the contracting parties are located in separate Member States.