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REGULATION (EEC) No 1726/70 OF THE COMMISSION

of 25 August 1970

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[1] of 21 April 1970 on the common organisation of the market in raw tobacco, and in particular the first subparagraph of Article 3 (3) and Article 15 thereof;

Whereas Article 3 of Regulation (EEC) No 727/70 provides under certain conditions, for the payment of a premium to natural or legal persons who purchase leaf tobacco direct from Community producers, and to individual producers or associations of producers who subject their own leaf tobacco to first processing and market preparation;

Whereas premiums were fixed for the first time by Council Regulation (EEC) No 1466/70[2] of 20 July 1970 fixing the premiums granted to purchasers of leaf tobacco from the 1970 crop; whereas these premiums must be fixed once a year;

Whereas a system of premiums for the purchase of Community leaf tobacco calls for administrative measures which will ensure that the premium is paid only in accordance with Regulation (EEC) No 727/70; whereas, therefore, provision must be made for a system of supervision for leaf tobacco which has undergone first processing and market preparation and is circulating in the Community;

Whereas it is for Member States to introduce this system of supervision according to the needs and special circumstances prevailing in each country; whereas, however, it must meet certain requirements to ensure its broadly uniform application in the Member States;

Whereas tobacco must come under supervision as soon as it enters the premises of the first processing and market preparation undertaking; whereas it must remain under supervision until it has reached a processing stage at which it becomes distinct from leaf tobacco; whereas, therefore, supervision must include checks at the beginning and the end of the first processing and market preparation stages;

Whereas supervision can only be effectively exercised by means of a certificate on which are entered, on the authority of the competent bodies of each Member State, full details of the tobacco brought under supervision; whereas that certificate should be prepared at least in duplicate to ensure that it is filled in or completed in the manner laid down;

Whereas leaf tobacco consigned from one Member State to another must be subject to special requirements enabling the Member State to which it is sent to recognise it clearly as tobacco harvested in the Community, which alone qualifies for the premium; whereas, to that end, use should be made of the forms provided for in Articles 39 and 41 (2) of Council Regulation (EEC) No 542/63[3] of 18 March 1969 on Community transit and in Article 1 of Commission Regulation (EEC) No 2313/69[4] of 19 November 1969 on the internal Community transit document for use in certifying the Community nature of goods;

Whereas leaf tobacco imported from third countries may undergo first processing and market preparation in the same premises as leaf tobacco harvested in the Community; whereas, therefore, that tobacco also must come under supervision so that, in respect of each undertaking the quantities of each variety of tobacco for which the premium has been requested may be checked;

Whereas, since first processing and market preparation takes a long time for certain varieties, advances on the premium should be obtainable,

[1] OJ No L 94, 28.4.1970, p. 1.
[2] OJ No L 164, 27.7.1970, p. 28.
[3] OJ No L 77, 29.3.1969, p. 1.
[4] OJ No L 295, 24.11.1969, p. 8.

subject to certain safeguards until such time as the quantities can be checked; whereas it should be left to Member States to choose between two methods of payment, depending on their administrative requirements;

Whereas it should be permissible to forgo entitlement to the premium so that the tobacco may be offered for intervention; whereas in such a case the fact must be stated on the certificate so that the intervention agency may know that no premium has been granted for the tobacco offered;

Whereas it is advisable to ensure that the premium is paid only for the actual weight of usable tobacco; whereas, to that end, the definition of net weight laid down in Article 6 of Commission Regulation (EEC) No 1727/70[4] of 25 August 1970 on intervention procedure for raw tobacco should be used;

Whereas contracts and auction documents should include certain information, as provided for in Article 3 of Regulation (EEC) No 727/70, which will enable the supervision certificate to be completed at a later date;

Whereas the Commission must be kept regularly informed of the quantities of tobacco dealt with under the rules for granting the premium so that the trend of the Community tobacco market may be assessed;

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

1. Member States shall institute a system of supervision at the stage of first processing and market preparation of tobacco, enabling a check to be made in respect of each undertaking of the quantities of leaf tobacco harvested in the Community or originating in or coming from third countries and ensuring that the tobacco coming under supervision will not be released therefrom before completion of first processing and market preparation.

2. The system shall include:

(a) a check when the leaf tobacco comes under supervision;

(b) a check when the tobacco leaves the place in which it came under supervision having undergone first processing and market preparation;

(c) any additional checks which the Member State considers necessary to prevent the product escaping supervision.

3. Each year before 1 July, and for the 1970 harvest before 1 October, undertakings shall indicate in writing to the competent authorities of the relevant Member State where they wish the checks to take place. Member States may lay down the minimum information to be supplied to the competent authorities for that purpose.

Article 2

1. A certificate shall be introduced (hereinafter called 'premium certificate') the main object of which is to supply proof that leaf tobacco harvested in the Community has been brought under supervision in the Member State which issued the certificate.

2. The certificate shall include:

(a) the name and address of the seller;

(b) the name and address of the purchaser;

(c) the date of the cultivation, auction or sale contract;

(d) the location of the tobacco plantation or the location of the tobacco at the time of sale;

(e) the variety supplied;

(f) the qualities supplied;

(g) the crop year;

(h) the quantity under supervision, expressed in net weight;

(i) the price paid per kilogramme of tobacco supplied;

(j) the place where the tobacco came under supervision;

(k) the date on which it came under supervision;

(l) 1. the amount of the premium per kilogramme,
2. the provisional total amount of the premium;

(m) the date on which the tobacco was released from supervision;

(n) the stamp of the competent authority after the tally laid down in Article 6 (3);

(o) the quantity of leaf tobacco at the time of checking;

(p) the final total amount of the premium;

[4] OJ No L 191, 27.8.1970, p. 5.

(q) where applicable, the amount and the date of payment of the advance on the premium provided for in Article 7 (2) (a) or (b);

(r) where applicable, the amount and the date of payment of the balance of the premium provided for in Article 7 (2) (b);

(s) the amount to be paid or refunded when the account is finally drawn up and the date of the latter.

3. Items (a) to (l) shall be entered when the tobacco comes under supervision. Items (m) to (p) shall be entered when the action to which they relate takes place. Items (q) to (s) shall be entered when the corresponding payment is made.

Article 3

1. The premium certificate shall be made out by the competent authorities, when the leaf tobacco comes under supervision in a minimum of two numbered copies. Copy No 1 shall be issued to the purchaser for rentention; the other copies shall remain at the disposal of the authorities of the Member State.

2. A separate premium certificate shall be made out for each variety of tobacco. If the premium varies according to quality, separate information shall be given for each quality to which a different premium is applicable.

Article 4

1. For leaf tobacco fulfilling the conditions laid down in Articles 9 and 10 of the Treaty establishing the European Economic Community and for whose shipment from one Member State to another from T2 laid down in Article 39 of Regulation (EEC) No 542/69 or from T2L laid down in Article 1 of Regulation (EEC) No 2313/69 has to be made out, the net weight of the goods and one of the following entries, as the case may be, shall be included in space 31 of those forms;

(a) for leaf tobacco harvested in the Community which has not been re-imported from third countries:

'in der Gemeinschaft geerntete Tabakblätter';

'tabac en feuilles récolté dans la Communauté';

'tabacco in foglia raccolto nella Communità' or

'in de Gemeenschap geoogste tabaksbladeren';

(b) for leaf tobacco originating in or coming from third countries:

'aus Drittländern eingeführte Tabakblätter';

'tabac en feuilles importé de pays tiers';

'tabacco in foglia importato dai paesi terzi' or

'uit derde landen ingevoerde tabaksbladeren'.

When Article 41 (2) of Regulation (EEC) No 542/69 applies, the above entries shall be inserted on the copy of the national export document intended for the office of entry of the importing Member State.

2. If one of the entries mentioned in paragraph 1 (a) is used, the variety and, if the premium differs for a particular variety, the quality of the tobacco in question shall be stated on the form and certified by the competent authority of the Member State in which the tobacco was harvested.

Article 5

If leaf tobacco originating in and coming from third countries undergoes first processing and market preparation on the same premises as leaf tobacco harvested in the Community, the former shall also come under supervision.

In that case a supervision document shall be made out and shall include the information specified in Article 2 (2) (a), (b), (e), (f), (h), (k), (m), (n) and (o).

In addition, one of the following shall be entered on the document:

— 'aus Drittländern eingeführter Tabak';

— 'tabac importé de pays tiers';

— 'tabacco importato dai paesi terzi' or

— 'uit derde landen ingevoerde tabak'.

Article 6

1. The right to the premium shall accrue as soon as the tobacco leaves the place in which it was under supervision.

2. The amount of the premium, payable to the purchaser named in (b) of the premium certificate, shall be the amount appropriate to the net weight of leaf tobacco of the variety, quality and crop year shown in the premium certificate.

3. The competent authorities shall check, in respect of each undertaking, that the quantities of tobacco brought under supervision tally with the quantities released therefrom.

If this check reveals discrepancies after allowance has been made for normal moisture content and weight loss, the premium shall be paid on the quantity of the tobacco recorded either on its coming under or on its release from the supervision to which the check refers, whichever is the smaller. The reduction in the premium shall apply to the variety and, where applicable, the quality for which the premium is highest.

Article 7

1. The premium shall be paid in the Member State which issued the premium certificate. Subject to the check provided for in Article 6 (3), it shall be due as soon as the right to the premium accrues.

2. The amount of the premium referred to in (1) 2 of the premium certificate shall be advanced on application by the purchaser, in accordance with one of the following methods of payment, the choice to be made by each Member State:

(a) the total amount shall be advanced as soon as the tobacco comes under supervision, on condition that a deposit equal to 20% of the amount is lodged in the form of a guarantee meeting criteria fixed by each Member State;

(b) an amount equal to 80% of the total shall be advanced as soon as the tobacco comes under supervision; the balance shall be paid as soon as the right to the premium accrues, on condition that a deposit of the same amount is lodged in the form of a guarantee meeting criteria fixed by each Member State.

3. Payments can only be made on presentation of copy No 1 of the premium certificate duly filled in, certified and completed and conforming in content with copy No 2.

4. Each Member State shall notify the Commission of the method of payment chosen.

Article 8

Before the tobacco is released from supervision and provided that no advance on the premium has been paid, the purchaser may forgo the premium. In this case the fact shall be recorded on the premium certificate under (m) and items (q) to (s) shall be deleted.

Article 9

Member States shall take whatever measures are necessary to prevent the premium being paid for raw tobacco originating in or coming from third countries.

Article 10

The contracts and the auction documents referred to in Article 3 of Regulation (EEC) No 727/70 shall include the price agreed with the producer and the information needed to fill in items (a), (b), (c), (d), (e), (g) and (l) 1 of the premium certificate.

Article 11

The net weight shall be determined in accordance with Article 6 of Regulation (EEC) No 1727/70.

Article 12

1. Each Member State shall inform the other Member States and the Commission of the competent authority responsible for the supervision and the payment of the premium provided for in this Regulation.

2. Member States shall communicate to the Commission not later than the fifteenth of each month:

(a) the quantities of tobacco of each variety and, where applicable, of each quality for which the premium certificate was made out during the previous month;

(b) the quantities of tobacco of each variety and, where applicable, of each quality for which the right to the premium accrued during the previous month.

Article 13

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

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

Done at Brussels, 25 August 1970.

For the Commission

The President

Franco M. MALFATTI