COMMISSION REGULATION (EEC) No 1075/78

of 23 May 1978

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 the Act of Accession, and in particular Articles 3 (3) and 15 thereof,

Whereas one of the conditions for the grant of the premium laid down in Article 3 of Regulation (EEC) No 727/70 is the conclusion of a contract between the purchaser and the producer; whereas since the entry into force of the common organization of the tobacco market, the marketing structures for this product have changed considerably, both as a result of the interpenetration of markets and of increased exports; whereas it is consequently necessary to bring production more into line with demand; whereas it appears that the development of a contractual economy on the basis of cultivation contracts would contribute decisively to achieving this objective; whereas such contracts should therefore be defined;

Whereas, so as to ensure a broadly uniform application of a contractual system in the Member States, certain conditions and requirements relating to the cultivation contracts should be defined, and in particular the parties, the duration of the contract, the conditions of planting, the obligations of the parties as regards delivery and acceptance of the product, and also the criteria for fixing the price;

Whereas provision should also be made for a document equivalent to the cultivation contract for those persons referred to in Article 3 (2) of Regulation (EEC) No 727/70 to whom the premium may be granted without their having concluded a contract;

Whereas it is necessary to provide for control arrangements; whereas this is the responsibility of the Member States; whereas it should be provided that all contracts must be registered with the agencies appointed by Member States for that purpose;

Whereas, while the various present systems for the marketing of tobacco should be allowed to continue, the conclusion of cultivation contracts should nevertheless be encouraged as this appears to be the best means of controlling production; whereas consequently the granting of advances on the premium should be reserved for those purchasers who have concluded such contracts;

Whereas the Commission must be informed of the particulars of the contracts, and of the tobacco stock situation, so as to be able to assess trends on the Community market;

Whereas leaf tobacco which is exported from one Member State to another must be subject to special requirements enabling the Member State to which it is exported to recognize clearly if it has been harvested in the Community, as that is the only tobacco for which the premium may be granted; whereas, to this end, the Community transit procedure introduced by Council Regulation (EEC) No 222/77 of 13 December 1976 (2) supplies the appropriate Community framework for carrying out the appropriate checks;

Whereas Commission Regulation (EEC) No 223/77 of 22 December 1976 on provisions for the implementation of the Community transit procedure and for certain simplifications of the procedure (3), as amended by Regulation (EEC) No 1601/77 (4), allows the formalities to be simplified when the goods are transported by rail; whereas the necessary special measures should therefore be adopted;

Whereas Commission Regulation (EEC) No 1726/70 of 25 August 1970 on the procedure for granting the premium for leaf tobacco (5), as last amended by Regulation (EEC) No 408/76 (6), should therefore be amended;

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

(1) OJ No L 94, 28. 4. 1970, p. 1.

(2) OJ No L 38, 9. 2. 1977, p. 1.
(3) OJ No L 38, 9. 2. 1977, p. 20.
(4) OJ No L 182, 22. 7. 1977, p. 1.
(5) OJ No L 191, 27. 8. 1970, p. 1.
(6) OJ No L 50, 26. 2. 1976, p. 6.

HAS ADOPTED THIS REGULATION :

Article 1

Article 2 (2) (c) of Regulation (EEC) No 1726/70 is amended to read as follows :

'(c) the date on which the cultivation or sale contract was concluded or the date of the auction.'

Article 2

1. The following Article is inserted in Regulation (EEC) No 1726/70 :

'Article 2a

The contract and the auction documents referred to in Article 3 of Regulation (EEC) No 727/70 shall at least state the price payable to the producer and give the information required to complete items (a), (b), (c), (d), (e), (g) and (l) (1) of the premium certificate.'

2. Article 10 of the said Regulation No 1726/70 is repealed.

Article 3

The following Article is inserted in Regulation (EEC) No 1726/70 :

'Article 2b

1. The cultivation contract referred to in Article 2 (2) (c) 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 called "the purchaser", and

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

2. The following shall be treated as a cultivation contract : a declaration of cultivation, drawn up in accordance with the provisions of paragraph 4 and signed by the individual or associated producers referred to in Article 3 (2) of Regulation (EEC) No 727/70.

3. The cultivation contract may be for any number of years. It must be concluded before 1 May of the year in which it takes effect.

However, if this deadline cannot be met by reason of *force majeure*, the competent authorities shall inform the Commission which may take the necessary measures under the procedure laid down in Article 17 of Regulation (EEC) No 727/70.

4. The cultivation contract shall be drawn up by variety for a given area of land, and shall include a condition as to an average density of tobacco plants per hectare.

5. In the case of the cultivation contract, the obligatory terms referred to in Article 2a shall include, in particular, the following :

(a) the basic contract price ;

(b) the criteria used to define the final purchasing price and, in particular :

— the norm price fixed for the harvest in question,

— the level of the corresponding premium.

The price may in no case be less than the intervention price fixed for the crop in question ;

(c) an obligation on the part of the producer to use only seeds or plants from selected tobacco seedlings supplied or approved by the purchaser ;

(d) an obligation on the part of the vendor to supply to the purchaser and an obligation on the part of the purchaser to purchase from the vendor the entire quantity of tobacco harvested on the area specified in the contract which meets the minimum quality requirements laid down in Article 6 (2) of Regulation (EEC) No 1727/70 ;

(e) particulars of the place where the tobacco is planted.

6. (a) The purchasers referred to in paragraph 1 (a) and the authors of the declarations of cultivation referred to in paragraph 2 shall :

— register such contracts and declarations with one of the agencies referred to in paragraph 7 before 1 July of the year in which they take effect,

— notify that agency each year before 1 July of any change in areas resulting from a revision of multiannual contracts.

However, where the contracting parties referred to in paragraph 1 are from different Member States, registration as above shall be effected by the vendor and the agency with which the contract is registered shall transmit a copy of the said contract to the agency within whose jurisdiction the other contracting party falls.

(b) Where one of the parties referred to in (a) is an association of producers, the document in question shall be accompanied by a list setting out the names of all the producers concerned and their respective areas of land.

7. Member States shall communicate to the Commission before 31 December 1978 the list of agencies with which the contracts and declarations referred to in paragraphs 1 and 2 must be registered. This list shall be published in the *Official Journal of the European Communities.*'

Article 4

Article 4 of Regulation (EEC) No 1726/70 is amended to read as follows :

'*Article 4*

1. In trade between Member States in leaf tobacco as referred to in Article 2 (3) (a) of Regulation (EEC) No 727/70 coming within the terms of Article 9 (2) of the Treaty, the internal Community transit document to be used must show the net weight of the tobacco in question, and in the space for "description of goods" one of the following entries, as appropriate :

(a) for leaf tobacco harvested in the Community which has not been reimported from a non-member country :

"leaf tobacco harvested in the Community",
"tobaksblade høstet i Fællesskabet",
"in der Gemeinschaft geerntete Tabakblätter",
"tabac en feuilles récolté dans la Communauté",
"tabacco in foglia raccolto nella Comunità", or
"in de Gemeenschap geoogste tabaksbladeren" ;

(b) for leaf tobacco originating in or coming from non-member countries :

"leaf tobacco imported from non-member countries",
"tobaksblade indført fra tredjelande",
"aus Drittländern eingeführte Tabakblätter",
"tabac en feuilles importé de pays tiers",
"tabacco in foglia importato da paesi terzi" or
"uit derde landen ingevoerde tabaksbladeren".

The customs office where the formalities on dispatch are completed shall ensure that the provisions of this paragraph are complied with.

2. Where the procedure provided for in Section I of Title IV of Regulation (EEC) No 223/77 is applied, the net weight of the tobacco in question and one of the entries set out in paragraph 1 shall appear in Section 25 of the International Consignment Note (CIM) or, as the case may be, on the International Consignment Note (TIEX). This information shall be certified by the stamp of the customs office referred to in the second subparagraph of paragraph 1.

3. In the case of leaf tobacco as referred to in paragraph 1 (a), the variety and, where the premium for a variety differs according to its quality, the quality of the tobacco shall also be entered on the documents referred to in paragraphs 1 and 2 and certified by the competent authority.

4. When one internal Community transit document is replaced by another, the latter shall include the same data and indications as shown on the former.

5. For the purposes of this Article "net weight" shall be "net weight" as defined for purposes of customs regulations.'

Article 5

The introductory heading to Article 7 (2) of Regulation (EEC) No 1726/70 is replaced by the following :

'2. The purchaser may apply for the amount of premium specified in (l) (2) of the premium certificate to be advanced to him, provided the two following conditions are fulfilled :

— a cultivation contract or a declaration as referred to in Article 2 (b) (2), duly registered in accordance with paragraph 6 of the said Article, must have been concluded or signed by the purchaser for the tobacco in respect of which the premium is applied for, and

— the first application for an advance must be accompanied by a statement, broken down by variety, of the stocks of tobacco held by the purchaser from crops prior to that in respect of which the premium is applied for which have been the subject of first processing and market preparation (baled tobacco).

The advance shall be made according to the following procedure or procedures for payment allowed by the Member State concerned, namely : ...'

Article 6

Articles 1, 2, 3 and 5 shall apply with effect from the 1979 crop.

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

Done at Brussels, 23 May 1978.

For the Commission

Finn GUNDELACH

Vice-President