COUNCIL REGULATION (EEC) No 1734/84

of 18 June 1984

amending Regulation (EEC) No 2036/82 adopting general rules concerning special measures for peas and field beans

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1431/82 of 18 May 1982 laying down special measures for peas, field beans and sweet lupins (1), as last amended by Regulation (EEC) No 1032/84 (2), and in particular Articles 3 (5) and 4 thereof,

Having regard to the proposal from the Commission,

Whereas Regulation (EEC) No 1032/84 extends the special measures for peas and field beans to sweet lupins; whereas Regulation (EEC) No 2036/82 (3), as amended by Regulation (EEC) No 1601/83 (4), should be adapted accordingly and a definition of 'sweet lupins' laid down;

Whereas Regulation (EEC) No 2036/82 provides, for the purposes of checking entitlement to aid, that a contract is to be concluded between the producer and the first buyer and that the latter is to lodge a declaration certifying delivery; whereas the administrative consequences of these provisions have become very onerous in view of the increase in the number of producers; whereas a declaration of delivery on its own would suffice to establish entitlement, provided that it shows that the minimum price has indeed been paid to the producer;

Whereas the said Regulation defines 'placing under supervision' as a physical check on each delivery arriving on the user's premises; whereas it would appear that these physical checks are difficult to implement, as shown by experience and given the increase in the number of users; whereas equivalent verification could be achieved by approval of user undertakings, combined with a control, especially regarding the stock and financial reports,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2036/82 is hereby amended as follows:

1. In the title, the words 'peas and field beans' is replaced by 'peas, field beans and sweet lupins'.

2. Article 3 is replaced by the following:

'Article 3

For the purpose of this Regulation:

1. "first buyer" shall mean any natural or legal person established in the Community who has concluded a purchase contract with a producer of peas, field beans or sweet lupins grown on his land, which meets the condition laid down in the second indent of Article 3 (3) of Regulation (EEC) No 1431/82, and who takes over such products;

2. "declaration of delivery" shall mean a declaration by which the first buyer certifies:

   — the quantity of products delivered by the producer,

   — the price conditions shown on the contract;

3. "approved body" shall mean a production and processing organization or a group of producers of the products concerned which complies with conditions to be determined;

4. "approved user" shall mean any natural or legal person making use of the products concerned and complying with their conditions to be determined;

5. "entry into the undertaking" shall mean the act whereby the approved user takes over the product for use in the undertaking in accordance with the provisions of this Regulation.'

3. Article 4 is replaced by the following:

'Article 4

1. In cases where the products are sold by the producer, the first buyer shall lodge a declaration of delivery with the agency appointed by the Member States in which the product is harvested.

2. After verifying the content of the declaration, the agency appointed by the Member State shall deliver to the first buyer a certificate confirming that the producer has obtained at least the minimum price for the quantity he has delivered.'

4. Article 5 (1) is replaced by the following:

'1. In the case referred to in Article 4, the aid shall be granted to any approved user making use of the products, provided that:

— he lodges an application and the certificate referred to in Article 4 (2) with the agency

(1) OJ No L 162, 12. 6. 1982, p. 28.
(2) OJ No L 107, 19. 4. 1984, p. 39.
(3) OJ No L 219, 28. 7. 1982, p. 1.
(4) OJ No L 159, 17. 6. 1983, p. 1.

appointed by the Member State in whose territory the product has been used,

— the quantity which came into the undertaking, not exceeding that specified in the certificate, has actually been used.'

5. The following Article shall be inserted:

'Article 5a

1. The approval referred to in Article 5 (1) shall be extended by the Member State concerned only to those users who have so requested and:

— who keep stock records in accordance with rules to be defined, and

— who agree to submit to any inspections ordered for the purposes of implementing the aid scheme.

2. Each approved user shall receive an identification number.

3. The approval referred to in Article 5 (1) shall be withdrawn if one of the conditions for approval provided for in paragraph 1 of this Article ceases to be met, except in cases of *force majeure.*

4. Without prejudice to claims for reimbursement of aid paid, the Member State concerned shall temporarily withdraw approval from any user requesting aid for a larger quantity of the product than that for which an entitlement to aid has been recognized, except where the user can prove to the Member State's satisfaction that there is no irregularity.'

6. Article 7 (1) is replaced by the following:

'1. If a producer does not market the product but has it processed by a body approved by the Member State, in order to use it for animal consumption on his own farm or on the farm of another member of the organization, that approved organization shall lodge a processing declaration with the agency appointed by the Member State in which the product was harvested.'

7. Article 10 is replaced by the following:

'Article 10

Entitlement to aid shall take effect as soon as the products have actually been used in accordance with the provisions of this Regulation.

However, in cases where the products are sold by the producer, the aid may be paid in advance as soon as products have entered on the premises where they are to be used, provided that sufficient security is given.'

8. Article 11 is amended as follows:

(a) in paragraph 1, 'peas and field beans' is replaced by 'peas, field beans and sweet lupins';

(b) the following paragraph is added:

'4. For the purposes of this Regulation, "sweet lupins" means lupins grown from seed satisfying a minimum quality to be determined by the procedure laid down in Article 12 of Regulation (EEC) No 1117/78 and of which the list of varieties shall be fixed by the same procedure.'

9. The following subparagraph is added to Article 14 (1):

'For approved users, this control system shall cover all operations from the entry of the products into the undertaking until their actual utilization.'

Article 2

Should transitional measures prove necessary in order to facilitate the changeover from the existing system to the system provided for in this Regulation, such measures shall be adopted in accordance with the procedure laid down in Article 12 of Regulation (EEC) No 1117/78. They shall apply solely during the period required to facilitate the changeover.

Article 3

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

It shall apply from 1 July 1984.

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

Done at Luxembourg, 18 June 1984.

For the Council

The President

M. ROCARD