COUNCIL REGULATION (EEC) No 1832/85

of 27 June 1985

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

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 1485/85 (2), and in particular Articles 3 (5) and 4 thereof,

Having regard to the proposal from the Commission,

Whereas Regulation (EEC) No 2036/82 (3), as last amended by Regulation (EEC) No 1734/84 (4), must be adjusted and supplemented as a result of recent amendments to Regulation (EEC) No 1431/82;

Whereas Article 3 (1) of Regulation (EEC) No 1431/82 makes provision for Community aid for peas, field beans and sweet lupins used in the manufacture of feedingstuffs which is equal to a proportion of the difference between the activating threshold price and the average world market price of soya cake; whereas Article 4 of the said Regulation stipulates that the latter price may be adjusted on the basis of prices for competing products; whereas the percentage differences between prices which determine the level of aid should be fixed; whereas, in order to ensure continuity in the operation of the system, provision should be made for these percentages to apply from the date of enty into force of Regulation (EEC) No 1485/85; whereas the terms on which the average world market price of soya cake may be adjusted should be laid down;

Whereas Article 2a of Regulation (EEC) No 1431/82 makes provision for monthly increments in the activating price, the guide price and the minimum price; whereas users should be allowed to choose the date on which they wish to receive aid; whereas therefore it should be made possible to fix the amount of aid in advance to take account of price movements; whereas, in the interests of sound administration, certificates should be introduced confirming the amount of aid fixed in advance; whereas, to prevent speculation, the issue of certificates should be made conditional on the lodging of a security as guarantee that the user undertakes to apply for identification of the products during the period of validity of a certificate; whereas provision should be made for the possibility of suspending the advance fixing of aid in the event of an abnormal situation on the market for peas, field beans and sweet lupins;

Whereas provision should be made for the possibility of adopting transitional measures during the changeover from the present system to the new system,

HAS ADOPTED THIS DECISION:

Article 1

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

1. The following subparagraphs are added to Article 1 (2):

   'In addition, where market prices for certain competing products are such as to render them particularly attractive, leading to actual or potential difficulties in marketing peas, field beans or sweet lupins grown in the Community, the average price may be adjusted to maintain balanced competition.

   Adjustments may be varied as between peas, field beans and sweet lupins where the actual or potential marketing difficulties affect one or other product more particularly.'

2. Article 3 (2) is replaced by the following:

   '2. "Declaration of delivery" shall be a declaration by which the first buyer certifies:

   — the quantity of products delivered by the producer and the date of delivery,

   — the price conditions shown on the contract; these shall stipulate in particular, in cases where delivery is to take place during the period of

(1) OJ No L 162, 12. 6. 1982, p. 28.
(2) OJ No L 151, 10. 6. 1985, p. 7.
(3) OJ No L 219, 28. 7. 1982, p. 1.
(4) OJ No L 164, 22. 6. 1984, p. 3.

monthly increments, a price not less than the minimum price valid at the start of the marketing year, plus an amount equal to the total of monthly increments applying in the month of delivery.'

3. The following point is added to Article 3 :

'6. "Identification" shall mean an act by which the competent agency in the Member State, at the request of the interested party, certifies that, for the quantity of peas, field beans and sweet lupins that is the subject of the application and that meets the conditions referred to in the second subparagraph of Article 6 (1), the amount of the aid to be paid is that applicable on the date the application was lodged.'

4. The following Article is inserted :

'Article 3a

The proportion of the price difference referred to in Article 3 (1) of Regulation (EEC) No 1431/82 shall be :

— 45 % in the case of peas and field beans,

— 60 % in the case of sweet lupins.'

5. Article 4 (2) is replaced by the following :

'2. The agency appointed by the Member State, after verifying the content of the declaration, shall issue the first buyer with a certificate confirming that the producer has obtained at least the minimum price for the quantity he has delivered, adjusted as appropriate by the monthly increments referred to in Article 2a of Regulation (EEC) No 1431/82.'

6. Article 6 is replaced by the following :

'Article 6

1. In the cases referred to in Article 4, the amount of aid shall be that valid on the date on which the beneficiary lodges with the competent agency of the Member State an application for identification of the peas, field beans or sweet lupins.

The peas, field beans and sweet lupins shall be identified after entering the user undertaking and before being used.

2. However, the amount of aid valid on the date on which an application is lodged for the certificate referred to in paragraph 4, adjusted in accordance with paragraph 3, shall be applied upon application by the beneficiary to the quantities of peas, field beans and lupins identified during the period in which the certificate remains valid.

3. Where aid is fixed in advance, the amount of aid valid on the date on which an application for a certificate is lodged shall be adjusted :

— in the case of products for which a guide price is fixed, by the difference between the guide price on that date and the guide price on the date on which an application for identification is lodged,

— in the case of products for which an activating threshold price is fixed, by the difference between the activating threshold price valid on that date and that valid on the date on which an application for identification is lodged, reduced depending on the product by one of the percentages referred to in Article 3a and adjusted by a factor based on the trend of prices on the world market as determined under the criteria referred to in Article 1, to be reduced in turn, depending on the product, by one of the percentages set out in Article 3a.

4. Aid certificates shall be introduced certifying the advance fixing of the amount of aid. Member States shall issue certificates, upon application, to recognized users based in their territory.

Aid certificates shall be valid throughout the Community. However, pending the introduction of a standard Community form but not later than by 31 December 1985, aid certificates shall only be valid in the territory of the Member State issuing them.

The issue of a certificate shall be conditional on the lodging of a security by the user as guarantee that he undertakes to apply for identification of the peas, field beans and sweet lupins during the period in which the certificate is valid, the security being forfeit in whole or in part if, during the said period and except in cases of *force majeure,* such application is not made or is made for a proportion of the products involved.

The period of validity of aid certificates, which may vary depending on whether the product concerned is one for which a guide price or one for which an activating price is fixed, and the other detailed rules for implementing this Article, which may provide in particular for a time limit for the issuing of certificates, shall be laid down under the procedure provided for in Article 12 of Regulation (EEC) No 1117/78.

5. The aid to be paid shall be :

(a) for the products referred to in Article 5 (2) (a) and (c), the amount fixed in Article 3 (1) of Regulation (EEC) No 1431/82 ;

(b) for the products referred to in Article 5 (2) (b) and (d), the, amount fixed in Article 3 (2) of Regulation (EEC) No 1431/82.'

7. The following Article is inserted :

'Article 6a

1. In the event of an abnormal situation arising on the Community market in peas, field beans or sweet lupins, which disturbs or threatens to disturb the normal marketing of products grown in the Community, and provided certificates as referred to in Article 6 (4) have not already been issued, a decision may be taken to suspend advance fixings for the period necessary to re-establish market stability.

2. Suspension of advance fixings shall be decided on in accordance with the procedure provided for in Article 12 of Regulation (EEC) No 1117/78.

However, the Commission may decide on suspension in urgent cases ; in this event, the suspension may not be for more than seven days.'

8. The second paragraph of Article 10 is replaced by the following :

'However, in the case of sale of products by the producer, the aid may be paid in advance, provided that sufficient security is given and subject to compliance with other conditions to be adopted in accordance with the procedure laid down in Article 12 of Regulation (EEC) No 1117/78.'

Article 2

Should transitional measures prove necessary, they may be adopted in accordance with the procedure laid down in Article 12 of Regulation (EEC) No 1117/78.

Article 3

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

It shall apply from 1 July 1985, with the exception of Article 1 (3), which shall apply with effect from 13 June 1985.

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

Done at Luxembourg, 27 June 1985.

For the Council

The President

A. BIONDI