COMMISSION REGULATION (EEC) No 2889/87

of 28 September 1987

amending Regulation (EEC) No 3540/85 laying down detailed rules for the application of the special measures for peas, field beans and sweet lupins

THE COMMISSION 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 3127/86 (2), and in particular Article 3 (7) thereof,

Having regard to Council Regulation (EEC) No 2036/82 of 19 July 1982 laying down special measures for peas, field beans and sweet lupins (3), as last amended by Regulation (EEC) No 1958/87 (4), and in particular Article 12a (4) thereof,

Having regard to Council Regulation (EEC) No 1958/87 of 2 July 1987 amending Regulation (EEC) No 2036/82 laying down special measures for peas, field beans and sweet lupins, and in particular Article 2 thereof,

Whereas Article 12a of Regulation (EEC) No 2036/82 provides for the application of differential amounts to the amounts of the aid for the products in question; whereas use should be made in this connection of the neutral margin provided for in Article 12a (2) of Regulation (EEC) No 2036/82;

Whereas the methods for calculating these differential amounts should be defined and Commission Regulation (EEC) No 3540/85 (5), as last amended by Regulation (EEC) No 2137/87 (6), should be adapted accordingly; whereas the methods of calculation should take account of the correcting factor referred to in Article 6 of Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture (7), as last amended by Regulation (EEC) No 1889/87 (8), and of the specific characteristics of the market, in particular of the various uses to which the products in question are put;

Whereas the introduction of the system of differential amounts means that the amount of aid to be granted in national currency differs according to the Member State in which the products are harvested and used; whereas an intra-Community trade control system should therefore be introduced and the control copy referred to in Article 1 of 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 that procedure (9), as last amended by Regulation (EEC) No 2823/87 (10), should be used for that purpose; whereas use of the control copy should be accompanied by the giving of a security lodged in accordance with Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products (11), as last amended by Regulation (EEC) No 1181/87 (12); whereas in order to ensure the administrative supervision of the entitlement to aid Article 17 of Regulation (EEC) No 3540/85 should be amended accordingly;

Whereas it is necessary to introduce transitional measures in order to enable the Member States to switch from the system in force at present to that provided for by this Regulation;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3540/85 is hereby amended as follows:

1. The following indent is added to Article 17 (2):

'— the name of the Member State in which the products were harvested.'

2. The following Article 26a is inserted:

'Article 26a

1. The gross aid expressed in ECU that results from Article 3 of Regulation (EEC) No 1431/82 shall be weighted by the differential amount referred to in Article 12a of Regulation (EEC) No 2036/82 and then converted into the final aid in the currency of the Member State in which the products are harvested using the agricultural conversion rate of that Member State.

(1) OJ No L 162, 12. 6. 1982, p. 28.
(2) OJ No L 292, 16. 10. 1986, p. 1.
(3) OJ No L 219, 28. 7. 1982, p. 1.
(4) OJ No L 184, 3. 7. 1987, p. 3.
(5) OJ No L 342, 19. 12. 1985, p. 1.
(6) OJ No L 200, 21. 7. 1987, p. 8.
(7) OJ No L 164, 24. 6. 1985, p. 6.
(8) OJ No L 182, 2. 7. 1987, p. 1.
(9) OJ No L 38, 9. 2. 1977, p. 20.
(10) OJ No L 270, 23. 9. 1987, p. 1.
(11) OJ No L 205, 3. 8. 1985, p. 5.
(12) OJ No L 113, 30. 4. 1987, p. 31.

The differential amount for peas and field beans shall be equal to the monetary correcting factor referred to in paragraph 2 for the currency of the Member State in which the products are harvested, multiplied by 94 % of the guide price reduced by the amount of the aid.

The differential amount for sweet lupins shall be calculated in accordance with the second subparagraph, the guide price for peas and field beans being replaced by the minimum price for sweet lupins plus the difference between the guide price and the minimum price for peas.

However, in the case of the aid referred to in Article 3 (1) of Regulation (EEC) No 1431/82, the differential amount calculated in accordance with the second subparagraph as regards peas and field beans, and with the third subparagraph as regards sweet lupins, shall be corrected by an amount that takes account of the incidence on the aid of the price of barley in the currencies of the Member States in which the products are harvested and used. The intervention price for barley to be used shall be that applicable in Member States other than Spain at the beginning of the marketing year, and the percentage of it shall in the case of peas and field beans be 55 and in the case of sweet lupins 40.

If the differential amount applied to the amount of the aid results in a negative final aid no aid shall be granted.

2. The monetary correcting factor shall be equal to the monetary gap referred to in Article 12a (2) (a) or, where appropriate, (b) of Regulation (EEC) No 2036/82.

However, the monetary correcting factor shall be subject to a neutral margin of five points.

3. The spot market rates referred to in Article 12a (2) (b), second indent of Regulation (EEC) No 2036/82 shall be derived from the ECU rates established daily by the Commission for the currencies concerned and published in the *Official Journal of the European Communities* 'C' series. The period during which the spot market rates are recorded shall run from the Wednesday of one week to the Tuesday of the following week prior to the date on which the aid is fixed.

4. Where the amount of the aid is fixed in advance, the forward amount of the aid shall be modified by a differential amount calculated in accordance with paragraphs 1 and 2.

It shall however be adjusted, where appropriate, to take account of the corrective amount referred to in Article 25 and of the minimum price, the activating threshold price, the guide price and the intervention price for barley specified in the fourth subparagraph of paragraph 1 that are valid in the month of identification.

5. Where the products are harvested in one Member State and used in another Member State, the amount of aid to be granted shall be the amount of the final aid expressed in the currency of the producer Member State, converted into the currency of the user Member State on the basis of the bilateral exchange rate referred to in paragraph 6 valid on the day of identification or, where appropriate, the day on which the application for a certificate of advance fixing of the aid is lodged.

6. The bilateral exchange rate to be used in the case referred to in paragraph 5 shall be derived from :

— the central rate, for the currencies of those Member States that maintain their currencies in relation to each other at any given moment within a band of 2,25 %,

— the average of the rates resulting from the ratio of the average spot market rates for the currency concerned against each of the currencies of the Member States referred to in the first indent recorded during the period referred to in paragraph 3 to the central rate of each of those currencies, for the other currencies.

7. The differential amounts shall be fixed at the same time as the aid specified in Article 3 (1) of Regulation (EEC) No 1431/82, and the Commission shall publish in the *Official Journal of the European Communities,* 'L' series, as soon as they have been fixed :

— the amount of the gross aid, expressed in ECU, to be granted for 100 kilograms of products,

— the amount in the currency of the Member State in which the products are harvested, resulting from the conversion into national currency of the gross aid weighted by the differential amount calculated in accordance with the second subparagraph of paragraph 1 in the case of peas and field beans and with the third subparagraph in the case of sweet lupins,

— where appropriate, the amount in the currency of the Member State in which the products are harvested of any correcting amount as indicated in the fourth subparagraph of paragraph 1,

— the exchange rates of the ECU against the national currencies indicated in paragraph 6.'

3. The following Article 31a is inserted :

'Article 31a

1. When peas, field beans and sweet lupins harvested in the Community, other than those products which are :

— recognized by the law of the Member State of origin as being seeds for sowing,

or

— have definitely been used as defined in Article 9 (b) and (d), first indent,

are the subject of trade between Member States, there shall be drawn up in the Member State where the products have been harvested, after they have been weighed, the control copy referred to in Article 10 of Regulation (EEC) No 223/77, section 41 of which shall contain, in addition to the description of the goods, one of the following endorsements :

— cosechado en ...
— høstet i ...
— geerntet in ...
— έχει συγκομισθεί στ. ...
— harvested in ...
— récolté en ...
— raccolto in ...
— geoogst in ...
— colhido em ...

2. The following sections of the control copy shall be completed :

(a) section 103 ;

(b) section 104 by deleting those entries which are not applicable and by inserting one of the following :

— Destinado a ser utilizado con arreglo al artículo 9 del Reglamento (CEE) nº 3540/85 o a ser exportado hacia terceros países

— Bestemt til anvendelse som omhandlet i artikel 9 i forordning (EØF) nr. 3540/85 eller til udførsel til tredjelande

— Bestimmt zur Verwendung nach Artikel 9 der Verordnung (EWG) Nr. 3540/85 oder zur Ausfuhr nach Drittländern

— Προορίζεται να χρησιμοποιηθεί κατά την έννοια του άρθρου 9 του κανονισμού (ΕΟΚ) αριθ. 3540/85 ή να εξαχθεί προς τρίτες χώρες

— To be used as defined in Article 9 of Regulation (EEC) No 3540/85 or to be exported from the Community to third countries

— Destiné à être utilisé au sens de l'article 9 du règlement (CEE) nº 3540/85 ou à être exporté vers les pays tiers

— Destinado ad essere utilizzato ai sensi dell'articolo 9 del regolamento (CEE) n. 3540/85 o ad essere esportato versi i paesi terzi

— Bestemd voor gebruik in de zin van artikel 9 van Verordening (EEG) nr. 3540/85 of voor uitvoer naar derde landen

— Destinado a ser utilizado de acordo com o estipulado no artigo 9º do regulamento (CEE) nº 3540/85, ou a ser exportado para um pais terceiro.

The net weight of the inspected product shall be inserted in the 'Control of use and/or destination' section on the back of the copy under 'Remarks'.

3. Authorities checking the destination of products traded within the Community shall, if necessary for the purposes of granting the final aid, send a copy or photocopy of the control copy referred to in Article 10 of Regulation (EEC) No 223/77 to the agency responsible for granting the aid.

4. The control copy provided for in Article 10 of Regulation (EEC) No 223/77 shall be accompanied by a security of 4 ECU per 100 kilograms net to guarantee compliance with the obligation to assign to the products in question one of the destinations referred to in paragraph 2.

The primary requirement referred to in Article 20 of Regulation (EEC) No 2220/85 shall be the furnishing of evidence that the obligation referred to in the first subparagraph has been fulfilled. This evidence may be given only by producing the control copy in question, completed, in accordance with paragraph 2 for a quantity which is equal to at least 98 % of the quantity indicated in section 103 of the control copy.

Where the primary requirement is met for a quantity which exceeds by more than 2 % the quantity indicated in section 103 of the control copy, the additional quantity shall be treated as being imported from third countries.

Evidence of compliance with the primary requirement shall be furnished within 12 months at the latest of the month following the month in which the security was lodged.'

Article 2

Until 31 December 1987 for the purpose of determining the amount of aid to be paid to the user the Member State in which the products were harvested may be considered to be the Member State that issued the certificate of purchase at the minimum price mentioned at the first indent of Article 28 (2) of Regulation (EEC) No 3540/85.

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 to peas, field beans and sweet lupins identified from 1 October 1987 onwards, except where such products have been subjected to advance fixing of the aid before 1 August 1987.

Article 1 (3) shall however apply from 1 November 1987.

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

Done at Brussels, 28 September 1987.

For the Commission
Frans ANDRIESSEN
Vice-President