COUNCIL REGULATION (EEC) No 1231/89

of 3 May 1989

amending Regulation (EEC) No 2194/85 adopting general rules concerning special measures for soya beans

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1491/85 of 23 May 1985 laying down special measures in respect of soya beans [1], as last amended by Regulation (EEC) No 2217/88 [2], and in particular Article 2 (6) thereof,

Having regard to the proposal from the Commission [3],

Whereas, in the interests of sound administration and of the greater economic effectiveness of the aid that will result if it is possible for it to be fixed in advance by operators, it is appropriate that the identification procedure applied to the oil seeds covered by Regulation No 136/66/EEC [4], as last amended by Regulation (EEC) No 1225/89 [5], be introduced for soya beans, together with the use of certificates;

Whereas, in the interests of sound administration, the certificates should also be used where the aid is fixed in advance; whereas in such cases, in order to prevent speculation, issuing of the certificate should be made conditional on the lodging of security against a commitment to identify the seed during the period of validity of the certificate;

Whereas it should be provided, as a temporary measure until 31 December 1992 and pursuant to Article 2 (2) of Regulation (EEC) No 1491/85, that the identification may be carried out on delivery of the beans to a non-processing first purchaser, provided that he complies with certain requirements;

Whereas, in order to make it easier for the oil or feed producer to calculate the cost price of his product, the amount of the aid should not depend on the time at which processing is carried out; whereas the day on which the beans are identified should therefore be made the determining date for the amount of the aid;

Whereas the principles to be applied for fixing the amount of the aid indicated in Article 2 of Regulation (EEC) No 1491/85 in abnormal situations should be determined; whereas, moreover, the terms under which it may be fixed in advance must be adopted;

Whereas it should be made possible, for the purposes of remedying an abnormal situation on the Community seed market, for the aid to be changed and advance fixing suspended; whereas to this end it should be specified that advance fixing is to be granted only at the end of a short period following lodging of the application, during which the market situation will be assessed;

Whereas Regulation (EEC) No 2194/85 [6], as last amended by Regulation (EEC) No 3555/88 [7], should therefore be amended,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2194/85 is hereby amended as follows:

1. The second subparagraph of Article 3 is replaced by the following:

   'However, at the first purchaser's request, aid may be advanced following identification of the seed provided that security is lodged for an amount equivalent to that advanced.'

2. Article 4 is replaced by the following Articles:

   '*Article 4*

   1. For the purposes of this Regulation, "identification" shall mean the act whereby the competent agency of the Member State certifies, on application by the interested party, that the aid to be granted for the quantity of soya beans covered by the application shall be that applicable on the day when the application was lodged.

   However, the amount of aid applicable on the day on which the application for the advance-fixing part of the certificate referred to in Article 4a was lodged, adjusted in accordance with Article 4d, shall be applied at the interested party's request to beans identified during the period of validity of the advance-fixing part of the certificate.

   Identification of the beans shall be carried out once they enter into the processing undertaking but before they are processed.

   2. On request by the interested party, the Member State shall identify the beans.

(1) OJ No L 151, 10. 6. 1985, p. 15.
(2) OJ No L 197, 26. 7. 1988, p. 11.
(3) OJ No C 82, 3. 4. 1989, p. 30.
(4) OJ No 172, 30. 9. 1966, p. 3025/66.
(5) See page 15 of this Official Journal.
(6) OJ No L 204, 2. 8. 1985, p. 1.
(7) OJ No L 311, 17. 11. 1988, p. 7.

3. However, in the case indicated in Article 2 (2), identification of the beans shall, up to 31 December 1992, be carried out following their entry into the store of the approved non-processing first purchaser and before their delivery to the processor.

4. The application for identification must relate to the entire quantity received under cover of one or more delivery declarations, signed by both the producer and the first purchaser, referring to one or more contracts. The application for identification must be lodged after deposit of the said contracts and declarations. If the application is lodged by:

(a) a first purchaser processing the beans, he shall be under an obligation to process the indicated production or quantity within a time limit to be determined;

(b) a first purchaser other than the processor, he shall be under an obligation to deliver or sell the indicated quantity to a processor within a time limit to be determined.

Article 4a

A two-part Community certificate shall be introduced, one part to provide evidence that beans harvested in the Community have been identified and the other to certify, if appropriate, that the aid has been fixed in advance. Both parts of the certificate shall be issued by the Member State to any interested party who requests them and who fulfils the conditions specified in Article 2.

Article 4b

Save as otherwise provided in Article 4d, the advance-fixing part of the certificate referred to in Article 4a shall be issued on the afternoon of the first working day following that on which the application was lodged.

The issuing of the advance-fixing part of the certificate shall be conditional on the lodging of security against an application for identification of the beans during the period of validity of that part of the certificate. The security shall be wholly or partly forfeit if, during that period, the application for identification is not made or is made for only part of the quantity concerned.

Article 4c

1. Where the aid is fixed in advance, the amount of aid applicable on the day on which the application is lodged shall be adjusted in line with:

(a) the difference between the guide price valid on that day and that valid on the day on which the beans are identified, and

(b) if necessary, a corrective amount.

2. The corrective amount indicated at (b) in paragraph 1 shall be determined in accordance with the trend of soya bean prices on the world market.

3. If prices on the forward world market cannot be determined, the corrective amount shall be fixed for the month or months in question at a level such that the aid is nil.

Article 4d

1. If, owing to an abnormal situation on the Community soya bean market, the normal disposal of products harvested in the Community is disturbed or is likely to be disturbed, a decision may be taken, covering cases where the advance-fixing part of the certificate has not yet been issued, to suspend advance fixing of the aid for the period required for market balance to be restored.

2. The decision to suspend advance fixing shall be taken using the procedure laid down in Article 38 of Regulation No 136/66/EEC.

However, in cases of emergency, the Commission may itself decide to suspend advance fixing; in such cases the period of suspension may not exceed seven days.'

Article 2

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

It shall apply from 1 September 1989.

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

Done at Brussels, 3 May 1989.

For the Council

The President

P. SOLBES