COMMISSION REGULATION (EEC) No 150/90

of 19 January 1990

amending of 19 January 1990 Regulation (EEC) No 2537/89 laying down detailed laws for the application of the special measures for soya beens

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 (8) and the third paragraph of Article 3 thereof,

Having regard to Council Regulation (EEC) No 2194/85 of 25 July 1985 adopting general rules concerning special measures for soya beans [3], as last amended by Regulation (EEC) No 1231/89 [4], and in particular Article 9 thereof,

Whereas one of the purposes of Commission Regulation (EEC) No 2537/89 of 8 August 1989 laying down detailed rules for the application of the special measures for soya beans [5] was to tighten up the definition of 'undertaking' and in particular to restrict its scope where the manufacturers of feedingstuffs and foodstuffs referred to in Article 2 (1) (b) thereof were concerned, in view of the special difficulties presented by surveillance of this type of activity ; whereas, however, the entry into force of that Regulation has shown the need for more explicit provisions on the storage capacity of the establishments concerned ;

Whereas, for the sake of legal clarity, amendments should be made to the detailed rules in the said Regulation (EEC) No 2537/89 covering the consequences of irregularities committed by operators ; whereas it is therefore necessary to change the position of certain provisions and to improve or add to their wording ;

Whereas it is also necessary to qualify the provisions on the security specified in Article 4b of Regulation (EEC) No 2194/85 in order to make it clear that the only operation giving rise to release of the security is identification of a given quantity of beans within the time limit set in that Regulation ;

Whereas experience has also shown that technical adjustments and additional transitional measures are required for satisfactory operation of the scheme in the various Member States ;

Whereas for reasons of legal security the amended transitional provisions should be applicable with effect from the date on which Regulation (EEC) No 2537/89 became applicable ;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Oils and Fats,

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EEC) No 2537/89 is hereby amended as follows :

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

'it must have, on the premises, storage facilities which are of a capacity determined by the authority responsible for control and which meet the requirements of this Regulation as regards the identification of the beans and the verification of their presence and their use by the undertaking ;'

2. The first subparagraph of Article 2 (2) is replaced by the following :

'"Processing for other uses in human food or animal feeding", as mentioned in Article 3 of Regulation (EEC) No 2194/85, shall mean the crushing or breaking without extraction of oil or cooking, with the exception of toasing of whole beans, rquired for the use of the product, direct or in a mixture.'

3. Article 5 is amended as follows :

— paragraph 1 is replaced by the following paragraphs :

'1. Any serious failure by a first purchaser or undertaking to comply with the provisions of Article 3 (2), (3) or (4) shall result in exclusion of that purchaser or undertaking from the benefit of the provisions of this Regulation for a period of one to five marketing years, without prejudice to any other measures applicable.

2. Any serious failure by an approved first purchaser who is not a processor to comply with the provisions of Article 4 (1) shall moreover entail withdrawal, of this approval for the period referred to in paragraph 1.'

— paragraph 2 becomes paragraph 3.

[1] OJ No L 151, 10. 6. 1985, p. 15.
[2] OJ No L 197, 26. 7. 1988, p. 11.
[3] OJ No L 204, 2. 8. 1985, p. 1.
[4] OJ No L 128, 11. 5. 1989, p. 24.
[5] OJ No L 245, 22. 8. 1989, p. 8.

4. In Article 6 — the words 'or any other similar grounds recognized as valid by the competent agency' are deleted from paragraph 3 and paragraph 5 is deleted.

5. The following paragraph is added to Article 7:

'5. Failure by the first purchaser to comply with the provisions on the minimum price shall oblige him to pay in compensation to the producer an amount equal to double the difference between the minimum price and that actually paid for the quantities in question.'

6. In Article 9 point (e) is replaced by the following:

'(e) the quantity actually delivered, with details of the moisture and impurity contents established, either on departure of the beans from the establishment of the first purchaser who is not a processor or on entry into the processing establishment, by the most current commercial methods recognized by the agency responsible for control;'

7. The third subparagraph of Article 20 (3) is replaced by the following:

'If the quantities identified the certificate are less than 93 % of the quantity specified on the certificate, the security referred to in Article 4b of Regulation (EEC) No 2194/85 shall be forfeit in proportion to the missing quantities. Otherwise, the security shall be released under the terms of Article 24.'

8. The first subparagraph of Article 21 (2) is replaced by following:

'Where the application for identification is submitted by an approved first purchaser who is not a processor, in accordance with Article 2 (2) of Regulation (EEC) No 2194/85, the issue of the ID part of the certificate shall, except in cases of *force majeure*, oblige the recipient to deliver the beans to a processor within a period of 150 days from the date of issue of the said ID certificate. The declaration referred to in Article 9 of this Regulation, which must be drawn up for each delivery, must refer to the ID certificates covering the beans leaving the establishment. The quantity actually delivered may not be more than 4 % less than the identified quantities specified in the ID certificates to which the sale or delivery declaration refers.

Any beans sold or delivered before identification shall no longer be eligible for aid.'

9. The following paragraph 3 is added to Article 22:

'3. Certificates must be made out on forms that conform with the provisions of Article 18 of Regulation (EEC) No 2681/83 and with Annexes IV to VI of this Regulation.'

10. In Article 23 (2) the words 'intended to guarantee completion of the operations on which entitlement to the aid is conditional' are deleted.

11. The following is added to Article 24 (3):

'once the minimum of 7 % referred to in paragraph 2, second subparagraph, is attained'.

12. In Article 26 (2) — the words 'pursuant to Article 32 (2) of this Regulation' are added after 'securities lodged'

paragraph 5 is deleted.

13. The following Article 29a is added:

'Article 29a

Should an irregularity be discovered on the occasion of a control or verification the following provisions shall apply, without prejudice to any other measures applicable.

1. An irregularity consequent on a deliberately false declaration or serious negligence by the producer on the occasion of conclusion of the contract referred to in Article 6 of of its execution, in particular as regards the accuracy of the information referred to in Article 6 (2) or compliance with the provisions of Article 6 (3), shall render the contract invalid for the purposes of this Regulation, render the beans under the contract ineligible for aid and exclude the producer from the benefit of the provisions of this Regulation throughout the following marketing year.

   Further, if it is established that the first purchaser was aware of the false declaration or serious negligence of the producer his approval shall be withdrawn or, if he is a first purchaser who is a provessor, he shall be otherwise debarred form the benefit of the provisions of this Regulation throughout the following marketing year.

2. An irregularity consequent on a false declaration deliberately made or serious negligence by the first purchaser in execution of the provisions on which entitlement to aid depends shall entail loss of entitlement for the quantities in question, and the first purchaser's approval shall be withdrawn he shall, if he is a first purchaser who is a processor, be otherwise excluded from the benefit of the provisions of this Regulation throughout the following marketing year.

3. On each occasion on which, for a given quantity of beans, entitlement to the aid is nor recognized the security lodged as required by Article 32 shall be forfeited under the terms of paragraph 4 of that Article.

4. The sanctions specified in this Regulation, and in particular the penalties laid down in Article 21 (2) and 32 (4), shall be determined on the basis of the nature and gravity of the infringement and at the level necessary to ensure proper operation of the mechanism in question.'

14. Article 30 (5) is replaced by the following:

'5. When samples are taken, standard samples must be set aside for a period determined by the agency responsible for control, but no shorter than 15 days, sop that they are available to that agency or to a body designated by it. The agency or body shall carry out random tests on a proportion of these samples.

Furthermore samples may be tested to determine the quality of the products resulting from the first processing of the beans, in order to check the consistency of the analyses with those carried out on the samples taken when the beans arrived for processing.'

15. The following indents are inserted after the first indent in Article 46 (2):

'— the provisions of Article 36 (2), (3) and (4) shall be compulsory with effect from 1 January 1990. The provisions of paragraph 1 of this Article notwithstanding, Article 14 (1) of Regulation (EEC) No 2329/85 shall remain applicable in the interval,

— beans delivered under a contract concluded with a first purchaser who is a processor trading under a given commercial name may be crushed by an establishment not trading under that name provided that:

— the first purchaser named in the contract is clearly a member of the same financial group as the crushing establishment,

— he is able to state clearly and definitively, at the latest at the time when the beans delivered under a contract are received in the crushing establishment, which contracts cover the beans that the intends to assign to each establishment,

— these assignments correspond to the practice following by the group during at least the previous marketing year,

— the operators concerned undertake to make arrangements to comply with the new provisions in time for the 1990/91 marketing year.'

16. The period of 'three months' in the last indent of Article 46 (2) is replaced by 'five months'.

17. The Annexes are added as Annexes IV, V and VI.

Article 2

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

Article 1 (15) and (16) shall be applicable with effect from 1 September 1989.

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

Done at Brussels, 19 January 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMUNITY SUBSIDY FOR SOYA BEANS	APPLICATION FOR A CERTIFICATE

Please read the notes before filling in the form

A. JOINT PART

1. Applicant (name, full address and Member State)	2. Authority to whom application is made
3. Description of the product	4. ☐ telex ☐ telegram ☐ telefax of

B. APPLICATION FOR THE AP CERTIFICATE

5. Weight of the product on basis of 10 % moisture and 2 % impurities kg	6. Total amount of the deposit in national currency (1)
7. At _____, on _____ (Signature of the applicant)	8. For official use only

C. APPLICATION FOR THE ID CERTIFICATE

9. Net weight of the product as received kg	13. Identification to be carried out in order to obtain ☐ THE SUBSIDY OF THE DAY ☐ THE SUBSIDY FIXED IN ADVANCE by AP No _____ Issued by
10. Establishment in which the product is located	
11. Lot number	
12. Date on which the product entered establisment	
14. At _____, on _____ (Signature of the applicant)	15. For official use only

(1) Space for indication of national currency.

NOTES

1. The applicant must complete part A, part B or part C as the case may be, and, where appropriate, part D of the form.
2. Where the application for the ID certificate refers to several lots, part D must be completed insted and in place of sections 11 and 12 of part C; the total weight of the various lots must however be shown in section 9 of part C.
3. The form must be completed by typewriter and the signature of the applicant must be in manuscript.
4. The numbers (weight and amount) which must be shown on the back of the form shall be written so that there is one figure per subdivision of the space provided for that purposes, the unused spaces being filled in with an 'O'.
5. The dates which must be shown on the back of the form are to be written in the form of a six-figure numer with two figures per subdivision of the space provided for that purpose; the first two figures indicate the day (from 01 to 31) in the third subdivision, the following two figures indicate the month (from 01 to 12) in the second subdivision and the last two figures indicate the year (83 etc.) in the last subdivision.
6. The applicable wording in sections 4 and 13 is to be indicated by placing an 'X' in the small box in front of them.

D. DESCRIPTION OF THE LOTS TO BE IDENTIFIED					
16. Lot Nos	17.	18.	16. Lot Nos	17.	18.
			20. Carried over		
19. To be brought forward			21. Total		

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ANNEX V

COMMUNITY SUBSIDY FOR SOYA BEANS

2 **Copy for the titular holder**

CERTIFICATE

(1) No 000000

ADVANCE FIXING OF THE SUBSIDY

DEEL AP

1. Authority issuing the extract

2. Description of the product

3. Weight of the product on basis of moisture and impurities content of the standard quality

kg

4. Total amount of the deposit in national currency

(2)

5. Identification must take place, at the latest

on

6. Certificate applied for in respect of the 19 . . . / . . . marketing year

19 . . / 19 . .

(Article 18 (2) of Commission Regulation (EEC) No 2537/89 of 21 August 1989)

7. Titular holder (name, full address and Member State)

8. SUBSIDY VALID ON

FIXED IN ADVANCE

9. Month/year	10. Amount per 100 kilograms
	(2)
	(2)
	(2)
	(2)
	(2)
	(2)
	(2)
	(2)
	(2)
	(2)

11. Issued at

on

Signature and stamp of the issuing authority

IMPORTANT NOTE

The amounts shown in section 10 are fixed without prejudice to the provisions of Council Regulation (EEC) No 1676/85 of 11 June 1985.

12. For official use only

(1) Space for indication of issuing Member State.

(2) Space for indication of currency.

EUROPEAN COMMUNITIES

COMMUNITY SUBSIDY FOR SOYA BEANS	**CERTIFICATE**	**PART**
1 **Copy for the titular holder**	(1) No 000000	**I.D.**
	IDENTIFICATION OF THE SEED	

1. Issuing authority

8. Titular holder (name, full address and Member State)

2. Description of the product

9. IDENTIFICATION CARRIED OUT

on ☐☐☐

3. Net weight of the product as received

☐☐☐☐☐☐☐☐☐ kg

10. Weight identified on basis of moisture and impurities content of the standard quality

☐☐☐☐☐☐☐☐☐ kg

4. Moisture

☐☐ , ☐☐

5. Impurities

☐☐ , ☐☐

11. Amount in national currency of the subsidy per 100 kilograms

☐☐☐☐☐ (2) ☐☐☐

6. Establishment in which the product is located

12. If the subsidy is fixed in advance:
Identified weight entered on

AP No _____ issued by

7. For official use only

13. Issued at

on ☐☐☐

Signature and stamp of the issuing authority

(1) Space for indication of issuing Member State

(2) Space for indication of currency.

NOTES

1. Sections 4, 5 and 10 are to be completed once the relevant data are available.
2. Where identification refers to several lots covered by one application, the data to be entered in sections 4 and 5 must relate, respectively, to the weighted moisture and weighted impurities of the total quantity identified.'