COUNCIL REGULATION (EEC) No 1737/91

of 13 June 1991

amending Regulation (EEC) No 727/70 on the common organization of the market in raw tobacco

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Article 4 (5) of Regulation (EEC) No 727/70 (4), as last amended by Regulation (EEC) No 3577/90 (5), provides that the Council may fix maximum guaranteed quantities for specific production areas if the quality of a variety differs according to the characteristics of the soil and the climate; whereas it is necessary to provide that the Council may fix differing prices and premiums for these specific production areas;

Whereas the possibility of leaf tobacco being bought into intervention must be exceptional; whereas provision should be made that a decision to open intervention buying-in of such tobacco be taken in exceptional circumstances only;

Whereas, in the light of German unification, the overall maximum guaranteed quantity for the Community provided for in Article 4 (5) of Regulation (EEC) No 727/70 should be adjusted;

Whereas the grant of the premium is subject to the award of a European cultivation contract as referred to in Article 3 of Regulation (EEC) No 727/70; whereas the clauses of such a contract contain one concerning the maximum production of the area covered by the contract; whereas Commission Regulation (EEC) No 2501/87 of 24 June 1987 fixing the characteristics of each variety of tobacco grown in the Community (6), as last amended by Regulation (EEC) No 2071/88 (7), lays down the maximum yield for each variety of tobacco; whereas tobacco produced in excess of that yield does not qualify for the premium;

Whereas only tobacco which is covered by a European cultivation contract and produced within the permitted yield limits may qualify for the premium; whereas steps should be taken to discourage all Community production that does not conform with such a contract; whereas action should be taken, therefore, to exclude from intervention and from the refund tobacco which is not covered by a cultivation contract or which has been produced in excess of the permitted maximum yields,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 727/70 is hereby amended as follows:

1. the following subparagraph shall be added to Article 2 (3):

   'However, different prices may be fixed for a given variety for specific production areas within the meaning of Article 4 (5).';

2. in Article 4:

   (a) the following subparagraph shall be added to paragraph 3:

   'However, this amount may differ for a given variety for specific production areas within the meaning of paragraph 5.';

   (b) the last sentence of the first subparagraph of paragraph 5 shall be replaced by the following:

   'The overall maximum guaranteed quantity for the Community is hereby set at 390 000 tonnes of leaf tobacco for each of the 1991 to 1993 harvests.'

3. Article 5 (1) shall be replaced by the following:

   '1. Leaf tobacco harvested in the Community shall be bought in by the intervention agencies designated by the Member States under the conditions laid down in this Article only if:

   — such tobacco is the subject of a European cultivation contract within the meaning of Article 3,

   — there is a risk that the producer, as a result of bankruptcy proceedings initiated against his buyer after the conclusion of the contract, may not receive the contractual price agreed.';

4. in Article 6:

   (a) the following subparagraph shall be added to paragraph 3:

   'However, this price may differ for a given variety for specific production areas within the meaning of Article 4 (5).';

(1) OJ No C 104, 19. 4. 1991, p. 86.
(2) OJ No C 158, 17. 6. 1991.
(3) OJ No C 159, 17. 6. 1991.
(4) OJ No L 94, 28. 4. 1970, p. 1.
(5) OJ No L 353, 17. 12. 1990, p. 23.
(6) OJ No L 237, 20. 8. 1987, p. 1.
(7) OJ No L 182, 13. 7. 1988, p. 7.

(b) paragraph 5 shall be replaced by the following:

'5. Subject to the provisions of paragraph 4, the intervention agencies designated by the Member States shall be obliged to buy in baled tobacco offered to them which is covered by a European cultivation contract within the meaning of Article 3, of the varieties for which a derived intervention price is fixed.';

5. the second subparagraph of Article 9 (1) shall be replaced by the following:

'Save in exceptional circumstances, to be decided in accordance with the procedure laid down in Article 17, the refund which may differ according to destination and which may be granted only in respect of tobacco for which a European cultivation contract within the meaning of Article 3 has been concluded, shall be determined within the limits of the incidence of the Common Customs Tariff duty calculated on the basis of average offer prices in third countries.'

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 the 1991 harvest.

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

Done at Luxembourg, 13 June 1991.

For the Council

The President

A. BODRY