COMMISSION REGULATION (EEC) No 1197/92

of 8 May 1992

amending Regulation (EEC) No 1726/70 on the procedure for granting the premium for leaf tobacco

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 727/70 of 21 April 1970 on the common organization of the market in raw tobacco [1], as last amended by Regulation (EEC) No 860/92 [2], and in particular the first subparagraph of Article 3 (3) and Article 15 thereof,

Whereas, in accordance with the European cultivation contract as set out in the Annex to Commission Regulation (EEC) No 1726/70 of 25 August 1970 on the procedure for granting the premium for leaf tobacco [3], as last amended by Regulation (EEC) No 2376/91 [4], tobacco produced in excess of the yield indicated for the variety concerned in the Annex to Commission Regulation (EEC) No 2501/87 of 24 June 1987 fixing the characteristics of each variety of tobacco grown in the Community [5], as last amended by Regulation (EEC) No 841/92 [6], is not covered by the contract and accordingly cannot qualify under the support measures laid down by Community regulations;

Whereas the limit on yields provided for in the European cultivation contract may easily be circumvented if there is no check to see that the variety indicated is actually grown on areas declared; whereas a minimum rate of checks on areas cultivated, to be conducted by the Member States, should accordingly be determined and the consequences of any irregularities recorded should be specified; whereas such consequences should be sufficiently dissuasive to prevent any false declaration being made and should observe the principle of proportionality;

Whereas contracts of cultivation must be concluded and registered sufficiently early to permit national authorities to conduct on-the-spot checks,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1726/70 is hereby amended as follows:

1. the following Article is inserted:

'*Article 2c*

1. The Member States shall conduct unannounced on-the-spot checks to verify the information given in cultivation contracts and declarations and in particular the area and variety cultivated. Such checks shall cover at least 5 % per variety or group of varieties of the cultivation contracts and declarations registered in respect of each processing enterprise; contracts and declarations subject to checks must be representative of the quantities covered. Areas cultivated, excluding in particular the area of service roads and enclosures, shall be verified, where necessary, by measuring.

2. Where checks show that areas declared exceed areas cultivated by up to 10 %, the area to be used for the contract or declaration in question shall be that determined by the check. If the amount in excess is over 10 % or one hectare, the area to be used for the contract or declaration in question shall be that determined by the check, less the declared area in excess, multiplied by two, except where the grower or processor has reported discrepancies in writing to the competent authorities before the check was conducted.

3. If checks cannot be conducted for reasons for which the grower is responsible, the area shall, except in cases in *force majeure*, be considered as not cultivated.

4. The Member States shall take any further measures necessary for the application of this Regulation and in particular steps to prevent more than one cultivation contract or declaration being concluded or made in respect of one and the same area. The Commission shall be informed of such measures.';

2. the date '1 August' in the first and second indents of the first subparagraph and in the second subparagraph of Article 2b (5) is replaced by '20 June';

[1] OJ No L 94, 28. 4. 1970, p. 1.
[2] OJ No L 91, 7. 4. 1992, p. 1.
[3] OJ No L 191, 27. 8. 1970, p. 1.
[4] OJ No L 217, 6. 8. 1991, p. 18.
[5] OJ No L 237, 20. 8. 1987, p. 1.
[6] OJ No L 88, 3. 4. 1992, p. 31.

3. point 12 of the Annex is replaced by the following :

'12. The purchaser/vendor (1) (2) shall register this contract with ..... (name of agency) before ..... and shall notify that agency each year before ..... of any change in areas resulting from any revision of this contract (3).' ;

4. the following footnote is added to the Annex :

'(3) Indicate the date as set out in Article 2c (5) of Regulation (EEC) No 1726/70 and the name of the competent agency.'

Article 2

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

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

Done at Brussels, 8 May 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission