COMMISSION REGULATION (EEC) No 2296/92

of 31 July 1992

laying down certain rules of application of the use of land set aside for the provision of materials for the manufacture within the Community of products not primarily intended for human or animal consumption

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1765/92 of 30 June 1992 establishing a support system for producers of certain arable crops [1], in particular Article 12 thereof,

Whereas Article 7 (4) of Council Regulation (EEC) No 1765/92 allows set aside land to be used for the provision of materials for the manufacture within the Community of products not primarily intended for human or animal consumption, provided that effective control systems are applied;

Whereas it is necessary to define the types of agricultural product which may be grown on set aside land as well as the final end uses to which these products may be destined in order to allow the agricultural producer to benefit from this regime without delay;

Whereas it is necessary to define what shall be considered as a product not primarily intended for human or animal consumption;

Whereas, for reasons of control, it is necessary to require the agricultural producer to enter into a contract with the first processor before the first sowing of the agricultural produce; whereas, for the 1993/94 marketing year, the contracting parties may exceptionally conclude this contract after the first sowing of the agricultural produce;

Whereas the claiment for the payment to compensate for the obligation to set aside land must submit each year to the competent authority a cultivation declaration for reasons of control; whereas, it is necessary to require the first processor to lodge a guarantee;

Whereas the areas put into set aside should be the subject of a declaration;

Whereas, it is necessary to assure that the quantity of raw material harvested on the area under contract is entirely delivered to the first processor;

Whereas, the need to introduce effective controls could imply the non application of this scheme during the first marketing year;

Whereas it will be necessary for the Commission to propose a further Regulation setting out the details of, in particular, the valuation of by-products, methods of control and the transfer of set aside obligations;

Whereas the Management Committee for cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

1. The raw materials which may be grown on set aside land aswell as their end uses, within the context of Article 7 (4) of Council Regulation (EEC) No 1765/92, are set out in Annex I and Annex II respectively.

2. The economic valuation of the non-food products obtained from any processing of the raw materials in Annex I must be higher than that of all other products destined for human or animal consumption obtained during the same processing.

3. Those raw materials specified in Annex I may only be grown on set aside land on the condition that their primary final use is for the manufacture of one of the products specified in Annex II.

4. Any raw material specified in Annex I grown on set aside land must be the subject of the contract mentioned in Article 3 (1).

5. Member States shall exclude any of the raw materials listed in Annex 1 for agronomic and environmental reasons, notably in the case of rapeseed in respect of those listed in Articles 3 (1) a and 3 (1) c of Commission Regulation (EEC) No 2294/92 laying down the detailed rules of application for the support system for producers of oilseeds foreseen in Council Regulation (EEC) No 1765/92 [2].

[1] OJ No L 181, 1. 7. 1992, p. 12.

[2] See page 22 of this Official Journal.

6. These raw materials may, furthermore, only be grown on set aside land provided that effective control systems are applied.

7. Member States may exceptionally exclude any of the raw materials or final products listed in Annexes I and II respectively during the 1993/94 marketing year of the set aside scheme if adequate control measures have not been introduced in time.

Article 2

1. Any raw material which is grown on set aside land which is the subject of a payment to compensate for the obligation to set land aside in accordance with the second subparagraph of Article 2 (5) of Regulation (EEC) No 1765/92 will not be eligible for any measures under Article 1 (2) of Council Regulation (EEC) No 729/70 [1].

2. The quantities of raw material cultivated on set aside land shall be counted against any maximum guaranteed quantity applied to the raw material in question.

Article 3

1. The claiment for the payment to compensate for the obligation to set aside land, or the agent of the claiment shall submit in support of the application a contract, dated before the first sowing of the raw material concerned, concluded between the raw material producer or producers and the first processor specifying at least the following:

— the name and address of the parties concerned,

— the contract's duration,

— the areas concerned and their location,

— the species and the variety of raw material concerned,

— the forecast yield, and any conditions which may apply to the delivery to the first processor of the actual quantity of raw material harvested,

— the principal end use of the raw material,

— the obligation for the claiment to deliver all of the raw material contracted for on the arable areas concerned, and the obligation of the first processor or his agent to take delivery of all of this raw material and to guarantee its principal use in the manufacture of one of the end products specified in Annex II to this Regulation within the Community.

2. The contract shall be deposited with the competent authority of the Member State of first processing before the first sowing.

3. The first processor shall lodge the security referred to in the eight paragraph at the same time as the contract foreseen at paragraph 1 is deposited.

4. For the 1993/94 marketing year, the contracting parties may contract after sowing.

5. In the case of a producer's group, the particulars referred to in the first paragraph must be specified for each of the members of the producer's group.

6. In all cases, the claiment shall submit to the competent authority each year at a date to be determined a cultivation declaration showing, for each raw material the following particulars:

— the species of the raw material and its variety to be cultivated on the set aside land,

— the variety of the raw material to be cultivated on non set aside land, in the case where the same variety is cultivated on set aside land in the same exploitation,

— the areas to be cultivated on the set aside land and the forecast yields for each species and variety to be cultivated.

7. Member States may provide that each claiment may conclude only one supply contract for each raw material.

8. The security shall be equal to 120 % of the value of the aid to be granted each year for the area to be covered by the contract so as to guarantee the proper execution of the contract by the first processor. When the first processing takes place in a Member State other than that of harvest, the competent authority of the Member State where the processing takes place shall confirm to the competent authority in the Member State of harvest that the security has been lodged. The guarantee will be released when the competent authority has received proof that the quantities of raw materials under contract have been processed primarily into the final product specified in the contract. The guarantee may be released on a pro rata basis as a function of the quantities processed into the same final product.

The processing of the quantities of raw materials primarily into the final product specified in the contract constitutes the primary requirement wihtin the meaning of Article 20 of Commission Regulation (EEC) No 2220/85 [2].

9. Payment of the compensation for the obligation to set aside land will only be made when the competent authority of the Member State in which the claim for payment has been made receives proof that the amount of raw material harvested on the area contracted has been delivered to the first processor or his agent.

[1] OJ No L 94, 28. 4. 1970, p. 13.

[2] OJ No L 205, 3. 8. 1985, p. 5.

Article 4

1. With a view to the application of this Regulation, the claiment shall deposit with the competent authority a set aside declaration at a date to be determined.

The contents of this declaration, the control methods, aswell as the sanctions applicable in case of false declaration will be defined later.

2. The Commission will adopt a subsequent Regulation setting out further details relating to this measure and will include in particular specific rules concerning :

— valuation of by-products and co-products,

— methods of control.

Article 5

Member States may take complementary measures necessary for the application of this Regulation.

Article 6

This Regulation shall enter into force on the day of 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, 31 July 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX I

Raw materials which may be grown on set-aside land when destined for use in the manufacture of the permissible end products set out in Annex II

CN Code	Brief description
ex 0602 99 41	Short rotation forest trees having a maximum cultivation period of 10 years inclusive
0602 99 51	Perennial plants (eg *miscanthus sinensis)*
0701 90 10	Potatoes
0713 10 90	Peas *(Pisum arvense* L.) other than those for sowing
0909 40 11	Seeds of caraway, neither crushed nor ground for the industrial manufacture of essential oils or resinoids
1001 90 99	Spelt, common wheat and meslin other than for sowing
1002 00 00	Rye
1003 00 90	Barley other than seed
1004 00 90	Oats other than seed
1005 90 00	Maize (corn) other than seed
1007 00 90	Grain sorghum, other than hybrids for sowing
ex 1008 10 00	Buckwheat other than seed
ex 1008 20 00	Millet other than seed
ex 1008 90 10	Triticale other than seed
ex 1008 90 90	Other cereals other than seed
1201 00 90	Soya beans other than for sowing
1202 20 00	Shelled ground nuts
1204 00 90	Linseed other than for sowing
1205 00 90	Rape or colza seeds other than for sowing
1206 00 90	Sunflower seeds other than for sowing
1207 20 90	Cotton seeds other than for sowing
1207 30 90	Castor oil seeds other than for sowing
1207 40 90	Sesamum seeds other than for sowing
1207 50 90	Mustard seeds other than for sowing
1207 60 90	Safflower seeds other than for sowing
1207 99 99	Other oil seeds and oleaginous fruits other than for sowing
1211	Plants and parts of plants (including seeds and fruits), of a kind used primarily in perfumery, in pharmacy or for insecticidal, fungicidal or similar purposes
Chapter 14	Vegetable plaiting, stuffing or padding materials, or those used in brooms or brushes; vegitable products not elsewhere specified or included
5301	Flax, raw or processed but not spun; flax tow and waste (including yarn waste and garnetted stock)

ANNEX II

End products which are to be considered as permissible destinations when based on the raw materials in Annex I

All products of the combined nomenclature :

(a) with the exception of :

those products which appear in Council Regulations (EEC) No 1009/80 [1] and (EEC) No 1010/86 [2],

all of the products falling within Chapters 1 to 24 of the combined nomenclature with the exception of :

— all products falling within CN Chapter 15 which are intended for uses other than for human or animal consumption,

— CN code 2207 20 00, for direct use in motor fuel or for processing for use in motor fuel,

(b) with the inclusion of :

all agricultural products set out in Annex I and their derivatives obtained by an intermediate transforming process which are burned in power stations for energy.

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[1] OJ No L 107, 25. 4. 1980, p. 42.
[2] OJ No L 94, 9. 4. 1986, p. 9.