COMMISSION REGULATION (EEC) No 1113/93

of 6 May 1993

setting specific rules on compensatory payments on certain irrigated arable crops

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), as last amended by Regulation (EEC) No 364/93 (2), and in particular Articles 12 and 16 thereof,

Whereas Article 3 of Regulation (EEC) No 1765/92 allows regionalization plans to differentiate between irrigated and non-irrigated areas;

Whereas in certain parts of the Community irrigated and non-irrigated areas are intermixed to such an extent that it is not always possible to define distinct homogeneous production zones; whereas it would be appropriate in such areas to differentiate production yields, within a single production region, on the basis not of geography but of whether or not irrigation is employed;

Whereas the resulting difference in compensatory payment amounts could well stimulate an expansion of irrigation for the purpose of obtaining higher support and hence result in greater expenditure; whereas in order not to jeopardize the effectiveness of the scheme, by analogy with Article 2 of Regulation (EEC) No 1765/92 the area eligible for compensatory payments at the rate for irrigated land should be restricted to a ceiling corresponding to the irrigated area of the region in question over the period 1989, 1990 and 1991;

Whereas in certain cases investment may have been made after the reference period uses for setting the ceiling but before Regulation (EEC) No 1765/92 entered into force; whereas suitable provision should therefore be made in regard to certain newly irrigated areas;

Whereas at the present time most Member States have adopted provisions in regard to irrigation and have notified them to interested parties; whereas application of the provisions of this Regulation in regard to land set-aside could well call into question the set-aside plans already made by interested parties; whereas those provisions should therefore be introduced progressively;

Whereas the Joint Management Committee for Cereals, Oils and Fats, and Dried Fodder has not delivered an opinion within the period set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

In regions where irrigation is traditionally of importance but because the irrigated areas are scattered or intermixed with non-irrigated areas the regionalization plan cannot delimit distinct homogeneous zones, compensatory payments for irrigated arable crops may be calculated using a specific yield.

Article 2

If Article 1 is applied, the historic regional average yield notified under the first and second subparagraphs of Article 3 (2) of Regulation (EEC) No 1765/92 shall be broken down into an irrigated and a non-irrigated yield. For that purpose the same years shall be used as are used for determining the past regional average yield. The past yield of the region may not be increased as a result of the differentiation.

Article 3

1. Member States shall set rules for determining whether an area is irrigated in the course of the crop year. Those rules shall include at least:

— a list of arable crops on which compensatory payment at the irrigated yield rate may be granted,

— specification of the irrigation equipment that the farmer must hold; this must be commensurate with the area involved,

— the irrigation period to be taken into account.

(1) OJ No L 181, 1. 7. 1992, p. 12.
(2) OJ No L 42, 19. 2. 1993, p. 3.

2. In their 'area' aid applications, producers shall separate irrigated and non-irrigated areas. Member States shall check that applications for irrigated payment satisfy the rules indicated in paragraph 1. Should they not do so the penalties laid down in Commission Regulation (EEC) No 3887/92 [1] shall be applied according to the area involved.

Article 4

1. Compensatory payment at the yield level set for irrigated arable crops shall be given within a limit set for each production region as delimited in the regionalization plan.

2. For each production region the limit shall be the average area irrigated in the years 1989, 1990 and 1991 for the growing of cereals, oil seeds or protein crops, plus any newly irrigated areas devoted to those crops from 1992 onwards as a result of investment made before 1 August 1992.

3. Member States shall transmit the detailed information indicated in paragraph 2 to the Commission, together with supporting documents showing that the rules are met. They shall in particular specify the areas irrigated for each type of crop from 1989 to 1991 and the areas newly irrigated that are devoted to qualifying crops, together with their location and the date when implementation of the investment commenced.

4. The Commission shall examine the information provided by Member States and satisfy itself that the supporting documents are adequate. It shall get the ceilings using the procedures laid down in Article 12 (1) of Regulation (EEC) No 1765/92.

Article 5

1. If the area for which compensatory payment is applied for on the basis of a specific irrigated yield plus the corresponding set-aside area exceeds the ceiling indicated in Article 4 compensatory payment at the rate for the irrigated yield shall be proportionately reduced for the region in question. However for the 1993/94 marketing year a reduction shall be made only in accordance with the margin (if any) by which the irrigated crops alone — the set-aside area being discounted — exceed the limit.

2. Should both the ceiling indicated in this Regulation and a base area as defined in Article 2 of Regulation (EEC) No 1765/92 be exceeded on the same occasion, only the higher of the two reductions provided for shall be made.

Article 6

In regions where the provisions of this Regulation are applied :

(a) the question whether or not a producer qualified as a small producer as defined in Article 8 of Regulation (EEC) No 1765/92 shall be settled according to the content of his 'area' application or a whole, and to the irrigated and non-irrigated yields ;

(b) compensatory payments for arable crops made under the general or the simplified scheme shall be made on the basis of the irrigated yield, for the corresponding areas, and of the non-irrigated yield, for other areas ;

(c) compensatory payments for set-aside land shall be made on the basis of the average yield for the region.

Article 7

This Regulation shall enter into force on the seventh 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, 6 May 1993.

For the Commission

René STEICHEN

Member of the Commission

[1] OJ No L 391, 31. 12. 1992, p. 36.