COMMISSION REGULATION (EC) No 206/96

of 2 February 1996

amending Regulation (EC) No 97/95 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards the minimum price and and compensatory payment to be paid to potato producers and Council Regulation (EC) No 1868/94 establishing a quota system in relation to the production of potato starch

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1868/94 of 27 July 1994 establishing a quota system in relation to the production of potato starch (1), as last amended by Regulation (EC) No 1863/95 (2), and in particular Article 8 thereof,

Having regard to Council Regulation (EEC) No 2503/88 of 25 July 1988 on customs warehouses (3), and in particular Article 18 thereof,

Whereas Commission Regulation (EC) No 97/95 (4), as last amended by Regulation (EC) No 1949/95 (5), lays down the detailed rules of application of Council Regulation (EEC) No 1766/92 (6), as last amended by Regulation 1863/95 (7), as regards the minimum price and compensatory payment to be paid to potato producers and Regulation (EC) No 1868/94 establishing a quota system in relation to the production of potato starch;

Whereas products placed under the customs warehousing arrangements may only be subjected to certain standard operations listed in Article 28 (4) of Commission Regulation (EEC) No 3665/87 (8), as last amended by Regulation (EC) No 1384/95 (9); whereas the definition of the operations permitted other than those provided for in the abovementioned Article is explicitly laid down for each of the sectors concerned;

Whereas, in the interest of better management of existing storage capacity, in the case of unprocessed starch stored lose in a storehouse, warehouse or port silo for purposes of export in application of the payment arrangements for advance refunds, the right should be granted to store several lots of products falling within the same subheading of the nomenclature used for export refunds in the same silo or storehouse; whereas, however, this right should be limited to Community products;

Whereas the scale of penalties laid down in Article 16 (1) of Regulation (EC) No 97/95 should be revised in the light of the duties applicable under the new common customs tariff;

Whereas, moreover, Regulation (EC) No 97/95 specifies what is to be done with sub-quotas of starch-producing undertakings which merge, change owner or cease commercial activity; whereas it is essential to avoid modifications to sub-quotas arising from mergers being detrimental to the interests of potato producers; whereas Member States should be authorized to allocate sub-quotas to other starch-producing undertakings than those directly concerned by the merger;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 97/95 is hereby amended as follows:

1. The following Article 15a is added after Article 15:

'*Article 15a*

Where unprocessed starch produced by a starch-producing undertaking is stored loose under the customs warehousing or free zone procedure for the advance refund as defined in Council Regulation (EEC) No 565/80 (*), that starch may, in addition to the operations referred to in Article 28 (4) of Regulation (EEC) No 3665/87, also be mixed in the same storage place with other starches falling within the same subheading of the nomenclature used for the refunds, which have the same technical characteristics and fulfil the conditions required for the granting of export refunds and are also placed under the arrangements provided for by Regulation (EEC) No 3665/87 or Regulation (EEC) No 565/80.

(*) OJ No L 62, 7. 3. 1980, p. 5.'

(1) OJ No L 197, 30. 7. 1994, p. 4.
(2) OJ No L 179, 29. 7. 1995, p. 1.
(3) OJ No L 225, 15. 8. 1988, p. 1.
(4) OJ No L 16, 24. 1. 1995, p. 3.
(5) OJ No L 187, 8. 8. 1995, p. 6.
(6) OJ No L 181, 1. 7. 1992, p. 21.
(7) OJ No L 179, 29. 7. 1995, p. 1.
(8) OJ No L 351, 14. 12. 1987, p. 1.
(9) OJ No L 134, 20. 6. 1995, p. 14.

2. Article 16 (1) is replaced by the following:

'1. The Member State concerned shall impose on the quantities which are considered to have been disposed of on the internal market, within the meaning of the second subparagraph of Article 14 (1), in the case of unprocessed starch or any derived product listed in the Annex to Commission Regulation (EC) No 1518/95 (*) or falling within the scope of Commission Regulation (EC) No 1222/94 (**), a flat rate amount calculated by tonne of unprocessed starch and equal to the common customs tariff applicable by tonne of starch under CN code 1108 13 00 during the marketing year during which the starch or derived products were produced, plus 10 %.

(*) OJ No L 147, 30. 6. 1995, p. 55.
(**) OJ No L 136, 31. 5. 1994, p. 8.'

3. The following paragraph 4 is added to Article 17:

'4. If, following the application of paragraph 1a, production ceases in the factories of one or more of the starch-producing undertakings that have merged, thus seriously threatening the continuing production of potatoes for the manufacture of starch in the area which had previously supplied this undertaking or these undertakings:

— the Member State may direct the merged undertaking to transfer to the Member State the subquota initially allocated to the enterprise whose factories have since ceased production, and

— any quota transferred in accordance with the first indent may be reallocated by the Member State to any starch-producing undertaking that undertakes to manufacture the starch in the area concerned.'

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 1 July 1995.

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

Done at Brussels, 2 February 1996.

For the Commission
Franz FISCHLER
Member of the Commission