COMMISSION REGULATION (EC) No 2340/96

of 6 December 1996

amending Regulation (EC) No 1223/94 laying down special detailed rules for the application of the system of advance-fixing certificates for certain agricultural products exported in the form of goods not covered by Annex II to the Treaty

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products [1], and in particular the first subparagraph of Article 8 (3) and Article 20 thereof,

Whereas Commission Regulation (EC) No 1223/94 [2], as amended by Regulation (EC) No 2400/95 [3], lays down special detailed rules for the application of the system of advance-fixing certificates for certain agricultural products exported in the form of goods not covered by Annex II to the Treaty;

Whereas Regulation (EC) No 1223/94 contains errors, in the Italian, English, Swedish and Finnish versions, introduced by Regulation (EC) No 2400/95; whereas Article 9 (1) of Regulation (EC) No 1223/94 also contains an error; whereas these errors should be corrected;

Whereas, in the case of an invitation to tender issued in a third country, the tenderer does not know whether he has been successful until after he has submitted his application for a certificate; whereas, in this particular case, the maximum period of validity of the certificate should, therefore, be calculated from the date of its effective issue;

Whereas, with regard to barley exported in the form of beer, non-alcoholic beer falling within CN code 2202 90 10 should be treated in the same way as beer falling within CN code 2203;

Whereas, in certain cases, food-aid transactions within the meaning of Article 10 (4) of the Uruguay Round Agreement on Agriculture are subject to the requirement to fix the rates of refund in advance; whereas, in the case of food-aid transactions, the possibility of speculation may be ruled out; whereas, for transactions of this kind, the rate fixed in advance should, therefore, be the same as the rate not fixed in advance;

Whereas in the case of an invitation to tender, only one tenderer will be awarded a contract; whereas it is necessary to know the quantities corresponding to applications from tenderers who have not been selected and who are not, therefore, issued with a certificate;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for horizontal questions concerning trade in processed agricultural products not listed in Annex II to the Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

Commission Regulation (EC) No 1223/94 is amended as follows:

1. The amendment to the last subparagraph of Article 3 (3) only concerns the Italian text.

2. The first indent of Article 4 (1) is replaced by the following text:

   '— for products covered by the common organizations of the markets in sugar, cereals, rice and eggs, until the end of the fifth month following that of issue.'

3. The last subparagraph of Article 4 (1) is replaced by the following:

   'By way of derogation from the preceding subparagraph, where goods are exported on the basis of an invitation to tender, as referred to in Article 44 of Regulation (EEC) No 3719/88, issued in an importing non-member country, the certificate shall be valid from the date of its effective issue until the date on which the obligations arising from the award must be met, although the period of validity of the certificate may not exceed eight months following the month of such issue.'

4. Point (a) of Article 4 (2) is replaced by the following:

   'With regard to barley exported in the form of beer falling within CN code 2203 or malt beer of an actual alcoholic strength by volume not exceeding 0,5 % vol falling within CN code 2202 90 10 the certificate shall be valid until the end of the eleventh month following the month of issue.'

5. In Article 6, the following subparagraph is added:

   'By way of derogation from the Regulations fixing the rates of refund applicable to the export of basic products in the form of goods not covered by Annex II to the Treaty, the rates of refund with advance fixing applied to applications for certificates and certificates established for a food-aid transaction within the

[1] OJ No L 318, 20. 12. 1993, p. 18.
[2] OJ No L 136, 31. 5. 1994, p. 33.
[3] OJ No L 246, 13. 10. 1995, p. 3.

meaning of Article 10 (4) of the Uruguay Round Agreement on Agriculture shall be the rates applied to certificates without advance fixing. The rates to be taken into consideration shall be the rates in force on the day determined pursuant to Article 2 of Regulation (EEC) No 2330/87 (*) in the case of exports by way of Community food aid or the day determined by Article 10a (2) of Regulation (EC) No 1446/95 (**) in the case of imports of milk or milk products by way of national food aid.

(*) OJ No L 210, 1. 8. 1987, p. 56.
(**) OJ No L 144, 28. 6. 1995, p. 22.'

6. Article 7 is replaced by the following:

'Article 7

By way of derogation from Article 33 (2) of Regulation (EEC) No 3719/88, where a certificate is returned to the issuing body before the end of its period of validity the security forfeit in accordance with Article 33 (2) of Regulation (EEC) No 3719/88 shall be reduced by 40 %.'

7. Article 8 is replaced by the following:

'Article 8

Member States shall notify the Commission:

1. every Tuesday and Friday of the quantities of basic products for which applications for certificates, with the exception of applications for certificates referred to in Article 6, have been lodged up to the working day preceding the day of notification, or of the absence of applications for certificates.

   Notifications shall distinguish between certificates subject to a maximum waiting period of five days, as referred to in Article 3 (3), and the certificates referred to in Article 3 (4).

   Applications for certificates lodged with a view to an invitation to tender issued in an importing non-member country, as referred to in Article 44 of Regulation (EEC) No 3719/88, shall be notified separately from the other applications.

2. before the 15th of each month:

   (a) of the quantities of basic products for which certificates have been returned unused in the course of the preceding month,

   (b) of the certificates issued in the course of the preceding month, as referred to in Article 6, and

   (c) of the quantities of basic products for which certificates have been applied for with a view to an invitation to tender but for which a certificate has not been issued.'

8. The first paragraph of Article 9 is replaced by the following:

'The issue of certificates provided for in this Regulation shall be subject to the provision of a security, the amount of which is determined in the following table; this security shall be released under the conditions set out in Regulation (EEC) No 3719/88 and, where appropriate, in Article 7 of this Regulation.'

Article 2

This Regulation shall enter into force on the 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 December 1996.

For the Commission
Martin BANGEMANN
Member of the Commission