COMMISSION REGULATION (EC) No 52/2002

of 11 January 2002

amending Regulation (EC) No 245/2001 laying down detailed rules for the application of Council Regulation (EC) No 1673/2000 on the common organisation of the markets in flax and hemp grown for fibre

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1673/2000 of 27 July 2000 on the common organisation of the markets in flax and hemp grown for fibre [1], and in particular Article 9 thereof,

Whereas:

(1) The second indent of Article 3(2) of Commission Regulation (EC) No 245/2001 of 5 February 2001 laying down detailed rules for the application of Council Regulation (EC) No 1673/2000 on the common organisation of the markets in flax and hemp grown for fibre [2], as amended by Regulation (EC) No 1093/2001 [3], provides that primary processors must undertake to keep daily records of stocks for the operations that they carry out. To make stock account management less cumbersome, primary processors should also be allowed the possibility of recording operations by lot. To that end, the term 'lot' should be defined.

(2) To prevent distortions of competition, the scope for authorised primary processors to use more than one cleaner of short flax fibre should be extended. However, given the need to maintain an adequate level of control, that scope should be limited to a maximum of two cleaners of short flax fibre per authorised primary processor and marketing year.

(3) Article 10 of Regulation (EC) No 245/2001 provides that each application for an advance is subject to the lodging of a security, which may mean in some cases that five different securities are lodged in the processing period relating to the same marketing year. This system should therefore be simplified by providing for a security, calculated on the basis of the theoretical amount of aid to which each primary processor is entitled, to be lodged with the first application for an advance and to continue to be valid for the entire processing period in question. However, to take account of circumstances in which the calculation of the theoretical amount of aid entitlement might prove far removed from real production estimates, provision should be made for the Member States to establish the amount of the security in a more flexible manner, while retaining an equivalent level of security.

(4) Article 17a of Regulation (EC) No 245/2001 lays down provisions on imports of hemp. In the first indent of the second subparagraph of paragraph 2 of that Article, the definition of the operations that hemp seed other than seed intended for sowing may undergo could lead to doubts as to its interpretation. That definition should therefore be made more specific.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Flax and Hemp,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 245/2001 is amended as follows:

1. Article 3 is amended as follows:

(a) the second indent of paragraph 2 is replaced by the following:

'— keep daily records of stocks or records by lot, linked regularly to financial accounts, and of the information specified in paragraph 5, together with supporting documents as specified by the Member State for the purpose of controls,';

(b) in the third subparagraph of paragraph 4, 'Only one cleaner of short flax fibre' is replaced by 'A maximum of two cleaners of short flax fibre';

(c) in the first subparagraph of paragraph 5, 'or lot' is inserted after 'by day';

(d) the following paragraph 6 is added:

'6. A lot shall be a determined quantity of flax or hemp straw numbered on entry into the processing plants or storage facilities referred to in paragraph 1.

A lot may relate to only one sale/purchase contract covering straw, processing commitment or processing contract as referred to in Article 5.'

[1] OJ L 193, 29.7.2000, p. 16.
[2] OJ L 35, 6.2.2001, p. 18.
[3] OJ L 150, 6.6.2001, p. 17.

2. Article 10(2) is replaced by the following:

'2. Advances shall be paid only where no irregularity has been found to have been committed by the applicant in respect of the marketing year concerned under the controls provided for in Article 13 and where a security has been lodged.

Except as regards the relevant securities where short flax fibre is cleaned under contract, for each authorised primary processor and each type of fibre, the security shall be 35 % of the amount of the aid corresponding to the quantities of fibre resulting from the multiplication referred to in the first subparagraph of Article 8(3) of this Regulation.

However, Member States may provide that the amount of the security be based on estimate production. In this case:

(a) the security may not be released either in part or in full before the granting of the aid;

(b) notwithstanding the fifth subparagraph, in relation to the total amount of advances paid the amount of the security may not be less than:
— 110 % up to 30 April of the marketing year in question,
— 75 % between 1 May of the marketing year in question and 31 August following,
— 50 % between 1 September following the marketing year in question and the date of payment of the balance of the aid.

Where short flax fibre is cleaned under contract, the relevant security shall be equal to 110 %:
— of the amount of aid corresponding to the quantities of fibres resulting from the multiplication referred to in the first subparagraph of Article 8(3) hereto, or
— where the Member State applies the above subparagraph, the total amount of advances paid for the marketing year in question.

The security shall be released in full between the first and the 10th day following that of granting of the aid in proportion to the quantities on which the Member State has granted the processing aid.'

3. The first indent of the second subparagraph of Article 17a(2) is replaced by the following:

'— placing in a condition that excludes use for sowing,'.

Article 2

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

It shall apply from the 2001/02 marketing year.

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

Done at Brussels, 11 January 2002.

For the Commission
Franz FISCHLER
Member of the Commission