

COMMISSION REGULATION (EEC) No 2324/88

of 26 July 1988

amending Regulation (EEC) No 1432/88 laying down detailed rules for applying to co-responsibility levy in the cereals sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 2221/88⁽²⁾, and in particular Articles 4 (5) and 4b (5) thereof,

Whereas, in its judgment of 29 June 1988 in Case 300/86, the Court of Justice of the European Communities declared invalid the second subparagraph of Article 1 (2) of Commission Regulation (EEC) No 2040/86 of 30 June 1986 laying down detailed rules for the application of the co-responsibility levy in the cereals sector⁽³⁾, as last amended by Regulation (EEC) No 2546/87⁽⁴⁾, as declared invalid by Commission Regulation (EEC) No 2572/86⁽⁵⁾ since that provision treats differently the first-stage processing of cereals for utilization on the farm depending on whether it is carried out directly by the producer or by a third party on behalf of the latter; whereas, in accordance with the abovementioned provision, only first-stage processing operations carried out directly by the producer are exempt from the co-responsibility levy;

Whereas the same difference in treatment arises in Commission Regulation (EEC) No 1432/88⁽⁶⁾, which replaces Regulation (EEC) No 2040/86 from 1 July 1988; whereas equality of treatment of operators should therefore be re-established by exempting from the co-responsibility levy producers who have first-stage processing operations carried out by a third party with a view to the subsequent use of the processed product on their holdings;

Whereas, moreover, in view of the objectives of the co-responsibility levy arrangements, namely to limit the formation of structural surpluses on the market by taxing cereals when they are first placed on the market, the said levy should also be applied to cereals when they are first placed on the market in the form of a processed product; whereas, to that end and with a view to eliminating any discrimination between operators, provision should be made for the

co-responsibility levy to apply to cereals which a producer processes directly with a view to the sale of the products obtained;

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

Regulation (EEC) No 1432/88 is hereby amended as follows:

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

'2. For the purposes of this Regulation, "placing on the market" means sales (including barter operations) by producers of the products referred to in paragraph 1 either as such or in the form of processed products, with the exception of crushed maize ears harvested with a view to their ensilage on an agricultural holding, to collection, trading and processing undertakings, to other producers and to the intervention agency.

The acceptance by a producer of a warrant of entitlement for his cereals to a recognized storage depot in the framework of a forward transaction (London Grain Futures Market) shall be treated as placing on the market.'

2. The second indent of the first subparagraph of Article 2 (1) is deleted.

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

'1. The levies referred to in Article 1 (1) shall be collected by the purchasers. However, the levies should be payable by the producers in the case of sales of the products referred to in Article 1 (2), in the case of a consignment of cereals by a producer to another Member State, of export of cereals by a producer to a third country, or of delivery by a producer to recognized storage depots in the framework of a forward transaction.'

(¹) OJ No L 281, 1. 11. 1975, p. 1.

(²) OJ No L 197, 26. 7. 1988, p. 16.

(³) OJ No L 173, 1. 7. 1986, p. 65.

(⁴) OJ No L 242, 26. 8. 1987, p. 18.

(⁵) OJ No L 229, 15. 8. 1986, p. 25.

(⁶) OJ No L 131, 27. 5. 1988, p. 37.

4. In Article 4 (2), 'and processing undertakings' is replaced by 'and producers'.

sold and the quantities of basis cereals used to obtain the said products.'

5. The following paragraph is added to Article 6:

Article 2

'Producers who sell their cereals in the form of the processed products referred to in Article 1 shall indicate in their accounts in particular the quantities of products

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, 26 July 1988.

For the Commission

Frans ANDRIESEN

Vice-President