

COMMISSION REGULATION (EEC) No 3494/88

of 9 November 1988

amending Regulations (EEC) No 3154/85 laying down detailed rules for the administrative application of monetary compensatory amounts, (EEC) No 548/86 laying down detailed rules for the application of accession compensatory amounts and (EEC) No 3665/87 laying down common detailed rules for the application of the system of export refunds on agricultural products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture ⁽¹⁾, as last amended by Regulation (EEC) No 1889/87 ⁽²⁾, and in particular Article 12 thereof,

Having regard to Council Regulation (EEC) No 467/86 of 25 February 1986 laying down general rules for the system of accession compensatory amounts for cereals ⁽³⁾, and in particular Article 8 thereof, and to the corresponding provisions of the other Regulations laying down general rules applying to the accession compensatory amounts for agricultural products,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals ⁽⁴⁾, as last amended by Regulation (EEC) No 2221/88 ⁽⁵⁾, and in particular Article 16 (6) thereof, and to the corresponding provisions of the other Regulations on the common organization of the markets in agricultural products,

Whereas monetary compensatory amounts, accession compensatory amounts and export refunds may not be granted on products which are not of sound and fair merchantable quality or which, because of their characteristics and condition, cannot be used for food purposes;

Whereas Council Regulation (Euratom) No 3954/87 of 22 December 1987 laying down maximum permitted levels of radioactive contamination of foodstuffs and of feedingstuffs following a nuclear accident or any other case of radiological emergency ⁽⁶⁾ specifies the procedure to be followed in a radiological emergency for determining maximum permitted levels of radioactive contamination in foodstuffs and feedingstuffs above which they cannot be marketed; whereas, consequently, the benefits of

Community legislation cannot be granted where such products are concerned;

Whereas Article 3 of Council Regulation (EEC) No 1707/86 of 30 May 1986 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power-station ⁽⁷⁾, as last amended by Regulation (EEC) No 624/87 ⁽⁸⁾, sets maximum permitted levels of radioactivity; whereas, following the expiry of Regulation (EEC) No 1707/86, it was replaced by Council Regulation (EEC) No 3955/87 ⁽⁹⁾, Article 3 of which imposes the same maximum levels; whereas agricultural products showing levels higher than these maxima cannot be considered of sound and fair merchantable quality;

Whereas it was found following the abovementioned accident that some of the Community's agricultural production was contaminated with varying levels of radioactivity; whereas it should be stipulated that monetary compensatory amounts, accession compensatory amounts and export refunds may not be granted on agricultural products showing levels of radioactivity in excess of the maxima indicated in Article 3 of Regulation (EEC) No 3955/87, irrespective of the origin of the product;

Whereas Commission Regulations (EEC) No 3154/85 ⁽¹⁰⁾, as last amended by Regulation (EEC) No 361/88 ⁽¹¹⁾, (EEC) No 548/86 ⁽¹²⁾, as last amended by Regulation (EEC) No 2082/87 ⁽¹³⁾, and (EEC) No 3665/87 ⁽¹⁴⁾ should therefore be amended;

Whereas the degree of radioactive contamination of foodstuffs following a radiological emergency situation varies with the characteristics of the accident and the type of products; whereas the decision as to the need to carry out monitoring and on the controls themselves must accordingly be adapted to each situation and must take account, for example, of the characteristics of the regions, the products and the radionuclides concerned;

⁽¹⁾ OJ No L 164, 24. 6. 1985, p. 6.

⁽²⁾ OJ No L 182, 3. 7. 1987, p. 1.

⁽³⁾ OJ No L 53, 1. 3. 1986, p. 25.

⁽⁴⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽⁵⁾ OJ No L 197, 26. 7. 1988, p. 16.

⁽⁶⁾ OJ No L 371, 30. 12. 1987, p. 11.

⁽⁷⁾ OJ No L 146, 31. 5. 1986, p. 88.

⁽⁸⁾ OJ No L 58, 28. 2. 1987, p. 10.

⁽⁹⁾ OJ No L 371, 30. 12. 1987, p. 14.

⁽¹⁰⁾ OJ No L 310, 21. 11. 1985, p. 9.

⁽¹¹⁾ OJ No L 35, 9. 2. 1988, p. 15.

⁽¹²⁾ OJ No L 55, 27. 2. 1986, p. 52.

⁽¹³⁾ OJ No L 195, 16. 7. 1987, p. 11.

⁽¹⁴⁾ OJ No L 351, 14. 12. 1987, p. 1.

Whereas the management committees concerned have not delivered an opinion within the time limit set by their chairmen,

HAS ADOPTED THIS REGULATION:

Article 1

The following paragraph is hereby added to Article 3 of Regulation (EEC) No 3154/85:

'No compensatory amount shall be granted if the products display radioactivity in excess of the maximum levels permitted under Community regulations. The levels applicable to products of Community origin contaminated as a result of the accident at the Chernobyl nuclear power-station shall, irrespective of their origins, be those fixed in Article 3 of Council Regulation (EEC) No 3955/87 (*). The level of radioactive contamination of the product shall be monitored if the situation so requires and during the period necessary only. Where necessary, the duration and scope of the controls shall be determined in accordance with the procedure laid down in Article 26 of Regulation (EEC) No 2727/75, or, as the case may be, in the corresponding provisions of the other Regulations on the common organization of the markets in agricultural products.

(*) OJ No L 371, 30. 12. 1987, p. 14.'

Article 2

The following subparagraph is hereby added to Article 5 (3) of Regulation (EEC) No 548/86:

'No accession compensatory amount shall be granted if the products display radioactivity in excess of the maximum levels permitted under Community regulations. The levels applicable to products of Community origin contaminated as a result of the accident at the Chernobyl nuclear power-station shall,

irrespective of their origins, be those fixed in Article 3 of Council Regulation (EEC) No 3955/87 (*). The level of radioactive contamination of the product shall be monitored if the situation so requires and during the period necessary only. Where necessary, the duration and scope of the controls shall be determined in accordance with the procedure laid down in Article 26 of Regulation (EEC) No 2727/75, or, as the case may be, in the corresponding provisions of the other Regulations on the common organization of the markets in agricultural products.

(*) OJ No L 371, 30. 12. 1987, p. 14.'

Article 3

The following paragraph is hereby added to Article 13 of Regulation (EEC) No 3665/87:

'No refunds shall be granted if the products display radioactivity in excess of the maximum levels permitted under Community regulations. The levels applicable to products of Community origin contaminated as a result of the accident at the Chernobyl nuclear power-station shall, irrespective of their origins, be those fixed in Article 3 of Council Regulation (EEC) No 3955/87 (*). The level of radioactive contamination of the product shall be monitored if the situation so requires and during the period necessary only. Where necessary, the duration and scope of the controls shall be determined in accordance with the procedure laid down in Article 26 of Regulation (EEC) No 2727/75, or, as the case may be, in the corresponding provisions of the other Regulations on the common organization of the markets in agricultural products.

(*) OJ No L 371, 30. 12. 1987, p. 14.'

Article 4

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, 9 November 1988.

For the Commission

Frans ANDRIESEN

Vice-President