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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 3116/94**of 12 December 1994****amending Regulation (EEC) No 1765/92 establishing a support system for producers of certain arable crops**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 42 and 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas Council Regulation (EEC) No 1765/92 of 30 June 1992 establishing a support system for producers of certain arable crops ⁽³⁾ provides for the payment to producers of durum wheat in traditional production zones of a supplement to the compensatory payment provided for in Title I of that Regulation in order to offset the additional loss of income to the producers in question as compared with producers of other cereals as a result of the setting of a single price for all cereals; whereas payment of the supplement is made only for areas sown to durum wheat in the traditional production zones;

Whereas, as a result of the alignment of the price for durum wheat on that for other cereals and the restriction to the zones in Annexes II and III to Regulation (EEC) No 1765/92 only of the supplement to the compensatory payment for areas sown to durum wheat, cultivation of this cereal outside those zones, especially in France, shows a disproportionate fall having regard to the objectives sought;

Whereas a certain level of production should thus be safeguarded in regions where production was well established outside the traditional production zones before the introduction of the reform;

Whereas aid should accordingly be introduced for areas sown to durum wheat outside the zones listed in Annexes II and III to Regulation (EEC) No 1765/92, the aid being

limited to an amount reflecting the loss of income due to the alignment of the price for durum wheat on that for other cereals;

Whereas, however, in order to avoid too high a rise in the areas sown to durum wheat, the areas eligible for additional support as compared with other cereals should be limited;

Whereas, moreover, in Spain, the national quota for the production of durum wheat should be adjusted in order to reflect better the true situation of producers during the reference period; whereas, for the sake of fairness, the Italian region of Umbria should also be regarded as a traditional durum-wheat production zone as regards a limited number of hectares which reflect the area traditionally sown to durum wheat;

Whereas in Portugal, during the reference period adopted for granting access to the supplementary compensatory payment for the production of durum wheat, producers of durum wheat and of other cereals were, under Council Regulation (EEC) No 3653/90 of 11 December 1990 introducing transitional measures governing the common organization of the market in cereals and rice in Portugal ⁽⁴⁾ granted degressive specific national aid altering the hierarchy of prices in that Member State; whereas, consequently, the durum wheat production potential has not been fully utilized; whereas it seems justified, therefore, to increase the durum wheat production quota allocated to Portugal; whereas, moreover, the specific situation obtaining in Portugal ought to be taken into account in allocating further access to the supplementary compensatory payment;

Whereas, in order to avoid the National Reference Areas, referred to in Article 5 (1) (f) and Annex V of Regulation (EEC) No 1765/92, being substantially exceeded, it is necessary to enable Member States to limit the areas for

⁽¹⁾ OJ No C 297, 25. 10. 1994, p. 20.

⁽²⁾ Opinion delivered on 30 November 1994 (not yet published in the Official Journal).

⁽³⁾ OJ No L 181, 1. 7. 1992, p. 12. Regulation as last amended by Regulation (EC) No 232/94 (OJ No L 30, 3. 2. 1994, p. 7).

⁽⁴⁾ OJ No L 362, 27. 12. 1990, p. 28. Regulation as last amended by Regulation (EEC) No 738/93 (OJ No L 77, 31. 3. 1993, p. 1).

which a producer may receive crop specific oilseed compensatory payments; whereas it should be possible for such limit to be differentiated between regions on the basis of objective criteria; whereas the sanctions referred to in Article 5 (1) (f) of Regulation (EEC) no 1765/92 shall nevertheless be applicable;

Whereas, in view of the particular structural situation of the new German *Länder*, oilseed production in Germany is threatening to develop in different ways in the various *Länder*; whereas, for the sake of fairness, provision should be made in Germany for penalties to vary according to the *Länder* in the event of any simultaneous overrun in the maximum guaranteed area and the national reference area; whereas the necessary measures should also be taken to prevent the application of this scheme from affecting the amount or the date of payment of the advance payment on oilseeds in other parts of the Community,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1765/92 is hereby amended as follows:

1. in the first indent of the second subparagraph of Article 4 (3), '550 000 hectares' shall be replaced by '570 000 hectares';
2. in the second indent of the second subparagraph of Article 4 (3), '30 000 hectares' shall be replaced by '35 000 hectares' and the following text added: 'Where access to the supplementary compensatory payment is not granted in accordance with the above criteria, it shall, in derogation from those criteria, be granted to Portuguese producers of arable crops in accordance with objective, duly justified criteria established by the national authorities.';
3. in Article 4 (4) the words 'In France' and 'departments' shall be replaced by 'In France and Italy' and 'departments and regions' respectively;
4. the following paragraph shall be added to Article 4:

'5. In France, in the departments where production of durum wheat is well established, other than those listed in Annexes II and III, aid of ECU 115/ha shall be paid in respect of not more than 50 000 ha.';
5. in Article 5 (1) (f), the following shall be inserted before the last sentence:

'However, in the case of Germany the appropriate additional reduction may be adjusted at its request, in whole or in part, according to the regional base area; where this option is exercised, Germany shall immediately send the Commission the data used to calculate the reductions to be applied.';
6. in Article 11 (2), the following shall be inserted after the first sentence:

'Where the provisions specifically applying to Germany laid down in the penultimate sentence of Article 5 (1) (f) are likely to affect the date of payment of the advance payment provided for in Article 11 (2) or the amount thereof, a date for payment and/or advance payment specific to Germany may be fixed.';
7. the following paragraph shall be added at the end of Article 11:

'7. Notwithstanding the provisions of this Article, Member States in which there is a significant risk of the National Reference Area set out in Annex V being substantially exceeded in the following marketing year may limit the area for which an individual producer may receive the oilseed compensatory payments referred to in Article 5. Such limit shall be calculated as a percentage of the arable land area, of either the Member State or the Regional Base Area, that is eligible for the compensatory payments provided for in this Regulation and shall be applied to the eligible arable area of the producer. This limit may be differentiated between Regional Base Areas on the basis of objective criteria. Member States shall announce such limit, at the latest, by 1 August of the marketing year prior to that in respect of which the compensatory payment is requested, or by an earlier date in the case of a Member State, or regions within a Member State, where plantings for the marketing year concerned take place prior to 1 August.';
8. in the fifth indent of Article 12 the words 'those determining the eligibility requirements for the durum wheat supplement' shall be replaced by the following:

— those determining, for durum wheat, the eligibility requirements for the supplement to the compensatory payment provided for in Article 4 (3) and (4) and those for the aid provided for in Article 4 (5), and in particular the departments to be taken into consideration and the measures to be taken in the event of an overrun in the limit fixed for the payment of the aid';

9. the following indent shall be added at the end of the first paragraph of Article 12:

— those relating to the application of Article 11 (7), in particular with respect to transitional measures which, where appropriate, may derogate from that paragraph in cases where limits were applied, under national provisions to individual producers with regard to sowings for the 1995/96 marketing year, before the date of sowing in the regions concerned.’;

10. the following shall be added to Annex III:

‘ITALY

— Umbria : 5 000 hectares’.

Article 2

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

It shall apply from the 1995/96 marketing year.

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

Done at Brussels, 12 December 1994.

For the Council

The President

J. BORCHERT
