

COUNCIL REGULATION (EC) No 711/95

of 27 March 1995

amending Regulation (EEC) No 2075/92 on the common organization of the market in raw tobacco

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 Regulation (EEC) No 2075/92 ⁽³⁾, lays down measures to orientate and limit production of raw tobacco; whereas, in view of experience gained, amendments should be made thereto with a view to better production orientation;

Whereas the whole premium must ultimately be paid to the growers; whereas those Member States which so choose should be permitted to pay the premiums directly to the growers;

Whereas the quantities produced and qualifying for the premium must be determined in respect of each producer; whereas the Member States should divide up the quotas among the growers concerned, subject to the guarantee thresholds fixed, the aim of the Community rules laid down for the purpose being to ensure fair allocation on the basis of quantities delivered in the past, unusually high or low production figures being disregarded;

Whereas tobacco produced by growers in excess of their quotas cannot give rise to entitlement to the premium; whereas, however, account should be taken of the possibility of unintentional overproduction; whereas the parties concerned should be permitted to carry over those surpluses, within certain limits, to the following harvest, provided the combined quotas for the two harvests are not exceeded;

Whereas the Member States able to do so should be permitted to pay premiums directly to growers as from the 1994 harvest,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2075/92 is hereby amended as follows:

1. Article 6 shall be replaced by the following:

Article 6

1. Cultivation contracts shall include:

- an undertaking by the first processor to pay the grower the purchase price and, where the competent body of the Member State does not pay the premium to the grower directly, a sum equal to the premium for the quantity under contract and actually delivered,
- an undertaking by the grower to deliver raw tobacco meeting the quality requirements laid down in the contract to the premises of the first processor.

2. The competent body of the Member State shall pay the premium to the grower against submission of proof of delivery of the tobacco or shall reimburse the premium to the first processor where the latter has paid the producer a sum equal to the premium, against submission of proof of delivery of the tobacco by the grower and payment of the sum referred to in paragraph 1.

2. In Article 7, the fourth indent shall be replaced by the following:

- ‘— the possible obligation on first processors or growers to provide a security and the conditions governing the lodging and release of the security in the event of an application for an advance.’

3. Article 9 shall be replaced by the following:

Article 9

1. To ensure observance of the guarantee thresholds, a system of production quotas shall apply for the 1995, 1996 and 1997 harvests.

2. Pursuant to the procedure laid down in Article 43 (2) of the Treaty, the Council shall allocate the quantities available in each group of varieties for each harvest among the producer Member States.

3. On the basis of the quantities allocated pursuant to paragraph 2 and without prejudice to the application of paragraph 4, the Member States shall divide up production quotas among the growers in proportion to the average quantities delivered for processing in the three years preceding the year of the last harvest, broken down by group of varieties. However, production in 1992 and deliveries from that harvest shall not be taken into account; they shall be replaced by those of the fourth year preceding the year of the last harvest. The procedure for allocating production quotas for subsequent harvests shall not be affected by this distribution.

⁽¹⁾ OJ No C 46, 23. 2. 1995, p. 6.

⁽²⁾ Opinion delivered on 17 March 1995 (not yet published in the Official Journal).

⁽³⁾ OJ No L 215, 30. 7. 1992, p. 70.

4. When quotas are divided up as provided for in paragraph 3, no account shall be taken, in particular, when calculating the reference production, of quantities of raw tobacco produced in excess of the maximum guaranteed quantities applicable pursuant to Regulation (EEC) No 727/70.

Where appropriate, only production within the quotas allocated during the years taken into consideration shall be taken into account.

4. Article 10 shall be replaced by the following:

Article 10

1. No premium may be granted in respect of quantities produced in excess of the quota allocated to the grower.

2. Notwithstanding paragraph 1, growers may deliver surplus production corresponding to up to 10 % of their quotas for each group of varieties, that surplus being eligible for the premium granted in

respect of the following harvest on condition that, during the latter harvest, the party concerned reduces his production by a corresponding amount so that the combined quotas for the two harvests in question are not exceeded.

5. Article 11 shall be replaced by the following:

Article 11

Detailed rules for the application of this Title shall be adopted in accordance with the procedure laid down in Article 23. They shall include in particular the adjustments to the method for dividing up the quotas provided for Article 9 (4).

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 harvest, except for Article 1 (1) and 4, which apply from the 1994 harvest.

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

Done at Brussels, 27 March 1995.

For the Council

The President

J. PUECH
