

COMMISSION REGULATION (EC) No 1870/95
of 26 July 1995

amending Regulation (EEC) No 334/93 laying down detailed implementing rules for the use of land set aside for the provision of materials for the manufacture within the Community of products not primarily intended for human or animal consumption and repealing Regulation (EEC) No 2595/93 laying down detailed rules for implementing Council Regulation (EEC) No 1765/92 as regards the use of land set aside for the production of multiannual raw materials for the manufacture within the Community of products not intended for human or animal consumption

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1765/92 of 30 June 1992 establishing a support system for producers of certain arable crops⁽¹⁾, a last amended by Commission Regulation (EC) No 1664/95⁽²⁾, in particular Article 12 thereof,

Having regard to Council Decision 93/355/EEC of 8 June 1993 concerning the conclusion of a Memorandum of Understanding on certain oil seeds between the European Economic Community and the United States of America within the framework of the GATT⁽³⁾, in particular point 7 of the Memorandum of Understanding on oil seeds,

Whereas experience has shown that Commission Regulation (EEC) No 334/93⁽⁴⁾, as amended by Regulation (EC) No 608/94⁽⁵⁾, may be simplified, in order to avoid administrative difficulties whilst not diminishing effective control of the scheme;

Whereas it is appropriate in providing implementing measures to distinguish in the same Regulation between raw materials which have the potential to be used for human or animal consumption and those which do not have that potential; whereas it is therefore necessary to repeal Commission Regulation (EEC) No 2595/93⁽⁶⁾;

Whereas it is desirable to allow Jerusalem artichokes and chicory roots without compensation on set-aside land provided that this does not have a detrimental effect on the sugar market; whereas it is nevertheless necessary to ensure that such cultivation is in conformity with the rules relating to the use of set-aside land for the growing of non-food crops; whereas a security should be lodged

notwithstanding the fact that no compensation is payable;

Whereas, for reasons of clarity, it is appropriate to specify that equivalent quantities of intermediate or by-products to those resulting from the harvested raw material may be used in the scheme; whereas, when equivalents to the harvested raw material, or intermediate or by-products resulting from the harvested raw material are used in the scheme originating in a Member State other than that where the raw material is harvested, it is necessary for the Member States to inform each other of the transaction so that appropriate controls may be made;

Whereas contracts are required prior to the first sowing; whereas at the time when raw materials were sown, in Austria, Finland and Sweden, those countries were not yet Member States and were, therefore, not subject to such requirement; whereas for the 1995, producers in those Member States should be allowed to make contracts after sowing;

Whereas, in order to comply with the Memorandum of Understanding on certain oil seeds between the European Economic Community and the United States of America within the framework of the GATT, it is necessary to introduce a monitoring system to assess the quantities of by-products destined for human or animal consumption, in terms of soya bean meal equivalents, resulting from rapeseeds, colza seeds, sunflower seeds and soya beans grown on set-aside land for purposes other than human or animal consumption;

Whereas it is appropriate to clarify under which conditions contracts may be amended without the claimant's right to compensation being lost;

Whereas it would be administratively more effective for the non-farming signatory of the contracts to deposit a copy of the contract by specific dates in respect of raw materials which are sown during different period of the year;

Whereas Member States should determine a date by which the non-farming signatory of the contract must confirm delivery of the raw material, to ensure that compensation is paid to the farmer by the specified date;

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 12.
⁽²⁾ OJ No L 158, 8. 7. 1995, p. 13.
⁽³⁾ OJ No L 147, 18. 6. 1993, p. 25.
⁽⁴⁾ OJ No L 38, 16. 2. 1993, p. 12.
⁽⁵⁾ OJ No L 77, 19. 3. 1994, p. 7.
⁽⁶⁾ OJ No L 238, 23. 9. 1993, p. 21.

Whereas experiences has shown that certain time limits associated with various events should be extended, in order to enable the provisions of the scheme to be met ; whereas, where it can be proved that it was necessary to go beyond the original time limits in order to comply with the other provisions of the scheme, no security should be forfeited ;

Whereas it would be administratively more effective for securities to be lodged with the competent authority by one specific date, and for the global security covering contracts relating to identical raw materials to be released on a pro rata basis according to the quantities of raw materials processed in accordance with the provisions of the scheme, and would not diminish control of the system ;

Whereas the maximum permitted processing period should be reduced in order to minimize speculation ;

Whereas it is necessary for end products eligible for the scheme and not exported to third countries to be accompanied by a T5 customs control document as at such stage all the provisions of the Regulation will have been met ;

Whereas it is desirable to allow the cultivation of certain additional products on set-aside land for processing into products primarily other than for human or animal consumption ;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Joint Management Committee for Cereals, Oils and Fats and Dried Fodder, and Sugar,

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EEC) No 334/93 is amended as follows :

1. Article 1 is replaced by the following text :

'Title I

Article 1

1. The provisions of Articles 1 to 15 inclusive apply to those raw materials set out in Annex I.

2. The following definitions shall apply :

— "The claimant" means the person who applies for the compensatory payment referred to in Article 2 (5) of Regulation (EEC) No 1765/92, hereafter called "compensation",

— "the first processor" means the user of the raw materials who undertakes their first processing with a view of obtaining one or more of the products mentioned in Annex III,

— "the collector" means each signatory of the contract provided for in Article 6 of this Regulation who buys on his own account the raw material mentioned in Annex I intended for the end uses mentioned in Annex III'.

2. Article 2a is replaced by :

'Article 2a

No compensation, within the meaning of Article 2 (5) of Regulation (EEC) No 1765/92, shall be payable in respect of land on which sugar beet, Jerusalem artichokes or chicory roots are grown. All the provisions of this Regulation shall, however, apply where sugar beet, Jerusalem artichokes or chicory roots are grown on set-aside land in the same way that they would apply if compensation were payable.'

3. At the end of Article 3 (3) the following shall be added :

'Where a collector or first processor uses the actual raw material harvested in the manufacture of an intermediate or by-product, he may use an equivalent quantity of such intermediate or by-product in the manufacture of one or more end products referred to in the first sub-paragraph.

Where the collector or the first processor makes use of the possibility in the first or second subparagraph, he shall inform the competent authority with which the security has been lodged. Where the equivalent quantity is used in a Member State other than that in which the raw material is harvested, the competent authority of the Member States involved shall inform each other of the transaction.'

4. In Article 6 :

(a) in paragraph (1) after the second sentence, the following sentence is inserted :

'However, in the case of contracts signed by claimants in Austria, Finland and Sweden, in respect of raw materials sown for harvest in 1995, such contracts may be signed after sowing.'

(b) paragraph (2) is replaced by :

'2. Where the contract relates to rapeseed, colza seeds, sunflower seeds or soya beans falling under CN codes ex 1205 00 90, 1206 00 90 or 1201 00 90, in addition to the information required under paragraph 1, such contract shall specify the forecast quantity of by-products to be produced, destined for purposes other than human or animal consumption.'

5. Article 7 (2) is replaced by the following :

'2. (a) If the parties to the contract amend or rescind it after the claimant has made an area aid application, the claimant shall remain entitled to claim compensation only if :

- the competent authority of the claimant is notified of the amendment or rescission, in order to enable all necessary controls to be carried out,
- such notification is made by the final date allowed for the amendment of the area aid application in the Member State concerned at the latest,
- the amendment does not relate to an increase in the land covered by the original contract.

(b) Notwithstanding paragraph (a), if the claimant is unable to provide the raw material specified in his contract, the contract may be amended or rescinded. In that event the competent authorities of both parties shall receive prior notice, in order to allow all necessary controls to be carried out. To maintain his right to compensation, the claimant shall by any means authorized by the competent authority, return any land in question to fallow, whilst losing the right to sell, give away or use the raw material which has been taken out of the contract.'

6. In Article 8 :

(a) paragraph (1) is replaced by the following :

'1. The collector or, as the case may be, the first processor shall deposit a copy of the contract with his competent authority :

- in respect of raw materials to be sown between 1 July and 31 December inclusive, by 31 December of the year concerned or,
- in respect of raw materials to be sown between 1 January and 30 June inclusive, by 15 April of the year concerned.

If the claimant and the collector or the first processor, as the case may be, amend or rescind the contract prior to the date referred to in Article 7 (2) (a) second indent in any year, the collector or the first processor, as the case may be, shall deposit a copy of that amended or rescinded contract with his competent authority by that date of the year in question.'

(b) paragraph 4 (a) shall be replaced by the following :

'The collector or the first processor shall, whether or not the latter is a contracting party, inform their competent authority of the quantity of raw

material received, specifying the species and variety as well as the name and address of the contracting party who has delivered the raw material and the place of delivery by a date to be fixed by Member States so as to ensure that the compensation can be paid within the period specified in Article 10 of Council Regulation (EEC) No 1765/92'.

(c) in paragraph 4 (b), (c) and (e) '20 working days' each time it appears is replaced by '40 working days'.

(d) the following paragraphs are added after paragraph (4) :

'(5) Without prejudice to the preceding paragraphs, the competent authority referred to in paragraph 1 shall inform the Commission as soon as possible, and not later than 31 May of the year in which the raw material is to be harvested, of the forecast total quantity of by-products destined for human or animal consumption, resulting from the contracts referred to in Article 6, when such contracts relate to rapeseed, colza seeds, sunflower seeds or soya beans falling under CN codes ex 1205 00 90, 1206 00 90 or 1201 00 90.

The competent authority shall calculate this forecast quantity as follows :

(a) the forecast quantity of all by-products to be produced from rapeseed, colza seeds, sunflower seeds or soya beans falling under CN codes ex 1205 00 90, 1206 00 90 or 1201 00 90 shall be calculated by applying the following coefficients :

- 100 kg of rapeseed or/and colza seed under CN code 1205 00 90 shall be deemed to be equivalent to 56 kg of by-products,
- 100 kg of sunflower seed under CN code 1206 00 90 shall be deemed to be equivalent to 56 kg of by-products,
- 100 kg of soya beans under CN code 1201 00 90 shall be deemed to be equivalent to 78 kg of by-products ;

(b) the forecast quantity of by-products to be produced referred to in Article 6 (2) shall be deducted from the forecast quantity of all by-products calculated in accordance with sub-paragraph (a) ;

(6) The Commission shall, from the information provided under paragraph 5, calculate the forecast total quantity of by-products destined for human and animal consumption, expressed in terms of soya bean meal equivalents.'

7. In Article 9 :

(a) paragraph (1) is replaced by the following :

'1. The collector or, as the case may be, the first processor shall lodge the entirety of the security referred to in paragraph 2 below with the competent authority mentioned in Article 8 (1) by 15 April of the year in which the area aid application is made.'

(b) paragraph (2) is replaced by the following :

'2. The security shall be equal to 120 % of the value of the compensation for each parcel of land covered by the contract, so as to guarantee its proper performance. However, where sugar beet, Jerusalem artichokes or chicory roots are grown on set-aside land, the security shall be equal to 120 % of the value of the compensation that would be payable if each parcel of land covered by the contract and cultivated with sugar beet, Jerusalem artichokes or chicory roots had been cultivated with any other raw materials listed in Annex I. The security shall be released pro rata, according to the quantities processed into the end-product considered to be the primary non-food use, on condition that the competent authority of the collector or the first processor has evidence that the quantity of raw materials under contract has been processed in conformity with the conditions set out in point (g) of Article 6 (1). However, when the collector or the first processor, as the case may be, has several contracts relating to identical raw materials, the global security covering these contracts may be released on a pro rata basis according to the quantities of raw materials under these contracts processed in accordance with the obligation foreseen in point (g) of Article 6 (1). Where the contract has been amended or rescinded prior to the claimant making an area aid application or on the conditions set out in Article 7 (2), the security lodged shall be reduced in accordance with the reduction in area.'

8. In Article 10 :

(a) paragraph (2) is replaced by :

'2. The processing of quantities of raw materials primarily into one of the end-products specified in the contract constitutes the primary requirement within the meaning of Article 20 of Commission Regulation (EEC) No 2220/85 (*). Processing into one or more of the end products mentioned in Annex III shall take place by 31 July of the second year following the year of delivery of the raw material to the collector or the first processor as the case may be.

Notwithstanding the provisions of Regulation (EEC) No 2220/85, where the collector or first

processor proves that, in order to comply with all the other provisions of this Regulation, he was unable to respect any of the 20 working day time limits applicable under Articles 8 and 9, prior to the amendment of this Regulation by Commission Regulation (EC) No 1870/95 (**) the security shall be released.

(*) OJ No L 205, 3. 8. 1995, p. 5.

(**) OJ No L 179, 29. 7. 1995, p. 40.'

(b) in paragraph (3) :

in the first subparagraph, 'end products' is deleted, and the following endorsements are added :

— Käytetään jalostamiseen tai toimittamiseen komission asetuksen (ETY) N:o 334/93 mukaisesti.

— Används till bearbetning eller leverans i enlighet med kommissionens förordning (EEG) nr 334/93.'

(c) in paragraph (6), first subparagraph, the following remark is added :

— Tähän tuotteeseen ei sovelleta neuvoston asetuksen (ETY) N:o 729/70 1 artiklan 2 kohdan mukaisia toimenpiteitä.

— De åtgärder som avses i artikel 1.2. i rådets förordning (EEG) nr 729/70 kan inte användas för denna produkt.'

9. After Article 15, the following Title is inserted :

'Title II'

10. Articles 16 and 17 are replaced by the following :

'Article 16

The provisions of Articles 17 to 24 inclusive apply to those raw materials set out in Annex II.

Article 17

"The claimant" means the person who applies for the compensatory payment referred to in Article 2 (5) of Regulation (EEC) No 1765/92, hereafter called "compensation".

Article 18

1. Crops on land subject to set-aside may only be raw materials which can be used for purposes other than human and/or animal consumption.

2. The land intended for the cultivation of the raw materials referred to in Annex II shall be subject to the provisions of Commission Regulation (EC) No 762/94 (*).

Article 19

In order to be eligible for compensation, the claimant wishing to use set-aside land for the cultivation of the raw materials referred to in Annex II shall provide a written undertaking to the competent authority in his Member State when submitting his area aid application that in the event of the utilization or sale of the raw materials concerned they will be put to the uses set out in Annex III.

Article 20

Member States may exclude from this scheme only those raw materials listed in Annex II which give rise to difficulties for reasons related to agricultural practice, the carrying out of checks, public health, environmental impact or criminal law. In that event, Member States shall notify the Commission of the raw material(s) they intend to exclude. If the Commission does not respond within 20 working days of receipt of the notification, Member States may proceed with the intended exclusions.

Article 21

Raw materials cultivated on set-aside land and for which compensation is paid, and the products derived from such raw materials may not benefit from the measures financed by the European Agricultural Guidance and Guarantee Fund, Guarantee Section, or from the Community aid provided for in Council Regulation (EEC) No 2078/92 (**) and (EEC) No 2080/92 (***).

Article 22

Claimants shall inform the competent authority each year in their area aid applications of the plots subject

to set-aside, the crops corresponding to such plots, the length of the crop cycle and the envisaged harvest frequency.

Article 23

Member States may adopt any additional measures needed for the application of this Regulation and shall notify the Commission thereof.

Article 24

Member States shall forward to the Commission within six months at the latest of the end of each marketing year all the information needed for an assessment of this measure, in particular the amount of land subject to set-aside for each species cultivated on it.

(*) OJ No L 90, 7. 4. 1994, p. 8.

(**) OJ No L 215, 30. 7. 1992, p. 85.

(***) OJ No L 215, 30. 7. 1992, p. 96.

11. Annexes I and II are replaced by Annexes I, II and III contained in the Annex to this Regulation.

Article 2

Regulation (EEC) No 2595/93 is hereby repealed.

Article 3

This Regulation shall enter into force on the seventh day following 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 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

ANNEX I

Raw materials which may be grown on set-aside land when destined for use in the manufacture of the permissible end products set out in Annex III

CN code	Brief description
0602 99 59	Other outdoor plants (eg. <i>Kenaf Hibiscus Cannabinus</i> L. and <i>Chenopodium</i>)
0701 90 10	Potatoes
ex 0713 10 90	Peas (<i>Pisum Satvium</i> L.) other than those for sowing
0713 50 90	Broad beans other than those for sowing
ex 0714 90	Jerusalem artichokes (provided that it does not undergo the process known as hydrolysis as defined by the Commission Regulation (EEC) No 1443/82 (1), either in its natural state or as an intermediate product such as inuline, or as a by-product such as oligo fructose, or as any co-products)
0810 30 10	Blackcurrants
ex 0810 90 85	Fruits of the species <i>Aronia arbutifolia</i> , sea buckthorn and elder
0904 20	Fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i> , dried or crushed or ground
0909	Seeds of anise, badian, fennel, coriander, cumin or caraway
0910 50 00	Curry
0910 99 10	Fenugreek seed
ex 0910 99 91	Spices, other than mixtures
ex 0910 99 99	Spices other than mixtures
1001 90 99	Spelt, common wheat and meslin other than for sowing
ex 1002 00 00	Rye other than seed
1003 00 90	Barley other than seed
1004 00 90	Oats other than seed
1005 90 00	Maize (corn) other than seed
1007 00 90	Grain sorghum, other than hybrids for sowing
ex 1008 10 00	Buckwheat other than seed
ex 1008 20 00	Millet, other than seed
ex 1008 90 10	Triticale, other than seed
ex 1008 90 90	Other cereals other than seed
1201 00 90	Soya beans other than for sowing
1202 20 00	Shelled ground nuts
ex 1204 00 90	Linseed other than for sowing but destined for uses other than textiles
ex 1205 00 90	Rape or colza seeds other than for sowing (only those types referred to in Article 3 (1) (a), (b) and (c) of Commission Regulation (EEC) No 2294/92 (2))
1206 00 90	Sunflower seeds other than for sowing
1207 30 90	Castor oil seeds other than for sowing
1207 40 90	Sesamum seeds other than for sowing
1207 50 90	Mustard seeds other than for sowing
1207 60 90	Safflower seeds other than for sowing

CN code	Brief description
ex 1207 99 91	Hemp seeds other than for sowing and mentioned in Annex B of Commission Regulation (EEC) No 1164/89 ⁽¹⁾ , destined for uses other than textiles
1207 99 99	Other oil seeds and oleaginous fruits other than for sowing
ex 1209 29	Bitter lupin
ex 1211	Plants and parts of plants (including seeds and fruits), of a kind used primarily in perfumery, in pharmacy or for insecticidal, fungicidal or similar purposes, other than lavender, lavandin and sage
1212 91	Sugar beet (provided that sugar, as defined by Commission Regulation (EEC) No 1443/82 is not produced from it, either as an intermediate product, co-product or by-product)
1212 99 10	Chicory roots (provided that it does not undergo the process known as hydrolysis as defined by Commission Regulation (EEC) No 1443/82, either in its natural state or as an intermediate product such as inuline, or as a by-product such as oligo fructose, or as any co-product)
1214	Swedes, mangolds, fodder roots, hay, lucerne (alfalfa), clover, sainfoin, forage kale, lupins, vetches and similar forage products
Chapter 14	Vegetable plaiting, stuffing or padding materials, or those used in brooms or brushes; vegetable products not elsewhere specified or included (e.g. Broomcorn (<i>Sorghum vulgare</i> var. <i>technicum</i>))

⁽¹⁾ OJ No L 158, 9. 6. 1982, p. 17.

⁽²⁾ OJ No L 221, 6. 8. 1992, p. 22.

⁽³⁾ OJ No L 121, 29. 4. 1989, p. 4.

ANNEX II

Raw materials which may be cultivated on land subject to set-aside provided that they are intended for the manufacture of the products listed in Annex III or for the direct use of the claimant

CN code	Brief description of products
ex 0602 99 41	Short rotation forest trees with a harvest cycle of 10 years or less
ex 0602 99 49	Trees, shrubs and brushes producing plant material covered by CN code 1211 and by Chapter 14 of the combined nomenclature, excluding all those which can be used for human or animal consumption
ex 0602 99 51	Outdoor multiannual plants (e.g. <i>Miscanthus sinensis</i>) other than those which can be used for human or animal consumption, in particular those producing plant material covered by CN code 1211, other than lavender, lavandin and sage, and by Chapter 14 of the combined nomenclature

*ANNEX III***End products which are considered as permissible uses, other than for human or animal consumption, derived from the raw materials in Annex I and Annex II**

All products of the combined nomenclature :

(a) with the exception of :

- all of the products falling within Chapters 1 to 24 of the combined nomenclature with the exception of :
 - all products falling within CN Chapter 15 which are intended for uses other than for human or animal consumption,
 - CN code 2207 20 00, for direct use in motor fuel or for processing for use in motor fuel,
 - packaging material falling within CN codes ex 1904 10 and ex 1905 90 90 on condition that proof has been obtained that the products have been used for non-food purposes according to the provisions of Article 9 (2) of this Regulation,
 - mushroom spawn falling within CN code 0602 91 00,
 - lac, natural gums, resins, gum-resins and balsams falling within CN code 1301,
 - saps and extracts of opium falling within CN code 1302 11 00,
 - saps and extracts of pyrethrum or of the roots of plants containing rotenone falling within CN code 1302 14 00,
 - other mucilages and thickeners falling within CN code 1302 39 00 ;

(b) with the inclusion of :

- all agricultural products set out in Annex I and their derivatives obtained by an intermediate transforming process which are burned in power stations for energy,
- all products mentioned in Annex II and their processed derivatives intended for energy purposes,
- all products referred to in Commission Regulation (EEC) No 1722/93 ⁽¹⁾ on condition that they are not obtained from cereals or potatoes cultivated on set-aside land, and that they do not contain products derived from cereals or potatoes cultivated on set-aside land,
- all products referred to in Council Regulation (EEC) No 1010/86 ⁽²⁾ on condition that they are not obtained from sugarbeet cultivated on set-aside land and that they do not contain products derived from sugarbeet cultivated on set-aside land.

⁽¹⁾ OJ No L 159, 1. 7. 1993, p. 112.

⁽²⁾ OJ No L 94, 9. 4. 1986, p. 9.