COMMISSION REGULATION (EC) No 2237/2003

of 23 December 2003

laying down detailed rules for the application of certain support schemes provided for in Title IV of Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 [1], and in particular Article 145(c), (e), (f), (q) and Article 155 thereof,

Whereas:

(1) Title IV of Regulation (EC) No 1782/2003 establishes certain support schemes for farmers. For the sake of simplification it is appropriate to provide for one single regulation laying down the implementing rules of those schemes which enter into force in 2004.

(2) Starting from 2005 the integrated administration and control system provided for in Title II, Chapter 4 of Regulation (EC) No 1782/2003 (hereinafter referred as 'the IACS') shall apply to those support schemes. Some of those support schemes as well as some of the products receiving direct payments under some of those support schemes are already covered by the IACS. In order to facilitate the transition from the arrangements provided for by Council Regulation (EEC) No 3508/92 of 27 November 1992 establishing an integrated administration and control system for certain Community aid schemes [2] to the arrangements provided for by the IACS, it is appropriate to make applicable the existing rules under Regulation (EEC) No 3508/92 and its implementing rules provided for in Commission Regulation (EC) No 2419/2001 [3] to those support schemes.

(3) For the efficiency and good administration of the schemes, the area payments must be restricted to certain areas and conditions to be specified.

(4) The sowing of land for the sole purpose of qualifying for area payments should be prevented. Certain conditions relating to the sowing and cultivation of crops must be specified, in particular as regards durum wheat, protein plants and rice. Local standards must be respected in order to reflect the diversity of agricultural practice within the Community.

(5) Only one application for an area payment should be permitted in respect of any parcel cultivated in a given year except in the cases where the area payment is given as a supplement to the same crop or the aid concerns the production of seeds. Area payments can be granted on crops subsidised under a scheme falling within the Community's structural or environmental policies.

(6) Support schemes based on area aid provide that where the area for which aid is claimed exceeds the maximum guaranteed area or base areas or subbase areas, the area per farmer for which aid is claimed shall be reduced proportionately in that year. It is therefore appropriate to establish the modalities and deadlines for the exchange of information between the Commission and the Member States in order to establish the coefficient of reduction and to inform the Commission of the areas for which the aid has been paid. The same provisions shall apply for the reduction of the total amount of individual reference quantities in case of application of Article 95(4) of Regulation (EC) No 1782/2003.

(7) According to Article 73 of Regulation (EC) No 1782/2003, granting of the specific quality premium for durum wheat is subject to the use of certain quantities of certified seeds of varieties recognised, in the production zone, as being of high quality for the production of semolina or pasta. In order to ensure that those requirements are respected, the criteria for the variety screening method in each Member States should be fixed and the procedure for the establishment of the eligible varieties list as well as the minimum quantity of certified seeds to be used should be fixed.

(8) The short time between the adoption of Regulation (EC) No 1782/2003 and the entry into force of the specific quality premium for durum wheat makes it impossible to establish a list of eligible varieties for the granting of the aid in the years 2004 and 2005 according to the envisaged screening method. It is therefore necessary for Member States to establish a transitional list based on a selection of current varieties.

[1] OJ L 270, 21.10.2003, p. 1.
[2] OJ L 355, 5.12.1992, p. 1. Regulation as last amended by Commission Regulation (EC) No 495/2001 (OJ L 72, 14.3.2001, p. 6).
[3] OJ L 327, 12.12.2001, p. 11. Regulation as amended by Regulation (EC) No 2550/2001 (OJ L 341, 22.12.2001, p. 105).

(9) In view of the obligation, for the purpose of the eligibility to the specific quality premium for durum wheat, to use a certain quantity of certified seeds, an appropriate control procedure should be set up in order to verify that the eligible seeds and the required quantities are effectively used.

(10) In some regions, the protein crops are traditionally sown in a mixture with cereals for agronomical reasons. The resulting crop principally consists of protein crops. For the purpose of granting the protein crop premium, the areas thus sown should therefore be considered as areas of protein crops.

(11) In the interest of efficiency and good management of the aid scheme for nuts, the area aid granted should not be used to finance marginal plantations or isolated trees. A minimum plot size and a minimum tree density of a specialised orchard should therefore be defined. In order to facilitate the transition between the existing improvement plans which expire later than the introduction of the new aid scheme, it is appropriate to provide for transitional measures.

(12) The terms of payment as well as the crop-specific payment for rice calculation depend not only on the base area or areas fixed for each producing Member State fixed by Regulation (EC) No 1782/2003, but also on the possible subdivision of those base areas into subbase areas and on the objective criteria chosen by each Member State to perform this subdivision, on conditions in which the cultivated parcels are put into cultivation and on the minimum size of the latter. As a consequence, detailed rules should be set for the establishment, the management and the cultivation modalities applicable to base areas and subbase areas.

(13) The observation of a possible overrun of the base area referred to in Article 82 of Regulation (EC) No 1782/2003 implies a reduction of the crop-specific payment for rice. In order to set the calculation modalities for this reduction, criteria to be taken into consideration as well as applicable coefficients should be defined.

(14) The follow-up of the payments of the crop-specific payment for rice presumes that the Commission has been forwarded certain information related to the cultivation of base areas and subbase areas. For this purpose, the detailed information that the Member States should communicate to the Commission as well as the deadlines for those communications should be determined.

(15) The crop-specific payment for rice replaces the compensatory payments whose detailed rules where provided for in Commission Regulation (EC) No 613/97 of 8 April 1997 laying down rules for the application of Council Regulation (EC) No 3072/95 as regards the conditions for granting compensatory payments under the aid scheme for rice producers [1]. That Regulation becomes without object and should therefore be repealed.

(16) Articles 93 and 94 of Regulation (EC) No 1782/2003 provide for an aid to farmers producing potatoes intended for the manufacture of potato starch subject to a cultivation contract and within the quota limit established by Council Regulation (EC) No 1868/94 of 27 July 1994 establishing a quota system in relation to the production of potato starch [2]. The conditions for the granting of the aid should therefore be established and, where the case may be, cross references should be made to the existing provisions concerning the quota system provided for in Regulation (EC) No 1868/94. Taking into account that the potatoes are delivered progressively to starch undertaking and, until now, the aid has been paid on the quantities delivered, it is appropriate to maintain for the year 2004 the current payment system. In the interest of efficiency and good management of the aid scheme, provisions on checks should be provided for.

(17) Articles 95 and 96 Regulation (EC) No 1782/2003 provide that the dairy premium and additional payment are paid to producers. Council Regulation (EC) No 1788/2003 of 29 September 2003 establishing a levy in the milk and milk products sector [3] provides for specific provisions in case of inactivity. It is therefore appropriate to provide, when a natural or legal person holding an individual reference quantity no longer meets the conditions referred to in Article 5(c) of Council Regulation (EC) No 1788/2003 during the 12-month period preceding 31 March of the year concerned, for an exclusion from the benefiting of the premium and payment. In the interest of efficiency and good management of the aid scheme, provisions on checks should be provided for.

(18) Articles 88 to 92 of Regulation (EC) No 1782/2003 provide for a new aid scheme for energy crops to be granted to farmers. As this is a new aid scheme requiring complex management and control measures, the implementing rules should be limited to 2004 to permit a review, in the light of experience, in subsequent years.

(19) In line with Commission Regulation (EC) No 2461/1999 of 19 November 1999 laying down detailed rules for the application of Council Regulation (EC) No 1251/1999 as regards the use of land set aside for the production of raw materials for the manufacture within the Community of products not primarily intended for human or animal consumption [4], which excludes sugar beet from the aid, the cultivation of sugar beet should be excluded from the aid scheme for energy crops.

[1] OJ L 94, 9.4.1997, p. 1. Regulation as last amended by Regulation (EC) No 1127/98 (OJ L 157, 30.5.1998, p. 86).
[2] OJ L 197, 30.7.1994, p. 4. Regulation as last amended by Regulation (EC) No 1782/2003 (OJ L 270, 21.10.2003, p. 1).
[3] OJ L 270, 21.10.2003, p. 123.
[4] OJ L 299, 20.11.1999, p. 16. Regulation as last amended by Regulation (EC) No 345/2002 (OJ L 55, 26.2.2002, p. 10).

(20) The terms of eligibility for this aid must be laid down. To this end it should be laid down that a contract must be concluded between the producer and the first processor with respect to the agricultural raw materials concerned. The conditions where processing is carried out by the farmer on the holding should also be defined.

(21) To ensure that the raw material is processed into the specified energy product, first processors must lodge a security, despite the fact that the aid is granted not to first processors but to farmers. The security must be high enough to prevent any risk that the raw materials are ultimately diverted from their destination. In addition, in order to make the control system for the scheme effective, sales of raw materials and of semi-processed products should be limited to a maximum of two before final processing.

(22) An explicit distinction must be made between the applicant's obligations, which end once the total quantity of raw material harvested is delivered, and the obligations incumbent on first processors, which commence on delivery and end with the final processing of the raw materials into energy products.

(23) Certain transport operations within Community territory involving raw materials and products derived therefrom should be subject to controls entailing the use of T5 control copies to be issued in accordance with Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code [1]. Provision should be made for alternative evidence should the T5 control copy be lost as a result of circumstances for which the first processor is not responsible. In the interest of efficiency and good management of the aid scheme, provisions on checks should be provided for.

(24) The Management Committee for Direct Payments has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

CHAPTER 1

SCOPE AND GENERAL PROVISIONS

Article 1

Subject matter and scope

This Regulation lays down detailed rules for the implementation of the following support schemes provided for in Title IV of Regulation (EC) No 1782/2003:

(a) specific quality premium for durum wheat provided for in Title IV Chapter 1 of that Regulation;

(b) protein crop premium provided for in Title IV Chapter 2 of that Regulation;

(c) crop-specific payment for rice provided for in Title IV Chapter 3 of that Regulation;

(d) area payment for nuts provided for in Title IV Chapter 4 of that Regulation;

(e) for 2004, aid for energy crops provided for in Title IV Chapter 5 of that Regulation;

(f) aid for starch potato provided for in Title IV Chapter 6 of that Regulation;

(g) dairy premium and additional payments provided for in Title IV Chapter 7 of that Regulation.

Article 2

Application of the integrated administration and control system

Regulation (EEC) No 3508/92 and Regulation (EC) No 2419/2001 shall apply to the applications, for the calendar year 2004, for direct payments referred to in Article 1(a) to (e), save as otherwise provided.

For the calendar year 2004, Articles 11 to 15, 17, 20, 44 and 46 to 51 of Regulation (EC) No 2419/2001 shall apply to the applications for direct payments referred to in Article 1 (f) and (g).

For the calendar year 2004, Articles 2(r), 4, 22 and 23 of Regulation (EC) No 2419/2001 shall apply to the applications for direct payments referred to in Article 1(f).

Article 3

Date for applications

Farmers shall apply to the support schemes referred to in Article 1 by a date to be fixed by Member States, but not later than 15 May. In Finland and in Sweden, the date of 15 May may be postponed, but not later than 15 June.

However, the Commission, in accordance with the procedure referred to in Article 144(2) of Regulation (EC) No 1782/2003, may allow the dates referred to in the first subparagraph to be postponed in certain zones where exceptional climatic conditions render the normal dates inapplicable.

Article 8 of Regulation (EC) No 2419/2001 shall only apply with regard to area-related aid applications. For starch potato, in Finland and Sweden amendments to the aid application may be done up to 30 June.

Article 4

Conditions for the payment

1. The direct payment referred to in Article 1(a), (b), (c) and (e) shall be granted only for the areas, per each type of crop, which have been the subject of application in respect of at least 0,3 hectare, where each cultivated parcel exceeds the minimum size set by the Member State within the limit set up in Article 4 of Regulation (EC) No 2419/2001.

[1] OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1335/2003 (L 187, 26.7.2003, p. 16).

2. The direct payment referred to in Article 1(a), (b) and (c) shall be granted only for the areas entirely sown and on which all normal cultivation conditions have been performed in accordance with local standards.

However, in the case of the specific quality premium for durum wheat provided for in Title IV Chapter 1 of Regulation (EC) No 1782/2003, crops grown on areas which are fully sown and which are cultivated in accordance with local standards, but which do not attain the stage of flowering as a result of exceptional weather conditions recognised by the Member State concerned, shall remain eligible for aid provided that the areas in question are not used for any other purpose up to this growing stage.

3. Without prejudice to the time period provided for in Article 28(2) of Regulation (EC) No 1782/2003, direct payments under this Regulation shall be paid after the checks made pursuant to Regulation (EC) No 2419/2001 and this Regulation are carried out.

4. In a given year, no more than one application for an area payment under a scheme financed under Article 1(2)(b) of Council Regulation (EC) No 1257/1999 [1] may be made in respect of any cultivated parcel.

However, any cultivated parcel which is covered in respect of the same year by an application for:

(a) specific quality premium for durum wheat provided for in Title IV Chapter 1 of Regulation (EC) No 1782/2003 or protein crop premium provided for in Title IV Chapter 2 of Regulation (EC) No 1782/2003 may be the subject of an application for arable crops payments referred to in Articles 2, 4 and 5 of Council Regulation (EC) No 1251/1999 [2] or in Title IV Chapter 10 of Regulation (EC) No 1782/2003;

(b) crop-specific payment for rice provided for in Title IV Chapter 3 of Regulation (EC) No 1782/2003 or protein crop premium provided for in Title IV Chapter 2 of Regulation (EC) No 1782/2003 may be the subject of an application for seed aid referred to in Article 3 of Council Regulation (EEC) No 2358/71 [3] or in Title IV Chapter 9 of Regulation (EC) No 1782/2003;

(c) aid for energy crops provided for in Title IV Chapter 5 of Regulation (EC) No 1782/2003 may be the subject of an application for arable crops payments referred to in Articles 2, 4 and 5 of Regulation (EC) No 1251/1999 or in Title IV Chapter 10 of Regulation (EC) No 1782/2003, without prejudice to the second subparagraph of Article 90 of Regulation (EC) No 1782/2003 or crop-specific payment for rice provided for in Title IV Chapter 3 of Regulation (EC) No 1782/2003;

(d) arable crops payments referred to in Articles 2, 4 and 5 of Regulation (EC) No 1251/1999 or in Title IV Chapter 10 of Regulation (EC) No 1782/2003 may be the subject of an application for seed aid referred to in Article 3 of Regulation (EEC) No 2358/71 or in Title IV Chapter 9 of Regulation (EC) No 1782/2003.

Land used to produce raw materials cultivated under the energy crop aid provided for in Title IV Chapter 5 of Regulation (EC) No 1782/2003 shall not be eligible for Community aid as provided for in Chapter VIII of Council Regulation (EC) No 1257/1999 [4], with the exception of support granted in respect of the costs of planting fast-growing species as provided for in the second subparagraph of Article 31(3) thereof.

Article 5

Communications

The Member States shall communicate, by electronic transmission, to the Commission, in accordance with the following timetable:

(a) by 15 September of the year concerned, at the latest: the areas, or the quantities in the case referred to in Articles 95 and 96 of Regulation (EC) No 1782/2003, for which the aid has been claimed for that calendar year, where the case may be subdivided for each subbase area;

(b) by 31 October, at the latest: definitive data, on the areas or quantities, obtained taking into account checks already carried out;

(c) by 31 July of the following year, at the latest: the final data corresponding to the areas or quantities for which the aid has actually been paid for that calendar year, after, where applicable, deduction of the reductions in area provided for in Article 32 of Regulation (EC) No 2419/2001.

The areas shall be expressed in hectares to two decimal places. The quantities shall be expressed in tonnes to three decimal places.

Article 6

Coefficient of reduction

1. The coefficient of reduction of area in the case referred to in Articles 75, 78(2), 82, 85 and 89(2) of Regulation (EC) No 1782/2003 or of the quantities and the objective criteria in the case referred to in Article 95(4) of that Regulation shall be fixed at the latest by 15 November of the year concerned on the basis of the data communicated in accordance with Article 5(b) of this Regulation.

2. In the cases referred to in Articles 75, 82, 85 and 95(4) of Regulation (EC) No 1782/2003, the Member States shall communicate to the Commission, by 1 December of the year concerned at the latest, the coefficient of reduction applied and, in the case referred to in Article 95(4) of that Regulation, the objective criteria applied.

[1] OJ L 160, 26.6.1999, p. 103.
[2] OJ L 160, 26.6.1999, p. 1.
[3] OJ L 246, 5.11.1971, p. 1.
[4] OJ L 160, 26.6.1999, p. 80.

CHAPTER 2

SPECIFIC QUALITY PREMIUM FOR DURUM WHEAT

Article 7

Variety screening

1. Member States listed in Article 74(1) of Regulation (EC) No 1782/2003 shall establish the list of durum wheat varieties eligible for the special quality premium referred to in Article 72 of Regulation (EC) No 1782/2003 in accordance with the variety screening method laid down in paragraphs 2 to 5 of this Article.

2. Member States shall, at least every two years, identify at least two representative varieties. The representative varieties shall be the most certified durum wheat varieties.

3. Member States shall analyse durum wheat varieties according to the following quality parameters and assign to each parameter the relevant weighting:

(a) protein content (40 %),

(b) gluten quality (30 %),

(c) yellow index (20 %),

(d) specific weight or weight of one thousand kernels (10 %).

The sum of the averages of the quality parameters referred to in (a) to (d), multiplied by the indicated value in percentage, shall constitute the quality index of the varieties.

Each Member State shall compare, over a period of at least two years, the quality indexes of the durum wheat varieties with those of the representative varieties at regional level. The varieties to be examined shall be those which are registered in the national catalogue of each Member State, with the exclusion of those varieties for which no analytical data are available for the last three years because they are not used or certified any more.

To that end, based on the average quality index of 100 attributed to the representative varieties, each Member State shall calculate, for each of quality parameters referred to in (a) to (d), the percentage to be assigned to the other durum wheat varieties in comparison with the index of 100. Only durum wheat varieties with an index equal to or higher than 98 shall be eligible for the quality premium for durum wheat.

4. A Member State may exclude from the list of eligible varieties the varieties which have an average rate of loss of vitreous aspect of durum wheat (mitadinage) exceeding 27 %.

5. Varieties, which are registered in the national catalogue of another Member State, may also be examined for their eligibility.

Article 8

Analysis methods

1. The analysis methods of the protein content, specific weight and the rate of loss of vitreous aspect of durum wheat (mitadinage) shall be those laid down in Commission Regulation (EC) 824/2000 [1].

2. The yellow index shall be measured according to the ICC 152 method or an equivalent recognised method.

3. The gluten quality shall be measured according to the ICC 158 method or according to the ICC 151 method.

Article 9

Quantity of certified seeds

Member States shall fix, before 1 October of the year preceding the year in respect of which the premium is granted, the minimum quantity of seed, certified in accordance with Council Directive 66/402/EEC [2], to be used in accordance with the current agricultural practices in the production zone concerned.

Article 10

Publications and communications

1. Member States shall publish the list of selected varieties which are eligible at national or regional level to the special quality premium for durum wheat, not later than 1 October, for winter varieties, and not later than 31 December, for spring varieties, of the year preceding the year in respect of which the premium is granted.

2. Member States shall communicate to the Commission, not later than one month after the dates provided for in paragraph 1, the list referred to in paragraph 1 as well as, if modified, the minimum quantity of certified seed to be used.

Article 11

Validity

1. The varieties admitted in the list referred to in Article 10(1) shall be eligible for the special quality premium for durum wheat for periods of five years starting from the date of their first admission in that list.

2. The eligibility of each variety may be extended for a period of five years, based on the results of the qualitative analyses carried out during the second and third year of the five-year eligibility period.

Article 12

Transitional measures

1. Member States shall publish before 15 May 2004 the list of the varieties, which are eligible for the premium only in 2004 and 2005 and shall communicate the list to the Commission before 30 June 2004.

2. Member States shall establish the list referred to in paragraph 1 by eliminating from the list of varieties which are registered in the national catalogue the varieties which have not been certified in 2002 and 2003 and those which do not satisfy at least two of the following parameters:

(a) a minimum protein content of 11,5 %;

(b) a minimum specific weight of 78 kg/hl;

[1] OJ L 100, 20.4.2000, p. 31.

[2] OJ 125, 11.7.1966, p. 2309/1966.