

Proposal for a Council Regulation (EC) on the common organisation of the market in flax and hemp grown for fibre

(2000/C 56 E/07)

COM(1999) 576 final — 1999/0237(CNS)

(Submitted by the Commission on 15 November 1999)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 36 and 37 thereof;

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Whereas:

- (1) The operation and development of the common market for agricultural products must be accompanied by the establishment of a common agricultural policy to include, in particular, a common organisation of agricultural markets which may take various forms depending on the product.
- (2) The aim of the common agricultural policy is to attain the objectives set out in Article 33 of the Treaty. In the case of flax and hemp grown for fibre, in addition to the provisions on area payments in Council Regulation (EC) No 1251/1999 of 17 May 1999 establishing a support system for producers of certain arable crops⁽¹⁾, rules are needed to govern the internal market, including aid to primary processors of flax and hemp straw.
- (3) In order to ensure that flax and hemp straw is actually processed, grant of the aid should be subject to certain conditions, in particular the authorisation of primary processors and the requirement that such processors purchase the straw under contract.
- (4) In order to prevent improper use of Community funds, no aid should be granted to primary processors who are found to have artificially created the conditions for receiving the aid, thereby enjoying an advantage that does not conform to the objectives of the support scheme for straw processing.

(5) In view of the differences between the market for long flax fibre and the market for short flax fibre and hemp fibre, the aid should be differentiated according to which of the two types of fibre is obtained. In order to ensure that overall support is sufficient to maintain traditional production of long flax fibre in conditions similar to those provided for in Council Regulation (EEC) No 1308/70 of 4 July 1970 on the common organisation of the market in flax and hemp⁽²⁾, the aid granted to primary processors should be gradually increased to offset the gradual reduction in the aid per hectare paid to growers under Regulation (EC) No 1251/1999 and, ultimately, the abolition of the aid for short flax fibre. The aid for short flax fibre and hemp fibre granted to primary processors should be fixed at a level that will give new products and their potential outlets the time to reach equilibrium.

(6) In order to prevent any fraudulent increases in the quantities eligible for aid, the Member States should fix maximum quantities on the basis of the areas covered by straw purchase contracts.

(7) In order to keep down the expenditure incurred in applying this Regulation, a stabiliser mechanism should be introduced for both types of fibre obtained, i.e. long flax fibre and short flax fibre and hemp fibre. In order to ensure reasonable production levels in each Member State, a maximum guaranteed quantity should be set for both types of fibre, to be distributed among the Member States as national guaranteed quantities. However, national guaranteed quantities will be fixed for short flax fibre and hemp fibre only for the time needed to allow the new products to adjust to the market. The national guaranteed quantities should be fixed taking account of the most recent average areas under fibre flax and hemp, adjusted where necessary to reflect the areas actually in production, multiplied by average fibre yields.

(8) To enable the Member States to make adjustments between the quantities thus obtained, conditions should be laid down governing transfers between the two national guaranteed quantities allocated to each. Any such transfers should be carried out on the basis of a coefficient to ensure budgetary equivalence.

⁽¹⁾ OJ L 160, 26.6.1999, p. 1.

⁽²⁾ OJ L 146, 4.7.1970, p. 1. Regulation last amended by the Act of Accession of Austria, Finland and Sweden and by Regulation (EC) No 3290/94 (OJ L 349, 31.12.1994, p. 105).

- (9) The producer Member States must take the steps needed to ensure that the arrangements for granting the aid operate smoothly. Furthermore, because of the time needed to process all the straw harvested in one marketing year, provision should be made for advance payments as a verification measure.
- (10) Taken as a whole, the regime governing trade with third countries should make it possible to dispense with all quantitative restrictions and taxes levied at the Community's external borders. However, this mechanism may in exceptional circumstances prove defective. In such cases, so as not to leave the Community market without defence against disturbances which may ensue, the Community should be able to take all necessary measures without delay. All such measures must comply with the obligations arising from the World Trade Organisation agreements on agriculture ⁽¹⁾.
- (11) In order to prevent illicit crops from disturbing the common organisation of the market in hemp for fibre, provision should be made for checks on imports of hemp and hemp seed to ensure that such products have a low tetrahydrocannabinol content. In addition, hemp seeds intended for uses other than sowing may be imported only if they have been denatured and can no longer germinate.
- (12) As the market in flax and hemp grown for fibre develops over time, the Member States and the Commission must exchange with each other all the information needed for the application of this Regulation.
- (13) Since the measures required for the implementation of this Regulation are management measures within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾, they should be adopted by the management procedure laid down in Article 4 of that Decision.
- (14) Expenditure incurred by the Member States as a result of the obligations arising out of the application of this Regulation should be financed by the Community in accordance with Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy ⁽³⁾.
- (15) Although the common organisation of the market in flax and hemp as defined in Regulation (EEC) No 1308/70 has

been amended a number of times, it nevertheless no longer reflects the deep changes that the sector has undergone. Regulation (EEC) No 1308/70 should therefore be repealed. Council Regulation (EEC) No 619/71 of 22 March 1971 laying down general rules for granting aid for flax and hemp ⁽⁴⁾, Council Regulation (EEC) No 620/71 of 22 March 1971 laying down outline provisions for contracts for the sale of flax and hemp straw ⁽⁵⁾, Council Regulation (EEC) No 1172/71 of 3 June 1971 laying down general rules on private storage aid for flax and hemp fibre ⁽⁶⁾, Council Regulation (EEC) No 1430/82 of 18 May 1982 providing for restrictions on the importation of hemp and hemp seed and amending Regulation (EEC) No 1308/70 in respect of hemp ⁽⁷⁾, Council Regulation (EEC) No 2059/84 of 16 July 1984 laying down general rules relating to the import restrictions on hemp and hemp seed and amending Regulation (EEC) No 619/71 in respect of hemp ⁽⁸⁾, which are based on Regulation (EEC) No 1308/70 and Regulation (EEC) No 619/71, are replaced by the new provisions in this Regulation and repealed.

- (16) The change from the arrangements in Regulation (EEC) No 1308/70 to those in this Regulation could give rise to difficulties which are not dealt with in this Regulation. In order to deal with that eventuality, provision should be made for the Commission to adopt the necessary transitional measures. The Commission should also be authorised to solve specific practical problems,

HAS ADOPTED THIS REGULATION:

Article 1

1. The common organisation of the market in flax and hemp grown for fibre shall comprise arrangements governing the internal market and trade with third countries. It shall apply to the following products:

CN code	Description
5301	Flax, raw or processed but not spun; flax tow and waste (including yarn waste and garnetted stock)
5302	True hemp (<i>Cannabis sativa</i> L.), raw or processed but not spun; tow and waste of true hemp (including yarn waste and garnetted stock)

⁽⁴⁾ OJ L 72, 26.3.1971, p. 2. Regulation last amended by Regulation (EC) No 1420/98 (OJ L 19, 4.7.1998, p. 7).

⁽⁵⁾ OJ L 72, 26.3.1971, p. 4. Regulation last amended by Regulation (EC) No 713/95 (OJ L 73, 1.4.1995, p. 16).

⁽⁶⁾ OJ L 123, 5.6.1971, p. 7.

⁽⁷⁾ OJ L 162, 12.6.1982, p. 27. Regulation last amended by the Act of Accession of Austria, Finland and Sweden and by Regulation (EC) No 3290/94.

⁽⁸⁾ OJ L 191, 19.7.1984, p. 6. Regulation last amended by the Act of Accession of Austria, Finland and Sweden and by Regulation (EC) No 3290/94.

⁽¹⁾ OJ L 336, 23.12.1994, p. 22.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

⁽³⁾ OJ L 160, 26.6.1999, p. 103.

2. For the purposes of this Regulation:

(a) 'farmer': means farmers as defined in Article 10(a) of Council Regulation (EC) No 1259/1999 of 17 May 1999 establishing common rules for direct support schemes under the common agricultural policy ⁽¹⁾;

(b) 'authorised primary processor': means a natural or legal person or a group of natural or legal persons, irrespective of the legal status conferred on the group and its members by national law, that has been authorised by the competent authority of the Member State in the territory of which are located his or its facilities for producing flax or hemp fibre or for processing other hemp products not used in human nutrition.

3. This Regulation shall apply without prejudice to the measures laid down in Regulation (EC) No 1251/1999.

TITLE I

INTERNAL MARKET

Article 2

1. Aid for processing the straw of flax and hemp grown for fibre shall be introduced.

The aid shall be granted to authorised primary processors on the basis of the quantity of fibre actually obtained from straw purchased under a contract concluded with a farmer.

No aid shall be paid to authorised primary processors who are found to have artificially created the conditions for receiving the aid, thereby enjoying an advantage that does not conform to the objectives of this scheme.

2. The amount of processing aid per tonne of fibre shall be fixed as follows:

(a) for long flax fibre:

- EUR 60 for the 2000/2001 marketing year,
- EUR 120 for the 2001/2002 marketing year,
- EUR 180 for the 2002/2003, 2003/2004 and 2004/2005 marketing years,
- EUR 200 from the 2005/2006 marketing year onwards,

(b) for short flax fibre and hemp fibre containing not more than 5 % impurities and shives: EUR 40 for the 2000/2001 to 2004/2005 marketing years.

3. The quantities of fibre eligible for aid shall be restricted on the basis of the areas for which a straw purchase contract has been concluded.

The restrictions referred to in the first subparagraph shall be fixed by the Member States so as to comply with the national guaranteed quantities referred to in Article 3.

4. At the request of authorised primary processors, an advance shall be paid on the aid on the basis of the quantity of fibre obtained.

Article 3

1. A maximum guaranteed quantity of 75 500 tonnes per marketing year shall be established for long flax fibre. That quantity shall be apportioned as follows among the Member States as national guaranteed quantities:

- 13 800 tonnes for Belgium,
- 300 tonnes for Germany,
- 55 800 tonnes for France,
- 4 800 tonnes for the Netherlands,
- 150 tonnes for Austria,
- 200 tonnes for Finland,
- 50 tonnes for each of the other Member States.

2. A maximum guaranteed quantity of 119 250 tonnes per marketing year shall be established for short flax fibre and hemp fibre containing not more than 5 % impurities and shives. That quantity shall be apportioned as follows among the Member States as national guaranteed quantities:

- 10 350 tonnes for Belgium,
- 100 tonnes for Denmark,
- 6 300 tonnes for Germany,
- 18 700 tonnes for Spain,
- 61 350 tonnes for France,
- 100 tonnes for Italy,
- 5 550 tonnes for the Netherlands,
- 1 750 tonnes for Austria,
- 650 tonnes for Portugal,
- 1 000 tonnes for Finland,
- 1 150 tonnes for Sweden,
- 12 100 tonnes for the United Kingdom,
- 50 tonnes for each of the other Member States.

The national guaranteed quantities for short flax fibre and hemp fibre, reduced where applicable in accordance with paragraph 3, shall cease to apply from the 2005/2006 marketing year.

⁽¹⁾ OJ L 160, 26.6.1999, p. 113.

3. Each Member State may transfer part of its national guaranteed quantity as referred to in paragraph 1 to its national guaranteed quantity as referred to in paragraph 2 and vice versa.

Transfers as referred to in the first subparagraph shall be carried out on the basis of an equivalence of one tonne of long flax fibre to five tonnes of short flax fibre and hemp fibre.

Processing aid shall be paid only in respect of the quantities referred to in paragraphs 1 and 2, respectively, adjusted in accordance with the first two subparagraphs of this paragraph.

TITLE II

TRADE WITH THIRD COUNTRIES

Article 4

1. This Article shall apply without prejudice to more restrictive provisions adopted by Member States in compliance with the Treaty and the obligations arising from the World Trade Organisation agreements on agriculture.

2. All imports of hemp from third countries shall be subject to the issue of a licence provided the following conditions are met:

- raw true hemp falling within CN code 5302 10 00 and coming from third countries must meet the conditions laid down in Article 5a of Regulation (EC) No 1251/1999,
- seeds of varieties of hemp falling within CN codes 1207 99 10 for sowing must be accompanied by proof that the tetrahydrocannabinol level does not exceed that fixed in accordance with Article 5a of Regulation (EC) No 1251/1999,
- hemp seeds other than for sowing, falling within CN code 1207 99 91, must have been denatured so they can no longer germinate.

Imports into the Community of the products specified in the first and second indents shall be subject to checks to determine whether the terms of this Article have been complied with.

Article 5

Save as otherwise provided in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

Article 6

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1(1)

is affected by, or is threatened with, serious disturbance likely to jeopardise the achievement of the objectives set out in Article 33 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting by a qualified majority, on a proposal from the Commission, shall adopt general rules for the application of this paragraph and shall define the circumstances and limits within which Member States may adopt protective measures.

2. If the situation mentioned in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures, which shall be communicated to the Member States and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. The Commission's decision may be referred to the Council by any Member State within three working days of the day on which it was notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or repeal the measure in question within one month following the day on which it was referred to the Council.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 300(2) of the Treaty.

TITLE III

GENERAL PROVISIONS

Article 7

Save as otherwise provided in this Regulation, Articles 87, 88 and 89 of the Treaty shall apply to the production of, and trade in, the products listed in Article 1(1).

Article 8

Measures for implementing this Regulation shall be adopted in accordance with the procedure laid down in Article 9(2) of this Regulation. These shall include, in particular:

- the conditions for authorisation of primary processors, specifically excluding processors of hemp products used in human nutrition,
- the conditions to be met by approved primary processors as regards straw purchase contracts,
- the criteria to be met, firstly, by long flax fibre and, secondly, by short flax fibre and hemp fibre containing not more than 5 % impurities and shives,

— the conditions for the grant of aid and the advance payment,

— the conditions to be met for fixing the limits referred to in Article 2(3),

— the conditions for transfers between the national guaranteed quantities referred to in Article 3(3).

Such measures may also concern all the necessary inspection measures to protect the European Community's financial interests against fraud and other irregularities.

Article 9

1. A Management Committee for Flax and Hemp (hereinafter called the 'Committee') shall be set up.

2. Where this paragraph is referred to, the management procedure laid down in Article 4 of Decision 1999/468/EC shall apply.

The period as provided for in Article 4(3) of Decision 1999/468/EC shall be one month.

3. The Committee may consider any question referred to it by its chairman either on his own initiative or at the request of the representative of a Member State.

Article 10

Regulation (EC) No 1258/1999 and the provisions adopted in implementation thereof shall apply to the products listed in Article 1.

TITLE IV

TRANSITIONAL AND FINAL PROVISIONS

Article 11

Regulations (EEC) Nos 1308/70, 619/71, 620/71, 1172/71, 1430/82 and 2059/84 are hereby repealed.

Article 12

The Commission shall adopt, in accordance with the procedure referred to in Article 9(2):

— the measures required to facilitate the transition from the arrangements laid down in Regulations (EEC) Nos 1308/70 and 619/71 to those established by this Regulation,

— the measures required to resolve specific practical problems. Such measures - if duly justified - may derogate from certain parts of this Regulation.

Article 13

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

It shall apply from 1 July 2000.

Regulations (EEC) Nos 1308/70 and 619/71 shall continue to be applied in relation to the 1998/1999 and 1999/2000 marketing years.

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