

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(94) 508 final
Brussels, 18.11.1994

94/ 0260 (CNS)

Proposal for a

COUNCIL REGULATION (EC)

on the common organization of the market in dried fodder

(presented by the Commission)

1

EXPLANATORY MEMORANDUM

When deciding on Cap reform in 1992, the Council indicated that it wanted to see the continuation of the dried fodder support regime either by a scheme providing for an aid per ton, or by inclusion of dried fodder in the reformed arable crop regime. The new dried fodder support scheme should be implemented in the 1994/95 marketing year, a date that was postponed to 1995/96.

A political agreement on the new scheme was subsequently obtained during the 1994/95 agricultural prices negotiations.

The present proposal is meant to implement this political agreement.

It is proposed to fix a flat rate aid of 57 ecu/t for dehydrated fodder and 32 ecu/t for sundried fodder. This aid level will be limited to a Maximum Guaranteed Quantity (EC-12) of 4.394 million tonnes for dehydrated Fodder and 432.500 tonnes for sundried fodder. The Maximum Guaranteed Quantity is divided between Member States (National Guaranteed Quantity - NGQ) on the basis of their aided production during the marketing years 1992/93 and 1993/94. If production in the EC-12 exceeds the MGQ, the aid will be reduced by 1% for each 1 percentage point overshoot for all producers for the first 5% overshoot of the MGQ. In the case of an excess above 5%, the aid will be reduced in those Member States, who have exceeded their NGQ by more than 5%. The aid reduction will be proportionate to their excess above 5% in such a manner that budget expenditure will not exceed the one which would have been attained if the MGQ had not been exceeded.

Since the final aid amount is only known at the end of the marketing year an advance shall be payable, equal to 28.5 ecu/t for dehydrated fodder and 16 ecu/t for sundried fodder.

To take into account the Community production pattern it is proposed to start the marketing year 1 April and end it at 31 March.

The provisions concerning the quality standards as well as the provisions concerning the entitlement to the aid remain unchanged from those applicable in Regulations (EEC) No 1117/78 and (EEC) No 1417/78. Regarding the provisions concerning trade with third countries, the proposed text takes into account the results of the Uruguay Round, entering into force as soon as the Council will have decided so. In the dried fodder sector the changes are of minor importance, since import is levy free and most products are even duty free.

11015

Proposal for a
COUNCIL REGULATION (EC) No. /94
of
on the common organization of the market in dried fodder

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)

Having regard to the opinion of the Economic and Social Committee, (3)

Whereas Regulation (EEC) No 1117/78(4), as last amended by Regulation (EEC) No 3496/93(5), set up a common organization of the market in dried fodder; whereas Regulation (EEC) No 1417/78(6), as last amended by Regulation (EEC) No 1110/89(7), set out the aid system for dried fodder;

Whereas a simple flat rate aid payment should be payable for dried fodder; whereas the rate for fodder which is artificially heat dried should be higher than that for sun-dried fodder in order to take into account the additional costs involved;

Whereas in order to limit Community dried fodder production, the amount for which aid may be granted should be subject to maximum limits;

Whereas two different maximum guaranteed quantities (MGQ) should be fixed, one for artificially heat-dried fodder and another for sun-dried;

(1)

(2)

(3)

(4) OJ, No L 142 , 30.5.1978, p. 2

(5) OJ, No L 319, 21.12.1993, p. 17.

(6) OJ, No L 171, 28.6.1978, p. 1

(7) OJ, No L 118, 29.4.1989, p. 1.

Whereas these MGQs should be distributed between Member States on an equitable basis taking into account, in particular, the average of their production in the marketing years 1992/93 and 1993/94 according to the data available to the Commission in July 1994;

Whereas in order to ensure that the MGQs are respected and in order to discourage excess production throughout the Community, in the event of an overshoot, the aid for dried fodder should be reduced; whereas that reduction should equally be applied in all Member States for the first 5% by which the MGQ is exceeded; whereas in the event of a larger excess, those Member States which have exceeded their national guaranteed quantities should subject to an additional reduction;

Whereas the final amount of the aid cannot be paid until it has been calculated whether the MGQ has been exceeded; whereas it is therefore necessary that advance payments of the aid be made after the dried fodder has left the processing plant;

Whereas the marketing year for dried fodder for which aid is paid should be from 1 April each year to 31 March of the following year as production in southern Member States commences already in April;

Whereas criteria relative to the minimum quality of dried fodder entitled to aid should be determined;

Whereas, in order to encourage a regular supply of green fodder to processors and to enable producers to benefit from the aid scheme, the granting of aid should in certain cases be conditional on the conclusion of contracts between producers and processing plants;

Whereas the contracts should, on the one hand, promote regular supplies for the processing plants and, on the other, permit the producers to benefit from the aid; whereas, to this end, it should be laid down that the contracts include certain information;

Whereas processing plants should fulfil certain conditions necessary for entitlement to aid; whereas these plants should therefore keep stock accounts, including the details necessary for verification of entitlement to aid and should furnish any other necessary proof;

Whereas, where there are no contracts between the producers and the processing plants, other information should be furnished by the latter for the purpose of verification of entitlement to aid;

Whereas, in the case of special-order contracts concerning the processing of fodder delivered by the producer, provision should be made to enable the aid to be passed back to the producer;

Whereas, in order to facilitate implementation of the measures proposed, a procedure should be provided for which establishes close cooperation between Member States and the Commission within a Management Committee;

Whereas, under the Uruguay Round of multilateral trade negotiations, the Community has negotiated various agreements (hereinafter referred to as the "GATT agreements"); whereas several of those agreements concern agriculture, in particular the Agreement on Agriculture (hereinafter referred to as "the Agreement");

Whereas, since the Agreement on Safeguards lays down clear rules on the application of protective clauses as incorporated in the market organizations, the safeguard clause applicable to dried fodder should be supplemented by a reference to the obligations flowing from international agreements;

Whereas it is necessary to ensure that the entry into force of the new rules on trade with third countries coincides with the date on which the obligations for the Community resulting from the Multilateral Trade Negotiations of the Uruguay Round take effect;

Whereas Regulations (EEC) No 1117/78 and (EEC) No 1417/78 should be repealed, with the exception for the former of certain articles which shall remain in force until the date of application of the legislation enforcing the results of the negotiations of the Uruguay Round,

HAS ADOPTED THIS REGULATION :

Article 1

There shall be a common organization of the market in dried fodder covering the following products:

CN code	Description
(a) ex 1214 10 00 ex 1214 90 91 and ex 1214 90 99	-Flours and pellets of lucerne artificially heat-dried -Flour and pellets of lucerne otherwise dried and ground -Lucerne, sainfoin, clover, lupins, vetches and similar fodder products, artificially heat-dried, except hay and fodder kale and products containing hay -Lucerne, sainfoin, clover, lupins, vetches, honey lotus, chickling pea and birdsfoot otherwise dried and ground
(b) ex 2309 90 98	-Protein concentrates obtained from lucerne juice and from grass juice -Dehydrated products obtained exclusively from solid residue and juice resulting from the preparation of the concentrates referred to in the first indent

Article 2

The marketing year for the products referred to in Article 1 shall begin on 1 April of each year and end on 31 March of the following year.

TITLE I

Aid System

Article 3

1. Aid shall be granted for the products listed in Article 1.
2. Without prejudice to Article 5 the aid for the products listed in the first and third indents of Article 1(a) and in Article 1(b) shall be 57 ECU/tonne.
3. Without prejudice to Article 5 the aid for the products listed in the second and fourth indents of Article 1(a) shall be 32 ECU/tonne.

Article 4

1. A Maximum Guaranteed Quantity (MGQ) per marketing year of 4.394 million tonnes of dried fodder for which the aid referred to in Article 3(2) may be granted is hereby established.
2. The MGQ referred to in paragraph 1 is divided as follows between the Member States taking into account, in particular, the average of their production in the marketing years 1992/93 and 1993/94, according to the data available to the Commission in July 1994, for which aid was received under Article 5(2) first subparagraph of Regulation (EEC) No 1117/78 :

	National Guaranteed Quantity (NGQ) tonnes
Belgium	8.000
Denmark	334.000
Germany	421.000
Greece	32.000
Spain	1.224.000
France	1.455.000
Ireland	5.000
Italy	523.000
Luxembourg	-
Netherlands	285.000
Portugal	5.000
United Kingdom	102.000

3. A Maximum Guaranteed Quantity (MGQ) per marketing year of 432.500 tonnes of dried fodder for which the aid referred to in Article 3(3) may be granted is hereby established.
4. The MGQ referred to in paragraph 3 is divided as follows between the Member States taking into account the average of their production in the marketing years 1992/93 and 1993/94 for which aid was received under Article 5(2) second and third subparagraphs of Regulation (EEC) No 1117/78 :

	National Guaranteed Quantity (NGQ) tonnes
Belgium	-
Denmark	-
Germany	-
Greece	5.500
Spain	101.000
France	150.000
Ireland	-
Italy	151.000
Luxembourg	-
Netherlands	-
Portugal	25.000
United Kingdom	-

Article 5

Where the amount of dried fodder for which aid is claimed under Article 3(2) or 3(3) in any marketing year exceeds the MGQ referred to in Article 4(1) or 4(3) respectively, the aid to be paid in that year shall be calculated as follows :

- for the first 5 % by which the MGQ is exceeded, the aid shall be reduced in all Member States by an amount which is proportionate to that excess,
- for any excess beyond 5% additional reductions shall be made in any Member State in which production exceeds the NGQ increased by 5% proportionate to this excess.

The reduction to be applied shall be set by the Commission in accordance with the procedure laid down in Article 18 and shall be such as to ensure that expenditure expressed in agricultural ECU does not exceed that what would have been attained if the relevant MGQ had not been exceeded.

Article 6

1. Undertakings processing dried fodder which apply for aid under this Regulation shall be entitled to an advance payment :
 - of 28.5 ECU/tonne in the case of dried fodder for which the aid in Article 3(2) is claimed, and
 - of 16 ECU/tonne in the case of dried fodder for which the aid in Article 3(3) is claimed.

Member States shall carry out the necessary checks to ensure entitlement to the advance is justified. Once entitlement to the payment is established, payment of the advance shall be made.

2. In order to qualify for an advance payment, the dried fodder in question must have left the processing plant.
3. Where an advance has been made, a balance shall be paid equal to the difference, if any, between the amount of the advance and the total amount of aid due to the undertaking processing dried fodder, taking into account the provisions of Article 5.

Article 7

Member States shall communicate to the Commission, at the latest by 31 May of each year the quantities of dried fodder eligible for aid under Article 3(2) and Article 3(3) in the preceding marketing year.

Article 8

The aid provided for in Article 3 shall be granted, on application from the party concerned, in respect of dried fodder having left processing plants and meeting the following conditions :

- a) the maximum moisture content must fall between 11 and 15% and may vary with the form of presentation of the product;

- b) the minimum crude protein content in dry matter must not be less than :
- 15% in the case of the products listed in Article 1(a) and the second indent of Article 1(b),
 - 45% in the case of the products listed in the first indent of Article 1(b);
- c) the dried fodder must be of sound and fair merchantable quality.

Further conditions, in particular regarding fibre, carotene content, may be stipulated in accordance with the procedure laid down in Article 18.

Article 9

The aid provided for in Article 3 shall be granted only to undertakings processing the products listed in Article 1 which :

- (a) keep stock records showing at least :
- the utilized quantities of green fodder and, where applicable, sundried fodder; however, where the particular circumstances of the plant so require, the quantities may be estimated on the basis of areas sown,
 - the quantities of dried fodder produced and the quantities and quality of such fodder leaving the plant;
- (b) provide any other supporting documents necessary for verifying entitlement to the aid;
- (c) fall into at least one of the following categories :
- plants which have concluded contracts with producers of fodder for drying,
 - plants which have processed their own crops or, in the case of groups, those of their members,

- plants which have obtained their supplies from legal or natural persons providing certain guarantees to be determined, who have concluded contracts with producers of fodder for drying; these legal or natural persons shall be buyers approved the competent authorities of the Member States in which the fodder is harvested under conditions laid down pursuant to the procedure provided for in Article 18.

Article 10

Plants which process their own crops or, in the case of groups those of their members shall submit annual declarations of the areas the fodder harvest of which is to be processed to the competent authorities of the Member States by a date to be determined.

Article 11

1. Contracts referred to in Article 9 (c) shall state not only the price to be paid to the producers for the green fodder and, where applicable, for sundried fodder, but also at least :
 - the area from which the crop is to be delivered to the processing plant,
 - the terms of supply and payment.
2. Where contracts as referred to in the first indent of Article 9 (c) are special-order contracts for the processing of fodder supplied by the producers, they shall specify at least the area whose crop is to be delivered and include a clause laying down an obligation on processing plants to pay the producers the aid specified in Article 3 which they receive for the quantities processed under the contracts.

Article 12

1. Member States shall introduce a supervisory system to check, in respect of each processing plant, that :
 - the conditions laid down in the preceding Articles are met,
 - the quantities covered by aid applications correspond to the quantities of dried fodder of the minimum quality which leave the plants.
2. The dried fodder shall be weighed and samples taken when it leaves the processing plants.
3. The Member States shall forward to the Commission the provisions they plan to apply to implement paragraph 1 before such provisions are adopted.

TITLE II

Trade with third countries

Article 13

Unless this Regulation provides otherwise, the rates of duty in the common customs tariff shall apply to the products listed in Article 1.

Article 14

1. The general rules for the interpretation of the Combined Nomenclature and the special rules for its application shall apply to the tariff classification of the products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Combined Nomenclature.
2. Save as otherwise provided for in this Regulation or pursuant to a provision thereof, 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 15

Tariff quotas for the products listed in Article 1 resulting from agreements concluded in accordance with Article 228 of the Treaty or from any other act of the Council pursuant to the Treaty shall be opened and administered in accordance with detailed rules adopted according to the procedure laid down in Article 18. Such detailed rules shall provide for annual quotas, suitably phased over the year, to be opened and, where appropriate, for :

- a) guaranties covering the nature, provenance and origin of the product;
- b) recognition of the document used for verifying the guaranties referred to in a); and
- c) the conditions under which import licences are issued and their term of validity.

Article 16

1. If, by reason of an increase in imports or exports, the Community market in one or more of the products listed in Article 1 is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, the Commission may apply appropriate measures in trade with third countries until such disturbance or threat of disturbance has ceased.
2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request from a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which 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. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.
4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 18.
5. This Article shall be applied in compliance with the obligations arising from agreements concluded in accordance with Article 228(2) of the Treaty.

TITLE III

GENERAL PROVISIONS

Article 17

Save as otherwise provided in this Regulation, Articles 92, 93 and 94 of the Treaty shall apply to the production of and trade in the products referred to in Article 1.

Article 18

1. The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.
2. Where the procedure laid down in this Article is to be followed, the chairman shall refer the matter to the committee either on his own initiative or at the request of the representative of a Member State.
3. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.
4. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event :
the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication;
the Council, acting by a qualified majority, may take a different decision with the time limit referred to in the previous paragraph.
5. The committee may consider any other matter raised by its chairman either on his own initiative or at the request of the representative of a Member State.

Article 19

In accordance with the procedure laid down in Article 18 shall be adopted :

- a) detailed rules for the application of this Regulation, in particular those related to :
- the granting of the aid referred to in Article 3 and the advance payment foreseen in Article 6,
 - the checking and establishment of entitlement to the aid, including any necessary controls, which may make use of certain elements of the integrated system,
 - the criteria for determining the minimum quality,
 - the conditions to be fulfilled by the plants referred to in the second indent of Article 9 (c), as well as the conditions referred to in Article 10,
 - the control measure to be carried out referred to in Article 12(2),
 - the criteria to be fulfilled for the conclusion of contracts referred to in Article 9 and the information which they must contain, in addition to the criteria laid down in Article 11,
 - the Maximum Guaranteed Quantity;
- b) transitional measures if they prove necessary to facilitate the change from the aid system defined to in Regulation (EEC) Nr. 1117/78 to the system laid down in this Regulation.

Article 20

The Member States shall communicate to the Commission the measures taken in order to implement this Regulation.

Article 21

Regulation (EEC) No 1117/78 is hereby repealed with the exception of Articles 8 and 9 which shall remain in force until the date determined by the Council Decision on the simultaneous entry into force of the acts implementing the results of the Uruguay Round of multilateral trade negotiations [1 July 1995].

Regulation (EEC) No 1417/78 is hereby repealed.

Article 22

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 April 1995 with the exception of Title II which shall apply as from the date determined by the Council Decision on the simultaneous entry into force of the acts implementing the results of the Uruguay Round of multilateral trade negotiations [1 July 1995].

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

Done at Brussels,

For the Council
The President

FINANCIAL STATEMENT



1. BUDGET HEADING: 130 Production aid for dried fodder

APPROPRIATIONS: ECU 280 million
(APB 1995)

2. TITLE:

Council Regulation on the common organization of the market in dried fodder

3. LEGAL BASIS:

Articles 42 and 43 of the Treaty

4. AIMS OF PROJECT:

To limit support in the dried fodder sector by means of maximum guaranteed quantities

5. FINANCIAL IMPLICATIONS	PERIOD OF 12 MONTHS	CURRENT FINANCIAL YEAR (1995)	FOLLOWING FINANCIAL YEAR (1996)	
			1997	2000
5.0. EXPENDITURE				
- CHARGED TO THE EC BUDGET (REFUNDS)	+ECU 96 million	-ECU 37 million		+ECU 96 million
- NATIONAL ADMINISTRATION				
- OTHER				
5.1. REVENUE				
- OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES)				
- NATIONAL				
5.0.1. ESTIMATED EXPENDITURE				
5.1.1. ESTIMATED REVENUE				

5.2. METHOD OF CALCULATION:

(a) 12-month period:

- dehydrated: $ECU (57-40)/t \times 4.394 \text{ million t} \times 1.207 (DT) = + ECU 90 \text{ million (B)}$
- sun-dried: $ECU (32-20)/t \times 0.38 \text{ million t} \times 1.207 (DT) = + ECU 6 \text{ million (B)}$

(b) 1995:

- dehydrated: $ECU (28.5-40)/t \times 4.394 \text{ million t} \times 1.207 (DT) \times 0.6 = - ECU 36 \text{ million (B)}$
- sun-dried: $ECU (16-20)/t \times 0.38 \text{ million t} \times 1.207 (DT) \times 0.6 = - ECU 1 \text{ million (B)}$

6.0. CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?

YES

6.1. CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?

6.2. IS A SUPPLEMENTARY BUDGET NECESSARY?

6.3. WILL FUTURE BUDGET APPROPRIATIONS BE NECESSARY?

YES

COMMENTS:

- (1) The impact is calculated using the Commission proposal in the 1994/95 prices package, which is the basis for the 1995 preliminary draft Budget (APB).
It is included in the overall cost of the prices package decision indicated to the Council during adoption of the compromise on 18-19.7.1994.
Letter of amendment No 1 to the 1995 APB already takes account of this measure.

COM(94) 508 final

DOCUMENTS

EN

03

Catalogue number : CB-CO-94-536-EN-C

ISBN 92-77-82310-0
