

## I

*(Acts whose publication is obligatory)*

**COUNCIL REGULATION (EEC) No 1117/78**

**of 22 May 1978**

**on the common organization of the market in dried fodder**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(2)</sup>,

Whereas Regulation (EEC) No 1067/74 <sup>(3)</sup>, as amended by Regulation (EEC) No 1420/75 <sup>(4)</sup>, set up a common organization of the market in dehydrated fodder; whereas experience has shown that the production aid system introduced by that Regulation is not suitable for the market and should be replaced by another system;

Whereas certain other products processed from green fodder can be used to broaden the range of the Community's protein supplies and should therefore be included in the common organization of the market in dried fodder;

Whereas for reasons of clarity Regulation (EEC) No 1067/74 should be replaced by a new Regulation;

Whereas the processing of green fodder plants is particularly important for animal nutrition; whereas much less green fodder is grown than could be used in the

Community; whereas appropriate measures should therefore be taken to increase the Community's protein supplies; whereas aid should therefore be granted to encourage the growing of green fodder;

Whereas dried fodder is in direct competition with similar products imported free of duty from outside the Community, the prices of which are subject to considerable fluctuation; whereas in order therefore to guarantee dried fodder producers a fair return on the sale of their products a guide price should be set for dehydrated fodder; whereas, owing to conditions of production, Community products are generally more highly priced than imported products; whereas aid equal to a certain percentage of the difference between the guide price and the world market price should therefore be granted; whereas aid of this kind will also enable production to be better adapted to market requirements;

Whereas, because of the limited production of dehydrated potatoes in the Community and the special hydrated fodder; whereas sun-dried fodder is also subject to competition from imports from outside the Community; whereas producers of sun-dried fodder should therefore be granted only part of the aid fixed for dehydrated fodder;

Whereas, because of the limited production of dehydrated potatoes in the Community and the special characteristics of the market therein, the flat-rate aid only should be granted for such products;

Whereas, in order to encourage a regular supply of green fodder to processors and to enable farmers to

<sup>(1)</sup> OJ No C 85, 10. 4. 1978, p. 31.

<sup>(2)</sup> OJ No C 101, 26. 4. 1978, p. 10.

<sup>(3)</sup> OJ No L 120, 1. 5. 1974, p. 2.

<sup>(4)</sup> OJ No L 141, 3. 6. 1975, p. 1.

benefit from the aid scheme, the granting of aid should in certain cases be conditional on the conclusion of contracts between farmers and processors;

Whereas the common organization of the market in dried fodder involves the introduction of a single trading system at the external frontiers of the Community; whereas pursuant to the Treaty the Common Customs Tariff has automatically applied since 1 January 1970, and this system makes it possible to dispense with all other protective measures; whereas, however, so as not to leave the Community market defenceless against disturbances arising through imports or exports, the Community should be enabled to take all necessary measures without delay;

Whereas the provisions of the Treaty allowing the assessment of aid granted by Member States and the prohibition of those which are incompatible with the common market should be applied in the case of dried fodder;

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 the establishment of a common organization of the market in dried fodder makes it necessary to amend the Annex to Council Regulation (EEC) No 827/68 of 28 June 1968 on the common organization of the market in certain products listed in Annex II to the Treaty <sup>(1)</sup>, as last amended by Regulation (EEC) No 2560/77 <sup>(2)</sup>;

Whereas the new common organization of the markets provides for an aid system for dried fodder which is more favourable than that provided for in Regulation (EEC) No 1067/74; whereas it has not however been possible to introduce this new organization before the beginning of the 1978/79 marketing year; whereas the new aid system should be applied, as far as possible, from the beginning of the 1978/79 marketing year in the case of the products covered by the aid system provided for by Regulation (EEC) No 1067/74, so that they may benefit from the difference between these aids;

Whereas the expenditure incurred by Member States as a result of the obligations arising from the application of this Regulation will be borne by the Community, in accordance with Articles 2 and 3 of Council Regulation

(EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy <sup>(3)</sup>, as last amended by Regulation (EEC) No 2788/72 <sup>(4)</sup>,

HAS ADOPTED THIS REGULATION:

#### Article 1

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

| CCT heading No | Description   |
|----------------|---|
| (a) ex 07.04 B | Potatoes, dehydrated by artificial heat-drying, whole, cut, sliced, broken or in powder, but not further prepared, unfit for human consumption  |
| ex 11.05       | Flour, meal and flakes of potato, unfit for human consumption   |
| (b) ex 12.10 B | — Lucerne, sainfoin, clover, lupines, vetches and similar fodder products, artificially heat-dried, except hay and fodder kale and products containing hay<br>— Lucerne, sainfoin, clover, lupines and vetches otherwise dried and ground |
| (c) ex 23.07 C | Protein concentrates obtained from lucerne juice and from grass juice   |

#### Article 2

1. The marketing year for the products referred to in Article 1 (a) shall begin on 1 July of each year and end on 30 June of the following year.

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

However, in the case of the products referred to in Article 1 (b), second indent, and (c), the 1978/79 marketing year shall begin on 1 July 1978 and end on 31 March 1979.

<sup>(1)</sup> OJ No L 151, 30. 6. 1968, p. 16.

<sup>(2)</sup> OJ No L 303, 28. 11. 1977, p. 1.

<sup>(3)</sup> OJ No L 94, 28. 4. 1970, p. 13.

<sup>(4)</sup> OJ No L 295, 30. 12. 1972, p. 1.

## TITLE I

## Aid system

## Article 3

1. Flat-rate aid for the production from fodder plants harvested in the Community of the products referred to in Article 1 shall be granted under the conditions set out in Article 6.

The amount of such aid, which shall be uniform throughout the Community, shall be fixed each year before 1 August for the marketing year beginning the following year. However, the amount of flat-rate aid for the 1978/79 marketing year shall be fixed before 1 June 1978.

The amount of flat-rate aid fixed for the products referred to in Article 1 (a) may be different from that fixed for the other products.

2. The amount of flat-rate aid shall be fixed with the aim of improving the supply of protein products to the Community.

3. The amount of flat-rate aid shall be fixed in accordance with the procedure laid down in Article 43 (2) of the Treaty.

## Article 4

1. Before 1 August each year a Community guide price for the products referred to in Article 1 (b), first indent, shall be fixed for the following marketing year in accordance with the procedures laid down in Article 43 (2) of the Treaty.

The price shall be fixed at a level that is fair to the producers.

However, the guide price for the 1978/79 marketing year shall be fixed before 1 June 1978.

2. The guide price shall apply throughout the marketing year for which it is fixed.

3. The guide price shall relate to a standard quality.

## Article 5

1. When the guide price for a marketing year is higher than the average world market price determined on the basis of the most favourable purchasing conditions on the world market and corrected if necessary for the standard quality referred to in Article 4 for the products concerned, supplementary aid shall be granted for products referred to in Article 1 (b) and (c) produced from fodder plants harvested in the Community.

2. This aid shall be equal to a percentage to be determined of the difference between these two prices. The percentage shall be fixed by the Council at the same time as the guide price, using the same procedure.

3. The amount of the supplementary aid shall be fixed periodically by the Commission.

## Article 6

1. The aid referred to in Articles 3 and 5 shall be granted only to undertakings processing the products listed in Article 1 which:

- produce dried fodder of a minimum quality to be determined;
- satisfy the necessary conditions for entitlement to aid, and
- have concluded contracts with producers of fodder for drying, or process their own crops or, in the case of groups or cooperatives, those of their members.

Aid shall be paid by the Member State in which the fodder has been dried.

2. The Council, acting by a qualified majority on a proposal from the Commission, shall lay down:

- the criteria for calculating the average world market price,
- the general rules for granting the aid referred to in Articles 3 and 5, which may in particular provide for the possibility of advance fixing of the aid referred to in Article 5,
- the general rules for checking entitlement to such aid,
- the criteria for minimum quality,
- the conditions referred to in the second indent of paragraph 1,
- the criteria in accordance with which the contracts referred to in paragraph 1 must be concluded.

3. Detailed rules for the application of Articles 3 to 5 and of this Article, particularly as regards the standard conditions with which the contracts referred to in paragraph 2 must comply, shall be adopted in accordance with the procedure laid down in Article 12.

## TITLE II

## Trade with non-member countries

## Article 7

1. The general rules for the interpretation of the Common Customs Tariff 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 Common Customs Tariff.

2. Save as otherwise provided in this Regulation or where the Council, acting by a qualified majority on a proposal from the Commission, decides to derogate therefrom, the following shall be prohibited in trade with non-member 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 8

1. If by reason of imports or exports the Community market in the products listed in Article 1 experiences or is threatened with serious disturbances which may endanger the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with non-member 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 rules for the application of this paragraph and define the cases in which and the limits within which Member States may take interim 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 what measures are required. These shall be communicated to the Member States and shall be immediately applicable. If the Commission has received a request from a Member State it shall take a decision within 24 hours of receiving it.

3. The measures decided on by the Commission may be referred to the Council by any Member State within the three working days following the day on which they were communicated. The Council shall meet without delay. It may by qualified majority amend or repeal the measures in question.

### TITLE III

#### General provisions

#### Article 9

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 10

The Member States and the Commission shall communicate to each other the information necessary for implementing this Regulation. Rules for the communication and distribution of such information shall be adopted in accordance with the procedure laid down in Article 12.

#### Article 11

1. There is hereby established a Management Committee for Dried Fodder (hereinafter called the 'Committee'), composed of representatives of the Member States and chaired by a representative of the Commission.

2. Within the Committee the votes of the Member States shall be weighted in accordance with Article 148 (2) of the Treaty. The chairman shall not vote.

#### Article 12

1. 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.

2. The representative of the Commission shall submit a draft of the measures to be taken. The Committee shall deliver its opinion on such measures within a time limit to be set by the chairman according to the urgency of the matter. Opinions shall be adopted by a majority of 41 votes.

3. The Commission shall adopt measures which shall be immediately applicable. However, if these measures are not in accordance with the opinion of the Committee, the Commission shall forthwith communicate them to the Council. In such cases the Commission may defer application of the measures which it has adopted for not more than one month from the date of such communication.

The Council, acting by a qualified majority, may within one month take a different decision.

#### Article 13

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 14

This Regulation shall be so applied that appropriate account is taken at the same time of the objectives set out in Articles 39 and 110 of the Treaty.

*Article 15*

1. The wording of subheading 12.10 ex B in the Annex to Regulation (EEC) No 827/68 shall be replaced by the following:

'ex B. Other, except for

- Lucerne, sainfoin, clover, lupines, vetches and similar fodder products, artificially heat-dried, except hay and fodder kale and products containing hay
- Lucerne, sainfoin, clover, lupines and vetches otherwise dried and ground'.

2. The wording of subheading 23.07 C in the Annex to Regulation (EEC) No 827/68 shall be replaced by the following:

'ex C. Other, excluding protein concentrates obtained from lucerne juice and from grass juice'.

*Article 16*

1. Regulation (EEC) No 1067/74 is hereby repealed with effect from 1 July 1978.

2. If transitional measures should prove necessary to facilitate the change from the aid system defined in Regulation (EEC) No 1067/74 to the system laid down in this Regulation, such measures shall be adopted in accordance with the procedure provided for in Article 12.

*Article 17*

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

It shall apply from 1 July 1978 with the exception of the aid system provided for under Title I for the products referred to in Article 1 (b), first indent, which shall be applicable from the beginning of the 1978/79 marketing year.

For the products referred to in Article 1 (a) it shall apply until 30 June 1979.

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

Done at Brussels, 22 May 1978.

*For the Council*

*The President*

K. HEINESEN