

**COUNCIL REGULATION (EC) No 1673/2000****of 27 July 2000****on the common organisation of the markets in flax and hemp grown for fibre**

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 <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(4)</sup>,

Whereas:

- (1) The operation and development of the common market for agricultural products must be accompanied by the establishment of a common agricultural policy. Such a policy must 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 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 <sup>(5)</sup>, measures are needed to govern the internal market, including aid to primary processors of flax and hemp straw or to farmers who have the straw processed at their own expense.
- (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. Likewise, in order to counter any possible abuse, aid for processing will be granted only on the basis of the processing of the straw, or on the basis of the use of the fibres on the market if the farmer has the straw processed on his behalf.
- (4) In order to prevent improper use of Community funds, no aid should be granted to primary processors or farmers 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 <sup>(6)</sup>, the aid 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 should be fixed at a level that will give new products and their potential outlets the time to reach equilibrium. In order to promote only the production of high quality short flax fibre and hemp fibre, provision should be made for a maximum percentage of impurities and shives, together with transitional provisions to enable the processing industry to adapt to this requirement.
- (6) In order to take account of the special status of traditional flax in certain areas of the Netherlands, Belgium and France, additional transitional aid must be granted to the primary processors of straw in respect of the areas concerned.
- (7) 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 whose straw is the subject of processing contracts or commitments.
- (8) 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

<sup>(1)</sup> OJ C 56 E, 29.2.2000, p. 19.

<sup>(2)</sup> Opinion delivered on 6 July 2000 (not yet published in the Official Journal).

<sup>(3)</sup> OJ C 140, 18.5.2000, p. 3.

<sup>(4)</sup> Opinion delivered on 14 June 2000 (not yet published in the Official Journal).

<sup>(5)</sup> OJ L 160, 26.6.1999, p. 1. Regulation as last amended by Regulation (EC) No 1672/2000 (see p 13 of this Official Journal).

<sup>(6)</sup> OJ L 146, 4.7.1970, p. 1. Regulation last amended by Regulation (EC) No 2702/1999 (OJ L 327, 14.12.1999, p. 7.).

- guaranteed quantities will apply to processing aid and will not affect the system introduced by Regulation (EC) No 1251/1999. The national guaranteed quantities should be fixed taking account in particular 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. With regard to Member States whose current production is low, provision should be made for a common quantity to be apportioned each marketing year in order to enable them to adapt and develop their production.
- (9) To enable the Member States to make adjustments between the quantities thus obtained, conditions should be laid down governing transfers between the national guaranteed quantities allocated to each. Any such transfers should be carried out on the basis of a coefficient to ensure budgetary equivalence.
- (10) 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.
- (11) 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<sup>(1)</sup>.
- (12) 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 offer certain guarantees with regard to the tetrahydrocannabinol content. In addition, imports of hemp seeds intended for uses other than sowing must be subjected to a control system which makes provision for a system for authorising the importers concerned.
- (13) As the market in flax and hemp grown for fibre develops over time, Member States and the Commission must exchange all the information needed for this Regulation to be applied.
- (14) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(2)</sup>.
- (15) 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<sup>(3)</sup>.
- (16) 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. This being so, Regulation (EEC) No 1308/70 and Council Regulation (EEC) No 619/71 of 22 March 1971 laying down general rules for granting aid for flax and hemp<sup>(4)</sup> should be repealed. Council Regulation (EEC) No 620/71 of 22 March 1971 laying down outline provisions for contracts for the sale of flax and hemp straw<sup>(5)</sup>, Council Regulation (EEC) No 1172/71 of 3 June 1971 laying down general rules on private storage aid for flax and hemp fibre<sup>(6)</sup>, 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<sup>(7)</sup> and 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<sup>(8)</sup>, which are based on Regulations (EEC) No 1308/70 and (EEC) No 619/71, should be repealed and replaced by the new provisions in this Regulation.
- (17) 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.

<sup>(2)</sup> OJ L 184, 17.7.1999, p. 23.

<sup>(3)</sup> OJ L 160, 26.6.1999, p. 103.

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

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

<sup>(6)</sup> OJ L 123, 5.6.1971, p. 7.

<sup>(7)</sup> OJ L 162, 12.6.1982, p. 27. Regulation as last amended by Regulation (EC) No 3290/94 (OJ L 349, 31.12.1994, p. 105).

<sup>(8)</sup> OJ L 191, 19.7.1984, p. 6. Regulation as last amended by Regulation (EC) No 3290/94.

<sup>(1)</sup> OJ L 336, 23.12.1994, p. 22.

(18) Having regard to the date on which this Regulation enters into force, provision needs to be made for special measures for the 2000/2001 marketing year. To that end, the system in force during the 1999/2000 marketing year should remain applicable until 30 June 2001. However, the amounts of aid should be fixed by the Commission on the basis of the budget balances as soon as the areas concerned have been reliably assessed, and the amount withheld for the financing of measures promoting the use of flax fibre should be set at zero.

(19) In order to evaluate the effects of the new measures, the Commission will submit to the European Parliament and the Council reports concerning, on the one hand, in 2003 the national guaranteed quantities and the maximum level of impurities and skives in short flax fibre and hemp fibre, and, on the other hand, in 2005 the impact of processing aid and supplementary aid on producers and markets,

HAS ADOPTED THIS REGULATION:

#### Article 1

1. The common organisation of the markets 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:

NC 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)

2. For the purposes of this Regulation:

(a) 'farmer' shall mean 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<sup>(1)</sup>;

(b) 'authorised primary processor' shall mean a natural or legal person or a group of natural or legal persons, irrespective of its legal status under national law, or that of its members, 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.

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

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 113.

#### 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 for which a sale/purchase contract has been concluded with a farmer.

However:

(a) in cases where the authorised primary processor and the farmer are one and the same person, the sale/purchase contract shall be replaced by a commitment by the party concerned to carry out the processing himself;

(b) in cases where the farmer retains ownership of the straw which he is having processed under contract by an authorised primary processor and proves that he has placed the fibres obtained on the market, the aid shall be granted to the farmer.

2. No aid shall be paid to authorised primary processors or farmers 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.

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

(a) for long flax fibre:

- EUR 100 for the 2001/2002 marketing year,
- EUR 160 for the 2002/2003, 2003/2004, 2004/2005 and 2005/2006 marketing years,
- EUR 200 from the 2006/2007 marketing year onwards.

(b) for short flax fibre and hemp fibre containing not more than 7,5 % impurities and skives: EUR 90 for the 2001/2002 to 2005/2006 marketing years.

However, for the 2001/2002 to 2003/2004 marketing years, the Member State may, with reference to traditional outlets, also decide to grant aid:

- for short flax fibre containing a percentage of impurities and skives of between 7,5 % and 15 %,
- for hemp fibre containing a percentage of impurities and skives of between 7,5 % and 25 %.

In such cases, the Member State shall grant the aid in respect of a quantity which amounts to not more than the quantity produced, on the basis of 7,5 % of impurities and skives.

4. The quantities of fibre eligible for aid shall be limited on the basis of the areas which were the subject of one of the contracts or commitments referred to in paragraph 1.

The limits 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.

5. 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 75 250 tonnes per marketing year shall be established for long flax fibre and apportioned among all the Member States as national guaranteed quantities. That quantity shall be apportioned as follows:

- 13 800 tonnes for Belgium,
- 300 tonnes for Germany,
- 50 tonnes for Spain,
- 55 800 tonnes for France,
- 4 800 tonnes for the Netherlands,
- 150 tonnes for Austria,
- 50 tonnes for Portugal,
- 200 tonnes for Finland,
- 50 tonnes for Sweden,
- 50 tonnes for the United Kingdom.

2. A maximum guaranteed quantity of 135 900 tonnes per marketing year shall be established for short flax fibre and hemp fibre in respect of which aid may be granted. That quantity shall be apportioned in the form of:

(a) national guaranteed quantities for the following Member States:

- 10 350 tonnes for Belgium,
- 12 800 tonnes for Germany,
- 20 000 tonnes for Spain,
- 61 350 tonnes for France,
- 5 550 tonnes for the Netherlands,
- 2 500 tonnes for Austria,
- 1 750 tonnes for Portugal,
- 2 250 tonnes for Finland,
- 2 250 tonnes for Sweden,
- 12 100 tonnes for the United Kingdom.

(b) 5 000 tonnes to be apportioned in national guaranteed quantities for each marketing year among Denmark, Greece, Ireland, Italy and Luxembourg. Such apportionment shall be determined on the basis of the areas which were the subject of one of the contracts or commitments referred to in Article 2(1).

The national guaranteed quantities for short flax fibre and hemp fibre, reduced where applicable in accordance with para-

graph 5 of this Article, shall cease to apply from the 2006/2007 marketing year.

3. In cases where the fibre obtained in one Member State originates from straw produced in another Member State, the quantities of fibre concerned shall be offset against the national guaranteed quantity of the Member State in which the straw was harvested. The aid shall be paid by the Member State against whose national guaranteed quantity such an offset is made.

4. Member States which wish to do so may transfer between themselves, on a one-off basis and before 30 June 2001, part of their national guaranteed quantities referred to in paragraphs 1 or 2, adjusted if necessary in accordance with paragraph 5. In such cases, they shall inform the Commission, which will notify the other Member States accordingly.

5. 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 2,2 tonnes of short flax fibre and hemp fibre.

Processing aid shall be granted 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 and paragraph 4.

#### Article 4

Until the 2005/2006 marketing year, additional aid shall be granted to the authorised primary processor in respect of areas under flax in zones I and II as described in the Annex and the straw production of which has been the subject of:

- a sale/purchase contract or a commitment as referred to in Article 2(1) and
- aid for processing into long fibre.

The amount of additional aid shall be EUR 120 per hectare in zone I and EUR 50 per hectare in zone II.

### TITLE II

#### Trade with third countries

#### Article 5

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 must meet the conditions laid down in Article 5a of Regulation (EC) No 1251/1999,

- seeds of varieties of hemp falling within CN code 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 may be imported only by importers authorised by the Member State in order to ensure that such seeds are not intended for sowing.

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 6

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 7

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 thereof 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 8

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) of this Regulation.

##### Article 9

The measures necessary for the implementation of this Regulation relating to the matters referred to below shall be adopted in accordance with the management procedure referred to in Article 10(2). These shall include, in particular:

- the conditions for authorisation of primary processors,
- the conditions to be met by approved primary processors as regards the sale/purchase contracts and commitments referred to in Article 2(1),
- the requirements to be complied with by farmers in the case referred to in Article 2(1)(b),
- the criteria to be met, firstly, by long flax fibre and, secondly, by short flax fibre and hemp fibre,
- the methods for calculating the quantities eligible for aid in the cases referred to in the second subparagraph of Article 2(3)(b),
- the conditions for the grant of aid and the advance payment, and in particular proof of the processing of straw,
- the conditions to be met for fixing the limits referred to in Article 2(4),
- the apportionment of the quantity of 5 000 tonnes referred to in Article 3(2)(b),
- the conditions for transfer between the national guaranteed quantities referred to in Article 3(5),
- the conditions for the granting of additional aid referred to in Article 4.

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

##### Article 10

1. The Commission shall be assisted by the Management Committee for Natural Fibres (hereinafter called the 'Committee').

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee may examine any question raised by its Chairman, either on the tatter's initiative or at the request of the representative of a Member State.

4. The Committee shall adopt its rules of procedure.

*Article 11*

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

## TITLE IV

**Transitional and final provisions***Article 12*

1. For the 2000/2001 marketing year, the amounts of aid for flax and hemp produced in the Community shall be fixed not later than 31 October 2000 in accordance with the procedure laid down in Article 10(2).

These amounts shall be determined by applying to the amounts in force for the 1999/2000 marketing year a coefficient equal to the ratio between

- average expenditure per hectare corresponding to EUR 88 million for all areas resulting from crop declarations, and
- average expenditure of EUR 721 per hectare estimated for the 1999/2000 marketing year.

However, the amounts of aid for the 2000/2001 marketing year may not exceed those fixed for the 1999/2000 marketing year.

2. For the 2000/2001 marketing year, the amount to be withheld from the aid for flax for the financing of the measures promoting the use of flax fibre shall be fixed at EUR 0 per hectare.

3. The 2000/2001 marketing year shall end on 30 June 2001.

*Article 13*

Regulations (EEC) No 1308/70, (EEC) No 619/71, (EEC) No 620/71, (EEC) No 1172/71, (EEC) No 1430/82 and (EEC) No 2059/84 shall be repealed on 1 July 2001.

*Article 14*

The Commission shall adopt, in accordance with the procedure referred to in Article 10(2):

- the measures required to facilitate the transition from the arrangements laid down in Regulations (EEC) No 1308/70 and (EEC) No 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 15*

1. Not later than 31 December 2003, the Commission shall submit a report to the European Parliament and the Council, if necessary accompanied by proposals, on production trends in the various Member States and the impact of the reform of the common organisation of the market on the outlets and economic viability of the sector. It shall also examine the maximum content of impurities and shives applicable to short flax fibre and hemp fibre.

Should the need arise, the report shall serve as a basis for a re-apportionment of, and possible increase in, the national guaranteed quantities. In particular, the Commission shall take account of the level of production, processing capacity and outlets on the market.

2. In 2005 the Commission shall submit a report to the European Parliament and the Council on processing aid, if necessary accompanied by proposals.

The report shall include an assessment of the impact of processing aid, in particular on

- the position of producers as regards areas sown and prices paid to them,
- market trends for textile fibres and the development of new products,
- the processing industry.

The report shall indicate, in the light of alternative production, whether the industry is able to function with the guidelines laid down. It shall also examine the possibility of putting on to a permanent footing, beyond the 2005/2006 marketing year, processing aid per tonne of short flax fibre and hemp fibre and additional aid per hectare of flax, as referred to in Article 4.

*Article 16*

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

Articles 1 to 11 shall apply from the 2001/2002 marketing year onwards.

Regulations (EEC) No 1308/70 and (EEC) No 619/71 shall continue to be applied in relation to the 1998/1999, 1999/2000 and 2000/2001 marketing years.

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

Done at Brussels, 27 July 2000.

*For the Council*

*The President*

H. VÉDRINE

## ANNEX

**ZONES ELIGIBLE FOR THE AID REFERRED TO IN ARTICLE 4**

## ZONE I

1. The territory of the Netherlands,
2. The following Belgian communes: Assenede, Beveren-Waas, Blankenberge, Bredene, Brugge, Damme, De Haan, De Panne, Diksmuide (except Vladslo and Woumen), Gistel, Jabbeke, Knokke-Heist, Koksijde, Lo-Reninge, Middelkerke, Nieuwport, Oostende, Oudenburg, Sint-Gillis-Waas (Meerdonk only), Sint-Laureins, Veurne and Zuienkerke.

## ZONE II

1. Areas of Belgium other than those included in Zone I.
  2. The following areas of France:
    - the department of Nord,
    - the districts of Béthune, Lens, Calais, Saint-Omer and the canton of Marquise in the department of Pas-de-Calais,
    - the districts of Saint-Quentin and Vervins in the department of Aisne,
    - the district of Charleville-Mézières in the department of Ardennes.
-