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► **B****COMMISSION REGULATION (EC) No 245/2001**

**of 5 February 2001**

**laying down detailed rules for the application of Council Regulation (EC) No 1673/2000 on the common organisation of the markets in flax and hemp grown for fibre**

(OJ L 35, 6.2.2001, p. 18)

Amended by:

		Official Journal		
		No	page	date
► <b><u>M1</u></b>	Commission Regulation (EC) No 1093/2001 of 1 June 2001	L 150	17	6.6.2001
► <b><u>M2</u></b>	amended by the Commission Regulation (EC) No 2105/2001 of 26 October 2001	L 283	11	27.10.2001
► <b><u>M3</u></b>	Commission Regulation (EC) No 52/2002 of 11 January 2002	L 10	10	12.1.2002
► <b><u>M4</u></b>	Commission Regulation (EC) No 651/2002 of 16 April 2002	L 101	3	17.4.2002
► <b><u>M5</u></b>	Commission Regulation (EC) No 1401/2003 of 6 August 2003	L 199	3	7.8.2003
► <b><u>M6</u></b>	Commission Regulation (EC) No 873/2005 of 9 June 2005	L 146	3	10.6.2005
► <b><u>M7</u></b>	Commission Regulation (EC) No 1913/2006 of 20 December 2006	L 365	52	21.12.2006

**COMMISSION REGULATION (EC) No 245/2001****of 5 February 2001****laying down detailed rules for the application of Council Regulation (EC) No 1673/2000 on the common organisation of the markets in flax and hemp grown for fibre**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1673/2000 of 27 July 2000 on the common organisation of the markets in flax and hemp grown for fibre <sup>(1)</sup>, and in particular Article 9 thereof,

Having regard to Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro <sup>(2)</sup>, and in particular Article 3 thereof,

Whereas:

- (1) Regulation (EC) No 1673/2000 provides *inter alia* for measures relating to the internal market in flax and hemp grown for fibre, comprising aid to authorised primary processors of flax and hemp straw and to farmers who have straw processed on their own account, the detailed implementing rules for which must be laid down.
- (2) The conditions governing authorisation of primary processors and the obligations to be met by farmers who have straw processed on their own account must be laid down. The information that must be shown in sale/purchase contracts, processing commitments and processing contracts covering straw as referred to in Article 2(1) of Regulation (EC) No 1673/2000 must also be specified.
- (3) Some primary processors of flax straw mainly produce long flax fibre, together, as a sideline, with short flax fibre containing a high percentage of impurities and shives. Where they do not have suitable facilities for cleaning such secondary products, they may have the short fibre cleaned under contract by another operator. In such circumstances, the cleaning of fibre under contract should be regarded as an operation carried out by the primary processor authorised in respect of short flax fibre. The conditions to be met by the operators concerned, in particular with a view to controls, should accordingly be laid down.
- (4) To ensure the eligibility of these products for aid, areas under flax or hemp grown for fibre from which processed straw comes must be able to be identified using the system for identifying agricultural parcels provided for in Council Regulation (EEC) No 3508/92 of 27 November 1992 establishing an integrated administration and control system for certain Community aid schemes <sup>(3)</sup>, as last amended by Regulation (EC) No 1593/2000 <sup>(4)</sup>. To that end, a link must be established between straw eligible for processing aid and the areas for which 'area' aid applications as provided for in Article 4 of Commission Regulation (EEC) No 3887/92- of 23 December 1992 laying down detailed rules for applying the integrated administration

<sup>(1)</sup> OJ L 193, 29.7.2000, p. 16.

<sup>(2)</sup> OJ L 349, 24.12.1998, p. 1.

<sup>(3)</sup> OJ L 355, 5.12.1992, p. 1.

<sup>(4)</sup> OJ L 182, 21.7.2000, p. 4.

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and control system for certain Community aid schemes <sup>(1)</sup>, as last amended by Regulation (EC) No 2721/2000 <sup>(2)</sup>, have been submitted in respect of the marketing year concerned.

- (5) With a view to ensuring sound administrative management while adapting to the special conditions applying on the markets for flax and hemp, the period during which flax and hemp straw grown for fibre can be processed and, where applicable, marketed should be determined.
- (6) Where Member States decide to grant aid on short flax fibre or hemp fibre containing more than 7,5 % impurities and shives, a method of calculation allowing the quantity produced to be expressed in terms of an equivalent quantity with a 7,5 % impurities and shives content should be laid down.
- (7) With a view to helping to ensure that the stabiliser mechanism functions properly, provision should be made to limit the quantities of fibre on which processing aid can be granted in respect of a marketing year to the quantity arrived at by multiplying the number of hectares covered by contracts or processing commitments by a unit quantity per hectare. That unit quantity is to be determined by the Member State on the basis of the national guaranteed quantities established and of the hectares cultivated.
- (8) Given the variations in the national guaranteed quantities that may result from the flexibility introduced by Article 3 of Regulation (EC) No 1673/2000, detailed rules should be laid down for establishing such national guaranteed quantities for each marketing year, taking account of any adjustments that may prove necessary with a view to apportioning the national guaranteed quantities suitably among the beneficiaries of the processing aid.
- (9) Processing aid is to be granted subject to the conclusion of a contract or commitment as referred to in Article 2 of Regulation (EC) No 1673/2000. In addition, transfers between national guaranteed quantities and the unit quantities per hectare must be fixed in good time by the Member State on the basis of the areas covered by contracts or commitments. Provision should be made for the relevant information in such contracts or commitments to be forwarded by the operators to the competent authorities of the Member State at the start of processing operations. In order to permit some flexibility in the trade concerned, the possibilities for transferring contracts among authorised primary processors should be subject to a limit.
- (10) With a view to sound management of the aid scheme, the information that must be forwarded by the operators to the competent authorities of the Member State and the notifications to be made to the Commission by the Member States must be stipulated.
- (11) In order to manage a scheme based on aid granted on the basis of the quantities of fibre produced over a period of 22 months, provision should be made for the lodging, at the start of processing operations for a given marketing year, of aid applications covering fibre to be obtained, the quantities of which are to be indicated periodically thereafter.
- (12) On account of the possible adjustments to the national guaranteed quantities and the unit quantities per hectare, the total quantities of fibre on which the aid can be granted are known only after processing is completed. Provision must accordingly be made for advances on the aid to be paid to authorised primary processors on the basis of the quantities of fibre obtained periodically. In

<sup>(1)</sup> OJ L 391, 31.12.1992, p. 36.

<sup>(2)</sup> OJ L 314, 14.12.2000, p. 8.

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order to ensure that amounts due where irregularities are observed are actually paid, such advance payments should be made subject to the lodging of a security. Such securities must comply with certain provisions of Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products <sup>(1)</sup>, as last amended by Regulation (EC) No 1932/1999 <sup>(2)</sup>.

- (13) Additional aid as provided for in Article 4 of Regulation (EC) No 1673/2000 is to be granted only in respect of areas the straw produced from which has qualified for aid for processing into long flax fibre. A minimum yield of long flax fibre produced per hectare covered by a contract or a commitment should accordingly be established so that the circumstances under which that condition is met can be determined.
- (14) A system of administrative and on-the-spot checks is vital for the proper conduct of the operations. The items that must be checked and the minimum number of on-the-spot checks to be carried out per marketing year must be specified.
- (15) The consequences of any irregularities observed must be laid down. They must be sufficiently severe as to discourage any unlawful use of Community aid while complying with the principle of proportionality.
- (16) In order to bring the time when the fibre is obtained sufficiently close to the operative event for the exchange rate for advance payments and processing aid, that event must take place on the last day of each period for the notification of the quantities of fibre obtained.
- (17) With a view to a smooth switchover to the new arrangements, transitional provisions must be laid down in the 2001/02 marketing year as regards the granting of authorisation to primary processors. The competent authorities must in particular know the exact quantities in storage at the time of application of the new aid scheme in order to prevent abuses and provision must therefore be made for a specific notification to that end to be made by the operators concerned.
- (18) Regulation (EC) No 1673/2000 introduces a new common organisation of the markets in flax and hemp grown for fibre from the 2001/02 marketing year and repeals, as from 1 July 2001, the Council Regulations on the common organisation of the market in force in that sector until the 2000/01 marketing year. As from the 2001/02 marketing year, Commission Regulations (EEC) No 1215/71 of 10 June 1971 on detailed rules concerning the outline provisions for contracts for the sale of flax and hemp straw <sup>(3)</sup>, (EEC) No 1523/71 of 16 July 1971 on communications between Member States and the Commission on flax and hemp <sup>(4)</sup>, (EEC) No 1524/71 of 16 July 1971 laying down detailed rules concerning private storage aid for flax and hemp fibres <sup>(5)</sup>, (EEC) No 1164/89 of 28 April 1989 laying down detailed rules concerning the aid for fibre flax and hemp <sup>(6)</sup>, (EEC) No 1784/93 of 30 June 1993 fixing the adjustment coefficients for aid for fibre flax <sup>(7)</sup> and (EC) No 452/1999 of 1 March 1999 fixing the minimum yields for the granting of aid for the production of fibre flax and hemp <sup>(8)</sup> should accordingly be repealed.

<sup>(1)</sup> OJ L 205, 3.8.1985, p. 5.

<sup>(2)</sup> OJ L 240, 10.9.1999, p. 11.

<sup>(3)</sup> OJ L 127, 11.6.1971, p. 22.

<sup>(4)</sup> OJ L 160, 17.7.1971, p. 14.

<sup>(5)</sup> OJ L 160, 17.7.1971, p. 16.

<sup>(6)</sup> OJ L 121, 29.4.1989, p. 4.

<sup>(7)</sup> OJ L 163, 6.7.1993, p. 7.

<sup>(8)</sup> OJ L 54, 2.3.1999, p. 11.

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- (19) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Flax and Hemp,

HAS ADOPTED THIS REGULATION:

**▼M6***Article 1***Purpose and marketing year**

1. The detailed rules for the application of the common organisation of the markets in flax and hemp grown for fibre established by Regulation (EC) No 1673/2000 shall be as laid down herein.
2. The marketing year shall run from 1 July to 30 June.

**▼B***Article 2***Definitions**

For the purposes of this Regulation:

- ‘persons treated as processors’ means farmers who, in accordance with Article 2(1)(b) of Regulation (EC) No 1673/2000, have concluded contracts with an authorised primary processor to have straw belonging to them processed into fibre,
- there are three types of fibre as follows:
  - (a) ‘long flax fibre’ means flax fibres obtained by complete separation of the fibres and the woody parts of the stalk that are at least 50 cm long on average after scutching and are arranged in parallel strands in bundles, sheets or slivers;
  - (b) ‘short flax fibre’ means flax fibres other than as referred to in (a) that are obtained by at least partial separation of the fibres and the woody parts of the stalk;
  - (c) ‘hemp fibre’ means hemp fibres obtained by at least partial separation of the fibres and the woody parts of the stalk.

*Article 3***Authorisation of primary processors**

1. Primary processors must submit applications for authorisation to the competent authorities including at least:
  - (a) a description of the undertaking and of the full range of products obtained by processing flax and hemp straw;
  - (b) a description of the processing plant and equipment, giving details of their location and technical specifications covering:
    - energy consumption and the maximum quantities of flax and hemp straw that can be processed per hour and per year,
    - the maximum quantities of long flax fibre, short flax fibre and hemp fibre that can be obtained per hour and per year,
    - the indicative quantities of flax and hemp straw required to obtain 100 kg of each product referred to in (a);
  - (c) a description of the storage facilities, giving details of their location and capacity in tonnes of flax and hemp straw and fibre.

The Member State may waive the requirement on primary processors approved for the 2000/01 marketing year under Article 3 of Council

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Regulation (EEC) No 619/71 <sup>(1)</sup> to submit information that is already available, provided that the primary processors in question declare that there has been no change in the situation.

2. Applications for authorisation shall include an undertaking applying from the date of submission to:

— store separately by marketing year of harvest of the straw concerned and by Member State of harvest, flax straw, hemp straw, long flax fibre, short flax fibre and hemp fibre:

- (a) covered by all sale/purchase contracts and processing commitments combined,
- (b) covered by each processing contract concluded with persons treated as processors,
- (c) from all other suppliers combined and, where applicable, corresponding to batches of fibre obtained from straw falling within (a) but not to be covered by an aid application,

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— keep daily records of stocks or records by lot, linked regularly to financial accounts, and of the information specified in paragraph 5, together with supporting documents as specified by the Member State for the purpose of controls,

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— notify the competent authority of any changes in the information covered by paragraph 1,

— undergo any checks required under the aid scheme provided for in Regulation (EC) No 1673/2000.

3. After an on-the-spot inspection to check that the information covered by paragraph 1 tallies with the facts, the competent authority shall grant primary processors authorisation covering the types of fibre meeting the conditions for eligibility for the aid which they may produce and shall allocate an authorisation number to each.

Authorisation shall be granted within two months of submission of applications.

Where there is a change in one or more items of information covered by paragraph 1, the competent authority shall confirm or adjust authorisations, where necessary after an on-the-spot check, in the month following that of notification of the change. However, any adjustment affecting the types of fibre covered by authorisations granted may take effect only from the following marketing year.

4. In connection with the authorisation of primary processors in respect of long flax fibre and simultaneously in respect of short flax fibre, the Member States may allow short flax fibre to be cleaned under the conditions laid down in this paragraph and if it considers the control arrangements to be satisfactory, so that the fibre complies with the impurity and shive limits laid down in Article 2(3)(b) of Regulation (EC) No 1673/2000.

In such cases primary processors shall state their intention to make use of the provisions of this paragraph in their applications for authorisation as provided for in paragraph 1.

►M3 A maximum of two cleaners of short flax fibre ◀ may be granted authorisation per authorised primary processor per marketing year concerned.

Before 1 February in respect of each marketing year, authorised primary processors shall present the competent authorities with a contract for the cleaning of short flax fibre, including at least:

<sup>(1)</sup> OJ L 72, 26.3.1971, p. 2.

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- (a) the date of conclusion of the contract and the marketing year corresponding to the harvest of the straw from which the fibre concerned has been obtained;
- (b) the primary processor's authorisation number and, in the case of cleaners of short flax fibre, their names, business names and addresses and the location of the plant;
- (c) a statement to the effect that the cleaner of short flax fibre undertakes to:
  - (i) store cleaned and uncleaned short flax fibre separately by cleaning contract,
  - (ii) keep separately by cleaning contract, daily records of the quantities of uncleaned short flax fibre entering the undertaking, the quantities of cleaned short flax fibre obtained, and the quantities of each in storage,
  - (iii) keep supporting documents as specified by the Member State for the purposes of controls and undergo any checks required under this Regulation.

Cleaners' undertakings as referred to in point (c) shall be deemed to be undertakings of primary processors under their authorisations.

5. Stock records of authorised primary processors shall specify, by day ► **M3** or lot ◀ and by category of straw or type of fibre stored separately:

- (a) the quantities entering the undertaking and covered by each contract or commitment as referred to in Article 5 and, where applicable, from each other supplier;
- (b) the quantities of straw processed and the quantities of fibre obtained;
- (c) the estimated losses and the quantities destroyed, with justifications;
- (d) the quantities leaving the undertaking, broken down by consignee;
- (e) the quantities in each store.

Authorised primary processors must be in possession of certificates of delivery or take-over from the supplier or consignee concerned or other equivalent document accepted by the Member State covering all consignments of straw and fibre entering or leaving the undertaking and not covered by a contract or commitment as referred to in Article 5. Authorised primary processors shall keep a record of the names or business names and addresses of all suppliers and consignees.

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6. A lot shall be a determined quantity of flax or hemp straw numbered on entry into the processing plants or storage facilities referred to in paragraph 1.

A lot may relate to only one sale/purchase contract covering straw, processing commitment or processing contract as referred to in Article 5.

**▼B***Article 4***Obligations of persons treated as processors**

Persons treated as processors must:

- (a) be in possession of a contract with an authorised primary processor for the processing of straw into long flax fibre, short flax fibre and/or hemp fibre;

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- (b) keep a register showing the following from the beginning of the marketing year in question in respect of each day concerned:
  - the quantities of flax and hemp straw grown for fibre obtained and delivered under each processing contract,
  - the quantities of long flax fibre, short flax fibre and/or hemp fibre obtained,
  - the quantities of long flax fibre, short flax fibre and/or hemp fibre sold or transferred, with the names and addresses of the consignees;
- (c) keep the supporting documents stipulated by the Member State for the purpose of controls; and
- (d) agree to undergo any checks provided for under this aid scheme.

*Article 5***Contracts**

1. Sale/purchase contracts covering straw, processing commitments and processing contracts as referred to in Article 2(1) of Regulation (EC) No 1673/2000 shall stipulate at least:

- (a) the date of conclusion of the contract and the marketing year corresponding to the harvest concerned;

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- (b) the primary processor's authorisation number, the farmer's identification number under the integrated administration and control system provided for in Council Regulation (EC) No 1782/2003 and their names and addresses;

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- (c) details identifying the agricultural parcel(s) concerned in accordance with the system for identifying agricultural parcels provided for under the integrated administration and control system;
- (d) the areas under flax grown for fibre and those under hemp grown for fibre.

2. Before 1 January of the marketing year concerned, sale/purchase or processing contracts covering straw may be transferred to an authorised primary processor other than the one who originally concluded the contract, with the signed agreement of the farmer and of the authorised primary processors transferring the contract between them.

After 1 January of the marketing year concerned, transfers of contracts as provided for in the first subparagraph may take place only under exceptional circumstances, backed up by duly justified supporting evidence and with the authorisation of the Member State.

*Article 6***Information to be provided by operators**

1. Before the date set by the Member State and by 20 September at the latest following the beginning of the marketing year in question, authorised primary processors and persons treated as processors shall provide the competent authorities with:

- a list of all sale/purchase contracts, processing commitments and processing contracts as referred to in Article 5 for that marketing year, broken down into flax and hemp and mentioning the farmer's identification number under the integrated administration and control system and the parcels concerned, and



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— a declaration of the total areas under flax and the total areas under hemp covered by sale/purchase contracts, processing commitments and processing contracts.

However, the Member State may require a copy of all documents concerned instead of the list referred to in the first indent of the first subparagraph.

Where certain processing contracts or processing commitments relate to areas located in a Member State other than that in which the primary processor is authorised, the information specified in the first subparagraph relating to the areas concerned shall also be supplied by the party concerned to the Member State in which harvest takes place.

2. In respect of the first six months of the marketing year and each four-month period thereafter, authorised primary processors and persons treated as processors shall declare the following to the competent authorities by the end of the following month as regards each category of products stored separately:

- (a) the quantities of fibre produced and covered by aid applications;
- (b) the quantities of other fibres produced;
- (c) the aggregate total quantity of straw that has entered the undertaking;
- (d) the quantities in storage;
- (e) where appropriate, a list drawn up in accordance with the first indent of paragraph 1 of sale/purchase contracts covering straw ►**M1** and processing contracts ◀ that have been transferred in accordance with the first subparagraph of Article 5(2), giving the names of transferees and of transferors.

For each period concerned, together with their declarations as provided for in the first subparagraph persons treated as processors shall submit supporting evidence concerning quantities of fibre placed on the market and covered by aid applications. Such supporting evidence shall be specified by the Member State and shall include at least copies of sales invoices covering flax and hemp fibre and an attestation from the authorised primary processor who has processed the straw certifying the quantities and types of fibre obtained.

After notifying the Member State, authorised primary processors and persons treated as processors may stop sending the declarations as provided for in this paragraph concerning quantities entering and leaving the undertaking and quantities processed where such operations have ceased definitively for the marketing year concerned.

3. Before 1 May following the marketing year in question, authorised primary processors shall inform the competent authorities of the main ways in which the fibre and other products obtained have been used.

*Article 7***Entitlement to aid**

1. Aid for processing flax and hemp straw as provided for in Article 2 of Regulation (EC) No 1673/2000 shall be payable on flax and hemp fibre only where it:

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— comes from straw covered by sale/purchase contracts, processing commitments or processing contracts as referred to in Article 5 covering parcels under flax or hemp grown for fibre and by the single application as referred to in Chapter I of Title II of Part II of Commission Regulation (EC) No 796/2004, submitted in respect of the year in which the marketing year begins, and

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— is obtained before 1 May following the end of the marketing year in question by an authorised primary processor and, in the case of persons treated as processors, is placed on the market before that date.

2. Where the Member State decides to grant aid on short flax fibre or hemp fibre containing more than 7,5 % impurities and shives, in accordance with Article 2(3)(b) of Regulation (EC) No 1673/2000 the quantity 'Q' on which the aid is granted shall be calculated by applying the formula:

$$Q = P * [(100 - x)/(100 - 7,5)]$$

where 'P' stands for the quantity of eligible fibre obtained with not more than the authorised percentage 'x' of impurities and shives.

*Article 8***National guaranteed quantities**

1. The 5 000 tonnes of short flax fibre and hemp fibre for apportioning as national guaranteed quantities in accordance with Article 3(2) (b) of Regulation (EC) No 1673/2000 shall be allocated before 16 November for the marketing year in progress on the basis of information forwarded to the Commission by the Member States concerned before 16 October and covering:

- the areas covered by sale/purchase contracts, processing commitments and processing contracts submitted in accordance with Article 6, and
- the estimated flax and hemp straw and fibre yields.

2. In order to establish the national quantities on which processing aid may be granted in respect of a given marketing year, before 1 January of the marketing year in question the Member States shall determine the transfers of national guaranteed quantities made in accordance with Article 3(5) of Regulation (EC) No 1673/2000.

However, for the purposes of applying paragraph 4 of this Article, before 1 August following the time limit laid down in the second indent of Article 7(1) the Member State may adjust the quantities transferred.

3. For the purposes of applying Article 2(4) of Regulation (EC) No 1673/2000, the quantity of long flax fibre, short flax fibre and hemp fibre on which processing aid may be granted in respect of a marketing year to an authorised primary processor or a person treated as a processor shall be limited to the number of hectares of parcels covered by a sale/purchase contract or a processing commitment or, as the case may be, a processing contract, multiplied by a unit quantity to be determined.

Before 1 January of the marketing year in progress the Member State shall determine the unit quantity referred to in the first subparagraph for the whole of its territory for each of the three types of fibre concerned.

4. Where the quantities of fibre on which aid is payable to certain authorised primary processors or certain persons treated as processors are below the limits applicable to them pursuant to paragraph 3, the Member State may, after receiving all declarations as provided for in Article 6(2)(a) in respect of the marketing year concerned, increase the unit quantities as referred to in paragraph 3 so as to reallocate the quantities available to the other authorised primary processors or persons treated as processors whose eligible quantities exceed the limits applicable to them.

▼ M6▼ B*Article 9***Aid applications**

1. Authorised primary processors shall submit applications for aid for processing straw to the competent authorities in respect of long flax fibre, short flax fibre and hemp fibre to be obtained from straw from the marketing year concerned before the time limit laid down in the second indent of Article 7(1). Such applications shall be submitted by the date laid down in Article 6(1) at the latest.

Where the fibre is to be obtained partly from straw produced in a Member State other than that in which the primary processor is authorised, the aid applications shall be submitted to the competent authority in the Member State where the straw is harvested and a copy shall be forwarded to the Member State where the primary processor is authorised.

2. Persons treated as processors shall submit applications for aid for processing straw to the competent authorities in respect of long flax fibre, short flax fibre and hemp fibre to be obtained from straw from the marketing year concerned and placed on the market before the time limit laid down in the second indent of Article 7(1). Such applications shall be submitted by the date laid down in Article 6(1) at the latest.

3. Aid applications shall include at least:

- the applicants' names, addresses and signatures and, where applicable, the authorisation numbers of primary processors or the identification numbers under the integrated administration and control system of persons treated as processors,
- a statement that the quantities of long flax fibre, short flax fibre and hemp fibre covered by the application will be covered by declarations as provided for in Article 6(2)(a).

For the purposes of granting the aid, declarations as provided for in Article 6(2)(a) shall form an integral part of aid applications.

*Article 10***Advances on the aid**

1. Where applications for advances are submitted with declarations of fibre obtained as provided for in Article 6(2)(a), the advances shall be paid to the authorised primary processors by the end of the month following that of submission of the declaration, provided that an aid application has been submitted in accordance with Article 9. Without prejudice to the limit laid down in Article 8(3), advances shall be equal to 80 % of the aid corresponding to the quantities of fibre declared.

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2. Advances shall be paid only where no irregularity has been found to have been committed by the applicant in respect of the marketing year concerned under the controls provided for in Article 13 and where a security has been lodged.

Except as regards the relevant securities where short flax fibre is cleaned under contract, for each authorised primary processor and each type of fibre, the security shall be 35 % of the amount of the aid corresponding to the quantities of fibre resulting from the multiplication referred to in the first subparagraph of Article 8(3) of this Regulation.

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However, Member States may provide that the amount of the security be based on estimate production. In this case:

- (a) the security may not be released either in part or in full before the granting of the aid;
- (b) notwithstanding the fifth subparagraph, in relation to the total amount of advances paid the amount of the security may not be less than:
  - 110 % up to 30 April of the marketing year in question,
  - 75 % between 1 May of the marketing year in question and 31 August following,
  - 50 % between 1 September following the marketing year in question and the date of payment of the balance of the aid.

Where short flax fibre is cleaned under contract, the relevant security shall be equal to 110 %:

- of the amount of aid corresponding to the quantities of fibres resulting from the multiplication referred to in the first subparagraph of Article 8(3) hereto, or
- where the Member State applies the above subparagraph, the total amount of advances paid for the marketing year in question.

The security shall be released in full between the first and the 10th day following that of granting of the aid in proportion to the quantities on which the Member State has granted the processing aid.

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3. Article 3 and Titles II, III and VI of Regulation (EEC) No 2220/85 shall apply to securities as referred to in this Article.

*Article 11***Additional aid**

Additional aid as provided for in Article 4 of Regulation (EC) No 1673/2000 shall be granted to primary processors of long flax fibre who are authorised in respect of areas located in the zones listed in the Annex to that Regulation and covered by sale/purchase contracts and processing commitments submitted in accordance with Article 6(1) of this Regulation.

However, the area in respect of which additional aid is granted shall not exceed that corresponding to the quantity of long flax fibre meeting the conditions for eligibility for the processing aid and obtained in respect of the marketing year concerned, divided by a yield of 680 kg of long flax fibre per hectare.

*Article 12***Payment of aid**

1. Processing aid and, where appropriate, additional aid shall be granted once all the checks laid down have been performed and after the definitive quantities of fibre eligible for the aid have been determined in respect of the marketing year concerned.

2. Before ►**M5** 15 October ◀ following the time limit laid down in the second indent of Article 7(1), processing aid and, where appropriate, additional aid shall be paid by the Member State on whose territory the flax or hemp straw has been harvested.

**▼B***Article 13***Controls**

1. Controls shall be performed to ensure compliance with the conditions for granting the aid and shall in particular involve:

— checking compliance with the conditions for authorising primary processors and fulfilment of their obligations by persons treated as processors,

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— comparing information on agricultural parcels referred to in sale/purchase contracts, processing commitments and processing contracts to see whether it tallies with that determined in accordance with Regulation (EC) No 1782/2003,

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— checking information in support of quantities covered by aid applications from authorised primary processors and persons treated as processors.

Checks of authorised primary processors carried out by the competent authorities of Member States shall cover the processing of all flax and hemp straw grown for fibre produced in the Community.

2. On-the-spot inspections conducted for the purposes of controls as provided for in paragraph 1 shall be decided by the competent authorities, in particular on the basis of a risk analysis, with a view to checking at least 75 % of authorised primary processors and 10 % of persons treated as processors per marketing year. However, in no case may the number of on-the-spot inspections conducted in any Member State be less than the total number of hectares declared as under flax and hemp in that Member State, divided by 750.

On-the-spot inspections shall also cover all cleaners of short flax fibre who have concluded contracts with authorised primary processors for the cleaning of fibre.

3. On-the-spot inspections shall in particular involve checking:

- plant, stocks and fibre obtained,
- stock records and financial accounts,
- the energy consumed by the various means of production and documents relating to labour employed, and
- any commercial documents relevant to controls.

In the event of doubt as to the eligibility of fibre, and in particular as regards the impurities content of short flax fibre or hemp fibre, a representative sample shall be taken from the batches called into question and a precise determination carried out of the relevant characteristics. Where applicable and depending on the circumstances, the Member State shall determine the quantities that are not eligible among those covered by aid applications.

In cases as referred to in Article 3(3) of Regulation (EC) No 1673/2000, the Member State conducting the inspection shall send the findings immediately to the Member State that is to pay the aid.

*Article 14***Penalties**

1. Where checks show that undertakings entered into in authorisation applications are not fulfilled, authorisation shall be withdrawn immediately and, notwithstanding Article 3(3), primary processors whose authorisation has been withdrawn shall not be granted any further authorisation before the second marketing year beginning after the

**▼B**

date of the check or the date on which any failure to fulfil such undertakings has been established.

2. Where a false declaration is made deliberately or as a result of serious negligence or where the primary processor has signed sale/purchase contracts covering straw or has entered into processing commitments covering a number of hectares which would normally provide a significantly higher output than can be processed in accordance with the technical specifications shown in his authorisation, the authorised primary processor or person treated as a processor shall not qualify for processing aid or, where applicable, for additional aid as provided for in Article 4 of Regulation (EC) No 1673/2000 in respect of the marketing year concerned and the following marketing year.

3. Where quantities of long flax fibre, short flax fibre or hemp fibre covered by aid applications are found to exceed those meeting the conditions for eligibility for the aid and actually obtained in respect of a period as referred to in Article 6(2), the aid that may be granted on each type of fibre shall, without prejudice to Article 8(3), be calculated on the basis of the quantities actually eligible in respect of the marketing year concerned, less twice the difference with those covered by aid applications.

4. Except in cases of *force majeure*, in the event of late submission of aid applications as provided for in Article 9 or of late submission or late declaration of information as provided for in Article 6, the aid applied for and which the party concerned would have been entitled to if the application had been submitted or declared by the deadline shall be reduced by 1 % per working day. Applications and information as provided for in Article 6(1) submitted more than 25 days late shall be inadmissible.

5. Where applicable, the additional aid referred to in Article 11 shall be reduced by the same percentage as that applied to the total processing aid granted in respect of the marketing year concerned.

*Article 15***Notifications**

1. In the second month following the end of each period as referred to in the first subparagraph of Article 6(2), the Member States shall notify the Commission of:

- (a) the total quantities of long flax fibre, short flax fibre and hemp fibre, adjusted, where applicable, in accordance with Article 7(2), for which aid applications have been submitted in the period concerned;
- (b) the quantities sold each month and the relevant prices that may be recorded on the most important markets at the production stage for the qualities of fibre of Community origin that are most representative of the market;

**▼M1**

- (c) for each marketing year, a summary statement of the quantities of long flax fibre, short flax fibre and hemp fibre obtained from straw of Community origin in storage at the end of the period concerned.

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2. By 31 January at the latest and in respect of the marketing year in progress, the Member States shall notify the Commission of:

- (a) transfers of national guaranteed quantities made in accordance with Article 3(5) of Regulation (EC) No 1673/2000 and the national guaranteed quantities resulting from such transfers;

**▼B**

- (b) a summary statement of areas under flax and hemp grown for fibre and covered by contracts or commitments as referred to in Article 2 (1) of Regulation (EC) No 1673/2000;
- (c) the unit quantities determined in accordance with Article 8(3);
- (d) estimated production of flax and hemp straw and fibre;
- (e) the number of authorised processing undertakings and their total processing capacity in terms of the various types of fibre in respect of the marketing year in progress;
- (f) where applicable, the number of contract cleaners of short flax fibre.

3. By ►**M5** 15 December ◀ of each year at the latest, the Member States shall send the Commission the following information relating to the next-to-last marketing year:

- (a) a summary statement of the total quantities of long flax fibre, short flax fibre and hemp fibre covered by aid applications:
  - 1. and recognised as eligible for processing aid as provided for in Article 2(1) of Regulation (EC) No 1673/2000;
  - 2. but not recognised as eligible for processing aid, specifying the quantities not qualifying for the aid as a result of an overrun in the national guaranteed quantities determined pursuant to Article 8;
  - 3. for which the securities provided for in Article 10 have been forfeited;
- (b) the total quantities of short flax fibre and hemp fibre that are not eligible because they contain a percentage of impurities in excess of the limit laid down in Article 2(3)(b) of Regulation (EC) No 1673/2000 and that have been obtained by authorised primary processors and persons treated as processors;
- (c) a summary statement of the number of hectares located respectively in zones I and II as defined in the Annex to Regulation (EC) No 1673/2000 and on which the additional aid provided for in Article 4 of that Regulation has been granted;
- (d) where applicable, the national guaranteed quantities and unit amounts resulting from the adjustments provided for in the second subparagraph of Article 8(2) and Article 8(4);
- (e) the number of penalties as provided for in Article 14(1), (2) and (3) that it has been decided to apply and those that are under consideration;
- (f) where applicable, a report on the application of Article 3(4) and on the controls and quantities concerned.

4. Where the Member State decides pursuant to the second subparagraph of Article 2(3)(b) of Regulation (EC) No 1673/2000 to grant aid on short flax fibre or hemp fibre containing more than 7,5 % impurities and shives, it shall notify the Commission by no later than 31 January of the marketing year in progress, specifying the traditional outlets concerned.

In such cases, together with the information specified in paragraph 1(a) the Member State shall include a breakdown of the actual, unadjusted quantities of short flax fibre and hemp fibre containing more than 7,5 % impurities and shives and covered by aid applications.

**▼ M7***Article 16***Operative event**

For each period as referred to in Article 6(2), the operative event for the exchange rate for the euro for the purposes of converting the advance and the processing aid for the quantity concerned shall be that referred to in Article 2(6) of Commission Regulation (EC) No 1913/2006 <sup>(1)</sup>.

**▼ B***Article 17***Transitional measures**

1. The transitional measures covered by this Article shall apply for the 2001/02 marketing year.
2. Member States may grant authorisation within the meaning of Article 1(2) of Regulation (EC) No 1673/2000 to primary processors for flax and hemp fibre meeting the conditions for eligibility for the aid which they may produce where:
  - they are approved under Article 3 of Regulation (EEC) No 619/71 for the 2000/01 marketing year,
  - no irregularity involving them has been observed during the 1999/2000 and 2000/01 marketing years, and
  - they have submitted an application for authorisation in accordance with Article 3 of this Regulation before 30 June 2001.
3. With a view to qualifying for aid under Regulation (EC) No 1673/2000, by 31 July 2001 at the latest, authorised primary processors and persons treated as processors shall declare the stocks of flax straw, hemp straw, long flax fibre, short flax fibre and hemp fibre from harvests from before the 2001/02 marketing year that they hold at 30 June 2001.

**▼ M1***Article 17a***Imported hemp**

1. The licence referred to in the first subparagraph of Article 5(2) of Regulation (EC) No 1673/2000 shall be drawn up in accordance with the model given in the Annex hereto. The licence shall be issued only where it has been proven to the satisfaction of the importer Member State that all the conditions laid down have been fulfilled.

Without prejudice to paragraph 2, the Member States concerned shall lay down the conditions to be fulfilled by the licence application and the issue and use of the licence. However, boxes 1, 2, 4, 14, 15, 16, 17, 18, 20, 24 and 25 of the licence form must be filled in.

**▼ M6**

Licences may be issued and used using computerised systems in accordance with detailed rules laid down by the competent authorities. The content of those licences must be identical to that of licences on paper referred to in first and second subparagraphs. In Member States where such computerised systems are not available, the importer can only use the paper form of the licence.

**▼ M1**

The system of checks referred to in the second subparagraph of Article 5(2) of Regulation (EC) No 1673/2000 shall be established by each Member State concerned.

<sup>(1)</sup> OJ L 365, 21.12.2006, p. 52.



**▼ M1**

2. For the purposes of the third indent of Article 5(2) of Regulation (EC) No 1673/2000, the Member States concerned shall establish arrangements for the authorisation of importers of hemp seed other than for sowing. Those arrangements shall include the definition of the conditions for authorisation, checks and the penalties to be applied in cases of irregularity.

In the case of imports of hemp seed as referred to in the first subparagraph, the licence referred to in paragraph 1 shall be issued only where the authorised importer undertakes that the competent authorities will be presented, within the time limits and under the conditions defined by the Member State, with documents attesting that the hemp seed covered by the licence has undergone, within a period of less than 12 months from the date on which the licence is issued, one of the following operations:

**▼ M3**

— placing in a condition that excludes use for sowing,

**▼ M1**

— mixing with seed other than hemp seed for the purposes of animal nutrition, with hemp seed accounting for a maximum of 15 % of the total mixture and, in exceptional cases, a maximum of 25 % at the request of the authorised importer accompanied by justification,

— re-export to a non-Community country.

However, if part of the hemp seed covered by the licence has not undergone one of the operations referred to in the previous subparagraph within the time limit of 12 months, the Member State may, at the request of the authorised importer accompanied by justification, extend that time limit by one or two periods of six months.

The attestations referred to in the second subparagraph shall be drawn up by the operators who have carried out the operations and shall comprise at least the following information:

- the name, full address, Member State and signature of the operator,
- a description of the operation carried out meeting the conditions laid down in the second subparagraph and the date on which it was carried out,
- the quantity in kilograms of hemp seed to which the operation related.

3. On the basis of a risk analysis, each Member State concerned shall carry out checks on the accuracy of the attestations relating to the operations referred to in the second subparagraph of paragraph 2 carried out on their territory.

Where appropriate, the importer Member State shall send the Member State concerned copies of the attestations concerning the operations carried out on the latter's territory and submitted by authorised importers. Where irregularities are discovered during the checks referred to in the first subparagraph, the Member State concerned shall inform the competent authority of the importer Member State.

4. Member States shall notify the Commission of the provisions adopted for the application of paragraphs 1 and 2.

No later than 31 January each year the Member States shall notify the Commission of the penalties imposed or steps taken as a result of irregularities discovered during the preceding marketing year.

The Member States shall send the Commission, which shall forward them to the other Member States, the names and addresses of the authorities responsible for issuing licences and for the checks referred to in this Article.

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*Article 18*

**Regulations repealed**

Regulations (EEC) No 1215/71, (EEC) No 1523/71, (EEC) No 1524/71, (EEC) No 1164/89 and (EEC) No 1784/93 and (EC) No 452/1999 shall be repealed as from 1 July 2001.

*Article 19*

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

It shall apply from the 2001/02 marketing year.

**▼M1**

Regulations (EEC) No 1523/71, (EEC) No 1164/89, (EEC) No 1784/93 and (EC) No 452/1999 shall continue to apply for the 1998/99, 1999/2000 and 2000/01 marketing years.

**▼B**

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

▼ **M1**

## ANNEX

## LICENCE FOR THE IMPORT OF HEMP (conformity of hemp with Article 5 of Regulation (EC) No 1673/2000)

<b>1</b> Holder's copy	1. Agency issuing the licence (name and address)		2. Issuing agency's embossment and perforation <sup>(1)</sup>		No
	4. Issued to (name, full address and Member State) <input type="checkbox"/>		3.		
	6.		7. Exporting country		
			8. Country of origin		
<b>1</b>			10.		
			11.		
13. PRODUCT TO BE IMPORTED			12. LAST DAY OF VALIDITY		
14. Trade denomination					
15. Description in accordance with the Combined Nomenclature (CN) (Tick the relevant box)			16. CN code (Tick the relevant box)		
<input type="checkbox"/> Hemp seeds for sowing <input type="checkbox"/> Hemp seeds other than for sowing <input type="checkbox"/> True hemp, raw or retted			<input type="checkbox"/> ► <sup>(1)</sup> ex 1207 99 20 ◀ <input type="checkbox"/> 1207 99 91 <input type="checkbox"/> 5302 10 00		
17. Quantity <sup>(2)</sup> in figures		18. Quantity <sup>(2)</sup> in words		19. Tolerance % more	
20. Variety of hemp (in the case of seeds for sowing)					
24. Special conditions (Tick the relevant box)					
<input type="checkbox"/> Hemp seeds for sowing falling within ► <sup>(1)</sup> CN code 1207 99 20 ◀ are accompanied by proof that the tetrahydrocannabinol content of the variety concerned does not exceed that laid down in accordance with Article 5a of Regulation (EC) No 1251/1999 <input type="checkbox"/> Hemp seeds other than for sowing falling within CN code 1207 99 91 are imported by an importer approved by the authorities of the Member State <input type="checkbox"/> Raw hemp falling within CN code 5302 10 00 fulfils the conditions laid down in Article 5a of Regulation (EC) No 1251/1999					
25. Issued at:			26. Term of validity extended until		
on [ ] [ ] [ ] [ ] under No			[ ] [ ] [ ] [ ] inclusive		
Signature and stamp of issuing agency:			for <sup>(2)</sup> : At [ ] [ ] [ ] [ ] , on [ ] [ ] [ ] [ ]		
			Signature and stamp of agency issuing the licence:		

(1) To be completed if the signature and the stamp do not appear in box 25.  
 (2) Net mass or other measurement, indicating unit.

► (1) (2) **M4**

▼ **M1**

## LICENCE FOR THE IMPORT OF HEMP (conformity of hemp with Article 5 of Regulation (EC) No 1673/2000)

<b>2</b>  <b>issuing agency's copy</b>  <b>2</b>	1. Agency issuing the licence (name and address)		2. Issuing agency's embossment and perforation <sup>(1)</sup>		No	
			3.			
	4. Issued to (name, full address and Member State)		5.			
	<input type="checkbox"/>					
	6.		7. Exporting country			
			8. Country of origin			
			10.			
			11.			
			12. LAST DAY OF VALIDITY			
	13. PRODUCT TO BE IMPORTED					
	14. Trade denomination					
	15. Description in accordance with the Combined Nomenclature (CN) (Tick the relevant box)			16. CN code (Tick the relevant box)		
<input type="checkbox"/> Hemp seeds for sowing <input type="checkbox"/> Hemp seeds other than for sowing <input type="checkbox"/> True hemp, raw or retted			<input type="checkbox"/> ► <sup>(1)</sup> ex 1207 99 20 ◀ <input type="checkbox"/> 1207 99 91 <input type="checkbox"/> 5302 10 00			
17. Quantity <sup>(2)</sup> in figures		18. Quantity <sup>(2)</sup> in words		19. Tolerance % more		
20. Variety of hemp (in the case of seeds for sowing)						
24. Special conditions (Tick the relevant box)						
<input type="checkbox"/> Hemp seeds for sowing falling within ► <sup>(1)</sup> CN code 1207 99 20 ◀ are accompanied by proof that the tetrahydrocannabinol content of the variety concerned does not exceed that laid down in accordance with Article 5a of Regulation (EC) No 1251/1999 <input type="checkbox"/> Hemp seeds other than for sowing falling within CN code 1207 99 91 are imported by an importer approved by the authorities of the Member State <input type="checkbox"/> Raw hemp falling within CN code 5302 10 00 fulfils the conditions laid down in Article 5a of Regulation (EC) No 1251/1999						
25. Issued at:			26. Term of validity extended until			
on _____ under No _____			_____ inclusive			
Signature and stamp of issuing agency:			for <sup>(2)</sup> : At _____, on _____			
			Signature and stamp of agency issuing the licence:			

(1) To be completed if the signature and the stamp do not appear in box 25.  
 (2) Net mass or other measurement, indicating unit.

► (1) (2) **M4**