No L 164/22 Official Journal of the European Communities 20.7.72

COMMISSION DECISION

of 26 May 1972

on the granting of aid to encourage rationalization in the growing and processing of fodder crops and cooperation between farms in the Netherlands

(72/253/EEC)

(Only the Dutch text is authentic)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the first subparagraph of Article 93 (2) thereof;

Having regard to Council Regulation (EEC) No 827/68[1] of 28 June 1968 on the common organization of the market in certain products listed in Annex II to the Treaty, and in particular Article 5 thereof;

Having regard to the comments submitted by those concerned;

Whereas the Commission was informed in March 1971 of Decision No 60 of 9 March 1970 of the Agricultural Development and Improvement Fund on the granting of aid to encourage rationalization in the growing and processing of fodder crops and cooperation between farms; whereas such aid is granted for a five year period to farmers (working individually or jointly) who applied for it between 1 December 1970 and 1 March 1971, who grow fodder crops for an unbroken period of five years on one or more parcels each of a minimum continuous area of five hectares and who deliver fodder crops over the five years to a fodder drying undertaking affiliated to a cooperative (samenwerkingslichaam); whereas this aid takes the form of a subsidy granted over the five years at a degressive rate per hectare (with a maximum amount for each farm of 350 (maximum 7 000), 300 (6 000), 250 (5 000), 200 (4 000), 150 (3 000) florins; whereas the crops in question are lucerne, clover, rye-grass and green fodder maize; whereas the drying undertakings to which the fodder crops have to be delivered are all affiliated to a cooperative (samenwerkingslichaam) whose statutes have been approved by the Netherlands Ministry of Agriculture and Fisheries; whereas the role of the cooperative is, in any case, to have the raw materials available to its members processed by those members, in accordance with a well-defined scheme of production, and to organize the joint sale of the goods produced;

Whereas the aid for growing green fodder has the direct effect of covering part (around 7 to 8 %) of the cost of growing those crops; whereas recipients are not obliged to commit themselves financially to investment action or to administrative costs in order to qualify for aid; whereas the aid therefore benefits Netherlands growers' crops in the same way as would an increase in their selling price; whereas such an advantage could lead some of those growers to lower the price to purchasers or to increase production; whereas, in either case, the measure could serve to depress prices for green fodder;

Whereas the aid could have the effect of reducing production costs of green fodder drying undertakings; whereas, in the first place, depending on the supply and demand situation, these undertakings may be able, given the existence of the aid, to bring pressure to bear on green fodder growers to deliver fodder to them at a lower price; whereas, since the aid must have the effect of increasing green fodder production and of spreading it more evenly over the growing season, drying undertakings will be able to make more efficient use of their equipment and lower their production costs; whereas the aid therefore also gives green fodder drying undertakings a competitive advantage;

Whereas this assistance which Netherlands producers of green fodder (fresh or dried) obtain, gives them a competitive advantage in the production and marketing of their products over those of other Member States and over products in competition with green fodder within the Community;

Whereas, in view of the proximity of livestock farms to the drying undertakings in question in the Netherlands, livestock production costs could also decrease thereby affecting the selling price of products from those farms; whereas therefore, producers of certain animal products also enjoy a competitive advantage

[1] OJ No L 151, 30.6.1968, p. 16.

in the production and marketing of their products over those in other Member States;

Whereas it is also possible that the recipient might use the subsidy in question in certain cases to lower the selling price of other products from his farm; whereas the aid thus threatens to distort competition in respect of agricultural products which are neither substitution products nor products processed from green fodder;

Whereas the subsidy granted by the Netherlands Government, besides distorting or threatening to distort competition, affects trade between Member States; whereas the terms of the, at present, not very considerable trade in fresh or dry green fodder may be altered in favour of Netherlands production; whereas the aid particularly affects intra-Community trade in substitution products which are rich in protein; whereas, in fact, the quantities supplied to the Netherlands of, for example, dried vegetables and skimmed-milk powder used in animal feed are very large (imports in relation to quantities available on the Netherlands market in 1968/69: dried vegetables 90 %; skimmed-milk powder 62·5 %; proportion of use for animal feed to total domestic use: dried vegetables 92 %; skimmed-milk powder around 85 %); whereas producers established in other Member States, who have to bear non-subsidized production costs, risk losing part of their outlets on the Netherlands market or on other Community markets;

Whereas the subsidy granted by the Netherlands Government also affects trade in animal products between Member States; whereas the Netherlands exports around a third of its production of the main kinds of meat; whereas most of these quantities are exported to other Member States; whereas, by lowering production costs of animal products the aid has the effect of increasing the already substantial share of Community requirements which Netherlands production supplies; whereas producers in other Member States are thus likely to lose some of their outlets either on the national market or on other Community markets;

Whereas the subsidy granted by the Netherlands Government distorts or threatens to distort competition and affects trade between Member States and whereas it therefore falls under the prohibition decreed in Article 92 (1) of the Treaty;

Whereas exemption from that prohibition cannot be justified under one of the derogations provided for in paragraphs 2 and 3 of that Article, nor in particular under Article 92 (3) (c), since the Netherlands aid does not have the effect of promoting a lasting expansion of green fodder production;

Whereas the Netherlands Government, by subjecting the granting of aid to certain conditions to be fulfilled by recipients, considers that the desired effects of rationalizing the growing and processing of fodder crops and encouraging cooperation between farms are sufficient having regard to the organizational improvement; whereas that Government urges in this context firstly the favourable effect on the condition requiring the green fodder grower to commit himself contractually for five years to growing, either on his own or in association, at least five continuous hectares of green fodder and to delivering the total crop each year to drying undertakings which are themselves affiliated to a cooperative; whereas this objective requires that parcels be enlarged by consolidation, the practical cost of which is the basis for granting aid; whereas, however, at the green fodder growing stage, the fact that a single farm may possess a minimum continuous area of five hectares is not enough in itself to encourage cooperation; whereas, in fact, the average area per recipient(s) of the aid is still only seven hectares in spite of that aid; whereas 17·5 % of the total area of fodder crops grown on arable land in the Netherlands alone is farmed by farmers having less than 10 hectares of those crops; whereas most Netherlands farms therefore use much larger areas for growing those crops; whereas, as a result, too little effort is required of recipients of aid and the effect thereof on organization at the green fodder growing stage is virtually nil; whereas no proof of the real costs borne by the recipient has been sought by the Netherlands Government to justify the granting of aid, either before or after the costs have been incurred;

Whereas, in addition, the measure taken by the Netherlands Government can only have a lasting effect if satisfactory increases in productivity and profitability are achieved by drying undertakings using sufficiently large quantities of raw materials; whereas the Netherlands measure does not provide adequate stimulus to cooperation and reorganization on the part of green fodder growers, since it requires no more than the existence of cooperation between a drying undertaking and a single grower farming five hectares of green fodder; whereas, it also follows that the obligation to conclude a delivery contract cannot be regarded as a positive element in the rationalization and reorganization of green fodder growing;

Whereas the drying undertakings cooperative was set up for the joint purchase of the product covered by the contract and for the processing of the product thus purchased in accordance with a production programme fixed by common consent; whereas, however, in view of the structure of green fodder production and the number and capacity of drying undertakings still in existence in the Netherlands, the above action taken by the drying undertakings cooperative can hardly help to achieve the aim of reorganizing and rationalizing the sector; whereas, in any case, the granting of aid to green fodder growers on the basis of the area cultivated is not the best way

of solving the problem of rationalizing the fodder drying industry;

Whereas the Netherlands Government also urges in support of its measure of aid the fact that the latter is in the nature of a limited experiment to serve as an example to other growers and to encourage them in future to operate similar forms of cooperation of their own accord; whereas this aim is confirmed by the fact that aid is limited to a maximum of 20 hectares per application; whereas the period for submitting applications is limited and the total number of applications under this system of aid is 463, involving 3 250 hectares (i.e. about 15·5 % of the total area); whereas, however, for the reasons given above, the value of the measures as a means of promoting modern production methods is very limited; whereas, in particular, the absence of conditions requiring drying undertakings to process the minimum of raw materials needed to ensure adequate profits, which in turn would provide growers with a certain security as to outlets and prices, is prejudicial to the attainment of this objective; whereas this example is not a good incentive for them since they would easily realize how little profit is to be made from green fodder production if aid is withdrawn; whereas, in any case, the effect of the measure in promoting modern methods is also limited by the fact that recipients are not obliged to take steps to make known the results of the subsidized activity (for example, the keeping of specific accounts, the preparation of progress reports, etc. . . .);

Whereas, finally, the Netherlands Government urges that its measure of aid is required in the green fodder sector in order to maintain the growing of lucerne on marine clay land, which is needed to preserve a satisfactory soil structure; whereas, however, while accepting the argument of the Netherlands Government in favour of the role of those products in crop rotation, the conditions for the granting of aid do not allow this aim to be achieved in a lasting manner;

Whereas, in conclusion, the measure of aid of the Netherlands Government which provides for granting aid to green fodder growers is incompatible with the common market,

HAS ADOPTED THIS DECISION:

Article 1

The Kingdom of the Netherlands shall, not later than 1 August 1972, abolish the aid provided for by Decision No 60 of 9 March 1970 of the Agricultural Development and Improvement Fund on the granting of aid to encourage rationalization in the growing and processing of fodder crops and cooperation between farms.

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 26 May 1972.

For the Commission
The President
S. L. MANSHOLT