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REGULATION (EEC) No 1696/71 OF THE COUNCIL

of 26 July 1971

on the common organisation of the market in hops

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42, 43, 113 and 235 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament[1];

Having regard to the Opinion of the Economic and Social Committee;

Whereas the operation and development of the common market in agricultural products must be accompanied by the establishment of a common agricultural policy and whereas the latter must include in particular a common organisation of agricultural markets, which may take various forms depending on the product concerned;

Whereas Community production of hops is of especial interest for the economy of certain regions of the Community; whereas, for certain farmers in these regions, hop production represents a major part of their income;

Whereas, since vegetable saps and extracts of hops are not listed in Annex II to the Treaty, they are excluded from application of the provisions therein concerning agriculture, whilst hops are subject thereto; whereas, however, since the products in question are broadly speaking interchangeable, this situation is liable to prejudice the effect of the common agricultural policy in hops; whereas measures adopted for hops in respect of trade with third countries pursuant to Article 113 and the marketing rules adopted for hops pursuant to Article 235 should be extended to vegetable saps and extracts of hops;

Whereas international trade has traditionally held great importance for producers and users of hops within the Community; whereas in the main the best return on Community production has up to now been obtained through its competitiveness on the world market and through flexible adjustment of quality and quantity of production to marketing outlets; whereas the common organisation of the markets should not make any basic changes in this situation but should contribute by appropriate measures to the improvement of the quality of the products and protect the producers from any lowering of their present standards of living;

Whereas a quality policy should be followed throughout the Community by implementing provisions concerning certification of the designation of origin together with rules prohibiting, as a general rule, the marketing of products for which the certificate has not been issued or, in the case of imported products, those which do not comply with equivalent minimum quality characteristics; whereas provision should be made for the definition of a standard quality constituting a basis for reference in commercial transactions and ensuring satisfactory alignment of the market;

Whereas adequate information is needed about the present state of the market within the Community and the prospects for its development; whereas, in this respect, the fact that a large part of the output is marketed under contracts concluded before the harvest and even for several years may facilitate forward planning for the development of the market; whereas provision should therefore be made for the registration of all contracts to supply hops produced within the Community; whereas, however, this information should be kept secret in order to assure the persons concerned that it will be used entirely for statistical purposes and in order thus to obtain entirely objective information;

Whereas, in order to stabilise markets and to ensure a fair standard of living for the agricultural community and reasonable prices for supplies to consumers, centralisation of the supply and the joint adaptation

[1] OJ No C 66, 1.7.1971, p. 28.

by growers of their produce to the requirements of the market should be encouraged;

Whereas to this end the grouping of growers in bodies which require their members to comply with common rules is likely to further the achievement of the objectives of Article 39 of the Treaty; whereas these objectives may be pursued, in particular, not only by the grouping of growers within producer groups but also by the formation of unions of these groups;

Whereas in order to avoid any discrimination between producers and to ensure the unity and effectiveness of any action undertaken, conditions should be fixed, for the whole of the Community, with which producers' groups and unions of groups must comply in order to be recognised by the Member States; whereas in order to obtain effective centralisation of supply it is necessary in particular that the groups and unions should be of an economically viable size and that the entire output of member producers of groups should be marketed either directly by the group or by the union or by the producers, according to common rules;

Whereas provision should be made for measures calculated to facilitate the setting up and functioning of these groups; whereas, to this end, Member States should be allowed to grant them aid to be financed in part by the Community; whereas, however, the amount of such aid should be limited and should be designated as temporary and degressive so that the financial responsibility of the producers will progressively increase;

Whereas some Community hop gardens need to be adapted in respect both of the varieties produced and of the possibility of rationalising cultivation and harvesting operations; whereas, for a certain number of years, conversion of the hop gardens to different varieties and their reorganisation should be facilitated by granting specific aid to producers' groups undertaking such activities;

Whereas, in order to ensure a fair standard of living for producers, a system of aid should be provided; whereas the Commission must present a report to the Council annually after marketing the harvest so that it may be decided whether such aid should be fixed; whereas the aid may be granted if examination of this report reveals that the average return per hectare has been insufficient taking into account the present state and foreseeable trend of the market;

Whereas the proposed measures must enable a system of importation to be provided for which includes no measures other than the implementation of the Common Customs Tariff; whereas that tariff applies automatically under the Treaty from 1 January 1970;

Whereas these measures make it possible to waive all quantitative restriction at the external frontiers of the Community; whereas this procedure may, however, in exceptional cases, be found to be ineffective; whereas, in such cases, in order not to leave the Community market defenceless against disturbances liable to arise therefrom once previously existing obstacles to imports have been abolished, the Community must be empowered to take all necessary measures quickly;

Whereas, in internal Community trade, the levying of any customs duty or charges having an equivalent effect and the application of any quantitative restriction or any measure having an equivalent effect are automatically prohibited from 1 January 1970 under the provisions of the Treaty; whereas, finally, in the absence of minimum prices on 31 December 1969, recourse to Article 44 of the Treaty is automatically excluded from 1 January 1970;

Whereas the effectiveness of all the measures governing the common organisation of the market in hops would be prejudiced by the granting of certain aids on the part of the Member States; whereas the provisions of the Treaty enabling aids granted by the Member States to be evaluated and aids which are incompatible with the common market to be prohibited should be applied to the market in hops; whereas, however, provision should be made for a temporary system for national aid granted for contracts lasting several years made before the entry into force of the common organisation of the market;

Whereas the Community should be made financially responsible for expenditure incurred by the Member States as a result of obligations arising from the implementation of this Regulation, in accordance with the provisions of the regulations on the financing of the common agricultural policy;

Whereas the transition from the system in force in the Member States to that set up by this Regulation must be carried out under the best possible conditions; whereas, for this reason, temporary measures may prove to be necessary;

Whereas the common organisation of the market in hops must take account, at the same time and in an appropriate manner, of the objectives laid down in Articles 39 and 110 of the Treaty;

Whereas in order to facilitate the implementation of the proposed provisions, a procedure should be laid down establishing close co-operation between the Member States and the Commission within a Management Committee;

HAS ADOPTED THIS REGULATION:

Article 1

1. A common organisation of the market in hops shall be established, covering the following products:

CCT heading No	Description of goods
12.06	Hop cones and lupulin

2. The rules concerning marketing and trade with third countries shall also apply to the following products:

CCT heading No	Description of goods
13.03 A VI	Vegetable saps and extracts of hops

3. For the purpose of this Regulation,

(a) 'hops' means the dried inflorescenses, also known as cones, of the (female) climbing hop plant *(humulus lupulus)*; these inflorescenses, which are greenish yellow and of an ovoid shape, have a flower stalk and their longest dimension generally varies from 2 to 5 cm;

(b) 'hop powder' means the product obtained by milling the hops, containing all the natural elements thereof;

(c) 'hop powder with higher lupulin content' means the product obtained by milling the hops after mechanical removal of the leaves, stalks, bracts and rachides;

(d) 'extract of hops' means the concentrated products obtained by the action of a solvent on the hops;

(e) 'mixed hop products' means a mixture of two or more of the products referred to above.

TITLE I

Marketing

Article 2

1. The products referred to in Article 1, harvested within the Community or prepared from hops harvested within the Community, shall be subject to a certification procedure in respect of the designation of origin.

2. The certificate may be issued only for products:

— harvested in recognised production areas or prepared from such products;

— belonging to varieties on the Community list of varieties, or prepared from such products; and

— of quality standards satisfying the minimum marketing limits valid for a specific stage of marketing.

3. The Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, shall adopt, for each product, general rules for the certification procedure in respect of the designation of origin and the date of its implementation.

Article 3

1. Where products referred to in Article 1 are subject to a certification procedure in respect of the designation of origin, they may only be marketed or exported if the certificate has been issued.

2. Measures derogating from the provision laid down in paragraph 1 may be decided upon according to the procedure provided for in Article 20:

(a) in order to satisfy the trade requirements of certain third countries; or

(b) for products intended for special uses.

The measures provided for in the preceding subparagraph must:

— not prejudice the normal marketing of products for which the designation of origin certificate has been issued,

— and be accompanied by guarantees intended to avoid any confusion with those products.

Article 4

1. A standard quality for hops harvested within the Community shall be defined on the basis of external characteristics and objective criteria.

2. Rules for the application of this Article shall be adopted in accordance with the procedure provided for in Article 20.

Article 5

1. The products referred to in Article 1 coming from third countries may be imported only if their quality standards are at least equivalent to the

minimum limits for marketing adopted for like products, harvested within the Community, or their derivatives.

2. The products referred to in Article 1 shall be considered as being of the standard referred to in paragraph 1 if they are accompanied by an attestation issued by the authorities of the country of origin and recognised as equivalent to the designation of origin certificate.

The equivalence of these attestations shall be verified according to the procedure provided for in Article 20 .

3. Rules for the application of this Article shall be adopted in accordance with the procedure provided for in Article 20 .

TITLE II

Supply contracts

Article 6

1. Any contract to supply hops produced within the Community concluded between a producer or an association of producers and a buyer shall be registered by the bodies designated for that purpose by each producer Member State.

2. Contracts relating to the supply of specific quantities at agreed prices for a period covering one or more harvests and concluded before 1 August of the year of the first harvest concerned shall be known as 'contracts concluded in advance'. They shall be registered separately.

3. Member States shall periodically provide the Commission with statistical information on the registration of contracts.

4. The data on which registration is based may be used only for the purposes of this Regulation.

5. Rules for the application of this Article shall be adopted in accordance with the procedure provided for in Article 20 .

TITLE III

Producer groups

Article 7

1. For the purposes of this Regulation, 'recognised producer group' means a group of hop producers, recognised by a Member State under the provisions of paragraph 3 and formed on the initiative of the producers for the purpose of, in particular:

(a) joint adaptation of their production to the requirements of the market,

(b) improvement of production by changing to different varieties and by the reorganisation of hop gardens,

(c) promotion of rationalisation and mechanisation of cultivation and harvesting operations in order to render production more profitable.

2. For the purposes of this Regulation, 'recognised union' means a union of recognised producer groups pursuing the same objectives as these groups and recognised by a Member State under the provisions of paragraph 3.

3. Member States shall recognise the producer groups and unions thereof which request recognition and fulfil the following general conditions; they should:

(a) apply common rules for production and marketing (first stage of marketing);

(b) include in their statutes the obligation for producers who are members of groups and for recognised producer groups which are members of unions:

— either to market all the produce by reason of which they are members of the group or union in accordance with the rules for delivery and marketing established and controlled by the group or union respectively,

— or to have all their produce in respect of which recognition has been accorded marketed by the group or union respectively, either in the name and on behalf of the members, or on behalf of the members, or in the name and on behalf of the group or union.

As far as producer groups are concerned, this obligation shall not apply to products:

— for which the producers had concluded sales contracts or granted options before joining the group, provided that the group was informed before those producers joined of the extent and duration of the obligations thus contracted and has approved them;

— which the producers may exclude from marketing by the group after joining and with the express approval of the group;

(c) provide proof of economically viable activity;

(d) exclude throughout their field of activity any discrimination between Community producers or groups in respect of, in particular, their nationality or place of establishment;

(e) include in their statutes provisions aimed at ensuring that the members of a group or union who wish to give up their membership may only do so:

— after a three year period of membership of the group or union;

— and provided they inform the group or union of their intention at least twelve months before they leave;

(f) have the necessary legal capacity according to the provisions of national legislation to carry out the legal business within their competence;

(g) include in their statutes the obligation to keep separate accounts for the activities in respect of which they have been recognised.

4. The authority competent to recognise producer groups and unions thereof shall be the Member State within whose territory the producer group or union has its registered office.

5. Rules for the application of this Article and in particular those concerning the conditions stipulated in paragraph 3 (a) and (c) shall be adopted according to the procedure provided for in Article 20.

Article 8

Member States may grant aid to recognised producer groups for three years following the date of their recognition to encourage their formation and to facilitate their operation. For the first, second and third years respectively, the amounts of such aid may not exceed 3%, 2% and 1% of the value of the products marketed to which the recognition refers. The aid must not, however, exceed during the first year 60%, during the second year 40% and during the third year 20% of the administrative costs of the producer groups.

The value of products marketed shall be calculated at a standard rate, for each year, on the basis of:

— the average output marketed by member producers during the three calendar years preceding their joining,

— the average producer prices obtained by those producers during the same period.

Article 9

Member States may grant aid to producer groups, for operations carried out at the latest on 31 December 1975, of a maximum of 1500 units of account per hectare, to be used for changing to different varieties and for reorganising hop gardens as referred to in Article 7 (1) (b).

Article 10

1. The Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, on a proposal from the Commission, shall adopt general rules for the application of Articles 8 and 9.

2. Detailed rules for the application of Articles 8 and 9 shall be laid down in accordance with the procedure provided for in Article 20.

TITLE IV

Aid to producers

Article 11

Each year before 30 April the Commission shall submit a report to the Council on the situation regarding the production and marketing of hops.

The report shall take account, in particular, of price trends and the developments in hop gardens, production and requirements.

Article 12

1. A system of aid shall be established for hops produced in the Community.

2. Aid may be granted to producers to enable them to achieve a fair income.

3. The amount of this aid, per hectare which will differ according to variety, shall be fixed taking into account:

(a) the average return in comparison with the average returns for previous harvests;

(b) the current position and foreseeable trend of the market in the Community;

(c) external market trends and world market prices.

4. Where the report referred to in Article 11 shows that there is a risk of creating structural surpluses or

a disturbance in the supply structure of the Community hop market, the granting of aid may be limited to an amount corresponding to a given area on the basis of the average of the areas cultivated during the three years preceding that under review.

5. The amount of aid which is valid for the areas relating to the harvest of the preceding calendar year shall be fixed, before 30 June, in accordance with the procedure laid down in Article 43 (2) of the Treaty

Article 13

1. Aid shall be granted to producers for registered areas on which the crop has been harvested.

Member States shall designate the bodies which are competent to register, for each producer, the areas given over to growing hops, and which are responsible for control and keeping the registration up to date.

2. For the purposes of this Article, Member States may consider a recognised producer group as a single producer.

3. The Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, shall adopt general rules for the application of this Article.

4. Detailed rules for the application of this Article shall be laid down in accordance with the procedure provided for in Article 20.

TITLE V

System of trade with third countries

Article 14

Save as otherwise provided in this Regulation or where derogation therefrom is decided upon by the Council, acting in accordance with the voting procedure provided for in Article 43 (2) of the Treaty on a proposal from the Commission, the following shall be prohibited in trade with third countries:

(a) the levying of any charge having an effect equivalent to a customs duty;

(b) the application of any quantitative restriction or any measures having an equivalent effect.

Article 15

1. If, by reason of imports or exports, the Community market in the products listed in Article 1 experiences or is threatened with serious disturbances which may endanger the objectives of Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, shall adopt detailed rules for the application of this paragraph and define the cases in which and the limits within which Member States may take 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; the measures 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 within twenty-four hours following receipt of the request.

3. The measures decided upon by the Commission may be referred to the Council by any Member State within three working days following the day on which they were communicated. The Council shall meet without delay. It may amend or repeat the measures in question in accordance with the voting procedure laid down in Article 43 (2) of the Treaty.

TITLE VI

General provision

Article 16

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

However, aid granted by a Member State to hop producers may be maintained during the period of validity of contracts entered into before the date of entry into force of this Regulation, in so far as this aid exceeds the amount of Community aid provided for in Article 12. The time for this aid may not be extended.

Article 17

1. The provisions laid down by the regulations on the financing of the common agricultural policy shall apply to the market in the products listed in Article 1

(1) from the date of implementation of the system provided for by this Regulation.

2. The measures provided for in Articles 8 and 9 shall constitute common measures within the meaning of Article 6 (1) of Council Regulation (EEC) No 729/70[1] of 21 April 1970 on the financing of the common agricultural policy.

3. The Guidance Section of the EAGGF shall reimburse Member States with 25% of the eligible expenditure which they incur in respect of the action provided for in Article 8 and with 50% of the eligible expenditure incurred in respect of the action provided for in Article 9.

4. Requests for reimbursement shall relate to expenditure incurred during the course of one calendar year and shall be submitted to the Commission before 30 June of the following year.

5. The estimated total cost of the common measures to the EAGGF is 1·6 million units of account.

6. The time for carrying out the action referred to in Article 8 shall be limited to a period of ten years from the date of entry into force of this Regulation.

7. Detailed rules for the application of paragraph 3 shall be adopted in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 18

Member States and the Commission shall communicate to each other the information necessary for implementing this Regulation. Rules for the communication and distribution of such information shall be adopted in accordance with the procedure laid down in Article 20.

Article 19

1. A Management Committee for Hops (hereinafter called the 'Committee') shall be established, consisting of representatives of Member States under the chairmanship of a representative of the Commission.

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

Article 20

1. Where the procedure laid down in this Article is to be followed, the Chairman shall refer the matter to the Committee either on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit a draft of the measures to be taken. The Committee shall deliver its Opinion on such measures within a time limit to be set by the Chairman according to the urgency of the questions under consideration. An Opinion shall be adopted by a majority of twelve votes.

3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the Opinion of the Committee, they shall forthwith be communicated by the Commission to the Council. In that event the Commission may defer application of the measures for not more than one month from the date of such communication.

The Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty may take a different decision within one month.

Article 21

The Committee may consider any other question referred to it by its Chairman, acting either on his own initiative or at the request of the representative of a Member State.

Article 22

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

Article 23

Should transitional measures be necessary to facilitate the transition from the system in force in Member States to that provided for in this Regulation, in particular if the introduction of the new system on the date provided would give rise to substantial difficulties, such measures shall be adopted in accordance with the procedure laid down in Article 20. They shall remain applicable until 31 July 1972 at the latest.

[1] OJ No L 94, 28.4.1970, p. 13.

Article 24

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

The provisions of Articles 11, 12 and 13 shall apply, for the first time, to the 1971 harvest.

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

Done at Brussels, 26 July 1971.

For the Council

The President

A. MORO