COUNCIL REGULATION (EEC) No 1170/77

of 17 May 1977

amending Regulation (EEC) No 1696/71 on the common organization 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 (2),

Whereas, since the implementation of Council Regulation (EEC) No 1696/71 of 26 July 1971 on the common organization of the market in hops (3), as amended by the Act of Accession (4), the situation in the market in hops, both world-wide and at the Community level, has changed radically as shown by the imbalance between supply and demand which has led to a slump in prices; whereas this imbalance is the result partly of an excessive increase in the area under hops, particularly of certain varieties, and partly of the use of smaller quantities of hops in the manufacture of beer, which have led to the formation of large stocks of hop powder and hop extract; whereas, therefore, certain Community rules should be amended with a view to securing better stabilization of the market;

Whereas a policy of quality should be adopted by laying down minimum quality characteristics and by applying a certification system to cover at least the place of production, the year of harvest and the variety; whereas the marketing of non-certified products and the import of products that do not meet the equivalent minimum characteristics should be prohibited;

Whereas to prevent underestimation of producers' incomes, an essential factor in fixing the amount of aid, the average income should be calculated solely on the basis of areas in full production;

Whereas, to reinforce the role of aid as a factor in channelling production, such aid should be determined not by variety but by groups of varieties having common characteristics and the same ultimate use;

Whereas hop producers should be capable of exerting their influence in achieving a balance between supply and demand, which is necessary if prices and incomes are to be stabilized; whereas this object could more easily be achieved and producers could have more impact on production policy and the management of supply if they formed producer groups; whereas, to provide recognized producer groups with the means to achieve this object, one of the conditions of recognition should be that the groups should market the entire production of their members and should divide their production aid among their members proportionately to areas under hops and having regard to the market situation;

Whereas, in view of the present state of the market, any increase in the area under hops should be prohibited for a specified period so as to prevent the creation of structural surpluses; whereas, moreover, the qualitative adjustment of Community production to market trends should be pursued by continuing, during the same period, the granting of aid to producer groups for conversion to other varieties and the reorganization of hop gardens; whereas, however, the granting of this aid should be subject to a substantial reduction in the area converted;

Whereas the experience gained through the application of Regulation (EEC) No 1696/71 has shown the need for instruments, other than adjustments to the amount of production aid, to enable preventive measures to be taken when there is a risk of structural surpluses or market disturbances;

Whereas it may be necessary to introduce transitional measures in respect of the application of the amendments contained in this Regulation; whereas, for administrative reasons, the measures concerning aid to production should not be applicable until the 1977 harvest, but on account of present market trends the other amendments and particularly those concerning aid for varietal conversion should be applied at once,

(1) OJ No C 6, 10. 1. 1977, p. 142.
(2) OJ No C 56, 7. 3. 1977, p. 23.
(3) OJ No L 175, 4. 8. 1971, p. 1.
(4) OJ No L 73, 27. 3. 1972, p. 14.

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EEC) No 1696/71 is amended as indicated in the following Articles.

Article 2

Article 1 shall be completed as follows :

'4. Within the meaning of Article 12 (5) :

(a) hops at the first stage of preparation are hops which have passed the first drying treatment, and are packed and ready for sale ;

(b) areas in full production :

areas in full production from the third year of production.'

Article 3

Article 2 is hereby replaced by the following :

'Article 2

1. The products referred to in Article 1, harvested within the Community or prepared from hops harvested within the Community or imported from third countries shall be subject to a certification procedure.

2. The certificate may be issued only for products having the minimum quality characteristics appropriate to a specific stage of marketing.

3. The certificate must show at least :

(a) the place(s) of production of the hops ;

(b) the year(s) of harvesting ;

(c) the variety or varieties.

4. The Council, acting by qualified majority on a proposal from the Commission, shall adopt, for each product, general rules for the application of this Article and the date from which it shall be applied.

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

Article 4

1. In Article 3 the words 'in respect of the designation of origin' are hereby deleted.

2. Article 4 is hereby repealed.

3. Article 5 (2) is replaced by the following :

'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 recognized as equivalent to the certificate referred to in Article 2. The equivalence of these attestations shall be verified by 31 December 1978 at the latest according to the procedure provided for in Article 20.'

Article 5

Article 7 is hereby replaced by the following :

'Article 7

1. For the purposes of this Regulation, "producer group" means a group consisting exclusively or, when national legislation allows, mainly of hop producers formed on the initiative of the producers for the purpose of, in particular :

(a) concentrating supply and stabilizing the market by marketing all the produce of the members ;

(b) adapting such production jointly to the requirements of the market and improving the product by converting to other varieties and by reorganizing hop gardens ;

(c) promoting the rationalization and mechanization of cultivation and harvesting operations in order to render production more profitable ;

(d) adopting common rules for production ;

(e) managing the aid system provided for in Article 12 :

— by allocating to each member of the group his share of aid in proportion to area cultivated,

— by taking measures which will permit the attainment of the aims described in (a),

and recognized by a Member State under the provisions of paragraph 3.

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

3. Member States shall recognize the producer groups and unions thereof which request recognition and fulfil the following general conditions :

(a) apply common rules for production and placing on the market (first stage of marketing) ;

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

— to comply with the common rules for production,

— to sell all their produce through the group or the union.

That obligation shall not apply, however, to products for which the producers had concluded sales contracts before joining the group, provided that the group was informed of, and approved, those contracts.

However, such approval shall not be required until 31 December 1980.

It shall be possible for a group or union to authorize its members to market a part of their produce themselves in accordance with rules laid down and supervised by the group or union ;

(c) provide proof of an 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) guarantee all producers who undertake to comply with the statutes, without discrimination, the right to belong to a group ;

(f) include in their statutes provisions aimed at ensuring that the members of a group or union who wish to give up their membership may do so after a period of membership of at least three years and provided that they inform the group or union at least one year before they leave of their intention of doing so.

Those provisions shall apply without prejudice to the national laws or regulations designed to protect, in specific cases, the group or union or creditors thereof against the financial consequences which might arise from a member leaving, or to prevent a member from leaving during the budgetary year ;

(g) have the legal personality or sufficient legal capacity to be subject, under the provisions of national legislation, to rights and obligations ;

(h) include in their statutes the obligation to keep separate accounts for the activities in respect of which they have been recognized ;

(i) do not hold a dominant position in the Community.

4. The authority competent to recognize 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 the management of the aid system laid down in paragraph 1 (e), the definition of "placing on the market" for the purposes of paragraph 3 (a), and rules concerning the provisions laid down in paragraph 3 (f), shall be adopted in accordance with the procedure provided for in Article 20.'

Article 6

Article 8 is hereby replaced by the following :

'Article 8

1. Member States may grant aid to recognized producer groups for three years following the date of their recognition as laid down in Article 7 (3), to encourage their formation and to facilitate their operation. For the first, second and third years respectively, the amount of such aid may not exceed 3, 2 and 1 % of the value of the products to which the recognition refers that are placed on the market. 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 group.

The value of products marketed shall be calculated, 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.

2. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for the application of this Article.

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

Article 7

Article 9 is hereby replaced by the following:

'Article 9

1. Any increase in the area under hops shall be prohibited from 1 July 1977 until 31 December 1979.

For the purposes of this paragraph, Member States may consider a recognized producer group as a single producer.

2. Member States shall take any measures necessary to verify the application of the prohibition referred to in paragraph 1.

3. Member States may grant to recognized producer groups aid not exceeding 1 800 units of account per hectare for conversion to other varieties and the reorganization of hop gardens as referred to in Article 7 (1) (b), provided that such operations are carried out before 1 July 1979 and entail a reduction of at least 40 % in the area concerned.

4. The Council, acting by a qualified majority on a proposal from the Commission, may extend the period of application of the measures referred to in this Article.'

Article 8

Article 12 is hereby replaced by the following:

'Article 12

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

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

3. In those Community regions in which recognized producer groups are able to ensure a fair income for their members and to achieve rational management of supply, the aid shall be granted to such producer groups alone.

In the other regions, aid shall be granted to individual producers.

4. The Council, acting on a proposal from the Commission based on the information communicated to it by the Member States, shall adopt in good time by a qualified majority the list of the regions which are referred to in the first subparagraph of paragraph 3.

5. (a) The amount of this aid per hectare, which will differ according to groups of varieties, shall be fixed taking into account, in particular:

— for each group of varieties, the average return obtained by producer groups at the first stage of preparation of hops, and calculated at this stage, for areas in full production in comparison with the average returns for previous harvests,

— the current position and foreseeable trend of the market in the Community,

— external market trends and world market prices,

— costs trends.

(b) The different groups of hop varieties shall be the following:

— Group 1 : aromatic hops,

— Group 2 : bitter hops,

— Group 3 : others.

6. 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:

(a) the granting of aid may be limited to part of the area under hops registered for the year in question;

(b) those areas under hops which are in their first and/or second year of production may be declared ineligible for aid.

When the development of the area under hops in relation to the progress made in the marketing of the products, as measured in particular by contracts, the level of prices and the state of stocks, has been examined, a decision shall be taken to apply the measures described under (a) and (b) to all groups of varieties or to one or more groups of varieties only.

7. The amount of aid applicable to areas under hops in respect of the harvest of the preceding calendar year shall be fixed in the two months following the submission of the report referred to in Article 11 and before 30 June, in accordance with the procedure laid down in Article 43 (2) of the Treaty.

8. The arrangements for implementing this Article shall be adopted in accordance with the procedure laid down in Article 20.'

Article 9

Article 13 (1) is hereby replaced by the following:

'1. Subject to Article 12 (6), aid shall be granted 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 under hops, and which are responsible for control and maintenance of the register.'

Article 10

The following Article shall be inserted:

'Article 16a

In cases where there is a danger of creating surpluses or of a disturbance in the supply structure of the market, the Council, acting by a qualified majority on a proposal from the Commission, may take appropriate measures to prevent market imbalance. Such measures may, for instance, take the form of action affecting:

— the production potential,

— the volume of supply,

— the marketing conditions.'

Article 11

Article 17 (5) is hereby replaced by the following:

'5. The estimated total cost of the common measures to the EAGGF is two million units of account.'

Article 12

Article 23 is hereby replaced by the following:

'Article 23

Should transitional measures be necessary to facilitate the transition to the system, as amended by Regulation (EEC) No 1170/77, in particular if the introduction of the amended system on the date laid down meets with substantial difficulties, such measures shall be adopted in accordance with the procedure laid down in Article 20. They shall remain applicable until 31 December 1980 at the latest.

Until this date the United Kingdom shall be authorized to pay producers the amount of production aid through the intermediary of a body it shall appoint.'

Article 13

This Regulation shall enter into force on 1 July 1977.

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

Done at Brussels, 17 May 1977.

For the Council

The President

J. SILKIN