COMMISSION REGULATION (EEC) No 1164/89

of 28 April 1989

laying down detailed rules concerning the aid for fibre flax and hemp

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1308/70 of 29 June 1970 on the common organization of the market in flax and hemp [1], as last amended by Regulation (EEC) No 3995/87 [2], and in particular Articles 2 (6) and 4 (5) thereof,

Whereas Council Regulation (EEC) No 619/71 [3], as last amended by Regulation (EEC) No 2059/84 [4], lays down general rules for the grant of aid for flax and hemp; whereas it is the responsibility of the Commission to lay down the relevant implementing rules;

Whereas, if the aid scheme is to operate properly, it must be possible to distinguish flax grown mainly for fibre from that grown mainly for seed; whereas this aim may be achieved by specifying the seeds from which the two types of flax may be grown; whereas to the same end the varieties of hemp the tetrahydrocannabinol content of which does not exceed the limits laid down in Regulation (EEC) No 619/71 should be indicated on the one hand and the way that content is to be recorded should be determined on the other hand;

Whereas, in order to prevent fraud, certain rules for the grant of aid should be laid down;

Whereas Article 4 of Regulation (EEC) No 619/71 requires Member States to introduce supervisory arrangements to ensure that the product for which aid is requested satisfies the requirements for the grant of such aid; whereas the declarations of areas sown and the aid applications to be sent in by the producers must therefore contain the minimum particulars necessary for such supervision; whereas, in order to simplify the operation of the aid scheme, provision should be made, where the producer has concluded a cultivation contract for fibre flax, for his application to be accompanied by a copy of that contract;

Whereas Article 5 of Regulation (EEC) No 619/71 provides for spot checks of the declarations and aid applications referred to above; whereas, in order to be effective, such checks must be made of a significant number of declarations and applications; whereas uniform provisions should be laid down for the grant of the aid where the areas recorded during a check differ from those indicated in declarations of areas sown and aid applications;

Whereas, having regard to the existing arrangements in Member States, the said States should be required, when granting aid for fibre flax in cases where no cultivation contract has been concluded, to apply a system of production certificates or of registered contracts; whereas if such a system is to operate effectively, the minimum amount of information which must appear in such certificates should be specified;

Whereas uniform provisions should be laid down for payment of the aid;

Whereas Article 2 of Regulation (EEC) No 1308/70 provides that, in order to promote sales of flax products, Community measures to encourage the use of flax fibre and products obtained from such fibres can be adopted;

Whereas, in the interests of sound management, schemes to promote the use of flax fibres to be approved by the Commission should be carried out as part of a detailed programme to be drawn up following consultation of the Member States and, where appropriate, those working in this field; whereas, with the same aim, provision should be made for the practical execution of the schemes in accordance with procedures to their specific technical characteristics;

Whereas the previous proposals presented under the agreed procedures must be assessed according to criteria that will permit the best possible selection; whereas, to that end, open or restricted invitation to tender appears to be the most appropriate procedure; whereas, however, for schemes which call for an in-depth knowledge of the flax industry, direct negotiation with the trade and inter-branch organizations may be considered the most suitable procedure;

Whereas the Member States should be informed of the Commission's choices and of the progress of the schemes selected;

[1] OJ No L 146, 4. 7. 1970, p. 1.
[2] OJ No L 377, 31. 12. 1987, p. 34.
[3] OJ No L 72, 26. 3. 1971, p. 2.
[4] OJ No L 191, 19. 7. 1984, p. 6.

Whereas for the sake of clarity Commission Regulation (EEC) No 771/74 [1], as last amended by Regulation (EEC) No 2807/88 [2], should be repealed and it should be replaced by this Regulation;

Whereas 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:

Article 1

The aid referred to in Article 4 of Regulation (EEC) No 1308/70 shall be granted for fibre flax and hemp produced in the Community in accordance with the rules laid down in the Articles below.

Article 2

Aid shall be granted for flax grown from the seed varieties:

— specified in Annex A, or

— currently under review by Member States' authorities for inclusion in the catalogue of flax varieties intended mainly for the production of fibre.

Article 3

1. Aid shall be granted only in respect of areas of hemp which have been sown with the varieties of seed listed in Annex B.

2. For the purposes of monitoring compliance with the conditions laid down in the first paragraph of Article 3 (1) of Regulation (EEC) No 619/71, applications for aid for hemp shall be accompanied by a copy of the official label drawn up pursuant to Council Directive 69/208/EEC [3], or provisions adopted on the basis of that Directive, for the seed used, or by any other document recognized as being equivalent by the Member State concerned.

3. The determination of the tetrahydrocannabinol content and sampling for the purpose of determining such content shall be carried out in accordance with the method described in Annex C.

4. The Member States concerned shall pay the aid only where the area harvested and the quantity of seed shown in one of the documents referred to in paragraph 2 correspond.

Article 4

Aid shall be granted only in respect of areas:

(a) which have been completely sown and harvested and on which normal cultivation work has been carried out; and

(b) for which a declaration of areas sown has been made in accordance with Article 5.

Article 5

1. Except in cases of *force majeure*, all growers of fibre flax and hemp shall submit a declaration of the areas sown, in the case of flax not later than 30 June and in the case of hemp not later than 15 July. However, for the 1989/90 marketing year the declaration shall be submitted not later than 15 July and 31 July respecively.

2. If the area recorded proves to be smaller than that indicated in the declaration, the person making the declaration must forward the figures on the area recorded to the competent authorities, within the time-limits laid down in paragraph 1.

3. Such declaration shall include:

— the surname, first name(s) and address of the person making the declaration,

— the species together with, for flax, the main purpose for which it is sown, and the variety sown,

— the area sown, in hectares and ares,

— the cadastral register number of the areas sown, or a reference recognized as equivalent by the body responsible for checking the area.

4. A declaration relating to an area of at least three hectares shall be admissible only if:

— it has been endorsed by a body designated by the Member State concerned or,

— it is accompanied by a document certifying to satisfaction of the Member State concerned that the declaration is accurate.

Member States may provide that declarations relating to an area of less than three hectares shall be admissible only if they have been endorsed by a body designated by them.

Article 6

1. The checks provided for in Article 5 of Regulation (EEC) No 619/71 shall be carried out on at least 5 % of the declarations of areas sown referred to in Article 5 and on a representative percentage of the aid applications provided for in Article 8, having regard to the geographical distribution of the areas concerned.

2. Where significant irregularities arise relating to 6 % or more of the checks carried out, the Member States shall notify the Commission thereof forthwith and shall state what measures have been adopted.

Article 7

If the checks provided for in Article 5 of Regulation (EEC) No 619/71 show that the area declared is:

[1] OJ No L 92, 3. 4. 1974, p. 13.
[2] OJ No L 251, 10. 9. 1988, p. 13.
[3] OJ No L 169, 10. 7. 1969, p. 3.

(a) less than that ascertained during the checks, the area ascertained shall be used;

(b) greater than that ascertained during the checks, the area used shall be the ascertained area minus the difference between the area originally declared and that ascertained, without prejudice to any penalties laid down under national law, except where the difference is considered justified by the Member State concerned; in that case the area ascertained shall be used.

Member States shall notify the Commission of the measures taken for the application of this Article.

Article 8

1. All growers of fibre flax or hemp shall submit an aid application not later than 30 November for flax and 31 December for hemp.

However, except in cases of *force majeure,* if the application is lodged:

— before the end of the month following that indicated in the first subparagraph, 66 % of the aid provided for in Article 4 of Regulation (EEC) No 1308/70 shall be granted,

— before the end of the second month following that month, 33 % of that aid shall be granted.

2. Aid applications shall contain:

— the surname, first name(s) and address of the applicant,

— a declaration in hectares and ares of the areas harvested, and the cadastral register number of those areas, or a reference recognized as equivalent by the body responsible for checking the areas,

— details of the place where the produce concerned is stored or, if it has been sold and delivered, the name, first name(s) and address of the purchaser.

3. Where the producer satisfies the requirements of Article 3a (b) of Regulation (EEC) No 619/71, the aid application shall be accompanied by a copy of the cultivation contract referred to in that Article, except where such contract has been registered with the competent authority.

4. Without prejudice to paragraph 5, if the area in respect of which the aid is applied for is greater than that indicated in the declaration of areas sown, the latter area shall be used.

5. If the checks provided for in Article 5 of Regulation (EEC) No 619/71 show that the area in respect of which the aid is applied for is:

(a) less than that ascertained during the checks, the area ascertained shall be used;

(b) greater than that ascertained during the checks, without prejudice to any penalties provided for under national law and the provisions of (c), the area used shall be the ascertained area minus the difference between the area in respect of which the aid is applied for and that ascertained, except where the difference is considered justified by the Member State concerned; in the latter case the area ascertained shall be used;

(c) greater than that ascertained during the checks and if, for the person making the declaration in question, the areas indicated in the declarations or applications have been reduced during the same marketing year or the preceding one in accordance with Article 7 or point (b) of this paragraph, except where the difference is considered justified by the Member State concerned, the aid application shall be rejected.

Member States shall notify the Commission of the measures taken for the application of this paragraph.

Article 9

For the purposes of granting aid for flax, where the producer does not satisfy the requirements of Article 3a (b) of Regulation (EEC) No 619/71, the Member State concerned shall apply a system of production certificates or registered contracts.

Article 10

1. Where a Member State applies a system of production certificates as provided for in Article 9, for each hectare or part of a hectare in respect of which entitlement to aid has been recognized, a certificate representing half of the amount of the aid shall be issued to the grower.

2. In cases where, at the end of the marketing year:

(a) no contract as referred to in Article 3 (2) of Regulation (EEC) No 619/71 has been concluded, or the producer has himself processed the flax into straw or had it processed on his behalf, the certificate shall be retained by the producer;

(b) such a contract has been concluded, the certificate shall be given to the buyer.

On the presentation of a properly completed certificate, half of the aid shall be paid to the person concerned. This certificate must be submitted not later than 31 December following the end of the marketing year concerned.

3. Certificates shall contain at least the following particulars:

— the surname, first name(s) and address of the grower,

— the area concerned,

— the amount of aid to be paid,

— the surname, first name(s) and address of the recipient of the aid,

— the signature of the producer and of the recipient of the aid,

— where the certificate is submitted by the producer, evidence that he satisfies one of the conditions laid down in Article 3 (2) (a) or (b) of Regulation (EEC) No 619/71.

Article 11

Where a Member State applies a system of registered contracts as provided for in Article 9, then :

(a) where a contract as referred to in Article 3 (2) of Regulation (EEC) No 619/71 has been concluded before the end of the marketing year, half of the aid shall be paid to the purchaser ;

(b) where no such contract has been conclused by the date in (a), or where it is proved that the producer himself processes the flax into straw or has it so processed on his behalf, the whole of the aid shall be paid to the producer.

Article 12

Member States shall pay the aid for flax and hemp before 1 March following the end of the marketing year concerned.

Article 13

1. The Commission shall adopt, on the basis of the general programme referred to in Article 2 (4) of Regulation (EEC) No 1308/70, a detailed programme of the measures referred to in paragraph 1 of that Article which it intends to take. Such programmes may cover more than one marketing year.

2. For the purposes of drawing up the detailed programme, the Commission :

— shall consult the Management Committee for Flax and Hemp,

— may consult the Advisory Commitee on Flax and Hemp.

3. When drawing up its detailed programme the Commission shall :

— give details of cooperation, if any, with trade and inter-branch organizations in the sector,

— take account of promotional measures that have been carried out or are planned in this industry.

Article 14

1. Without prejudice to paragraph 2 below, the measures referred to in Article 2 (2) of Regulation (EEC) No 1308/70 and contained in the detailed programme shall be carried out following the issue of open or restricted invitations to tender. Open invitations to tender shall be published in the *Official Journal of the European Communities.*

2. The measures referred to in the first indent of Article 2 (2) of Regulation (EEC) No 1308/70 relating to technical or trade information or public relations which require, by virtue of their specific or technical nature, specialized knowledge regarding the use of flax fibres and products obtained from them, shall be carried out by the restricted tendering procedure. However, they shall be carried out by direct negotiation between the Commission and the trade or inter-branch organizations where those organizations alone have the necessary qualifications.

3. Expenditure on the measures referred to in paragraph 2 may not exceed 30 % of the amount allaocated for the measures referred to in the first indent of Article 2 (2) of Regulation (EEC) No 1308/70.

Article 15

1. For the purposes of assessing the various tenders submitted by the interested parties, the Commission shall take into account :

— their quality and cost,

— the extent to which they meet the aims of the various measures envisaged,

— the level of specialization and of experience of the contractor in the field covered by the measure envisaged,

— measures already completed or in progress in the field in question.

In addition, the Commission shall take account :

(a) in the case of tenders relating to the measures provided for in the first indent of Article 2 (2) of Regulation (EEC) No 1308/70, of the commercial and financial quarantees offered by the tenderer ;

(b) in the case of tenders relating to the measures provided for in the second indent of Article 2 (2) of Regulation (EEC) No 1308/70 :

— of the scientific reputation of the party concerned,

— of the possible market for the products concerned,

— of the foreseeable period within which results will be obtained.

2. The Commission shall select the tenders. To that end it may consult bodies or persons specializing in the subject, and in particular the trade or inter-branch organizations in the industry. The Commission shall conclude contracts. It inform the Management Committee for Flax and Hemp at regular intervals of contracts concluded and of the progress of the measures.

Article 16

Payment of the price agreed in the contract shall be made by the Commission in instalments in relation to the progress of the work.

A contract performance guarantee may be required.

Payment of the balance and, where appropriate, release of the guarantee by the Commission shall be the subject to its ascertainment that the obligations under the contract have been met.

Article 17

1. Regulation (EEC) No 771/74 is hereby repealed.

2. In all Community instruments in which reference is made to Regulation (EEC) No 771/74 or to Articles of that Regulation, such references shall be construed as references to this Regulation or to the corresponding Articles thereof.

Article 18

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

It shall apply to fibre flax and hemp produced as from the 1989/90 marketing year.

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

Done at Brussels, 28 April 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX A

List of varieties of flax grown mainly for fibre

Ariane	Nanda
Astella	Natasja
Belinka	Nynke
Berber	Opaline
Fanny	Regina
Hera	Saskia
Laura	Silva
Lidia	Thalassa
Marina	Viking
Mira	

ANNEX B

List of varieties of hemp eligible for aid

Carmagnola	Felina 34
CS	Ferimon
Delta-Llosa	Fibranova
Delta-405	Fibrimon 24
Fedora 19	Fibrimon 56
Fedrina 74	Futura

ANNEX C

COMMUNITY METHOD FOR THE QUANTITATIVE DETERMINATION OF Δ⁹ THC (TETRAHYDROCANNABINOL) IN CERTAIN VARIETIES OF HEMP

1. **Purpose and scope**

This method permits quantitative determination of Δ⁹ tetrahydrocannabinol (Δ⁹ THC) in certain varieties of hemp *(Cannabis sativa* L.) for the purpose of checking that the conditions laid down in Article 3 (1) of Regulation (EEC) No 619/71 are fulfilled.

2. **Principle**

Quantitative determination of Δ⁹ THC by gas chromatography (GC) after extraction with a suitable solvent.

3 **Apparatus.**

— gas chromatography equipment with a flame ionization detector,
— glass column 2,50 m long and 3,2 mm in diameter (1,8") packed with a suitable support impregnated with a stationary phase phenyl-methyl-silicon (e.g. OV 17 at 3 %).

4. **Sampling and reduction of sample**

Sampling

In a standing crop of a given variety of hemp, take not less than 500 plants, preferably at different points buts not from the edges of the crop. Samples should be taken during the day after flowering has finished.

The pooled samples should be representative of the lot.

The plant material is then left to dry at ambient air temperature.

Reduction

Reduce the sample, obtained as described, to 500 stalks ; the reduced sample should be representative of the original sample. Divide the reduced sample into two portions.

Send one portion to the laboratory which is to determine the Δ⁹ THC content. Keep the other portion for counter-analysis if necessary.

5. **Reagents**

— petroleum ether (40/65 °), or a solvent of comparable polarity,

— tetrahydrocannabinol (Δ^9 THC), pure for chromatographic purposes,

— solution of 0,1 % (w/v) androstene-3-17-dione in ethanol, pure for chromatographic purposes,.

6. **Preparation of test sample**

For the purposes of Δ^9 THC determination, retain the upper third of the plants in the portion of sample received. Stems and seeds must be removed from the plant material retained.

Dry the material in an oven, without exceeding 40 °C, to obtain a constant weight.

7. **Extraction**

Reduce the material obtained as described in point 6 to a semi-fine powder (sieve of 1 000 meshes per cm^2).

Take 2,0 g of well-mixed powder and extract with 30-40 ml petroleum ether (40-65 °C). Leave for 24 hours, then shake in a mechanical shaker for one hour, and then filter. The extraction process is carried out twice under the same conditions. Evaporate the petroleum ether solutions to dryness. Dissolve the residue in 10,0 ml of petroleum ether. The prepared extract is used for quantitative analysis by gas chromatography.

8. **Quantitative analysis by gas chromatography**

(a) *Preparation of assay solutions*

The extraction residue dissolved in 10,0 ml of petroleum ether is subjected to quantitative analysis to determine the Δ^9 THC content. This is performed with the aid of an internal standard and calculation of the peak areas.

Evaporate to dryness 1,0 ml of the petroleum ether solution. Dissolve the residue in 2,0 ml of a solution of 0,1 % androstene-3-17-dione in ethanol (internal standard with a retention time distinctly higher than that of other cannabinoids, and in particular twice that of Δ^9 THC).

calibration ranges

0,10, 0,25, 0,50, 1,0 and 1,5 mg of Δ^9 THC in 1 ml of a solution of 0,1 % androstene-3-17-dione in ethanol.

(b) *Experimental conditions*

Oven temperature	240 °C.
Injector temperature	280 °C.
Detector temperature	270 °C.
Nitrogen flow rate :	25 ml/min,
Hydrogen flow rate :	25 ml/min,
Air flow rate :	300 ml/min,
Volume injected :	1 µl of the final ethanol solution.

The relative retention time of Δ^9 THC is calculated in relation to the andostene.

9. **Expression of the results**

The result is expressed in g of Δ^9 THC per 100 g of the laboratory sample dried to constant weight.

The result is subject to a tolerance of 0,03 g per 100 g.