COUNCIL REGULATION (EEC) No 789/89

of 20 March 1989

instituting specific measures for nuts and locust beans and amending Regulation (EEC) No 1035/72 on the common organization of the market in fruit and vegetables

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Whereas the situation on the market for nuts, that is essentially that for almonds, hazelnuts or filberts, walnuts and pistachios, is markedly out of step with technical and commercial requirements from the point of view of both technical production conditions, which are typified by a large number of small holdings and a low level of mechanization, leading in turn to low productivity and high costs, and marketing conditions;

Whereas the same situation is a feature of locust bean cultivation; whereas, in certain regions of the Community, such cultivation is closely linked to orchards producing nuts and may be amalgamated with nut cultivation to constitute one homogenous plantation; whereas therefore the measures introduced for nuts should be extended to cover locust beans;

Whereas the formation of producers' organizations, placing an obligation on their members to comply with rules adopted by the organizations in order to improve product quality and to adapt the volume of supply to market requirements, would be a suitable way of remedying the said structural deficiencies; whereas provisions for facilitating the formation and operation of such organizations should be adopted;

Whereas an incentive of this kind can be provided in the first instance by granting a flat-rate aid for the formation of these organizations which would be paid at the end of the first and second marketing year following the date of an organization's specific recognition by the appropriate Member State, and in addition to the aid provided for in Article 14 of Regulation (EEC) No 1035/72 (2), as last amended by Regulation (EEC) No 2238/88 (3); whereas provisions should be made for the Community to co-finance this scheme by paying 50 % of the aid granted by the Member State;

Whereas, in order to allow producers' organizations which produce and market nuts and/or locust beans to concentrate supplies, to stagger the release on to the market of their products, particularly by creating the appropriate storage capacity, and to improve product quality, the creation of revolving funds for these organizations should be encouraged; whereas such an incentive could be provided by financial contributions from the Member State and from the Community to setting up such revolving funds, with a ceiling determined with reference to the value of the products marketed by the producers' organizations over a given marketing year;

Whereas in the interests of further encouraging producers who are members of an organization to modernize their orchards in order to meet market requirements, the granting of aid for the formation of an organization and for the creation of a revolving fund should be made conditional on presentation of a quality and marketing improvement plan which must be approved by the national authorities designated by the Member States; whereas, in order to be consistent with the aims of the scheme, this plan must seek primarily to bring about a genetic and cultural improvement of products grown in plantations which are given over to producing one homogenous product and are not scattered among other plantations; whereas a specific aid should be granted for the drawing up of such a plan and should be co-financed by the Member States and the Community; whereas the level of the aid should nevertheless be restricted and the aid itself temporary and degressive to allow a progressive shift of financial responsibility on to the producers;

Whereas, in the interests of bringing the products to the attention of all existing and potential users, promoting marketing which is in line with market needs and giving impetus to the activity of nut producers' organizations, provision should be made for the Community to contribute to the financing of measures to develop and improve the consumption and use of these products;

Whereas it is appropriate to include locust beans among the products covered by the common organization of the market in fruit and vegetables and to amend Council Regulation (EEC) No 827/68 of 28 June 1968 on the common organization of the markets in certain products listed in Annex II to the Treaty (4), as last amended by Regulation (EEC) No 3911/87 (5),

(1) Opinion delivered on 17 March 1989 (not yet published in the Official Journal).
(2) OJ No L 118, 20. 5. 1972, p. 1.
(3) OJ No L 198, 26. 7. 1988, p. 1.
(4) OJ No L 151, 30. 6. 1968, p. 16.
(5) OJ No L 370, 30. 12. 1987, p. 36.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1035/72 is hereby amended as follows:

1. The following is added to Article 1 (2):

'CN code	Description
1212 10 10	Locust beans'

2. The following indent is added to the first subparagraph of Article 1 (3):

'— nuts, fresh or dried, and locust beans from 1 September to 31 August.'

3. The following Title is inserted:

TITLE IIa

Specific measures for nuts and locust beans

Article 14a

The measures provided for by this Title shall apply to:

— almonds falling within CN codes 0802 11 90 and 0802 12 90,

— hazelnuts or filberts falling within CN codes 0802 21 00 and 0802 22 00,

— walnuts falling within CN codes 0802 31 00 and 0802 32 00,

— pistachios falling within CN code 0802 50 00,

— locust beans falling within CN code 1212 10 10.

Article 14b

1. Without prejudice to Article 14, Member States shall grant an additional flat-rate aid, as an incentive to formation, to producers' organizations whose economic activity centres on the production and marketing of nuts and/or locust beans and which have presented a quality and marketing improvement plan approved by the competent national authorities pursuant to Article 14d.

The aid shall be granted to producers' organizations recognized by the competent national authority under the provisions of this Article.

2. The level of the aid referred to in paragraph 1 shall be calculated according to the quantity of nuts and/or locust beans marketed by the producers' organization during the first marketing year which follows the date of its specific recognition, as referred to in paragraph 1. A single amount of aid shall be fixed for each quantity tranche. The aid shall be paid at the end of the first and second marketing years which follow recognition.

The aid granted shall be refunded by the European Agricultural Guidance and Guarantee Fund, Guidance Section, at a rate of 50 %.

3. The Member States shall notify to the Commission details of the producers' organizations recognized under this Article, giving their membership figures and the quantities marketed by each during the first marketing year.

4. The Council, acting by a qualified majority on a proposal from the Commission, shall determine the size of the tranches referred to in paragraph 2 and the amount of aid to apply within the span of each tranche.

Article 14c

1. Member States shall grant a specific aid to producers' organizations which set up a revolving fund in accordance with this Article and which have presented a quality and marketing improvement plan approved by the competent national authorities pursuant to Article 14d.

2. The revolving fund shall be used to stabilize supply by providing funding for the storage needed to allow an appropriate timing of sales on the market, and to permit an improvement in packaging in the interests of better marketing. The producers' organization shall use the fund in particular to finance storage, sorting, cracking and packaging.

3. The specific aid shall be paid once only, subject to the fund being financed as follows:

— 45 % by the producers' organization,

— 10 % by the Member State.

The Community contribution shall be 45 % of the capital of the fund. However, the overall financial commitment of the Member State and the Community may not exceed 16,5 % of the value of the production marketed by the producers' organization in one marketing year.

Article 14d

1. Producers' organizations shall qualify for the aid provided for in Articles 14b and 14c provided they present a quality and marketing improvement plan approved by the competent authorities of the appropriate Member State.

The plan referred to in the first subparagraph shall have as its primary aim the improvement, by means of varietal conversion or cultural improvement, of the quality of produce from orchards which are given over to producing one homogenous crop and are not scattered among other plantations and, where needed, the improvement of marketing. It shall implement the types of measures adopted according to the procedure referred to in Article 33.

2. The approved plan shall qualify for Community aid of 45 % for its execution provided it is funded to a level of 45 % by the producers' organizations and a level of 10 % by the Member State.

Funding from the Member State and aid from the Community shall nevertheless be subject to a ceiling. The ceiling shall be determined on the basis of the area of a crop which is not scattered among other plantations and on the basis of a maximum amount per hectare.

Funding from the Member State and aid from the Community shall be paid over a period of 10 years. The maximum level shall progressively decrease.

3. Acting by a qualified majority on a proposal from the Commission, the Council shall fix :

— the maximum amount per hectare imposed on funding from the Member State and aid from the Community,

— the rate at which funding from the Member State and aid from the Community shall decrease.

4. Member States shall forward to the Commission the plans submitted to them by the producers' organizations. These plans may be approved by the competent authority of the Member State only after they have been forwarded to the Commission, and once a 60-day period, during which the Commission may request changes or rejection, has elapsed.

Article 14e

1. The Community shall provide 50 % of the funding for measures aimed at developing and improving the consumption and use of nuts and/or locust beans in the Community.

2. The measures referred to in paragraph 1 shall have as their aim :

— to promote product quality, particularly by means of market research and research into new product uses, including ways to adapt the products to the findings of this research,

— the development of new packaging methods,

— the dissemination of marketing advice to the various economic operators in the sector,

— organization of, and participation in, trade fairs and other events.

3. Following the procedure referred to in Article 33, the Commission shall give details of the measures referred to in paragraph 2 or shall define new measures.

Article 14f

1. The aid provided for in Articles 14c, 14d and 14e shall be deemed to be intervention intended to stabilize the agricultural markets within the meaning of Article 3 (1) of Regulation (EEC) No 729/70 (1), as last amended by Regulation (EEC) No 2048/88 (2).

2. As regards the aid referred to in pargraph 1, the Commission may, at the request of the interested Member State and in accordance with the procedure provided for in Article 13 of Regulation (EEC) No 729/70, decide to pay an initial part of allocations on the basis of the quality and marketing improvement plans approved by the Member States.

Article 14g

The Commission shall, in accordance with the procedure provided for in Article 33, adopt detailed rules for the application of this Title. These rules shall include measures of a kind which will enable use of the financial contribution provided by the Community to be monitored.

(1) OJ No L 94, 28. 4. 1970, p. 13.
(2) OJ No L 185, 15. 7. 1988, p. 1.'

4. In Annex I, under the heading 'fruit', the following is added :

'almonds, hazelnuts or filberts and walnuts'.

Article 2

In the Annex to Regulation (EEC) No 827/68 the line which refers to locust beans falling within CN code 1212 10 10 is deleted.

Article 3

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

It shall apply from 1 September 1989.

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

Done at Brussels, 20 March 1989.

For the Council

The President

C. ROMERO HERRERA