COUNCIL REGULATION (EC) No 1554/95

of 29 June 1995

laying down the general rules for the system of aid for cotton and repealing Regulation (EEC) No 2169/81

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Greece, and in particular paragraph 9 of Protocol 4 on cotton, as last amended by Regulation (EC) No 1553/95 [1],

Having regard to the proposal by the Commission [2],

Whereas Protocol 4 of the Act of Accession of Greece and Council Regulation (EEC) No 1964/87 of 2 July 1987 adjusting the system of aid for cotton introduced by Protocol 4 annexed to the Act of Accession of Greece [3] have been amended by Regulation (EC) No 1553/95; whereas Council Regulation (EEC) No 2169/81 of 27 July 1981 laying down the general rules for the system of aid for cotton [4] should accordingly be amended; whereas the significance of the adjustments that need to be made to Regulation (EEC) No 2169/81 and the large number of amendments already made to it make it appropriate to recast this Regulation for the purposes of clarity and transparence; whereas Regulation (EEC) No 2169/81 should therefore be repealed;

Whereas, pursuant to paragraph 9 of the Protocol, it is necessary to lay down the rules of procedure and sound management for its application, the general rules of the system of production aid, the criteria for determining the world market price and the rules concerning the financing of the measures envisaged;

Whereas, in order to facilitate the management and control of the aid system, provision should be made for a procedure establishing close cooperation between the Member States and the Commission within a Management Committee; whereas it is advisable to use the Management Committee for Flax and Hemp as provided for in Council Regulation (EEC) No 1308/70 of 29 June 1970 on the common organization of the market in flax and hemp [5];

Whereas, in accordance with Article 2 of Regulation (EEC) No 1964/87, the aid shall be altered by adjustments yet to be determined where the Community production exceeds a quantity fixed in advance; whereas, in consequence, the amount of aid to be granted cannot be determined until the actual quantity produced is itself known; whereas, to offset the adverse effects of late payment of aid for the parties involved, provision should be made for the part of the aid to be paid in advance;

Whereas, pursuant to the third subparagraph of paragraph 3 of the Protocol, the aid is determined on the basis of the difference between a guide price for unginned cotton and the world market price; whereas, since there is no international trade in unginned cotton, and there are therefore no offers or quotations, provision should be made to enable a world market price for this product to be determined; whereas this price may be established on the basis of the historical relationship between the price agreed for ginned cotton and that calculated for unginned cotton;

Whereas, when calculating the price of ginned cotton, account should be taken of the offers made on the world market and of the quotations on those exchanges that are important for international trade; whereas the price on the world market must be calculated using the most favourable offers and quotations on that market among those that are considered representative of the real market trend;

Whereas, for the aid system to operate correctly, the world market price must be recorded for a Community frontier crossing point; whereas, in fixing this point, account should be taken of the extent to which it is representative for imports of the products in question; whereas, therefore, in the case of multiple origins the ports of Northern Europe should be chosen and in the case of a limited number of origins, offers or quotations recorded on an exchange outside Europe the port of

[1] See page 45 of this Official Journal.
[2] OJ No C 94, 14. 4. 1995, p. 6.
[3] OJ No L 184, 3. 7. 1987, p. 14.
[4] OJ No L 211, 31. 7. 1981, p. 2. Regulation as last amended by Regulation (EEC) No 1554/93 (OJ No L 154, 25. 6. 1993, p. 23).
[5] OJ No L 146, 4. 7. 1970, p. 1. Regulation as last amended by Regulation (EC) No 3290/94 (OJ No L 349, 31. 12. 1994, p. 105).

Piraeus should be chosen, whereas, in the latter case the offers and quotations adopted will need to be adjusted if they relate to some other frontier crossing point;

Whereas such adjustments should also be made to the offers and quotations adopted in order to compensate for any variation from the presentation and quality taken as a basis for fixing the guide price;

Whereas the producer Member States should be required to set up the control arrangements necessary to ensure that the aid system operates correctly;

Whereas, with a view to subjecting the Community expenditure on applying the planned measure to financial and monetary rules and appropriate procedures, Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy [1], should apply *mutatis mutandis* to the matters dealt with herein, as should the Regulations relating to the value of the unit of account and the exchange rates to be applied within the framework of the common agricultural policy;

Whereas the provisions of this Regulation should apply as from the 1995/96 marketing year so that the adjustments to the system provided for in Regulation (EC) No 1553/95 may be implemented by that date;

Whereas the adjustments to the system as laid down in this Regulation must be implemented as smoothly as possible; whereas provisional measures may therefore be necessary,

HAD ADOPTED THIS REGULATION:

Article 1

For the purposes of this Regulation:

(a) 'unginned cotton' means the fruit of the cotton plant *Gossypium)* which has reached maturity and has been harvested, and which contains pod waste, leaves and earthy matter;

(b) 'ginned cotton' means the cotton fibres (other than linters and waste), neither carded nor combed, from which the seeds and most of the pod waste, leaves and earthy matter have been removed.

Article 2

The guide price for unginned cotton of a specified quality shall remain applicable throughout a given marketing year; the marketing year shall run from 1 September to 31 August.

Article 3

1. The world market price for unginned cotton shall be determined by taking account of the historical relationship between the world market price for ginned cotton and that calculated for unginned cotton. It shall be determined periodically on the basis of the world market price recorded for ginned cotton.

2. If the world market price for unginned cotton cannot be determined in accordance with paragraph 1, this price shall be established on the basis of the most recent price determined.

Article 4

1. The world market price for ginned cotton shall be determined on the basis of a grade 5 (white middling) product with a fibre length of 28 mm (1-3/32"), account being taken of the offers made on this market and of the quotations on one or more European exchanges that are important for international trade. This price shall be determined using the most favourable offers and quotations among those that are considered representative of the real market trend.

2. For the purposes of the above calculation, an average shall be established of the offers and quotations on one or more European exchanges for a product delivered cif at a port in Northern Europe and coming from the various supplier countries considered the most representative in terms of international trade.

However, where the world market price cannot be determined in accordance with the preceding subparagraph, it shall be determined:

— on the basis of a limited number of the most representative offers and quotations for a product delivered cif at Piraeus recorded on the Liverpool exchange, or on another European exchange, or

— on the basis of the offers and quotations on a non-European exchange either by calculating an average of the offers and quotations for a product delivered cif at Piraeus coming from various supplier countries that are considered the most representative in terms of international trade, or by using a limited number of the most representative offers and quotations for a product delivered cif at Piraeus.

3. Where the offers and quotations recorded do not satisfy the requirements referred to in the preceding paragraphs, the necessary adjustments shall be made.

[1] OJ No L 94, 28. 4. 1970, p. 13. Regulation as last amended by Regulation (EEC) No 2048/88 (OJ No L 185, 15. 7. 1988, p. 1).

Article 5

1. Without prejudice to Article 2 (3) and (4) of Regulation (EEC) No 1964/87, when the world market price determined in accordance with Article 3 is below the guide price, aid equal to the difference between these two prices shall be granted for unginned cotton harvested in the Community.

2. The amount of the aid to be paid shall be the amount applicable on the day the application for aid is made. However, the amount of the aid applicable on the day the application is made shall be adjusted on the basis of the difference between the guide price applying on that day and that applying on the day when the cotton is placed under control.

Should the application for aid be lodged before the application for supervised storage, the application for aid shall not be valid unless an adequate security is lodged to guarantee submission of the application for supervised storage within the time limit set.

3. Entitlement to the aid shall be acquired when the cotton is ginned. However, aid may be paid in advance from 16 October following the start of the marketing year when the unginned cotton enters the cotton ginning undertaking, provided that an adequate security has been lodged. The amount of the advance shall be calculated using the procedure laid down in Article 11 (1), account being taken of the estimated production of unginned cotton and of the anticipated amount of the aid. The advance may not exceed 40 % of the guide price. Any aid balance outstanding shall be paid once the actual quantity produced has been determined and any adjustment to the aid referred to in Article 2 (3) and (4) of Regulation (EEC) No 1964/87 have been made. It shall be paid before the end of the marketing year, at the latest.

4. The aid shall be paid by the producer Member State on whose territory ginning takes place.

5. The aid shall only be paid for a product of sound, fair and merchantable quality.

6. If the quantity of ginned cotton is less than or equal to 33 % of the quantity of unginned cotton that has entered the cotton ginning undertaking, aid shall be granted for the quantity of cotton ginned, multiplied by 100 and divided by 32.

If the quantity of ginned cotton exceeds 33 % of the quantity of unginned cotton that has entered the cotton ginning undertaking, aid shall be granted for the quantity of unginned cotton, multiplied by 33 and divided by 32.

The quantity of ginned cotton eligible for the aid shall be calculated on the basis of its weight, adjusted where necessary for any difference between:

— the representative percentage of recorded impurities compared to the representative percentage for grade 5, and

— the percentage moisture content recorded compared to that representative of marketed fibre.

The representative percentages referred to in the above indents shall be determined in accordance with the procedure referred to in Article 11 (1).

Article 6

The reduction in the guide price referred to in Article 2 (3) of Regulation (EEC) No 1964/87 shall be established as follows:

(a) if the actual production in Spain or Greece exceeds the guaranteed national quantity (GNQ), the excess in each Member State shall be calculated as a percentage of the GNQ and the guide price shall be reduced by a percentage equal to half the percentage excess;

(b) in other cases, the actual production in excess of the guaranteed maximum quantity (GMQ) shall be calculated as a percentage of the GNQ of the Member State concerned, and the guide price shall be reduced by a percentage equal to half the percentage excess.

Article 7

Aid shall be granted only to those cotton ginning undertakings which apply for it and which:

1. have submitted:

   (a) either a contract stipulating payment to the producer of a price at least equal to the minimum price referred to in Article 8a of Protocol 4 and containing a clause specifying that:

      — in the event of application of Article 2 (3) or (4) of Regulation (EEC) No 1964/87, the agreed price shall be adjusted in consequence of the effect of the application of that Article upon the aid,

      — in the event of a difference between the quality of the cotton delivered and the standard quality, referred to in paragraph 8 of Protocol 4, the price agreed will be adjusted proportionally by common consent between the contracting parties;

(b) or a statement giving details of the conditions under which the ginning is carried out and how the aid is passed on to the producers where the undertaking gins cotton on behalf of an individual producer or a producer associated with that undertaking;

2. keep stock accounts on ginned and unginned cotton that satisfy requirements to be laid down, with a view to enabling entitlement to the aid to be checked;

3. provide the other supporting documents needed for checking entitlement to the aid;

4. furnish proof that the cotton delivered under the contract or under the statement referred to in point 1 (b) has been the subject of the declaration of area sown referred to in Article 8.

Article 8

Before 1 October, the estimated production of cotton referred to in Article 5 (3) shall be drawn up using the procedure referred to in Article 11 (1), account being taken of crop estimates.

In order to draw up these estimates, a system of declarations of the areas sown shall be established.

Article 9

Actual production in each marketing year shall be determined before the end of June of that same year using the procedure referred to in Article 11 (1), account being taken in particular of the quantities for which aid has been requested.

Article 10

The producer Member States shall set up a system of controls to:

— ascertain the quantity of unginned Community cotton which has entered each cotton ginning undertaking,

— ascertain the quantity of unginned Community cotton which has been ginned,

— ascertain the quantity of ginned cotton obtained in each cotton ginning undertaking from the quantity referred to in the first indent,

— ensure that the minimum price is complied with.

Article 11

1. Detailed rules for the application of this Regulation shall be determined in accordance with the procedure laid down in Article 12 of Regulation (EEC) No 1308/70.

These detailed rules shall, in particular, concern any necessary control measure; these measures may use certain elements provided under the integrated system.

2. If it proves necessary to introduce transitional measures in order to facilitate implementation of the adjustments to the system as laid down by this Regulation, such measures shall be adopted in accordance with the procedure provided for in paragraph 1. They shall apply until the end of the 1995/96 marketing year at the latest.

Article 12

1. Regulation (EEC) No 2169/81 is hereby repealed.

2. References made to the repealed Regulation or to any Articles thereof shall be construed as being made to this Regulation or to the corresponding Articles hereof.

Article 13

The provisions of the Regulations relating to the value of the unit of account and the exchange rates to be applied in connection within the common agricultural policy, and those of Regulation (EEC) No 729/70 shall apply *mutatis mutandis* to the matters dealt with in this Regulation.

Article 14

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

It shall apply from the 1995/96 marketing year. However, Article 11 (2) shall apply as from the date of entry into force of this Regulation.

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

Done at Luxembourg, 29 June 1995.

For the Council

The President

J. BARROT