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COUNCIL REGULATION (EC) No 603/95
of 21 February 1995
on the common organization of the market in dried fodder

(OJ L 63, 21.3.1995, p. 1)

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►**M1**	Council Regulation (EC) No 684/95 of 27 March 1995	L 71	3	31.3.1995
►**M2**	Council Regulation (EC) No 1347/95 of 9 June 1995	L 131	1	15.6.1995

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COUNCIL REGULATION (EC) No 603/95

of 21 February 1995

on the common organization of the market in dried fodder

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 42 and 43 thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the European Parliament [2],

Whereas Regulation (EEC) No 1117/78 [3] set up a common organization of the market in dried fodder; whereas Regulation (EEC) No 1417/78 [4] set out the aid system for dried fodder;

Whereas a simple flat rate aid payment should be made for dried fodder; whereas the rate for fodder which is artificially heat-dried should be higher than that for sun-dried fodder in order to take into account the additional costs involved;

Whereas in order to limit Community dried fodder production, the amount for which aid may be granted should be subject to maximum limits;

Whereas two different maximum guaranteed quantities (MGQ) should be fixed, one for artificially heat-dried fodder and another for sun-dried;

Whereas these MGQs should be distributed between Member States on an equitable basis taking into account, in particular, the average of their production for which aid was received under Article 5 (2) of Regulation (EEC) No 1117/78 in the marketing years 1992/93 and 1993/94 according to the data available to the Commission in July 1994;

Whereas in order to ensure that the MGQs are respected and in order to discourage excess production throughout the Community, in the event of an overshoot, the aid for dried fodder should be reduced; whereas that reduction should equally be applied in all Member States for the first 5 % by which the MGQ is exceeded; whereas in the event of a larger excess, those Member States which have exceeded their national guaranteed quantities should subject to an additional reduction;

Whereas the final amount of the aid cannot be paid until it has been calculated whether the MGQ has been exceeded; whereas it is therefore necessary that advance payments of the aid be made after the dried fodder has left the processing undertaking;

Whereas the European Parliament has called for a more substantial advance than the 50 % provided for in the Commission proposal; whereas the Commission has endorsed that view; whereas, as a consequence, the amounts appearing in Article 6 have become provisional; whereas, in order to meet this request, the Council will forthwith examine the question of the amount of the advances on the basis of the Commission proposal, so that a regulation settling the issue definitively can be adopted as soon as possible;

Whereas the marketing year for dried fodder for which aid is paid should be from 1 April each year to 31 March of the following year as production in southern Member States commences already in April;

Whereas criteria relative to the minimum quality of dried fodder entitled to aid should be determined;

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(1) OJ No C 365, 21. 12. 1994, p. 8.
(2) OJ No C 56, 6. 3. 1995.
(3) OJ No L 142, 30. 5. 1978, p. 2. Regulation as last amended by Regulation (EC) No 3496/93 (OJ No L 319, 21. 12. 1993, p. 17).
(4) OJ No L 171, 28. 6. 1978, p. 1. Regulation as last amended by Regulation (EEC) No 1110/89 (OJ No L 118, 29. 4. 1989, p. 1).

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Whereas, in order to encourage a regular supply of green fodder to processors and to enable producers to benefit from the aid scheme, the granting of aid should in certain cases be conditional on the conclusion of contracts between producers and processing undertakings;

Whereas the contracts should, on the one hand, promote regular supplies for the processing undertakings and, on the other, permit the producers to benefit from the aid; whereas, to this end, it should be laid down that the contracts include certain information;

Whereas processing undertakings should fulfil certain conditions necessary for entitlement to aid; whereas these undertakings should therefore keep stock accounts, including the details necessary for verification of entitlement to aid and should furnish any other necessary proof;

Whereas, where there are no contracts between the producers and the processing undertakings, other information should be furnished by the latter for the purpose of verification of entitlement to aid;

Whereas, in the case of special-order contracts concerning the processing of fodder delivered by the producer, provision should be made to enable the aid to be passed back to the producer;

Whereas, in order to facilitate implementation of the measures envisaged, a procedure should be provided for which establishes close cooperation between Member States and the Commission within a Management Committee;

Whereas, under the Uruguay Round of multilateral trade negotiations, the Community has negotiated various agreements (hereinafter referred to as the 'GATT agreements'); whereas several of those agreements concern agriculture, in particular the Agreement on Agriculture (hereinafter referred to as 'the Agreement');

Whereas, since the Agreement on Safeguards lays down clear rules on the application of protective clauses as incorporated in the market organizations, the safeguard clause applicable to dried fodder should be supplemented by a reference to the obligations flowing from international agreements;

Whereas it is necessary to ensure that the entry into force of the new rules on trade with third countries coincides with the date on which the obligations for the Community resulting from the Multilateral Trade Negotiations of the Uruguay Round take effect;

Whereas Regulations (EEC) No 1117/78 and (EEC) No 1417/78 should be repealed, with the exception for the former of certain articles which shall remain in force until the date of application of the legislation enforcing the results of the negotiations of the Uruguay Round,

HAS ADOPTED THIS REGULATION:

Article 1

There shall be a common organization of the market in dried fodder covering the following products:

CN code	Description
a) ex 1214 10 00	— Flours and pellets of lucerne artificially heat-dried
	— Flour and pellets of lucerne otherwise dried and ground
ex 1214 90 91 and ex 1214 90 99	— Lucerne, sainfoin, clover, lupins vetches and similar fodder products, artificially heat-dried, except hay and fodder kale and products containing hay
	— Lucerne, sainfoin, clover, lupins, vetches, honey lotus, chickling pea and birdsfoot, otherwise dried and ground

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CN code	Description
b) ex 2309 90 98	— Protein concentrates obtained from lucerne juice and from grass juice — Dehydrated products obtained exclusively from solid residue and juice resulting from the preparation of the concentrates referred to in the first indent

Article 2

The marketing year for the products referred to in Article 1 shall begin on 1 April of each year and end on 31 March of the following year.

TITLE I

Aid System

Article 3

1. Aid shall be granted for the products listed in Article 1.

2. Without prejudice to Article 5 the aid for the products listed in the first and third indents of Article 1 (a) and in Article 1 (b) shall be 68,83 ECU/tonne.

3. Without prejudice to Article 5 the aid for the products listed in the second and fourth indents of Article 1 (a) shall be 38,64 ECU/tonne.

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Article 4

1. A Maximum Guaranteed Quantity (MGQ) per marketing year of 4 412 400 tonnes of dehydrated fodder for which the aid referred to in Article 3 (2) may be granted is hereby established.

2. The MGQ referred to in paragraph 1 is divided as follows between the Member States:

National Guaranteed Quantity (NGQ)

	(tonnes)
BLEU	8 000
Denmark	334 000
Germany	421 000
Greece	32 000
Spain	1 224 000
France	1 455 000
Ireland	5 000
Italy	523 000
Netherlands	285 000
Austria	4 400
Portugal	5 000
Finland	3 000
Sweden	11 000
United Kingdom	102 000

3. A Maximum Guaranteed Quantity (MGQ) per marketing year of 443 500 tonnes of sun-dried fodder for which the aid referred to in Article 3 (3) may be granted is hereby established.

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4. The MGQ referred to in paragraph 3 shall be divided as follows between the Member States:

National Guaranteed Quantity (NGQ)

	(tonnes)
BLEU	-
Denmark	-
Germany	-
Greece	5 500
Spain	101 000
France	150 000
Ireland	-
Italiy	162 000
Netherlands	-
Austria	-
Portugal	25 000
Finland	-
Sweden	-
United Kingdom	-

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Article 5

Where the amount of dried fodder for which aid is claimed under Article 3 (2) or 3 (3) in any marketing year exceeds the MGQ referred to in Article 4 (1) or 4 (3) respectively, the aid to be paid in that year shall be calculated as follows:

— for the first 5 % by which the MGQ is exceeded, the aid shall be reduced in all Member States by an amount which is proportionate to that excess,

— for any excess beyond 5 % additional reductions shall be made in any Member State in which production exceeds the NGQ increased by 5 % proportionate to this excess.

The reduction to be applied shall be set by the Commission in accordance with the procedure laid down in Article 17 and shall be such as to ensure that expenditure expressed in agricultural ecu does not exceed that what would have been attained if the relevant MGQ had not been exceeded.

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Article 6

1. Undertakings processing dried fodder which apply for aid under this Regulation shall be entitled to an advance payment of:

— ECU 41,30 per tonne in the case of dried fodder for which the aid in Article 3 (2) is claimed, or ECU 55,06 per tonne if they have lodged a security of ECU 13,76 per tonne, and

— ECU 23,18 per tonne in the case of dried fodder for which the aid in Article 3 (3) is claimed, or ECU 30,91 per tonne if they have lodged a security of ECU 7,73 per tonne.

Member States shall carry out the necessary checks to ensure that entitlement to the advance is justified. Once entitlement to the payment is established, payment of the advance shall be made.

However, the advance may be paid before entitlement has been established where a security equal to the amount of the advance, plus 10 %, has been lodged by the processing undertaking. Such security shall

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cover any other security that may have been lodged in accordance with the first or second indent of the first subparagraph. That security shall be reduced to the level provided for under the said first or second indent as soon as entitlement to aid is established and shall be totally released on the payment of the balance.

2. In order to qualify for an advance payment, the dried fodder in question must have left the processing undertaking.

3. Where an advance has been made, a balance shall be paid equal to the difference, if any, between the amount of the advance and the total amount of aid due to the undertaking processing dried fodder, taking into account Article 5.

4. Where an advance has been made which exceeds the total payment to which the undertaking processing dried fodder is entitled, taking into account Article 5, the undertaking shall repay to the competent authority of the Member State, on demand, such part of the advance as constituted an overpayment.

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Article 7

Member States shall communicate to the Commission, at the latest by 31 May of each year the quantities of dried fodder eligible for aid under Article 3 (2) and Article 3 (3) in the preceding marketing year.

Article 8

The aid provided for in Article 3 shall be granted, on application from the party concerned, in respect of dried fodder having left processing undertakings and meeting the following conditions:

(a) the maximum moisture content must fall between 11 and 14 % and may vary with the form of presentation of the product;

(b) the minimum crude protein content in dry matter must not be less than:

— 15 % in the case of the products listed in Article 1 (a) and the second indent of Article 1 (b),

— 45 % in the case of the products listed in the first indent of Article 1 (b);

(c) the dried fodder must be of sound, genuine and merchantable quality.

Further conditions, in particular regarding fibre, carotene content, may be stipulated in accordance with the procedure laid down in Article 17.

Article 9

The aid provided for in Article 3 shall be granted only to undertakings processing the products listed in Article 1 which:

(a) keep stock records showing at least:

— the utilized quantities of green fodder and, where applicable, sun-dried fodder; however, where the particular circumstances of the undertaking so require, the quantities may be estimated on the basis of areas sown,

— the quantities of dried fodder produced and the quantities and quality of such fodder leaving the untertaking;

(b) provide any other supporting documents necessary for verifying entitlement to the aid;

(c) fall into at least one of the following categories:

— untertakings which have concluded contracts with producers of fodder for drying,

— untertakings which have processed their own crops or, in the case of groups, those of their members,

— untertakings which have obtained their supplies from legal or natural persons providing certain guarantees to determined,

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who have concluded contracts with producers of fodder for drying; these legal or natural persons shall be buyers approved by the competent authorities of the Member States in which the fodder is harvested, under conditions laid down pursuant to the procedure provided for in Article 17.

Article 10

Undertakings which process their own crops or, in the case of groups those of their members shall submit annual declarations of the areas the fodder harvest of which is to be processed to the competent authorities of the Member States by a date to be determined.

Article 11

1. Contracts referred to in Article 9 (c) shall state not only the price to be paid to the producers for the fodder and, where applicable, for sun-dried fodder, but also at least:

— the area from which the crop is to be delivered to the processing undertaking,

— the terms of supply and payment.

2. Where contracts as referred to in the first indent of Article 9 (c) are special-order contracts for the processing of fodder supplied by the producers, they shall specify at least the area whose crop is to be delivered and include a clause laying down an obligation on processing undertakings to pay the producers the aid specified in Article 3 which they receive for the quantities processed under the contracts.

Article 12

1. Member States shall introduce a supervisory system to check, in respect of each processing undertaking, that:

— the conditions laid down in the preceding Articles are met,

— the quantities covered by aid applications correspond to the quantities of dried fodder of the minimum quality which leave the undertakings.

2. The dried fodder shall be weighed and samples taken when it leaves the processing untertakings.

3. The Member States shall forward to the Commission the provisions they plan to apply to implement paragraph 1 before such provisions are adopted.

TITLE II

Trade with third countries

Article 13

Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1.

Article 14

1. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the tariff classification of the products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the combined nomenclature.

2. Save as otherwise provided for in this Regulation or pursuant to a provision thereof, the following shall be prohibited in trade with third countries:

— the levying of any charge having equivalent effect to a customs duty,

— the application of any quantitative restriction or measure having equivalent effect.

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Article 15

1. If, by reason of an increase in imports or exports, the Community market in one or more of the products listed in Article 1 is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, the Commission may apply appropriate measures in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting on a proposal from the Commission, in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt the general rules for applying this paragraph and define the cases and limits within which the Member States may take interim protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request from a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied in compliance with the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.

TITLE III

General provisions

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 referred to in Article 1.

Article 17

1. The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.

2. 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.

3. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the commitee shall be weighted in the manner set out in that Article. The chairman shall not vote.

4. 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 be communicated by the Commission to the Council forthwith. In that event:

— the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication,

— the Council, acting by a qualified majority, may take a different decision with the time limit referred to in the previous paragraph.

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5. The committee may consider any other matter raised by its chairman either on his own initiative or at the request of the representative of a Member State.

Article 18

In accordance with the procedure laid down in Article 17 the following shall be adopted:

(a) detailed rules for the application of this Regulation, in particular those related to:

— the granting of the aid referred to in Article 3 and the advance payment provided for in Article 6,

— the checking and establishment of entitlement to the aid, including any necessary controls, all of which may make use of certain elements of the integrated system,

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— the release of securities referred to in Article 6 (1),

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— the criteria for determining the minimum quality,

— the conditions to be fulfilled by the undertakings referred to in the second indent of Article 9 (c), as well as the conditions referred to in Article 10,

— the control measure to be carried out referred to in Article 12 (2),

— the criteria to be fulfilled for the conclusion of contracts referred to in Article 9 and the information which they must contain, in addition to the criteria laid down in Article 11,

— the application of the maximum guaranteed quantity (MGQ);

(b) transitional measures if they prove necessary to facilitate the change from the aid system defined to in Regulation (EEC) No 1117/78 to the system laid down in this Regulation.

Article 19

The Member States shall communicate to the Commission the measures taken in order to implement this Regulation.

Article 20

1. Regulation (EEC) No 1117/78 is hereby repealed with the exception of Articles 7 and 8 which shall remain in force until 30 June 1995.

2. Regulation (EEC) No 1417/78 is hereby repealed.

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3. References to Regulations repealed pursuant to paragraphs 1 and 2 are to be construed as being made to this Regulation.

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Article 21

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

It shall apply from 1 April 1995 with the exception of Title II, which shall apply as from 1 July 1995.

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