

COUNCIL REGULATION (EEC) No 794/76

of 6 April 1976

laying down further measures for reorganizing Community fruit production

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, notwithstanding the application of the reorganization measures provided for in Council Regulation (EEC) No 2517/69 of 9 December 1969 laying down certain measures for reorganizing Community fruit production⁽²⁾, as last amended by Regulation (EEC) No 2456/72⁽³⁾, the Community market in apples and pears still shows an imbalance between supply and demand; whereas that situation results largely from excess supply of apples of the 'Golden Delicious', 'Starking Delicious' and 'Imperatore' varieties and pears of the 'Passe Crassane' variety;

Whereas the measures adopted to steady the market are not of a nature to overcome such difficulties; whereas action should therefore be taken to adjust production potential of these varieties so far as possible to present and foreseeable outlets for Community products;

Whereas, in order to encourage action of this kind, some inducement should be offered to growers to relinquish their production, wholly or in part, of the products in question; whereas, to that end, provision should be made for Member States to grant premiums to growers who, having agreed to grub all or part of their orchard of apples and pears of the said varieties also undertake not to extend, for a specified period, the part of the orchard which they have retained; whereas, for the sake of fairness, the undertakings given by recipients of the premiums provided for in Regulation (EEC) No 2517/69 should be adjusted accordingly;

Whereas the amount of the grubbing premium must be fixed at a level which takes into account the cost of grubbing and the temporary loss of income;

Whereas, to ensure that the rules for granting grubbing premiums are correctly applied, national aid designed to achieve aims similar to those pursued through the abovementioned rules for granting premiums may only be granted when requests for such aid have been submitted before the entry into force of this Regulation;

Whereas the proposed measures are in the interest of the Community and aim to attain the objectives laid down in Article 39 (1) (a) of the Treaty; whereas they therefore constitute a common measure within the meaning of Article 6 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy⁽⁴⁾, as last amended by Regulation (EEC) No 2788/72⁽⁵⁾;

Whereas the expenditure arising from the granting of grubbing premiums should be financed on a Community basis,

HAS ADOPTED THIS REGULATION :

Article 1

At their request and under the conditions specified below, Community fruit growers shall qualify for a premium for grubbing :

- apple trees of the 'Golden Delicious', 'Starking Delicious' and 'Imperatore' varieties and pear trees of the 'Passe Crassane' variety;
- trees of varieties other than those mentioned above if those varieties are necessary for the fertilization of the 'Golden Delicious', 'Starking Delicious', 'Imperatore' or 'Passe Crassane' varieties.

The rules for granting that premium, in particular with regard to the minimum number and age of trees, shall be adopted in accordance with the procedure laid down in Article 33 of Council Regulation No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽⁶⁾, as last amended by Regulation (EEC) No 793/76⁽⁷⁾.

⁽¹⁾ OJ No C 53, 8. 3. 1976, p. 24.

⁽²⁾ OJ No L 318, 18. 12. 1969, p. 15.

⁽³⁾ OJ No L 266, 25. 11. 1972, p. 9.

⁽⁴⁾ OJ No L 94, 29. 4. 1970, p. 13.

⁽⁵⁾ OJ No L 295, 30. 12. 1972, p. 1.

⁽⁶⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽⁷⁾ See page 1 of this Official Journal.

Article 2

1. Requests for the granting of premiums must be lodged before 1 November 1976.
2. The granting of a premium shall be subject in particular to a written undertaking by the recipient:
 - (a) to proceed, before 1 April 1977, with the grubbing of the apple or pear trees for which the premium is claimed,
 - (b) to abstain for a period of five years following the grubbing carried out on his holding from any planting of apple, pear or peach trees other than, after informing the Member State concerned, for purposes of normal total or partial replanting of the areas of orchard remaining following the grubbing operation for which the premium was granted.

Article 3

1. The amount of the premium shall, in accordance with the procedure laid down in Article 33 of Regulation (EEC) No 1035/72, be fixed at different levels to take account of the state of growth of the trees.

This amount shall not exceed 1 100 units of account per hectare grubbed.

2. The amount of the premium shall be paid in a lump sum, at the latest three months after the claimant has shown that he has actually carried out the grubbing operation.

Article 4

Member States shall verify whether the recipient of the premium has observed the undertaking provided for in Article 2 (2) (b). They shall make that verification during the last three months of the five year period following the grubbing operation.

Member States shall inform the Commission of the results of the verification.

Article 5

The measures provided for in this Regulation shall together constitute a common measure within the meaning of Article 6 (1) of Regulation (EEC) No 729/70.

Article 6

1. The estimated total cost of the common measure, to be borne by the European Agricultural Guidance and Guarantee Fund, is 8 550 000 units of account.
2. The deadline for completion of the measure provided for in paragraph 1 shall be 1 April 1977.

Article 7

1. The expenditure incurred by Member States in respect of the measures provided for in this Regulation shall be eligible for financing by the Guidance Section of the European Agricultural Guidance and Guarantee Fund.
2. The Guidance Section of the European Agricultural Guidance and Guarantee Fund shall reimburse to Member States 50 % of the eligible expenditure.
3. Detailed arrangements for the application of paragraph 2 shall be laid down in accordance with the procedure provided for in Article 13 of Regulation (EEC) No 729/70.

Article 8

1. Requests for reimbursement shall relate to expenditure incurred by Member States during a calendar year and shall be submitted to the Commission before 1 July of the following year.
2. The Commission shall take a decision concerning those requests in one or more stages, in accordance with the procedure laid down in Article 7 (1) of Regulation (EEC) No 729/70.

Article 9

1. Without prejudice to Article 8 of Regulation (EEC) No 729/70, the Member States, in accordance with national provisions laid down by law, regulation or administrative action, shall take the measures necessary to recover sums paid where the undertakings referred to in Article 2 are not observed.

They shall inform the Commission of the measures taken and in particular shall periodically report on the progress of the relevant administrative and judicial procedures.

2. The sums recovered shall be made over to the authorities or departments responsible for payment and deducted by them from the expenditure financed by the European Agricultural Guidance and Guarantee Fund, proportionately with the financial contribution of the Community.

3. The financial consequences of failure to recover the sums paid shall be borne by the Community and the Member States, proportionately with their financial contributions.

4. Interest may be added to the sums to be recovered.

5. Detailed arrangements for the application of this Article shall be laid down in accordance with the procedure provided for in Article 13 of Regulation (EEC) No 729/70.

Article 10

1. The Commission shall submit to the Council, before 1 April 1979, on the basis of information provided by Member States, a report on the application of the rules for granting premiums laid down by this Regulation.
2. The Council, acting on a proposal from the Commission, shall decide on amendments to these rules in accordance with the voting procedure laid down in Article 43 (2) of the Treaty.
3. Where appropriate, the general rules for applying Article 4 shall be laid down in accordance with the same procedure.

Article 11

This Regulation shall not preclude the granting of aid laid down by national regulations and designed to achieve aims similar to those pursued through this

Regulation, provided requests for such aid are lodged before the date of entry into force of this Regulation.

Article 12

The following text shall be substituted for Article 2 (2) (b) of Regulation (EEC) No 2517/69 :

- (b) to abstain for a period of five years following the grubbing carried out on his holding from any planting of apple, pear or peach trees other than, after informing the Member State concerned, for purposes of normal total or partial replanting of the areas of orchard remaining following the grubbing operation for which the premium was granted.'

Article 13

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

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

Done at Luxembourg, 6 April 1976.

For the Council

The President

J. HAMILIUS
