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COMMISSION DECISION

of 22 June 1972

on granting aid for the growing of lucerne in Belgium

(72/248/EEC)

(Only the French and Dutch texts are authentic)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the first subparagraph of Article 93 (2) thereof;

Having regard to Council Regulation (EEC) No 827/68 ⁽¹⁾ of 28 June 1968 on the common organization of the market in certain products listed in Annex II to the Treaty, and in particular Article 5 thereof;

Having regard to the comments submitted by those concerned;

Whereas the Belgian Government, by letter of 24 June 1971 from the Office of its Permanent Representative, notified the Commission, in accordance with Article 93 (3) of the Treaty, of its intention to subsidize the growing of lucerne in 1971, 1972 and 1973; whereas this aid would take the form of a degressive premium of respectively 3000, 2000 and 1000 francs per hectare, and whereas it was provided that such aid, because of its financial character, could be made available exclusively to the growers notwithstanding any agreement to the contrary; whereas this measure was laid down by an *arrêté ministériel* on 9 September 1971, published in the Belgium *Moniteur* of 2 October 1971;

Whereas the premium is granted on the basis of a special statement made annually which had to be received by the Office belge pour l'économie et l'agriculture before 31 October 1971 for lucerne grown in 1971 and before 15 May 1972 and 1973 respectively for lucerne grown in 1972 and 1973; whereas the premium is paid by the communal administrations and in 1971 covered approximately 6100 hectares;

Whereas, having regard to the fact that the Belgian measure to subsidize the growing of lucerne for three years is an operational aid, the Commission has initiated

the procedure laid down in Article 93 (2) of the Treaty with respect to that measure;

Whereas this financial aid granted per hectare has a direct effect on the cost of growing fresh lucerne, such cost being reduced by the amount of the aid, and whereas it consequently encourages the growing of lucerne, when a line of cultivation which has been decreasing since 1965 in Belgium (1965: 107 000 metric tons; 1966: 87 800 metric tons; 1967: 86 300 metric tons; 1968: 80 700 metric tons; 1969: 71 200 metric tons; 1970: 62 000 metric tons, expressed as dry hay) and is thus particularly responsive to aid, especially if given in terms of quantities and prices of products or of areas grown (hectare); whereas, in the light of certain figures available for gross income per hectare, calculated on the basis of dry lucerne (average return per hectare multiplied by the wholesale price of dry lucerne paid to the grower per metric ton), the increase in income which this aid would procure can be estimated at approximately 20 %, 13 % and 6 % for the first, second and third years respectively when such aid is granted;

Whereas such aid, because of the way in which it is granted, directly affects the income of growers who receive it and thus improves their position, enabling them either to lower the selling price of the product or to grow more lucerne with, as a possible consequence, an increase in income on account of reduced costs due to better use of any drying plants which they operate;

Whereas aid for the growing of lucerne, by lowering the price for fresh lucerne, may similarly affect the price for dry lucerne, either because the latter is produced directly by the growers of fresh lucerne, or because of a downward influence exerted thereon by the situation of the market in that sector, even though *arrêté ministériel* of 9 September 1971 decreed that the premium should be made available exclusively to the growers notwithstanding an agreement to the contrary; whereas any increase in the amount of fresh lucerne grown could have a downward effect on the selling price also on account of drying plants being put to fuller use;

¹ OJ No L 151, 30.6.1968, p. 16.

Whereas aid for the growing of fresh lucerne, by reducing its production costs, could lead producers of animal feed to make use of fresh lucerne in place of other feedingstuffs; whereas a lower price for fresh

lucerne, and possibly for dry lucerne, could militate against products in market competition with lucerne, such as cereals, other green fodder, skimmed milk and oil-cake;

Whereas the use in feedingstuffs of subsidized fresh or dry lucerne can lower the cost of production of animal feedingstuffs, in direct ratio to that use, especially where the grower of lucerne is also a stock-breeder or fatterer; whereas, in the latter case, extra lucerne at a lower price can also give encouragement to the production of animal feedingstuffs;

Whereas the lower cost of production of animal feedingstuffs due to the use of larger proportions of lucerne can give a competitive advantage to producers using subsidized lucerne; whereas, although in the Community lucerne meal enters into cattle feed in very variable proportions, generally between 0 and 30 % for bovine animals, 0 to 10 % for sows, 3 to 4 % for poultry and 1 % for pigs, and whereas, for Belgium such proportions are rather low, except for poultry (over 80 % of lucerne meal goes to the feeding of poultry, in particular for its carotin content), an increase of these proportions in feedingstuffs for all animals cannot be ruled out;

Whereas, although there is little trade in fresh lucerne, the aid can have the effect of reducing imports into Belgium of lucerne meal from other Member States (which were 60 000 metric tons in 1969 and 64 000 metric tons in 1970) and of competing products such as compound feedingstuffs, skimmed-milk powder, maize and oil-cake (net imports of maize: 108 000 metric tons in 1969 and 117 000 metric tons in 1970, of which over 70 %, on average, was for animal feed; net imports of oil-cake alone, unprocessed, including similar residues, amounted to 37 000 metric tons in 1969 and 31 000 metric tons in 1970, of which 90 %, on average, was for animal feed);

Whereas such aid can therefore in proportion to its influence on the selling price of animal feedingstuffs or on the extension of production which it encour-

ages, affect trading conditions in those products within the Community;

Whereas such aid distorts competition and affects trade between Member States and whereas it therefore comes under the prohibition set out in Article 92 (1) of the Treaty;

Whereas exemption from that prohibition cannot be justified under one of the derogations provided for in Article 92 (2) and (3) since, in particular, the aid measure taken by the Belgian Government is by its nature and conditions an operational aid not calculated to make for a lasting rationalization of the sector, either in respect of green lucerne or of dry lucerne meal, there being in particular no structural obligation on growers to reorganize; whereas the elimination of all aid, except investment aid, having an effect on production is one of the guiding principles laid down by the Commission as part of the agricultural aid policy and included in Council Resolution of 25 May 1971¹ on the new guidelines for the common agricultural policy;

Whereas the granting of subsidies for the growing of lucerne is consequently incompatible with the common market in terms of Article 92 of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The Kingdom of Belgium shall, not later than 1 August 1972, abolish the aid introduced under the *arrêté ministériel* of 9 September 1971² concerning the granting of subsidies for the growing of lucerne.

Article 2

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 22 June 1972.

For the Commission

The President

S. L. MANSOLT

¹ OJ No C 52, 27.5.1971, p. 1.

² *Moniteur Belge*, 2.10.1971.