Proposal for a

COUNCIL DECISION
of

amending Council Decision of 20 February 2006 (2006/144/EC) on the Community strategic guidelines for rural development (programming period 2007 to 2013)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) N° 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)[1], and in particular Articles 9 and 10 thereof,

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

Having regard to the opinion of the European Parliament[3],

Whereas:

(1) The Council by its Decision 2006/144/EC[4] adopted the Community strategic guidelines for rural development (programming period 2007 to 2013), hereinafter "Community strategic guidelines".

(2) Article 10 of Regulation (EC) N° 1698/2005 provides that with a view to taking account of major changes in the Community priorities in particular, the Community strategic guidelines may be subject to review.

(3) In the context of the assessment of the implementation of the Common Agricultural Policy reform of 2003 climate change mitigation, renewable energies, water management and biodiversity were identified as the crucial new challenges. The objectives related to these priorities should be strengthened in the rural development programs approved in accordance with Regulation (EC) 1698/2005.

(4) The Community strategic guidelines should identify the areas important for the realisation of the revised Community priorities related to climate change mitigation, renewable energies, water management and biodiversity.

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1 OJ L 277, 21.10.2005, p. 1. Regulation last amended by Regulation (EC) No 146/2008, (OJ L 46, 21.02.2008, p.1).
2 OJ C […], […], p. […].
3 OJ C […], […], p. […].
4 OJ L 55, 25.2.2006, p. 20

(5) On the basis of the review of the Community strategic guidelines, each Member State should revise its national strategy plan as the reference framework for the revision of rural development programmes.

(6) The Community strategic guidelines should therefore be amended accordingly,

HAS DECIDED AS FOLLOWS:

Sole Article

Council Decision of 20 February 2006 (2006/144/EC) is hereby amended as follows:

In the Annex, paragraphs 2.5. and 3.4a., the text of which are set out in the Annex to this Decision, are added.

Done at Brussels, […]

For the Council
The President

Annex

The Community strategic guidelines for rural development (programming period 2007 to 2013), set out in the Annex to Decision 2006/144/EC, are amended as follows:

(1) In Part 2, the following point is added:

"2.5 Meeting the new challenges

As part of the review of the reforms introduced in 2003, also the balance between expenditure for direct payments under the 1st pillar of the CAP and funding of rural development policy has been revisited. With the overall CAP budget fixed until 2013, additional funding for rural development can only be realised through an increase in compulsory modulation. The additional funding is needed to reinforce the efforts with regard to the EU priorities in the field of climate change, renewable energy, water management and biodiversity:

- Climate and energy became priorities, as the EU is taking the lead to build a global low carbon economy. In March 2007, the European Council adopted conclusions [5] to reduce CO_2 emissions by at least 20% by 2020 (30% as part of an international agreement on global targets) and to set a binding 20% target for the use of renewable energy sources, including a 10% share of biofuels in petrol and diesel consumption. Agriculture and forestry can make an important contribution in providing the feed stocks for bio-energy, in carbon sequestration and in further reducing GHG emissions.
- The EU's objectives with regard to water policy are laid down in Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy[6] , which will start to reach full implementation in the period 2010-2012. Agriculture and forestry as main users of water and water resources have a major role to play in sustainable water management both in terms of quantity and of quality. Water management will be an increasingly important part of the adaptation strategy to deal with already unavoidable climate change.
- Member States have committed themselves to halt biodiversity decline by 2010, a target which increasingly seems unlikely to be met. A large part of Europe's biological diversity is dependent on agriculture and forestry and the efforts to protect biodiversity will have to be increased, particularly in the light of the expected adverse effects of climate change and increasing water demand."

5 Council Conclusions, Brussels, 8/9 March 2007 7224/1/07 REV1
6 *OJ L 327, 22.12.2000, p. 1–73*

(2) In Part 3, the following point 3.4*a*. is inserted:

"3.4a. Addressing the new challenges

Community strategic guideline Climate change, renewable energy, water management and biodiversity are crucial challenges for Europe's rural areas, agriculture and forestry. As part of the EU global strategy against climate change, agriculture and forestry will be called to contribute more in the future for curbing green house gas emissions and increasing carbon sequestration. Increasing production of renewable energy from agriculture and forestry biomass should also help to meet the new EU targets in total fuel and energy consumption by 2020. More sustainable water management practices in agriculture will be essential to ensure sufficient quantity and quality of water for the future, and to adapt to the projected climate change impacts on water resources. Furthermore, halting biodiversity decline remains a major challenge. Therefore, the additional resources which will be made available as of 2010 by an increase in compulsory modulation should be devoted to reinforce the EU priorities in the above-mentioned fields.

In order to meet these priorities, Member States are encouraged to focus support on key actions. Such key actions could include the following types of operations:

(i) In particular investment support under axis 1 can be targeted towards energy, water and other input saving machinery and equipment as well as to the on farm production of renewable energy. In the agrifood chain and forestry sector investment support should help to develop innovative and more sustainable ways of biofuel processing.

(ii) Under axis 2 the agri-environment measure and the forestry measures can be used in particular for enhancing biodiversity by conserving species-rich vegetation types, protection and maintenance of grassland and extensive forms of agricultural production. Specific actions under axis 2, such as agri-environment or afforestation can also help to improve the capacity to better manage the available water resources in terms of quantity and protect them in terms of quality. Furthermore, certain agri-environmental and forestry actions contribute to curbing emissions of nitrous oxide (N_2O) and methane (CH_4) and help to foster carbon sequestration.

(iii) Under axis 3 and 4 local scale projects and cooperation for renewable energy projects can be supported as well as diversification of farmers into bioenergy production. Conservation of natural heritage can help in protecting high nature value habitats and high-value water bodies.

(iv) As all rural areas are being confronted with the climate change and renewable energy issues Member States can encourage the Leader groups to pick up these issues in their local development strategies as a cross cutting theme. The groups are well placed to contribute to climate change adaptation and renewable energy solutions tailored to the local situation.

(v) As a general principle support shall be targeted to types of operations which are coherent with the objectives and provisions established in Regulation (EC) No

1698/2005 and which contribute generating positive potential effects in view of the new challenges such as specified in Annex II to that Regulation. "

EXECUTIVE SUMMARY

1. INTRODUCTION

The aim of the CAP "Health Check" is to assess the experience of the 2003 CAP reform, and to introduce adjustments that simplify and increase the effectiveness of the policy, allowing it to respond to present market opportunities and face new challenges.

First indications from the assessment of the 2003 reform are in general positive, and indicate that a fundamental reform of the CAP for the remaining horizon of the present financial perspectives (until 2013) is neither necessary nor desirable. However, other, parallel market and policy developments, together with experience gained so far from reform implementation, indicate a rapidly changing environment facing EU agriculture and the need for CAP adjustments which could not be foreseen when the 2003 reform was carried out.

The three main policy questions that the Health Check addresses concern the three basic Regulations of the CAP:

Regulation (EC) N°1782/2003 covers all issues related to the core of farm support today, the Single Payment Scheme (SPS).

Regulation (EC) N°1234/2007 covers issues related to the Single Common Market Organisation (sCMO).

Regulation (EC) N°1698/2005 covers issues related to Rural Development (RD) Policy.
The Impact Assessment (IA) addresses the above issues, and analyse the impact of potential changes in the CAP, examining many existing analyses and studies, both internal and external.
Public consultation with stakeholders was organised, including two public seminars, one on the global presentation of the HC, the other on dairy issues. Stakeholders were invited to contribute to the preparation of proposals based on a questionnaire. This resulted in a significant number of submissions with wide-spread representation across Member States (MS) and stakeholders.

2. SINGLE PAYMENT SCHEME

The introduction of the SPS rendered decoupled farm support the central element of the 2003 CAP reform. In implementing the SPS, MS could opt for two basic models: a historic model or a regional model. The current legislation does not include a "regret clause" that would allow MS to adjust their SPS model.

Yet, as more sectors are included in the SPS, within on-going CAP reform, there are fewer a priori reasons to exclude such a possibility. To assess the potential impact from allowing MS to move towards a more flat rate, four alternative options were analysed.

A move towards an *EU-wide flat rate* per hectare was found to imply a fundamental reform and a major redistribution of support among MS. Turning the *SAPS*, the transitional area payment scheme in the new MS, into an EU-wide permanent scheme would contradict the very philosophy of decoupled support because it would not be a system based on fixed entitlements. The two options of assessing a targeted move towards a *flat rate* by harmonising payments in a regional context, either by entitlement or by hectare, was found to address equity issues related to the distribution of support while minimising the impact of significant shifts of support on land values.

Adjustment of Article 69 of the SPS legislation has also been shown to be desirable. Originally designed to facilitate transition towards decoupling, this article could also facilitate the adjustment needs resulting from the changes proposed in the HC. These challenges mainly concern risks that some regions may face with the gradual phasing-out of milk quotas and further decoupling, and the need for policies addressing risk management. Through this revision MS could be allowed to use part of their available SPS support to target particular sectors and regions with specific needs of an economic, social or environmental nature thus mitigating negative effects on income, contributing to the vitality of rural areas and to promoting environmentally beneficial farming practices.

In order to avoid the risk of backtracking from the overall orientation of the CAP towards decoupling needs to be addressed by dividing the resulting national envelopes into two distinct sub-ceilings. One envelope could address the adjustment of decoupled support towards higher flat rate payments in those regions where the expiry of the dairy quotas and further decoupling could create potential risks, or the introduction of risk management measures that meet Green Box criteria. The other sub-ceiling could be used for targeted measures of coupled support or other risk management measures.

As cross compliance creates a link between farm-relevant support and farm-relevant legislation, its scope was screened in order to examine whether the SMR and the GAEC could be better targeted, whether the issues of climate change and water management could be better taken into consideration, and whether environmental benefits from set-aside could be retained through cross compliance. Two options were considered. The first option identified those requirements whose removal would reduce the administrative burden, but not impact upon the current ambition of cross-compliance, such as those not directly linked to agricultural activities and agricultural land, whose non-respect cannot be attributed to an individual farmer, concern MS instead of the farmer's responsibility, and are thus difficult to control under cross compliance.

The second approach considered the broadening of the scope of cross compliance by adding certain important legal acts relevant to farming activities that would contribute to meeting new challenges and/or retaining environmental benefits from set aside. Ways of introducing water management within the scope of cross compliance have also been considered, such as including water management within the GAEC. For retaining environmental benefits from set aside, an additional standard on buffer strips and a strengthening of the current standard on retaining landscape features have been considered to be appropriate.

Partially coupled support is available for some sectors. The remaining coupled support should move to full decoupling to achieve more market orientation and improved competitiveness. In some cases, this may have consequences for the environmental benefits provided by current policy tools, as well as for the vitality of rural areas. The analysis concludes that the biggest impact would be in those sectors and regions where the coupled premiums represent an important share of the farmer's margin, such as the sectors of suckler cows and sheep. In the cereals sector and in other beef production systems, the impact would not be so significant.

On payment limitations, the situation is at present characterised by a small number of very high payments and a large number of very small payments. Introducing individual limits was assessed in order for its potential of improving the equality of distribution of payments between farmers. The analysis shows that such a measure would affect a very small number of holdings in a limited number of MS, particularly in EU-10, and would result in significant cuts in their direct payment levels and the risk of splitting of holdings to avoid the ceilings. Progressive individual limits, on the other hand, maintain the more generalised nature of the measure across the EU, but have significantly milder impacts on cuts in direct payments and income on the affected holdings.

An increase of lower payment limitations was assessed due to the merits this could have in easing the administrative burden for the MS. Depending on where the limit is set, the percentage of beneficiaries excluded from payments could vary greatly within MS. Leaving the choice of setting either a minimum area or a minimum amount to the MS would allow better adjustment to their specific needs.

3. GRASPING MARKET OPPORTUNITIES

The proposed options for adjustments to cereal intervention and set-aside were assessed with respect to their capacity to improve competitiveness and market orientation for the sector while keeping intervention as a safety-net in case of market disruptions, facilitate farmers' response to market conditions, and identify measures that could deliver similar environmental benefits to set-aside where its removal may put them at risk.

Limiting quantities going to intervention at zero for all feed grains facilitates supporting the entire cereal markets if necessary (since cereal prices move in parallel) without the disadvantage of artificially undermining barleys' competitiveness. Introducing tendering would simplify and harmonise cereal intervention rules with those of other CMOs.

Removal of the set-aside obligation would likely bring back into production an area corresponding to roughly half the area currently under mandatory set-aside. It has been suggested that the environmental benefits of set aside could be retained by introducing a fixed percentage of total area as an "environmental compensation/priority" area, containing certain landscape features. However, such a measure would attempt to fix in a similar manner MS a potential problem whose distribution is presently very diverse across MS, and would thus not necessarily compensate for environmental losses in the place that they occurred. If the fixed percentage of set-aside for all farmers is replaced with new standards to reflect the above landscape features, an expanded list in GAEC would ensure better coverage than at present of these features by MS. Furthermore, the strengthening of set-aside within Pillar II would allow the targeting of environmental benefits where they are mostly needed, but the impacts will depend on relevant provisions of existing RD programmes in different MS.

Milk quotas hold back the sector from achieving the objectives of CAP reform since they still reflect concerns of two decades back, instead of responding to present opportunities. The phasing-out of dairy quotas was assessed, and various policy options were compared with the continuation of the dairy quota as a reference. In the continuation option, constrained production combined with growing demand increases the milk price, but market orientation and competitiveness of producers and processors alike is being hampered.

On the other hand, under the expiry option, when quotas are lifted in 2015/16, production jumps to match demand, causing a strong price decrease after quotas expire. Price declines and production responses are smoother under both phasing out options, but the extent of adjustment differs. The lower annual quota increase option allows for a smoother price adjustment throughout the transition period, but in both phasing out scenarios, the butter price falls to intervention price level.

The transition to the phasing out of dairy quotas has social and environmental effects. A smooth transition in the phasing out scenarios prevents rapid restructuring and allows preparing and adjusting accompanying measures to the potential social and environmental problems that could appear.

Finally, for a list of small support schemes, the *status quo* option contradicts the 2003 CAP reform path in terms of competitiveness, market-orientation and simplification of the support scheme. Although full decoupling would have a positive impact on farm income in most regions due to higher transfer efficiency of direct support, nevertheless it could affect specific regions where local production is vital for the viability of the local agri-food chain or for the environment, thus indicating the need for a variable degree of transition for the industry, according to the sector.

Analysis has also been carried out on how to best take account of the farmers increasing need for risk management tools, due to increasing impacts of climate change and the higher degree of market orientation. Introduction of new risk management tools should contribute to stabilising the income of the farm society, while not introducing unnecessary administrative burden or excessively high budgetary costs.

Price risks appear to be sufficiently addressed with safety-net intervention and with the flexibility that decoupling provides; hence there is no need for additional risk management tools to deal with price risks. The extension of SPS to sectors which are currently not included could also provide a positive contribution in mitigating price variability for the agricultural community.

With respect to the potentially growing needs for production risks, an EU-wide scheme cannot be considered feasible at this stage. Such a scheme would be very expensive, and would imply an increased administrative burden for farmers and MS. Given the heterogeneity of the risks and crises that the EU faces heterogeneous measures seem to provide the most suitable solution to help farmers deal with crisis situations. A harmonisation at EU level of the aid schemes currently supported with state aids could contribute to increased transparency between MS, while at the same time allowing the CAP to better meet the objective of contributing to the income stability for the agricultural community.

An introduction of new risk management tools within existing CAP instruments as an option in a revised Article 69 would be budget neutral with respect to the overall EU budget. National contributions would depend on MS preference, but introducing the measure would in any case be optional. On top of this, Rural Development programmes contain measures which are directly related to risk management for agriculture and forestry, and that provide complementary support for preventive action in the areas of physical investment or human capital formation.

4. RESPONDING TO NEW CHALLENGES

The HC Communication identified a number of new, and ongoing, challenges facing the CAP (such as climate change, bio-energy, water management and biodiversity) and considers RD to be a key instrument to deal with these challenges. The screening exercise of RD programmes indicates that existing measures are already providing various solutions to address the new challenges and that MS have already included a significant number of related measures in their RD programmes for the period 2007-13.

The analysis of the impact of the proposed options for facing "new challenges" via RD measures focused on the impact of such proposals on improving the EU responsiveness to new challenges via greater MS uptake of second pillar measures. Four options were examined, aiming at targeting additional funds through modulation to existing measures related to "new challenges" with a reporting obligation concerning the new funding and indicators of measures in areas where "new challenges" were considered.

However, the constraints on the RD budget following the 2005 decision on the Financial Perspectives, present an obstacle to the realisation of 2nd Pillar objectives in the current budgetary period. Reinforcement of budgetary resources is also necessary in order to respond to the need for increased efforts to address new challenges identified in the HC Communication.

Analysis of alternative levels of modulation assessed their impact on the net budgetary transfers among MS and the level of their RD funds, as well as the impact on farm income for the farms and sectors involved. Since the manner to distribute modulated funds among MS, once the new MS are also part of the system, is not yet decided, the aim was to illustrate the potential impact of the options addressed. Different options were analysed, assuming an overall increase in modulation, achieved with the same annual steps from 2009 onwards, but taking into account different assumptions about the contribution of new MS. The retained option analysed is a variant of the idea supported by the European Parliament that introduces a progressive element in modulation based on different thresholds of payments, thereby addressing equity issues relating to individual producers limits.

5. CONCLUSIONS

The continuation of present CAP policies shows that the current policy framework, as reformed in 2003, contributes positively to fulfilling the principal CAP objectives. The analysis points to areas where adjustments in current policies would lead to more optimal solutions.

With respect to the Single Payment Scheme, the implementation of the SPS and the gradual expansion of decoupling to more sectors render the need to allow MS to consider adjustments in their SPS model towards a more flat rate for payments. Such a move could address the societal concerns of unequal distribution of payments between farmers.

Further decoupling, as well as a continuation of move to producer support of sectors not yet integrated in the SPS, could significantly enhance market orientation of the CAP, but in some sectors decoupling may create the need for transitional measures in order to address economical, social or environmental concerns. Solutions could be addressed through a revision of Article 69 and through transitional periods.

Revising the scope of cross compliance would contribute to easing the administrative burden as well as addressing new challenges that were not as present in 2003. Also, environmental benefits of set-aside could be retained through the combined effect of adjustments in cross compliance and RD measures.

In terms of agricultural markets, the phasing out of milk quotas and removal of set-aside will allow the farmers to better respond to market situations.

Finally, a screening exercise has showed that the present tool kit of measures available under RD programmes appears to be sufficient to address new challenges. The best way to strengthen the role of these measures within the RD policy appears to be the creation of mechanisms that guarantee an increased uptake by Member States, as well as the provision of additional financing through progressive modulation.

EXPLANATORY MEMORANDUM

1. REASONS AND OBJECTIVES OF THE PROPOSAL

The main objectives set out for the Commission Communication "Preparing the Health Check of the CAP reform" of 20 November 2007 were to assess the implementation of the 2003 CAP reform, and to introduce those adjustments to the reform process that are deemed necessary in order to further simplify the policy, to allow it to grasp new market opportunities and to prepare it for facing new challenges such as climate change, water management and bio-energy.

The most recent reforms of the CAP marked a new phase in this process by decoupling the majority of direct payments via the Single Payment Scheme (SPS) in 2003 for the sectors of arable crops, beef and sheep, and dairy and in 2004 for olive oil, cotton and tobacco. As part of the 2003 reform, Rural Development (RD) policy was strengthened with additional funds and with the reform of its policy instruments in 2005. Finally, the reform process continued with reforms in sugar (2006) and fruit and vegetables and wine (2007).

The above reforms reflect the significant shift in the orientation of the CAP, which is more capable today to meet its fundamental objectives.

- Producer support is to a large extent (90%) decoupled from production decisions, allowing EU farmers to make their choices in response to market signals, to rely on their farm potential and their preferences when adapting to changes in their economic environment. This is the most efficient way of providing farm income support.

- The shift away from product support, widely viewed as an origin of the surplus problems of the past, and the reduction of EU support prices, brought EU agriculture much closer to world markets, improving market balances and reducing the budgetary costs of intervention stocks or surplus disposal.

- The results of the reform process increased the competitiveness of EU agriculture, which, despite the decline of EU share in most commodity markets, became the largest agricultural exporter, of mainly high value products, while remaining the biggest agricultural importer in the world, remaining by far the largest market for developing countries.

- The CAP increasingly contributes to heading off the risks of environmental degradation and to delivering many of the public goods that our societies expect since producer support now depends on the respect of standards relating to the environment, food safety and quality and animal welfare through cross-compliance.

- The strengthened rural development policy supports the protection of the environment and rural landscapes and creates growth, jobs and innovation in rural areas, especially those which are remote, depopulated or heavily dependent on farming.

The above developments indicate a CAP that is today fundamentally different from the one of the past. But the Communication "Preparing the Health Check of the CAP reform" also asserts that, "for the CAP to continue to be a policy of the present and of the future, it needs to be able to evaluate its instruments, to test whether they function as they should, to identify any adjustments needed to meet its stated objectives, and to be able to adapt to new challenges".

In line with the indications given in the Communication, the Commission has prepared legal proposals accompanied by an impact assessment report on the Health Check of the CAP taking on board the result of a wide consultation of stakeholders and the contributions from other European Institutions.

Legal proposals are related to three basic Regulations:

– Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers.

– Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)

– Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development

These proposals, without constituting a fundamental reform, are a contribution to future developments of the CAP that are consistent with the overall goal of the Commission and the requirements of the Treaties to promote a sustainable and market orientated agricultural sector.

2. SINGLE PAYMENT SCHEME (SPS) AND SINGLE AREA PAYMENT SCHEME (SAPS)

2.1. Simplification

Better regulation and simplification are one of the Commission's political priorities for the period 2004-2009. The CAP started the most important path to simplification with its reform of 2003 by shifting most of direct payments for farmers to the Single Payment Scheme and with the adoption of the Single Common Market Organisation in 2007. On SPS, experience has shown that it has contributed to reduce the administrative burden, to avoid unnecessary public expenditure, to improve public acceptance of the CAP and to improve competitiveness on the CAP. Nevertheless, steps towards more simplification can still be done, especially in cross-compliance and in the existing partial coupled support.

<u>Cross compliance</u>

The 2003 CAP reform introduced cross compliance within the single farm payment. This means that such payments are subject to environmental, food safety, and animal welfare legislation, as well as to the maintenance of the farm in good agricultural and environmental conditions.

Practical problems in the implementation of cross compliance have been raised by the Member States, as well as by the Commission itself through its audits for the clearance of accounts. This has led the Commission to examine the scope of cross compliance in order to simplify and improve its targeting. In particular, the proposals aim at withdrawing certain Statutory Mandatory Requirements that are considered not relevant or linked to farmer responsibility, and to introduce into Good Agricultural Environmental Conditions requirements that retain the environmental benefits from set-aside and address issues of water management.

Partially coupled support

In 2003 CAP reform, some Member States considered that full decoupling could lead to several risks such as the abandonment of production, the lack of raw material supply for processing industries, or to social and environmental problems in areas with few economic alternatives. This was the reason why it was decided to retain certain levels of coupled support in some sectors.

The experience with decoupling shows that in general this move did not imply dramatic changes in the production structure at the EU level and that it has led farmers to produce what the market demands in a more sustainable way. It has also to be stressed that keeping two systems in parallel (coupled and decoupled support) has not contributed to simplification for national and regional administrations in Member States.

Given this, it is proposed to align them with the 2003 CAP reform principles by removing the remaining coupled support and shifting them to the Single Payment Scheme. Nevertheless, an exception is done with suckler cows, sheep and goat meat premia. In these cases it is proposed to allow Member States to maintain the coupled support (as it exists currently) in order to sustain economic activity in regions where other economic alternatives are few or do not exist.

Other issues related to simplification

The proposal also includes other measures focused on providing more simplification to the SPS. In particular, more flexibility has been added to the use of the national reserve and to the transfer of payment entitlements, to the choice of modifying the entitlements and to payment dates. The abolition of the set aside entitlements is also proposed.

2.2. Moving towards a more flat rate of decoupled support

The 2003 reform introduced the decoupled farm support as the key element of the CAP. The main objective was providing a direct payment system that allows farmers to be market oriented, as simple as possible from an administrative point of view and compatible with WTO. Two basic models were provided to Member States to implement the scheme: the historic and the regional.

– historic model: In this model payment entitlements are based on individual historic reference amounts per farmer.

– regional model: In this model flat rate payment entitlements are based on amounts received by farmers in a region in the reference period.

The current legislation does not allow Member States to change their decision on the implementation of the SPS model. However, experience has shown that certain adjustments in the existing schemes are necessary or desirable. For example, the differences in support levels resulting from implementation of the historic model will become difficult to justify in the future as reference periods for payments become more distant.

On the other hand, the regional model provides more equitable support to farmers, despite some initial redistribution of support.

This is the reason why the Commission has proposed allowing Member States to adjust their SPS model by moving gradually towards flatter payment rates per entitlement to render the SPS more effective, efficient and simple. In parallel, the proposals include a series of simplification measures in the implementation of SPS.

2.3. Extending SAPS

The Single Area Payment Scheme was introduced as a previous step to the inclusion in the SPS in the Member States who joined the EU as from 1 May 2004 to facilitate their adjustment to the EU because of their specific agricultural situation. As a transitional system, SAPS was designed to assist the integration of EU-10 and EU-2 in a smooth manner, given the very significant differences between the level of their general and rural economies and those in the EU-15.

Member States applying SAPS have to move into the SPS in 2010. It seems appropriate to allow those Member States to extend SAPS until 2013 This option is in line with the decision taken for EU 15 Member States because they are allowed to review their SPS implementation and opt to move towards a more flat rate model.

2.4. Revised Article 69

Based on Article 69 of Regulation (EC) No 1782/2003 on direct support schemes for farmers, Member States applying SPS may retain by sector up to 10% of their national budget ceilings for direct payments in the sector concerned for measures related to the protection or enhancement of the environment or for improving the quality and marketing of agricultural products. To allow more flexibility in Member State responses to the needs stemming from the overall orientation of the CAP, it is proposed that Article 69 be broadened:

– The restriction that linear reductions are taken from and staying in the same sector is removed.

– Measures to address disadvantages for farmers in certain regions specialising in the dairy, beef and sheep and goat meat and rice sectors are covered.

– It also allows the possibility to use the retained amounts to top up entitlements in areas subject to restructuring and/or development programs

- Support for some risk management measures -crop insurance schemes for natural disasters and mutual funds for animal diseases- is also provided under certain conditions.
- Measures, which do not with certainty meet the conditions of the WTO Green Box, should be limited to 2,5% of the ceilings.
- Finally, Member States applying SAPS will also be allowed to apply this provision.

2.5. Modulation

Modulation is a means of budgetary transfer by which a percentage reduction is applied to farmer direct payments (Pillar I) and the budgetary resources released are reassigned to rural development (Pillar II) measures.

With the 2003 Reform, compulsory modulation for all EU-15 Member states was agreed, starting in 2005 with a rate of 3% and increasing to 4% in 2006 and to 5% from 2007 onwards. A EUR 5 000 franchise was also introduced, below which no reduction of direct payments is applied.

The Communication "Preparing the Health Check of the CAP reform" identified a number of new and ongoing challenges facing the CAP such as climate change, risk management, bio-energy, water management and biodiversity and considers the RD policy as one of the possibilities to deal with these changes.

The measures available under RD are already providing various alternatives to address the new challenges and MS have included related measures already in their RD Programs for the period 2007-13. Nevertheless, first experiences with the financial up-take of RD resources in 2007 suggest that Member States have budget needs beyond their financial possibilities.

To allow Member States to support the increasing needs to meet new challenges via the set of measures proposed under RD, it is proposed to increase compulsory modulation by 8% and to add an additional progressive element under a new system which is based on the following principles:

- All new receipts from modulation stay within the Member State that generates them.
- In EU-15, basic modulation, applying to all payments above € 5 000, increases by 2% annually from 2009 until it reaches an additional 8% in 2012.
- A progressive element is introduced; whereby payments are reduced by additional steps of 3% in successive thresholds a new system for the financial management of direct aids, establishing net global ceilings per Member State, is proposed.

Thresholds	2009	2010	2011	2012
1 to 5 000	0	0	0	0
5 000 to 99 999	2%	4%	6%	8%
100 000 to 199 999	5%	7%	9%	11%
200 000 to 299 999	8%	10%	12%	14%
Above 300 000	11%	13%	15%	17%

– EU-10 become also eligible for modulation in 2012, with a basic rate of 3% (instead of 13%). Bulgaria and Romania are exempted, in relation to the phasing-in of direct payments.

2.6. Payments limitations

46,6% of the total direct payment beneficiaries in the EU-25 receive less than 500 EUR. This number essentially includes small farmers, but it also includes in certain Member States recipients whose value of payment is below the administrative cost of managing it.

In order to simplify and reduce the costs of administration of direct payments, it is proposed that Member States shall either apply a minimum amount of payments of 250 € or apply a minimum size of eligible area per holding of at least 1 hectare or apply both.

3. SINGLE COMMON MARKET ORGANISATION

3.1. Intervention market mechanisms

Based on analysis, the Commission has concluded that market supply control should not serve to slow down the ability of EU farmers to respond to market signals but they should be turned into a real safety net. To do so, it is proposed to simplify and harmonise the current provisions on public intervention via the extension of a tendering system.

In the cereal sector, it is proposed to introduce tendering for bread wheat, while for feed grains, the same model as for maize (reduce quantitative ceiling at zero) will apply. For durum wheat, taking into account current and expected market conditions, it is proposed to abolish intervention. For the same reasons, for rice and pig meat it is also proposed to abolish intervention. Tendering provisions for butter and skimmed milk powder will also apply.

3.2. Abolition of set aside

Based on the market outlook situation and the implementation of SPS, it is proposed to abolish set-aside as an instrument of supply control. However, under the proposals for cross compliance and RD, Member States are given the appropriate tools to ensure that the present environmental benefits of set-aside can be retained.

3.3. Transition to the end of the milk quota

In 1984, quotas were introduced as a response to overproduction. The current market outlook situation indicates that the conditions for which milk quotas were introduced in 1984 are no longer relevant. Since milk quotas expire in 2015, it is appropriate to help the sector with gradual transitional measures to adapt to a market without quotas post 2015. To allow a "soft landing" of the milk sector to the end of quotas, a gradual annual increase is proposed.

In general terms, the phasing-out of milk quotas would expand production, lower prices and increase the competitiveness of the sector. Nevertheless, there are certain regions, especially but not exclusively mountainous regions, which are expected to face difficulties in keeping a minimum level of production. Those problems can be addressed by applying specific measures through article 69 of Regulation (EC) No 1782/2003.

3.4. Dairy sector specific aids

The abolition of the private storage aid for cheese and the disposal aid for butter for pastry and ice cream and for direct consumption is proposed. These schemes are no longer needed to support the market and should therefore be abolished.

For other products as the private storage aid for butter, the skimmed milk powder feeding stuff and the aid for casein production, for which an obligatory aid is provided by the current regulation, it has been proposed to make such a support optional for the Commission to decide if it should be applied when the market situations requires it.

3.5. Other support regimes

In a series of small support schemes, it is proposed to decouple and shift them to the SPS because it would contribute to improve competitiveness and to provide them with more simplification. For hemp, protein crops, and nuts the transition to the SPS can take place without a transition period. For rice, dried fodder, starch potatoes and long fibre flax, a transitional period for the shifting to full decoupling is proposed in order to help farmers and processing industries to be adapted gradually to the new support scheme. It is also proposed to abolish the energy crop scheme based on current very strong demand for bio-energy.

4. NEW CHALLENGES AND RURAL DEVELOPMENT POLICY

With the ceiling for the overall CAP budget fixed until 2013, additional funding for rural development can only be realised through an increase in compulsory modulation.

The additional funding is needed to reinforce the efforts with regard to the EU priorities in the field of climate change, renewable energy, water management and biodiversity.

- Climate and energy have moved to the top of the agenda, as the EU is taking the lead to build a global low carbon economy. In March 2007, EU leaders endorsed Commission proposals to cut CO2 emissions by at least 20% by 2020 (30% if global targets can be agreed on) and to set a binding 20% target for the use of renewable energy sources, including a 10% share of biofuels in petrol and diesel consumption. Agriculture and forestry can make an important contribution in providing the feed stocks for bio-energy, in carbon sequestration and in further reducing GHG emissions.

- The EU's objectives with regard to water policy are laid down in the Water Framework Directive, which will start to reach full implementation in the period 2010-2012. Agriculture and forestry as a main user of water and water resources have a major role to play in sustainable water management both in terms of quantity and of quality. Water management will be an increasingly important part of the adaptation strategy to deal with already unavoidable climate change.

- Member States have committed themselves to halt biodiversity decline by 2010, a target which increasingly seems unlikely to be met. A large part of Europe's biological diversity is dependent on agriculture and forestry and the efforts to protect biodiversity will have to be increased, particularly in the light of the expected adverse effects of climate change and increasing water demand.

Member States are encouraged to make full use of the additional funding available for the 2010-2013 period and to adapt their strategies and programmes in consequence. In particular support for investments under axis 1 can be targeted towards energy, water and other input saving machinery and equipment and to production of (feed stocks for) renewable energy for on and off farm use. Under axis 2 the agri-environment measure and the forestry measures can be used in particular for biodiversity, water management and climate change mitigation actions. Under axis 3 and 4 local scale renewable energy projects can be supported.

In this context the 7^{th} Research Framework Programme will contribute to addressing the new challenges and provide valuable support to innovations in the farming sector and to policy targeting.

5. BUDGETARY IMPACT

Since the 2003 CAP reform, the CAP has an in-built mechanism of financial discipline if expected expenditure runs the risk of exceeding the financial ceiling for market expenditure and direct aids. Most CAP support is now fixed and the market outlook has significantly improved since 2003. As a result, the risk that the financial discipline is applied (i.e. reduction in direct aids) have diminished compared to previous expectations.

Proposals for modulation in the Single Payment Scheme and Rural Development are by design neutral with the respect to the EU budget, as it is a simple compulsory transfer between the second and the first pillar of the CAP. For national budget the increased modulation could lead to additional national expenditure in view of the necessary co-financing needed in Rural Development. This would mean that some Member States have the possibility of returning to the (higher) level of national expenditure originally foreseen before the decision on the Financial Framework 2007-2013. As regards the transfer of measures into the Single Payment Scheme there could be moderate financial consequences for the EU-budget, but most of the transfers are also budgetary neutral.

With respect to market measures, the recent increase in world prices has led to a clear improvement of prospects with respect to expectations when the 2003 reform was decided. The reform of maize intervention has since then resolved part of the previously expected problems in cereals market, and the present proposals on cereals intervention improve further the situation. Some additional expenditure towards the end of the present financial framework is relatively small. In dairy the impact is more one of the timing of expenditure (before or after 2013).

The expiry of the dairy quota will bring additional pressure in butter under all options. The present proposal, by initiating a gradual process of a quota phasing-out, is overall more beneficial not just for the sector, but also for long-term developments of the CAP. However, the need for some limited additional expenditure on butter exports cannot be excluded. Whether this materialises will depend on factors that are at this stage unknown (DDA Agreement, world market developments). Therefore the present proposals include a review clause in 2012 that would allow developments in dairy markets to be assessed to determine if additional measures will be needed to avoid any increase in the budget. Some savings are foreseen as a consequence of abolition of existing measures. However, the biggest budgetary effect of the soft-landing on the milk quota is a loss of budgetary revenue due to the foreseen decrease in milk levy.

Proposal for a

COUNCIL REGULATION

establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 36, 37 and 299(2) thereof,

Having regard to the Act of Accession of Greece, and in particular paragraph 6 of Protocol No 4 thereto on cotton[1],

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

Having regard to the opinion of the European Parliament[3],

Having regard to the opinion of the European Economic and Social Committee[4],

Having regard to the opinion of the Committee of the Regions[5],

Whereas:

(1) Experience drawn from the implementation of Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) No 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001[6] shows that certain elements of the support mechanism need to be adjusted. In particular the decoupling of direct support should be extended and the functioning of the Single Payment Scheme should be simplified. It should also be noted that Regulation (EC) No 1782/2003 has been substantially amended since its entry into force. In the light of these developments and in the interest of clarity it should be repealed and replaced by a new Regulation.

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1 OJ L 291, 19.11.1979, p. 174. Protocol as last amended by Regulation (EC) No 1050/2001 (OJ L 148, 1.6.2001, p. 1).
2 .
3 .
4 OJ C […], […], p. […].
5 OJ C […], […], p. […].
6 OJ L 270, 21.10.2003, p. 1. Regulation as last amended by (insert reference to wine).

(2) Regulation (EC) No 1782/2003 established the principle that farmers who do not comply with certain requirements in the areas of public, animal and plant health, environment and animal welfare shall be subject to reductions of or the exclusion from direct support. This «cross-compliance» system forms an integral part of Community support under direct payments and should therefore be maintained. However, experience has shown that a number of the requirements under the scope of cross compliance are not sufficiently relevant to the farming activity or the farm land or concern national authorities rather than farmers. It is therefore appropriate to adjust the scope of cross compliance.

(3) Furthermore, in order to avoid the abandonment of agricultural land and ensure that it is maintained in good agricultural and environmental condition, Regulation (EC) No 1782/2003 established a Community framework within which Member States adopt standards taking account of the specific characteristics of the areas concerned, including soil and climatic conditions and existing farming systems (land use, crop rotation, farming practices) and farm structures. The abolition of compulsory set aside within the single payment scheme may in certain cases have adverse effects for the environment, in particular as regards certain landscape features. It is therefore appropriate to reinforce the existing Community provisions aiming at protecting, where appropriate, specified landscape features.

(4) Protection and management of water in the context of the agricultural activity has increasingly become a problem in certain areas. It is therefore appropriate to also reinforce the existing Community framework for good agricultural and environmental condition with the aim to protect water against pollution and run-off and to manage the use of water.

(5) Since permanent pasture has a positive environmental effect, it is appropriate to apply measures to encourage the maintenance of existing permanent pasture to avoid its massive conversion into arable land.

(6) In order to achieve a better balance between policy tools designed to promote sustainable agriculture and those designed to promote rural development, a system of compulsory progressive reduction of direct payments ("modulation") was introduced by Regulation (EC) No 1782/2003. This system should be maintained including the exemption of payments up to EUR 5 000 from its application.

(7) The savings made through the modulation mechanism introduced by Regulation (EC) No 1782/2003 are used to finance measures under the rural development policy. Since the adoption of that regulation the agricultural sector has been faced with a number of new and demanding challenges such as climate change, the increasing importance of bio energy, as well as the need for a better water management and a more effective protection of biodiversity. The European Community, as party to the Kyoto Protocol[7], has been called to adapt its policies in the light of the climate change considerations. Furthermore, following serious problems related to water scarcity and droughts, water management issues should be further addressed[8]. Protecting biodiversity remains a major challenge and while important progress has been made, the achievement of the

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7 Council Decision 2002/358/EC (OJ L 130, 15.5.2002, p. 1).

8 Council Conclusions, Luxembourg, 30.10.2007, 13888/07.

European Community's biodiversity target for 2010 will require additional efforts[9]. The Community acknowledges the need to tackle these new challenges in the framework of its policies. In the area of agriculture, rural development programs adopted under Council Regulation (EC) No 1698/2006 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)[10] are an appropriate tool to deal with them. To enable Member States to revise their rural development programmes accordingly without being required to reduce their current rural development activities in other areas, additional funding needs to be made available. However, the financial perspectives for the period 2007 to 2013 do not provide for the financial means to reinforce the Community's rural development policy as necessary. Under these circumstances it is appropriate to mobilise a large part of the financial resources needed by providing for a gradual increase of the reduction of direct payments through modulation.

(8) The distribution of direct income support among farmers is characterised by the allocation of a large share of payments to a rather limited number of large beneficiaries. It is clear that larger beneficiaries do not require the same level of unitary support for the objective of income support to be efficiently attained. Moreover, the potential to adapt makes it easier to larger beneficiaries to operate with lower levels of unitary support. It therefore seems equitable to expect farmers with high amounts of support to make a particular contribution to the financing of rural development measures addressing new challenges. Therefore, it appears appropriate to establish a mechanism providing for an increased reduction of the highest payments the proceeds of which should also be used to deal with new challenges in the framework of rural development. To ensure the proportionality of this mechanism the additional reductions should increase progressively according to the amounts of the payments concerned.

(9) The particular geographical situation of the outermost regions as well as its insularity, small area and mountainous terrain and climate impose additional burdens to their agricultural sectors. In order to mitigate such burdens and constrains it seems appropriate to derogate from the obligation to apply the modulation reduction to farmers in the outermost regions.

(10) The increased rates of compulsory modulation need to be taken into account by those Member States that opted for applying a system of voluntary modulation. Council Regulation (EC) No 378/2007 of 27 March 2007 laying down rules for voluntary modulation of direct payments provided for in Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers[11] should be amended accordingly.

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9 Council Conclusion, Brussels, 18.12.2006, 16164/06.

10 OJ L 277, 21.10.2005, p. 1. Regulation as last amended by Regulation (EC) No 2012/2006 (OJ L 384, 29.12.2006, p. 8).

11 O.J L 95, 5.4.2007, p. 1.

(11) The amounts resulting from the application of 5 percentage points corresponding to modulation reductions fixed in Regulation (EC) No 1782/2003 should be allocated between Member States according to objective criteria. However, it is appropriate to establish that a certain percentage of the amounts should remain in the Member States where they have been generated. In view of the structural adjustments resulting from the abolition of rye intervention, it is appropriate to provide for specific measures for certain rye production regions financed with part of the amounts generated by modulation. However, the amounts raised by the application of any further modulation reduction should be made available to the Member States where they have been generated.

(12) In order to facilitate the functioning of modulation, notably with regard to the procedures for granting direct payments to farmers, and the transfers to the rural development programs, it is appropriate to fix net ceilings per Member State that limit the payments to be made to farmers after the application of modulation. Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy [12] should be amended accordingly.

(13) Farmers in the new Member States receive direct payments following a phasing-in mechanism. In order to achieve the proper balance between policy tools designed to promote sustainable agriculture and those designed to promote rural development, the system of modulation should not be applied to farmers in the new Member States until the level of direct payments applicable in those Member States is equal to the level applicable in the other Member States.

(14) Modulation should not reduce the net amount paid to a farmer in a new Member State below the amount to be paid to an equivalent farmer in the other Member States. Once modulation becomes applicable to farmers in the new Member States the rate of reduction should, therefore, be limited to the difference between the level under the phasing-in schedule and the level in the other Member States after the application of modulation. Moreover, farmers in new Member States who are subject to modulation should no longer benefit from complementary national direct payments to avoid that their support level exceeds the level in the other Member States.

(15) With a view to ensuring that the amounts for the financing of the common agricultural policy respect the annual ceilings set in the financial perspectives, it is appropriate to provide for a financial mechanism to adjust, where necessary, the direct payments. An adjustment of direct support should be fixed when the forecasts indicate that the subheading 2, with a security margin of EUR 300 million, is exceeded in a given budget year. Taking into account the levels of direct payments for farmers in the new Member States as a result of phasing-in, it should be provided that in the framework of the application of the phasing-in mechanism to all direct payments granted in the new Member States, the instrument of financial discipline should not apply in the new Member States until the level of direct payments applicable in the new Member States is at least equal to the level applicable in the Member States other than the new Member States.

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[12] OJ L 209, 11.8.2005, p. 1. Regulation as last amended by Regulation (EC) No 1437/2007 (OJ L 322, 7.12.2007, p. 1).

(16) In order to help farmers to meet the standards of modern, high-quality agriculture, it is necessary that Member States operate a comprehensive system offering advice to commercial farms. The farm advisory system should help farmers to become more aware of material flows and on-farm processes relating to the environment, food safety, animal health and welfare without in any way affecting their obligation and responsibility to respect those standards.

(17) Member States have, in accordance with Article 9 of Regulation (EC) No 1290/2005, to take the measures necessary to satisfy themselves that transactions financed by the European Agricultural Guarantee Fund (EAGF) are actually carried out and are executed correctly, and prevent and deal with irregularities. To this end they shall operate an integrated administration and control system for direct payments. In order to improve effectiveness and control of Community support the Member States should be authorised to avail themselves of the integrated system also in the case of Community schemes not covered by this Regulation.

(18) The main elements of the integrated administration and control system should be laid down, and in particular, the provisions concerning a computerised data base, an identification system for agricultural parcels, aid applications from farmers, a harmonised control system and, in the single payment scheme, a system for the identification and recording of payment entitlements.

(19) The management of small amounts is a burdensome task for the competent authorities of the Member States. To avoid excessive administrative burden it is appropriate for Member States to refrain from granting direct payments where the payment would be lower than the Community average support for one hectare or the eligible area of the holding for which support is claimed would relate to less than one hectare. Member States should be given discretion to opt for the implementation of one of the two criteria taking account of the particularities of the structures of their agricultural economies. As special payment entitlements were allocated to farmers with so-called "landless" holdings the application of the hectare-based threshold would be ineffective. Such farmers should therefore be subject to the averages support-based minimum amount.

(20) The experience with the application of the single payment scheme shows that decoupled income support was in a number of cases granted to beneficiaries other than natural persons whose business purpose is not or only marginally targeted at exercising an agricultural activity. To prevent agricultural income support from being allocated to such companies and firms, and to ensure that the Community support is entirely used to ensure a fair standard of living to the agricultural community, it is appropriate to empower Member States, where such allocation occurs, to refrain from granting them direct payments under this Regulation.

(21) Payments provided for under Community support schemes should be made by the competent national authorities to beneficiaries in full, subject to any reductions provided for in this Regulation, and within prescribed periods. In order to render the management of direct payments more flexible, Member States should be allowed to pay direct payments in two instalments per year.

(22) The support schemes under the common agricultural policy provide for direct income support in particular with a view to ensuring a fair standard of living for the agricultural community. This objective is closely related to the maintenance of rural areas. In order to avoid misallocations of Community funds, no support payments should be made to farmers who have artificially created the conditions required to obtain such payments.

(23) In order to achieve the objectives of the common agricultural policy, common support schemes have to be adapted to changing developments, if necessary within short time limits. Beneficiaries cannot, therefore, rely on support conditions remaining unchanged and should be prepared for a possible review of schemes in particular in the light of economic developments or the budgetary situation.

(24) Regulation (EC) No 1782/2003 established a single payment scheme that combined the existing various support mechanisms into a single scheme of de-coupled direct payments. Experience with the application of the single payment scheme shows that certain of its elements can be simplified to the benefit of farmers and administrations. Furthermore, given that the single payment scheme has in the meantime been implemented by all Member States that were required to do so, a number of provisions that were linked to its initial implementation have become obsolete and should therefore be adjusted. In this context, a significant under use of payment entitlements has been detected in some cases. To avoid such situation and taking into account that farmers are already familiar with the functioning of the single payment scheme, the period initially fixed for reverting unused payment entitlements to the national reserve should be reduced to two years.

(25) The main elements of the single payment scheme should be maintained. In particular the fixing of national ceilings should ensure that the total level of support and entitlements does not exceed current budgetary constraints. Member States should also operate a national reserve that may be used to facilitate the participation of new farmers in the scheme or to take account of specific needs in certain regions. Rules on transfer and use of payment entitlements should be laid down to avoid the speculative transfer and accumulation of payment entitlements without a corresponding agricultural basis.

(26) The progressive integration of new sectors in the single payment scheme makes it necessary to review the definition of the land eligible to benefit from the scheme or for the activation of payment entitlements. However, provision should be made for excluding support for areas cultivated with fruit and vegetables in case Member States have opted for a deferred integration of this sector in the single payment scheme. Besides, specific measures should be laid down for hemp to prevent the granting of support for illegal crops.

(27) Compulsory set aside of arable land was introduced as a supply control mechanism. Market developments in the arable crops sector together with the introduction of decoupled aids no longer justify the need for maintaining this instrument, which therefore should be abolished. Set-aside entitlements established in accordance with Articles 53 and 63(2) of Regulation (EC) No 1782/2003 shall therefore be activated on hectares subject to the same eligibility conditions that any other entitlement.

(28) Further to the integration of formerly coupled market support into the single payment scheme, the value of payment entitlements was, in those Member States opting for a historic implementation, based on the individual level of past support. With a growing number of years elapsing since the introduction of the single payment scheme and following the successive integration of further sectors into the single payment scheme, it becomes increasingly harder to justify the legitimacy of significant individual differences in the support level which are only based on past support. For this reason Member States that chose the historic implementation model should be allowed under certain conditions to review the allocated payment entitlements with a view to approximating their unit value while respecting the general principles of community law and the objectives of the Common Agricultural Policy. In this context Member States may take into account the specificities of geographical areas when fixing closer values. The levelling of payment entitlements should take place during an adequate transition period and within a limited range of reductions in order to allow farmers to reasonably adapt to the changing levels of support.

(29) Under the 2003 reform Member States had the option to apply the single payment scheme by way of historic or regional implementation. Since then Member States have had the opportunity to evaluate the effects of their choices as regards both their economic and administrative appropriateness. Member States should therefore be given the opportunity to review their initial choice in the light of their experience. For this reason, in addition to the possibility of levelling the value of payment entitlements, Member States that applied the historic model should be authorised to change over to the regional model. Furthermore, Member States that chose to apply the regional model should be given the option to review their decisions under certain conditions with the aim to approximate the value of payment entitlements according to pre-established steps, while respecting the general principles of community law and the objectives of the Common Agricultural Policy. Such changes should take place during an adequate transition period and within a limited range of reductions in order to allow farmers to reasonably adapt to changing levels of support

(30) Regulation (EC) No 1782/2003, while introducing a decoupled single payment scheme allowed Member States to exclude certain payments from that scheme. At the same time Article 64(3) of that Regulation provided for the revision of the options provided for in Sections 2 and 3 of Chapter 5 of its Title III, in the light of market and structural developments. An analysis of the relevant experience shows that decoupling introduces flexibility in the choice of producers, enabling them to take their production decisions on the basis of profitability and market response. This is particularly the case for the arable crops, hops and seeds sectors, and to a certain extent, also the beef sector. Therefore, the partially coupled payments in these sectors should be integrated into the single payment scheme. In order for farmers in the beef sector to gradually adjust to the new support arrangements provision should be made for a phasing-in of the integration of the special premium for male animals and the slaughter premium. Since the partially coupled payments in the fruit and vegetable sectors were only recently introduced, and only as a transitional measure, no review of such schemes is necessary.

(31) However, as regards the suckler cow and sheep and goat sector it appears that maintaining a minimum level of agricultural production may still be necessary for the agricultural economies in certain regions and, in particular, where farmers cannot have recourse to other economic alternatives. Against this background, Member States should have the option to maintain coupled support at the current level or, for suckler cows, at a lower level. In that case, special provision should be made for the respect of the identification and registration requirements provided for by Regulation (EC) No 1760/2000 of the European Parliament and of the Council[13] and Council Regulation (EC) No 21/2004[14], in particular with a view to secure the traceability of animals.

(32) Member States should be allowed_to use up to 10% of their ceilings for granting specific support in clearly defined cases. Such support should allow Member States to address environmental issues and improve the quality and marketing of agricultural products. Specific support should also be available to buffer the consequences of the phasing-out of milk quotas and the decoupling of support in particularly sensitive sectors. Given the growing importance of an effective management of risks Member States should be given the option to financially contribute to the premiums farmers pay for crop insurance as well as to the financing of financial compensation of certain economic losses in case of animal or plant diseases. With a view to respect the Community's international obligations the resources that could be used for any coupled support measures should be limited at an appropriate level. The conditions applicable to the financial contributions to crop insurance and animal or plant disease related compensation should be established accordingly.

(33) Direct payments under the single payment scheme were based on reference amounts of direct payments that were received in the past or on regionalised per hectare amounts. Farmers in the new Member States did not receive Community direct payments and had no historical references for the calendar years 2000, 2001 and 2002. Therefore, provision was made under Regulation (EC) No 1782/2003 for the single payment scheme in the new Member States to be based on regionalised per hectare amounts. Several years after the accession of the new Member States to the Community, however, the use of reference periods could be considered for those new Member States that did not yet move to the single payment scheme. With a view to facilitating the transition to the single payment scheme and, in particular, to avoiding speculative applications it is therefore appropriate to authorise the new Member States to take account of the areas for which historically support under the single area payment scheme was granted for the calculation of the payment entitlements under the single payment scheme.

(34) Under the regionalised option for the single payment scheme the new Member States should have the possibility to adjust the value of entitlements per hectare on the basis of objective criteria in order to ensure equal treatment between farmers and to avoid market distortions.

(35) The new Member States should have the same possibilities as the other Member States to partially implement the single payment scheme.

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13 OJ L 204, 11.8.2000, p. 1.
14 OJ L 5, 9.1.2004, p. 8.

(36) The de-coupling of direct support and the introduction of the single payment scheme were essential elements in the process of reforming the common agricultural policy. However several reasons called in 2003 for maintaining specific support for a number of crops. Experience gained through the implementation of Regulation (EC) No 1782/2003 together with the evolution of the market situation indicates that schemes that were kept outside the single payment scheme in 2003 can now be integrated into that scheme to promote a more market-oriented and sustainable agriculture. This is the case in particular for the olive oil sector, where only marginal coupling was applied. It is also the case for the durum wheat, protein crops, rice, potato starch, and nuts payments, where the decreasing effectiveness of remaining coupled payments, supports the decoupling option. In the case of flax it is also appropriate to abolish the support for processing and to integrate the relevant amounts into the single payment scheme. As regards rice, dried fodder, potato starch and flax a transitional period should be provided for in order to ensure their shift to decoupled support to be as smooth as possible. As regards nuts, Member States should be allowed to continue to pay the national part of the aid in a coupled way in order to cushion the effects of decoupling.

(37) As a consequence of the integration of new schemes into the single payment scheme, provision should be made for the calculation of the new level of individual income support under that scheme. In the case of nuts, potato starch, flax and dried fodder, such increase should be granted on the basis of the support farmers received in most recent years. However, in the case of the integration of payments that were so far partially excluded from the single payment scheme, Member states should be given the option to use the original reference periods.

(38) Regulation (EC) No 1782/2003 established specific support for energy crops with a view to assisting the sector to develop. Due to the recent developments in the bio-energy sector and, in particular, to the strong demand for such products on international markets and the introduction of binding targets for the share of bio energy in total fuel by 2020 there is no longer sufficient reason to grant specific support for energy crops.

(39) On the occasion of the integration of the cotton sector into the single payment scheme, it was deemed necessary that part of the support should continue to be linked to the cultivation of cotton through a crop specific payment per eligible hectare to avoid the risk of production disruption to the regions of cotton production. This choice should be maintained in accordance with the objectives, set out in Protocol 4 on cotton annexed to the Act of Accession of Greece.

(40) To buffer the effects of the restructuring process in Member States which have granted the restructuring aid provided for in Council Regulation (EC) No 320/2006 of 20 February 2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community[15] sugar beet and cane producers should be granted an aid for a maximum of five consecutive years.

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[15] OJ L 58, 28.2.2006, p. 42, Regulation as last amended by Regulation (EC) No 1261/2007 (OJ L 283, 27.10.2007, p. 8).

(41) The Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia and the Act of Accession of Bulgaria and Romania provided that the farmers in the new Member States will receive direct payments, following a phasing-in mechanism.

(42) Furthermore, those Acts of Accession provided for a transitional simplified support mechanism for granting direct payments in the new Member States based on area. The main elements of that mechanism should be laid down. The single area payment scheme has proved to be an efficient and simple system of granting income support to farmers. For the sake of simplification it is appropriate to allow the new Member States to continue applying it until the end of year 2013.

(43) Further to the reform of the sugar and fruit and vegetable sectors and their integration into the single payment scheme, Member States that opted for applying the single area payment scheme should be enabled to grant income support to growers of sugar beet, cane and chicory and producers of certain fruit and vegetable in the form of separate payments. Likewise, the same Member States should be allowed to pay separate specific support under similar conditions as applicable to the other Member States.

(44) As a consequence of the phasing in of direct payments in the new Member States the Acts of Accession provided for a framework to allow new Member States to pay complementary national direct payments. The conditions for granting such payments should be laid down.

(45) In the initial allocation of payment entitlements by the Member States certain errors led to particularly high payments for farmer. This non-compliance has normally to be followed up by financial correction until corrective measures are taken. However, for Member States, taking into account the time elapsed from the first allocation of entitlements, the adoption of the necessary correction would lead to disproportionate legal and administrative constraints. It is therefore appropriate in the interest of legal certainty to regularise the allocation of such payments.

(46) In accordance with Article 70(1) of Regulation (EC) No 1782/2003, Spain, France and Portugal decided to exclude from the single payment scheme the direct payments made in the French overseas departments, the Azores and Madeira and the Canary Islands and grant them under the conditions established in Title IV of that Regulation. Some of the aids provided for in that Title have been completely integrated into the single payment scheme. For the sake of simplification and to take into account the specific circumstances of the outermost regions, it seems appropriate to manage such aid within the support programmes established by Regulation (EC) No 247/2006. To this end the relevant funds should be transferred from the national ceilings for direct payments to the financial amount set out in Article 23(2) of that Regulation. Regulating (EC) No 247/2006 should be amended accordingly.

(47) It is appropriate to provide that provisions of this Regulation, which could give rise to behaviour of a Member State possibly constitutive of a State aid, should, save as otherwise provided, be excluded from the application of the state aid rules given that the provisions concerned contain appropriate conditions for the granting of support, or foresee the adoption of such conditions by the Commission, to prevent undue distortion of competition.

(48) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC[16] of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission,

(49) Regulation (EC) No 1782/2003 should be repealed.

(50) Member States should be given sufficient time to implement the provisions allowing further decoupling of direct payments and those allowing them to review the decisions adopted in the context of the 2003 reform. For this reason the relevant provisions should only apply from 2010. Regulation (EC) No 1782/2003 should therefore apply during the year 2009 for those aid schemes that will only be integrated into the single payment scheme from 2010,

HAS ADOPTED THIS REGULATION:

TITLE I
SCOPE AND DEFINITIONS

Article 1
Scope

This Regulation establishes:

(a) common rules on direct payments;

(b) an income support scheme for farmers (hereinafter referred to as the "single payment scheme");

(c) a transitional simplified income support scheme for farmers in the new Member States (hereinafter referred to as the «single area payment scheme»);

(d) support schemes for farmers producing rice, starch potatoes, cotton, sugar, fruit and vegetables, sheep meat and goat meat and beef and veal;

(e) a framework for the complementing of direct payments by new Member States.

Article 2
Definitions

For the purposes of this Regulation, the following definitions shall apply:

(a) "farmer" means a natural or legal person, or a group of natural or legal persons, whatever legal status is granted to the group and its members by national law, whose holding is situated within Community territory, as referred to in Article 299 of the Treaty, and who exercises an agricultural activity;

[16] OJ L 184, 17.7.1999, p. 23. Decision as last amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

(b) "holding" means all the production units managed by a farmer situated within the territory of the same Member State;

(c) "agricultural activity" means the production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, or maintaining the land in good agricultural and environmental condition as established under Article 6 to this Regulation;

(d) "direct payment" means a payment granted directly to farmers under a support scheme listed in Annex I to this Regulation;

(e) "payments in a given calendar year" or "payments in the representative period" means the payments granted or to be granted in respect of the year/years concerned, including all payments in respect of other periods starting in that calendar year/years;

(f) "agricultural products" means the products listed in Annex I to the Treaty, including cotton, but with the exception of fishery products;

(g) “new Member States” means Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia and Slovakia;

(h) "agricultural area" means any area taken up by arable land, permanent pasture and permanent crops.

Article 3 (ex-32)
Financing of direct payments

The support schemes listed in Annex I to this Regulation shall be financed in accordance with Article 3(1)(c) of Regulation (EC) No 1290/2005.

TITLE II
GENERAL PROVISIONS ON DIRECT PAYMENTS

CHAPTER 1
CROSS COMPLIANCE

Article 4
Main requirements

1. A farmer receiving direct payments shall respect the statutory management requirements listed in Annex II, and the good agricultural and environmental condition established under Article 6.

2. The competent national authority shall provide the farmer with the list of statutory management requirements and good agricultural and environmental condition to be respected.

Article 5
Statutory management requirements

1. The statutory management requirements listed in Annex II shall be established by Community legislation in the following areas:

   (a) public, animal and plant health,

   (b) environment,

   (c) animal welfare.

2. The acts referred to in Annex II shall apply within the framework of this Regulation in the version as amended from time to time and, in case of Directives, as implemented by the Member States.

Article 6
Good agricultural and environmental condition

1. Member States shall ensure that all agricultural land, especially land which is no longer used for production purposes, is maintained in good agricultural and environmental condition. Member States shall define, at national or regional level, minimum requirements for good agricultural and environmental condition on the basis of the framework set up in Annex III, taking into account the specific characteristics of the areas concerned, including soil and climatic condition, existing farming systems, land use, crop rotation, farming practices, and farm structures.

2. Member States other than the new Member States shall ensure that land which was under permanent pasture at the date provided for the area aid applications for 2003 is maintained under permanent pasture. The new Member States shall ensure that land which was under permanent pasture on 1 May 2004 is maintained under permanent pasture. However, Bulgaria and Romania shall ensure that land which was under permanent pasture on 1 January 2007 is maintained under permanent pasture.

   However a Member State may, in duly justified circumstances, derogate from the first subparagraph, provided that it takes action to prevent any significant decrease in its total permanent pasture area.

   The first subparagraph shall not apply to land under permanent pasture to be afforested, if such afforestation is compatible with the environment and with the exclusion of plantations of Christmas trees and fast growing species cultivated in the short term.

CHAPTER 2
MODULATION AND FINANCIAL DISCIPLINE

Article 7
Modulation

1. Any amount of direct payments to be granted in a given calendar year to a farmer that exceeds EUR 5 000 shall be reduced for each year until 2012 by the following percentages:

   (a) 2009: 7%,

   (b) 2010: 9%,

   (c) 2011: 11%,

   (d) 2012: 13%.

2. The reductions referred to in paragraph 1 shall be increased for the:

   (a) amounts between EUR 100 000 and 199 999, by 3 percentage points,

   (b) amounts between EUR 200 000 and 299 999, by 6 percentage points,

   (c) amounts of EUR 300 000 or more, by 9 percentage points.

3. Paragraphs 1 and 2 shall not apply to direct payments granted to farmers in the French overseas departments, in the Azores and Madeira, in the Canary and Aegean islands.

Article 8
Net ceilings

1. Without prejudice to Article 11, the total net amounts of direct payments which may be granted in a Member State in respect of a calendar year after application of Articles 7 and 10 of this Regulation and Article 1 of Regulation (EC) No 378/2007 shall not be higher than the ceilings set out in Annex IV to this Regulation. Where necessary, Member States shall proceed to a linear reduction of direct payments in order to respect the ceilings set out in that Annex IV.

2. The Commission, in accordance with the procedure referred to in Article 128(2) shall review the ceilings set out in Annex IV in order to take account of:

   (a) modifications to maximum amounts that may be granted in accordance with the direct payments,

   (b) modifications to the voluntary modulation referred to in Regulation (EC) No 378/2007,

   (c) structural changes of the holdings.

Article 9
Amounts resulting from modulation

1. The amounts resulting from application of the reductions provided for in Article 7, in any Member State other than the new Member States, shall be available as additional Community support for measures under rural development programming financed under the European Agricultural Fund for Rural Development (EAFRD) as specified in Regulation (EC) No 1698/2005, according to the conditions set out in the following paragraphs

2. The amounts corresponding to the reduction by 5 percentage points shall be allocated to the Member States concerned in accordance with the procedure referred to in Article 128(2) on the basis of the following criteria:

   (a) agricultural area,

   (b) agricultural employment,

   (c) gross domestic product (GDP) per capita in purchasing power.

   However, any Member State concerned shall receive at least 80% of the total amounts which modulation has generated in that Member State.

3 By way of derogation from the second subparagraph of paragraph 2, if in a Member State the proportion of rye as part of its total cereal production exceeded 5% on average during the period 2000–2002 and its proportion of the total Community production of rye exceeded 50% during the same period, at least 90% of the amounts which the modulation generated in the Member State concerned shall be reallocated to that Member State, until 2013 included.

   In such a case, without prejudice to the possibility provided for by Article 58, at least 10% of the amount allocated to the Member State concerned shall be available for measures referred to in paragraph 2 of this Article in rye producing regions.

   For the purpose of this paragraph, "cereal" means the products listed in point I of Annex V.

4. The remaining amount resulting from the application of Article 7(1) and the amounts resulting from the application of Article 7(2) shall be allocated to the Member State where the corresponding amounts have been generated, in accordance with the procedure referred to in Article 128(2). They shall be used in accordance with Article 69(5*a*) of Regulation (EC) No 1698/2005.

Article 10
Special rules for modulation in the new Member States

1. Article 7 shall only apply to farmers in a new Member State in any given calendar year if the level of direct payments applicable in that Member State for that calendar year under Article 110 is no less than the level in Member States other than the new Member States, taking into account any reductions applied under Article 7(1).

2. If Article 7 applies to farmers in a new Member State, the percentage applicable under Article 7(1) shall be limited to the difference between the level of direct payments applicable to it under Article 110 and the level in Member States other than the new Member States, taking into account any reductions applied under Article 7(1).

3. Where reductions referred to in Article 7 apply to farmers in a new Member State no complementary national direct payments as referred to in Article 120 shall be granted to the farmer concerned.

4. Any amount resulting from the application of Article 7(1) and (2) shall be allocated to the new Member State where the corresponding amounts have been generated in accordance with the procedure referred to in Article 128(2). They shall be used in accordance with Article 69(5*a*) of Regulation (EC) No 1698/2005.

Article 11
Financial discipline

1. An adjustment of the direct payments shall be fixed when the forecasts for the financing of the aforementioned measures under heading 2 of Annex I of the Inter Institutional Agreement[17] on budgetary discipline and sound financial management for a given budget year, increased by the amounts given in Articles 122 and 123 of this Regulation and before application of modulation provided for in Article 7 and 10 of this Regulation and Article 1(1) of Regulation (EC) No 378/2007, indicate that the abovementioned annual ceiling, taking into account a margin of EUR 300 million below that ceiling, will be exceeded.

2. The Council, on a Commission's proposal presented not later than 31 March of the calendar year in respect of which the adjustments referred to in paragraph 1 apply, shall fix these adjustments at latest by 30 June of the calendar year in respect of which the adjustments apply.

3. In the framework of the application of the schedule of increments provided for in Article 110 to all direct payments granted in the new Member States, paragraph 1 shall not apply to the new Member States until the beginning of the calendar year, in respect of which the level of direct payments applicable in the new Member States is at least equal to the then applicable level of such payments in the Member States other than the new Member States.

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17 OJ C 139, 14.16.2006, p.1.

CHAPTER 3
FARM ADVISORY SYSTEM

Article 12
Farm advisory system

1. Member States shall operate a system of advising farmers on land and farm management (hereinafter referred to as the "farm advisory system") operated by one or more designated authorities or by private bodies.

2. The advisory activity shall cover at least the statutory management requirements and the good agricultural and environmental condition referred to in Chapter 1.

Article 13
Conditions

1. Farmers may participate in the farm advisory system on a voluntary basis.

2. Member States shall give priority to the farmers who receive more that EUR 15 000 of direct payments per year.

Article 14
Obligations of approved private bodies and designated authorities

Without prejudice to national legislation concerning public access to documents, Member States shall ensure that private bodies and designated authorities referred to in Article 12 do not disclose personal or individual information and data they obtain in their advisory activity to persons other than the farmer managing the holding concerned, except any irregularity or infringement found during their activity which is covered by an obligation laid down in Community or national law to inform a public authority, in particular in case of criminal offences.

Article 15
Review

By 31 December 2010 at the latest, the Commission shall submit a report on the application of the farm advisory system, accompanied, if necessary, by appropriate proposals with a view of rendering it compulsory.

CHAPTER 4
INTEGRATED ADMINISTRATION AND CONTROL SYSTEM

Article 16
Scope

Each Member State shall set up and operate an integrated administration and control system, hereinafter referred to as the "integrated system".

The integrated system shall apply to the support schemes listed in Annex I.

To the extent necessary, it shall also apply to the administration and control of the rules laid down in Chapters 1 and 2.

Article 17
Elements of the integrated system

1. The integrated system shall comprise the following elements:

   (a) a computerised data base;

   (b) an identification system for agricultural parcels;

   (c) a system for the identification and registration of payment entitlements as referred to in Article 20:

   (d) aid applications;

   (e) an integrated control system;

   (f) a single system to record the identity of each farmer who submits an aid application.

2. Where Articles 55 and 56 of this Regulation apply, the integrated system shall incorporate a system for the identification and registration of animals set up in accordance, with Regulation (EC) No 1760/2000 of the European Parliament and of the Council and Council Regulation (EC) No 21/2004.

3. Where appropriate the identification system for agricultural parcels may include a geographical information system for olive cultivation.

Article 18
Computerised data base

1. The computerised data base shall record, for each agricultural holding, the data obtained from aid applications.

   This data base shall, in particular, allow direct and immediate consultation, through the competent authority of the Member State, of the data relating to the calendar and/or marketing years starting from the year 2000.

2. The Member States may set up decentralised data bases on condition that these, and the administrative procedures for recording and accessing data, are designed homogeneously throughout the territory of the Member State and are compatible with one another in order to allow cross-checks.

Article 19

Identification system for agricultural parcels

The identification system for agricultural parcels shall be established on the basis of maps or land registry documents or other cartographic references. Use shall be made of computerised geographical information system techniques including preferably aerial or spatial orthoimagery, with a homogenous standard guaranteeing accuracy at least equivalent to cartography at a scale of 1:10000.

Article20

System for the identification and registration of payment entitlements

1. The system for the identification and registration of payment entitlements shall be set up allowing verification of entitlements and cross-checks with the aid applications and the identification system for agricultural parcels.

2. This system shall allow direct and immediate consultation, through the competent authority of the Member State, of the data relating to at least the previous three consecutive calendar and/or marketing years.

Article 21

Aid applications

1. Each year, a farmer shall submit an application for direct payments indicating, where applicable:

   (a) all agricultural parcels of the holding, and where the Member State is applying Article 17(3), the number of olive trees and their positioning in the parcel,

   (b) the number and amount of payment entitlements declared for activation,

   (c) any other information provided for by this Regulation or by the Member State concerned.

2. A Member State may decide that the aid application needs to contain only changes with respect to the aid application submitted the previous year. A Member State shall distribute pre-printed forms based on the areas determined in the previous year and supply graphic material indicating the location of those areas and, where appropriate, the positioning of olive trees.

3. A Member State may decide that a single aid application shall cover several or all support schemes listed in Annex I or other support schemes

Article 22

Control of eligibility conditions

1. Member States shall carry out administrative controls on the aid applications to verify the eligibility conditions for the aid.

2. Administrative controls shall be supplemented by a system of on-the-spot checks to verify eligibility for the aid. For this purpose, Member States shall draw up a sampling plan of agricultural holdings.

Member States may use remote sensing and Global Navigation Satellite System (GNSS) techniques as a mean to carry out on-the-spot controls on agricultural parcels.

3. Each Member State shall designate an authority responsible for coordinating the controls provided for in this chapter.

Where the Member State provides for the delegation of some aspects of the work to be carried out under this chapter to specialised agencies or firms, the designated authority shall retain control over, and responsibility for, that work.

Article 23
Reductions and exclusions in case of non-compliance with eligibility rules

1. Without prejudice to reductions and exclusions provided for in Article 25, where it is found that the farmer does not comply with the eligibility conditions relevant to the granting of the aid as provided for in this Regulation, the payment or part of the payment granted or to be granted for which the conditions of eligibility have been meet shall be subject to reductions and exclusions to be laid down in accordance with the procedure referred to in Article 128(2).

2. The percentage of reduction shall be graduated according to the severity, extent, permanence and repetition of the non-compliance found and may go as far as total exclusion from one or several aid schemes for one or more calendar years.

Article 24
Controls on cross compliance

1. Member States shall carry out on-the-spot-checks to verify whether the farmer complies with the obligations referred to in Chapter 1.

2. Member States may make use of their existing administration and control systems to ensure compliance with the statutory management requirements and good agricultural and environmental condition referred to in Chapter 1.

These systems, and notably the system for identification and registration of animals set up in accordance Regulations (EC) No 1760/2000 and (EC) No 21/2004, shall be compatible with the integrated system, as provided for in Article 28(1) of this Regulation.

Article 25
Reduction or exclusion from payments in case of non compliance with cross-compliance rules

1. Where the statutory management requirements or good agricultural and environmental conditions are not complied with at any time in a given calendar year (hereinafter 'the calendar year concerned'), and the non-compliance in question is the result of an act or omission directly attributable to the farmer who submitted the aid application in the calendar year concerned, the total amount of direct payments to be granted, after application of Articles 7, 10 and 11 to that farmer shall be reduced or excluded in accordance with the detailed rules laid down in Article 26.

   The first subparagraph shall also apply where, the non-compliance in question is the result of an act or omission directly attributable to the person to whom or from whom the agricultural land was transferred.

   For the purpose of this paragraph "transfer" means any type of transaction whereby the agricultural land ceases to be at the disposal of the transferor.

2. The reductions or exclusions referred to in paragraph 1 shall only apply if the non-compliance relates to:

   (a) an agricultural activity, or

   (b) the agricultural area of the holding.

3. Notwithstanding paragraph 1 and in accordance with the conditions laid down in the detailed rules referred to in Article 26(1), Member States may decide not to apply a reduction or exclusion amounting to EUR 100 or less per farmer and per calendar year, and which includes any reduction or exclusion applied to payments under Article 51(1) of Regulation (EC) No 1698/2005.

   Where a Member State decides to make use of the option provided for in the first subparagraph, in the following year the competent authority shall take the actions required to ensure that the farmer remedies the findings of non-compliance concerned. The finding and the remedial action to be taken shall be notified to the farmer.

Article 26
Detailed rules on reductions and exclusion in case of non compliance with cross-compliance rules

1. Detailed rules for the reductions and exclusions referred to in Article 25 shall be laid down in accordance with the procedure referred to in Article 128(2). In this context, account shall be taken of the severity, extent, permanence and repetition of the non-compliance found as well as of the criteria set out in paragraphs 2, 3 and 4 of this Article.

2. In case of negligence, the percentage of reduction shall not exceed 5% and, in case of repeated non-compliance, 15%.

In duly justified cases Member States may decide that no reduction shall be applied where, given its severity, extent and permanence, a case of non-compliance is to be considered as minor. Cases of non-compliance which constitute a direct risk to public or animal health shall however not be considered as minor.

Unless the farmer has taken immediate remedial action putting an end to the non-compliance found, the competent authority shall take the actions required that may, where appropriate, be limited to an administrative control, to ensure that the farmer remedies the findings of non-compliance concerned. The finding of minor non-compliance and the remedial action to be taken shall be notified to the farmer.

3. In case of intentional non-compliance, the percentage of reduction shall not in principle be less than 20% and may go as far as total exclusion from one or several aid schemes and apply for one or more calendar years.

4. In any case, the total amount of reductions and exclusions for one calendar year shall not be more than the total amount referred to in Article 25(1).

Article 27
Amounts resulting from cross compliance

The amounts resulting from the application of the reductions and exclusions in case of non compliance with Chapter 1 shall be credited to the EAGF. Member States may retain 25% of those amounts.

Article 28
Compatibility with the integrated system

1. For the purpose of applying the support schemes listed in Annex VI, Member States shall ensure that the administration and control procedures applied to these schemes are compatible with the integrated system in the following respects:

   (a) the computerised data base;

   (b) the identification systems for agricultural parcels;

   (c) administrative checks.

   To this end, these systems shall be set up so as to allow, without any problems or conflicts, a common functioning of, or the exchange of data between, them.

2. Member States may, for the purposes of applying Community or national support schemes other than those listed in Annex VI, incorporate in their administration and control procedures one or more components of the integrated system.

Article 29
Information and control

1. The Commission shall be kept regularly informed of the application of the integrated system.

It shall organise exchanges of views on this subject with the Member States.

2. In accordance with Article 37 of Regulation (EC) No 1290/2005, after informing the competent authorities concerned in good time, authorised representatives appointed by the Commission may carry out:

(a) any examination or control relating to the measures taken in order to establish and to implement the integrated system,

(b) controls at the specialised agencies and firms referred to in Article 22(3).

3. Without prejudice to the responsibilities of the Member States for the implementation and application of the integrated system, the Commission may seek the assistance of specialised bodies or persons in order to facilitate the establishment, monitoring and utilisation of the integrated system, in particular with a view to providing the competent authorities of the Member States with technical advice, should they request it.

CHAPTER 5
OTHER GENERAL PROVISIONS

Article 30
Minimum requirements for receiving direct payments

1. Member States shall not grant direct payments to a farmer in one the following cases:

(a) where the total amount of direct payments claimed or due to be granted in a given calendar year does not exceed EUR 250, or

(b) where the eligible area of the holding for which direct payments are claimed or due to be granted does not exceed one hectare.

However, farmers holding special entitlements referred to in Article 45(1) shall be subject to the condition referred to in point (a).

2. Member States may decide in an objective and non-discriminatory manner not to grant direct payments to companies or firms within the meaning of the second paragraph of Article 48 of the Treaty whose principal company's objects do not consist of exercising an agricultural activity.

Article 31
Payment

1. Save as otherwise provided for in this Regulation, payments under support schemes listed in Annex I shall be made in full to the beneficiaries.

2. Payments shall be made up to twice a year within the period from 1 December to 30 June of the following calendar year.

3. Payments under support schemes listed in Annex I shall not be made before the controls with regard to eligibility conditions, to be carried out by the Member State pursuant to Article 22, have been finalised.

4. By way of derogation from paragraph 2 of this Article and in accordance with the procedure referred to in Article 128(2), the Commission may:

(a) provide for advances;

(b) authorise the Member States, subject to the budgetary situation, to pay prior to 1 December advances in regions where, due to exceptional conditions, farmers face severe financial difficulties:

(i) of up to 50% of the payments,

or

(ii) of up to 80% of the payments in case advances have already been provided for.

Article 32
Circumvention clause

Without prejudice to any specific provisions in individual support schemes, no payment shall be made in favour of beneficiaries for whom it is established that they artificially created the conditions required for obtaining such payments with a view to obtaining an advantage contrary to the objectives of that support scheme.

Article 33
Review

Support schemes listed in Annex I shall apply without prejudice to possible review at any moment in the light of economic developments and the budgetary situation.

TITLE III
SINGLE PAYMENT SCHEME

CHAPTER 1
GENERAL IMPLEMENTATION

Article 34
Payment entitlements

1. Support under the single payment scheme shall be available to farmers if they:

(a) hold payment entitlements which they have obtained in accordance with Regulation (EC) No 1782/2003;

(b) obtain payment entitlements under this Regulation:

(i) by transfer,

(ii) from the national reserve,

(iii) pursuant to Annex VII,

(iv) pursuant to Article 68(4)(c) and to the third subparagraph of Article 65(2).

2. For the purpose of this title, farmers holding payment entitlements shall mean farmers having been allocated or definitively transferred payment entitlements.

Article 35

Activation of payment entitlements per eligible hectare

1. Support under the single payment scheme shall be granted to farmers upon activation of a payment entitlement per eligible hectare. Activated payment entitlements shall give right to the payment of the amounts fixed therein.

2. "Eligible hectare" shall mean

(a) any agricultural area of the holding, including the areas planted with short rotation coppice (CN code ex 06029041), that is used for an agricultural activity or, in case areas are used as well for non agricultural activities, predominantly used for agricultural activities. The Commission in accordance with the procedure referred to in Article 128(2) of this Regulation shall lay down detailed rules on the use for non agricultural activities to be allowed on eligible hectares.

(b) any areas which have been eligible in 2007 and which

(i) do not comply anymore with the definition of eligible as a result of the implementation of Council Directive 79/409/EEC[18] and of Directive 2000/60/EC of the European Parliament and of the Council[19] or

(ii) for the duration of the relevant scheme, are afforested pursuant to Article 31 of Council Regulation (EC) No 1257/1999 or to Article 43 of Regulation (EC) No 1698/2005.

Hectares shall comply with the eligibility condition at any time during a calendar year.

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18 OJ L 103, 25.4.1979, p. 1.
19 OJ L 327, 22.12.2000, p. 1.

Article 36
Declaration of eligible hectares

1. The farmer shall declare the parcels corresponding to the eligible hectare accompanying any payment entitlement. Except in case of *force majeure* or exceptional circumstances, these parcels shall be at the farmer's disposal on a date fixed by the Member State which shall be no later than the date fixed in that Member State for amending the aid application.

   Force majeure or exceptional circumstances shall be recognised by the competent authority in cases such as, for example:

   (a) the death of the farmer;

   (b) long-term professional incapacity of the farmer;

   (c) a severe natural disaster gravely affecting the holding's agricultural land;

   (d) the accidental destruction of livestock buildings on the holding;

   (e) an epizootic affecting part or all of the farmer's livestock.

2. Member States may, in duly justified circumstances, authorise the farmer to modify his declaration on condition that he respects the number of hectares corresponding to his payment entitlements and the conditions for granting the single payment for the area concerned.

Article 37
Modification of payment entitlements

The payment entitlements per hectare shall not be modified save as otherwise provided.

The Commission in accordance with the procedure referred to in Article 128(2) of this Regulation shall lay down detailed rules for the modification of payment entitlements in particular in case of fractions of entitlements

Article 38
Multiple claims

The area corresponding to the number of eligible hectares in respect of which a single payment application is submitted may be the subject of an application for any other direct payment as well as for any other aid not covered by this Regulation, save as otherwise provided.

Article 39
Use of land in case of the deferred integration of fruit and vegetables

Where a Member State has made use of the option provided for in the second subparagraph of Article 51 of Regulation (EC) No 1782/2003 (hereinafter referred to as "deferred integration of the fruit and vegetable sector into the single payment scheme"), the parcels in the regions concerned by the decision, up to a date not later than 31 December 2010 may not be eligible if used for:

(a) the production fruit and vegetables,

(b) the production of ware potatoes, and/or

(c) nurseries.

In case of the deferred integration referred to in the first subparagraph, Member States may decide to allow secondary crops to be cultivated on the eligible hectares during a maximum period of three months starting each year on 15 August. However, at the request of a Member State, this date may be modified in accordance with the procedure referred to in Article 128(2) for regions where cereals are normally harvested earlier for climatic reasons.

Article 40
Use of land for the production of hemp

1. Areas used for the production of hemp shall only be eligible if the varieties used have a *tetrahydrocannabinol* content not exceeding 0,2%. Member States shall establish a system for verifying the *tetrahydrocannabinol* content of the crops grown on at least 30% of the areas on hemp. However, if a Member State introduces a system of prior approval for such cultivation, the minimum shall be 20%.

2. In accordance with the procedure referred to in Article 128(2), the granting of payments shall be made subject to the use of certified seeds of certain varieties.

Article 41
Ceiling

1. For each Member State, the total value of all payment entitlements shall not be higher than the national ceiling referred to in Annex VIII.

   In the case of allocation of payment entitlements to wine growers and taking account of the latest data made available to it by the Member States in accordance with [Articles 4a and 92(6)] of Regulation (EC) No [*the wine Regulation*], the Commission shall, in accordance with the procedure referred to in Article 128(2) of this Regulation, adapt the national ceilings set out in Annex VIII to this Regulation. By 1 December of the year preceding the adaptation of the national ceilings Member States shall communicate to the Commission the regional average of the value of entitlements referred to in point B of Annex VII of this Regulation.

2. Where necessary, a Member State shall proceed to a linear reduction of the value of entitlements in order to ensure respect of its ceiling.

Article 42
National reserve

1. Member States shall operate a national reserve that contains the difference between the ceiling fixed in Annex VIII and the total value of all allocated payment entitlements.

2. Member States may use the national reserve to grant, in priority and according to objective criteria, payment entitlements to farmers who commence their agricultural activity and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions.

3. Member States that do not apply Article 68(1)(c) may use the national reserve for the purpose of establishing, according to objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, payment entitlements for farmers in areas subject to restructuring and/or development programs relating to one or the other form of public intervention in order to avoid abandoning of land and/or in order to compensate specific disadvantages for farmers in those areas.

4. In application of this article Member States may increase the unit value and/or the number of entitlements allocated to farmers.

Article 43
Unused payment entitlements

Any payment entitlement which has not been activated for a period of 2 years shall be allocated to the national reserve, except in case of *force majeure* and exceptional circumstances within the meaning of Article 36(1).

Article 44
Transfer of payment entitlements

1. Payment entitlements may only be transferred to another farmer established within the same Member State except in case of transfer by actual or anticipated inheritance.

   However, even in the case of actual or anticipated inheritance, payment entitlements may only be used in the Member State where the payment entitlements were established.

A Member State may decide that payment entitlements may only be transferred or used within one and the same region.

2. Payment entitlements may be transferred by sale or any other definitive transfer with or without land. In contrast, lease or similar types of transactions shall be allowed only if the payment entitlements transferred are accompanied by the transfer of an equivalent number of eligible hectares.

3. In case of sale of payment entitlements, with or without land, Member States may, acting in compliance with the general principles of Community law, decide that part of the payment entitlements sold revert to the national reserve or that their unit value is reduced in favour of the national reserve, according to criteria to be fixed by the Commission in accordance with the procedure referred to in Article 128(2).

Article 45

Conditions for special entitlements

1. Save as otherwise provided, payment entitlements established under Section 2 of Chapter 3 of Title III and Article 71*m* of Regulation (EC) No 1782/2003, hereinafter referred to as "special entitlements", shall be subject to the conditions set up in paragraphs 2 and 3 of this article.

2. By way of derogation from Article 35(1) a farmer who has special entitlements shall be authorised by the Member State to derogate from the requirement to activate entitlements by an equivalent number of eligible hectares provided that he maintains at least 50% of the agricultural activity exercised in calendar years 2000, 2001 and 2002 expressed in livestock units (LU).

   The condition referred to in the first subparagraph shall not apply to Malta

   The special entitlements shall not be modified.

3. In case of a transfer of the special entitlements, the transferee shall not benefit from the derogation of paragraph 2 except in case of inheritance or anticipated inheritance.

Article 46

Revision of payment entitlements

In duly justified cases, Member States may decide, by 1 August 2009 at the latest, and acting in compliance with the general principles of Community law, to move as from 2010 towards approximating the value of payment entitlements established under Chapter I to IV of Title III of Regulation (EC) No 1782/2003. To this end payment entitlements may be made subject to progressive modifications according to at least three pre-established annual steps and objective and non-discriminatory criteria.

The reduction of the value of any payment entitlement shall in none of these annual steps be more than 50% of the difference between its starting value and that applicable upon implementation of the final annual step.

Member States may decide to apply the preceding subparagraphs at the appropriate geographical level which shall be determined according to objective and non-discriminatory criteria such as their institutional or administrative structure and/or the regional agricultural potential.

CHAPTER 2
REGIONAL AND PARTIAL IMPLEMENTATION

SECTION 1
REGIONAL IMPLEMENTATION

Article 47
Regional allocation of the ceiling referred to in Article 41

1. A Member State having introduced the single payment scheme in accordance with Chapters 1 to 4 of Title III of Regulation (EC) No 1782/2003 may decide, by 1 August 2009 at the latest, to apply the single payment scheme from 2010 at regional level under the conditions laid down in this section.

2. Member States shall define the regions according to objective and non.-discriminatory criteria such as their institutional or administrative structure and/or the regional agricultural potential.

   Member States with less than three million eligible hectares may be considered as one single region.

3. Member States shall subdivide the ceiling referred to in Article 41 between the regions according to objective and non-discriminatory criteria.

Article 48
Regionalisation of the single payment scheme

1. In duly justified cases, Member States may decide to divide no more than 50% of the regional ceiling established under Article 47 between all the farmers whose holdings are located in the region concerned, including those who do not hold payment entitlements.

2. Farmers shall receive payment entitlements whose unit value shall be calculated by dividing the corresponding part of the regional ceiling established under Article 48 by the number of eligible hectares, within the meaning of Article 35(2), established at regional level.

   The value of these payment entitlements shall be increased in cases where a farmer holds by 15 May 2010 payment entitlements governed by Chapters 1 to 4 of Title III of Regulation (EC) No 1782/2003. To this end, the regional unit value of each of his payment entitlements shall be increased by an amount calculated on the basis of the total value of the payment entitlements which he held by 15 May 2010. These increases shall be calculated within the limits of the remaining part of the regional ceiling after application of paragraph 1 of this Article.

3. The number of entitlements per farmer shall be equal to the number of hectares the farmer declares in 2010, in accordance with Article 35(2), except in case of *force majeure* or exceptional circumstances within the meaning of Article 36(1).

4. Payment entitlements held by farmers before the division referred to in paragraphs 1 and 2 shall be cancelled and replaced by the new entitlements referred in paragraph 3.

Article 49

Revision of payment entitlements.

1. In duly justified cases Member States applying Article 48 of this Regulation may decide, by 1 August 2009 at the latest, and acting in compliance with the general principles of Community law, to move as from 2011 towards approximating the value of payment entitlements established under this section or under Section 1 of Chapter 5 of Title III of Regulation (EC) No 1782/2003. To this end they may make such payment entitlements subject to progressive modifications according to at least two pre-established annual steps and objective and non-discriminatory criteria.

2. In duly justified cases Member States having introduced the single payment scheme in accordance with Section 1 of Chapter 5 of Title III of Regulation (EC) No 1782/2003 may decide, by 1 August 2009 at the latest, and acting in compliance with the general principles of Community law, to move as from 2010 towards approximating the value of payment entitlements established under that section by making such payment entitlements subject to progressive modifications according to at least three pre-established annual steps and objective and non-discriminatory criteria.

   Subparagraph 1 shall apply without prejudice to the decisions taken by the Member States in application of Article 63(3) of Regulation (EC) No 1782/2003

3. The reduction of the value of any payment entitlement shall in none of the annual steps referred to in paragraphs 1 and 2 be more than 50% of the difference between its starting value and that applicable upon implementation of the final annual step.

4. Member States may decide to apply paragraphs 1, 2 and 3 at the appropriate geographical level which shall be determined according to objective and non-discriminatory criteria such as their institutional and/or administrative structure or the regional agricultural potential.

Article 50

Use of the land

Where a Member State applying the deferred integration of the fruit and vegetable sector had made use of the derogation provided for by Article 60 of Regulation (EC) No 1782/2003, farmers may, in accordance with that Article, use the parcels declared in accordance with Article 36 of this Regulation for the production of fruit and vegetables and ware potatoes.

Article 51
Grassland

In case of application of Article 48, Member States may, according to objective and non-discriminatory criteria, fix, within the regional ceiling or part of it, different per unit values of entitlements to be allocated to farmers referred to in Article 48(1).

(a) for hectares under grassland at the date provided for the area aid applications for 2008 and for any other eligible hectare, or alternatively,

(b) for hectares under permanent pasture at the date provided for the area aid applications for 2008 and for any other eligible hectare.

Article 52
Conditions for the entitlements established under this section

1. Payment entitlements established in accordance with this section or with Section 1 of Chapter 5 of Title III of Regulation (EC) No 1782/2003, may only be transferred or used within the same region or between regions where the entitlements per hectare are the same.

2. Save as otherwise provided for in this Section, the other provisions of this title shall apply.

SECTION 2
PARTIAL IMPLEMENTATION

Article 53
General provisions

1. Any Member State having excluded the sheep and goat and beef payments from the single payment scheme under the conditions of Articles 67 and 68 of Regulation (EC) No 1782/2003 may decide by 1 August 2009 to continue to apply the single payment scheme from 2010 under the conditions laid down in this section and in conformity with the decision taken under Article 64(1) of Regulation (EC) No 1782/2003. However, Member States may decide to set the part of the component of their national ceiling to be used for additional payments to farmers in accordance with Article 55(1) of this Regulation at a rate lower than that decided under Article 64(1) of Regulation (EC) No 1782/2003.

   Where a Member State excluded some fruit and vegetable payments from the single payment scheme in application of Article 68*b* of Regulation (EC) No 1782/2003 it shall apply the single payment scheme under the condition laid down in this section and in conformity with the decision taken under Article 68*b*(1) and (2) of that Regulation.

2. According to the choice made by each Member State, the Commission shall fix, in accordance with the procedure referred to in Article 128(2) a ceiling for each of the direct payments referred to, respectively, in Articles 54, 55 and 56.

This ceiling shall be equal to the component of each type of direct payment in the national ceilings referred to in Article 41, multiplied by the percentages of reduction applied by Member States in accordance with Articles 54, 55 and 56.

The total amount of the fixed ceilings shall be deducted from the national ceilings referred to in Article 41 in accordance with the procedure referred to in Article 128(2).

Article 54

Sheep and goat payments

Member States may retain up to 50% of the component of national ceilings referred to in Article 41 corresponding to the sheep and goat payments listed in Annex VI to Regulation (EC) No 1782/2003 and shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted to farmers rearing sheep and goats, under conditions provided for in Section 7 of Chapter 1 of Title IV of this Regulation and within the ceiling fixed in accordance with Article 53(2).

Article 55

Beef and veal payments

1. Member States that in accordance with Article 68(2)(a)(i) of Regulation (EC) No 1782/2003 retained all or part of the component of national ceilings referred to in Article 41 of this Regulation corresponding to the suckler cow premium referred to in Annex VI to Regulation (EC) No 1782/2003 shall make, on a yearly basis, an additional payment to farmers.

   The additional payment shall be granted for maintaining suckler cows under the conditions provided for in Section 8 of Chapter 1 of Title IV of this Regulation and within the ceiling fixed in accordance with Article 54(2).

2. In 2010 and 2011, Member States that in accordance with Article 68(1), 68(2)(a)(ii) or 68(2)(b) of Regulation (EC) No 1782/2003 retained all or part of the national ceilings referred to in Article 41 of this Regulation corresponding to the slaughtering premium for calves, the slaughtering premium for animals other than for calves or the special male premium may make an additional payment to farmer. The additional payments shall be granted on slaughtering of calves, on slaughtering of bovine animals other than calves and for holding male bovine animals, under the conditions provided for in Section 8 of Chapter 1 of Title IV. The additional payment shall be made at 50% of the level applied under Article 68 of Regulation (EC) No 1782/2003 and within the limit fixed in accordance with Article 53(2) of this Regulation.

Article 56

Transitional fruit and vegetables payments

1. Member States shall retain until 31 December 2011 up to 50% of the component of national ceilings referred to in Article 41 of this Regulation corresponding to tomatoes in accordance with the decision that they took in application of Article 68b(1) of Regulation (EC) No 1782/2003.

In this case and within the limit of the ceiling fixed in accordance with Article 53(2) of this Regulation, the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted to farmers producing tomatoes under the conditions provided for in Section 5 of Chapter 1 of Title IV of this Regulation.

2. Member States shall retain, in accordance with the decision that they took in application of Article 68*b*(2) of Regulation (EC) No 1782/2003:

(a) until 31 December 2010 up to 100% of the component of national ceilings referred to in Article 41 of this Regulation corresponding to the fruit and vegetable crops other than annual crops listed in the third subparagraph of this paragraph; and

(b) from 1 January 2011 up to 31 December 2012 up to 75% of the component of national ceilings referred to in Article 41 of this Regulation corresponding to fruit and vegetable crops other than annual crops listed in the third subparagraph of this paragraph.

In this case and within the limit of the ceiling fixed in accordance with Article 53(2), the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted to farmers producing one or more of the following fruit and vegetables, as determined by the Member State concerned, under the conditions provided for in Section 5 of Chapter 1 of Title IV**:**

(a) fresh figs,

(b) fresh citrus fruits,

(c) table grapes,

(d) pears,

(e) peaches and nectarines, and

(f) 'd'Ente' plums.

3. The component of national ceilings referred to in paragraphs 1 and 2 are those fixed in Annex IX.

CHAPTER 3
IMPLEMENTATION IN THE NEW MEMBER STATES HAVING APPLIED SINGLE AREA PAYMENT SCHEME

Article 57
Introduction of the Single Payment Scheme in Member States having applied the Single Area Payment Scheme

1. Save as otherwise provided for in this chapter, the provisions of this title shall apply to the new Member States having applied the single area payment scheme provided for in Chapter 2 of Title V.

   Articles 42 and 45 and Section 1 of Chapter 2 shall not apply.

2. Any new Member State having applied the single area payment scheme shall take the decisions referred to in Articles 53(1) and 58(1) by 1 August of the year preceding that in respect of which it will apply the single payment scheme for the first time.

3. Any new Member State having applied the single area payment scheme may provide that, in addition to the eligibility conditions established in Article 35(2), «eligible hectare» shall mean any agricultural area of the holding which has been maintained in good agricultural condition at 30 June 2003, whether in production or not at that date.

Article 58
Application for support

1. Farmers shall apply for support under the single payment scheme by a date, to be fixed by the new Member States, but not later than 15 May.

2. Except in case of *force majeure* and exceptional circumstances within the meaning of Article 36(1), no entitlements shall be allocated to farmers if they do not apply for the single payment scheme by 15 May of the first year of application of the single payment scheme.

Article 59
National reserve

1. Each new Member State shall proceed to a linear percentage reduction of its national ceiling in order to constitute a national reserve.

2. The new Member States shall use the national reserve for the purpose of allocating, according to objective and non-discriminatory criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, payment entitlements to farmers finding themselves in a special situation, to be defined by the Commission in accordance with the procedure referred to in Article 128(2).

3. During the first year of application of the single payment scheme, the new Member States may use the national reserve for the purpose of allocating payment entitlements, according to objective and non-discriminatory criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, to farmers in specific sectors, finding themselves in a special situation as a result of the transition to the single payment scheme.

4. The new Member States may use the national reserve to grant payment entitlements to farmers who have commenced their agricultural activity after 1 January 2007 but without receiving any direct payment in 2007, according to objective and non-discriminatory criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions.

5. New Member States may use the national reserve for the purpose of allocating, according to objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, entitlements for farmers in areas subject to restructuring and/or development programmes relating to one or the other form of public intervention in order to avoid abandoning of land and/or in order to compensate specific disadvantages for farmers in those areas.

6. For the purposes of application of paragraphs 2 to 5, the new Member States may increase the unit value of the payment entitlements hold by the farmer concerned, within the limit of EUR 5 000, and/or may allocate new payment entitlements to the farmer concerned.

7. The new Member States shall proceed to linear reductions of the entitlements where their national reserve is not sufficient.

Article 60

National ceiling referred to in Article 41

1. The new Member States may] apply the single payment scheme at regional level.

2. The new Member States shall define the regions according to objective and non-discriminatory criteria.

3. Where applicable, each new Member State shall subdivide its national ceiling referred to in Article 41 after any reduction provided for in Article 59 between the regions according to objective and non-discriminatory criteria.

Article 61

Allocation of payment entitlements

1. All farmers shall receive entitlements, whose unit value is calculated by dividing the ceiling referred to in Article 41 by the number of payment entitlements established at national level in accordance with paragraph 2 of this Article.

2. The number of entitlements per farmer shall be equal to the number of hectares he/she declares in accordance with Article 36(1) for the first year of application of the single payment scheme, except in case of force majeure or exceptional circumstances within the meaning of Article 36(1).

3. By way of derogation to paragraph 2, the new Member States may decide that the number of entitlements per farmer shall be equal to the three-year average number of all hectares which in the years 2005, 2006 and 2007 gave right to the single area payment, except in case of force majeure or exceptional circumstances within the meaning of Article 36(1).

Article 62
Grassland

The new Member States may also, according to objective and non-discriminatory criteria, fix, within the regional ceiling or part of it, different per unit values of entitlements to be allocated to farmers referred to in Article 61(1):

(a) for hectares of grassland as identified on 30 June 2008 and for any other eligible hectare, or alternatively,

(b) for hectares of permanent pasture as identified on 30 June 2008 and for any other eligible hectare.

Article 63
Conditions for the entitlements

1. Entitlements established in accordance with this chapter may only be transferred within the same region or between regions where the entitlements per hectare are the same.

2. New Member States may decide, by 1 August of the year preceding the first year of application of the single payment scheme at the latest, and acting in compliance with the general principle of Community law, that entitlements established in accordance with this chapter shall be subject to progressive modifications to approximate the value of payment entitlements according to pre-established steps and objective and non discriminatory criteria.

3 Except in case of *force majeure* or exceptional circumstances as referred to in Article 36(1), a farmer may transfer his payment entitlements without land only after he has activated, within the meaning of Article 35, at least 80% of his payment entitlements during at least one calendar year or, after he has given up voluntarily to the national reserve all the payment entitlements he has not used in the first year of application of the single payment scheme.

CHAPTER 4
INTEGRATION OF COUPLED PAYMENTS INTO THE SINGLE PAYMENT SCHEME

Article 64

Integration of coupled support into the single payment scheme

Member States shall integrate as from 2010 the support available under coupled support schemes referred to in points I, II, and III of Annex X into the single payment scheme in accordance with the rules laid down in this chapter.

Article 65

Integration of coupled support excluded from the single payment scheme

1. The amounts referred in Annex XI that were available for coupled support under the schemes referred under point I of Annex X shall be distributed by the Member States amongst the farmers in the sectors concerned in accordance with objective and non discriminatory criteria taking account, in particular, of support that those farmers received, directly or indirectly, under the relevant support schemes during one or more years of the period 2005 to 2008.

2. Member States shall increase the value of the payment entitlements hold by the farmers concerned on the basis of the amounts resulting from the application of paragraph 1.

   The value increase per payment entitlement per farmer shall be calculated by dividing the amount referred to in the preceding subparagraph by the number of payment entitlements of each farmer concerned.

   However, where a farmer in a sector concerned does not hold any payment entitlement, he shall be allocated payment entitlements whose:

   (a) number shall be equal to the number of hectares he declares in accordance with Article 36(1) in respect of the year of integration of the coupled support scheme into the single payment scheme,

   (b) value shall be established by dividing the amount referred to in the first subparagraph by the number established in accordance with point (a).

Article 66

Integration of coupled support partially excluded from the single payment scheme

The amounts that were available for coupled support under the schemes referred to under point II of Annex X shall be distributed by the Member States amongst the farmers in the sectors concerned in proportion with the support that those farmers received under the relevant support schemes during the period 2000 to 2002. Member States may, however, choose a more recent representative period in accordance with objective and non discriminatory criteria.

Member States shall increase the value of the payment entitlements of the farmers concerned or allocate payment entitlements in accordance with the provisions in Article 65(2).

Article 67
Optional integration of coupled support partially excluded from the single payment scheme

Where a Member State does not take the decision referred to in the first subparagraph of Article 53(1) the amounts that were available for coupled support under the schemes referred to under point III of Annex X shall be integrated into the single payment scheme in accordance with the provisions set out in Article 66.

CHAPTER 5
SPECIFIC SUPPORT

Article 68
General rules

1. Member States may decide by 1 August 2009 at the latest to use from 2010 up to 10% of their national ceilings referred to in Article 41 to grant support to farmers:

   (a) for:

      (i) specific types of farming which are important for the protection or enhancement of the environment,

      (ii) for improving the quality of agricultural products, or

      (iii) for improving the marketing of agricultural products,

   (b) to address specific disadvantages affecting farmers in the dairy, beef, sheep and goat meat and rice sectors in economically vulnerable or environmentally sensitive areas,

   (c) in areas subject to restructuring and/or development programs in order to avoid abandoning of land and/or in order to address specific disadvantages for farmers in those areas,

   (d) in the form of contributions to crop insurance premiums in accordance with the conditions set out in Article 69,

   (e) mutual funds for animal and plant diseases in accordance with the conditions set out in Article 70.

2. Support for measures referred to in point (a) of paragraph 1 may only be granted:

   (a) if:

      (i) as regards support for the specific types of farming referred to in its point (i), it respects the requirements for agri-environment payments set out in the first subparagraph of Article 39(3) of Regulation (EC) No 1698/2005,

(ii) as regards support for improving the quality of agricultural products referred to in its point (ii), it is consistent with Council Regulation (EC) No 509/2006[20], Council Regulation (EC) No 510/2006,[21] Council Regulation (EC) No 834/2007[22] and Chapter I of Title II of Part II of Regulation (EC) No 1234/2007 and

(iii) as regards support for improving the marketing of agricultural products referred to in its point (iii) of that paragraph, it respects the criteria laid down in Articles 2 to 5 of Council Regulation (EC) No 3/2008 and

(b) only for coverage of the additional costs actually incurred and income foregone in order to fulfil the objective concerned.

3. Support for measures referred to in paragraph 1(b) may only be granted:

(a) upon full implementation of the single payment scheme in the sector concerned in accordance with Articles 54, 55 and 71.

(b) to the extent necessary to create an incentive to maintain current levels of production.

4. Support under the measures referred to in paragraph 1(a), (b) and (e) shall be limited to 2.5% of the national ceilings referred to in Article 41 Member States may set sub-limits per measure.

5. Support for measures referred to:

(a) in paragraph 1(a), and (d) shall take the form of annual additional payments,

(b) in paragraph 1(b) shall take the form of annual additional payments such us headage payments or grassland premia,

(c) in paragraph 1(c) shall take the form of an increase of the unit value and/or the number of the farmer's payment entitlements,

(d) in paragraph 1(e) shall take the form of compensation payments as specified in Article 70.

6. The transfer of payment entitlements with increased unit values and of additional payment entitlements referred to in paragraph 5-(c) may only be allowed if the transferred entitlements are accompanied by the transfer of an equivalent number of hectares.

7. Support for measures referred to in paragraph 1 shall be consistent with other Community measures and policies.

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20 OJ L 93, 31.3.2006, p. 1.
21 OJ L 93, 31.3.2006, p. 12 as amended by Regulation (EC) No 1791/2006.
22 OJ L 189, 20.7.2007, p. 1.

8. Member States shall raise the funds needed to cover the support referred to:

(a) in paragraph 1(a), (b), (c) and (d) by proceeding to linear reduction of the entitlements allocated to farmers and/or from the national reserve,

(b) in paragraph 1(e) by proceeding, if necessary, to linear reduction of one or several of the payments to be made to the beneficiaries of the relevant payments in accordance with this title and within the limits set out in paragraphs 1 and 3.

9. The Commission, in accordance with the procedure referred to in Article 128(2) shall define the conditions for the granting of the support referred to under this section, in particular with a view to ensure consistency with other Community measures and policies and to avoid cumulation of support.

Article 69

Crop insurance

1. Member States may grant financial contributions to premiums for crop insurance against losses caused by adverse climatic events.

For the purpose of this article, ‘adverse climatic event’ means weather conditions which can be assimilated to a natural disaster, such as frost, hail, ice, rain or drought and destroy more than 30% of the average of annual production of a given farmer in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and lowest entry.

2. The financial contribution granted per farmer shall be set at 60% of the insurance premium due. Member States may decide to increase the financial contribution to 70% taking account of the climatic situation or the situation of the sector concerned.

Member States may limit the amount of premium that is eligible to financial contribution by applying appropriate ceilings.

3. Coverage by crop insurance shall only be available where the adverse climatic event has been formally recognised as such by the competent authority of the Member State concerned.

4. Insurance payments shall compensate for not more than the total cost of replacing losses referred to in paragraph 1 and shall not require or specify the type or quantity of future production.

5. Any financial contribution shall be paid directly to the farmer concerned.

6. Member States' expenditure for the granting of financial contributions shall be co-financed by the Community from the funds referred to in Article 68(1) at a rate of 40% of the eligible amounts of insurance premium set in accordance with paragraph 2 of this Article.

The first subparagraph shall not prejudice any powers of Member States to cover their participation in the financing of the financial contributions in full or in part through obligatory systems of collective responsibility in the sectors concerned.

7. The financial contribution shall not constitute a barrier to the operation of the internal market for insurance services. The financial contribution shall not be limited to insurance provided by a single insurance company or group of companies, or be made subject to the condition that the insurance contract be taken out with a company established in the Member State concerned.

Article 70

Mutual funds for animal and plant diseases

1. Member States may provide for financial compensation to be paid to farmers for economic losses caused by the outbreak of animal or plant disease by way of financial contributions to mutual funds.

2. For the purpose of this Article:

   (a) 'mutual fund' shall mean a system accredited by the Member State in accordance with national law for affiliated farmers to insure themselves, by granting compensation payments to such farmers affected by economic losses caused by the outbreak of animal or plant disease;

   (b) 'economic losses' shall mean any additional cost incurred by a farmer as a result of exceptional measures taken by the farmer with the objective to reduce supply on the market concerned or any substantial loss of production. Costs for which compensation may be granted in accordance with other Community provisions and those resulting from the application of any other health and veterinary or phytosanitary measures shall not be considered as economic losses.

   3. The mutual funds shall pay the financial compensation directly to affiliated farmers who are affected by economic losses.

The source of the financial compensation paid by the mutual funds shall come from:

   (a) capital stock contributed to the funds by affiliated farmers, and/or

   (b) loans taken out by the funds on commercial terms.

Any initial capital stock shall not be contributed by public funds.

4. The financial contributions referred to in paragraph 1 may relate to:

   (a) the administrative costs of setting up the mutual fund, spread across a maximum of three years,

   (b) the repayment of the capital and interest on commercial loans taken by the mutual fund for the purpose of paying financial compensation to farmers,

(c) the amounts paid by the mutual fund from its capital stock as financial compensation to farmers.

The minimum and maximum duration of the commercial loans eligible to financial contribution shall be fixed by the Commission in accordance with the procedure referred to in Article 128(2).

Where financial compensation is paid by the fund in accordance with point (c) of the first subparagraph, the public financial contribution shall follow the same rhythm as the one scheduled for a commercial loan of minimum duration.

5. Any financial contribution shall not exceed 60% of the cost referred to in paragraph 4. Member States may decide to increase their financial contribution to 70% taking account of the situation of the sector concerned. Any cost not covered by financial contributions shall be borne by the affiliated farmers.

Member States may limit the costs that are eligible for the financial contribution by applying:

(a) ceilings per fund,

(b) appropriate per unit ceilings.

6. Member States' expenditure on the financial contributions shall be co-financed by the Community from the funds referred to in Article 68(1) at a rate of 40% of the amounts eligible under paragraph 4.

The first subparagraph shall not prejudice any powers of Member States to cover their participation in the financing of the financial contributions in full or in part through obligatory systems of collective responsibility in the sectors concerned.

7. Member States shall define the rules for the constitution and the management of the mutual funds, notably for the granting of compensation payments to farmers in case of crisis, or for the administration and control of these rules.

8. Member States shall submit to the Commission an annual report on the implementation of this Article. The form, content, timing and deadlines of the report shall be laid down by the Commission in accordance with the procedure referred to in Article 128(2).

TITLE IV
OTHER AID SCHEMES

CHAPTER 1
COMMUNITY AID SCHEMES

SECTION 1
CROP SPECIFIC PAYMENT FOR RICE

Article 71
Scope

For the years 2009, 2010, and 2011 aid shall be granted to farmers producing rice, falling within CN code 1006 10 under the conditions laid down in this section.

Article 72
Conditions and amount of the aid

1. The aid shall be granted per hectare of land sown under rice and where the crop is maintained until at least the beginning of flowering under normal growth conditions.

   However, crops grown on areas which are fully sown and which are cultivated in accordance with local standards, but which do not attain the stage of flowering as a result of exceptional weather conditions recognised by the Member State concerned, shall remain eligible for aid provided that the areas in question are not used for any other purpose up to this growing stage.

2. The amount of the aid shall be as follows, according to the yields in the Member States concerned:

	EUR/ha	
	2009	***2010 and 2011***
Bulgaria	345,255	172,627
Greece	561,00	280,5
Spain	476,25	238,125
France	411,75	205,875
Italy	453,00	226,5
Hungary	232,50	116,25
Portugal	453,75	226,875
Romania	126,075	63,037

Article 73
Areas

A national base area for each producing Member State is hereby established. However, for France two base areas are established. The base areas shall be as follows:

– Bulgaria: 4 166 ha,

– Greece: 20 333 ha,

– Spain: 104 973 ha,

– France:: 19 050 ha,

– Italy: 219 588 ha,

– Hungary: 3 222 ha,

– Portugal: 24 667 ha,

– Romania: 500 ha.

A Member State may subdivide its base area or areas into sub-base areas in accordance with objective and non discriminatory criteria.

Article 74
Overrun of the areas

1. Where in a Member State the area given over to rice in a given year exceeds the base area indicated in Article 73, the area per farmer for which aid is claimed shall be reduced proportionately in that year.

2. When a Member State subdivides its base area or areas in sub-base areas, the reduction provided for in paragraph 1 shall apply only to the farmers in sub-base areas where their limit have been exceeded. This reduction shall be made when, in the Member State concerned, the areas in sub-base areas, which have not reached their limits, have been redistributed to sub-base areas in which those limits have been exceeded.

SECTION 2
AID FOR STARCH POTATO

Article 75
Amount of the aid

Aid shall be established for farmers producing potatoes intended for the manufacture of potato starch. The amount of the payment applies to the quantity of potatoes needed for making one tonne of starch. It shall be:

(a) EUR 66,32 for marketing years 2009/2010 and 2010/2011;

(b) EUR 33,16 for marketing years 2011/2012 and 2012/2013.

The amount shall be adjusted according to the starch content of the potatoes.

Article 76
Conditions

The aid shall be paid only in respect of the quantity of potatoes covered by a cultivation contractbetween the potato producer and the starch manufacturer within the limit of the quota allocated to such undertaking, as referred to in Article 84a(2) of Council Regulation (EC) No 1234/2007[23].

SECTION 3
CROP SPECIFIC PAYMENT FOR COTTON

Article 77
Scope

Aid shall be granted to farmers producing cotton falling within CN code 5201 00 under the conditions laid down in this section.

Article 78
Conditions

1. The aid shall be granted per hectare of eligible area of cotton. In order to be eligible, the area shall be located on agricultural land authorised by the Member State for cotton production, sown under authorised varieties and actually harvested under normal growing conditions.

   The aid referred to in Article 77 shall be paid for cotton of sound and fair merchantable quality.

2. Member States shall authorise the land and the varieties as referred to in paragraph 1 in accordance with detailed rules and conditions adopted in accordance with the procedure referred to in Article 128(2).

Article 79
Base areas and amounts

1. The national base areas are hereby established as follows:

   – Bulgaria: 10 237 ha,

   – Greece: 370 000 ha,

   – Spain: 70 000 ha,

   – Portugal: 360 ha.

[23] OJ L 299, 16.11.2007, p. 1.

2. The amount of the aid per eligible hectare shall be as follows:

- Bulgaria: EUR 263,
- Greece: EUR 594 for 300 000 hectares and EUR 342,85 for the remaining 70 000 hectares,
- Spain: EUR 1 039,
- Portugal: EUR 556.

3. If the eligible area of cotton in a given Member State and in a given year exceeds the base area laid down in paragraph 1, the aid referred to in paragraph 2 for that Member State shall be reduced proportionately to the overrun of the base area.

However, for Greece the proportionate reduction shall be applied in respect of the amount of the aid fixed for the part of the national base area composed of the 70 000 hectares in order to respect the global amount of EUR 202,2 million.

4. Detailed rules for the implementation of this Article shall be adopted in accordance with the procedure referred to in Article 128(2)

Article 80
Approved inter-branch organisations

1. For the purpose of this section, an "approved inter-branch organisation" shall mean a legal entity made up of farmers producing cotton and at least one ginner, carrying out activities such as:

- helping to coordinate better the way cotton is placed on the market, particularly through research studies and market surveys,
- drawing up standard forms of contract compatible with Community rules,
- orientating production towards products that are better adapted to market needs and consumer demand, particularly in aspects of quality and consumer protection,
- updating methods and means to improve product quality,
- developing marketing strategies to promote cotton via quality certification schemes.

2. The Member State in whose territory the ginners are established shall approve inter-branch organisations that respect criteria to be adopted in accordance with the procedure referred to in Article 128(2).

Article 81
Payment of aid

1. Farmers shall be granted the aid per eligible hectare pursuant to Article 79.

2. Farmers who are members of an approved inter-branch organisation shall be granted an aid, per eligible hectare within the base area laid down in Article 79(1), increased by an amount of EUR 3.

SECTION 4
AID FOR SUGAR BEET AND CANE PRODUCERS

Article 82
Scope

1. In Member States which have granted the restructuring aid provided for in Article 3 of Regulation (EC) No 320/2006 for at least 50% of the sugar quota fixed on 20 February 2006 in Annex III to Council Regulation (EC) No 318/2006[24], Community aid shall be granted to sugar beet and cane producers.

2. The aid shall be granted for a maximum of five consecutive years as from the marketing year in which the threshold of 50% referred to in paragraph 1 has been reached but no later than for the marketing year 2013/2014.

Article 83
Conditions

The aid shall be granted in respect of the quantity of quota sugar obtained from sugar beet or cane delivered under contracts concluded in accordance with Article 50 of Regulation (EC) No 1234/2007.

Article 84
Amount of the aid

The aid shall be expressed per tonne of white sugar of standard quality. The amount of the aid shall be equal to half of the amount obtained by dividing the amount of the ceiling referred to in Annex XII to this Regulation for the Member State concerned for the corresponding year by the total of the sugar and inulin syrup quota fixed on 20 February 2006 in Annex III to Regulation (EC) No 318/2006.

Articles 110 and 120 of this Regulation shall not apply to the aid for sugar beet and cane producers.

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[24] OJ L 58, 28.2.2006, p. 1.

SECTION 5

TRANSITIONAL FRUIT AND VEGETABLES PAYMENTS

Article 85

Transitional area aids

1. In the case of application of Article 56(1) or Article 117(1), during the period referred to in that provisions, a transitional area aid may be granted, under the conditions laid down in this section, to farmers producing tomatoes which are supplied for processing.

2. In the case of application of Article 56(2) or Article 117(2), during the period referred to in those provisions, a transitional area aid may be granted, under the conditions laid down in this section, to farmers producing one or more of the fruit and vegetable products listed in the third subparagraph of Article 56(2), as determined by the Member States, which are supplied for processing.

Article 86

Amount of the aid and eligibility

1. Member States shall fix the aid per hectare on which tomatoes and each fruit and vegetable product listed in the third subparagraph of Article 56(2) is grown on the basis of objective and non-discriminatory criteria.

2. The total amount of payments shall in no case exceed the ceiling fixed in accordance with Article 53(2) or Article 117.

3. The aid shall be granted only in respect of areas whose production is covered by a contract for processing into one of the products listed in Article 1(1)(j) of Regulation (EC) No 1234/2007.

4. Member States may make the granting of Community aid subject to further objective and non-discriminatory criteria, including being conditional on farmers being members of a producer organisation or producer group recognised respectively under Article 125b or Article 125d Regulation (EC) No 1234/2007.

SECTION 6

TRANSITIONAL SOFT FRUIT PAYMENT

Article 87

Soft fruit payment

1. A transitional area aid shall apply during the period ending on 31 December 2012 in respect of strawberries falling within CN code 0810 10 00 and raspberries falling within CN code 0810 20 10 which are supplied for processing.

2. The aid shall be granted only in respect of areas whose production is covered by a contract for processing into one of the products listed in Article 1(1)(j) of Regulation (EC) No 1234/2007.

3. The Community aid paid shall be EUR 230/ha.

4. Member States may pay a national aid in addition to the Community aid. The total amount of Community and national aid paid shall not exceed EUR 400/ha.

5. The aid shall be paid only in respect of maximum national guaranteed areas allocated to Member States as follows:

Member State	National guaranteed area (hectares)
Bulgaria	2 400
Hungary	1 700
Latvia	400
Lithuania	600
Poland	48 000

If the eligible area in a given Member State and in a given year exceeds the maximum national guaranteed area, the aid amount referred to in paragraph 3 shall be reduced proportionately to the overrun of the maximum national guaranteed area.

6. Articles 110 and 120 shall not apply to the transitional soft fruit payment.

SECTION 7
SHEEP AND GOAT PREMIUMS

Article 88
Scope of application

In case of application of Article 54, Member States shall grant, on a yearly basis, premiums or additional payments to farmers rearing sheep and goats under the conditions provided for in this section save as otherwise provided.

Article 89
Definitions

For the purposes of this section the following definitions shall apply:

(a) "ewe" shall mean any female of the ovine species having lambed at least once or aged at least one year;

(b) "she-goat" shall mean any female of the caprine species having kidded at least once or aged at least one year.

Article 90
Ewe and goat premium

1. A farmer keeping ewes on his holding may qualify, on application for a premium for maintaining ewes (ewe premium).

2. A farmer keeping she-goats on his holding may qualify, on application for a premium for maintaining she-goats (goat premium). This premium shall be granted to farmers in specific areas where the production meets the following two criteria:

   (a) goat rearing is mainly directed towards the production of goatmeat;

   (b) goat and sheep rearing techniques are similar in nature.

   A list of such areas shall be established following the procedure referred to in Article 128(2).

3. The ewe premium and the goat premium shall be granted in the form of an annual payment per eligible animal per calendar year and per farmer within the limits of individual ceilings. The minimum number of animals in respect of which an application for a premium is lodged shall be determined by the Member State. This minimum shall not be less than 10 or greater than 50.

4. Per ewe, the amount of the premium shall be EUR 21. However for farmers marketing sheep's milk or products based on sheep's milk the premium per ewe shall be EUR 6,8.

5. Per she-goat the amount of the premium shall be EUR 6,8.

Article 91
Supplementary premium

1. A supplementary premium shall be paid to farmers in areas where sheep and goat production constitutes a traditional activity or contributes significantly to the rural economy. Member States shall define these areas. In any event the supplementary premium shall only be granted to a farmer whose holding has at least 50% of its area used for agriculture situated in less-favoured areas defined pursuant to Regulation (EC) No 1257/1999.

2. The supplementary premium shall also be granted to a farmer practising transhumance provided that:

   (a) at least 90% of the animals for which the premium is applied are grazed for at least 90 consecutive days in an eligible area established in accordance with paragraph 1, and

   (b) the seat of the holding is situated in a well-defined geographical area for which it has been established by the Member State that transhumance is a traditional practice of sheep and/or goat rearing and that these animal movements are necessary owing to the absence of forage in sufficient quantity during the transhumance period.

3. The amount of the supplementary premium shall be set at EUR 7 per ewe and per she-goat. The supplementary premium shall be granted under the same conditions as those laid down for the grant of the ewe and goat premium.

Article 92
Common rules on premiums

1. Premiums shall be paid to recipient farmers on the basis of the number of ewes and/or she-goats kept on their holding over a minimum period to be determined in accordance with the procedure referred to in Article 128(2).

2. To qualify for the premiums an animal shall be identified and registered in accordance with Regulation (EC) No 21/2004.

Article 93
Individual limits

1. On 1 January 2009 the individual ceiling per farmer referred to in Article 90(3), shall be equal to the number of premium rights which he held on 31 December 2008 in accordance with the relevant Community rules.

2. Member States shall take the necessary measures to ensure that the sum of premium rights on their territory does not exceed the national ceilings set out in paragraph 4 and that the national reserves referred to in Article 96 may be maintained.

After the end of the period of application of the single area payment scheme in accordance with Article 111 and where Article 54 is applied, the allocation of the individual ceilings to producers and the setting up of the national reserve referred to in Article 95 shall take place no later than the end of the first year of the application of the single payment scheme.

3. Premium rights, which have been withdrawn pursuant to the measure taken pursuant to paragraph 2 shall be cancelled.

4. The following ceilings shall apply:

Member State	Rights (x 1000)
Bulgaria	2 058,483
Czech Republic	66,733
Denmark	104
Estonia	48
Spain	19 580
France	7 842
Cyprus	472,401
Latvia	18,437
Lithuania	17,304
Hungary	1 146
Poland	335,88
Portugal	2 690
Romania	5 880,620
Slovenia	84,909
Slovakia	305,756
Finland	80
Total	**40 730,523**

Article 94
Transfer of premium rights

1. When a farmer sells or otherwise transfers his holding, he may transfer all his premium rights to the person who takes over his holding.

2. A farmer may also transfer, in whole or in part, his rights to other farmers without transferring his holding.

In the case of a transfer of rights without transfer of the holding, a part of the premium rights transferred, not exceeding 15%, shall be surrendered, without compensation to the national reserve of the Member State where his holding is situated for redistribution free of charge.

Member States may acquire premium rights from farmers who agree, on a voluntary basis, to surrender their rights, in whole or in part. In this case payments for the acquisition of such rights may be made to such farmers from national budgets.

By way of derogation from paragraph 1 and in duly justified circumstances, Member States may provide that in the case of a sale or other transfer of the holding, the transfer of rights is carried out by the intermediary of the national reserve.

3. Member States may take the necessary measures to avoid premium rights being moved away from sensitive zones or regions where sheep production is especially important for the local economy.

4. Member States may authorise, before a date that they shall determine, temporary transfers of that part of the premium rights, which are not intended to be used by the farmer who holds them.

Article 95

National reserve

1. Each Member State shall maintain a national reserve of premium rights.

2. Any premium rights withdrawn pursuant to Article 94(2) or other Community provisions shall be added to the national reserve.

3. Member States may allocate premium rights to farmers, within the limits of their national reserves. When making the allocation they shall give precedence in particular to newcomers, young farmers or other priority farmers.

Article 96

Ceilings

The sum of the amounts of each premium claimed shall not exceed the limit of the ceiling, fixed by the Commission pursuant to Article 53(2).

When the total amount of aid claimed exceeds the fixed ceiling, the aid per farmer shall be reduced proportionately in that year.

SECTION 8

BEEF AND VEAL PAYMENTS

Article 97

Scope of application

In case of application of Article 55, Member States shall grant, under the conditions set out in this section, save as otherwise provided, the additional payment or payments chosen by the Member State concerned according to that article.

Article 98

Definitions

For the purposes of this section:

(a) "region" shall mean a Member State or a region within a Member State, at the option of the Member State concerned,

(b) "bull" shall mean an uncastrated male bovine animal,

(c) "steer" shall mean a castrated male bovine animal,

(d) "suckler" cow shall mean a cow belonging to a meat breed or born of a cross with a meat breed, and belonging to a herd intended for rearing calves for meat production,

(e) "heifer" shall mean a female bovine animal from the age of eight months which has not yet calved.

Article 99
Special premium

1. A farmer holding male bovine animals on his holding may qualify, on application, for a special premium. It shall be granted in the form of an annual premium per calendar year and per holding within the limits of regional ceilings for not more than 90 animals for each of the age brackets referred to in paragraph 2.

2. The special premium shall be granted no more than:

   (a) once in the life of each bull from the age of nine months, or

   (b) twice in the life of each steer:

      (i) the first time at the age of nine months,

      (ii) the second time after it has reached the age of 21 months.

3. To qualify for the special premium:

   (a) any animal covered by an application shall be held by the farmer for fattening for a period to be determined,

   (b) each animal shall be covered until slaughter or until export by an animal passport referred to in Article 6 of Regulation (EC) No 1760/2000 of the European Parliament and of the Council containing all relevant information on its premium status or, if not available, an equivalent administrative document.

4. When in a given region the total number of bulls from the age of nine months and of steers from nine months to 20 months of age, for which an application has been made and which satisfy the conditions for granting the special premium exceeds the regional ceiling referred to in paragraph 8, the number of all eligible animals under paragraph 2(a) and (b) per farmer for the year in question shall be reduced proportionately.

   Within the meaning of this Article, "regional ceiling" shall mean the number of animals entitled to benefit, in a region and per calendar year, from the special premium.

5. By way of derogation from paragraphs 1 and 4, Member States may:

(a) on the basis of objective criteria that are part of a rural development policy and only on the condition that they take into account environmental as well as employment aspects, change or waive the headage limit of 90 animals per holding and age bracket, and,

(b) where exercising this power, decide to apply paragraph 4 in such a way as to reach the level of reductions required to comply with the applicable regional ceiling, without applying such reductions to small farmers who, in respect of the year in question, did not submit special premium applications for more than a minimum number of animals determined by the Member State concerned.

6. Member States may decide to grant the special premium at the time of slaughter. In this case, for bulls the age criterion referred to in paragraph 2(a) shall be replaced by a minimum carcass weight of 185 kg.

The premium shall be paid or passed back to the farmers.

7. The amount of the special premium shall be set at:

(a) EUR 210 per eligible bull;

(b) EUR 150 per eligible steer and age bracket.

8. The following regional ceilings shall apply:

Member State	Regional ceiling
Bulgaria	90 343
Czech Republic	244 349
Denmark	277 110
Germany	1 782 700
Estonia	18 800
Cyprus	12 000
Latvia	70 200
Lithuania	150 000
Poland	926 000
Romania	452 000
Slovenia	92 276
Slovakia	78 348
Finland	250 000
Sweden	250 000

Article 100
Suckler cow premium

1. A farmer keeping suckler cows on his holding may qualify, on application, for a premium for maintaining suckler cows (suckler cow premium). It shall be granted in the form of an annual premium per calendar year and per farmer within the limits of individual ceilings.

2. The suckler cow premium shall be granted to any farmer:

   (a) not supplying milk or milk products from his farm for 12 months from the day on which the application is lodged;

   The supply of milk or milk products directly from the holding to the consumer shall not, however, prevent grant of the premium,

   (b) supplying milk or milk products whose total individual quota as referred to in Article 67 of Regulation (EC) No 1234/2007 does not exceed 120 000 kg.

   However Member States may decide on the basis of objective and not discriminatory criteria, which they determine, to change or waive the quantitative limit, provided that the farmer keeps, for at least six consecutive months from the day on which the application is lodged a number of suckler cows at least equal to 60% and of heifers at most equal to 40% of the number for which the premium was requested.

   For the purposes of determining the number of eligible animals under points (a) and (b) of the first paragraph, whether cows belong to a suckler herd or to a dairy herd shall be established on the basis of the beneficiary's individual quota for milk available on the holding on 31 March of the calendar year concerned, expressed in tonnes and the average milk yield.

3. The farmers' entitlement to the premium shall be limited by the application of an individual ceiling as defined in Article 101.

4. Per eligible animal, the amount of the premium shall be set at EUR 200.

5. Member States may grant an additional national suckler cow premium, up to a maximum of EUR 50 per animal, provided that no discrimination is caused between stockfarmers in the Member State concerned.

   In respect of holdings located in a region as defined in Articles 5 and 8 of Council Regulation (EC) No 1083/2006[25], the first EUR 24,15 per animal of this additional premium shall be financed by the EAFRD.

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[25] OJ L 210, 31.7.2006, as amended by Regulation (EC) No 1989/2006.

In respect of holdings located throughout the territory of a Member State, if in the Member State concerned the cattle population has a high proportion of suckler cows, representing at least 30% of the total number of cows, and if at least 30% of male bovine animals slaughtered belong to conformation classes S and E, the EAFRD shall finance the additional premium in total. Any overshoot of these percentages is established on the basis of the average of the two years preceding that for which the premium is granted.

6. For the purposes of this Article, only heifers belonging to a meat breed or born of a cross with a meat breed and belonging to a herd intended for rearing calves for meat production shall be taken into account.

Article 101
Individual ceiling for suckler cow

1. An aid shall be granted to each farmer of suckler cows within the limit of the individual ceilings which have been established in application of Article 126(2) of Regulation (EC) No 1782/2003.

2. Member States shall take the necessary measures to ensure that the sum of premium rights on their territory does not exceed the national ceilings set out in paragraph 5 and that the national reserves referred to in Article 103 may be maintained.

After the end of the period of application of the single area payment scheme in accordance with Article 111 and where Article 55(1) is applied, the allocation of the individual ceilings to producers and the setting up of the national reserve referred to in Article 103 shall take place no later than the end of the first year of the application of the single payment scheme.

3. Where the adjustment referred to in paragraph 2 requires a reduction of individual ceilings held by farmers, it shall be carried out without compensatory payment and decided on the basis of objective criteria, including, in particular:

(a) the rate at which farmers have used their individual ceilings during the three reference years prior to the year 2000,

(b) the implementation of an investment or extensification programme in the beef and veal sector,

(c) particular natural circumstances or the application of penalties, resulting in a non-payment or a reduced payment of the premium for at least one reference year,

(d) additional exceptional circumstances having the effect that the payments made for at least one reference year do not correspond to the actual situation as established during the previous years.

4. Premium rights which have been withdrawn pursuant to the measure provided for in paragraph 2 shall be abolished.

5. The following national ceilings shall apply:

Member State	National ceiling
Belgium	394 253
Bulgaria	16 019
Czech Republic	90 300
Estonia	13 416
Spain	1 441 539
France	3 779 866
Cyprus	500
Latvia	19 368
Lithuania	47 232
Hungary	117 000
Malta	454
Austria	375 000
Poland	325 581
Portugal	416 539
Romania	150 000
Slovenia	86 384
Slovakia	28 080
United Kingdom	1 699 511

Article 102
Transfer of suckler cow premium rights

1. When a farmer sells or otherwise transfers his holding, he may transfer all his suckler cow premium rights to the person who takes over his holding. He may also transfer, in whole or in part, his rights to other farmers without transferring his holding.

In the case of transfer of premium rights without transfer of the holding a part of the transferred rights, which shall not exceed 15%, shall be returned without compensatory payment to the national reserve of the Member State where the holding is situated for redistribution free of charge.

2. The Member States:

(a) shall take the necessary measures to prevent premium rights being transferred outside sensitive areas or regions where beef and veal production is particularly important for the local economy;

(b) may provide either that the transfer of rights without transfer of the holding is carried out directly between farmers or that it is carried out through the intermediary of the national reserve.

3. Member States may authorise, before a date to be determined, temporary transfers of part of the premium rights which are not intended to be used by the farmer who holds them.

Article 103
National reserve of suckler cow premium rights

1. Each Member State shall maintain a national reserve of suckler cow premium rights.

2. Any premium rights withdrawn pursuant to second subparagraph of paragraph 1 of Article 102 or other Community provisions shall be added to the national reserve, without prejudice to Article 101(4).

3. The Member States shall use their national reserves for allocating, within the limits of those reserves, premium rights in particular to newcomers, young farmers and other priority farmers.

Article 104
Heifers

1. By way of derogation from Article 100(3) of this Regulation, Member States where more than 60% of suckler cows and heifers are kept in mountain areas within the meaning of Article 50 of Regulation (EC) No 1698/2005 may decide to manage the granting of the suckler cow premium for heifers separately from that for suckler cows within the limits of a separate national ceiling to be set up by the Member State concerned.

   Such separate national ceiling shall not exceed 40% of the national ceiling of the Member State concerned set out in Article 101(5). That national ceiling shall be reduced by an amount equal to the separate national ceiling. When in a Member State exercising the power provided for in this paragraph, the total number of heifers, for which an application has been made, and which satisfy the conditions for granting the suckler cow premium, exceeds the separate national ceiling, the number of eligible heifers per farmer for the year in question shall be reduced proportionately.

2. For the purpose of this Article, only heifers belonging to a meat breed or born of a cross with a meat breed shall be taken into account.

Article 105
Slaughter premium

1. A farmer keeping bovine animals on his holding may qualify, on application, for a slaughter premium. It shall be granted on slaughter of eligible animals or their export to a third country and within national ceilings to be determined.

   The following shall be eligible for the slaughter premium:

   (a) bulls, steers, cows and heifers from the age of eight months,

(b) calves of more than one and less than eight months old and of carcass weight up to 185 kg,

The animals listed in the second subparagraph shall be eligible for the slaughter premium provided they have been held by the farmer for a period to be determined.

2. The amount of the premium shall be set at:

(a) EUR 80 per eligible animal as specified under paragraph 1(a);

(b) EUR 50 per eligible animal as specified under paragraph 1(b).

3. The national ceilings referred to in paragraph 1 shall be established per Member State and separately for both groups of animals as specified in (a) and (b) of the second subparagraph thereof. Each ceiling shall be equal to the number of animals of each of these two groups which in 1995 were slaughtered in the Member State concerned to which are added those animals exported to third countries, according to Eurostat data or any other published official statistical information for that year accepted by the Commission.

For the new Member States the national ceilings shall be those contained in the following table.

	Bulls, steers, cows and heifers	Calves more than 1 and less than 8 months old and of carcass weight up to 185 kg
Bulgaria	22 191	101 542
Czech Republic	483 382	27 380
Estonia	107 813	30 000
Cyprus	21 000	—
Latvia	124 320	53 280
Lithuania	367 484	244 200
Hungary	141 559	94 439
Malta	6 002	17
Poland	1 815 430	839 518
Romania	1 148 000	85 000
Slovenia	161 137	35 852
Slovakia	204 062	62 841

4. When in a given Member State the total number of animals, for which an application has been made in respect of one of the two groups of animals specified in point (a) or (b) of the second subparagraph of paragraph 1, and which satisfy the conditions for granting the slaughter premium exceeds the national ceiling laid down for that group, the number of all eligible animals under that group per farmer for the year in question shall be reduced proportionately.

Article 106
Common rules on premiums

To qualify for direct payments under this section, an animal shall be identified and registered in accordance with Regulation (EC) No 1760/2000.

Nevertheless, an animal shall be deemed as eligible to the payment where the information on previous movements of animals laid down in the second indent of Article 7(1) of Regulation (EC) No 1760/2000 has been reported to the competent authority at the time of the beginning of the retention period of the animal.

Article 107
Ceilings

The sum of the amounts of each direct payment claimed under this section shall not exceed the ceiling fixed by the Commission in accordance with Article 53(2).

When the total amount of aid claimed exceeds the fixed ceiling, the aid per farmer shall be reduced proportionately in that year.

Article 108
Substances prohibited under Directive 96/22/EC

1. Where residues of substances prohibited under Council Directive 96/22/EC[26], or residues of substances authorised under the aforementioned act but used illegally, are detected pursuant to the relevant provisions of Council Directive 96/23/EC[27], in an animal belonging to the bovine herd of a farmer, or where a non-authorised substance or product, or a substance or product authorised under Directive 96/22/EC but held illegally is found on the farmer's holding in any form, the farmer shall be excluded, for the calendar year of that discovery, from receiving the amounts provided for under this section.

   In the event of a repeated infringement, the length of the exclusion period may, according to the seriousness of the offence, be extended to five years as from the year in which the repeated infringement was discovered.

2. In the event of obstruction on the part of the owner or holder of the animals when inspections are being carried out and when the samples are being taken which are necessary for the application if national residue-monitoring plans or when the investigations and checks provided for under Directive 96/23/EC are being carried out, the penalties provided for in paragraph 1 of this Article shall apply.

26 OJ L 125, 23.5.1996, p. 3.
27 OJ L 125, 23.5.1996, p. 10.

CHAPTER 2
NATIONAL AIDS

Article 109
National aid for nuts

1. Member States may grant national aid, up to a maximum of EUR 120,75 per hectare per year to farmer producing the following products.

   (a) almonds falling within CN codes 0802 11 and 0802 12,

   (b) hazelnuts or filberts falling within CN codes 0802 21 and 0802 22,

   (c) walnuts falling within CN codes 0802 31 and 0802 32,

   (d) pistachios falling within CN codes 0802 50,

   (e) locust beans falling within CN codes 1212 10 10.

2. The national aid may be paid only for a maximum area of:

Member State	Maximum area (ha)
Belgium	100
Bulgaria	11 984
Germany	1 500
Greece	41 100
Spain	568 200
France	17 300
Italy	130 100
Cyprus	5 100
Luxembourg	100
Hungary	2 900
Netherlands	100
Austria	100
Poland	4 200
Portugal	41 300
Romania	1 645
Slovenia	300
Slovakia	3 100
United Kingdom	100

3. Member States may make the granting of national aid conditional on farmers being members of a producer organisation recognised under Article 125b of Regulation (EC) No 1234/2007.

TITLE V
IMPLEMENTATION OF DIRECT PAYMENTS IN THE NEW MEMBER STATES

CHAPTER 1
GENERAL PROVISIONS

Article 110
Introduction of direct payments

In the new Member States, except Bulgaria and Romania, direct payments shall be introduced in accordance with the following schedule of increments expressed as a percentage of the then applicable level of such payments in the Member States other than the new Member States:

– 60% in 2009,

– 70% in 2010,

– 80% in 2011,

– 90% in 2012,

– 100% as from 2013.

For Bulgaria and Romania direct payments shall be introduced in accordance with the following schedule of increments expressed as a percentage of the then applicable level of such payments in the Member States other than the new Member States:

– 35% in 2009,

– 40% in 2010,

– 50% in 2011,

– 60% in 2012,

– 70% in 2013,

– 80% in 2014,

– 90% in 2015,

– 100% as from 2016.

CHAPTER 2
SINGLE AREA PAYMENT SCHEME

Article 111
Single Area Payment scheme

1. The new Members states having decided to replace the direct payments, with the exception of the transitional soft fruit payment established in Section 6 of Chapter 1 of Title IV of this Regulation, with a single area payment scheme shall grant aid to farmers in accordance with this article.

2. The single area payment shall be made once a year. It shall be calculated by dividing the annual financial envelope established in accordance with Article 112 by the agricultural area of each new Member State established in accordance with Article 113.

3. For any new Member State the single area payment scheme shall be available until 31 December 2013. New Member States shall notify the Commission of their intention to terminate the application of the scheme by 1 August of the last year of application.

4. After the end of the period of application of the single area payment scheme, the direct payments shall be applied in accordance with the relevant Community rules and on the basis of the quantitative parameters, such as base area, premium ceilings and Maximum Guaranteed Quantities (MGQ), specified in the Acts of Accession for each direct payment and subsequent Community legislation. The percentage rates set out in Article 110 of this Regulation for the relevant years shall subsequently apply.

Article 112

Annual financial envelope

1. For any new Member State, the Commission shall establish an annual financial envelope as the sum of the funds that would be available in respect of the calendar year concerned for granting direct payments in the new Member State.

The annual financial envelope shall be established according to the relevant Community rules and on the basis of the quantitative parameters, such as base areas, premium ceilings and Maximum Guaranteed Quantities (MGQ), specified in the Acts of Accession and subsequent Community legislation for each direct payment.

The annual financial envelope shall be adjusted using the relevant percentage specified in Article 110 for the gradual introduction of direct payments, except for the amounts available in accordance with Annex XII or in accordance with the differential between these amounts or the amounts corresponding to the fruit and vegetable sector and those actually applied as referred to in Article 118(1).

2. Where in a given year the single area payments in a new Member State would exceed its annual financial envelope, the national amount per hectare applicable in that new Member State shall be reduced proportionately by application of a reduction coefficient.

Article 113

Area under the single area payment scheme

1. The agricultural area of a new Member State under the single area payment scheme shall be the part of its utilised agricultural area which has been maintained in good agricultural condition at 30 June 2003, whether in production or not at that date, and, where appropriate, adjusted in accordance with the objective and non-discriminatory criteria to be set by that new Member State after approval by the Commission.

For the purposes of this Title «utilised agricultural area» shall mean the total area taken up by arable land, permanent grassland, permanent crops and kitchen gardens as established by the Commission for its statistical purposes.

However, for Bulgaria and Romania, the agricultural area under the single area payment scheme shall be the part of its utilised agricultural area which is maintained in good agricultural condition, whether in production or not, where appropriate adjusted in accordance with the objective and non-discriminatory criteria to be set by Bulgaria or Romania after approval by the Commission.

2. For the purpose of granting payments under the single area payment scheme, all agricultural parcels corresponding to the criteria provided for in paragraph 1, as well as agricultural parcels planted with short rotation coppice (CN code ex 0602 90 41) which have been maintained in good agricultural condition as at 30 June 2003 shall be eligible. However, for Bulgaria and Romania, all agricultural parcels corresponding to the criteria provided for in paragraph 1, as well as agricultural parcels planted with short rotation coppice (CN code ex 0602 90 41), shall be eligible.

Except in case of force majeure or exceptional circumstances, the parcels referred to in the first subparagraph must be at the farmer's disposal on the date fixed by the Member State which shall be no later than the date fixed in that Member State for amendment of the aid application.

The minimum size of eligible area per holding for which payments may be requested shall be 0,3 ha. However, any new Member State may decide, on the basis of objective criteria and after approval by the Commission, to set the minimum size at a higher level not exceeding 1 ha.

3. There shall be no obligation to produce or to employ the factors of production. However, farmers may use the land referred to in paragraph 4 of this Article for any agricultural purpose. In the case of production of hemp falling within CN code 5302 10 00, Article 42(1) shall apply.

4 Any land benefiting from payments under the single area payment scheme shall be maintained in good agricultural and environmental conditions in accordance with Article 6.

Any farmer receiving support under the single area payment scheme shall respect the statutory management requirements referred to in Annex II according to the following timetable:

(a) requirements referred to in point A of Annex II shall apply from 1 January 2009;

(b) requirements referred to in points B and C of Annex II shall apply from 1 January 2011;

However, for Bulgaria and Romania, the application of Articles 4, 5, 25, 26 and 27 shall be optional until 31 December 2011 insofar as those provisions relate to statutory management requirements. As from 1 January 2012 a farmer receiving payments under the single area payment scheme in those Member States shall respect the statutory management requirements referred to in Annex II according to the following timetable:

(a) requirements referred to in point A of Annex II shall apply from 1 January 2012;

(b) requirements referred to in points B and C of Annex II shall apply from 1 January 2014;

5. The application of the single area payment scheme shall not in any way affect the obligation of any new Member State with regard to the implementation of Community rules on the identification and registration of animals as provided for by Regulation (EC) No 1760/2000 and Regulation (EC) No 21/2004.

Article 114
Communication

New Member States shall inform the Commission in detail of the measures taken to implement this chapter and in particular the measures taken pursuant to Article 112(2).

CHAPTER 3
SEPARATE PAYMENTS AND SPECIFIC SUPPORT

Article 115
Separate sugar payment

1. Where a new Member State, other than Bulgaria and Romania, has made use of the option provided for by Article 143ba of Regulation (EC) No 1782/2003 it shall grant in respect of the years 2009 and 2010 a separate sugar payment to farmers eligible under the single area payment scheme. Bulgaria and Romania shall grant it also for 2011. It shall be granted on the basis of the criteria adopted by the relevant Member states in 2006 and 2007.

2. The separate sugar payment shall be granted within the limits of the ceilings set out in Annex XII.

3. By way of derogation from paragraph 2, each new Member State concerned may decide by 31 March of the year in respect of which the separate sugar payment is granted and on the basis of objective criteria to apply for the separate sugar payment a ceiling lower than that listed in Annex XII. Where the sum of the amounts determined in accordance with paragraph 1 exceeds the ceiling decided by the new Member State concerned, the annual amount to be granted to the farmers shall be reduced proportionally.

Article 116
Separate fruit and vegetables payment

1. Where a new Member State has made use of the option provided for in Article 143bb of Regulation (EC) No 1782/2003, it shall grant a separate fruit and vegetables payment to farmers eligible under the single area payment scheme. It shall be granted in accordance with the criteria adopted by the Member State in 2007.

2. The separate fruit and vegetables payment shall be granted within the limits of the component of the national ceiling referred to in Article 41 of this Regulation corresponding to fruit and vegetables or at a lower ceiling where new Member State made use of the option provided for in Article 143bb(3) of Regulation (EC) No 1782/2003.

Article 117
Separate transitional fruit and vegetables payment

1. Where a new Member State has made use of the option provided for in Article 143bc(1) of Regulation (EC) No 1782/2003 it shall retain up to 31 December 2011 up to 50% of the component of national ceilings referred to in Article 41 of this Regulation corresponding to tomatoes falling within CN code 0702 00 00 in accordance with its decision of 2007.

   In this case and within the limit of the ceiling fixed in accordance with the procedure referred to in Article 128(2) of this Regulation, the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

   The additional payment shall be granted to farmers producing tomatoes under the conditions provided for in Section 5 of Chapter 1 of Title IV of this Regulation.

2. Where a new Member State has made use of the option provided for in Article 143*bc*(2) of Regulation (EC) No 1782/2003 shall retain, in accordance with its decision of 2007:

   (a) up to 31 December 2010 up to 100% of the component of national ceilings referred to in Article 41 of this Regulation corresponding to the fruit and vegetable crops other than annual crops listed in the third subparagraph of Article 56(2) of this Regulation.

   (b) from 1 January 2011 up to 31 December 2012 up to 75% of the component of national ceilings referred to in Article 41 of this Regulation corresponding to fruit and vegetable crops other than annual crops listed in the third subparagraph of Article 56(2) of this Regulation.

   In this case and within the limit of the ceiling fixed in accordance with the procedure referred to in Article 128(2) of this Regulation, the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

   The additional payment shall be granted to farmers producing one or more of the fruit and vegetables products, as determined by the Member State concerned, listed in the third subparagraph of Article 56(2) of this Regulation.

Article 118
Common provisions for the separate payments

1. The funds made available for granting the payment referred to in Articles 115, 116 and 117 shall not be included in the annual financial envelope referred to in Article 112(1). However, in case of application of Article 115(3) the differential between the ceiling listed in Annex XII and that actually applied shall be included in the annual financial envelope referred to in Article 112(1).

2. Articles 110 and 120 shall not apply to the separate payments referred to in Articles 115, 116 and 117.

3. In the case of actual or anticipated inheritance, the separate sugar payment and the separate fruit and vegetables payment referred to in Articles 115 and 116 respectively shall be granted to the farmer who inherited the holding, under the condition that this farmer is eligible under the single area payment scheme.

Article 119
Specific support

1. The new Member States applying the single area payment scheme may decide by 1 August 2009 at the latest and with effect as from the calendar year 2010 to use up to 10% of their national ceilings referred to in Article 41 to grant support to farmers as set out in points (a), (b), (c), (d) and (e) of Article 68(1) and in accordance with Article 68(2) to (9), and Articles 69 and 70.

2. By way of derogation from point (b) in Article 68(5), support for measures referred to in point (c) of Article 68(1) shall take the form of an increase of the per hectare amounts granted under the single area payment scheme.

3. The amounts referred to in paragraph 1 shall be set by the Commission in accordance with the procedure referred to in Article 128(2).

   These amounts shall be deducted from the annual financial envelopes referred to in Article 112(1) of the new Member States concerned.

CHAPTER 4
COMPLEMENTARY NATIONAL DIRECT PAYMENTS AND DIRECT PAYMENTS

Article 120
Complementary national direct payments and direct payments

1. For the purposes of this Article: «CAP-like national scheme» shall mean any national direct payment scheme applicable prior to the date of accession of the new Member States under which the support was granted to farmers in respect of production covered by one of the direct payments.

2. The new Member States shall have the possibility, subject to authorisation by the Commission, of complementing any direct payments up to:

(a) with regard to all direct payments up to 30 percentage points above the applicable level referred to in Article 110 in the relevant year. As far as Bulgaria and Romania are concerned, the following shall apply: 65% of the level of direct payments in the Community as constituted on 30 April 2004 in 2009 and from 2010 up to 30 percentage points above the applicable level referred to in the second paragraph of Article 110 in the relevant year. However, the Czech Republic may complement direct payments in the potato starch sector up to 100% of the level applicable in the Member States other than the new Member States. However, for the direct payments referred to in Chapter 7 of Title IV of Regulation (EC) No 1782/2003 Member States may complement the direct payments up to 100%. As far as Bulgaria and Romania are concerned, the following maximum rates shall apply: 95% in 2009 and 100% as from 2010;

or

(b) (i) with regard to direct payments other than the single payment scheme, the total level of direct support the farmer would have been entitled to receive, on a product by product basis, in the new Member State in the calendar year 2003 under a CAP-like national scheme increased by 10 percentage points. However for Lithuania the reference year shall be the calendar year 2002. For Bulgaria and Romania the reference year shall be the calendar year 2006. For Slovenia the increase shall be 25 percentage points;

(ii) with regard to the single payment scheme the total amount of complementary national direct aid which may be granted by a new Member State in respect of a given year shall be limited by a specific financial envelope. This envelope shall be equal to the difference between:

– the total amount of CAP-like national direct support that would be available in the relevant new Member State in respect of the calendar year 2003 or, in the case of Lithuania, of the calendar year 2002, each time increased by 10 percentage points. However, for Bulgaria and Romania the reference year shall be the calendar year 2006. For Slovenia the increase shall be 25 percentage points, and

– the national ceiling of that new Member State listed in Annex VIII adjusted, where appropriate, in accordance with Articles 53(2).

For the purpose of calculating the total amount referred to in the first indent above, the national direct payments and/or its components corresponding to the Community direct payments and/or its components which were taken into account for calculating the effective ceiling of the new Member State concerned in accordance with Articles 41 and 53(2) .

For each direct payment concerned a new Member State may choose to apply either option (a) or (b) above.

The total direct support the farmer may be granted in the new Member States after accession under the relevant direct payment including all complementary national direct payments shall not exceed the level of direct support the farmer would be entitled to receive under the corresponding direct payment then applicable to the Member States in the Member States other than the new Member States.

3. Cyprus may complement direct aid paid to a farmer under any direct payments listed in Annex I up to the total level of support the farmer would have been entitled to receive in Cyprus in 2001.

The Cypriot authorities shall ensure that the total direct support the farmer is granted after accession in Cyprus under the relevant direct payment including all complementary national direct payments in no case exceeds the level of direct support the farmer would be entitled to receive under that direct payment in the relevant year in the Member States other than the new Member States.

The total amounts of complementary national aid to be granted shall be those indicated in Annex XIII.

The complementary national aid to be granted shall be subject to any adjustments which may be rendered necessary by developments in the common agricultural policy.

The paragraphs 2 and 5 shall not apply to Cyprus.

4. If a new Member State decides to apply the single area payment scheme, that new Member State may grant complementary national direct aid under the conditions referred to in paragraphs 5 and 8.

5. The total amount of complementary national aid granted in that year when applying the single area payment scheme may be limited by a specific financial envelope per (sub)sector provided that such a (sub)sector specific financial envelope may only relate to:

– the direct payments combined to the single payment scheme, and/or

– one or more of the direct payments that may be subject to partial implementation as referred to in Article 53(2). This envelope shall be equal to the difference between:

  – the total amount of support per (sub)sector resulting from the application of the points (a) or (b) of paragraph 2, as appropriate, and

– the total amount of direct support that would be available in the relevant new Member State for the same (sub)sector in the year concerned under the single area payment scheme.

6. The new Member State may decide on the basis of objective criteria and after authorisation by the Commission, on the amounts of complementary national aid to be granted.

7. The authorisation by the Commission shall:

– where point (b) of paragraph 2 applies, specify the relevant CAPlike national direct payment schemes,

– define the level up to which the complementary national aid may be paid, the rate of the complementary national aid and, where appropriate, the conditions for the granting thereof,

– be granted subject to any adjustments which may be rendered necessary by developments in the common agricultural policy.

8. No complementary national payments or aid shall be granted for agricultural activities in respect of which direct payments are not foreseen Member States other than the new Member States.

Article 121
State aid in Cyprus

Cyprus may, in addition to the complementary national direct payments, grant transitional and digressive national aid until the end of 2010. This State aid shall be granted in a form similar to Community aid, such as decoupled payments.

Taking into account the nature and amount of national support granted in 2001, Cyprus may grant State aid to the (sub)sectors listed in Annex XIV and up to the amounts specified in that Annex.

The State aid to be granted shall be subject to any adjustments which may be rendered necessary by developments in the common agricultural policy. Should such adjustments prove necessary, the amount of the aid or the conditions for the granting thereof shall be amended on the basis of a decision by the Commission.

Cyprus shall submit an annual report to the Commission on the implementation of the State aid measures, indicating the aid forms and amounts per (sub)sector.

TITLE VI
FINANCIAL TRANSFERS

Article 122

Financial transfer for restructuring in the cotton regions

An amount of EUR 22 million, shall be available per calendar year as additional Community support for measures in cotton producing regions under rural development programming financed under the EAFRD.

Article 123

Financial transfer for restructuring in the tobacco regions

As from budget year 2011, an amount of EUR 484 million shall be available as additional Community support for measures in tobacco producing regions under rural development programming financed under the EAFRD, for those Member States in which the tobacco producers received aid in accordance with Council Regulation (EC) No 2075/92[28] during the years 2000, 2001 and 2002.

TITLE VII
IMPLEMENTING, TRANSITIONAL AND FINAL RULES

CHAPTER 1
IMPLEMENTING PROVISIONS

Article 124

Confirmation of payment entitlements

1. Payment entitlements allocated to farmers before 1 January 2009 shall be deemed legal and regular as from 1 January 2010.

2. Paragraph 1 shall not apply to payment entitlements allocated to farmers on the basis of factually incorrect applications.

3. Paragraph 1 shall not prejudice the Commission's power to take decisions referred to in Article 31 of Regulation (EC) No 1290/2005 in relation to expenditure incurred for payments granted in respect of any calendar year up to 2009 included.

Article 125

Application to the outermost regions

Titles III and IV shall not apply in the French overseas departments, in the Azores and Madeira and in the Canary Islands.

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[28] OJ L 215, 30.7.1992, p. 70.

Article 126
State aid

By way of derogation from Article 180 of Regulation (EC) No 1234/2007 and Article 3 of Regulation (EC) No 1184/2006[29], Articles 87, 88 and 89 of the Treaty shall not apply to payments made under Articles 42, 59, 68 to 70, 87(4), 100(5), 109, and 119 to 121 by Member States pursuant to and in conformity with this Regulation.

Article 127
Transmission of information to the Commission

Member States shall inform the Commission in detail of the measures taken to implement this Regulation and, in particular, those relating to Articles 6, 12, 42, 46, 47, 68, 69, 70, 59, 60 and 119.

Article 128
Management Committee for Direct Payments

1. The Commission shall be assisted by the Management Committee for Direct Payments, consisting of representatives of the Member States and chaired by a representative of the Commission.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

   The period provided for in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its Rules of Procedure.

Article 129
Implementing Rules

In accordance with the procedure referred to in Article 128(2), detailed rules shall be adopted for the implementation of this Regulation. They shall include in particular:

(a) detailed rules related to the establishment of a farm advisory system;

(b) detailed rules related to the criteria for the allocation of amounts made available by the application of modulation;

[29] OJ L 214, 4.8.2006, p. 7.

(c) detailed rules related to the granting of aids provided for in this Regulation, including eligibility conditions, dates of application and payment and [control provisions] as well as checking and establishing entitlement to the aids including any necessary exchange of data with the Member States, and the establishment of the overrun of the base areas or maximum guaranteed areas as well as detailed rules concerning the fixing of the retention period, the withdrawal and reallocation of unused premium rights established under Sections 7 and 8 of Chapter 1 of Title IV;

(d) with regard to the single payment scheme, detailed rules relating in particular to the establishment of national reserve, the transfer of entitlements, the definition of permanent crops, permanent pastures, and grassland, the options provided for in Chapters 2 and 3 of Title III and the integration of coupled payments provided for in Chapter 4 of Title III;

(e) detailed rules relating to the implementation of the provisions in Title V;

(f) detailed implementing rules relating to the inclusion of fruit and vegetables, ware potatoes and nurseries support into the single payment scheme, including the application procedure in the first year of implementation, and relating to the payments referred to in Section 5 and 6 of Chapter 1 of Title IV;

(g) detailed rules relating to the inclusion of wine support into the single payment scheme, including the application procedure in the first year of implementation, in accordance with Regulation (EC) No [the wine Regulation]";

(h) with regard to hemp, detailed rules relating to the specific control measures and methods for determining *tetrahydrocannabinol* levels;

(i) such amendments to Annex I as may become necessary taking into account the criteria set out in Article 1;

(j) such amendments to Annexes V, VI and VII as may become necessary, taking into account in particular new Community legislation

(k) the basic features of the identification system for agricultural parcels and their definition;

(l) any amendments which may be made to the aid application and exemption from the requirement to submit an aid application;

(m) rules on the minimum amount of information to be included in the aid applications;

(n) rules on the administrative and on-the-spot checks and the checks by remote sensing;

(o) rules on the application of reductions and exclusions from payments in case of non-compliance with the obligations referred to in Articles 4 and 24, including cases of non-application of reductions and exclusions;

(q) such amendments to Annex V as may become necessary taking into account the criteria set out in Article 28;

(r) communications between the Member States and the Commission;

(s) measures which are both necessary and duly justified to resolve, in an emergency, practical and specific problems, in particular those related to the implementation of Chapter 4 of Title II and Chapters 2 and 3 of Title III; such measures may derogate from certain parts of this Regulation, but only to the extent that, and for such a period as, is strictly necessary;

(t) with regard to cotton, detailed rules in respect of:

(i) the calculation of the reduction of the aid provided for in Article 80(3);

(ii) the approved inter-branch organisations, in particular their financing and a control and sanction system.

CHAPTER 2
TRANSITIONAL AND FINAL PROVISIONS

Article 130
Amendment of Regulation (EC) No 1290/2005

1. In Article 12 paragraph 2 is replaced by the following:

"2. The Commission shall set the amounts which, pursuant to Articles 9, 10(4), 123 and 124 of Council Regulation (EC) xxx/2008*[*this regulation*)], and Article 4(1) of Council Regulation (EC) No 378/2007, are made available to the EAFRD.

2 Article 18(3) is replaced by the following:

"3. National ceilings for direct payments referred to in Article 8(2) of Regulation (EC) No XXX/2008 [*this regulation*)], corrected by the adjustments laid down in Article 11(1) of that Regulation, shall be deemed to be financial ceilings in euro.

* OJ L ………"

Article 131
Amendment of Regulation (EC) No 247/2006

Regulation (EC) No 247/2006 is amended as follows:

(1) in Article 23, paragraph 2 is replaced by the following:

"2. The Community shall finance the measures provided for in Titles II and III of this Regulation up to an annual maximum as follows:

million EUR

	Financial year 2007	Financial year 2008	Financial year 2009	Financial year 2010 and further
French overseas departments	126.6	262.6	269.4	276.05
Azores and Madeira	77.9	86.98	86.7	106.21
Canary Islands	127.3	268.4	268.4	268.42

(2) the following Article 24b is inserted:

"*Article 24b*

1. By 15 February 2009 at the latest, Member States shall submit to the Commission the draft amendments to their overall programme to reflect the changes introduced in Article 23(2).

2. The Commission shall evaluate the amendments proposed and decide on their approval within four months of their submission at the latest in accordance with the procedure referred to in Article 26(2)."

Article 132
Amendment of Regulation (EC) No 378/2007

Regulation (EC) No 378/2007 is amended as follows:

(1) Article 1 is amended as follows:

(a) Paragraph 3 is replaced by the following:

"3. Reductions under voluntary modulation shall be made on the same basis of calculation as that applicable to modulation pursuant to Article 7 of Council Regulation (EC) No XXX/2008* (*this regulation*)

* OJ L ………"

(b) The following paragraph 5 is added:

"5. The modulation rates applicable to a farmer resulting from the application of Article 7 of Regulation (EC) No XXX/2008 (*this regulation*) minus 5 percentage points shall be deducted from the rate of voluntary modulation applied by Member States in application of paragraph 4 of this Article. Both the percentage to be deducted and the final voluntary modulation rate shall be equal to or higher than 0.

(2) in of Article 3(1), point (a) is replaced by the following:

"(a) by derogation from Article 1(3) of this Regulation, to apply the reductions under modulation on the basis of calculation applicable to modulation pursuant to Article 7 of Regulation (EC) No xx/2008, without taking into account the exclusion of EUR 5 000 provided for in paragraph 1 of that Article ; and/or".

Article 133
Repeals

1. Regulation (EC) No 1782/2003 is hereby repealed.

   However, Articles 66, 67, 68, 68a, 69, 70(1)(a) and Chapters 1 (durum wheat) 2, (protein crop premium), 4 (area payment for nuts), 8, (energy crops), 9 (seed aid), 10 (arable crops area payment), 10b (aid for olive groves), 10c (Tobacco aid) and 10d (hops area payment) of Title IV of that Regulation shall continue to apply for 2009.

2. References made to the repealed Regulation shall be construed as being made to this Regulation and shall be read in accordance with the correlation table set out in Annex XV.

Article 134
Transitional rules

The Commission may adopt the measures required to facilitate the transition from the arrangements provided for in Regulation (EC) No 1782/2003 to those established by this Regulation.

Article 135
Transitional arrangements for new Member States

Where transitional measures are necessary in order to facilitate, for the new Member States, the transition from the single area payment scheme to the single payment scheme and other aid schemes referred to in Titles III and IV, such measures shall be adopted in accordance with the procedure laid down in Article 128(2).

Article 136
Entry into force and application

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

It shall apply from 1 January 2009.

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

Done at Brussels,

For the Council
The President

ANNEX I

List of support schemes

Sector	Legal base	Notes
Single payment	Title III of this Regulation	Decoupled payment
Single area payment scheme	Title V, Chapter 2 of this Regulation	Decoupled payment replacing all the direct payments listed in this Annex, except separate payments
Protein crops	Title IV, Chapter 2 of Regulation (EC) No 1782/2003*	Area payment
Rice	Title IV, Chapter 2 of this Regulation	Area payment
Nuts	Title IV, Chapter 4 of Regulation (EC) No 1782/2003*	Area payment
Energy crops	Title IV, Chapter 5 of Regulation (EC) No 1782/2003*	Area payment
Starch potatoes	Title IV, Chapter 1, Section 5 of this Regulation	Production aid
Seeds	Title IV, Chapter 9 of Regulation (EC) No 1782/2003	Production aid
Arable crops	Title IV, Chapter 10 of Regulation (EC) No 1782/2003	Area payment,
Sheepmeat and goatmeat	Title IV, Chapter 1, Section 7 of this Regulation	Ewe and she-goat premium,
Beef and veal	Title IV, Chapter 1, Section 8 of this Regulation	Special premium, suckler cow premium (including when paid for heifers and including the additional national suckler cow premium when part-financed), slaughter premium,
Specific support	Chapter 5 of Title III of this Regulation	
Olive oil	Title IV, Chapter 10b of Regulation (EC) No 1782/2003*	Area aid
Silkworms	Article 1 of Regulation (EEC) No 845/72	Aid to encourage rearing
Tobacco	Title IV, Chapter 10c of Regulation (EC) No 1782/2003*	Production aid
Hops	Title IV, Chapter 10d of Regulation (EC) No 1782/2003*	Area aid
Sugar beet, cane and chicory used for the production of sugar or inulin syrup	Title V, Article 116 of this Regulation	Decoupled Payments
Sugar beet and cane used for the production of sugar	Title IV, Chapter 1 Section 4 of this Regulation	Production aid

Fruit and vegetables delivered for processing	Title IV, Chapter 1 Section 5 of this Regulation	Transitional fruit and vegetables payments
Strawberries and raspberries delivered for processing	Title IV, Chapter 1 Section 6 of this regulation	Transitional soft fruit payment
Fruit and vegetables	Article 116	Separate fruit and vegetables payment
Posei	Title III of Council Regulation (EC) No 247/2006	Direct payments under measures established in the programmes
Aegean islands	Chapter III of Council Regulation (EC) No 1405/2006	Direct payments under measures established in the programmes
Cotton	Title IV, Chapter 1, Section 4 of this Regulation	Area payment

* Only for year 2009.

ANNEX II

Statutory management requirements referred to in Articles 4 and 5

A. Environment

1.	Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (OJ L 103, 25.4.1979, p. 1)	Articles 3(1) and 3(2)(b), 4(1), (2), (4), 5(a), (b) and (d), and 8
2.	Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances (OJ L 20, 26.1.1980, p. 43)	Articles 4 and 5
3.	Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture (OJ L 181, 4.7.1986, p. 6)	Article 3
4.	Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1)	Articles 4 and 5
5.	Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna (OJ L 206, 22.7.1992, p. 7)	Articles 6, 13(1)(a) and 22(b)

Public and animal health

Identification and registration of animals

6.	Council Directive 92/102/EEC of 27 November 1992 on identification and registration of animals (OJ L 355, 5.12.1992, p. 32)	Articles 3, 4 and 5
7.	Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 (OJ L 204, 11.8.2000, p. 1)	Articles 4 and 7
8.	Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC (OJ L 5, 9.1.2004, p. 8).	Articles 3, 4 and 5

B. Public, animal and plant health

9.	Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L 230, 19.8.1991, p. 1)	Article 3
10.	Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of beta-agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC (OJ L 125, 23.5.1996, p. 3)	Articles 3, 4, 5 and 7
11.	Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1)	Articles 14, 15, 17(1), 18, 19 and 20
12.	Regulation (EC) No 999/2001 of the European Parliament and of the	Articles 7, 11, 12, 13 and 15

	Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ L 147, 31.5.2001, p. 1)	
Notification of diseases		
13.	Council Directive 85/511/EEC of 18 November 1985 introducing Community measures for the control of foot-and-mouth disease (OJ L 315, 26.11.1985, p. 11)	Article 3
14.	Council Directive 92/119/EEC of 17 December 1992 introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease (OJ L 62, 15.3.1993, p. 69)	Article 3
15.	Council Directive 2000/75/EC of 20 November 2000 laying down specific provisions for the control and eradication of bluetongue (OJ L 327, 22.12.2000, p. 74)	Article 3
C. Animal welfare		
16.	Council Directive 91/629/EEC of 19 November 1991 laying down minimum standards for the protection of calves (OJ L 340, 11.12.1991, p. 28)	Articles 3 and 4
17.	Council Directive 91/630/EEC of 19 November 1991 laying down minimum standards for the protection of pigs (OJ L 340, 11.12.1991, p. 33)	Articles 3 and 4(1)
18.	Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes (OJ L 221, 8.8.1998, p. 23)	Article 4

ANNEX III

Good agricultural and environmental condition referred to in Article 6

Issue	Standards
Soil erosion: Protect soil through appropriate measures	– Minimum soil cover – Minimum land management reflecting site-specific conditions – Retain terraces
Soil organic matter: Maintain soil organic matter levels through appropriate practices	– Standards for crop rotations where applicable – Arable stubble management
Soil structure: Maintain soil structure through appropriate measures	– Appropriate machinery use
Minimum level of maintenance: Ensure a minimum level of maintenance and avoid the deterioration of habitats	– Minimum livestock stocking rates or/and appropriate regimes – Protection of permanent pasture - Retention of landscape features, including, where appropiate, hedges, ponds, ditches, trees in line, in group or isolated and field margins. - Where appropriate, prohibition of the grubbing up of olive trees – Avoiding the encroachment of unwanted vegetation on agricultural land – Maintenance of olive groves and vines in good vegetative condition
Protection and management of water: Protect water against pollution and run-off, and manage the use of water	- Establishment of buffer strips along water courses - Respect of authorisation procedures for using water for irrigation

ANNEX IV
Net National ceilings referred to in Article 8

million EUR

Calendar year	2009	2010	2011	2012
Belgium	583,2	570,9	563,1	553,9
Czech Republic				773,0
Denmark	985,9	965,3	954,6	937,8
Germany	5.467,4	5.339,2	5.269,3	5.178,0
Estonia				88,9
Ireland	1.283,1	1.264,0	1.247,1	1.230,0
Greece	2.567,3	2.365,5	2.348,9	2.324,1
Spain	5.171,3	5.043,4	5.019,1	4.953,5
France	8.218,5	8.021,2	7.930,7	7.796,2
Italy	4.323,6	4.103,7	4.073,2	4.023,3
Cyprus				48,2
Latvia				130,5
Lithuania				337,9
Luxembourg	35,2	34,5	34,0	33,4
Hungary				1.150,9
Malta				4,6
Netherlands	841,5	827,0	829,4	815,9
Austria	727,7	718,2	712,1	704,9
Poland				2.730,5
Portugal	635,8	623,0	622,6	622,6
Slovenia				129,4
Slovakia				335,9
Finland	550,0	541,2	536,0	529,8
Sweden	731,7	719,9	710,6	699,8
United Kingdom	3.373,0	3.340,4	3.335,8	3.334,9

ANNEX V

List of cereals referred to in Article 9(3)

CN code Description

I. Cereals

1001 10 00	Durum wheat
1001 90	Other wheat and meslin other than durum wheat
1002 00 00	Rye
1003 00	Barley
1004 00 00	Oats
1005	Maize
1007 00	Grain sorghum
1008	Buckwheat, millet and canary seed; other cereals
0709 90 60	Sweet corn

II. Oilseeds

1201 00	Soya beans
ex 1205 00	Rape seed
ex 1206 00 10	Sunflower seed

III. Protein crops

0713 10	Peas
0713 50	Field beans
ex 1209 29 50	Sweet lupins

IV. Flax

ex 1204 00	Linseed (*Linum usitatissimum* L.)
ex 5301 10 00	Flax, raw or retted, grown for fibre (*Linum usitatissimum* L.)

V. Hemp

ex 5302 10 00	Hemp, raw or retted, grown for fibre (*Cannabis sativa* L.)

ANNEX VI

Compatible support schemes referred to in Article 28

Sector	Legal base
Less-favoured areas and areas with environmental restrictions	Articles 13(a), 14(1) and the first two indents of Article 14(2), 15, 17 to 20, 51(3) and 55(4) of Regulation (EC) No 1257/1999
Measures targeting the sustainable use of agricultural land through:	
natural handicap payments to farmers in mountain areas	Article 36(a) (i) of Regulation (EC) No 1698/2005
payments to farmers in areas with handicaps, other than mountain areas	Article 36(a) (ii) of Regulation (EC) No 1698/2005
Natura 2000 payments and payments linked to Directive 2000/60/EC	Article 36(a)(iii) of Regulation (EC) No 1698/2005
agri-environment payments	Article 36(a)(iv) of Regulation (EC) No 1698/2005
Measures targeting the sustainable use of forestry land through:	
first afforestation of agricultural land	Article 36(b)(i) of Regulation (EC) No 1698/2005
Natura 2000 payments	Article 36(b)(iv) of Regulation (EC) No 1698/2005
forest-environment payments	Article 36(b)(v) of Regulation (EC) No 1698/2005
Wine	Article 117 of (wine regulation)

ANNEX VII

A. Fruit and vegetables, ware potatoes and nurseries

1. Farmers shall receive a payment entitlement per hectare which is calculated by dividing the reference amount referred in paragraph 2 by the number of hectares as calculated in accordance with paragraph 3

2. Member States shall determine the amount to be included in the reference amount of each farmer on the basis of objective and non discriminatory criteria such as:

   – the amount of market support received, directly or indirectly, by the farmer in respect of fruit and vegetables, ware potatoes and nurseries,

   – the area used to produce fruit and vegetables, ware potatoes and nurseries,

   – the amount of fruit and vegetables produced, ware potatoes and nurseries,

   in respect of a representative period which could be different for each product, of one or more marketing years starting from the marketing year ending in 2001 and, in case of the Member States which acceded to the European Union on 1 May 2004 or after that date, from the marketing year ending in 2004, up to the marketing year ending in 2007.

   The application of the criteria in this point may be varied between different fruit and vegetable products, ware potatoes and nurseries, if duly justified on an objective basis. On the same basis, Member States may decide not to determine the amounts to be included in the reference amount and the applicable hectares under this point before the end of a transitional three year period ending on 31 December 2010.

3. Member States shall calculate the applicable hectares on the basis of objective and non-discriminatory criteria such as the areas referred to in the second indent of the first paragraph of point 2.

   For the purposes of this Regulation, “fruit and vegetables” shall mean the products listed in Article 1(1)(i) and (j) of Regulation (EC) No 1234/2007, and “ware potatoes” shall mean potatoes of CN code 0701 other than those intended for the manufacture of potato starch for which aid is granted under Article 93.

4. A farmer whose production was adversely affected during the representative period referred to in paragraph 2 by a case of force majeure or exceptional circumstances (as referred to in Article 36(1) occurring before or during that reference period shall be entitled to request that the reference amount referred to paragraph 2 be calculated on the basis of the calendar year or years in the representative period not affected by the case of *force majeure* or exceptional circumstances.

5. If the whole reference period was affected by the case of force majeure or exceptional circumstances, the Member State shall calculate the reference amount on the basis of the closest marketing year prior to the representative period chosen in accordance with paragraph 3. In this case, paragraph 1 shall apply *mutatis mutandis*.

6. A case of force majeure or exceptional circumstances, with relevant evidence to the satisfaction of the competent authority, shall be notified by the farmer concerned in writing to the authority within a deadline to be fixed by each Member State.

B. Wine (grubbing-up)

Farmers who participate in the grubbing-up scheme laid down in Chapter III of Title V of Regulation (EC) No [the wine regulation] shall be allocated, in the year following the grubbing up, payment entitlements equal to the number of hectares for which they have received a grubbing-up premium..

The unit value of these payment entitlements shall be equal to the regional average of the value of the entitlements of the corresponding region. However, the unit value shall in any case not exceed EUR 350/ha.

C. Wine (transfer from support programmes)

Where Member States choose to provide support in accordance with Article 4a of Regulation (EC) No [the wine regulation], they shall establish a reference amount of each farmer as well as the applicable hectares:

– on the basis of objective and non-discriminatory criteria;

– in respect of a representative reference period of one or more wine years starting from the wine year 2005/2006; However, the reference criteria used to establish the reference amount and applicable hectares shall not be based on a reference period including wine years after the wine year 2007/2008 where the transfer in support programmes concerns compensation to farmers who have heretofore received support for potable alcohol distillation or have been the economic beneficiaries of the support for the use of concentrated grape must to enrich wine under Regulation (EC) No [the wine regulation].";

– in conformity with the overall available amount for this measure referred to in Article 6(e) of Regulation (EC) No [the wine regulation]."

Farmers shall receive a payment entitlement per hectare which is calculated by dividing the reference amount referred by the number of applicable hectares.

ANNEX VIII

National ceilings referred to in Article 41

Table 1

(EUR 1000)

Member State	2009	2010	2011	2012	2013	2014	2015	2016 and subsequent years
Belgium	614 179	611 901	613 281	613 281	614 661	614 661	614 661	614 661
Denmark	1 030 478	1 031 321	1 043 421	1 043 421	1 048 999	1 048 999	1 048 999	1 048 999
Germany	5 770 254	5 781 666	5 826 537	5 826 537	5 848 330	5 848 330	5 848 330	5 848 330
Ireland	1 342 268	1 340 737	1 340 869	1 340 869	1 340 869	1 340 869	1 340 869	1 340 869
Greece	2 367 713	2 209 591	2 210 829	2 216 533	2 216 533	2 216 533	2 216 533	2 216 533
Spain	4 838 512	5 070 413	5 114 250	5 139 246	5 139 316	5 139 316	5 139 316	5 139 316
France	8 404 502	8 444 468	8 500 503	8 504 425	8 518 804	8 518 804	8 518 804	8 518 804
Italy	4 143 175	4 277 633	4 320 238	4 369 974	4 369 974	4 369 974	4 369 974	4 369 974
Luxembourg	37 051	37 084	37 084	37 084	37 084	37 084	37 084	37 084
Netherlands	853 090	853 169	886 966	886 966	904 272	904 272	904 272	904 272
Austria	745 561	747 298	750 019	750 019	751 616	751 616	751 616	751 616
Portugal	589 723	600 296	600 370	605 967	605 972	605 972	605 972	605 972
Finland	566 801	565 823	568 799	568 799	570 583	570 583	570 583	570 583
Sweden	763 082	765 229	768 853	768 853	770 916	770 916	770 916	770 916
United Kingdom	3 985 834	3 986 361	3 987 844	3 987 844	3 987 849	3 987 849	3 987 849	3 987 849

Table 2*

(EUR 1000)

Member State	2009	2010	2011	2012	2013	2014	2015	2016 and subsequent years
Bulgaria	287399	328997	409587	490705	571467	652228	732986	813746
Czech Republic	559622	647080	735801	821779	909164	909164	909164	909164
Estonia	60 500	70 769	80 910	91 034	101 171	101 171	101 171	101 171
Cyprus	31 670	38 845	43 730	48 615	53 499	53 499	53 499	53 499
Latvia	90 016	104 025	118 258	132 193	146 355	146 355	146 355	146 355
Lithuania	230 560	268 746	305 964	342 881	380 064	380 064	380 064	380 064
Hungary	807 366	935 912	1 064 312	1 191 526	1 318 542	1 318 542	1 318 542	1 318 542
Malta	3 434	3 851	4 268	4 685	5 102	5 102	5 102	5 102
Poland	1 877 107	2 164 285	2 456 894	2 742 771	3 033 549	3 033 549	3 033 549	3 033 549
Romania	623 399	713 207	891 072	1 068 953	1 246 821	1 424 684	1 602 550	1 780 414
Slovenia	87 942	102 047	116 077	130 107	144 236	144 236	144 236	144 236
Slovakia	240 014	277 779	314 692	351 377	388 191	388 191	388 191	388 191

* Ceilings calculated taking account of the schedule of increments provided for under Article 110.

ANNEX IX

The component of national ceilings referred to in Article 56(1) corresponding to tomatoes shall be as follows:

Member State	Amount (€ million per calendar year)
Bulgaria	5,394
Czech Republic	0,414
Greece	35,733
Spain	56,233
France	8,033
Italy	183,967
Cyprus	0,274
Malta	0,932
Hungary	4,512
Romania	1,738
Poland	6,715
Portugal	33,333
Slovakia	1,018

The component of national ceilings referred to in Article 56(2) corresponding to fruit and vegetable crops other than annual crops shall be as follows:

Member State	Amount (€ million per calendar year)
Bulgaria	0,851
Czech Republic	0,063
Greece	153,833
Spain	110,633
France	44,033
Italy	131,700
Cyprus	in 2009: 4,856 in 2010: 4,919 in 2011: 4,982 in 2012: 5,045
Hungary	0,244
Romania	0,025
Portugal	2,900
Slovakia	0,007

ANNEX X

Integration of coupled support into the single payment scheme

I.

- From 2010, the Specific quality premium for durum wheat provided for in Chapter 1 of Title IV of Regulation (EC) No 1782/2003;
- from 2010, the protein crop premium provided for in Chapter 2 of Title IV of Regulation (EC) No 1782/2003;
- from 2010 the crop specific payment for rice provided for in Chapter III of Title IV of Regulation (EC) No 1782/2003 and Section 1 of Chapter 1 of Title IV of this Regulation in accordance with the time schedule provided for in article 72(2) of this Regulation;
- from 2010, the area payment for nuts provided for in Chapter 4 of Title IV of Regulation (EC) No 1782/2003;
- from 2011 the aid for processing dried fodder provided for in Subsection I of Section I of Chapter IV of Title I of Part II of Regulation (EC) No 1234/2007;
- from 2011 the aid for processing flax grown for fibre in Subsection II of Section I of Chapter IV of Title I of Part II of Regulation (EC) No 1234/2007, in accordance with the time scheduled provided for in that subsection;
- from 2011 the potato starch premium provided for in Article [95a] of Regulation (EC) No 1234/2004 and, in accordance with the time schedule of Article 75 of this Regulation, the aid for starch potato provided in that Article.

II.

From 2010 where a Member State granted the:

- seed aid provided for in Chapter 9 of Title IV of Regulation (EC) No 1782/2003;
- arable crops area payment provided for in Chapter 10 of Title IV of Regulation (EC) No 1782/2003;
- aid for olive groves provided for in Chapter 10b of Title IV of Regulation (EC) No 1782/2003;
- hops area aid provided for in Chapter 10d of Title IV of Regulation (EC) No 1782/2003,

in accordance with the time schedule provided for in Article 55, beef and veal payments, except suckler cow premium.

III.

From 2010, where a Member States does not take the decision referred to in Article 53(1) of this Regulation:

- the sheep and goat payments referred to in Article 67 of Regulation (EC) No 1782/2003;
- the beef and veal payments referred to in Article 68 of Regulation (EC) No 1782/2003.

ANNEX XI

Integration of coupled support – Article 65

Dried fodder (EUR 1000)

Member State	2011	2012	2013	2014	2015	2016 and subsequent years
Belgium	0	0	0	0	0	0
Denmark	2 779	2 779	2 779	2 779	2 779	2 779
Germany	8 475	8 475	8 475	8 475	8 475	8 475
Ireland	132	132	132	132	132	132
Greece	1 238	1 238	1238	1 238	1 238	1 238
Spain	43 725	43 725	43 725	43 725	43 725	43 725
France	35 752	35 752	35 752	35 752	35 752	35 752
Italy	22 605	22 605	22 605	22 605	22 605	22 605
Luxembourg						
Netherlands	5 202	5 202	5 202	5 202	5 202	5 202
Austria	64	64	64	64	64	64
Portugal	69	69	69	69	69	69
Finland	10	10	10	10	10	10
Sweden	180	180	180	180	180	180
United Kingdom	1 478	1 478	1 478	1 478	1 478	1 478
Bulgaria						
Czech Republic	922	922	922	922	922	922
Estonia						
Cyprus						
Latvia						
Lithuania	21	21	21	21	21	21
Hungary	1 421	1 421	1 421	1 421	1 421	1 421
Malta						
Poland	147	147	147	147	147	147
Romania						
Slovenia						
Slovakia	91	91	91	91	91	91

Durum wheat quality premium (EUR 1000)

Member State	2010	2011	2012	2013	2014	2015	2016 and subsequent years
Belgium							
Denmark							
Germany							
Ireland							
Greece	20 301	20 301	20 301	20 301	20 301	20 301	20 301
Spain	22 372	22 372	22 372	22 372	22 372	22 372	22 372
France	8 320	8 320	8 320	8 320	8 320	8 320	8 320
Italy	42 457	42 457	42 457	42 457	42 457	42 457	42 457
Luxembourg							
Netherlands							
Austria	280	280	280	280	280	280	280
Portugal	80	80	80	80	80	80	80
Finland							
Sweden							
United Kingdom							
Bulgaria	349	436	523	610	698	785	872
Czech Republic							
Estonia							
Cyprus	173	198	223	247	247	247	247
Latvia							
Lithuania							
Hungary	70	80	90	100	100	100	100
Malta							
Poland							
Romania							
Slovenia							
Slovakia							

Protein Crops (EUR 1000)

Member State	2010	2011	2012	2013	2014	2015	2016 and subsequent years
Belgium	84	84	84	84	84	84	84
Denmark	843	843	843	843	843	843	843
Germany	7 231	7 231	7 231	7 231	7 231	7 231	7 231
Ireland	216	216	216	216	216	216	216
Greece	242	242	242	242	242	242	242
Spain	10 905	10 905	10 905	10 905	10 905	10905	10 905
France	17 635	17 635	17 635	17 635	17 635	17635	17 635
Italy	5 009	5 009	5 009	5 009	5 009	5009	5 009
Luxembourg	21	21	21	21	21	21	21
Netherlands	67	67	67	67	67	67	67
Austria	2 051	2 051	2 051	2 051	2051	2051	2 051
Portugal	214	214	214	214	214	214	214
Finland	303	303	303	303	303	303	303
Sweden	2 147	2 147	2 147	2 147	2147	2147	2 147
United Kingdom	10 500	10 500	10 500	10 500	10500	10500	10 500
Bulgaria	160	201	241	281	321	361	401
Czech Republic	1 858	2 123	2 389	2 654	2654	2654	2 654
Estonia	169	194	218	242	242	242	242
Cyprus	17	19	22	24	24	24	24
Latvia	109	124	140	155	155	155	155
Lithuania	1 486	1 698	1 911	2 123	2123	2123	2 123
Hungary	1 369	1 565	1 760	1 956	1956	1956	1 956
Malta	0	0	0	0	0	0	0
Poland	1 723	1 970	2 216	2 462	2462	2462	2 462
Romania	911	1 139	1 367	1 595	1822	2050	2 278
Slovenia	63	72	81	90	90	90	90
Slovakia	1 003	1 146	1 290	1 433	1433	1433	1433

Rice (EUR 1000)

Member State	2010	2011	2012	2013	2014	2015	2016 and subsequent years
Belgium							
Denmark							
Germany							
Ireland							
Greece	5 703	5 703	11 407	11 407	11 407	11 407	11 407
Spain	24 997	24 997	49 993	49 993	49 993	49 993	49 993
France	3 922	3 922	7 844	7 844	7 844	7 844	7 844
Italy	49 737	49 737	99 473	99 473	99 473	99 473	99 473
Luxembourg							
Netherlands							
Austria							
Portugal	5 596	5 596	11 193	11 193	11 193	11 193	11 193
Finland							
Sweden							
United Kingdom							
Bulgaria	288	360	863	1 007	1 151	1 294	1 438
Czech Republic							
Estonia							
Cyprus							
Latvia							
Lithuania							
Hungary	262	300	674	749	749	749	749
Malta							
Poland							
Romania	13	16	38	44	50	57	63
Slovenia							
Slovakia							

Nuts (EUR 1000)

Member State	2010	2011	2012	2013	2014	2015	2016 and subsequent years
Belgium	12	12	12	12	12	12	12
Denmark							
Germany	181	181	181	181	181	181	181
Ireland							
Greece	4 963	4 963	4 963	4 963	4 963	4 963	4 963
Spain	68 610	68 610	68 610	68 610	68 610	68 610	68 610
France	2 089	2 089	2 089	2 089	2 089	2 089	2 089
Italy	15 710	15 710	15 710	15 710	15 710	15 710	15 710
Luxembourg	12	12	12	12	12	12	12
Netherlands	12	12	12	12	12	12	12
Austria	12	12	12	12	12	12	12
Portugal	4 987	4 987	4 987	4 987	4 987	4 987	4 987
Finland							
Sweden							
United Kingdom	12	12	12	12	12	12	12
Bulgaria	579	724	868	1 013	1 158	1 302	1 447
Czech Republic							
Estonia							
Cyprus	431	493	554	616	616	616	616
Latvia							
Lithuania							
Hungary	245	280	315	350	350	350	350
Malta							
Poland	355	406	456	507	507	507	507
Romania	79	99	119	139	159	179	199
Slovenia	25	29	33	36	36	36	36
Slovakia	262	299	337	374	374	374	374

Long fibre flax (EUR 1000)

Member State	2011	2012	2013	2014	2015	2016 and subsequent years
Belgium	1 380	1 380	2 760	2 760	2 760	2 760
Denmark						
Germany	30	30	60	60	60	60
Ireland						
Greece						
Spain	5	5	10	10	10	10
France	5 580	5 580	11 160	11 160	11 160	11 160
Italy						
Luxembourg						
Netherlands	480	480	960	960	960	960
Austria	15	15	30	30	30	30
Portugal	5	5	10	10	10	10
Finland	20	20	40	40	40	40
Sweden	5	5	10	10	10	10
United Kingdom	5	5	10	10	10	10
Bulgaria	1	1	3	3	3	3
Czech Republic	192	192	385	385	385	385
Estonia	3	3	6	6	6	6
Cyprus						
Latvia	36	36	72	72	72	72
Lithuania	226	226	453	453	453	453
Hungary						
Malta						
Poland	92	92	185	185	185	185
Romania	4	4	8	8	8	8
Slovenia						
Slovakia	7	7	15	15	15	15

Potato starch processing aid (EUR 1000)

Member State	2011	2012	2013	2014	2015	2016 and subsequent years
Belgium						
Denmark	3 743	3 743	3 743	3 743	3 743	3 743
Germany	14 603	14 603	14 603	14 603	14 603	14 603
Ireland						
Greece						
Spain	43	43	43	43	43	43
France	5 904	5 904	5 904	5 904	5 904	5 904
Italy						
Luxembourg						
Netherlands	11 290	11 290	11 290	11 290	11 290	11 290
Austria	1 061	1 061	1 061	1 061	1 061	1 061
Portugal						
Finland	1 183	1 183	1 183	1 183	1 183	1 183
Sweden	1 381	1 381	1 381	1 381	1 381	1 381
United Kingdom						
Bulgaria						
Czech Republic	749	749	749	749	749	749
Estonia	6	6	6	6	6	6
Cyprus						
Latvia	129	129	129	129	129	129
Lithuania	27	27	27	27	27	27
Hungary						
Malta						
Poland	3 226	3 226	3 226	3 226	3 226	3 226
Romania						
Slovenia						
Slovakia	16	16	16	16	16	16

Potato starch aid for growers (EUR 1000)

Member State	2011	2012	2013	2014	2015	2016 and subsequent years
Belgium						
Denmark	5 578	5 578	11 156	11 156	11 156	11 156
Germany	21 763	21 763	43 526	43 526	43 526	43 526
Ireland						
Greece						
Spain	64	64	129	129	129	129
France	8 799	8 799	17 598	17 598	17 598	17 598
Italy						
Luxembourg						
Netherlands	16 825	16 825	33 651	33 651	33 651	33 651
Austria	1 581	1 581	3 163	3 163	3 163	3 163
Portugal						
Finland	1 763	1 763	3 527	3 527	3 527	3 527
Sweden	2 058	2 058	4 116	4 116	4 116	4 116
United Kingdom						
Bulgaria						
Czech Republic	893	1 005	2 232	2 232	2 232	2 232
Estonia	7	7	17	17	17	17
Cyprus						
Latvia	153	172	383	383	383	383
Lithuania	32	36	80	80	80	80
Hungary						
Malta						
Poland	3 846	4 327	9 615	9 615	9 615	9 615
Romania						
Slovenia						
Slovakia	19	22	48	48	48	48

(EUR 1000)

Olive Oil

Member State	2010	2011	2012	2013	2014	2015	2016 and subsequent years
Spain	103 140	103 140	103 140	103 140	103 140	103 140	103 140
Cyprus	2 051	2 344	2 637	2 930	2 930	2 930	2 930

ANNEX XII

Ceilings for the calculation of the aid amount referred in Article 84 (sugar)

(EUR '000)

Member State	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016 and subsequent years
Belgium	47 429	60 968	74 508	81 752	81 752	81 752	81 752	81 752	81 752	81 752	81 752
Bulgaria	—	84	121	154	176	220	264	308	352	396	440
Czech Republic	27 851	34 319	40 786	44 245	44 245	44 245	44 245	44 245	44 245	44 245	44 245
Denmark	19 314	25 296	31 278	34 478	34 478	34 478	34 478	34 478	34 478	34 478	34 478
Germany	154 974	203 607	252 240	278 254	278 254	278 254	278 254	278 254	278 254	278 254	278 254
Greece	17 941	22 455	26 969	29 384	29 384	29 384	29 384	29 384	29 384	29 384	29 384
Spain	60 272	74 447	88 621	96 203	96 203	96 203	96 203	96 203	96 203	96 203	96 203
France	152 441	199 709	246 976	272 259	272 259	272 259	272 259	272 259	272 259	272 259	272 259
Ireland	11 259	14 092	16 925	18 441	18 441	18 441	18 441	18 441	18 441	18 441	18 441
Italy	79 862	102 006	124 149	135 994	135 994	135 994	135 994	135 994	135 994	135 994	135 994
Latvia	4 219	5 164	6 110	6 616	6 616	6 616	6 616	6 616	6 616	6 616	6 616
Lithuania	6 547	8 012	9 476	10 260	10 260	10 260	10 260	10 260	10 260	10 260	10 260
Hungary	26 105	31 986	37 865	41 010	41 010	41 010	41 010	41 010	41 010	41 010	41 010
Netherlands	41 743	54 272	66 803	73 504	73 504	73 504	73 504	73 504	73 504	73 504	73 504
Austria	18 971	24 487	30 004	32 955	32 955	32 955	32 955	32 955	32 955	32 955	32 955
Poland	99 135	122 906	146 677	159 392	159 392	159 392	159 392	159 392	159 392	159 392	159 392
Portugal	3 940	4 931	5 922	6 452	6 452	6 452	6 452	6 452	6 452	6 452	6 452
Romania	—	1 930	2 781	3 536	4 041	5 051	6 062	7 072	8 082	9 093	10 103
Slovenia	2 284	2 858	3 433	3 740	3 740	3 740	3 740	3 740	3 740	3 740	3 740
Slovakia	11 813	14 762	17 712	19 289	19 289	19 289	19 289	19 289	19 289	19 289	19 289
Finland	8 255	10 332	12 409	13 520	13 520	13 520	13 520	13 520	13 520	13 520	13 520
Sweden	20 809	26 045	31 281	34 082	34 082	34 082	34 082	34 082	34 082	34 082	34 082
United Kingdom	64 340	80 528	96 717	105 376	105 376	105 376	105 376	105 376	105 376	105 376	105 376

<u>**ANNEX XIII**</u>

Table 1 **Cyprus: Complementary national direct payments where the normal schemes for direct payments apply**

Schedule of increments	60%	70%	80%	90%
Sector	2009	2010	2011	2012
Arable crops (durum wheat excluded)	4 220 705	3 165 529	2 110 353	1 055 176
Durum wheat	1 162 157	871 618	581 078	290 539
Grain legumes	16 362	12 272	8 181	4 091
Milk and dairy	1 422 379	1 066 784	711 190	355 595
Beef	1 843 578	1 382 684	921 789	460 895
Sheep and goat	4 409 113	3 306 835	2 204 556	1 102 278
Olive oil	3 174 000	2 380 500	1 587 000	793 500
Tobacco	417 340	313 005	208 670	104 335
Bananas	1 755 000	1 316 250	877 500	0
Dried grapes	0	0	0	0
Almonds	0	0	0	0
Total	1 842 0634	13 815 476	9 210 317	4 166 409

Complementary national direct payments under Single Payment Scheme:

The total amount of complementary national direct payments that may be granted under the Single Payment Scheme shall be equal to the sum of the sectoral ceilings referred to in this table relating to the sectors that are covered by the Single Payment Scheme to the extent that the support in these sectors is decoupled.

Table 2 **Cyprus: Complementary national direct payments where the single area payment scheme for direct payments applies**

Sector	2009	2010	2011	2012
Arable crops (durum wheat excluded)	0	0	0	0
Durum wheat	1 795 543	1 572 955	1 350 367	1 127 779
Grain legumes	0	0	0	0
Milk and dairy	3 456 448	3 438 488	3 420 448	3 402 448
Beef	4 608 945	4 608 945	4 608 945	4 608 945
Sheep and goat	10 724 282	10 670 282	10 616 282	10 562 282
Olive oil	5 547 000	5 115 000	4 683 000	4 251 000
Dried grapes	156 332	149 600	142 868	136 136
Bananas	4 323 820	4 312 300	4 300 780	4 289 260
Tobacco	1 038 575	1 035 875	1 033 175	1 030 475
Total	**31 650 945**	**30 903 405**	**30 155 865**	**29 408 325**

ANNEX XIV

STATE AID CYPRUS

Sector	2009	2010
Cereals (durum wheat excluded)	2 263 018	1 131 509
Milk and dairy	562 189	281 094
Beef	64 887	0
Sheep and goats	1 027 917	513 958
Pig sector	2 732 606	1 366 303
Poultry and eggs	1 142 374	571 187
Wine	4 307 990	2 153 995
Olive oil	2 088 857	1 044 429
Table grapes	1 058 897	529 448
Processed tomatoes	117 458	58 729
Bananas	127 286	63 643
Deciduous fruit including stone fruit	2 774 230	1 387 115
Total	**18 267 707**	**9 101 410**

ANNEX XV

Correlation table

Regulation (EC) No 1782/2003	This regulation
Article 1	Article 1
Article 2	Article 2
Article 3	Article 4
Article 4	Article 5
Article 5	Article 6
Article 6	Article 25
Article 7	Article 26
Article 8	–
Article 9	Article 27
Article 10(1)	Article 7
Article 10(2)	Article 9(1)
Article 10(3)	Article 9(2)
Article 10(4)	Article 9(3)
–	Article 9(4)
Article 11	Article 11(1) and (2)
Article 12	–
–	Article 8
Article 12*a*(1)	Article 10
Article 12*a*(2)	Article 11(3)
Article 13	Article 12
Article 14	Article 13
Article 15	Article 14
Article 16	Article 15
Article 17	Article 16
Article 18	Article 17
Article 19	Article 18
Article 20	Article 19
Article 21	Article 20
Article 22	Article 21
Article 23	Article 22
Article 24	Article 23
Article 25	Article 24
Article 26	Article 28
Article 27	Article 29

–	Article 30
Article 28	Article 31
Article 29	Article 32
Article 30	Article 33
Article 31	–
Article 32	Article 3
Article 33	Article 34
Article 34	–
Article 35	Article 38
Article 36	–
Article 37	Annex VII
Article 38	–
Article 39	–
Article 40 (1) to (3)	Annex VII, Point A (4) to (6)
Article 40 (4)	Article 36(1) second subparagraph
Article 40(5)	–
Article 41	Article 41
Article 42	Article 42
Article 43	Annex VII
Article 44	Article 35
Article 45	Article 43
Article 46	Article 44
Article 47	–
Article 48	–
Article 49	Article 45
Article 50	–
Article 51, first subparagraph	–
Article 51, second subparagraph	Article 39
Article 52	Article 40
Article 53	–
Article 54	–
Article 55	–
Article 56	–
Article 57	–
–	Article 46
Article 58	Article 47
Article 59	Article 48

Article 60	Article 50
Article 61	Article 51
Article 62	–
Article 63(1)	Article 52(1)
Article 63(2)	–
Article 63(3)	Article 49
Article 63(4)	Article 52(2)
Article 64	Article 53
Article 65	–
Article 66	–
Article 67	Article 54
Article 68	Article 55
Article 68*a*	
Article 68*b*	Article 56
Article 69	–
Article 70	–
Article 71	–
Article 71*a*	Article 57
Article 71*b*	Article 58
Article 71*c*	–
Article 71*d*	Article 59
Article 71*e*	Article 60
Article 71*f*	Article 61
Article 71*g*	–
Article 71*h*	Article 62
Article 71*i*	–
Article 71*j*	–
Article 71*k*	Article 63
Article 71*l*	–
Article 71*m*	–
–	Article 64
–	Article 65
–	Article 66
–	Article 67
–	Article 68
–	Article 69
–	Article 70

Article 72	–
Article 73	–
Article 74	–
Article 75	–
Article 76	–
Article 77	–
Article 78	–
Article 79	Article 71
Article 80	Article 72
Article 81	Article 73
Article 82	Article 74
Article 83	–
Article 84	–
Article 85	–
Article 86	–
Article 87	Article 109
Article 88	–
Article 89	–
Article 90	–
Article 91	–
Article 92	–
Article 93	Article 75
Article 94	Article 76
Article 95	–
Article 96	–
Article 97	–
Article 98	–
Article 99	–
Article 100	–
Article 101	–
Article 102	–
Article 103	–
Article 104	–
Article 105	–
Article 106	–
Article 107	–
Article 108	–

Article 109	–
Article 110	–
Article 110*a*	Article 77
Article 110*b*	Article 78
Article 110*c*	Article 79
Article 110*d*	Article 80
Article 110*e*	Article 81
Article 110*f*	–
Article 110*g*	–
Article 110*h*	–
Article 110*i*	–
Article 110*j*	–
Article 110*k*	–
Article 110*l*	–
Article 110*m*	–
Article 110*n*	–
Article 110*o*	–
Article 110*p*	–
Article 110*q*	Article 82
Article 110*r*	Article 83
Article 110*s*	Article 84
Article 110*t*	Article 85
Article 110*u*	Article 86
Article 110*v*	Article 87
Article 111	Article 88
Article 112	Article 89
Article 113	Article 90
Article 114	Article 91
Article 115	Article 92
Article 116	Article 93
Article 117	Article 94
Article 118	Article 95
Article 119	–
Article 120	Article 96
Article 121	Article 97
Article 122	Article 98
Article 123	Article 99

Article 124	–
Article 125	Article 100
Article 126	Article 101
Article 127	Article 102
Article 128	Article 103
Article 129	Article 104
Article 130	Article 105
Article 131	–
Article 132	–
Article 133	–
Article 134	–
Article 135	–
Article 136	–
Article 136*a*	–
Article 137	–
Article 138	Article 106
Article 139	Article 107
Article 140	Article 108
Article 141	–
Article 142	–
Article 143	–
Article 143*a*	Article 110
Article 143*b*(1)(2)(9) and (10)	Article 111
Article 143*b*(3) and (7)	Article 112
Article 143*b*(4)(5) and (6)	Article 113
Article 143*b*(13)	Article 114
Article 143*ba(*1) to (3)	Article 115
Article 143*ba*(3*a*)	–
Article 143*ba* (4) to (6)	Article 118
Article 143*bb*(1) and (2)	Article 116
Article 143*bb*(3)	–
Article 143*bb*(4) to (6)	Article 118
Article 143*bc*(1) and (2)	Article 117
Article 143*bc*(3) and (4)	Article 118(1) and (2)
–	Article 119
Article 143*c*(1) to (8)	Article 120
Article 143*c*(9)	Article 121

Article 143*c*(10)	–
Article 143*d*	Article 122
Article 143*e*	Article 123
–	Article 124
–	Article 125
–	Article 126
Article 144	Article 128
Article 145	Article 129
Article 146	Article 127
Article 147	–
Article 148	–
Article 149	–
Article 150	–
Article 151	–
Article 152	–
–	Article 130
–	Article 131
–	Article 132
Article 153	Article 133
Article 154	–
Article 154*a*	Article 135
Article 155	Article 134
Article 155*a*	–
Article 156	Article 136

MEMORANDUM TO THE COMMISSION

1. REASONS AND OBJECTIVES OF THE PROPOSAL

On 20 November 2007, the Commission adopted the Communication "Preparing the Health Check of the CAP reform". The main objective of the Health Check was to assess the implementation of the 2003 CAP reform, and to introduce those adjustments that are deemed necessary in order to further simplify the policy, to allow it to grasp new market opportunities and to prepare it for facing new challenges such as climate change, water management and bio-energy.

In line with the indications given in the Communication, the Commission, based on contributions from a wide consultation with stakeholders and from other European Institutions, and the conclusions of an extended Impact Assessment, has prepared modifications to the following Regulations:

– Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers.

– Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)

– Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development

These proposals, without constituting a fundamental reform, constitute a contribution to future developments of the CAP that are consistent with the overall goal of the Commission and the requirements of the Treaties to promote a sustainable and market orientated agricultural sector.

2. SINGLE PAYMENT SCHEME (SPS) AND SINGLE AREA PAYMENT SCHEME (SAPS)

2.1. Simplification

Better regulation and simplification are ones of the Commission's political priorities for the period 2004-2009. The CAP started the most important path to simplification with its reform on 2003 by shifting most of direct payments for farmers to the Single Payment Scheme and with the adoption of the Single Common Market Organisation in 2007. On SPS, experience has shown that it has contributed to reduce the administrative burden, to avoid unnecessary public expenditure, to improve public acceptance of the CAP and to improve competitiveness on the CAP. Nevertheless, steps towards more simplification can still be done, especially in cross-compliance and in the existing partial coupled support.

On cross compliance, practical problems in its implementation have been raised by the Member States, as well as by the Commission itself through its audits for the clearance of accounts. This has led the Commission to examine its scope in order to simplify and improve its targeting. In particular, the proposals aim at withdrawing certain Statutory Mandatory Requirements that are considered not relevant or linked to farmer responsibility, and to introduce into Good Agricultural Environmental Practices requirements that retain the environmental benefits from set-aside and address issues of water management.

Some partially coupled support were retained in 2003 CAP reform. The experience with decoupling shows that in general this move did not imply dramatic changes in the production structure at the EU level and that it has led farmers to produce what the market demands in a more sustainable way. It has also to be stressed that keeping two systems in parallel (coupled and decoupled support) has not contributed to simplification for national and regional administrations in Member States.

Given this, it is proposed to align them with the 2003 CAP reform principles by removing the remaining coupled support and shifting them to the Single Payment Scheme. Nevertheless, an exception is done with suckler cows, sheep and goat meat premia. In these cases it is proposed to allow Member States to maintain the coupled support (as it exists currently) in order to sustain economic activity in regions where other economic alternatives are few or do not exist.

The proposal also includes other measures focused on providing more simplification to the SPS. In particular, more flexibility has been added to the use of the national reserve and to the transfer of payment entitlements, to the choice of modifying the entitlements and to payment dates. The abolition of the set aside entitlements is also proposed. More clear rules to the definitions of "agricultural area", "farmer" and "eligible hectare" are also introduced.

2.2. Moving towards a more flat rate of decoupled support

The 2003 reform introduced decoupled farm support as the key element of the CAP with the aims of enhancing market orientation, simplification and compatibility with WTO rules. In their implementation, Member States could choose two basic models to allocate payment entitlements to farmers: one based on individual historic reference amounts per farmer (historic) and the other based on amounts received by farmers in a region in the reference period (regional).

The current legislation does not allow Member States to change their decision on the implementation of the SPS model. However, experience has shown that certain adjustments in the existing schemes are necessary or desirable. For example, the historic model, which results in individual differences in support levels, will become difficult to justify in the future as reference periods for payments becomes more distant.

On the other hand, the regional model provides more equitable support to farmers, despite some initial redistribution of support.

This is the reason why it is proposed to allow Member States to adjust their SPS model by moving towards flatter payment rates per entitlement to render the SPS more effective, efficient and simple. In parallel, the proposals include a series of simplification measures in the implementation of SPS.

2.3. Extending SAPS

Member States applying SAPS have to move into the SPS is 2010. It seems appropriate to allow those Member States to extend SAPS until 2013 This option is in line with the decision taken for EU 15 Member States because they are allowed to review their SPS implementation and opt to move towards a more flat rate model.

2.4. Article 69 of Regulation

Based on Article 69 of Regulation (EC) No. 1782/03, Member States applying SPS may retain by sector up to 10% of their national budget ceilings for direct payments for measures related to the protection or enhancement of the environment or for improving the quality and marketing of agricultural products. To allow more flexibility in Member State responses to the needs stemming from the overall orientation of the CAP, it is proposed that Article 69 be broadened:

– The restriction that linear reductions stay within the same sector is removed.

– Measures to address disadvantages for farmers in certain regions specialising in the dairy, beef and sheep and goat meat and rice sectors are covered.

– It also allows the possibility to use the retained amounts to top up entitlements in areas subject to restructuring and/or development programs

– Support for some risk management measures –crop insurance schemes for natural disasters and mutual funds for animal diseases- is also provided under certain conditions.

– Measures which do not with certainty meet the conditions of the WTO Green Box should be limited to 2,5% of the ceilings.

– Finally, this provision is extended to all those Member States applying SAPS.

2.5. Modulation

To allow Member States to support the increasing needs to meet new challenges via the set of measures proposed under Rural Development, it is proposed to increase compulsory modulation by 8% and to add an additional progressive element under a system which is based on the following principles:

– all receipts from modulation stay within the member State that generates them,

– for EU-15, basic modulation, applying to all payments above € 5 000, increases by 2% annually from 2009 until it reaches 8% in 2012,

– a progressive element is introduced, whereby payments are reduced by additional steps of 3% for successive payment thresholds levels (5000 to 99 999; 100 000 to 199 999; 200 000 to 2999 999; above 300.000),

– EU-10 become eligible for modulation in 2012 (with a basic rate of 3%),

– a new system for the financial management of direct aids, establishing net global ceilings per Member State, is proposed.

2.6. Payments limitations

In order to simplify and reduce the costs of administration of direct payments, it is proposed that Member States could either apply a minimum amount of payments of 250 € or apply a minimum size of eligible area per holding of at least 1 hectare.

3. SINGLE COMMON MARKET ORGANISATION

3.1. Intervention market mechanisms

Based on analysis, the Commission has concluded that market supply control should not serve to slow down the ability of EU farmers to respond to market signals but they should be turned into a real safety net. To do so, it is proposed to simplify and harmonise the current provisions on public intervention via the extension of a tendering system.

In the cereal sector, it is proposed to introduce tendering for bread wheat, while for feed grains it is proposed to apply the same model as for maize (reduce quantitative ceiling at zero). For durum wheat, taking into account the fact current and expected market conditions, it is proposed to abolish intervention. For the same reasons, for rice and pig meat it has been also proposed to abolish intervention. It is also proposed to extend tendering provisions for butter and skimmed milk powder.

3.2. Abolition of set aside

Based on the market outlook situation and the implementation of SPS, it is proposed to abolish set-aside as an instrument of supply control. Member States are provided with appropriate tools to ensure that the present environmental benefits of set-aside can be retained with proposals for cross compliance and rural development.

3.3. Transition to milk quota expiry and other dairy measures

Since milk quotas expire in 2015, a "soft landing" of the milk quotas by a gradual annual increase is proposed.

In general terms, the phasing-out of milk quotas would expand production, lower prices and increase the competitiveness of the sector. Nevertheless, there are certain regions, especially but not exclusively mountainous regions, which are expected to face difficulties in keeping a minimum level of production. Those problems can be addressed by applying specific measures through article 69 of Regulation (EC) No 1782/03.

Other support schemes in the dairy sector that are no longer needed to support the market are either modified or abolished.

3.4. Other support regimes

Finally, it is proposed to decouple and shift to the SPS a series of other small support regimes still under different production aids in order to improve competitiveness and to simplify.

4. NEW CHALLENGES AND RURAL DEVELOPMENT POLICY

The Health Check Communication identified the increasing need for Rural Development measures in a number of new and ongoing challenges facing the CAP, such as climate change, risk management, bio-energy, water management and biodiversity. Existing measures available under RD already provide for ways to address new challenges. Member States have included related measures in their RD programmes for the period 2007-13, but the financial up-take of RD resources suggests that budget needs exceed financial possibilities. The increase in modulation rates will contribute to meeting the increasing needs arising due to the emerging challenges. It is proposed to modify Regulation (EC) n. 1698/05 accordingly.

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels,
COM(2008) XXX

Proposal for a

COUNCIL REGULATION

on modifications to the common agricultural policy by amending Regulations (EC) No 320/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No […]/2008

Proposal for a

COUNCIL REGULATION

on modifications to the common agricultural policy by amending Regulations (EC) No 320/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No […]/2008

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 36 and 37 thereof,

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

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

Having regard to the opinion of the European Economic and Social Committee[3],

Having regard to the opinion of the Committee of the Regions[4],

Whereas:

(1) The CAP reforms agreed in 2003/2004 included provisions on reports intended to gauge their effectiveness, and in particular to appraise their impact with respect to their objectives and to analyse their effects on the relevant markets. In this context, the Commission presented a Communication to the European Parliament and Council entitled "Preparing for the 'Health Check'" on 20 November 2007 which was discussed by those institutions. Taking into account that Communication and the subsequent discussions of the main elements of it communication by the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions as well as numerous contributions received from public consultation, appropriate proposals should be made.

(2) The provisions of the common agricultural policy concerning public intervention should be simplified and streamlined by the extension of tendering in order to achieve a harmonised approach.

(3) In respect of cereals the system should be modified to ensure competitiveness and market orientation for the sector while keeping the role of intervention as a safety-net in case of market disruptions and facilitating farmers' response to market conditions.

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1 OJ C […], […], p. […].
2 OJ C […], […], p. […].
3 OJ C […], […], p. […].
4 OJ C […], […], p. […].

The Council Conclusions on the reform of the intervention system for maize provided for a review of the whole cereals intervention system in the context of the Health Check, based on an analysis which indicated a certain risk for additional barley intervention if prices were low. The present outlook for cereals has however since changed significantly, and is characterised by a favourable world market price environment driven by expanding world demand and low global cereal stocks. Within this context, setting intervention levels to zero for other feed grains in the same time-frame as the maize reform would allow for intervention without having negative implications for the cereals market as a whole. The outlook for the cereals sector also applies for durum wheat, meaning that buying into intervention could be abolished since it has lost its relevance with market prices always significantly above the intervention price. Since intervention for cereals is to be a safety net rather than an element which influences price formation, the differences in harvesting periods across Member States, which effectively start the marketing campaigns, are not longer relevant since the system will no longer provide for prices reflecting intervention levels plus monthly increments. In the interests of simplification the dates for cereals intervention should therefore be harmonised across the Community.

(4) Since the 2003 reform, the competitiveness of the rice sector has increased, with stable production, falling stocks in the view of increasing demand both in the Community and on the world market, with the expected price significantly above the intervention price. Therefore providing for buying into intervention for rice is no longer necessary and so should be abolished.

(5) Pigmeat production and consumption are projected to increase over the medium term, though at a slower pace than in the past decade, due to the competition from poultry meat and higher feed prices. Pig prices are expected to remain significantly above the intervention price. Buying into intervention has not been used for many years for pigmeat and in the light of the market situation and its perspectives, should be abolished.

(6) The abolition of intervention for these products may safely be carried out in 2009 since the current market situation and perspectives suggest that intervention would not, in any case, be applicable for them in 2009.

(7) The medium-term outlook for the dairy sector is characterised by continued increase in Community demand for high value added products, a substantial expansion in global demand for dairy commodities, driven by income and population growth in many regions of the world, and by changes in consumer preferences towards dairy products.

(8) Constrained by the milk quota ceilings, total Community milk production is projected to follow a gradual, though modest decline over the medium term as continued restructuring in the Member States which were members of the Community before the 2004 enlargement would lead to a decline in subsistence milk production, while production growth in the Member States which joined the Community in 2004 and 2007 remains limited due to the existence of quotas. At the same time the rate of milk delivered to dairies for processing is foreseen to continue expanding over the projection period. In the light of strong internal and external demand, the milk quota system is hence now restricting production expansion, as opposed to the situation when quotas were introduced as a response to overproduction. In such a market situation, quotas reduce market orientation because they distort farmers' response to

price signals, and prevent efficiency gains in the sector by slowing down restructuring. They are scheduled to end in 2015, in order to effect the appropriate adjustments by degrees. In this perspective, the phasing-out of dairy quotas by annual increases as provided for in Annex I to this Regulation (of 1% per marketing year from 2010/11 to 2013/14) would allow for a smooth transition by avoiding an excessive adjustment after the end of quotas.

(9) The cheese market is steadily expanding with increased demand from inside as well as from outside the Community. In general, therefore, prices for cheeses have for some time remained at firm levels which have not significantly been influenced by the reduction of the institutional prices for the bulk products (butter and powder). From both an economic and market management point of view the permanent and the optional aid for private storage of a high value, market driven product like cheese is no longer justified and should be abolished.

(10) Aid for private storage of butter is not widely used. Nevertheless due to the seasonal pattern of milk production in the Community there will always be a seasonal pattern of butter production. Therefore, temporary pressure on the butter market may occur which could be alleviated by seasonal storage. The decision should, however, be taken by the Commission based on sound market analysis rather than an obligation to open the scheme every year and so the scheme should become optional.

(11) In the context of the dairy reform and the current market situation the aids for skimmed milk powder used as animal feed and skimmed milk for casein production are not currently needed at all times. However, should surpluses of milk products build up or be likely to occur creating or likely to create a serious imbalance in the market, they could still play a role. The decision should, however, be taken by the Commission based on sound market analysis rather than an obligation to open the scheme every year and so the schemes should become optional. If applied, the fixing of the aid should be done in advance or by tender.

(12) Disposal aids for butter for pastry and ice cream and for direct consumption have been reduced in line with the reduction of the intervention price for butter as from 2004 and have consequently been zero before tenders were suspended due to the favourable market situation. Disposal aid schemes are no longer needed to support the market at intervention price level and should therefore be abolished.

(13) As was the case in the common agricultural policy reform of 2003, to enhance the competitiveness of Community agriculture and to promote more market-oriented and sustainable agriculture, it is necessary to continue the shift from production support to producer support by abolishing the existing aids in Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)[5] for dried fodder, flax, hemp and potato starch and integrating support for these products into the system of decoupled income support for each farm. As was the case for the 2003 CAP reform, while decoupling aid paid to farmers will leave the actual amounts paid unchanged, it will significantly increase the effectiveness of the income aid.

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5 OJ L 299, 16.11.2007, p. 1. Regulation as last amended by Regulation (EC) No […]/2008 (OJ L ....., p.).

(14) The Council decided in 2000 to phase out the aid for short flax and hemp fibre. This decision was implemented with effect from the 2009/10 marketing year by the amendments made to the single CMO by Regulation (EC) No 247/2008[6], as was the phasing out of the additional processing aid for processors of flax grown in traditional areas. Aid for long flax fibre should be decoupled. However in order to allow the industry to adapt, half of the shift to the single payment scheme should take place in 2011 and the remaining part in 2013.

(15) The dried fodder regime was reformed in 2003, when part of the aid was given to producers and decoupled. In the context of the overall orientation of the Health Check towards more market orientation, and the present outlook in feed markets, the transition to full decoupling for the entire sector should therefore be completed by decoupling the remaining aid to the industry. It should be possible to mitigate the effects of ending the payment of aid to processors by appropriate adjustments in the price paid to producers of the raw materials, who will themselves be receiving increased direct aid entitlements as a result of decoupling. The ending of the aid to processors is also justified in the light of the market situation and perspectives for protein crops as a whole. Given the fact that the sector has already been restructuring since the 2003 reform and the particular negative environmental impact that the production of dehydrated fodder has recently been found to generate, the aid should be decoupled although a short transitional period of two years should be provided for to allow the sector to adjust.

(16) The system set out in Council Regulation (EC) No 1868/94 of 27 July 1994 establishing a quota system in relation to the production of potato starch[7] will no longer be required once the related aids set out in Article [...][aid for starch potato] of Council Regulation (EC) No […]/2008 [new direct payments Regulation] of [....] [establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers][8], are abolished. Aid to producers was partially decoupled in 2003, and this aid should now be fully decoupled although a short transitional period of two years is required to allow farmers to adapt their supply commitments the potato starch aid scheme. The related minimum price should also therefore be prolonged for two years. Beyond that date, the quota scheme related to the direct payment should removed in 2013 in parallel with the full inclusion of that direct payment into the single payment scheme. This process of decoupling this direct aid requires a longer adjustment period to allow the industry to adapt to the new market environment. In the mean time the provisions concerned should be integrated, as is the case for other aids and quota schemes, into Regulation (EC) No 1234/2007.

(17) Developments in domestic and international cereal and starch markets render the starch production refund no longer pertinent with respect to its initial objectives, and should therefore be abolished. The market situation and perspectives are such that the aid has been set at zero for some time and this would be expected to continue, so that rapid abolition may be effected without negative effects for the sector.

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6 OJ L 76, 19.3.2008, p. 1.

7 OJ L 197, 30.7.1994, p. 4. Regulation as last amended by Regulation (EC) No 671/2007 (OJ L 156, 16.6.2007, p. 1).

8 OJ L [....]

(18) The provisions on exceptional market support measures related to animal diseases are to be dealt with in a horizontal provision on risk management, and so should be deleted from Regulation (EC) No 1234/2007.

(19) Producer organisations can serve a useful role in grouping supply in sectors where there is an imbalance in concentration of producers and purchasers. Member States should therefore be able to recognise producer organisations in all sectors.

(20) In the interests of legal certainty and simplicity it is appropriate to clarify and harmonise the provisions which provide for the non-application of Articles 87, 88 and 89 of the Treaty to payments made by Member States pursuant to and in conformity with this Regulation or Council Regulations (EC) No 247/2006 of 30 January 2006 laying down specific measures for agriculture in the outermost regions of the Union[9], (EC) No 320/2006 of 20 February 2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community and amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy[10], (EC) No 1405/2006 of 18 September 2006 laying down specific measures for agriculture in favour of the smaller Aegean islands and amending Regulation (EC) No 1782/2003[11], (EC) No 3/2008 of 17 December 2007 on information provision and promotion measures for agricultural products on the internal market and in third countries[12] and[13], and Regulation (EC) No […]/2008 [new wine CMO][14]. In this context, the provisions of those Regulations which otherwise would or might, under certain circumstances, fall within the notion of state aid in the sense of Article 87(1) of the Treaty should be excluded from the application of the state aid rules. The provisions concerned contain appropriate conditions for the granting of support to prevent undue distortion of competition.

(21) Regulations (EC) No 247/2006, 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No […]/2008[new wine CMO] should therefore be amended accordingly.

(22) The following acts are obsolete and therefore, in the interests of legal certainty, should be repealed: Council Regulations (EEC) No 1883/78 of 2 August 1978 laying down general rules for the financing of interventions by the European Agricultural Guidance and Guarantee Fund, Guarantee Section[15], (EEC) No 1254/89 of 3 May 1989 fixing, for the 1989/90 marketing year, inter alia, certain sugar prices and the standard quality of beet[16], (EEC) No 2247/89 of 24 July 1989 on an emergency measure for the free supply of certain agricultural products to Poland[17], (EEC) No 2055/93 of 19 July 1993

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9 OJ L 42, 14.2.2006, p. 1. Regulation as last amended by Regulation (EC) No 1276/2007 (OJ L 284, 30.10.2007, p. 11).

10 OJ L 58, 28.2.2006, p. 42. Regulation as amended by Regulation (EC) No 1261/2007 (OJ L 283, 27.10.2007, p. 8).

11 OJ L 265, 26.9.2006, p. 1.

12 OJ L 3, 5.1.2008, p. 1.

13 OJ L […], […], p. […].

14 OJ L […], […], p. […].

15 OJ L 216, 5.8.1978, p. 1. Regulation as last amended by Regulation (EC) No 734/2007 (OJ L 169, 29.6.2007, p. 5).

16 OJ L 126, 9.5.1989, p. 1. Regulation as amended by Commission Regulation (EC) No 260/96 (OJ L 34, 13.2.1996, p. 16).

17 OJ L 216, 27.7.1989, p. 5.

allocating a special reference quantity to certain producers of milk and milk products[18], (EC) No 2596/97 of 18 December 1997 extending the period provided for in Article 149(1) of the Act of Accession of Austria, Finland and Sweden[19], and (EC) No 1182/2005 of 18 July 2005 adopting autonomous and transitional measures to open a Community tariff quota for the import of live bovine animals originating in Switzerland[20].

(23) This Regulation should, as a general rule, apply from 1 January 2009. However, in order to ensure that the new provisions of this Regulation do not interfere with the certain aids payable for the 2008/2009 or 2009/2010 marketing years, a later date of application should be provided for in respect of those provisions directly affecting the operation of schemes in sectors for which marketing years are foreseen. This Regulation should therefore only apply, in such cases, as from the start of the 2009/2010 or 2010/2011 marketing years,

HAS ADOPTED THIS REGULATION:

Article 1
Amendment to Regulation (EC) No 247/2006

Article 16 of Regulation (EC) No 247/2006 is amended as follows:

(1) The second subparagraph of paragraph 3 is deleted.

(2) The following paragraph is added:

"4. Without prejudice to paragraphs 1 and 2, by way of derogation from Article 180 of Regulation (EC) No 1234/2007(*) and Article 3 of Regulation (EC) No 1184/2006(**), Articles 87, 88 and 89 of the Treaty shall not apply to payments made under Title III, paragraph 3 of this Article and Articles 17 and 21 by Member States in conformity with this Regulation.

(*) OJ L 299, 16.11.2007, p. 1. Regulation as last amended by Regulation (EC) No […]/2008.

(**) OJ L 214, 4.8.2006, p. 7."

Article 2
Amendment to Regulation (EC) No 320/2006

Regulation (EC) No 320/2006 is amended as follows:

(1) Article 6(6) is replaced by the following:

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18 OJ L 187, 29.7.1993, p. 8.
19 OJ L 351, 23.12.1997, p. 12. Regulation as last amended by Regulation (EC) No 1805/2003 (OJ L 265, 16.10.2003, p. 5).
20 OJ L 190, 22.7.2005, p. 1.

"6. Member States shall not grant national aid in respect of diversification measures provided for in this Article. However, if the ceilings referred to in the third subparagraph of paragraph 4 were to permit the granting of an aid for diversification of 100%, the Member State concerned shall contribute at least 20% of the eligible expenditure."

(2) The following Article 13a is added:

"Article 13a

State aids

Without prejudice to Article 6(5), by way of derogation from Article 180 of Regulation (EC) No 1234/2007(*) and Article 3 of Regulation (EC) No 1184/2006(**), Articles 87, 88 and 89 of the Treaty shall not apply to payments made under Articles 3, 6, 7, 8,9 and 11 by Member States in conformity with this Regulation.

(*) OJ L 299, 16.11.2007, p. 1. Regulation as last amended by Regulation (EC) No […]/2008."

(**) OJ L 214, 4.8.2006, p. 7."

Article 3

Amendment to Regulation (EC) No 1405/2006

The following paragraph is added to Article 11 of Regulation (EC) No 1405/2006:

"3. Without prejudice to paragraphs 1 and 2, by way of derogation from Article 180 of Regulation (EC) No 1234/2007(*) and Article 3 of Regulation (EC) No 1184/2006(**), Articles 87, 88 and 89 of the Treaty shall not apply to payments made under Articles 4 and 7 by Member States in conformity with this Regulation.

(*) OJ L 299, 16.11.2007, p. 1. Regulation as last amended by Regulation (EC) No […]/2008.

(**) OJ L 214, 4.8.2006, p. 7."

Article 4

Amendments to Regulation (EC) No 1234/2007

Regulation (EC) No 1234/2007 is amended as follows:

(1) Point (b) of Article 8(1) is deleted.

(2) Article 10 is amended as follows:

(a) Paragraph 1 is amended as follows:

(i) Point (a) is replaced by the following:

"(a) common wheat, barley, maize and sorghum;"

(ii) Point (b) is deleted;

(b) Paragraph 2 is deleted.

(3) Subsection II of Section II of Chapter I of Title I of Part II is replaced by the following:

"SUBSECTION II
OPENING AND SUSPENSION OF BUYING-IN

Article 11
Public intervention periods

Public intervention shall be available:

(a) for cereals, from 1 November to 31 May;

(b) for sugar, throughout the marketing years 2008/2009 and 2009/2010;

(c) for beef and veal, throughout any marketing year;

(d) for butter and skimmed milk powder, from 1 March to 31 August.

Article 12
Opening of public intervention

1. During the periods referred to in Article 11, public intervention

   (a) shall be open for cereals, sugar, butter and skimmed milk powder up to the intervention limits referred to in Article 13(1),

   (b) shall be opened for beef by the Commission, without the assistance of the Committee referred to in Article 195(1), if the average market price for beef over a representative period in a Member State or in a region of a Member State recorded on the basis of the Community scale for the classification of carcasses provided for in Article 42(1) is below EUR 1560/tonne.

2. Public intervention for common wheat may be suspended by the Commission, without the assistance of the Committee referred to in Article 195(1), if the price for wheat with a minimum protein content of 11% 'Rouen delivered' is higher than the reference price.

   It shall be reopened by the Commission, without the assistance of the Committee referred to in Article 195(1), if the conditions provided for in the first subparagraph of this paragraph no longer apply.

3. Public intervention for beef, referred to in point (b) of paragraph 1, shall be closed by the Commission, without the assistance of the Committee referred to

in Article 195(1), if, over a representative period, the conditions provided for in that point are no longer fulfilled.

Article 13
Intervention limits

1. Buying into public intervention shall be carried out within the following limits:

   (a) for barley, maize and sorghum, 0 tonnes for each period referred to in Article 11(a);

   (b) for sugar, 600 000 tonnes, expressed in white sugar, for each marketing year;

   (c) for butter, 30 000 tonnes for each period referred to in Article 11(d);

   (d) for skimmed milk powder 109 000 tonnes for each period referred to Article 11(d).

2. Sugar stored in accordance with point (b) of paragraph 1 during a marketing year shall not be subject to any of the other storage measures provided for in Articles 32, 52 and 63.

3. By way of derogation from paragraph 1, for the products referred to in its points (a), (c) and (d), the Commission may decide to continue public intervention beyond the amounts referred to in that paragraph if the market situation and, in particular, the development of market prices, so requires."

(4) Subsection III of Section II of Chapter I of Title I of Part II is replaced by the following:

"SUBSECTION III
INTERVENTION PRICES

Article 18
Intervention prices

1. The intervention prices and the quantities accepted for intervention for the products referred to in Article 10(a), (d), (e) and (f) shall be determined by the Commission by means of tendering procedures. In special circumstances, tendering procedures may be restricted to, or the intervention prices and the quantities accepted for intervention may be fixed per, Member State or per region of a Member State on the basis of recorded average market prices.2. The intervention price determined in accordance with paragraph 1 shall not be higher:

   (a) for cereals, than the respective reference prices;

(b) for beef, than the average market price recorded in a Member State or a region of a Member State increased by an amount to be determined by the Commission on the basis of objective criteria;

(c) for butter, than 90% of the reference price;

(d) for skimmed milk powder, than the reference price.

3. The intervention price for sugar shall be 80% of the reference price fixed for the marketing year following the marketing year during which the offer is lodged. However, if the quality of the sugar offered to the paying agency differs from the standard quality defined in point B of Annex IV for which the reference price is fixed, the intervention price shall be increased or reduced accordingly."

(5) Subsection I of Section III of Chapter I of Title I of Part II is deleted.

(6) Article 31 is amended as follows:

(a) Paragraph 1 is amended as follows:

(i) After point (c) the following points are inserted:

"(ca) unsalted butter produced from cream or milk in an approved undertaking of the Community of a minimum butterfat content, by weight, of 82%, a maximum milk solids non-fat content, by weight, of 2%, and a maximum water content, by weight, of 16%;

(cb) salted butter produced from cream or milk in an approved undertaking of the Community of a minimum butterfat content, by weight, of 80 %, a maximum milk solids non-fat content, by weight, of 2%, a maximum water content, by weight, of 16 % and a maximum salt content, by weight, of 2%;"

(ii) Point (e) is deleted;

(b) In paragraph 2, the second subparagraph is deleted.

(7) The following Article 34a is inserted:

"Article 34a

Conditions of granting for butter

"1. The Commission may decide to grant aid for private storage for butter in particular if developments in prices and stocks of the products indicate a serious imbalance in the market which could be avoided or reduced by means of seasonal storage.

2. The amount of aid shall be fixed by the Commission taking account of storage costs and the likely development in butter prices."

(8) Article 36 is deleted.

(9) Article 41(1) is replaced by the following:

"1. The Commission shall designate the intervention centres in the cereals sector and determine the conditions applying thereto.

The Commission may designate intervention centres for each cereal."

(10) Point (a) of Article 43 is replaced by the following:

"(a) the requirements and conditions to be met by products to be bought-into public intervention as referred to in Article 10 or for which aid for private storage is granted as referred to in Article 31, in particular with respect to quality, quality groups, quality grades, categories, quantities, packaging including labelling, maximum ages, preservation, the stage of the products to which the intervention price relates, the duration of private storage;"

(11) Article 44 is deleted.

(12) Article 46 is amended as follows:

(a) Paragraph 1 is replaced by the following:

"1. For the exceptional support measures referred to in Article 45, the Community shall provide part-financing equivalent to 50 % of the expenditure borne by Member States."

(b) Paragraph 3 is deleted.

(13) Point (a) of Article 48 (1) is deleted.

(14) Article 55 is replaced by the following:

"Article 55

Quota systems

1. A quota system shall apply to the following products:

(a) milk and other milk products within the meaning of points (a) and (b) of Article 65;

(b) sugar, isoglucose and inulin syrup;

(c) potato starch which may benefit from Community aid.

2. As regards the quota systems referred to in points (a) and (b) of paragraph 1, if a producer exceeds the relevant quota and, with regard to sugar, does not make use of the surplus quantities as provided for in Article 61, a surplus levy shall be payable on such quantities subject to the conditions set out in Sections II and III."

(15) The following Section IIIa is inserted in Chapter III of Title I of Part II:

"SECTION IIIA
POTATO STARCH QUOTAS

Article 84a

Potato starch quotas

1. The potato starch producing Member States shall be allocated quotas for marketing year during which the quota scheme applies according to Article 204(5) in accordance with Annex Xa.

2. Each producer Member State referred to in Annex Xa shall allocate its quota among potato starch manufacturers for use in the marketing years concerned on the basis of the subquotas available to each manufacturer in 2006/2007.

3. An undertaking producing potato starch shall not conclude cultivation contracts with potato producers for a quantity of potatoes which would produce a quantity of starch in excess of its quota as referred to in paragraph 2.

4. Any potato starch produced in excess of the quota as referred to in paragraph 2 shall be exported, as such, from the Community before 1 January following the end of the marketing year in question. No export refund shall be paid in respect of it.

5. Notwithstanding paragraph 4, an undertaking producing potato starch may, in any marketing year, in addition to its quota for that year, utilise no more than 5% of its quota relating to the following marketing year. In such case, the quota for the following marketing year shall be reduced accordingly.

6. The provisions of this Section shall not cover production of potato starch by undertakings which are not subject to paragraph 2 and which purchase potatoes for which producers do not benefit from the payment provided for in Article [...][aid for starch potato] of Regulation (EC) No […]/2008 [new direct payments Regulation]."

(16) In Article 85, the following point (d) is added:

"(d) in respect of Section IIIa, mergers, changes of ownership and the commencement or cessation of trading of undertakings."

(17) Subsection I of Section I of Chapter IV of Title I of Part II is deleted.

(18) In Article 91(1), the first subparagraph is replaced by the following:

"Aid for processing the straw of long flax grown for fibre shall be granted for the 2009/10 to 2012/13 marketing years to authorised primary processors on the basis of the quantity of fibre actually obtained from straw for which a contract of sale has been concluded with a farmer."

(19) Article 92(1) is replaced by the following:

"1. The amount of processing aid provided for in Article 91 shall be fixed for long flax fibre:

(a) EUR 200 for the 2009/10 and 2010/11 marketing years; and

(b) EUR 100 for the 2011/12 and 2012/13 marketing years;"

(20) Paragraph 1 of Article 94 is replaced by the following:

"1. A maximum guaranteed quantity of 80 878 tonnes for each of the marketing years 2009/10 to 2012/13 shall be established for long flax fibre in respect of which aid may be granted. That quantity shall be apportioned among certain Member States as national guaranteed quantities in accordance with point A.I. of Annex XI."

(21) The following Subsection is inserted into Section I of Chapter IV of Title I of Part II:

"SUBSECTION III
POTATO STARCH

Article 95a
Potato starch premium

1. A premium of EUR 22,25 per tonne of starch produced shall be paid for the 2009/10 and 2010/11 marketing years to undertakings producing potato starch for the quantity of potato starch up to the quota limit referred to in Article 84a(2), provided that they have paid to potato producers a minimum price for all the potatoes necessary to produce starch up to that quota limit.

2. The minimum price for potatoes intended for the manufacture of potato starch shall be set at EUR 178,31 per tonne for the marketing years concerned.

This price applies to the quantity of potatoes, delivered to the factory, which is needed for making one tonne of starch.

The minimum price shall be adjusted according to the starch content of the potatoes.

3. The Commission shall adopt the detailed rules for the implementation of this Subsection."

(22) Article 96 is deleted.

(23) Articles 99 and 100 are replaced by the following:

"Article 99
Aid for skimmed milk and skimmed milk powder for use as feedingstuffs

1. When surpluses of milk products build up or are likely to occur creating or likely to create a serious imbalance in the market, the Commission may decide

that aid shall be granted for Community-produced skimmed milk and skimmed-milk powder intended for use as feedingstuffs, according to conditions and product standards to be determined by the Commission The aid may be fixed in advance or by means of tendering procedures.

For the purposes of this Article, buttermilk and buttermilk powder shall be regarded as skimmed milk and skimmed-milk powder.

2. Aid amounts shall be fixed by the Commission taking into account the reference price fixed in point (e)(ii) of Article 8(1) for skimmed-milk powder, and the development of the market situation as regards skimmed milk and skimmed-milk powder.

Article 100

Aid for skimmed milk processed into casein and caseinates

1. When surpluses of milk products build up or are likely to occur creating or likely to create a serious imbalance in the market, the Commission may decide that aid shall be granted for Community-produced skimmed milk processed into casein and caseinates, according to conditions and product standards of such milk and the casein or caseinates produced from it to be determined by the Commission. The aid may be fixed in advance or by means of tendering procedures.

2. Aid shall be fixed by the Commission taking into account development of the market situation for skimmed-milk powder and the reference price for skimmed-milk powder, fixed in point (e)(ii) of Article 8(1).

The aid may vary, according to whether the skimmed milk is processed into casein or caseinates and according to the quality of those products."

(24) Article 101 is deleted.

(25) Paragraph 2 of Article 102 is replaced the following:

"2. Member States may, in addition to Community aid, grant national aid for supplying the products referred to in paragraph 1 to pupils in educational establishments. Member States may finance their national aid by means of a levy on the dairy sector or by any other contribution from the dairy sector."

(26) Paragraph 2 of Article 103e is deleted.

(27) Paragraph 2 of Article 105 is replaced by the following:

"2. Member States may pay specific national aids for the protection of apiaries disadvantaged by structural or natural conditions or under economic development programmes, except for those allocated for production or trade. These aids shall be notified to the Commission by Member States together with the communication of the apiculture programme in accordance with Article 109."

(28) Article 119 is replaced by the following:

"Article 119

Use of casein and caseinates in the manufacture of cheese

Where aid is paid under Article 100, the Commission may make the use of casein and caseinates in the manufacture of cheese subject to prior authorisation which shall be granted only if such use is a necessary condition for the manufacture of the products."

(29) The following paragraph is added to Article 122:

"Member States may also recognise producer organisations constituted by producers in any sector referred to in Article 1 except for the sectors referred to in point (a) of the first paragraph, on the conditions set out in points (b) and (c) of that paragraph."

(30) Paragraph 1 of Article 124 is replaced by the following:

"1. Article 122 and paragraph 1 of Article 123 shall apply without prejudice to the recognition, decided by Member States on the basis of national law and in compliance with Community law, of producer organisations or interbranch organisations respectively, in any sector referred to in Article 1 except for the sectors referred to in point (a) of the first paragraph of Article 122 and in Article 123(1)."

(31) Article 180 is replaced by the following:

"Article 180

Application of Articles 87, 88 and 89 of the Treaty

Articles 87, 88 and 89 of the Treaty shall apply to the production of and trade in the products referred to in points (a) to (k) and points (m) to (u) of Article 1(1) and in Article 1(3) of this Regulation.

However, Articles 87, 88 and 89 of the Treaty shall not apply to payments made under Articles 45, 46, 47, 48, 102, 103, 103a, 103b, 103e, 104, 105 and 182 by Member States in conformity with this Regulation."

(32) In Article 184, the following point 5) is added:

"5) before 31 December 2012 to the European Parliament and Council on the conditions for smoothly phasing out the milk quota system, including, in particular, possible further increases in quotas or possible reductions in the superlevy, accompanied, if necessary by any other appropriate proposals needed to maintain market balance."

(33) In Article 204, the following paragraph is added:

"5. As regards potato starch, Chapter III of Title I of Part II shall apply until the end of the 2012/13 marketing year for potato starch."

(34) Point 1 of Annex IX is replaced by the text in Annex I to this Regulation.

(35) The text of Annex II to this Regulation is inserted as Annex Xa.

(36) The text of Annex III to this Regulation is inserted in Annex XXII as point 20a.

Article 5
Amendment to Regulation (EC) No 3/2008

Paragraph 6 of Article 13 of Regulation (EC) No 3/2008 is replaced by the following:

"6. By way of derogation from Article 180 of Regulation (EC) No 1234/2007(*) and Article 3 of Regulation (EC) No 1184/2006(**), Articles 87, 88 and 89 of the Treaty shall not apply to payments made by Member States, including their financial participations, nor to the financial participations from parafiscal charges or mandatory contributions of Member States or proposing organisations for programmes eligible for Community support under Article 36 of the Treaty, that the Commission has selected in accordance with Article 8(1) of this Regulation.

(*) OJ L 299, 16.11.2007, p. 1. Regulation as last amended by Regulation (EC) No […]/2008."

(**) OJ L 214, 4.8.2006, p. 7.".

Article 6
Amendment to Regulation (EC) No […]/2008 [wine CMO]

Paragraph 2 of Article 116 of Regulation (EC) No […]/2008 is replaced by the following:

"2. Without prejudice to Article 8(4), Articles 87, 88 and 89 of the Treaty shall not apply to payments made under Title II, Chapter III of Title V and Article 109a by Member States in conformity with this Regulation."

Article 7
Repeals

1. Regulation (EC) No 1868/94 is repealed.

References to the repealed Regulation shall be construed as references to Regulation (EC) No 1234/2007 and shall be read in accordance with the respective correlation table in Annex XXII to that Regulation.

2. Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89 (EEC) No 2055/93, (EC) No 2596/97 and (EC) No 1182/2005 are repealed.

Article 8
Entry into force

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

It shall apply from 1 January 2009.

However:

(a) Points 1 to 10 and 13 of Article 4 shall apply from:

  (i) 1 March 2009 as regards the milk and milk products sector;

  (ii) 1 July 2009 as regards the cereals sector;

  (iii) 1 September 2009 as regards the rice sector;

  (iv) 1 October 2009 as regards the sugar sector;

(b) Points 14, 15, 16, 18 to 24, 28, 33 and 35 of Article 4 and Article 7(1) shall apply from 1 July 2009;

(c) Article 4(17) shall apply from 1 April 2011.

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

Done at Brussels, […]

For the Council
The President
[…]

ANNEX I

"1. National quotas: quantities (tonnes) per twelve-month period per Member State

Member State	2008/9	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
Belgium	3,427,288.740	3,427,288.740	3,461,561.627	3,496,177.244	3,531,139.016	3,566,450.406	3,566,450.406
Bulgaria	998,580.000	998,580.000	1,008,565.800	1,018,651.458	1,028,837.973	1,039,126.352	1,039,126.352
Czech Republic	2,792,689.620	2,792,689.620	2,820,616.516	2,848,822.681	2,877,310.908	2,906,084.017	2,906,084.017
Denmark	4,612,619.520	4,612,619.520	4,658,745.715	4,705,333.172	4,752,386.504	4,799,910.369	4,799,910.369
Germany	28,847,420.391	28,847,420.391	29,135,894.595	29,427,253.541	29,721,526.076	30,018,741.337	30,018,741.337
Estonia	659,295.360	659,295.360	665,888.314	672,547.197	679,272.669	686,065.395	686,065.395
Ireland	5,503,679.280	5,503,679.280	5,558,716.073	5,614,303.234	5,670,446.266	5,727,150.729	5,727,150.729
Greece	836,923.260	836,923.260	845,292.493	853,745.418	862,282.872	870,905.700	870,905.700
Spain	6,239,289.000	6,239,289.000	6,301,681.890	6,364,698.709	6,428,345.696	6,492,629.153	6,492,629.153
France	25,091,321.700	25,091,321.700	25,342,234.917	25,595,657.266	25,851,613.839	26,110,129.977	26,110,129.977
Italy	10,740,661.200	10,740,661.200	10,848,067.812	10,956,548.490	11,066,113.975	11,176,775.115	11,176,775.115
Cyprus	148,104.000	148,104.000	149,585.040	151,080.890	152,591.699	154,117.616	154,117.616
Latvia	743,220.960	743,220.960	750,653.170	758,159.701	765,741.298	773,398.711	773,398.711
Lithuania	1,738,935.780	1,738,935.780	1,756,325.138	1,773,888.389	1,791,627.273	1,809,543.546	1,809,543.546
Luxembourg	278,545.680	278,545.680	281,331.137	284,144.448	286,985.893	289,855.752	289,855.752
Hungary	2,029,861.200	2,029,861.200	2,050,159.812	2,070,661.410	2,091,368.024	2,112,281.704	2,112,281.704
Malta	49,671.960	49,671.960	50,168.680	50,670.366	51,177.070	51,688.841	51,688.841
Netherlands	11,465,630.280	11,465,630.280	11,580,286.583	11,696,089.449	11,813,050.343	11,931,180.847	11,931,180.847
Austria	2,847,478.469	2,847,478.469	2,875,953.254	2,904,712.786	2,933,759.914	2,963,097.513	2,963,097.513
Poland	9,567,745.860	9,567,745.860	9,663,423.319	9,760,057.552	9,857,658.127	9,956,234.709	9,956,234.709
Portugal	1,987,521.000	1,987,521.000	2,007,396.210	2,027,470.172	2,047,744.874	2,068,222.323	2,068,222.323
Romania	3,118,140.000	3,118,140.000	3,149,321.400	3,180,814.614	3,212,622.760	3,244,748.988	3,244,748.988
Slovenia	588,170.760	588,170.760	594,052.468	599,992.992	605,992.922	612,052.851	612,052.851
Slovakia	1,061,603.760	1,061,603.760	1,072,219.798	1,082,941.996	1,093,771.416	1,104,709.130	1,104,709.130
Finland	2,491,930.710	2,491,930.710	2,516,850.017	2,542,018.517	2,567,438.702	2,593,113.089	2,593,113.089
Sweden	3,419,595.900	3,419,595.900	3,453,791.859	3,488,329.778	3,523,213.075	3,558,445.206	3,558,445.206
United Kingdom	15,125,168.940	15,125,168.940	15,276,420.629	15,429,184.836	15,583,476.684	15,739,311.451	15,739,311.451

"

ANNEX II

"ANNEX Xa

Potato starch quotas per marketing year, referred to in Article 84a

Member State	(tonnes)
Czech Republic	33 660
Denmark	168 215
Germany	656 298
Estonia	250
Spain	1 943
France	265 354
Latvia	5 778
Lithuania	1 211
Netherlands	507 403
Austria	47 691
Poland	144 985
Slovakia	729
Finland	53 178
Sweden	62 066
Total	1 948 761

"

ANNEX III

"20a. **Regulation (EEC) No 1868/94**

Regulation (EEC) No 1868/94	This Regulation
Article 1	Article 55(1)(c)
Article 2(1) and (2) first subparagraph	Article 84a(1) and (2)
Article 4	Article 84a(3)
Article 4a	Article 95a(2)
Article 5	Article 95a(1)
Article 6	Article 84a(4) and (5)
Article 7	Article 84a(6)
Article 8	Articles 85(d) and 95a(3)

"

EN

FINANCIAL STATEMENT

1.	BUDGET HEADING (2008): 67 03 05 02 05 03 05 04	APPROPRIATIONS (2008): (EUR million) p.m. 4 032 36 832 12 927

2. TITLE:
Council Regulation establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers;
Council Regulation on modifications to the common agricultural policy by amending Regulations (EC) No 320/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No […]/2008;
Council Regulation amending Regulation (EC) 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD);
Council Decision amending Decision 2006/144/EC on the Community strategic guidelines for rural development (programming period 2007 to 2013)

3. LEGAL BASIS:
Articles 36 and 37 of the Treaty

4. AIMS:
- To make the adjustments necessary to simplify the common agricultural policy,
- to allow the CAP to seize new market opportunities and
- to address the new challenges of climate change, water management and bio-energy.

5. FINANCIAL IMPLICATIONS	2009 (EUR million)	2010 (EUR million)	2011 (EUR million)
5.0 EXPENDITURE – CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS) – NATIONAL AUTHORITIES – OTHER	–	–9	–180
5.1 REVENUE ASSIGNED REVENUE	–	–	–

	2012 (EUR million)	2013 (EUR million)
5.0.1 ESTIMATED EXPENDITURE	–115	–124
5.1.1 ESTIMATED REVENUE	–55	–110

5.2 METHOD OF CALCULATION:
Please refer to the accompanying tables.

6.0	CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?	~~YES NO~~
6.1	CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?	~~YES NO~~
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?	~~YES NO~~
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?	YES ~~NO~~

OBSERVATIONS:
The annual net budgetary effect of the reform is limited (a saving of €14 million in 2013). The main budgetary effects are twofold:
i) an increase in the proportion of direct payments that will be completely decoupled from production;
ii) the transfer of an increasing annual amount (up to €2.0 billion in 2013) from market measures and direct aids to rural development to address the new challenges mentioned above.

CALCULATION OF THE NET FINANCIAL IMPACT BY BUDGET CHAPTER OF THE HEALTH CHECK PROPOSALS

Budget year	2009	2010	2011	2012	2013
Revenue					
6703 (decrease of amount)				–55	–110
Expenditure					
05 02 Markets	0	–9	–36	–146	–155
05 03 Direct aids (before modulation)	0	0	–144	32	32
Net amount 05 02 and 05 03 before modulation	**0**	**–9**	**–180**	**–115**	**–124**
05 03 Direct aids (transfer of modulation to rural development)	0	–563	–977	–1427	–2022
05 04 Rural Development	0	563	977	1427	2022
NET EXPENDITURE (05 02, 05 03, 05 04)	**0**	**–9**	**–180**	**–115**	**–124**
NET BUDGETARY IMPACT INCLUDING ASSIGNED REVENUE (67 03, 05 02, 05 03, 05 04)	**0**	**–9**	**–180**	**–59**	**–14**

CALCULATION OF THE FINANCIAL IMPACT OF THE HEALTH CHECK PROPOSALS IN THE MILK SECTOR ON ASSIGNED REVENUE

Budget year	Legal base	2009	2010	2011	2012	2013
MILK SECTOR						
– Impact on the super levy following increases of dairy quota (decrease of amount)		–	–	–	–55,1	–110,2

CALCULATION OF THE FINANCIAL IMPACT OF THE HEALTH CHECK PROPOSALS IN THE MARKET SECTOR

Mio €

Budget year	Legal base	2009	2010	2011	2012	2013
A. HC abolition of set-aside and restricting intervention to wheat only						
Impact on export refunds for cereals		0,0	0,0	0,0	0,0	0,0
Impact on intervention storage for cereals, including limiting intervention to wheat*	Art. 10-13, Art. 18	0,0	23,7	47,8	78,3	73,3
B. Other measures						
Premium for potato starch	Art. 84a, 95a				–43,4	–43,4
Production refunds for starch	ex Art. 96			0,0	0,0	0,0
TOTAL		**0,0**	**23,7**	**47,8**	**34,9**	**29,9**

* The HC scenario has been calculated with buying-in wheat at the full intervention price. However, with intervention based on tendering (HC proposal), this should be considered as a maximum impact. The magnitude of any reduction is not quantifiable at this stage.

RICE SECTOR						
– Abolition of rice intervention	Art. 10			–	–	–
FLAX AND HEMP	R. 1234/2007					
– Transitory coupled aid	Art. 92 to 94				–4,2	–8,1
DRIED FODDER	R. 1234/2007					
– Abolition of market aid	Art. 86 to 90			–52,3	–145,2	–145,2
MILK SECTOR						
A. <u>Measures made optional with possible budgetary impact:</u>						
– Butter intervention: optional intervention by tender after purchase of 30 000 t by tender	Art. 18					
– SMP intervention: optional interv. by tender after obligatory purchase of 109 000 t by tender	Art. 18					
– Private storage for butter is made optional as based on the market situation	Art. 34a		(–18)	(–18)	(–18)	(–18)
– Aid for SMP as feeding stuff is made optional as based on the market situation	Art. 99					
– Aid for casein production is made optional as based on the market situation	Art. 100					
B. <u>Measures with budgetary impact:</u>						
– Abolition of the disposal aid for butter	ex Art. 101		–10,0	–10,0	–10,0	–10,0
– Abolition of the private storage aid for cheese	ex Art. 28(b)		–24,0	–24,0	–24,0	–24,0
C. <u>Quota system (soft landing)</u>						
– Impact on the export refunds (b)			1,6	2,5	2,3	2,1
TOTAL MILK AND MILK PRODUCTS			**–32,4**	**–31,5**	**–31,7**	**–31,9**
PIGMEAT SECTOR						
– Abolition of pigmeat intervention	ex Art. 17		–	–	–	–
Abolition of Art. 44 of R. 1234/2007 (animal diseases) (a)	ex Art. 44		–	–	–	–

(a) With the proposal these measures will in the future be financed under the new Article 60 of the new regulation replacing Regulation (EC) No 1782/2003.
(b) assuming that the hypothesis retained for market balance will materialise.

CALCULATION OF THE FINANCIAL IMPACT OF THE HEALTH CHECK PROPOSALS IN THE DIRECT PAYMENTS SECTOR

Budget year	2008	2009	2010	2011	2012	2013
DIRECT PAYMENTS (before modulation)						
A. Impact of adding new measures in the direct payments and abolishing some existing direct payments			0,0	–90,0	85,8	85,8
B. Impact of decoupling in SPS existing coupled direct payments			0,0	–54,1	–54,1	–54,1
C. Impact of decoupling in SPS existing re-coupled direct payments previously excluded			0,0	0,0	0,0	0,0
TOTAL DIRECT PAYMENTS (excluding effect of modulation)			**0,0**	**–144,1**	**31,7**	**31,7**
D. Transfer of modulation amount to Rural Development			**563**	**977**	**1427**	**2022**

Budget year	Legal base	2008	2009	2010	2011	2012	2013
INCLUSION OF NEW MEASURES IN DIRECT PAYMENTS (SPS/SAPS) AND ABOLITION OF EXISTING DIRECT PAYMENTS (before modulation)							
A. New measures included in the direct payments scheme (SPS or SAPS)	Title III						
Dried fodder	Proposal					124,3	124,3
Long Fibre flax						8,1	8,1
Potato starch processing aid						43,4	43,4
B. Abolition of existing direct payments scheme							
Energy crops	ex Art. 88				–90,0	–90,0	–90,0
C. Impact = A + B				**0,0**	**–90,0**	**85,8**	**85,8**

INCLUSION OF EXISTING COUPLED DIRECT PAYMENTS IN THE SPS/SAPS (before modulation)							
A. New measures included in the SPS or SAPS	Title III						
Protein crops	Proposal				66,3	67,7	69,1
Rice					90,5	90,6	181,5
Nuts					98,6	98,9	99,3
Potato starch aid to growers						63,4	64,0
Aid to olive groves					105,2	105,5	105,8
Specific quality premium for durum wheat					94,4	94,5	94,6
Total					**455,0**	**520,7**	**614,3**

B. Abolition of the corresponding coupled direct aids							
Protein crops	Art. 76-78				–86,6	–88,0	–89,4
Rice	Art. 79-82				–90,5	–90,6	–181,5
Nuts	Art. 83-87				–98,6	–98,9	–99,3
Potato starch aid to growers	Art. 93-94					–63,4	–64,0
Aid to olive groves	Art. 110i				–105,2	–105,5	–105,8
Specific quality premium for durum wheat	Art. 72-75				–128,2	–128,3	–128,4
Total	R. 1782/2003				**–509,1**	**–574,8**	**–668,4**
C. Impact = A + B					**–54,1**	**–54,1**	**–54,1**

Budget year	**Legal base**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**
INCLUSION OF IN THE SPS OF EXISTING RECOUPLED DIRECT PAYMENTS FOLLOWING OPTIONAL EXCLUSIONS (before modulation)							
A. New measures included in the SPS	Title III						
Cop payments					1526,7	1526,7	1526,7
Durum wheat supplementary payment					56,8	56,8	56,8
Special beef premium					51,9	52,5	106,3
slaughter premium adults					118,3	118,3	236,6
Slaughter premium calves					66,4	66,4	132,7
Seeds					30.9	30.9	30.9
Hops					2,6	2,6	2,6
B. Abolition of the corresponding re-coupled direct aids							
Cop payments					–1526,7	–1526,7	–1526,7
Durum wheat supplementary payment	Art. 66				–56,8	–56,8	–56,8
Special beef premium	Art. 68				–51,9	–52,5	–106,3
slaughter premium adults	Art. 68				–118,3	–118,3	–236,6
Slaughter premium calves	Art. 68				–66,4	–66,4	–132,7
Seeds	Art 70-1 a				-30.9	-30.9	-30.9
Hops	Art. 68a				–2,6	–2,6	–2,6
C. Impact = A + B					**0,0**	**0,0**	**0,0**

CALCULATION OF THE FINANCIAL IMPACT OF THE HEALTH CHECK PROPOSALS ON RURAL DEVELOPMENT

Mio €

Budget year	**2009**	**2010**	**2011**	**2012**	**2013**
amounts from increased compulsory modulation	0	563	977	1427	2022
TOTAL	**0**	**563**	**977**	**1427**	**2022**

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels,
COM(2008) XXX

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 36 and 37 thereof,

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

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

Having regard to the opinion of the European Economic and Social Committee[3],

Having regard to the opinion of the Committee of the Regions[4],

Whereas:

(1) In the context of the assessment of the implementation of the Common Agricultural Policy (CAP) reform of 2003, climate change, renewable energies, water management and biodiversity were identified as crucial new challenges for European agriculture.

(2) The European Community is party to the Kyoto Protocol[5]. Article 2(1)(a)(iii) of the Kyoto Protocol calls upon parties to implement and/or further elaborate policies and measures in accordance with its national circumstances, such as: Promotion of sustainable forms of agriculture in light of climate change considerations. Furthermore, Article 10(b)(i) obliges parties to formulate, implement, publish and regularly update national and, where appropriate, regional programmes containing measures to mitigate climate change and measures to facilitate adequate adaptation to climate change. Such programmes would, inter alia, concern agriculture and forestry. The role of support for rural development should be further strengthened in this context. Strong scientific evidence underlines the need for urgent action. The European Community is called to examine all possible ways to of reducing greenhouse gas (GHG) emissions. Although European agriculture has contributed more than other sectors to curbing green house gas emissions, in the future the agriculture sector is called to step up its emission reduction efforts as part of the global strategy of the European Community for combating climate change.

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1 OJ C […], […], p. […].
2 OJ C […], […], p. […].
3 OJ C […], […], p. […].
4 OJ C […], […], p. […].
5 Council Decision 2002/358/EC (OJ L 130, 15.5.2002, p. 1).

(3) Following serious problems related to water scarcity and droughts, water management issues should be further addressed in the relevant CAP instruments.[6] It is essential for European agriculture to have sustainable water management, in order to improve efficiency as regards the water quantity used for agriculture and in order to better protect the quality of water. In the context of the climatic changes expected, drought affected areas are likely to increase in extent and frequency.

(4) Halting biodiversity decline remains a major challenge, and climate change and water demand increase that challenge. While important progress has been made, the achievement of the European Community's biodiversity target for 2010 will require additional efforts.[7] European agriculture has a key role to play in protecting biodiversity.

(5) It is important that operations related to these priorities are further strengthened in the rural development programmes approved in accordance with Council Regulation (EC) No 1698/2005[8].

(6) Given the importance of these Community priorities, the obligation for the Member States to provide in rural development programmes for operations related to the new challenges should be set out.

(7) Article 10 of Regulation (EC) 1698/2005 provides that, with a view to taking account of major changes in the Community priorities in particular, the Community strategic guidelines for rural development (programming period 2007 to 2013) adopted by Council Decision 2006/144/EC[9] may be subject to review. Therefore, a general obligation for the Member States to revise the national strategy plans following the review of the Community strategic guidelines should be set out in order to arrange the context for the programmes to be modified.

(8) It is necessary to fix a deadline for the introduction of the operations related to the new challenges into the rural development programmes in order to give a reasonable time to Member States to modify their rural development programmes in the light of the revised Community strategic guidelines and national strategy plans.

(9) In view of the new obligations, the requirements on the content of the rural development programmes should be adapted. A non-exhaustive list of types of operations should be provided in order to help the Member States to identify the relevant operations related to the new challenges in the context of the legal framework for rural development.

(10) In order to provide additional incentives to beneficiaries for the up-take of operations related to the new priorities, the possibility to establish higher amounts and rates of support for such operations should be given.

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6 Council Conclusions, Luxembourg, 30.10.2007, 13888/07.

7 Council Conclusion, Brussels, 18.12.2006, 16164/06.

8 OJ L 277, 21.10.2005, p. 1. Regulation as last amended by Regulation (EC) No 146/2008 (OJ L 46, 21.2.2008, p. 1).

9 OJ L 55, 25.2.2006, p. 20.

(11) In accordance with Article 9(4) and Article 10(4) of Council Regulation (EC) No XXXX/XXXX of XX/XX/2008 [*establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers*][10] financial resources raised by way of the additional modulation are to be used for rural development support. It is appropriate to ensure that an amount equal to those financial resources should be used to support operations related to the new challenges.

(12) Given the additional, specific and binding use of these amounts equal to those financial resources, the established balance between objectives of the support for rural development should not be affected.

(13) New rules on liability under cross compliance in the case of transfer of land during the calendar year concerned were introduced by Regulation (EC) No 146/2008 amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)[11]. In order to ensure consistency, the same principles should be provided for cross compliance in rural development.

(14) For the sake of clarity and legal certainty, it should be clarified in which cases a reduction or exclusion from payments resulting from the non respect of the mandatory requirements (cross compliance) shall not apply.

(15) Experience has shown the need to provide for a measure of tolerance for minor cases of non-compliance with the cross compliance requirements provided for in Article 51 of Regulation (EC) No 1698/2005 whose severity, extent and permanence would not justify an immediate reduction of the rural development support to be granted. Such a measure of tolerance should nonetheless include an appropriate follow up by the competent national authority until the non-compliance has been remedied. Moreover, applying reductions to very low initial amounts of direct payments may prove burdensome in comparison to any deterrent effect to be gained. As a consequence, a suitable threshold should be defined, below which Member States may decide not to apply any reduction, provided that the actions to ensure that the farmer remedies the findings of non-compliance concerned are taken by the competent national authority.

(16) The role and the functions of the monitoring committee with regard to changes in the rural development programmes should be modified in order to increase its efficiency.

(17) In the interest of legal certainty and simplicity it is appropriate to clarify and harmonise the provisions which provide for the non-application of Articles 87, 88 and 89 of the Treaty to payments made by Member States pursuant to and in conformity with this Regulation.

(18) Regulation (EC) No 1698/2005 should therefore be amended accordingly,

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10 OJ L […], […], p. […].

11 OJ L 46, 21.2.2008, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1698/2005 is hereby amended as follows:

(1) In Article 11(3), point (d) is replaced by the following:

"(d) a list of the rural development programmes implementing the national strategy plan, an indicative EAFRD allocation for each programme, including the amounts provided for in Article 12(2) of Regulation (EC) No 1290/2005*, and a separate indication of the amounts provided for in Article 69(5a) of this Regulation."

* *OJ L 209, 11.8.2005, p. 1–25*

(2) The following Article 12a is added at the end of Chapter II:

"Article 12a
Revision

1. Each Member State shall revise, in accordance with the procedure referred to in Article 12(1), its national strategy plan following the review of the Community strategic guidelines as referred to in Article 10.

2. Member State shall send to the Commission a revised national strategy plan at the latest three months after the adoption of the decision on the Community strategic guidelines."

(3) The following Article 16a is inserted:

"Article 16a
Specific operations related to certain priorities

1. From 1 January 2010, Member States shall provide in their rural development programmes, in accordance with their specific needs, for types of operations having the following priorities as described in the Community strategic guidelines and specified further in the national strategy plan:

(a) climate change;

(b) renewable energies;

(c) water management;

(d) biodiversity.

Member States may base their choice on the indicative list of types of operations set out in Annex II of this Regulation and/or any other types of operations provided that those operations are linked to the priorities referred to in the first subparagraph and are aimed at achieving the potential effects specified in Annex II.

2. From 1 January 2010, for types of operations referred to in paragraph 1, the aid intensity rates fixed in Annex I may be increased by 10 percentage points.

3. From 1 January 2010, each rural development programme shall also include:

(a) the list of types of operations and the information referred to in Article 16(c) on the specific types of operations referred to in paragraph 1 of this Article;

(b) a table setting out for the period from 1 January 2010 to 31 December 2013 the total Community contribution for types of operations referred to in Article 69(5a)."

(4) In Article 17 the following paragraph 3 is added:

"3. The amounts equal to those resulting from the application of the compulsory modulation under Article 69(5a) shall not be taken into account in the EAFRD total contribution from which the minimum Community financial contribution per axis is calculated as provided for in paragraphs 1 and 2 of this Article."

(5) In Article 51(1), the following subparagraphs are added:

"The first and second subparagraph shall also apply where, the non-compliance in question is the result of an act or omission directly attributable to the person to whom or from whom the land was transferred.

For the purpose of this paragraph, the term "transfer" means any type of transaction whereby the land ceases to be at the disposal of the transferor.

For the purpose of this Article, the term "whole holding" shall not include non-agricultural activities on a holding and non-agricultural areas for which no support in accordance with Articles 36(b)(i), (iv) and (v) of this Regulation is claimed."

(6) Article 51, paragraph 2 is replaced by the following:

"2. The reduction or cancellation of payments referred to in paragraph 1 shall apply subject to the following provisions:

(a) The reduction or cancellation shall not apply for standards for which a period of grace has been granted in accordance with Article 26(1)(b) during the period of grace.

(b) Pursuant to the conditions laid down in the detailed rules referred to in paragraph 4 of this Article, Member States may decide not to apply a reduction or cancellation amounting to EUR 100 or less per farmer and per calendar year, and which includes any reduction or exclusion applied to direct payments under Article 25 Regulation (EC) No XXXX/2008 (new Regulation on direct support schemes).

Where a Member State decides to make use of the option provided for in the first subparagraph, in the following year the competent authority shall take the actions required to ensure that the farmer remedies the findings of non-compliance concerned. The finding and the remedial action to be taken shall be notified to the beneficiary.

(c) In case the non-compliance referred to in paragraph 1 is due to negligence of the beneficiary and in duly justified cases, Member States may decide that no reduction shall be applied where, given its severity, extent and permanence, a case of non-compliance is to be considered as minor. Cases of non-compliance which constitute a direct risk to public or animal health shall however not be considered as minor.

Unless the beneficiary has taken immediate remedial action putting an end to the non-compliance found, the competent authority shall take the actions required that may, where appropriate, be limited to an administrative check, to ensure that the farmer remedies the findings of non-compliance concerned. The finding of minor non-compliance and the remedial action to be taken shall be notified to the beneficiary."

(7) In Article 69 the following paragraphs 5*a*, 5*b* and 5*c* are inserted:

"(5a) An amount equal to the amounts resulting from the application of the compulsory modulation under Articles 9(4) and 10(4) of Regulation (EC) No XXXX/2008 (new Regulation on direct support schemes) shall be spent by Member States in the period from 1 January 2010 to 31 December 2015 as Community support under the current rural development programmes for operations of the types referred to in Article 16a of this Regulation approved after 1 January 2010.

(5b) If at the closure of the programme, the total amount spent on the operations referred to in paragraph 5a of this article is lower than the amount referred to in Article 16a(3)(b), the difference shall be reimbursed by the Member State to the Community budget up to the amount by which the total allocations available for operations other than those referred to in Article 16a have been exceeded.

(5c) Amounts referred to in paragraph 5a will not be taken into account for the purpose of Article 25 of Regulation (EC) No 1290/2005."

(8) In Article 78, point (f) is replaced by the following:

"(f) shall consider and approve any substantial proposals for changes in rural development programmes."

(9) In Article 88(1), the second subparagraph is replaced by the following:

"However, and without prejudice to Article 89 of this Regulation, Articles 87, 88 and 89 of the Treaty shall not apply to payments made by Member States pursuant to and in conformity with this Regulation within the scope of Article 36 of the Treaty."

(10) The Annex is amended as follows:

(a) The title is replaced by the following:

"Annex I"

(b) The Footnote "****" is replaced by the following:

*"**** These amounts may be increased for the types of operations mentioned in Article 16a of this Regulation and in other exceptional cases taking account of specific circumstances to be justified in the rural development programmes."*

(11) The word "Annex" is replaced by "Annex I" in the Annex and in the following Articles: 22(2), 23(6), 24(2), 26(2), 27(3), 28(2), 31(2), 32(2), 33, 34(3), 35(2), 37(3), 38(2), 39(4), 40(3), 43(4), 44(4), 45(3), 46, 47(2), 88(2), 88(4), 88(6).

(12) A new Annex II, the text of which is set out in the Annex to this Regulation, is added.

Article 2

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

It shall apply from 1 January 2009.

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

Done at Brussels,

For the Council
The President

ANNEX

"ANNEX II

Indicative types of operations related to priorities referred to in Article 16a

Priority: Climate change		
Types of operations	**Articles and measures**	**Potential effects**
Improve efficiency of nitrogen fertiliser use (for ex. reduced use, equipment, precision agriculture), improvement of manure storage	Article 26: Modernisation of agricultural holdings Article 39: Agri-environment payments	Reduction of methane (CH_4) and nitrous oxide (N_2O) emissions
Improvement of energy efficiency	Article 26: Modernisation of agricultural holdings	Reduction of carbon dioxide (CO_2) emissions by saving energy.
Soil management practices (for ex. tillage methods, catch crops, diversified crop rotations)	Article 39: Agri-environment payments	Reduction of nitrous oxide (N_2O); carbon sequestration.
Land Use change (for ex. conversion of arable land to pastures, permanent set-aside, reduced use/ restoration of organic soils)	Article 39: Agri-environment payments	Reduction nitrous oxide (N_2O); carbon sequestration.
Extensification of livestock (for ex. reduction stocking density, increase grazing)	Article 39: Agri-environment payments	Reduction of methane (CH_4).
Afforestation	Articles 43 and 45: First afforestation of agricultural and non-agricultural land	Reduction of nitrous oxide (N_2O); carbon sequestration.
Forest fire prevention	Article 48: Restoring forestry potential and introducing prevention actions	Carbon sequestration in forests and avoid carbon dioxide (CO_2) emissions.
Priority: Renewable energies		
Types of operations	**Articles and measures**	**Potential effects**
Biogas production – anaerobic digestion plants using animal waste (on farm and local production)	Article 26: Modernisation of agricultural holdings Article 53: Diversification into non-agricultural activities	Substitution of fossil fuel; reduction of methane (CH_4)
Perennial energy crops (short rotation coppice and herbaceous grasses)	Article 26: Modernisation of agricultural holdings	Substitution of fossil fuels; carbon sequestration; reduction of nitrous oxide (N_2O).
Processing of agricultural/forest biomass for	Article 28: Adding value to agricultural and	Substitution of fossil fuels.

renewable energy	forestry products	
Installations/infrastructure for renewable energy using biomass	Article 53: Diversification into non-agricultural activities Article 54: Support for business creation and development Article 56: Basic services for the economy and rural population	Substitution of fossil fuels.
Priority: Water Management		
Types of operations	**Articles and measures**	**Potential effects**
Water saving technologies, water storage Water saving production techniques	Article 26: Modernisation of agricultural holdings Article 30: Infrastructure	Improve the capacity to use water more efficiently.
Wetland restoration Conversion of agricultural land into forest/agro-forestry systems	Article 39: Agri-environment payments Article 41: Non-productive investments Article 43 and 45: First afforestation of agricultural and non-agricultural land	Conservation of high-value water bodies; protection of quality water.
Development of semi-natural water bodies	Article 57: Conservation and upgrading of the rural heritage	Conservation of high-value water bodies; protection of quality water.

Priority: Biodiversity		
Types of operations	**Articles and measures**	**Potential effects**
No application of fertilizer and pesticides on high nature value agricultural land Integrated and organic production	Article 39: Agri-environment payments	Conserved species-rich vegetation types, protection and maintenance of grasslands.
Perennial field and riparian boundary strips Construction/management of biotopes/habitats within and outside Natura 2000 sites Land Use Change (extensive grassland management, conversion of cropland to pasture, long-term set-aside) Management of high nature value perennials	Articles 38 and 46: Natura 2000 payments Article 39: Agri-environment payments Article 41: Non-productive investments Article 47: Forest-environment payments Article 57: Conservation and upgrading of the rural heritage	Protected birds and other wildlife and improved biotope network; reduced entry of harmful substances in bordering habitats.
Conservation of genetic diversity	Article 39: agri-environment payments	Conserved genetic diversity.

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Proposal for a

COUNCIL DECISION
of

amending Council Decision of 20 February 2006 (2006/144/EC) on the Community strategic guidelines for rural development (programming period 2007 to 2013)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) N° 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)[1], and in particular Articles 9 and 10 thereof,

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

Having regard to the opinion of the European Parliament[3],

Whereas:

(1) The Council by its Decision 2006/144/EC[4] adopted the Community strategic guidelines for rural development (programming period 2007 to 2013), hereinafter "Community strategic guidelines".

(2) Article 10 of Regulation (EC) N° 1698/2005 provides that with a view to taking account of major changes in the Community priorities in particular, the Community strategic guidelines may be subject to review.

(3) In the context of the assessment of the implementation of the Common Agricultural Policy reform of 2003 climate change mitigation, renewable energies, water management and biodiversity were identified as the crucial new challenges. The objectives related to these priorities should be strengthened in the rural development programs approved in accordance with Regulation (EC) 1698/2005.

(4) The Community strategic guidelines should identify the areas important for the realisation of the revised Community priorities related to climate change mitigation, renewable energies, water management and biodiversity.

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1 OJ L 277, 21.10.2005, p. 1. Regulation last amended by Regulation (EC) No 146/2008, (OJ L 46, 21.02.2008, p.1).
2 OJ C […], […], p. […].
3 OJ C […], […], p. […].
4 OJ L 55, 25.2.2006, p. 20

(5) On the basis of the review of the Community strategic guidelines, each Member State should revise its national strategy plan as the reference framework for the revision of rural development programmes.

(6) The Community strategic guidelines should therefore be amended accordingly,

HAS DECIDED AS FOLLOWS:

Sole Article

Council Decision of 20 February 2006 (2006/144/EC) is hereby amended as follows:

In the Annex, paragraphs 2.5. and 3.4a., the text of which are set out in the Annex to this Decision, are added.

Done at Brussels, […]

For the Council
The President

Annex

The Community strategic guidelines for rural development (programming period 2007 to 2013), set out in the Annex to Decision 2006/144/EC, are amended as follows:

(1) In Part 2, the following point is added:

"2.5 Meeting the new challenges

As part of the review of the reforms introduced in 2003, also the balance between expenditure for direct payments under the 1st pillar of the CAP and funding of rural development policy has been revisited. With the overall CAP budget fixed until 2013, additional funding for rural development can only be realised through an increase in compulsory modulation. The additional funding is needed to reinforce the efforts with regard to the EU priorities in the field of climate change, renewable energy, water management and biodiversity:

- Climate and energy became priorities, as the EU is taking the lead to build a global low carbon economy. In March 2007, the European Council adopted conclusions [5] to reduce CO_2 emissions by at least 20% by 2020 (30% as part of an international agreement on global targets) and to set a binding 20% target for the use of renewable energy sources, including a 10% share of biofuels in petrol and diesel consumption. Agriculture and forestry can make an important contribution in providing the feed stocks for bio-energy, in carbon sequestration and in further reducing GHG emissions.
- The EU's objectives with regard to water policy are laid down in Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy[6] , which will start to reach full implementation in the period 2010-2012. Agriculture and forestry as main users of water and water resources have a major role to play in sustainable water management both in terms of quantity and of quality. Water management will be an increasingly important part of the adaptation strategy to deal with already unavoidable climate change.
- Member States have committed themselves to halt biodiversity decline by 2010, a target which increasingly seems unlikely to be met. A large part of Europe's biological diversity is dependent on agriculture and forestry and the efforts to protect biodiversity will have to be increased, particularly in the light of the expected adverse effects of climate change and increasing water demand."

[5] Council Conclusions, Brussels, 8/9 March 2007 7224/1/07 REV1

[6] *OJ L 327, 22.12.2000, p. 1–73*

(2) In Part 3, the following point 3.4*a*. is inserted:

"3.4a. Addressing the new challenges

Community strategic guideline Climate change, renewable energy, water management and biodiversity are crucial challenges for Europe's rural areas, agriculture and forestry. As part of the EU global strategy against climate change, agriculture and forestry will be called to contribute more in the future for curbing green house gas emissions and increasing carbon sequestration. Increasing production of renewable energy from agriculture and forestry biomass should also help to meet the new EU targets in total fuel and energy consumption by 2020. More sustainable water management practices in agriculture will be essential to ensure sufficient quantity and quality of water for the future, and to adapt to the projected climate change impacts on water resources. Furthermore, halting biodiversity decline remains a major challenge. Therefore, the additional resources which will be made available as of 2010 by an increase in compulsory modulation should be devoted to reinforce the EU priorities in the above-mentioned fields.

In order to meet these priorities, Member States are encouraged to focus support on key actions. Such key actions could include the following types of operations:

(i) In particular investment support under axis 1 can be targeted towards energy, water and other input saving machinery and equipment as well as to the on farm production of renewable energy. In the agrifood chain and forestry sector investment support should help to develop innovative and more sustainable ways of biofuel processing.

(ii) Under axis 2 the agri-environment measure and the forestry measures can be used in particular for enhancing biodiversity by conserving species-rich vegetation types, protection and maintenance of grassland and extensive forms of agricultural production. Specific actions under axis 2, such as agri-environment or afforestation can also help to improve the capacity to better manage the available water resources in terms of quantity and protect them in terms of quality. Furthermore, certain agri-environmental and forestry actions contribute to curbing emissions of nitrous oxide (N_2O) and methane (CH_4) and help to foster carbon sequestration.

(iii) Under axis 3 and 4 local scale projects and cooperation for renewable energy projects can be supported as well as diversification of farmers into bioenergy production. Conservation of natural heritage can help in protecting high nature value habitats and high-value water bodies.

(iv) As all rural areas are being confronted with the climate change and renewable energy issues Member States can encourage the Leader groups to pick up these issues in their local development strategies as a cross cutting theme. The groups are well placed to contribute to climate change adaptation and renewable energy solutions tailored to the local situation.

(v) As a general principle support shall be targeted to types of operations which are coherent with the objectives and provisions established in Regulation (EC) No

1698/2005 and which contribute generating positive potential effects in view of the new challenges such as specified in Annex II to that Regulation. "