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Information and Notices

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II

(Preparatory Acts)

COMMISSION

COMMISSION PROPOSALS CONCERNING THE REFORM OF THE COMMON
AGRICULTURAL POLICY*COM(1998) 158 final**(Submitted by the Commission on 19 March 1998)*

98/0107 (CNS)

Proposal for a

COUNCIL REGULATION (EC) No ...

of ...

amending Regulation (EEC) No 1766/92 on the common organisation of the market of cereals and repealing Regulation (EEC) No 2731/75 fixing standard qualities for common wheat, rye, barley, maize and durum wheat

(98/C 170/01)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas after the 1992 reform of the common agricultural policy, there has been a particular improvement in market balances;

Whereas set-aside under the support system for producers of certain arable crops introduced in 1992 in addition to a lowering of the intervention price, has helped to keep production under control, while increased price

competitiveness has allowed significant additional cereals quantities to be used on the domestic market, mainly for animal feed;

Whereas, subject to increases of area payments under the arable crops support system as laid down in Council Regulation (EC) No ... , to reinforce the effect of the 1992 reform, price competitiveness should be strengthened by a further cut in the intervention price, bringing it down at one step to a safety-net level;

Whereas intervention should no longer be a major factor on the internal market; whereas in the light of this new role of intervention, the system of monthly increments should be discontinued;

Whereas the provisions of standard quality have no longer any practical relevance and should, therefore, be withdrawn;

Whereas since the non-cereal starch price and compensation arrangements have always been governed

by the common organisation of the market in cereals, the adjustment of those arrangements should follow the measures taken for cereals; that the minimum price for potatoes intended for the manufacture of potato starch and the payments for producers of such potatoes should, therefore, be adapted in line with the price reduction for cereals;

Whereas tariff quotas resulting from agreements concluded in accordance with Article 228 of the Treaty or from any other act of the Council should be opened and administered by the Commission on the basis of detailed rules;

Whereas, taking into account the influence of the world market price on the internal price, the conditions for application, by the Commission, of the necessary measures to stabilise the internal market should be clarified,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1766/92 is hereby amended as follows

1. Article 1(2) shall be replaced by the following text:

‘2. This Regulation shall apply notwithstanding the measures provided for by Regulation (EC) No . . . on support for arable farmers.’

2. Article 3 shall be replaced by the following:

Article 3

1. An intervention price for cereals subject to intervention shall be fixed at ECU 95,35 per tonne.

2. The intervention price shall refer to the wholesale stage for goods delivered to the warehouse, before unloading. It shall be valid for all Community intervention centres designated for each cereal.

3. The prices fixed in this Regulation may be changed in the light of developments in production and the markets in accordance with the procedure laid down in Article 43(2) of the Treaty.’

3. Article 8 shall be replaced by the following:

Article 8

1. A minimum price for potatoes intended for the manufacture of potato starch shall be set at ECU 167,82.

This price applies to the quantity of potatoes, delivered to the factory, which is needed for making one tonne of starch.

2. A system of payments is established for producers of 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 set at ECU 105,60.

The payment shall be paid only in respect of the quantity of potatoes covered by a cultivation contract between the potato producer and the starch manufacturer within the limit of the quota allocated to such undertaking, as referred to in Article 2(2) of Council Regulation (EC) No 1868/94⁽¹⁾.

3. The minimum price and the payment shall be adjusted according to the starch content of the potatoes.

4. If the situation on the potato starch market makes it necessary, the Council shall adopt the appropriate measures in accordance with the procedure laid down in Article 43(2) of the Treaty.

5. The Commission shall adopt the detailed rules for applying this Article following the procedure laid down in Article 23.’

4. Article 12(1) shall be replaced by the following text:

‘1. Tariff quotas for the products listed in Article 1 resulting from agreements concluded in accordance with Article 228 of the Treaty or from any other act of the Council pursuant to the Treaty shall be opened and administered in accordance with detailed rules adopted under the procedure laid down in Article 23.’

5. Article 13(8) shall be replaced by the following text:

‘8. A corrective amount may be fixed in accordance with the procedure laid down in Article 23. However, the Commission may, where necessary, alter corrective amounts.

The first subparagraph may be applied, in whole or in part, to products listed in Article 1(1)(c) and (d) and to products listed in Article 1 and exported in the form of goods listed in Annex B.’

⁽¹⁾ Council Regulation of 27 July 1994 establishing a quota system in relation to the production of potato starch, OJ L 197, 30.7.1994, p. 4. Regulation as last amended by Council Regulation (EC) No 1863/95, OJ L 179, 29.7.1995, p. 1, corrected by OJ L 83, 2.4.1995, p. 20 and OJ L 39, 8.2.1997, p. 23.

6. Article 16 shall be replaced by the following:

Article 2

'Article 16

1. Where the quotations or prices on the world market for one or more of the products listed in Article 1 reach a level which disrupts or threatens to disrupt the availability of supply on the Community market, and where that situation is likely to continue and to deteriorate, appropriate measures may be taken.

2. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 23.'

Council Regulation (EEC) No 2731/75 of 29 October 1975 fixing standard qualities for common wheat, rye, barley, maize and durum wheat⁽¹⁾ shall hereby be repealed.

Article 3

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

This Regulation shall apply from the 2000/2001 marketing year onwards.

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

Done at . . .

For the Council

. . .

⁽¹⁾ OJ L 281, 1.11.1975, p. 22. Regulation as last amended by Council Regulation (EC) No 2594/97, OJ L 352, 23.12.1997, p. 10.

98/0108 (CNS)

Proposal for a
COUNCIL REGULATION (EC) No . . .
of . . .
establishing a support system for producers of certain arable crops
(98/C 170/02)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the common agricultural policy aims to attain the objectives referred to in Article 39 of the Treaty, taking account of the market situation;

Whereas, in order to ensure better market balance, a new scheme of support was introduced by Council Regulation (EEC) No 1765/92 of 30 June 1992 establishing a support system for producers of certain arable crops⁽¹⁾;

Whereas, after the 1992 reform of the common agricultural policy, there has been a particular improvement of market balances;

Whereas set-aside under the support system for producers of certain arable crops, introduced in 1992 in addition to a lowering of the intervention price, has helped to keep production under control, while increased price competitiveness has allowed significant additional cereals quantities to be used on the domestic market, mainly for animal feed;

Whereas the support on the basis of the scheme introduced in 1992 should be continued, taking into account, however, market developments and experience acquired in applying the current scheme;

Whereas the reform of the support scheme has to take into account the international obligations of the Community;

Whereas the best way to achieve market balance is to approximate the Community prices of cereals to the prices on the world market and to provide for non-crop specific area payments;

Whereas area payments should be revised if the market conditions differ from those currently foreseen;

Whereas the area eligible should be restricted to the area down to arable crops or publicly funded set-aside in the past;

Whereas, when the sum of the areas for which payment is claimed under the scheme is in excess of the base area, a reduction of the eligible area per farm should be provided for in order to ensure market balance;

Whereas area payments should reflect the specific structural characteristics that influence yield; whereas the drawing up of a regionalisation plan based on objective criteria should be left to the Member States; whereas uniform average yields should be established by the regionalisation plans; whereas these plans should be consistent with the average yields of each region achieved in a given period, taking into account any structural differences between production regions; whereas a specific procedure should be provided in order to examine these plans at Community level;

Whereas differentiation of yields may be permitted for irrigated and non-irrigated areas provided that a separate base area for irrigated crops is established and there is no extension of the total base area;

Whereas, in order to calculate the area payment, a basic amount per tonne should be multiplied by the average cereals yield determined for the region concerned;

Whereas a single area payment should be fixed for arable crops; whereas the basic amounts per tonne should be increased taking into account the reduction in the cereals intervention price; whereas crop specific payments for oilseeds and linseed should be abolished; whereas a specific aid should be established for protein crops in order to preserve their competitiveness with cereals;

⁽¹⁾ OJ L 181, 1.7.1992, p. 12. Regulation as last amended by Regulation (EC) No 2309/97, OJ L 321, 22.11.1997, p. 3.

Whereas a special scheme for durum wheat should be established to ensure a durum wheat production level which is sufficient to supply user industries while keeping budgetary expenditure in check; whereas that objective should be achieved by introducing a supplement limited, for each Member State concerned, to a maximum area of durum wheat; whereas any overshoot of those areas should lead to an adjustment to the applications submitted;

Whereas, moreover, in some Member States, the production of durum wheat is well-established in regions outside traditional zones; whereas it is desirable to safeguard a certain level of production in those regions by the grant of special aid;

Whereas, in order to benefit from the area payments, producers should set aside a predetermined percentage of their arable area; whereas the land set aside should be cared for so as to meet certain minimum environmental standards; whereas the areas set aside should also be eligible for use for non-food purposes, provided effective control systems can be applied;

Whereas in the current market situation, the set-aside requirement should be fixed at 0%; whereas this percentage should be re-examined to take account of production and market developments;

Whereas the set-aside obligation should be subject to due compensation; whereas the compensation should be equivalent to the area payments for arable crops other than protein crops;

Whereas no set-aside requirement should be imposed for small producers whose claim for area payments is below a certain level; whereas this level should be fixed;

Whereas for voluntary set-aside, basic conditions should be fixed at Community level;

Whereas area payments should be paid once a year for a given area; whereas areas not cultivated immediately before the entry into force of the scheme established by Regulation (EEC) No 1765/92 should not be eligible for payment; whereas to take account of certain specific situations where this provision is unduly restrictive certain derogations should be permitted, to be managed by the Member States;

Whereas it is necessary to determine certain conditions for applying for area payments and to specify when producers should be paid;

Whereas payment dates should be fixed in order to ensure an even distribution of arable crops sales during the marketing year;

Whereas sowing dates should be adapted to natural conditions in the different production areas;

Whereas expenditure incurred by the Member States as a result of the obligations arising out of the application of this Regulation should be financed by the Community in accordance with Articles 1 and 2 of Council Regulation (EC) No . . . on the financing of the common agricultural policy;

Whereas it is necessary to provide for transitional measures and to enable the Commission to adopt, if necessary, additional transitional measures;

Whereas the adaptations to the arable crops support system should be introduced as from the marketing year 2000/2001;

Whereas, in view of the present adaptations to the current support scheme and to previous modifications, it is appropriate, for reasons of clarity, to replace Regulation (EEC) No 1765/92 by a new Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation hereby establishes a system of area payments for producers of arable crops.
2. For the purposes of this Regulation:
 - the marketing year shall run from 1 July to 30 June,
 - 'arable crops' are taken to mean those listed in Annex I.

CHAPTER I

Area payment

Article 2

1. Community producers of arable crops may apply for an area payment under the conditions set out in this Chapter.
2. The area payment shall be fixed on a per hectare basis and regionally differentiated.

The area payment shall be granted for the area which is down to arable crops or subject to set-aside in accordance with Article 6 and which does not exceed a regional base area. This is established as the average number of hectares within a region down to arable crops or where appropriate fallowed in conformity with a publicly funded scheme during 1989, 1990 and 1991. A

region in this sense shall be understood to mean a Member State or a region within the Member State, at the option of the Member State concerned.

3. Producers applying for the area payment shall be subject to an obligation to set aside part of the land of their holding from production and shall receive compensation for this obligation.

4. When the sum of the areas for which payment is claimed under the arable producers' scheme, including the set-aside provided for under that scheme, is in excess of the base area, the eligible area per farmer shall be reduced proportionately for all the payments granted under this Chapter in the region in question during the same marketing year.

Areas which are not the subject of an application for payment under this Regulation but are used to support an application for aid under Regulation (EC) No [...] shall also be taken into account for the calculation of areas for which payment is claimed.

Article 3

1. For the purpose of setting average yields to be used for calculation of the area payment, each Member State shall establish a regionalisation plan setting out the relevant objective criteria for determination of the separate production regions in order to arrive at distinct homogeneous areas.

With this in mind, Member States shall take due account of specific situations in drawing up their regionalisation plans. They may in particular adjust average yields in line with any structural differences between production regions.

Member States may in their regionalisation plans set different yields for irrigated and non-irrigated land. In that case, Member States shall establish a separate base area for areas bearing irrigated crops.

The irrigated base area shall be equal to the average area irrigated from 1989 to 1991 with a view to harvesting arable crops including the increases made pursuant to Article 3(1) fourth subparagraph last sentence of Regulation (EEC) No 1765/92. The establishment of the irrigated base area must not lead to any increase in the total base area of the Member State concerned. Should this base area be exceeded, Article 2(4) shall apply.

The regionalisation plan shall in all cases ensure that the average yield of the Member State concerned established for the period and in accordance with the criteria referred to in paragraph 2 is respected.

2. For each production region, the Member State shall give details of the areas and yields of arable crops produced in that region during the five year period 1986/87 to 1990/91. Average cereals yields shall be separately calculated for each region by excluding the year with the highest and the year with the lowest yield during that period.

However, this obligation may be fulfilled in the case of Portuguese cereals by providing data having been supplied pursuant to Council Regulation (EEC) No 3653/90 of 11 December 1990 introducing transitional measures governing the common organisation of the market in cereals and rice in Portugal⁽¹⁾ and in the case of the five new German *Länder* by providing the average crop yield applicable in the other German *Länder*.

If a Member State decides to treat irrigated land separately from non-irrigated land, the corresponding average yield, which shall not be altered, shall be broken down between the two types.

3. Member States shall submit their regionalisation plan to the Commission by 1 August 1999 together with all necessary supporting information. In order to fulfil this obligation, they may refer to their regionalisation plan submitted to the Commission in accordance with Regulation (EEC) No 1765/92.

4. The Commission shall examine the regionalisation plans submitted by the Member States and shall ensure that each plan is based on appropriate, objective criteria and is consistent with available historical information. The Commission may object to plans which are not compatible with the aforementioned relevant criteria in particular with the average yield of the Member State. In this case, the plans shall be subject to adjustment by the Member State concerned after consultation with the Commission.

5. The regionalisation plan may be revised by the Member State concerned at the request of the Commission or at the initiative of that Member State in accordance with the same procedure as outlined in paragraphs 1 to 4.

6. Should a Member State, pursuant to paragraph 1, choose to establish production regions the demarcation of which does not correspond to that of regional base areas, it shall send the Commission a summary statement of payment applications and the yields pertaining to these. If it emerges from this information that, in a Member State, the average yield resulting from the regionalisation plan applied in 1993 or, in the case of the new Member States, the average yield resulting from the

⁽¹⁾ OJ L 362, 27.12.1990, p. 28.

plan applied in 1995, is exceeded, all payments to be made in that Member State for the following marketing year shall be reduced in proportion to the overrun which has been recorded. However, this provision shall not apply where the quantity for which applications were made, expressed in tonnes of cereals, does not exceed that resulting from the product of the total base areas of the Member State by the aforementioned average yield.

Member States may decide to ascertain whether there has been any exceeding of the average yield for each base area. In such cases, the provisions of this paragraph shall be applied to the payments to be paid in each base area concerned.

Article 4

1. The area payment is calculated by multiplying the basic amount per tonne by the average yield determined in the regionalisation plan for the region concerned.

2. The basic amount per tonne is fixed at:

- ECU 72,5 for protein crops and
- ECU 66 for other arable crops.

Article 5

A supplement to the area payment of ECU 344,5 per hectare shall be paid for the area down to durum wheat in the traditional production zones listed in Annex II, subject to the limits fixed in Annex III.

Should the total of the areas for which a supplement to the area payment is claimed be greater than the limit referred to above during the course of a marketing year, the area per producer for which the supplement may be paid shall be reduced proportionately.

However, subject to the limits per Member State laid down in Annex III, Member States may distribute the areas indicated in that Annex among the production zones as defined in Annex II, or, if necessary, the production regions referred to in Article 3, according to the extent of the production of durum wheat during the period 1993 to 1997. Where this is done, should the total of the areas within a region for which a supplement to the area payment is requested be greater than the corresponding regional limit during the course of a marketing year, the area per producer in that production region for which the supplement may be paid shall be reduced proportionately. The reduction shall be made when, within a Member State, the areas in regions which have not reached their regional limits have been distributed to regions in which those limits have been exceeded.

In regions where the production of durum wheat is well established, other than those referred to in Annex II, special aid amounting to ECU 138,9 per hectare shall be granted up to a limit of the number of hectares laid down in Annex IV.

Article 6

1. The set-aside obligation for each producer applying for area payments shall be fixed as a proportion of his area down to arable crops and for which a claim is made, and left in set-aside pursuant to this Regulation.

The set-aside obligation shall at present be 0%.

2. Member States shall apply appropriate environmental measures which correspond to the specific situation of the land set aside.

3. The land set aside may be used for the provision of materials for the manufacture within the Community of products not primarily intended for human or animal consumption, provided that effective control systems are applied.

Member States are authorised to grant national aid to producers to help them to cover the costs of planting multiannual crops for biomass production. The aid may not, however, be more than the equivalent of the interest to be paid on a loan, repayable in five equal annual instalments, taken out for an amount not exceeding five years of area payments for the land in question.

4. The payment for set-aside obligation shall be calculated as the area payment according to Article 4 (1) and (2), second indent. Where different yields are set for irrigated and non-irrigated land, those for non-irrigated land apply. In the case of Portugal, payment shall take account of the aid granted under Regulation (EEC) No 3653/90.

5. Producers may be granted the set-aside payment on land set aside in excess of their obligation. In such cases, the area set aside may not exceed an area to be defined by Member States at rates taking into account specific situations and ensuring sufficient occupation of farmland. The area set aside should at least be 10% of the area down to arable crops and for which a payment application is made, and left in set-aside pursuant to this Regulation. The set-aside payment may be granted on a multiannual basis for a period up to five years.

6. Producers who make a payment application for an area no bigger than the area which would be needed to produce 92 tonnes of cereals, on the basis of the yield

determined for their region, are not bound by the set-aside obligation.

Article 7

Applications for payments may not be made in respect of land that on 31 December 1991 was under permanent pasture, permanent crops or trees or was used for non-agricultural purposes.

Member States may, on terms to be determined, depart from these provisions under certain specific circumstances, in particular for areas subject to restructuring programmes or for areas subject to standard rotations of multi-annual arable crops with those crops listed in Annex I. In such cases, they shall take action to prevent any significant increase in the total eligible agricultural area. This may in particular involve deeming previously eligible areas ineligible as an offsetting measure.

Member States may also depart from the provisions of the first subparagraph under certain specific circumstances relating to one or other form of public intervention where such intervention results in a farmer growing crops on land previously regarded as ineligible in order to continue his normal agricultural activity and if the intervention in question means that land originally eligible ceases to be so with the result that the total amount of eligible land is not increased significantly.

Moreover, Member States may, in certain cases not covered by the previous two subparagraphs, depart from the first subparagraph if they provide proof in a plan submitted to the Commission that the total amount of eligible land remains unchanged.

Article 8

1. Payments shall be made between 1 January to 31 March following the harvest.

2. In order to qualify for the area payment, a producer shall by 31 May preceding the relevant harvest have sown the seed and by 15 May have lodged an application.

3. Member States shall take the necessary measures to remind applicants of the need to respect environmental legislation.

Article 9

Detailed rules for the application of this Chapter shall be adopted in accordance with the procedure laid down in Article 23 of Council Regulation (EEC) No 1766/92⁽¹⁾ and in particular:

- those relating to the establishment and management of base areas,
- those relating to the establishment of production regionalisation plans,
- those relating to the granting of the area payment,
- those relating to the minimum area eligible for payment; such rules shall take particular account of the monitoring requirements and of the desired effectiveness of the scheme in question,
- those determining, for durum wheat, the eligibility for the supplement to the area payment referred to in Article 5 and the eligibility requirements for the special aid referred to in that Article, and in particular determination of the regions to be taken into consideration,
- those relating to set-aside, in particular those relating to Article 6(3); these conditions may include the growing of products without compensation,
- those relating to the conditions for applying Article 7; these conditions shall specify under what circumstances the provisions of Article 7 may be waived and Member States' obligation to refer envisaged action to the Commission for approval.

According to the same procedure, the Commission may:

- either make the granting of payments subject to the use of specific seeds, certified seeds in the case of durum wheat, certain varieties in the cases of oilseeds, durum wheat and linseeds or provide for the possibility for Member States to make the granting of payments subject to such conditions;
- allow the dates in Article 8(2) to be varied in certain zones where exceptional climatic conditions render the normal dates inapplicable;
- allow, subject to the budgetary situation, to authorise, in derogation from Article 8(1), payments prior to 1 January in certain regions, of up to 50 % of the

⁽¹⁾ OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 923/96 of 24.5.1996, p. 37.

area payments and of the payment for set-aside in years in which exceptional climatic conditions have so reduced yields that producers face severe financial difficulties.

Article 10

The measures defined in this Chapter shall be deemed to be intervention intended to stabilise agricultural markets within the meaning of Article [...] of Regulation (EC) No [...].

CHAPTER II

General and transitional provisions

Article 11

The amounts of the area payments and the payment for set-aside as well as the percentage area to be set aside fixed in this Regulation may be changed in the light of developments in production, productivity and the markets, according to the procedure laid down in Article 43(2) of the Treaty.

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

Done at . . .

Article 12

Should specific measures be necessary to facilitate the transition from the system in force to that established by this Regulation, such measures shall be adopted in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92.

Article 13

Regulation (EEC) No 1765/92 is hereby repealed.

Article 14

1. This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Communities*.
2. This Regulation shall apply from the 2000/2001 marketing year onwards.
3. Regulation (EEC) No 1765/92 shall continue to be applied in relation to the 1999/2000 marketing year.

For the Council

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ANNEX I

Definition of products

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
1209 29 50	Sweet lupins
	IV. FLAX, other than fibre flax
ex 1204 00	Linseed (<i>Linum usitatissimum</i> L.)

ANNEX II

Traditional production zones for durum wheat

<p>GREECE</p> <p><i>Nomoi (prefectures) of the following regions:</i></p> <p>Central Greece Peloponnese Ionian Islands Thessaly Macedonia Aegean Islands Thrace</p>	<p>AUSTRIA</p> <p>Pannonia</p>	<p>SPAIN</p> <p><i>Provinces</i></p> <p>Almería Badajoz Burgos Cádiz Córdoba Granada Huelva Jaén Málaga Navarra Salamanca Sevilla Toledo Zamora Zaragoza</p>
<p>FRANCE</p> <p><i>Regions</i></p> <p>Midi-Pyrénées Provence-Alpes-Côte d'Azur Languedoc-Roussillon</p> <p><i>Departments⁽¹⁾</i></p> <p>Ardèche Drôme</p>	<p>ITALY</p> <p><i>Regions</i></p> <p>Abruzzo Basilicata Calabria Campania Latium Marches Molise Umbria Apulia Sardinia Sicily Tuscany</p>	<p>PORTUGAL</p> <p><i>Districts</i></p> <p>Santarém Lisbon Setúbal Portalegre Évora Beja Faro</p>

⁽¹⁾ Each of these departments may be linked to one of the abovementioned regions.

*ANNEX III***Maximum guaranteed areas in receipt of the supplement to the area payment for durum wheat**

	<i>(in hectares)</i>
Greece	617 000
Spain	594 000
France	208 000
Italy	1 646 000
Austria	7 000
Portugal	59 000

*ANNEX IV***Maximum guaranteed areas in receipt of the special aid for durum wheat**

	<i>(in hectares)</i>
Germany	10 000
Spain	4 000
France	50 000
Italy	4 000
United Kingdom	5 000

98/0109 (CNS)

Proposal for a
COUNCIL REGULATION (EC) No . . .
of . . .
on the common organisation of the market in beef and veal
(98/C 170/03)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission;

Having regard to the opinion of the European Parliament;

- (1) Whereas the operation and development of the common market in agricultural products should be accompanied by the establishment of a common agricultural policy to include in particular a common organisation of agricultural markets which may take various forms depending on the product;
- (2) Whereas the aim of the common agricultural policy is to attain the objectives set out in Article 39 of the Treaty; whereas, in the beef and veal sector, in order to stabilise markets and to ensure a fair standard of living for the agricultural community, provision should be made for internal market measures comprising, in particular, direct payments to beef producers and a private storage aid scheme;
- (3) Whereas, in order to rebalance meat consumption in the Community to the benefit of beef sector and to improve the competitiveness of these products on the international markets, the level of market support should be gradually reduced; whereas, given the consequences for producers, the level of income aid provided for under the common market organisation should be adapted and reshaped; whereas, to that end, it is appropriate to establish a comprehensive scheme of direct payments for producers; whereas the amounts of these payments should develop in parallel with the gradual reduction of market support;
- (4) Whereas, given the variety of stockfarming enterprises, direct payments should include a special premium for producers of bulls and steers, a premium for maintaining suckler cow herds and a dairy cow premium; whereas the granting of the premiums should not be reflected by an increase in overall production; whereas, to that end, the

number of male bovine animals and suckler cows eligible for premiums should be limited by applying respectively regional and individual ceilings and, in the case of the special premium, a headage limit per holding; whereas, as regards the dairy cow premium, an equivalent limitation follows the individual reference quantities of the producers concerned which serve as the basic reference for calculating the level of support; whereas as regards the regional ceiling for the special premium, the existing level should be maintained;

- (5) Whereas the conditions of steer production usually differ from those of bull production; whereas it is therefore justified to set the special premium for steers at a different level per animal than for bulls; whereas, however, the special premium for steers should be split into two payments for specific age brackets;
- (6) Whereas slaughtering too great a number of steers during the slaughtering season in Member States where this type of production is particularly important, could disturb the stability of the market and, in particular, lead to a fall in market prices; whereas to encourage the slaughter of steers outside the annual 'off grass' period, an additional premium should be granted, subject to certain conditions, in addition to the special premium for animals slaughtered out of season during the first 23 weeks of the year;
- (7) Whereas, in order to give more flexibility to producers, eligibility for suckler cow premium should be extended to heifers meeting the same breeding requirements as suckler cows; whereas, however, the number of eligible heifers in suckler cow herds should be limited to the normal ratio of replacement;
- (8) Whereas the suckler cow premium should primarily be restricted to producers who do not supply milk to dairies under the additional levy scheme provided for by Council Regulation (EEC) No 3950/92 of 28 December 1992, establishing an additional levy in the milk and milk products sector⁽¹⁾; whereas,

⁽¹⁾ OJ L 405, 31.12.1992, p. 1. Regulation as last amended by Commission Regulation (EC) No 614/97 of 8.4.1997, OJ L 94, 9.4.1997, p. 4.

- however, income support is also needed in the case of small and medium-sized holdings with a dairy herd and a suckler cow herd; whereas suckler cow premium should therefore also be granted for those mixed holdings with a total individual milk reference quantity of not more than 120 000 kg;
- (9) Whereas, as regards the suckler cow premium, it is appropriate to maintain individual ceilings for producers; whereas some of the premium rights conferred by the individual ceilings have not been used in the past; whereas these unused rights would be likely to encourage production and increase expenditure, in particular, as a consequence of heifers becoming fully eligible for suckler cow premium; whereas to avoid such an effect, the total number of suckler cow premium rights of each Member State should be fixed on the basis of the premium payments actually made in respect of historical reference years, increased by a certain margin for maintaining the national reserve; whereas Member States should take the necessary measures to ensure the respect of their national ceilings; whereas, if necessary, they should adjust the individual ceilings of their producers without compensation according to certain objective criteria; whereas these criteria should ensure, in particular, equal treatment of the producers concerned and the protection of legitimate expectations;
- (10) Whereas a producer's level of production may vary because of changes in stock or production capacity; whereas it is therefore advisable to provide for the possibility of transferring suckler cow premium rights acquired in respect of individual ceilings to other producers, under certain conditions, either together with the holding or without retaining the link between premium rights and land farmed;
- (11) Whereas new producers and existing producers whose individual ceilings do not correspond, for various reasons, to changed circumstances of their suckler cow herds should not be excluded from rights to premium; whereas provision should therefore be made to operate national reserves to be stocked and administered in accordance with Community criteria; whereas, for the same reason, it is appropriate to subject the transfer of rights to premium without the transfer of the associated holding to rules whereby part of the rights transferred shall be withdrawn without compensatory payment and allocated to that national reserve;
- (12) Whereas it is opportune to allow Member States to establish a link between sensitive zones or localities and the production of suckler cows so as to ensure the maintenance of such production especially in areas where there is no other alternative;
- (13) Whereas, given the trend towards intensification of beef and veal production, premiums for stockfarming should be limited with regard to the forage capacity of each holding in relation to the numbers and species of animals held; whereas, to avoid excessively intensive types of production, the grant of such premiums should be subject to compliance with a maximum stocking density on the holding; whereas, however, the situation of small producers should be taken into consideration;
- (14) Whereas, to strengthen incentives to extensify production with a view to improving their effectiveness in relation to environmental objectives, an additional amount should be granted to producers who comply with severe and genuine stocking density requirements; whereas, to avoid a major change in the global level of support and ensure reasonable control of expenditure, provision should be made for adjusting the additional amount, if necessary;
- (15) Whereas, as a consequence of reduced market support in the beef and veal sector, there should also be income support for milk producers in the form of a dairy cow premium; whereas this support should be granted on the basis of the individual reference quantities of the producers concerned and the national average milk yield in the Member State where their holdings are located; whereas, for reasons of simplification, the dairy cow premium should be managed and granted together with the corresponding income support for dairy cows under the common market organisation for milk and milk products; whereas this support takes account of the average milk yield in the Community; whereas, to that end, the amounts of dairy cow premium per Member State need to be calculated taking into account the difference between the average milk yield in the Community and that in the Member State concerned;
- (16) Whereas the conditions for beef production and the income situation of producers significantly varies in different production areas of the Community; whereas a Community-wide scheme with uniform payments to all producers would be too rigid to respond adequately to the structural and natural disparities and the diverse needs resulting therefrom; whereas, therefore, it is appropriate to provide for a flexible framework of additional Community payments to be determined and made by Member States within fixed global amounts and in accordance with certain common criteria; whereas the global amounts should be allocated to the Member States on the basis of their share in Community beef production; whereas the common criteria are intended, *inter alia*, to prevent additional payments from producing discriminatory effects and to take full account of the relevant multilateral commitments of the Community; whereas, in

particular, it is essential that Member States be obliged to use their discretionary powers exclusively on the basis of objective criteria, to pay full regard to the concept of equal treatment and to avoid market and competition distortions; whereas it is appropriate to provide for the forms that additional payments may take; whereas these forms should be headage payments for certain categories of bovine animals and area payments;

- (17) Whereas, as regards additional headage payments, certain quantitative limits are required to ensure a reasonable level of production control; whereas it is also necessary to limit the total amount of support which may be granted per animal and, where applicable, per year; whereas, moreover, the concept of applying stocking density requirements should be followed by Member States;
- (18) Whereas additional area payments should only be granted for permanent pasture which does not benefit from other Community market support measures; whereas area payments should be applied within the limits of regional base areas of permanent pasture which should be established by Member States according to historical reference data; whereas the maximum amount of area payments which may be granted per hectare, including additional area payments under the common market organisation for milk and milk products, should be comparable the average support per hectare under the support system for producers of certain arable crops;
- (19) Whereas direct payments should be subject to compliance by the keepers of the animals concerned with the relevant Community rules on identification and registration of bovine animals; whereas, in order to achieve the desired economic impact, direct payments must be granted within certain time limits;
- (20) Whereas the use of certain substances in beef production is prohibited under Community law; whereas appropriate penalties should apply where the relevant provisions are not respected;
- (21) Whereas under the price and income support arrangements provided for in this Regulation, public intervention in the form of buying-in by intervention agencies and public storage is no longer indispensable to balance the market but would cause considerable expenditure; whereas it should, therefore, be phased out gradually; whereas, however, in order to contribute to stabilising the market prices around the basic price which represents the desired market support level, aid for private storage should be provided for; whereas, to that end, the Commission should be authorised to

decide the grant of private storage aid when the market price falls below 103 % of the basic price; whereas provision should be made for the private storage aid scheme to be implemented on the basis of the grading scale laid down in Council Regulation (EEC) No 1208/81 of 28 April 1981 determining the Community scale for the classification of carcasses of adult bovine animals⁽¹⁾;

- (22) Whereas the creation of a single Community market for beef and veal involves the introduction of a single trading system at the external frontiers of the Community; whereas a trading system including import duties and export refunds, in addition to the internal market measures, should, in principle, stabilise the Community market; whereas the trading system should be based on the undertakings accepted under the Uruguay Round of multilateral trade negotiations;
- (23) Whereas, in order to monitor the volume of trade in beef with third countries, provision should be made for a system of import and export licences for certain products, which includes the lodging of a security to guarantee that the transactions for which such licences are granted are effected;
- (24) Whereas in order to prevent or counteract adverse effects on the Community market which could result from imports of certain agricultural products, imports of one or more such products should be subject to payment of an additional import duty, if certain conditions are fulfilled;
- (25) Whereas it is appropriate, under certain conditions, to confer on the Commission the power to open and administer tariff quotas resulting from international agreements concluded in accordance with the Treaty or from other acts of the Council;
- (26) Whereas provisions for granting a refund on exports to third countries, based on the difference between prices within the Community and on the world market, and falling within the WTO Agreement on Agriculture⁽²⁾, should serve to safeguard Community participation in international trade in beef and veal; whereas these refunds should be subject to limits in terms of quantity and value;
- (27) Whereas compliance with the limits in terms of value should be ensured at the time when refunds

⁽¹⁾ OJ L 123, 7.5.1981, p. 3. Regulation as last amended by Council Regulation No 1026/91 (OJ L 106, 26.4.1991, p. 2).

⁽²⁾ OJ L 336, 23.12.1994, p. 22.

- are fixed through the monitoring of payments under the rules relating to the European Agricultural Guidance and Guarantee Fund; whereas monitoring can be facilitated by the compulsory advance fixing of refunds, while allowing the possibility, in the case of differentiated refunds, of changing the specified destination within a geographical area to which a single refund rate applies; whereas, in the case of a change of destination, the refund applicable to the actual destination should be paid, with a ceiling of the amount applicable to the destination fixed in advance;
- (28) Whereas ensuring compliance with the quantity limits calls for the introduction of a reliable and effective system of monitoring; whereas, to that end, the granting of refunds should be made subject to an export licence; whereas refunds should be granted up to the limits available, depending on the particular situation of each product concerned; whereas exceptions to that rule should only be permitted in the case of food-aid operations, which are exempt from any limit; whereas monitoring of the quantities exported with refunds during the marketing years as referred to in the WTO Agreement on Agriculture should be carried out on the basis of export licences issued for each marketing year;
- (29) Whereas, in addition to the system described above, and to the extent necessary for its proper working, provision should be made for regulating or, when the situation on the market so requires, prohibiting the use of inward processing arrangements;
- (30) Whereas the customs duty system makes it possible to dispense with all other protective measures at the external frontiers of the Community; whereas, however, the internal market and duty mechanism could, in exceptional circumstances, prove defective; whereas, in such cases, so as not to leave the Community market without defence against disturbances which may arise therefrom, the Community should be able to take all necessary measures without delay; whereas those measures should be in accordance with the obligations derived from the relevant WTO agreements;
- (31) Whereas, in order to ensure proper application of the instruments provided for in this Regulation, the Commission should be fully informed about the development of prices on the common market for beef and veal; whereas, therefore, provision should be made for a system for recording the prices of adult bovine animals and meat of such animals;
- (32) Whereas it is appropriate to provide for measures to be taken when a substantial rise or fall in prices disturbs or threatens to disturb the Community market;
- (33) Whereas restrictions on free movement resulting from the application of measures intended to prevent the spread of animal diseases could cause difficulties on the market of one or more Member States; whereas provision should be made for the introduction of exceptional market support measures in order to remedy such situations;
- (34) Whereas the establishment of a single market would be jeopardised by the granting of certain aids; whereas, therefore, the provisions of the Treaty which allow the assessment of aids granted by Member States and the prohibition of those which are incompatible with the common market should apply in the common market organisation for beef and veal;
- (35) Whereas it is necessary that, as the common market in beef and veal develops, the Member States and the Commission should keep each other supplied with the information necessary for applying this Regulation;
- (36) Whereas, in order to facilitate implementation of the proposed measures, a procedure should be provided for establishing close co-operation between Member States and the Commission within a Management Committee;
- (37) Whereas expenditure incurred by the Member States as a result of the obligations arising out of the application of this Regulation should be financed by the Community in accordance with Council Regulation (EC) No . . . / . . . on the financing of the common agricultural policy;
- (38) Whereas the common organisation of the market in beef and veal should take appropriate account, at the same time, of the objectives set out in Articles 39 and 110 of the Treaty;
- (39) Whereas the common organization of the market in beef and veal laid down in Council Regulation (EEC) No 805/68⁽¹⁾ has been amended several times; whereas, by reason of their number, their complexity and their dispersal among several Official Journals, these texts are difficult to use and

⁽¹⁾ OJ L 148, 28.6.1968, p. 24. Regulation as last amended by Regulation (EC) No 2634/97 (OJ L 356, 31.12.1997, p. 13).

thus lack the clarity which should be an essential feature of all legislation; whereas, under these circumstances, they should be consolidated in a new regulation and the aforementioned Regulation (EEC) No 805/68 should be repealed; whereas Council Regulation (EEC) No 1892/87 of 2 July 1987 on the recording of market prices in the beef and veal sector⁽¹⁾, whose legal base was Regulation (EEC) No 805/68, is replaced by a new provision in this regulation and should therefore be repealed;

- (40) Whereas the change from the arrangements in Regulation (EEC) No 805/68 to those in this Regulation could give rise to difficulties which are not dealt with in this Regulation; whereas, in order to deal with that eventuality, provision should be made for the Commission to adopt the necessary transitional measures; whereas the Commission should also be authorized to solve specific practical problems,

HAS ADOPTED THIS REGULATION:

Article 1

1. The common organisation of the market in beef and veal shall comprise an internal market and trade with third countries system and cover the following products:

CN Code	Description of goods
(a) 0102 90 05 to 0102 90 79	Live animals of the domestic bovine species, other than pure-bred breeding animals
0201	Meat of bovine animals, fresh or chilled
0202	Meat of bovine animals, frozen
0206 10 95	Thick skirt and thin skirt, fresh or chilled
0206 29 91	Thick skirt and thin skirt, frozen
0210 20	Meat of bovine animals, salted, in brine, dried or smoked
0210 90 41	Thick skirt and thin skirt, salted, in brine, dried or smoked
0210 90 90	Edible flours and meals of meat or meat offal

1602 50 10 Other prepared or preserved meat or meat offal of bovine animals, uncooked; mixtures of cooked meat or offal and uncooked meat or offal

1602 90 61 Other prepared or preserved meat containing bovine meat or offal, uncooked; mixtures of cooked meat or offal and uncooked meat or offal

(b) 0102 10 Live bovine pure-bred animals

0206 10 91 Edible offal of bovine animals excluding thick skirt and thin skirt, fresh or chilled,

0206 10 99 other than for the manufacture of pharmaceutical products

0206 21 00 Edible offal of bovine animals excluding thick skirt and thin skirt, frozen, other

0206 22 90 than for the manufacture of
0206 29 99 pharmaceutical products

0210 90 49 Edible meat offal of bovine animals, salted, in brine, dried or smoked, other than thick skirt and thin skirt

ex 1502 00 90 Fats of bovine animals, raw or rendered, whether or not pressed or solvent-extracted

1602 50 31 to 1602 50 80 Other prepared or preserved meat or meat offal, of bovine animals, other than uncooked meat or meat offal and mixtures of cooked meat or offal and uncooked meat or offal

1602 90 69 Other prepared or preserved meat containing bovine meat or offal other than uncooked, and mixtures of cooked meat or offal and uncooked meat or offal

2. For the purposes of this Regulation:

(a) 'bovine animals' shall mean live animals of the domestic bovine species other than pure-bred breeding animals falling within subheadings 0102 90 05 to 0102 90 79 of the Combined Nomenclature;

(b) 'adult bovine animals' shall mean bovine animals the live weight of which is more than 300 kg.

⁽¹⁾ OJ L 182, 3.7.1987, p. 29.

CHAPTER I**Internal market****Article 2**

In order to encourage action by trade and joint trade organisations to facilitate the adjustment of supply to market requirements, the following Community measures may be taken in respect of the products listed in Article 1:

- (a) measures to improve stock breeding;
- (b) measures to promote better organisation of production, processing and marketing;
- (c) measures to improve quality;
- (d) measures to permit the establishment of short- and long-term forecasts on the basis of the means of production used;
- (e) measures to facilitate the recording of market price trends.

General rules concerning these measures shall be adopted by the Council in accordance with the procedure laid down in Article 43(2) of the Treaty.

TITLE 1**DIRECT PAYMENTS****Article 3**

For the purposes of this title:

- (a) 'producer' shall mean an individual farmer, whether a natural or a legal person or group of natural or legal persons, irrespective of the legal status conferred by national law on such a group or its members, whose holding is located in Community territory and who is engaged in rearing bovine animals;
- (b) 'holding' shall mean all the production units managed by the producer and located in the territory of a single Member State;
- (c) 'region' shall mean a Member State or a region within a Member State, at the option of the Member State concerned;
- (d) 'bull' shall mean an uncastrated male bovine animal;
- (e) 'steer' shall mean a castrated male bovine animal;
- (f) '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;

(g) 'heifer' shall mean a female bovine animal of more than 8 months which has not yet calved, 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;

(h) 'permanent pasture' shall mean non-rotational land used for grass production (sown or natural) on a permanent basis (five years or longer).

Section 1**Premiums****Sub-section 1****Special premium****Article 4**

1. A producer 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 10 months; or
- (b) twice in the life of each steer:
 - the first time at the age of 10 months,
 - the second time after it has reached the age of 22 months.

3. To qualify for the special premium:

- (a) any animal covered by an application shall be held by the producer for fattening for a period to be determined,
- (b) each animal shall be covered until slaughter by an animal passport referred to in Article 6 of Council Regulation (EC) No 820/97⁽¹⁾ containing all relevant information on its premium status or, if not available, an equivalent administrative document.

⁽¹⁾ OJ L 117, 7.5.1997, p. 1.

4. When in a given region the total number of bulls from the age of 10 months and of steers from 10 months to 22 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 Annex I, the number of all eligible animals under paragraph 2(a) and (b) per producer 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. 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 weight of 200 kg.

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

The United Kingdom shall be authorised to apply in Northern Ireland a system for granting the special premium which differs from that applied in the remainder of its territory.

6. The amount of the premium shall be:

(a) per eligible bull:

- ECU 165 for the calendar year 2000,
- ECU 195 for the calendar year 2001,
- ECU 220 for the calendar year 2002 and the subsequent calendar years;

(b) per eligible steer and age bracket:

- ECU 130 for the calendar year 2000,
- ECU 150 for the calendar year 2001,
- ECU 170 for the calendar year 2002 and the subsequent calendar years.

7. Detailed rules for the application of this Article shall be adopted by the Commission in accordance with the procedure laid down in Article 39.

Sub-section 2

Deseasonalisation premium

Article 5

1. Where, in a Member State the number of steers:

(a) slaughtered in a given year exceeds 60% of total annual slaughterings of male bovine animals, and

(b) slaughtered during the period 1 September to 30 November in a given year exceeds 35% of total annual slaughterings of steers,

producers may qualify, on application, for an additional premium to the special premium (deseasonalisation premium). However, if both triggering rates referred to above are reached in Ireland or in Northern Ireland, the premium shall apply in Ireland and in Northern Ireland.

For the purpose of applying this Article in the United Kingdom, Northern Ireland shall be regarded as a separate entity.

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

- ECU 72,45 per animal slaughtered during the first 15 weeks in a given year,
- ECU 54,34 per animal slaughtered during the 16th and 17th weeks in a given year,
- ECU 36,23 per animal slaughtered during the 18th to the 21st week in a given year, and
- ECU 18,11 per animal slaughtered during the 22nd and 23rd weeks in a given year.

3. Where the rate referred to in paragraph 1(b) is not achieved, Member States whose producers have previously received the deseasonalisation premium may decide to grant this premium at the rate of 60% of the amounts set in paragraph 2.

In such case, the Member State concerned shall ensure the measure is financially neutral in respect of the same budget year by accordingly reducing:

- the amount of the second age bracket of the special premium applicable to steers granted in that Member State, and/or
- the additional payments to be made under Section 2,

and shall inform the Commission of the reduction measure applied.

For the purpose of applying this measure, Ireland and Northern Ireland shall be regarded as one entity for the calculation of the rate referred to in paragraph 1(b) and consequently for qualification for the premium.

4. In order to establish whether the percentages referred to in this Article have been exceeded, account shall be taken of slaughterings carried out during the second year preceding that in which the animal qualifying for the premium was slaughtered.

5. Detailed rules for the application of this Article shall be adopted by the Commission in accordance with the procedure laid down in Article 39.

Sub-section 3

Suckler cow premium

Article 6

1. A producer 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 holding within the limits of individual ceilings.

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

- (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 reference quantity as referred to in Article 4 of Regulation (EEC) No 3950/92 does not exceed 120 000 kg

provided that he 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 80 % and of heifers at most equal to 20 % 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 subparagraph, whether cows belong to a suckler herd or to a dairy herd shall be established on the basis of the beneficiary's individual reference quantity as defined in Article 15(3) of Council Regulation (EC) No .../... (milk) and the average milk yield in the Member State where the holding is located.

3. The producers' entitlement to the premium shall be limited by the application of an individual ceiling as defined in Article 7.

4. Per eligible animal, the amount of the premium shall be:

- ECU 155 for the calendar year 2000,
- ECU 170 for the calendar year 2001,
- ECU 180 for the calendar year 2002 and the subsequent calendar years.

5. Detailed rules for the application of this Article and, in particular, those relating to the definition of the concept of suckler cow referred to in Article 3, shall be adopted by the Commission in accordance with the procedure laid down in Article 39.

Article 7

1. On 1 January 2000, the individual ceiling of each producer shall be equal to the number of suckler cow premium rights (premium rights) which he held on 31 December 1999 according to the relevant Community rules and, where appropriate, adjusted according to paragraph 3.

2. Member States shall take the necessary steps to ensure that, from 1 January 2000, the sum of premium rights on their territory does not exceed the national ceilings set out in Annex II and that the national reserves referred to in Article 9 may be set up.

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

- the rate at which producers have used their individual ceilings during the three reference years prior to the year 2000,
- the implementation of an investment or extensification programme in the beef and veal sector,
- 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,
- additional exceptional circumstances having the effect that the payments made for at least one reference year do not correspond to the actual situation is 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. Detailed rules for the application of this Article shall be adopted by the Commission in accordance with the procedure laid down in Article 39.

Article 8

1. Where a producer sells or otherwise transfers his holding, he may transfer all his suckler cow premium rights to the person taking over his holding. He may also transfer, in full or in part, his rights to other producers 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:

Sub-section 4

(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;

Stocking density

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

Article 10

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 producer who holds them.

1. The total number of animals qualifying for the special premium and the suckler cow premium shall be limited by the application of a stocking density on the holding of 2 LU per hectare and calendar year. This stocking density shall be expressed in livestock units (LU) per unit of forage area of the holding used for the animals carried on it. However, a producer shall be exempt from the application of the stocking density if the number of animals held on his holding and to be taken into account for determining the stocking density is not more than 15 LU.

4. Detailed rules for the application of this Article shall be adopted by the Commission in accordance with the procedure laid down in Article 39.

2. For determining the stocking density on the holding, account shall be taken of:

These detailed rules may concern in particular:

- provisions enabling the Member States to resolve problems relating to the transfer of premium rights by producers who are not the owners of the land occupied by their holdings, and,
- specific rules relating to the minimum number which may form the subject of a partial transfer.

(a) the male bovine animals, suckler cows and heifers, sheep and/or goats for which premium applications have been submitted, as well as the dairy cows needed to produce the total reference quantity of milk allocated to the producer. The number of animals shall be converted to LU by reference to the conversion table in Annex III.

(b) the forage area, meaning the area of the holding available throughout the calendar year for rearing bovine animals and sheep and/or goats. The forage area shall not include:

Article 9

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

2. Any premium rights withdrawn pursuant to Article 8(1) or other Community provisions shall be added to the national reserve, without prejudice to Article 7(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 producers.

4. Detailed rules for the application of this Article shall be adopted by the Commission in accordance with the procedure laid down in Article 39. These rules concern, in particular:

- the measures applicable where, in a Member State, the national reserve is not used,
- the measures relating to unused premium rights which have been returned to the national reserve.

— buildings, woods, ponds, paths,

— areas used for other crops eligible for Community aid or for permanent crops or horticultural crops, except permanent pasture for which area payments are granted pursuant to Article 15 of this Regulation and Article 18 of Regulation (EC) No .../... (milk),

— areas qualifying for the support system laid down for the producers of certain arable crops, used for the aid scheme for dried fodder or subject to a national or Community set-aside scheme.

Forage area shall include areas in shared use and areas which are subject to mixed cultivation.

3. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 39. These rules shall, in particular, concern those:

- relating to areas in shared use and to areas which are subject to mixed cultivation,
- enabling improper application of the stocking density to be prevented.

Sub-section 5

Extensification payment

Article 11

1. Producers receiving the special premium and/or the suckler cow premium may qualify for an additional payment of ECU 100 per premium granted provided that during the calendar year concerned:

- the stocking density on their holdings is less than 1,4 LU per hectare,
- their animals are actually grazed on pasture land during the growing season.

2. For the purposes of this Article:

- by derogation from Article 10(2)(a), the stocking density of the holding shall be determined taking account of the male bovine animals, suckler cows, dairy cows and heifers present thereon during the calendar year concerned, as well as of the sheep and/or goats for which premium applications have been submitted for the same calendar year. The number of animals shall be converted to LU by reference to the conversion table in Annex III.
- by derogation from Article 10(2)(b), only the temporary and permanent pasture of the holding available throughout the calendar year for rearing bovine animals and sheep and/or goats shall be taken as 'forage area'.

3. In accordance with the procedure laid down in Article 39 the Commission shall:

- adopt detailed rules for the application of this Article,
- if necessary, adjust the amount set out in paragraph 1 taking account, in particular, of the number of animals qualifying for the payment for the preceding calendar year.

Sub-section 6

Dairy cow premium

Article 12

1. The amount per dairy cow premium unit set out in Article 15(2) of Regulation (EC) No . . . / . . . (dairy) shall be supplemented by the amounts per premium unit set out in Annex IV.

2. Detailed rules for the application of this Article shall be adopted by the Commission in accordance with the procedure laid down in Article 39.

Section 2

Additional payments

Article 13

1. Member States shall make additional payments to producers in their territory within the limits of the global amounts set out in Annex V and on a yearly basis. Such payments shall be made according to objective criteria including, in particular, the relevant production structures and conditions, and in such a way as to ensure equal treatment between producers and to avoid market and competition distortions. Moreover, such payments shall not be linked to fluctuations of market prices.

2. Additional payments may be made in the form of headage payments (Article 14) and/or area payments (Article 15).

Article 14

1. Headage payments may be granted for:

- (a) male bovine animals,
- (b) suckler cows,
- (c) dairy cows,
- (d) heifers.

2. The grant of headage payments shall be subject:

- (a) to the special conditions set out in Annex VI,
- (b) to specific stocking density requirements to be established by Member States.

3. The specific stocking density requirements shall be established:

- on the basis of the forage area referred to in Article 10(2)(b),
- taking account of, in particular, the environmental impact of the type of production concerned, the environmental sensitivity of the land used for rearing cattle and the measures which have been implemented with a view to stabilise or improve the environmental situation of this land.

Article 15

1. Area payments shall be granted per hectare of permanent pasture:

- (a) which is available to a producer during the calendar year concerned,

- (b) which is not used to comply with the specific stocking density requirements referred to in Article 14(3), and
- (c) in respect of which no payments under the support system laid down for producers of certain arable crops, under the aid system for dried fodder and under Community aid schemes for other permanent or horticultural crops are claimed for the same year.

2. The area of permanent pasture in a region for which area payments may be granted shall not exceed the relevant regional base area.

Regional base areas shall be established by Member States as the average number of hectares of permanent pasture available for rearing bovine animals during the years 1995, 1996 and 1997.

3. The maximum area payment per hectare which may be granted, including area payments pursuant to Article 18 of Regulation (EC) No . . ./. . . (milk), shall not exceed:

- ECU 210 for calendar year 2000,
- ECU 280 for calendar year 2001,
- ECU 350 for calendar year 2002 and the subsequent calendar.

Article 16

Before 1 January 2000, Member States shall provide the Commission with detailed information on their national arrangements concerning the granting of additional payments. Any changes of these arrangements shall be communicated to the Commission not later than one month after their adoption.

Article 17

Before 1 April 2004, Member States shall submit to the Commission detailed reports on the implementation of this section.

Before 1 January 2005, the Commission shall evaluate the implementation of this section and examine the distribution of Community funds between Member States as provided for in Annex V, taking account of, in particular, the development of the Member States' shares in Community beef production. If necessary, the Commission shall make appropriate proposals to the Council.

Article 18

Detailed rules for the application of this section shall be adopted by the Commission in accordance with the procedure laid down in Article 39.

Section 3

Common provisions

Article 19

To qualify for direct payments under this title, except area payments referred to in Article 15, an animal shall be identified and registered in accordance with Council Regulation (EC) No 820/97.

Article 20

1. Direct payments under this title, except the deseasonalisation premium, shall be paid as soon as the inspections are carried out but not earlier than 16 October of the calendar year in respect of which they are applied for.

2. Save in duly justified exceptional cases, direct payments under this title shall be made not later than 30 June of the year following the calendar year in respect of which the payment is applied for.

However, the deseasonalisation premium, shall be paid as soon as the inspections are carried out and no later than 15 October of the calendar year in respect of which it is applied for.

Article 21

1. Where residues of substances prohibited under Council Directive 96/22/EC⁽¹⁾, or residues of substances authorised under the aforementioned act but used illegally, are detected pursuant to the relevant provisions of Directive 96/23/EC, in an animal belonging to the bovine herd of a producer, or where a non-authorised substance or product, or a substance or product authorised under Council Directive 96/22/EC⁽²⁾ but held illegally is found on the producer's holding in any form, the producer shall be excluded, for the calendar year of that discovery, from receiving the amounts provided for under this section.

⁽¹⁾ 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 β -agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC, OJ L 125, 23.5.1996, p. 3.

⁽²⁾ Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC, OJ L 125, 23.5.1996, p. 10.

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 of national residue-monitoring plans or when the investigations and checks provided for under the Directive 96/23/EC are being carried out, the penalties provided for in paragraph 1 shall apply.

3. Detailed rules for the application of this Article shall be adopted by the Commission in accordance with the procedure laid down in Article 39.

Article 22

The amounts of the direct payments set out in Sections 1 and 2 may be changed in the light of developments in production, productivity and the markets, according to the procedure laid down in Article 43(2) of the Treaty.

Article 23

The expenditure incurred in granting the direct payments provided for in this title shall be considered as intervention measures within the meaning of Article 2(2) of Regulation (EC) No .../... (CAP financing).

TITLE 2

PRIVATE STORAGE

Article 24

1. From 1 July 2002, the granting of aids for private storage may be decided, when the average Community market price recorded, on the basis of the Community grading scale provided for in Regulation (EEC) No 1208/81, for the carcasses of adult bovine animals, is, and is likely to remain, at less than 103 % of the basic price.

2. The basic price shall be set at ECU 1,950 per ton.

3. Private storage aid may be granted for fresh or chilled meat of adult bovine animals presented in the form of carcasses, half-carcasses, compensated quarters, forequarters or hindquarters, classified in accordance with the Community grading scale provided for in Regulation (EEC) No 1208/81.

4. The Council, acting in accordance with the procedure laid down in Article 43(2) of the Treaty, may:

— change the basic price taking account, in particular, of the need to fix this price at a level which contributes towards stabilising market prices without, however, leading to the formation of structural surpluses in the Community,

— amend the list of products in paragraph 3 which may be the subject of private storage aid.

5. Detailed rules for the application of this Article shall be adopted and the granting of aids for private storage shall be decided by the Commission in accordance with the procedure laid down in Article 39.

CHAPTER II

Trade with third countries

Article 25

1. Imports into the Community of any of the products listed in Article 1(1)(a) shall be subject to presentation of an import licence.

Imports into the Community of any of the products listed in Article 1(1)(b) and exports from the Community of products listed in Article 1(1)(a) and (b) may be subject to presentation of an import or export licence.

Licences shall be issued by the Member States to any applicant, irrespective of his place of establishment in the Community and without prejudice to measures taken for the application of Articles 28 and 29.

Import and export licences shall be valid throughout the Community. Such licences shall be issued subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence; except in cases of force majeure, the security shall be forfeited in whole or in part if import or export is not carried out, or is carried out only partially, within that period.

2. Detailed rules for the application of this Article shall be adopted by the Commission in accordance with the procedure laid down in Article 39. These rules may concern, in particular,

(a) the term of validity of licences,

(b) the list of products for which import or export licences are requested under paragraph 1 second subparagraph.

Article 26

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

Article 27

1. In order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain products listed in Article 1, imports of one or more of such products at the rate of duty laid down in Article 26 shall be subject to the payment of an additional import duty if the conditions set out in Article 5 of the Agreement on Agriculture concluded in accordance with Article 228 of the Treaty in the framework of the Uruguay Round of multilateral trade negotiations have been fulfilled unless the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

2. The trigger prices below on which an additional duty may be imposed shall be those which are forwarded by the Community to the World Trade Organisation.

The trigger volumes to be exceeded in order to have the additional import duty imposed shall be determined particularly on the basis of imports into the Community in the three years preceding the year in which the adverse effects referred to in paragraph 1 arise or are likely to arise.

3. The import prices to be taken into consideration for imposing an additional import duty shall be determined on the basis of the cif import prices of the consignment under consideration.

Cif import prices shall be checked to that end against the representative prices for the product on the world market or on the Community import market for that product.

4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 39. Such detailed rules shall specify in particular:

- (a) the products to which additional import duties may be applied under the terms of Article 5 of the Agreement on Agriculture;
- (b) the other criteria necessary to ensure application of paragraph 1 in accordance with Article 5 of the Agreement on Agriculture.

Article 28

1. Tariff quotas for the products listed in Article 1 resulting from agreements concluded in accordance with Article 228 of the Treaty or from any other act of the Council shall be opened and administered by the Commission in accordance with detailed rules adopted under the procedure laid down in Article 39.

With regard to the import quota of 50 000 tonnes of frozen meat coming under CN codes 0202 20 30, 0202 30 and 0206 29 91 and intended for processing, the Council, acting on a proposal from the Commission by a qualified majority, may lay down that all or part of the quota shall cover equivalent quantities of quality meat, applying a conversion rate of 4,375.

2. Quotas shall be administered by applying one of the following methods or a combination of them:

- method based on chronological order of the lodgement of applications ('first come, first served' principle),
- method of distribution in proportion to the quantities requested when the applications were lodged (using the 'simultaneous examination' method),
- method based on taking traditional trade patterns into account (using the 'traditional importers/new arrivals' method).

Other appropriate methods may be adopted.

They shall avoid any discrimination between the operators concerned.

3. The method of administration adopted shall, where appropriate, give due weight to the supply requirements of the Community market and the need to safeguard the equilibrium of that market, whilst at the same time possibly drawing on methods which may have been applied in the past to quotas corresponding to those referred to in paragraph 1, without prejudice to the rights resulting from agreements concluded as part of the Uruguay Round trade negotiations.

4. The detailed rules referred to in paragraph 1 shall provide for annual quotas, if necessary, suitably phased over the year, and shall determine the administrative method to be used and, where appropriate, shall include:

- (a) guarantees covering the nature, provenance and origin of the product, and
- (b) recognition of the document used for verifying the guarantees referred to in (a), and
- (c) the conditions under which import licences are issued and their term of validity.

Article 29

1. To the extent necessary to enable the products listed in Article 1 to be exported on the basis of quotations or prices for those products on the world market and within the limits resulting from agreements

concluded in accordance with Article 228 of the Treaty, the difference between those quotations or prices and prices in the Community may be covered by export refunds.

2. The method to be adopted for the allocation of the quantities which may be exported with a refund shall be the method which:

- (a) is most suited to the nature of the product and the situation on the market in question, allowing the most efficient possible use of the resources available, account being taken of the efficiency and structure of Community exports without, however, creating discrimination between large and small operators;
- (b) is least cumbersome administratively for operators, account being taken of administration requirements;
- (c) prevents any discrimination between the operators concerned.

3. Refunds shall be the same for the whole Community.

They may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.

Refunds shall be fixed by the Commission in accordance with the procedure laid down in Article 39. Refunds may be fixed:

- (a) at regular intervals;
- (b) in addition and for limited quantities, by invitation to tender for products for which that procedure seems appropriate.

Except where fixed by tender, the list of products on which an export refund is granted and the amount of such refund shall be fixed at least once every three months. The amount of the refund may, however, remain at the same level for more than three months and may, where necessary, be adjusted in the intervening period by the Commission at the request of a Member State or on its own initiative.

4. The following shall be taken into account when refunds are being fixed:

- (a) the existing situation and the future trend with regard to:
 - prices and availabilities of beef and veal sector products on the Community market;
 - prices for beef and veal sector products on the world market;
- (b) the aims of the common organisation of the market in beef and veal, which are to ensure equilibrium and the natural development of prices and trade on this market;

- (c) the limits resulting from agreements concluded in accordance with Article 228 of the Treaty;
- (d) the need to avoid disturbances on the Community market;
- (e) the economic aspect of the proposed exports.

Account shall also be taken in particular of the need to establish a balance between the use of Community basic products in the manufacture of processed goods exported to third countries and the use of products from these countries admitted to inward processing arrangements.

5. When prices within the Community listed in paragraph 1 are being determined the following shall be taken into account:

- prices ruling on the representative Community markets,
- prices ruling at export.

When prices in international trade listed in paragraph 1 are being determined account shall be taken of:

- prices ruling on third-country markets,
- the most favourable prices in third countries of destination for third-country imports,
- producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries,
- free-at-Community-frontier offer prices.

6. Refunds shall be granted only on application and on presentation of the relevant export licence.

7. The refund applicable to exports of products listed in Article 1 shall be that applicable on the day of application for the licence and, in the case of a differentiated refund, that applicable on the same day:

- (a) for the destination indicated on the licence; or
- (b) for the actual destination if it differs from the destination indicated on the licence. In that case, the amount applicable may not exceed the amount applicable for the destination indicated on the licence.

Appropriate measures may be taken to prevent abuse of the flexibility provided for in this paragraph.

8. Paragraphs 6 and 7 may be waived in the case of products listed in Article 1 on which refunds are paid under food-aid operations, in accordance with the procedure laid down in Article 39.

9. The refund shall be paid upon proof that:
- the products are of Community origin,
 - the products have been exported from the Community, and
 - in the case of a differentiated refund the products have reached the destination indicated on the licence or another destination for which the refund was fixed, without prejudice to paragraph 3(b). Exceptions may be made to this rule in accordance with the procedure laid down in Article 39, provided conditions are laid down which offer equivalent guarantees.

Moreover, the payment of the refund for exports of live animals shall be subject to compliance with the provisions established in Community legislation concerning animal welfare and, in particular, the protection of animals during transport.

10. Without prejudice to paragraph 9 first indent, in the absence of a derogation granted in accordance with the procedure laid down in Article 39, no export refund shall be granted on products which are imported from third countries and re-exported to third countries.

11. Observance of the volume limits resulting from the agreements concluded in accordance with Article 228 of the Treaty shall be ensured on the basis of the export licences issued for the reference periods provided for therein which apply to the products concerned. With regard to compliance with the obligations arising in the framework of the Uruguay Round multilateral trade negotiations, the ending of a reference period shall not affect the validity of export licences.

12. Detailed rules for the application of this Article, including provisions on the redistribution of exportable quantities which have not been allocated or utilised, shall be adopted by the Commission in accordance with the procedure laid down in Article 39.

With regard to paragraph 9, last subparagraph, the detailed rules for the application may also include conditions concerning, in particular, imports into third countries.

Article 30

1. To the extent necessary for the proper working of the common organisation of the market in beef and veal, the Council, acting by a qualified majority, on a proposal from the Commission, may, in special cases, prohibit in whole or in part the use of inward or outward processing arrangements in respect of products listed in Article 1.

2. However, by way of derogation from paragraph 1, if the situation referred to in paragraph 1 arises with exceptional urgency and the Community market is disturbed or is liable to be disturbed by the inward or outward processing arrangements, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Council and the Member States shall be notified of such measures, which shall be valid for no more than six months and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within a week following receipt of the request.

3. Measures decided on by the Commission may be referred to the Council by any Member State within a week of the day on which they were notified. The Council, acting by a qualified majority, may confirm, amend or repeal the Commission decision. If the Council has not acted within three months, the Commission decision shall be deemed to have been repealed.

Article 31

1. The general rules for the interpretation of the Combined Nomenclature and the detailed rules for its application shall apply to the tariff classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated into the Common Customs Tariff.

2. Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

Article 32

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

The Council, acting by a qualified majority, on a proposal from the Commission, shall adopt general rules for the application of this paragraph and shall define the circumstances and limits within which Member States may adopt protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures:

the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

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

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

CHAPTER III

General provisions

Article 33

Member States shall record prices of adult bovine animals and of meat of adult bovine animals on the basis of rules to be established by the Commission in accordance with the procedure laid down in Article 39.

Article 34

1. When a substantial rise or fall in prices is recorded on the Community market and this situation is likely to continue, thereby disturbing or threatening to disturb the market, the necessary measures may be taken.

2. Detailed rules for the application of this Article shall be adopted by the Commission in accordance with the procedure laid down in Article 39.

Article 35

In order to take account of the restrictions on free circulation which may result from the application of measures for combating the spread of diseases in animals, exceptional measures of support for the market affected by those restrictions may be taken in accordance with the procedure laid down in Article 39. Those measures may only be taken in so far as, and for as long as, is strictly necessary for the support of that market.

Article 36

Save as otherwise provided in this Regulation, Articles 92, 93 and 94 of the Treaty shall apply to the

production of and trade in the products listed in Article 1.

Article 37

Member States and the Commission shall communicate to each other the information necessary for implementing this Regulation. The information to be communicated shall be determined in accordance with the procedure laid down in Article 39. Rules for the communication and distribution of such information shall be adopted in accordance with the same procedure.

Article 38

A Management Committee for Beef and Veal (hereinafter called 'the Committee') shall be established, composed of representatives of Member States and chaired by a representative of the Commission.

Article 39

1. Where the procedure laid down in this Article is to be followed, the chairman shall refer the matter to the Committee either on his own initiative or at the request of the representative of a Member State.

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

3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within one month.

Article 40

The Committee may consider any other question referred to it by its chairman either on his own initiative or at the request of the representative of a Member State.

Article 41

Regulation (EC) No .../... (CAP financing) and the provisions adopted in implementation thereof shall apply to the products listed in Article 1.

Article 42

This Regulation shall be so applied that appropriate account is taken, at the same time, of the objectives set out in Articles 39 and 110 of the Treaty.

CHAPTER IV*Transitional and final provisions**Article 43*

1. Until 30 June 2002, products as referred to in paragraph 2 in connection with Article 24(1), may be bought-in by intervention agencies in accordance with the provisions laid down in this Article, to prevent or mitigate a substantial fall in prices.

2. Where the conditions laid down in paragraph 3 are met, buying-in by intervention agencies in one or more Member States or in a region of a Member State of one or more categories, qualities or quality groups, to be determined, of fresh or chilled meat falling within CN codes 0201 10 00 and 0201 20 20 to 0201 20 50 originating in the Community may be organised under tender procedures arranged with a view to ensuring reasonable support of the market, having regard to seasonal developments as regards slaughtering.

Such buying in may not cover more than 350 000 tonnes per year and for the Community as a whole.

The Council may amend this quantity, acting by a qualified majority on a proposal from the Commission.

3. For each quality or quality group that may be bought in, the tender procedures may be opened as provided in paragraph 8 whenever, in a Member State or in a region of a Member State, the following two conditions are both met for a period of two consecutive weeks:

- the average Community market price recorded on the basis of the Community grading scale for the carcasses of adult bovine animals is less than 84 % of the intervention price,
- the average market price recorded on the basis of the said scale in the Member State or States or regions of a Member State is less than 80 % of the intervention price.

The intervention price shall be set at:

- ECU 3 475 per ton for the period from 1 January until 30 June 2000,
- ECU 3 127,5 per ton for the period from 1 July 2000 until 30 June 2001,
- ECU 2 780 per ton for the period from 1 July 2001 until 30 June 2002.

4. Tender arrangements for one or more qualities or quality groups shall be suspended in any one of the following two situations:

- where, for two consecutive weeks, the two conditions referred to in paragraph 3 are no longer both met,
- where buying-in is no longer appropriate in view of the criteria set out in paragraph 2.

5. Intervention shall also be opened if, for a period of two consecutive weeks, the average Community market price of young uncastrated male animals less than two years old or castrated male animals, recorded on the basis of the Community grading scale for carcasses of adult bovine animals, falls short of 78 % of the intervention price, and if in a Member State or regions of a Member State, the average market price of young uncastrated male animals less than two years old or castrated male animals, recorded on the basis of the Community grading scale for carcasses of adult bovine animals, falls short of 60 % of the intervention price; in this case, buying-in shall take place for the categories concerned in the Member States or regions of a Member State where the price level is below that limit.

For this buying-in, and without prejudice to paragraph 6, all offers shall be accepted.

The quantities bought in pursuant to this paragraph shall not be taken into account for the purposes of applying the buying-in ceiling referred to in paragraph 2.

6. Only offers equal to or less than the average market price recorded in a Member State or a region of a Member State and increased by an amount to be determined on the basis of objective criteria may be accepted under the buying-in systems referred to in paragraphs 2 and 5.

7. For each quality or quality group eligible for intervention, the buying-in prices and the quantities accepted for intervention shall be determined under tender procedures and may, in special circumstances, be fixed per Member State or per region of a Member State

on the basis of recorded average market prices. The tender procedures must ensure equality of access for all persons concerned. They shall be opened on the basis of specifications to be determined taking commercial structures into account, where necessary.

8. Under the procedure provided for in Article 39:

- the categories, qualities or quality groups of products eligible for intervention shall be determined,
- the opening or reopening of tender procedures and their suspension in the case referred to in the last indent of paragraph 4 shall be decided,
- the buying-in prices and the quantities accepted for intervention shall be fixed,
- the amount of the increase referred to in paragraph 6 shall be determined,
- the procedures implementing this Article, and in particular those designed to prevent market prices spiralling downward, shall be adopted,
- any transitional provisions necessary for the implementation of these arrangements shall be adopted.

The Commission shall decide on:

- opening intervention as referred to in paragraph 5 and suspending it where one or more conditions laid down in that paragraph no longer apply,
- suspending buying-in as referred to in the first indent of paragraph 4.

Article 44

1. Disposal of the products bought in by the intervention agencies in accordance with the provisions of Article 43 of this Regulation and of Articles 5 and 6 of Regulation (EEC) No 805/68 shall take place in such a way as to avoid any disturbance of the market and to ensure equal access to goods and equal treatment of purchasers.

2. The Council, acting by a qualified majority, on a proposal from the Commission, shall adopt general rules for implementing this Article.

3. Detailed rules for the application of this Article, in particular as regards selling prices, conditions for release

from storage and, where appropriate, the processing of products bought in by the intervention agencies, shall be adopted by the Commission in accordance with the procedure laid down in Article 39.

Article 45

1. Until 30 June 2002, the granting of aids for private storage for products as referred to in Article 24(3) may be decided.

2. Detailed rules of application with regard to private storage aid shall be adopted and the granting of aids for private storage shall be decided by the Commission in accordance with the procedure laid down in Article 39.

Article 46

1. Regulations (EEC) No 805/68 and No 1892/87 are hereby repealed.

2. References to Regulation (EEC) No 805/68 shall be construed as references to this Regulation and should be read in accordance with the correlation table in Annex VII.

Article 47

The Commission shall adopt, in accordance with the procedure laid down in Article 39:

- the measures required to facilitate the transition from the arrangements provided in Regulation (EEC) No 805/68 to those established by this Regulation,
- the measures required to resolve specific practical problems. Such measures — if duly justified — may derogate from certain parts of this Regulation.

Article 48

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

It shall apply as from 1 January 2000, except Article 16 which shall apply from the entry into force of this Regulation.

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

Done at . . .

For the Council

. . .

ANNEX I

ANNEX II

SPECIAL PREMIUM

SUCKLER COW PREMIUM

Regional ceilings of the Member States referred to in Article 4(4)		National ceilings referred to in Article 7(2) applicable as from 1.1.2000	
Belgium	235 149	Belgium	391 034
Denmark	277 110	Denmark	111 044
Germany	1 782 700	Germany	547 690
Greece	140 130	Greece	131 856
Spain	649 896	Spain	1 347 486
France	1 754 732 ⁽¹⁾	France ⁽¹⁾	3 739 106
Ireland	1 002 458	Ireland	1 020 606
Italy	598 746	Italy	578 418
Luxembourg	18 962	Luxembourg	13 978
Netherlands	157 932	Netherlands	61 366
Austria	423 400	Austria	283 010
Portugal	166 483 ⁽²⁾	Portugal ⁽²⁾	269 765
Finland	241 553	Finland	28 332
Sweden	226 328	Sweden	132 510
United Kingdom	1 419 811	United Kingdom	1 629 268

⁽¹⁾ Without prejudice to the specific rules laid down in Council Regulation (EEC) No 3763/91 (OJ L 356, 24.12.1991, p. 1). Regulation as last amended by Regulation (EC) No 2598/95 (OJ L 267, 9.11.1995, p. 1).

⁽²⁾ Excluding the extensification programme set out in Regulation (EC) No 1017/94 (OJ L 112, 3.5.1994, p. 2). Regulation as last amended by Regulation (EC) No 1461/95 (OJ L 144, 28.6.1995, p. 4).

⁽¹⁾ Excluding the specific ceiling as provided for in Article 5(3) of Regulation (EEC) No 3763/91.

⁽²⁾ Excluding the specific reserve provided for in Article 2 of Regulation (EC) No 1017/94.

ANNEX III

Livestock unit conversion table referred to in Article 10

Male bovine animals and heifers older than 24 months, suckler cows, dairy cows	1,0 LU
Male bovine animals and heifers from 6 months to 24 months	0,6 LU
Sheep	0,15 LU
Goats	0,15 LU

ANNEX IV

ANNEX V

DAIRY COW PREMIUM

ADDITIONAL PAYMENTS

Supplementary amounts referred to in Article 12
(expressed in ECU)

Global amounts referred to in Article 13
(expressed in Mio. ECU)

	2000	2001	2002 and subsequent years
Belgium	12,9	24,8	37,7
Denmark	9,8	18,9	28,7
Germany	11,9	22,7	34,6
Greece	15,4	29,5	45,4
Spain	14,4	27,5	41,9
France	12,1	23,1	35,2
Ireland	15,4	29,5	44,9
Italy	13,4	25,7	39,2
Luxembourg	11,0	21,0	31,9
Netherlands	10,0	19,1	29,0
Austria	13,5	26,0	39,5
Portugal	14,3	27,4	41,7
Finland	10,4	20,0	30,5
Sweden	9,5	18,1	27,6
United Kingdom	11,2	21,5	32,3

	2000	2001	2002 and subsequent years
Belgium	26,8	52,5	80,9
Denmark	16,3	31,9	49,2
Germany	122,1	239,2	368,8
Greece	5,3	10,3	15,9
Spain	45,7	89,6	138,2
France	129,1	252,9	390,0
Ireland	43,5	85,2	131,3
Italy	90,6	177,5	273,7
Luxembourg	0,6	1,3	1,9
Netherlands	35,0	68,5	105,7
Austria	16,6	32,5	50,2
Portugal	8,6	16,8	25,9
Finland	8,6	16,8	25,9
Sweden	12,7	24,9	38,4
United Kingdom	88,1	172,7	266,3

ANNEX VI

SPECIAL CONDITIONS FOR THE GRANTING OF HEADAGE PAYMENTS REFERRED TO IN
ARTICLE 14

I. Male bovine animals

1. Headage payments may be granted per calendar year for no more than:
 - (a) a number of animals per holding to be determined by the Member State on a national or regional basis, using historical reference data, and,
 - (b) a number of animals in a Member State:
 - equal to the regional ceiling of the Member State concerned set out in Annex I or
 - equal to the average number of slaughterings of male bovine animals during the years 1997, 1998 and 1999 deriving from Eurostat statistics for these years or any other published official statistical information for these years accepted by the Commission.

Only male bovine animals of more than 8 months shall be eligible.
2. The total amount of headage payment and special premium which may be granted during the lifetime of an animal shall not exceed:
 - (a) per eligible bull:
 - ECU 210 for the calendar year 2000,
 - ECU 280 for the calendar year 2001,
 - ECU 355 for the calendar year 2002 and the subsequent calendar years;
 - (b) per eligible steer:
 - ECU 320 for the calendar year 2000,
 - ECU 420 for the calendar year 2001,
 - ECU 530 for the calendar year 2002 and the subsequent calendar years.

II. Suckler cows

1. Headage payments may only be granted as a supplementary amount per suckler cow premium unit set out in Article 6(4).
2. The total amount of headage payment and suckler cow premium which may be granted per eligible animal and calendar year shall not exceed:
 - ECU 175 for the calendar year 2000,
 - ECU 205 for the calendar year 2001,
 - ECU 235 for the calendar year 2002 and the subsequent calendar years.

III. Dairy cows

1. Headage payments may only be granted as a supplementary amount per dairy cow premium unit set out in Annex IV.
2. The total amount of dairy cow premium and headage payment, including any other dairy cow payment under Regulation (EC) No ... (milk), which may be granted per premium unit and calendar year shall not exceed the amounts set out in Article 17(2) of the said Regulation.
3. Article 14(2)(b) shall not apply.

IV. Heifers

1. Headage payments may be granted per Member State and calendar year for no more than a number of heifers equal to the average number of slaughterings of heifers during the years 1997, 1998 and 1999 deriving from Eurostat statistics for these years or any other published official statistical information for these years accepted by the Commission.
 2. The total amount of headage payment which may be granted during the lifetime of an animal shall not exceed:
 - ECU 100 for the calendar year 2000,
 - ECU 150 for the calendar year 2001,
 - ECU 225 for the calendar year 2002 and the subsequent calendar years.
-

ANNEX VII

CORRELATION TABLE

Regulation (EEC) No 805/68	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 4	—
Article 4a first and second indent	Article 3 first and second indent
Article 4b(1)	Article 4(1)
Article 4b(2) first subparagraph	Article 4(2)
Article 4b(2) second subparagraph	Article 4(3)(a)
Article 4b(3) point (a) of the third subparagraph	Article 3 third indent
Article 4b(3a)	—
Article 4b(4)	—
Article 4b(5)	Article 4(5)
Article 4b(7a)	—
Article 4b(8)	Article 4(7)
Article 4c(1) second subparagraph	Article 5(4)
Article 4c(1) third subparagraph	Article 5(1) second subparagraph
Article 4c(2) second subparagraph	Article 5(2)
Article 4c(2) third subparagraph	Article 5(4)
Article 4c(3) third subparagraph	Article 5(3) third subparagraph
Article 4c(4)	Article 5(5)
Article 4d(1) first sentence	Article 6(1) first sentence
Article 4d(1a)	—
Article 4d(2) first sentence	Article 6(3)
Article 4d(3a)	—
Article 4d(5)	Article 6(2)(a)
Article 4d(6) first subparagraph	Article 6(2)(b)
Article 4d(6) second to fourth subparagraph	—
Article 4d(6) fifth subparagraph	Article 6(2) second subparagraph
Article 4d(8) second indent	Article 6(5)
Article 4e(1) first sentence of the first subparagraph	Article 8(1) first subparagraph
Article 4e(1) second sentence of the first subparagraph	Article 8(4) second indent of the second subparagraph
Article 4e(1) second subparagraph	Article 8(1) second subparagraph
Article 4e(2)	Article 8(2)
Article 4e(3)	Article 8(3)
Article 4e(4)	—
Article 4e(5)	Article 8(4) first subparagraph and first indent of the second subparagraph

Regulation (EEC) No 805/68	This Regulation
Article 4f(4) first and second indents of the second subparagraph	Article 9(4) first and second subparagraphs
Article 4g(3)	Article 10(2)
Article 4g(4a)	—
Article 4g(5)	Article 10(3)
Article 4h(2)	Article 11(3) first indent
Article 4i	—
Article 4j(1) to (3)	Article 21(1) to (3)
Article 4k	—
Article 4l	Article 23
Article 5	—
Article 6(1)	Article 43(2)
Article 6(2)	Article 43(3)
Article 6(3)	Article 43(4)
Article 6(4)	Article 43(5)
Article 6(5)	Article 43(6)
Article 6(6)	Article 43(7)
Article 6(7)	Article 43(8)
Article 6a	—
Article 7	Article 44
Article 8	Article 45
Article 9	Article 25
Article 10	Article 26
Article 11	Article 27
Article 12(1) second subparagraph	Article 28(1) second subparagraph
Article 12(2) to (4)	Article 28(2) to (4)
Article 13(1) to (3)	Article 29(1) to (3)
Article 13(4) first and second subparagraph	Article 29(4) first and second subparagraph
Article 13(5) to (12)	Article 29(5) to (12)
Article 14	Article 30
Article 15	Article 31
Article 16	Article 32
Article 22	—
Article 22a(1)	Article 34(1)
Article 22a(2)	—
Article 22a(3)	Article 34(2)
Article 23	Article 35

Regulation (EEC) No 805/68	This Regulation
Article 24	Article 36
Article 25	Article 37
Article 26(1)	Article 38
Article 26(2)	—
Article 27	Article 39
Article 28	Article 40
Article 29	—
Article 30	Article 41
Article 30a	—
Article 31	Article 42
Article 32	—
Article 33	—
Article 34 first subparagraph	Article 48 first subparagraph
Annex	—
Annex II	—

98/0110 (CNS)

**Proposal for a
COUNCIL REGULATION (EC) No ...**

of ...

on the common organisation of the market in milk and milk products

(98/C 170/04)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

- (1) Whereas the operation and development of the common market in agricultural products should be accompanied by the establishment of a common agricultural policy to include in particular a common organisation of agricultural markets which may take various forms depending on the product;
- (2) Whereas the aim of the common agricultural policy is to attain the objectives set out in Article 39 of the Treaty; whereas, in the milk sector, in order to stabilise markets and to ensure a fair standard of living for the agricultural community, it is necessary that the intervention agencies, based on a single price system, may take intervention measures on the market including the buying-in of butter and skimmed milk powder and the grant of private storage aids for these products; whereas, however, such measures should be standardised so as not to impede the free movement of goods in question within the Community;
- (3) Whereas by Council Regulation (EEC) No 3950/92 of 28 December 1992⁽¹⁾ an additional levy scheme for the market of milk and milk products was introduced for the purpose of reducing the imbalance between supply and demand on the milk and milk-product market and resulting structural surpluses; whereas this scheme will apply for six new consecutive periods of 12 months commencing on 1 April 2000;
- (4) Whereas, in order to encourage the consumption of milk and milk products in the Community and to improve the competitiveness of these products on the

international markets, the level of market support should be reduced, in particular, through a gradual reduction of the target prices and intervention prices for butter and skimmed milk powder;

- (5) Whereas the implementation of an intervention system for butter should maintain the competitive position of butter on the market and provide for the most efficient possible storage; whereas the quality requirements to be observed in respect of butter constitute a determining factor for attaining these objectives; whereas buying into intervention should take place insofar as it is necessary to maintain the stability of the market by reference to the market price of butter in the Member States, and should be carried out under a tendering procedure;
- (6) Whereas, in the case of private storage aid for butter, it is appropriate to subject its grant to butter produced from cream and milk of Community origin and to maintain a reference to national quality grades as a condition of eligibility;
- (7) Whereas in addition to intervention in respect of butter and fresh cream, other Community intervention measures are required to enable the best return to be obtained from milk proteins and to support the prices of products which have special importance in determining producer prices for milk; whereas these measures should take the form of buying-in of skimmed milk powder and of granting private storage aid for this product; whereas, however, the normal buying into intervention of skimmed milk powder may be suspended when a certain quantity is reached and may be replaced by buying-in under a tender procedure;
- (8) Whereas to avoid distortion between operators selling into public intervention and in the interest of the proper administration of Community funds, a minimum requirement should be set for the protein content of skimmed-milk-powder bought into intervention; whereas the content should be fixed taking account of current commercial standards and in such way that it cannot act as a criterion for exclusion from intervention;
- (9) Whereas, to contribute to balancing the milk market and to stabilise the market prices for milk

⁽¹⁾ OJ L 405, 31.12.1992, p. 1. Regulation as last amended by Commission Regulation (EC) No 614/97, establishing an additional levy in the milk and milk products sector OJ L 94, 9.4.1997, p. 4.

and milk products, provision should be made for complementary measures increasing the possibility of disposing of milk products; whereas these measures should include the grant of private storage aid for certain types of cheeses, on the one hand, and the grant of aids for the marketing of certain milk products with a view to specific uses and destinations;

- (10) Whereas, in order to stimulate the consumption of milk by young people, provision should be made for the Community to defray a part of the expenditure occasioned by granting aid for the supply of milk to pupils in schools;
- (11) Whereas, as a consequence of reduced market support in the milk sector, income support measures for milk producers should be introduced; whereas these measures should take the form of a dairy cow premium the level of which should develop in parallel with the gradual reduction of market support; whereas the level of individual income support should be calculated on the basis of the individual reference quantities of the producers concerned and the average milk yield in the Community; whereas, to ensure the proper application of the scheme, to take account of the multilateral commitments of the Community and for reasons of budget control, provision should be made for keeping the overall income support at the level of the Member States' total reference quantities as applicable at the entry into force of the premium scheme;
- (12) Whereas, for reasons of simplification, the dairy cow premium should be managed and granted together with the corresponding income support for dairy cows under the common market organisation for beef and veal;
- (13) Whereas the conditions for milk production and the income situation of producers significantly vary in different production areas of the Community; whereas a Community-wide scheme with uniform dairy cow payments to all producers would be too rigid to respond adequately to structural and natural disparities and the diverse needs resulting therefrom; whereas, therefore, it is appropriate to provide for a flexible framework of additional Community payments to be determined and made by Member States within fixed global amounts and in accordance with certain common criteria; whereas the global amounts should be allocated to the Member States on the basis of their total reference quantity for milk; whereas the common criteria are intended, *inter alia*, to prevent additional payments from producing discriminatory effects and to take full account of the relevant multilateral commitments of the Community; whereas, in particular, it is essential that Member States be
- obliged to use their discretionary powers exclusively on the basis of objective criteria, to pay full regard to the concept of equal treatment and to avoid market and competition distortions; whereas it is appropriate to provide for the forms that additional payments may take; whereas these forms should be premium supplements and area payments;
- (14) Whereas premium supplements should be granted in addition to the dairy cow premium units; whereas it is also necessary to limit the total amount of support which may be granted per premium unit per year;
- (15) Whereas additional area payments should only be granted for permanent pasture which does not benefit from other Community market support measures; whereas area payments should be applied within the limits of regional base areas of permanent pasture which should be established by Member States according to historical reference data; whereas the maximum amount of area payment which may be granted per hectare, including additional area payments under the common market organisation for beef and veal, should be comparable with the average support per hectare under the support system for producers of certain arable crops;
- (16) Whereas, in order to achieve the desired economic impact, direct payments must be granted within certain time limits;
- (17) Whereas, should the administration of bovine somatotrophin to dairy cows be prohibited under Community law, the Commission should establish penalties analogous to those foreseen in the common market organisation for beef and veal in the case of use of certain prohibited substances in beef production;
- (18) Whereas the creation of a single Community market for milk and milk products involves the introduction of a single trading system at the external frontiers of the Community; whereas a trading system including import duties and export refunds, in addition to the intervention measures, should, in principle, stabilise the Community market; whereas the trading system should be based on the undertakings accepted under the Uruguay Round of multilateral trade negotiations;
- (19) Whereas, in order to monitor the volume of trade in milk and milk products with third countries, provision should be made for a system of import and export licences for certain products, which includes the lodging of a security to guarantee that the transactions for which such licences are granted are effected;

- (20) Whereas in order to prevent or counteract adverse effects on the Community market which could result from imports of certain agricultural products, imports of one or more such products should be subject to payment of an additional import duty, if certain conditions are fulfilled;
- (21) Whereas it is appropriate, under certain conditions, to confer on the Commission the power to open and administer tariff quotas resulting from international agreements concluded in accordance with the Treaty or from other acts of the Council; whereas, moreover, the Commission should have analogous powers concerning certain tariff quotas opened by third countries;
- (22) Whereas provisions for granting a refund on exports to third countries, based on the difference between prices within the Community and on the world market, and falling within the WTO Agreement on Agriculture⁽¹⁾, should serve to safeguard Community participation in international trade in milk and milk products; whereas these refunds should be subject to limits in terms of quantity and value;
- (23) Whereas compliance with the limits in terms of value should be ensured at the time when refunds are fixed through the monitoring of payments under the rules relating to the European Agricultural Guidance and Guarantee Fund; whereas monitoring can be facilitated by the compulsory advance fixing of refunds, while allowing the possibility, in the case of differentiated refunds, of changing the specified destination within a geographical area to which a single refund rate applies; whereas, in the case of a change of destination, the refund applicable to the actual destination should be paid, with a ceiling of the amount applicable to the destination fixed in advance;
- (24) Whereas ensuring compliance with the quantity limits calls for the introduction of a reliable and effective system of monitoring; whereas, to that end, the granting of refunds should be made subject to an export licence; whereas refunds should be granted up to the limits available, depending on the particular situation of each product concerned; whereas exceptions to that rule should only be permitted in the case of processed products not listed in Annex II to the Treaty, to which volume limits do not apply, and in the case of food-aid operations, which are exempt from any limit; whereas monitoring of the quantities exported with refunds during the marketing years as referred to in the WTO Agreement on Agriculture should be carried out on the basis of export licences issued for each marketing year;
- (25) Whereas, in addition to the system described above, and to the extent necessary for its proper working, provision should be made for regulating or, when the situation on the market so requires, prohibiting the use of inward processing arrangements;
- (26) Whereas it is appropriate to provide for measures to be taken when a substantial rise or fall in prices disturbs or threatens to disturb the Community market;
- (27) Whereas the customs duty system makes it possible to dispense with all other protective measures at the external frontiers of the Community; whereas, however, the internal market and duty mechanism could, in exceptional circumstances, prove defective; whereas, in such cases, so as not to leave the Community market without defence against disturbances which may arise therefrom, the Community should be able to take all necessary measures without delay; whereas those measures should be in accordance with the obligations derived from the relevant WTO agreements;
- (28) Whereas restrictions on free movement resulting from the application of measures intended to prevent the spread of animal diseases could cause difficulties on the market of one or more Member States; whereas provision should be made for the introduction of exceptional market support measures in order to remedy such situations;
- (29) Whereas the establishment of a single market would be jeopardised by the granting of certain aids; whereas, therefore, the provisions of the Treaty which allow the assessment of aids granted by Member States and the prohibition of those which are incompatible with the common market should apply in the common market organisation for milk and milk products;
- (30) Whereas it is necessary that, as the common market in milk and milk products develops, the Member States and the Commission should keep each other supplied with the information necessary for applying this Regulation;
- (31) Whereas, in order to facilitate implementation of the proposed measures, a procedure should be provided for establishing close cooperation between Member States and the Commission within a Management Committee;
- (32) Whereas expenditure incurred by the Member States as a result of the obligations arising out of the application of this Regulation should be financed by the Community in accordance with Council Regulation (EC) No . . . / . . . of . . . on the financing of the common agricultural policy;

⁽¹⁾ OJ L 336, 23.12.1994, p. 22.

	<i>CN Code</i>	<i>Description of goods</i>
(33) Whereas the common organisation of the market in milk and milk products should take appropriate account, at the same time, of the objectives set out in Articles 39 and 110 of the Treaty;	(a) 0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter
(34) Whereas the common organisation of the market in milk and milk products laid down in Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organisation of the market in milk and milk products ⁽¹⁾ has been amended several times; whereas, by reason of their number, their complexity and their dispersal among several Official Journals, these texts are difficult to use and thus lack the clarity which should be an essential feature of all legislation; whereas, under these circumstances, they should be consolidated in a new regulation and the aforementioned Regulation (EEC) No 804/68 should be repealed; whereas the essential rules of Council Regulations (EEC) No 986/68 ⁽²⁾ , No 987/68 ⁽³⁾ , No 508/71 ⁽⁴⁾ , No 1723/81 ⁽⁵⁾ , No 2990/82 ⁽⁶⁾ , No 1842/83 ⁽⁷⁾ and No 777/87 ⁽⁸⁾ have been incorporated into this Regulation, and should therefore be repealed;	(b) 0402 (c) 0403 10 11 to 39 0403 90 11 to 69 (d) 0404	Milk and cream, concentrated or containing added sugar or other sweetening matter Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter not flavoured nor containing added fruit, nuts or cocoa Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included
(35) Whereas the change from the arrangements in Regulation (EEC) No 804/68 to those in this Regulation could give rise to difficulties which are not dealt with in this Regulation; whereas, in order to deal with that eventuality, provision should be made for the Commission to adopt the necessary transitional measures; whereas the Commission should also be authorised to solve specific practical problems,	(e) ex 0405 (f) 0406 (g) 1702 19 00 (h) 2106 90 51 (j) ex 2309	Butter and other fats and oils derived from milk; dairy spreads of a fat content of more than 75 % but less than 80 % Cheese and curd Lactose and lactose syrup not containing added flavouring or colouring matter, containing by weight less than 99 % lactose, expressed as anhydrous lactose, calculated on the dry matter Flavoured or coloured lactose syrup Preparations of a kind used in animal feeding:
HAS ADOPTED THIS REGULATION:		
<i>Article 1</i>		
The common organisation of the market in milk and milk products shall cover the following products:		— Preparations and feedingstuffs containing products to which this Regulation applies, directly or by virtue of Council Regulation (EEC) No 2730/75 ⁽⁹⁾ , except preparations and feedingstuffs to which Council Regulation (EEC) No 1766/92 ⁽¹⁰⁾ applies

⁽¹⁾ OJ L 148, 27.6.1968, p. 13. Regulation as last amended by Regulation (EC) No 1587/96 (OJ L 206, 16.8.1996, p. 21).

⁽²⁾ OJ L 169, 18.7.1968, p. 4. Regulation as last amended by Regulation (EC) No 1802/95 (OJ L 174, 26.7.1995, p. 31).

⁽³⁾ OJ L 169, 18.7.1968, p. 6. Regulation as last amended by Regulation (EC) No 1435/90 (OJ L 138, 31.5.1990, p. 8).

⁽⁴⁾ OJ L 58, 11.3.1971, p. 1.

⁽⁵⁾ OJ L 172, 30.6.1981, p. 14. Regulation as last amended by Regulation (EEC) No 863/84 (OJ L 90, 1.4.1984, p. 23).

⁽⁶⁾ OJ L 314, 10.11.1982, p. 26. Regulation as last amended by Regulation (EC) No 2442/96 (OJ L 333, 21.12.1996, p. 1).

⁽⁷⁾ OJ L 183, 7.7.1983, p. 1. Regulation as last amended by Regulation (EC) No 1958/97 (OJ L 277, 10.10.1997, p. 1).

⁽⁸⁾ OJ L 78, 20.3.1987, p. 10. Regulation as last amended by Regulation (EEC) No 1634/91 (OJ L 150, 15.6.1991, p. 26).

⁽⁹⁾ OJ L 281, 1.11.1975, p. 20. Regulation as last amended by Regulation (EC) No 2931/95 (OJ L 307, 20.12.1995, p. 10).

⁽¹⁰⁾ OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 923/96 (OJ L 126, 24.5.1996, p. 37).

*CHAPTER I**Internal market*

TITLE I

Prices

Article 2

The milk year for all products listed in Article 1 shall begin on 1 July and end on 30 June of the following year.

Article 3

1. The target price in the Community for milk containing 3,7% fat, delivered to dairies and expressed in ECU per 100 kg, shall be set at:

- 29,66 for the period from 1 July 2000 until 30 June 2001,
- 28,35 for the period from 1 July 2001 until 30 June 2002,
- 27,04 for the period from 1 July 2002 until 30 June 2003,
- 25,72 as from 1 July 2003.

The target price shall be deemed to be that price which it is aimed to obtain for the aggregate of producers' milk sales on the Community market and on external markets.

2. The Council, acting in accordance with the procedure laid down in Article 43(2) of the Treaty, may change the target price.

Article 4

1. The intervention prices in the Community, expressed in ECU per 100 kg, shall be set:

(a) for butter at:

- 315,89 for the period from 1 July 2000 until 30 June 2001,
- 303,59 for the period from 1 July 2001 until 30 June 2002,
- 291,28 for the period from 1 July 2002 until 30 June 2003,
- 278,97 as from 1 July 2003;

(b) for skimmed milk powder at:

- 197,81 for the period from 1 July 2000 until 30 June 2001,
- 190,11 for the period from 1 July 2001 until 30 June 2002,

- 182,40 for the period from 1 July 2002 until 30 June 2003,
- 174,69 as from 1 July 2003.

2. The Council, acting in accordance with the procedure laid down in Article 43(2) of the Treaty, may change the intervention prices.

Article 5

The price system is established without prejudice to the implementation of the additional levy scheme.

TITLE II

Intervention system

Article 6

1. Where the market prices of butter are, in one or more Member States, at a level lower than 92% of the intervention price for a representative period, buying-in by the intervention agencies shall be carried out in the Member State(s) concerned under an open invitation to tender on the basis of specifications to be determined.

The buying-in price fixed by the Commission shall not be less than 90% of the intervention price.

Where market prices in the Member State(s) concerned are at a level equal to, or higher than, 92% of the intervention price for a representative period, buying-in under a tendering procedure shall be suspended.

2. Under paragraph 1, the intervention agencies may only buy in butter produced directly and exclusively from pasteurised cream in an approved undertaking in the Community, and

(a) meeting the following requirements:

- a minimum butterfat content, by weight, of 82% and a maximum water content, by weight, of 16%,
- an age at the time of buying in not exceeding a maximum to be fixed,
- conditions to be determined as regards the minimum quantity and packaging;

(b) meeting certain requirements to be determined regarding in particular:

- preservation; additional requirements may be laid down by the intervention agencies,
- free fatty acid content,
- peroxide content,
- microbiological standard,
- sensory characteristics (appearance, texture, taste and smell).

National quality grades to be determined may be shown on the packaging of butter which meets national quality requirements.

Flat rate transport costs shall be borne, under conditions to be fixed, by the intervention agency if the butter is delivered to a cold store situated at a distance greater than a distance to be determined from the place where the butter was in store.

3. Aid for private storage shall be granted for:

- cream,
- unsalted butter produced from cream or milk in an approved undertaking of the Community of a minimum butterfat content, by weight, of 82 % and a maximum water content, by weight, of 16 %,
- 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 water content, by weight, of 16 % and a maximum salt content, by weight, of 2 %.

The butter shall be classified according to national quality grades to be determined and shall be marked accordingly.

The aid shall be fixed in the light of storage costs and the likely trend in prices for fresh butter and butter from stocks. Where, at the time of removal from storage, an adverse change unforeseeable at the time of entry into storage has occurred on the market, the aid may be increased.

Private storage aid shall be subject to the drawing-up of a storage contract concluded, in accordance with provisions to be laid down, by the intervention agency of the Member State on whose territory the cream or butter qualifying for the aid is stored.

Where the market situation so requires, the Commission may decide to remarket some or all of the cream or butter covered by private storage contracts.

4. Butter bought in by the intervention agencies shall be disposed of at a minimum price and under conditions to be determined so as to avoid disturbing the balance on the market and to ensure purchasers equal treatment and access to the butter to be sold. Where the butter put up for sale is intended for export, special conditions may be laid down to ensure that the product is not diverted from its destination and to take account of requirements specific to such sales.

For butter kept in public storage which cannot be disposed of during a milk year under normal conditions, special measures may be taken. Where warranted by such

measures, special measures shall also be taken with a view to maintaining possibilities of disposing of products which were subject to aid as referred to in paragraph 3.

5. The intervention arrangements shall be applied so as to:

- maintain the competitive position of butter on the market,
- safeguard the original quality of the butter as far as possible,
- ensure storage as rationally as possible.

6. For the purposes of this Article:

- 'milk' shall mean cow's milk produced in the Community,
- 'cream' shall mean cream obtained directly and exclusively from milk.

Article 7

1. The intervention agency designated by each of the Member States shall, under conditions to be determined, buy in at the intervention price top quality skimmed milk powder made by the spray process and obtained in an approved undertaking in the Community, directly and exclusively from skimmed milk, which is offered to it during the period 1 March to 31 August and which:

- meets a minimum protein content of 35,6 % by weight of the non-fatty dry extract,
- meets preservation requirements to be laid down,
- meets conditions to be determined as regards the minimum quantity and packaging.

However, intervention agencies shall also buy in skimmed milk powder whose protein content is at least 31,4 % and less than 35,6 %, of the non-fatty dry extract, provided that the other provisions laid down in the first subparagraph above are met. In that case, the buying-in price shall be equal to the intervention price less 1,75 % for each percentage point by which the protein content is lower than 35,6 %.

The intervention price shall be that in force on the day of manufacture of the skimmed milk powder and shall apply to skimmed milk powder delivered to the store designated by the intervention agency. Flat-rate transport costs shall be borne, under conditions to be fixed, by the intervention agency if the skimmed milk powder is delivered to a store situated at a distance greater than a distance to be determined from the place where the skimmed milk powder was in store.

The skimmed milk powder may only be stored in stores meeting conditions to be fixed.

2. The Commission may suspend the buying in of skimmed-milk powder provided for in paragraph 1 as soon as the quantities offered for intervention in the period from 1 March to 31 August each year exceed 109 000 tonnes.

In that case buying-in by the intervention agencies may be carried out under an open standing invitation to tender on the basis of specifications to be determined.

3. Aid for the private storage of skimmed milk powder of top quality, obtained in an approved undertaking in the Community directly and exclusively from skimmed milk may be granted, in particular, if trends 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. In order to be eligible for aid, the skimmed milk powder must meet conditions to be fixed.

The aid shall be fixed in the light of storage costs and the likely trend in prices for skimmed milk powder.

Private storage aid shall be subject to the drawing-up of a storage contract concluded, in accordance with provisions to be laid down, by the intervention agency of the Member State on whose territory the skimmed milk powder qualifying for the aid is stored. Where the market situation so requires, the Commission may decide to remarket some or all of the skimmed milk powder covered by private storage contracts.

4. Skimmed milk powder bought in by the intervention agency shall be disposed of, at a minimum price and under conditions to be determined so as to avoid disturbing the balance on the market and to ensure purchasers equal treatment and access to the skimmed milk powder to be sold.

Where the skimmed milk powder put up for sale is intended for export, special conditions may be laid down to ensure that the product is not diverted from its destination and to take account of requirements specific to such sales.

For skimmed milk powder kept in public storage which cannot be disposed of during a milk year under normal conditions, special measures may be taken.

5. Within the meaning of this Article, 'skimmed milk' shall mean skimmed milk obtained directly and exclusively from cow's milk produced in the Community.

Article 8

1. Under conditions to be determined, aid shall be granted for the private storage of:

- (a) Grana Padano cheese at least nine months old;
- (b) Parmigiano Reggiano cheese at least 15 months old;
- (c) Provolone cheese at least three months old;

if these cheeses reach certain standards.

2. The amount of private storage aid shall be fixed taking account of storage costs and the likely trend of market prices.

3. The intervention agency designated by the Member State in which the said cheeses are produced and qualify to bear the designation of origin shall implement the measures taken pursuant to paragraph 1.

The granting of private storage aid shall be subject to the conclusion of a storage contract with the intervention agency. The contract shall be drawn up under conditions to be determined.

Where the market situation so requires, the Commission may decide that the intervention agency will remarket some or all of the cheese stored.

Article 9

1. Private storage aid may be granted for long-keeping cheeses and for cheeses which are manufactured from sheep and/or goat's milk and require at least six months for maturing, if for those cheeses price developments and the stock situation indicate a serious imbalance of the market which may be eliminated or reduced by seasonal storage.

2. The amount of aid shall be fixed with reference to storage costs and the balance to be maintained between cheeses for which aid is granted and other cheeses coming on the market.

3. Should the situation of the Community market so require, the Commission may decide to remarket some or all of the cheeses covered by private storage contracts.

4. If, at the time the storage contract expires, the level of market prices for cheeses in store is higher than that prevailing when the contract was signed, a decision may be taken to adjust the amount of aid accordingly.

Article 10

There shall be adopted in accordance with the procedure laid down in Article 41:

- (a) the detailed rules for the application of this Title and, in particular, those for establishing the market prices for butter,
- (b) the amounts of aid for private storage referred to in this Title,
- (c) the other decisions and measures which may be taken by the Commission under this Title.

TITLE III

Marketing measures*Article 11*

1. Aid shall be granted for skimmed milk and skimmed-milk powder intended for use as feedingstuffs, if these products reach certain standards.

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 taking into account the following factors:

- the intervention price for skimmed-milk powder,
- development of the supply situation as regards skimmed milk and skimmed-milk powder, and developments in the use thereof as feed,
- trends in calf prices,
- trends in the market prices for competing proteins as compared with those for skimmed-milk powder.

3. Detailed rules for the application of this Article, and in particular the conditions under which such aid may be granted and the amount of the aids, shall be determined by the Commission in accordance with the procedure laid down in Article 41.

Article 12

1. Under the conditions determined in accordance with paragraphs 2 and 3, aid shall be granted for Community-produced skimmed milk processed into casein and caseinates, if such milk and the casein or caseinates produced from it reach certain standards.

2. The aid may vary, according to whether the skimmed milk is processed into casein or caseinates and according to the quality of those products.

Aid shall be fixed taking into account the following factors:

- the intervention price for skimmed-milk powder, or the market price for first-quality spray-process skimmed-milk powder, if that price exceeds the intervention price,
- the market prices for casein and caseinates on the Community and world markets.

3. Detailed rules for the application of this Article, and in particular the conditions under which such aid may be granted and the amount of the aid, shall be adopted by the Commission in accordance with the procedure laid down in Article 41.

Article 13

1. When surpluses of milk products build up, or are likely to occur, the Commission may decide that aid shall be granted to enable butter and concentrated butter to be purchased at reduced prices by:

- (a) non-profit making institutions and organisations;
- (b) military forces and units of comparable status in the Member States;
- (c) manufacturers of pastry products and icecream;
- (d) manufacturers of other foodstuffs to be determined.

2. The measures provided for in this Article and detailed rules for its application which shall cover in particular the amount of the aid and the determination of the products in paragraph 1(d), shall be adopted by the Commission in accordance with the procedure laid down in Article 41.

Article 14

1. Subject to the conditions laid down in paragraphs 3, 4 and according to paragraph 5, Community aid shall be granted for supplying to pupils in educational establishments certain processed milk products falling under CN codes 0401, 0403, 0404 90 and 0406 or CN code 2202 90.

2. In addition to the Community aid, Member States may grant national aid for supplying the products specified in paragraph 1 to pupils in educational establishments.

3. In the case of whole milk, the Community aid shall be equal to 95 % of the target price for milk. In the case

of other milk products, the amounts of aid shall be determined taking into account the milk content of the products concerned.

4. The aid referred to in paragraph 1 shall be granted on a maximum quantity of 0,25 litre of milk equivalent per pupil and per day.

5. The detailed rules for the implementation of this Article and the amount of aid shall be adopted by the Commission in accordance with the procedure laid down in Article 41.

TITLE IV

Direct payments

Article 15

1. Producers shall qualify for a dairy cow premium. It shall be granted per calendar year and per holding.

2. The amount per premium unit shall be set at:

- ECU 25 for the calendar year 2000,
- ECU 50 for the calendar year 2001,
- ECU 75 for the calendar year 2002,
- ECU 100 for the calendar year 2003 and the subsequent calendar years.

It shall be supplemented by the amounts per premium unit set out in Annex IV of Regulation (EC) No . . . / . . . (beef) for the Member State and the calendar year concerned.

3. The number of premium units to which a producer shall be entitled, shall be determined by dividing the individual reference quantity for milk, expressed in tonnes, available on the holding on 31 March of the calendar year concerned by the figure 5,8 representing the average milk yield in the Community.

For the purpose of the preceding subparagraph, individual reference quantities which have been subject of temporary transfers in accordance with Article 6 of Regulation (EEC) No 3950/92 on 31 March of the calendar year concerned shall be deemed to be available on the holding of the transferee for that calendar year.

Where, on 31 March of a calendar year, the sum of all individual reference quantities in a Member State exceeds the sum of the corresponding total quantities of that Member State fixed for the 12 months period 1999/2000, the Member State concerned shall, on the basis of objective criteria, take the necessary steps to reduce proportionately the total number of premium units on its territory for the calendar year concerned.

4. For the purposes of this title, the definitions of 'producer' and 'holding' laid down in Article 9 of Regulation (EEC) No 3950/92 shall apply.

Article 16

1. Member States shall make additional payments to producers in their territory within the limits of the global amounts set out in Annex I and on a yearly basis. Such payments shall be made according to objective criteria including, in particular, the relevant production structures and conditions, and in such a way as to ensure equal treatment between producers and to avoid market and competition distortions. Moreover, such payments shall not be linked to fluctuations of market prices.

2. Additional payments may be made in the form of premium supplements (Article 17) and/or area payments (Article 18).

Article 17

1. Premium supplements may only be granted as a supplementary amount per dairy cow premium unit referred to in Article 15(2).

2. The total amount of dairy cow premium and premium supplement, including any other dairy cow payments under Regulation (EC) No . . . (beef), which may be granted per premium unit and calendar year shall not exceed:

- ECU 90 for the calendar year 2000,
- ECU 180 for the calendar year 2001,
- ECU 270 for the calendar year 2002,
- ECU 330 for the calendar year 2003 and the subsequent calendar years.

Article 18

1. Area payments shall be granted per hectare of permanent pasture:

- (a) which is available to a producer during the calendar year concerned,
- (b) which is not used to comply with the specific stocking density requirements referred to in Article 14(3) of Regulation (EC) No . . . [beef], and
- (c) in respect of which no payments under the support system laid down for producers of certain arable crops, under the aid system for dried fodder and under Community aid schemes for other permanent or horticultural crops are claimed for the same year.

The area of permanent pasture in a region for which area payments may be granted shall not exceed the relevant regional base area.

2. The regional base areas shall be established by Member States in accordance with Article 15 of Regulation (EC) No ... [beef].

3. The maximum area payment per hectare which may be granted, including area payments pursuant to Article 15 of Regulation (EC) No... [beef], shall not exceed:

- ECU 210 for the calendar year 2000,
- ECU 280 for the calendar year 2001,
- ECU 350 for the calendar year 2002 and the subsequent calendar years.

4. For the purposes of this Article, 'permanent pasture' shall mean non-rotational land used for grass production (sown or natural) on a permanent basis (five years or longer).

Article 19

1. Before 1 January 2000, Member States shall provide the Commission with detailed information on their national arrangements concerning the granting of additional payments. Any changes of these arrangements shall be communicated to the Commission not later than one month following adoption.

2. Before 1 April 2004, Member States shall submit to the Commission detailed reports on the implementation of Articles 16, 17 and 18.

Before 1 January 2005, the Commission shall evaluate the implementation of Articles 16 to 18 and examine the distribution of Community funds between Member States as provided for in Annex I. If necessary, the Commission shall make appropriate proposals to the Council.

Article 20

Direct payments under this title shall be made from 16 October of the calendar year concerned as soon as the legally required inspections are carried out and, save in duly justified exceptional cases, no later than 30 June of the following year.

Article 21

The amounts of the direct payments set out in this title may be changed in the light of developments in production, productivity and the markets, according to the procedure laid down in Article 43(2) of the Treaty.

Article 22

Where, by or on the basis of Community law, the administration of bovine somatotrophin to dairy cows is not authorised or where the availability of that substance on farms is regulated otherwise, the Commission shall, in accordance with the procedure laid down in Article 41, adopt measures which shall be analogous to those provided for in Article 21 of Regulation (EC) No ... [beef].

Article 23

Detailed rules for the application of this title shall be adopted by the Commission in accordance with the procedure laid down in Article 41.

Article 24

The expenditure incurred in granting the direct payments provided for in this title shall be considered as relating to intervention measures within the meaning of Article 2(2) of Regulation (EC) No ... [EAGGF].

CHAPTER II

Trade with third countries

Article 25

1. Imports into the Community of any of the products listed in Article 1 shall be subject to the presentation of an import licence. Exports from the Community of any such products may be made subject to presentation of an export licence.

2. Licences shall be issued by Member States to any applicant, irrespective of his place of establishment in the Community and without prejudice to the measures taken for the application of Articles 28, 29 and 30.

Import and export licences shall be valid throughout the Community. Such licences shall be issued subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence; except in cases of force majeure, the security shall be forfeited in whole or in part if import or export is not carried out, or is carried out only partially, within that period.

3. The following shall be adopted by the Commission in accordance with the procedure laid down in Article 41:

- (a) the list of products in respect of which export licences are required;
- (b) the term of validity of the licences; and
- (c) the other detailed rules for the application of this Article.

Article 26

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

Article 27

1. In order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain products listed in Article 1, imports of one or more of such products at the rate of duty referred to in Article 26 shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement on Agriculture concluded in accordance with Article 228 of the Treaty in the framework of the Uruguay Round of multilateral trade negotiations have been fulfilled unless the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

2. The trigger prices below which an additional duty may be imposed shall be those which are forwarded by the Community to the World Trade Organisation.

The trigger volumes to be exceeded in order to have the additional import duty imposed shall be determined particularly on the basis of imports into the Community in the three years preceding the year in which the adverse effects referred to in paragraph 1 arise or are likely to arise.

3. The import prices to be taken into consideration for imposing an additional import duty shall be determined on the basis of the cif import prices of the consignment under consideration.

Cif import prices shall be checked to that end against the representative prices for the product on the world market or on the Community import market for that product.

4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 41. Such detailed rules shall specify in particular:

- (a) the products to which additional import duties shall be applied under the terms of Article 5 of the Agreement on Agriculture;
- (b) the other criteria necessary to ensure application of paragraph 1 in accordance with Article 5 of the Agreement on Agriculture.

Article 28

1. Tariff quotas for the products listed in Article 1 resulting from agreements concluded in accordance with

Article 228 of the Treaty or from any other act of the Council shall be opened and administered in accordance with detailed rules adopted under the procedure laid down in Article 41.

2. Quotas may be administered by applying one of the following methods or a combination of them:

- method based on the chronological order of the lodging of applications (using the 'first come, first served' principle),
- method of distribution in proportion to the quantities requested when the applications were lodged (using the 'simultaneous examination' method),
- method based on taking traditional trade patterns into account (using the 'traditional importers/new arrivals' method).

Other appropriate methods may be adopted.

They shall avoid any discrimination between the operators concerned.

3. The method of administration adopted shall, where appropriate, give due weight to the supply requirements on the Community market and the need to safeguard the equilibrium of that market, whilst at the same time possibly drawing on methods which may have been applied in the past to quotas corresponding to those referred to in paragraph 1, without prejudice to the rights resulting from agreements concluded in the framework of the Uruguay Round trade negotiations.

4. The detailed rules referred to in paragraph 1 shall provide for annual quotas, suitably phased over the year, if necessary, to be opened, determine the administrative method to be applied and, where appropriate, include provisions regarding:

- (a) guarantees covering the nature, provenance and origin of the product;
- (b) recognition of the document used for verifying the guarantees referred to in (a); and
- (c) the conditions under which import licences are issued and their term of validity.

Article 29

1. Where an agreement concluded in accordance with Article 228 of the Treaty provides for the total or partial management of a tariff quota opened by a third country for the products referred to in Article 1, the management method to be applied and detailed rules relating to that method shall be adopted in accordance with the procedure provided for in Article 41.

2. Quotas may be managed using one of the following methods or a combination thereof:

- order in which applications are submitted ('first come, first served' basis),
- allocation in proportion to quantities requested when applications are submitted ('simultaneous examination' method),
- traditional trade flows ('traditional importers/new arrivals' method).

Other appropriate measures may be adopted, in particular ones which guarantee the full use of the possibilities available under the quota concerned.

They shall avoid any discrimination between the operators concerned.

Article 30

1. To the extent necessary to enable the products listed in Article 1 to be exported without further processing or in the form of goods listed in Annex II if they are products listed in Article 1(a), (b), (c), (d), (e) and (g), on the basis of prices for those products on the world market and within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, the difference between those prices and prices in the Community may be covered by export refunds.

Exports refunds on the products listed in Article 1 in the form of goods listed in the Annex II may not be higher than those applicable to such products exported without further processing.

2. The method to be adopted for the allocation of the quantities which may be exported with a refund shall be the method which:

- (a) is most suited to the nature of the product and the situation on the market in question, allowing the most efficient possible use of the resources available, account being taken of the efficiency and structure of Community exports without, however, creating discrimination between large and small operators;
- (b) is least cumbersome administratively for operators, account being taken of administration requirements;
- (c) prevents any discrimination between the operators concerned.

3. Refunds shall be the same for the whole Community.

They may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.

Refunds shall be fixed by the Commission in accordance with the procedure laid down in Article 41. Refunds may be fixed:

- (a) at regular intervals;
- (b) by invitation to tender for products for which that procedure was provided for in the past.

Except where fixed by tender, the list of products on which an export refund is granted and the amount of such refund shall be fixed at least once every four weeks. The amount of the refund may, however, remain at the same level for more than four weeks and may, where necessary, be adjusted in the intervening period by the Commission at the request of a Member State or on its own initiative. However, for products listed in Article 1 and exported in the form of goods listed in the Annex II, the refund may be fixed according to another timetable determined in accordance with the procedure referred to in Article 16 of Council Regulation (EC) No 3448/93⁽¹⁾.

4. The following shall be taken into account when refunds are being fixed for the products listed in Article 1 and exported without further processing:

- (a) the existing situation and future trends with regard to:
 - prices and availabilities for milk and milk products on the Community market;
 - prices of milk and milk products on the world market;
- (b) the most favourable marketing costs and transport costs from Community markets to Community ports of other places of export together with forwarding costs to the countries of destination; demand on the Community market;
- (c) the objectives of the common organisation of the markets in milk and milk products, which are to ensure a balanced situation and natural development regarding prices and trade on these markets;
- (d) limits resulting from agreements concluded in accordance with Article 228 of the Treaty;
- (e) the importance of avoiding disturbances on the Community market;
- (f) the economic aspect of the proposed exports.

⁽¹⁾ OJ L 318, 20.12.1993, p. 31.

Account shall also be taken in particular of the need to establish a balance between the use of Community basic agricultural products for export as processed goods to third countries, and the use of products from those countries admitted for inward processing.

5. For the products referred to in Article 1 and exported as such:

- (a) the prices in the Community referred to in paragraph 1 shall be determined taking account of the prices prevailing which prove to be the most favourable as regards export;
- (b) the prices on the world market referred to in paragraph 1 shall be determined taking account in particular of:
 - the prices on third-country markets;
 - the most favourable prices in third countries of destination for third-country imports;
 - producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries;
 - free-at-frontier offer prices.

6. Refunds shall be granted for the products referred to in paragraph 1 and exported as such only on application and on presentation of the relevant export licence.

7. The refund applicable to exports of products listed in Article 1 and exported as such shall be that applicable on the day of application for the licence and, in the case of a differentiated refund, that applicable on the same day for:

- (a) the destination indicated on the licence, or where appropriate;
- (b) the actual destination if it differs from the destination indicated on the licence. In that case, the amount applicable may not exceed the amount applicable for the destination indicated on the licence.

Appropriate measures may be taken to prevent abuse of the flexibility provided for in this paragraph.

8. Paragraphs 6 and 7 may be made to apply to products listed in Article 1 and exported in the form of goods listed in Annex II in accordance with the procedure laid down in Article 16 of Regulation (EC) No 3448/93.

9. Paragraphs 6 and 7 may be waived in the case of products listed in Article 1 on which refunds are paid

under food-aid operations, in accordance with the procedure laid down in Article 41.

10. The refund shall be paid upon proof that:

- the products are of Community origin,
- the products have been exported from the Community, and
- in the case of a differentiated refund, the products have reached the destination indicated on the licence or another destination for which a refund was fixed, without prejudice to paragraph 7(b).

Exceptions may be made to this rule in accordance with the procedure laid down in Article 41, provided conditions are laid down which offer equivalent guarantees.

11. Without prejudice to paragraph 10 first indent, in the absence of a derogation granted in accordance with the procedure laid down in Article 41, no export refund shall be granted on products which are imported from third countries and re-exported to third countries.

12. As regards the products referred to in Article 1 and exported in the form of the goods listed in Annex II, paragraphs 10 and 11 shall apply only to goods falling within the following CN codes:

- 0405 20 30 (dairy spreads with a fat content between 60 and 75 %),
- 1806 90 60 to 1806 90 90 (certain products containing cocoa),
- 1901 (certain food preparations of flour, etc.),
- 2106 90 98 (certain food preparations not elsewhere specified),

having a high milk-product content.

13. Compliance with the limits on volumes arising from agreements concluded in accordance with Article 228 of the Treaty shall be ensured on the basis of the export certificates issued for the reference periods provided for therein and applicable to the products concerned. With regard to compliance with the obligations arising under the Agreement on Agriculture, the ending of a reference period shall not affect the validity of export licences.

14. Detailed rules for the application of this Article, including the arrangements for redistributing unallocated or unused exportable quantities, shall be adopted by the

Commission in accordance with the procedure laid down in Article 41. However, the detailed rules on the application of paragraphs 8, 10, 11 and 12 for products referred to in Article 1 and exported in the form of goods listed in Annex II shall be adopted in accordance with the procedure laid down in Article 16 of Regulation (EC) No 3448/93.

Article 31

1. To the extent necessary for the proper working of the common organisation of the market in milk and milk products, the Council, acting by a qualified majority, on a proposal from the Commission, may, in special cases, prohibit in whole or in part the use of inward processing arrangements in respect of products listed in Article 1 which are intended for the manufacture of products listed in that Article or of goods listed in Annex II.

2. By way of derogation from paragraph 1, if the situation referred to in paragraph 1 arises with exceptional urgency and the Community market is disturbed or is liable to be disturbed by the inward processing arrangements, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Council and the Member States shall be notified of such measures, which shall be valid for no more than six months and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within a week following receipt of the request.

3. Measures decided on by the Commission may be referred to the Council by any Member State within a week of the day on which they were notified. The Council, acting by a qualified majority, may confirm, amend or repeal the Commission decision.

If the Council has not acted within three months, the Commission decision shall be deemed to have been repealed.

Article 32

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

2. Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

Article 33

1. Where, for one or more of the products listed in Article 1, the free-at-frontier price significantly exceeds the level of Community prices and where that situation is likely to continue, thereby disturbing or threatening to disturb the Community market, the measures provided for in paragraph 5 may be taken.

2. A significant excess within the meaning of paragraph 1 shall exist when the free-at-frontier price exceeds the intervention price fixed for the product in question, increased by 15 % or, as regards products for which there is no intervention price, a price derived from the intervention price, to be determined in accordance with the procedure laid down in Article 41, taking account of the nature and composition of the product in question.

3. The situation in which the free-at-frontier price significantly exceeds the level of prices is likely to continue when an imbalance exists between supply and demand and that imbalance is likely to continue, in view of foreseeable trends in production and market prices.

4. The Community market is disturbed or under threat of disturbance by the situation referred to in this Article when the high level of prices in international trade:

- hinders imports of milk products into the Community, or
- causes milk products to leave the Community,

so that security of supply is no longer ensured or threatens to be no longer ensured in the Community.

5. Where the conditions listed in paragraphs 1 to 4 are met, total or partial suspension of the import duties and/or collection of export charges may be decided on in accordance with the procedure laid down in Article 41. Detailed rules for the application of this Article shall, if necessary, be adopted by the Commission in accordance with the same procedure.

Article 34

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1

is affected by, or is threatened with, serious disturbance likely to jeopardise the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting by a qualified majority, on a proposal from the Commission, shall adopt general rules for the application of this paragraph and shall define the cases in which and the limits within which Member States may take protective measures.

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

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

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

CHAPTER III

General provisions

Article 35

In order to take account of the restrictions on free circulation which may result from the application of measures for combating the spread of diseases in animals, exceptional measures of support for the market affected by those restrictions may be taken in accordance with the procedure laid down in Article 41. Those measures may only be taken in so far as, and for as long as, is strictly necessary for the support of that market.

Article 36

Save as otherwise provided in this Regulation, Articles 92 to 94 of the Treaty shall apply to the production of and trade in the products listed in Article 1.

Article 37

1. Subject to the provisions of Article 92(2) of the Treaty, aids the amount of which is fixed on the basis of the price or quantity of products listed in Article 1 shall be prohibited.

2. National measures permitting equalisation between the prices of products listed in Article 1 shall also be prohibited.

Article 38

Without prejudice to the application of Articles 92 to 94 of the Treaty, a Member State may impose a promotional levy on its milk producers in respect of marketed quantities of milk or milk equivalent in order to finance the measures on promoting consumption in the Community, expanding the markets for milk and milk products and improving quality.

Article 39

Member States and the Commission shall communicate to each other the information necessary for implementing this Regulation. Rules for the communication and distribution of such information shall be adopted by the Commission in accordance with the procedure laid down in Article 41.

Article 40

A Management Committee for Milk and Milk Products (hereinafter called the 'Committee') shall be established, composed of representatives of Member States and chaired by a representative of the Commission.

Article 41

1. Where the procedure laid down in this Article is to be followed, the chairman shall refer the matter to the Committee either on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States

within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event the Commission may defer application of the measures which it has decided for not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within one month.

Article 42

The Committee may consider any other question referred to it by its chairman either on his own initiative or at the request of the representative of a Member State.

Article 43

This Regulation shall be so applied that appropriate account is taken, at the same time, of the objectives set out in Articles 39 and 110 of the Treaty.

Article 44

Regulation (EC) No ... [CAP financing] and the provisions adopted in implementation thereof shall apply to the products listed in Article 1.

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

Done at ...

CHAPTER IV

Transitional and final provisions

Article 45

1. Regulations (EEC) No 804/68, No 986/68, No 987/68, No 508/71, No 1723/81, No 2990/82, No 1842/83 and No 777/87 are hereby repealed.

2. References to the Regulation (EEC) No 804/68 shall be construed as references to this Regulation and should be read in accordance with the correlation table in Annex III.

Article 46

The Commission shall adopt, in accordance with the procedure laid down in Article 41:

- the measures required to facilitate the transition from the arrangements provided in Regulation (EEC) No 804/68 to those established by this Regulation,
- the measures required to resolve specific practical problems. Such measures — if duly justified — may derogate from certain parts of this Regulation.

Article 47

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

It shall apply as from 1 January 2000, except Article 19(1) which shall apply from the entry into force of this Regulation.

For the Council

...

ANNEX I

ADDITIONAL PAYMENTS

Global amounts referred to in Article 16 (in Mio. ECU)

	2000	2001	2002	2003 and subsequent calendar years
Belgium	6,4	12,8	19,3	25,7
Denmark	8,7	17,3	25,9	34,5
Germany	54,2	108,0	162,2	216,0
Greece	1,2	2,4	3,7	4,9
Spain	10,8	21,6	32,4	43,1
France	47,2	93,9	141,1	187,9
Ireland	10,2	20,3	30,5	40,7
Italy	19,3	38,5	57,8	77,0
Luxembourg	0,5	1,0	1,6	2,1
Netherlands	21,6	42,9	64,5	85,8
Austria	5,4	10,7	16,0	21,3
Portugal	3,6	7,3	10,9	14,5
Finland	4,7	9,3	13,9	18,6
Sweden	6,4	12,8	19,2	25,6
United Kingdom	28,4	56,5	84,9	113,1

ANNEX II

CN code	Description of goods
0403 10 51 to 99 and 0403 90 71 to 99	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter, flavoured or containing added fruit or cocoa
ex 0405	Butter and other fats and oils derived from milk; dairy spreads:
0405 20	– Dairy spreads
0405 20 10	– – of a fat content, by weight, of 39 % or more but less than 60 %
0405 20 30	– – of a fat content, by weight, of 60 % or more but not exceeding 75 %
ex 1517	Margarine; edible mixtures or preparations of animal or vegetable fats or oils or fractions of different fats or oils of this chapter, other than edible fats or oils or their fractions of CN code No 1516:
1517 10	– Margarine, excluding liquid margarine:
1517 10 10	– – containing more than 10 % but not more than 15 % by weight of milk fats
1517 90	– Other:
1517 90 10	– – containing more than 10 % but not more than 15 % by weight of milk fats
ex 1702	Lactose and lactose syrup:
1702 11 00	– – containing by weight 99 % or more lactose, expressed as anhydrous lactose, calculated on the dry matter
ex 1704	Sugar confectionery (including white chocolate), not containing cocoa:
ex 1704 90	– Other, excluding liquorice extract containing more than 10 % by weight of sucrose but not containing other added substances
ex 1806	Chocolate and other food preparations containing cocoa, excluding cocoa powder sweetened solely by the addition of sucrose of CN code 1806 10
ex 1901	Malt extract; food preparations of flour, meal, starch or malt extract, not containing cocoa or containing less than 40 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of CN codes 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included:
1901 10 00	– Preparations for infant use, put up for retail sale
1901 20 00	– Mixes and doughs for the preparation of bakers' wares of CN code 1905
1901 90	– Other:
	– – Other:
1901 90 91	– – – Containing no milk fats, sucrose, isoglucose, glucose or starch or containing less than 1,5 % milk fat, 5 % sucrose (including invert sugar) or isoglucose, 5 % glucose or starch, excluding food preparations in powder form of goods of CN codes 0401 to 0404
1901 90 99	– – – Other

CN code	Description of goods
ex 1902	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared: – Uncooked pasta not stuffed or otherwise prepared:
1902 19	– – Other
1902 20	– Stuffed pasta, whether or not cooked or otherwise prepared: – – Other:
1902 20 91	– – – Cooked
1902 20 99	– – – Other
1902 30	– Other pasta
1902 40	– Couscous:
1902 40 90	– – Other
1904	Prepared food obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes); cereals (other than maize (corn)) in grain form or in the form of flakes or other worked grains (except flour and meal), pre-cooked or otherwise prepared, not elsewhere specified or included
1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products:
1905 10 00	– Crispbread
1905 20	– Gingerbread and the like
1905 30	– Sweet biscuits; waffles and wafers
1905 40	– Rusks, toasted bread and similar toasted products
1905 90	– Other: – – Other:
1905 90 40	– – – Waffles and wafers with a water content exceeding 10% by weight
1905 90 45	– – – Biscuits
1905 90 55	– – – Extruded or expanded products, savoury or salted
1905 90 60	– – – – With added sweetening matter
1905 90 90	– – – – Other
ex 2004	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than products of heading No 2006:
2004 10	– Potatoes: – – Other:
2004 10 91	– – – In the form of flour, meal or flakes
ex 2005	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading No 2006:
2005 20	– Potatoes:
2005 20 10	– – – In the form of flour, meal or flakes
ex 2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit not elsewhere specified or included: – Nuts, ground-nuts and other seeds, whether or not mixed together:
2008 11	– – Ground-nuts:

CN code	Description of goods
2008 11 10	- - - Peanut butter
2105 00	Ice cream and other edible ice, whether or not containing cocoa
ex 2106	Food preparations not elsewhere specified or included, excluding compound alcoholic preparations falling within CN code 2106 90 20 and flavoured or coloured sugar syrups falling within CN codes 2106 90 30, 2106 90 51, 2106 90 55 and 2106 90 59
ex 2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit and vegetable juices of CN code No 2009:
2202 90	- Other:
	- - Other, containing by weight of fat obtained from the products of CN codes 0401 to 0404:
2202 90 91	- - - Less than 0,2 %
2202 90 95	- - - 0,2 % or more but less than 2 %
2202 90 99	- - - 2 % or more
ex 2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol; spirits, liqueurs and other spirituous beverages:
2208 70	- Liqueurs and cordials
ex 2208 90	- Other:
	- - other spirits and spirituous beverages, in containers holding:
	- - - 2 litres or less:
	- - - - other:
2208 90 69	- - - - other spirituous beverages
	- - - more than 2 litres:
2208 90 78	- - - - other spirituous beverages
ex 3302	Mixtures of odoriferous substances and mixtures (including alcoholic solutions) with a basis of one or more of these substances, of a kind used as raw materials in industry; other preparations based on odoriferous substances, of a kind used for the manufacture of beverages:
3302 10	- of a kind used in the food or drink industries:
	- - of a kind used in the drink industries:
3302 10 29	- - - - other
3501	Casein, caseinates and other casein derivatives; casein glues
ex 3502	Albumins, albuminates and other albumin derivatives:
3502 20	- milk albumin, including concentrates of two or more whey proteins:
	- - other:
3502 20 91	- - - dried (for example in sheets, scales, flakes, powder)
3502 20 99	- - - other

ANNEX III

CORRELATION TABLE

Regulation (EEC) No 804/68	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3(1) and (2)	Article 3(1)
Article 3(3)	—
Article 3(4)	Article 3(2)
Article 4	—
Article 5	Article 4(1)
Article 5a	—
Article 5c	Article 5
Article 6(2)	Article 6(3)
Article 6(3)	Article 6(4)
Article 6(4)	Article 6(5)
Article 6(6)	Article 10
Article 7(1)	Article 7(1)
Article 7(2)	Article 7(3)
Article 7(3) first subparagraph	Article 7(4) first subparagraph
Article 7(3) fourth subparagraph	Article 7(4) second subparagraph
Article 7(4)	Article 7(5)
Article 7(5)	Article 10
Article 7a	—
Article 8(1) to (3)	Article 8(1) to (3)
Article 8(4)	Article 10
Article 9(3)	Article 10
Article 10(1)	Article 11(1)
Article 10(2)	—
Article 10(3)	Article 11(3)
Article 11(1)	Article 12(1)
Article 11(2)	—
Article 11(3)	Article 12(3)
Article 12(3)	Article 13(2)
Article 13	Article 25
Article 14	Article 26
Article 15	Article 27
Article 16	Article 28
Article 16a	Article 29

Regulation (EEC) No 804/68	This Regulation
Article 17	Article 30
Article 18	Article 31
Article 19	Article 32
Article 20	Article 33
Article 21	Article 34
Article 22	—
Article 22a	Article 35
Article 23	Article 36
Article 24	Article 37
Article 24a	Article 38
Article 25	—
Article 26(1) and (2)	Article 14(1) and (2)
Article 26(4)	Article 14(5)
Article 26(5)	—
Article 28	Article 39
Article 29(1)	Article 40
Article 29(2)	—
Article 30	Article 41
Article 31	Article 42
Article 32	—
Article 33	Article 43
Article 34	Article 44
Article 35	—
Article 36	—
Article 37(1)	Article 47
Annex	Annex II

98/0111 (CNS)

Proposal for a
COUNCIL REGULATION (EC) No ...
of ...
amending Regulation (EEC) No 3950/92 establishing an additional levy in the milk and milk products sector
(98/C 170/05)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas, pursuant to Council Regulation (EEC) No 3950/92 of 28 December 1992, establishing an additional levy in the milk and milk products sector⁽¹⁾, the additional levy scheme, which had been originally been introduced from 2 April 1984 in the said -sector, was extended by another seven 12-month periods; whereas the purpose of this scheme was to reduce the imbalance between supply and demand on the milk and milk-products market and the resulting structural surpluses; whereas the scheme remains necessary in the future in order to achieve a better market balance; whereas it should therefore continue to be applied for six further consecutive 12-month periods starting on 1 April 2000;

Whereas the level of price support in the dairy sector will be gradually reduced by 15% in total over four marketing years from 1 July 2000; whereas the effects of this measure on internal consumption and export of milk and milk products justify a 2% increase in the total reference quantity for milk in the Community in four steps following the respective price cuts;

Whereas the individual reference quantity should be defined as the quantity available, irrespective of any quantities which may have been transferred temporarily, on 31 March 2000, the expiry date of the seven periods of application of the levy scheme following its prolongation decided in 1992;

Whereas the additional reference quantities should be distributed in such a way as to improve the situation of certain categories of farmers who need particular support; whereas it is therefore appropriate to oblige Member States to allocate these quantities with priority to young farmers who intend to start or develop milk production and to producers in mountain areas; whereas precautions should be taken to prevent the said distribution criteria from being circumvented; whereas, in the case of producers in mountain areas, these measures should be designed in such a way as to nullify the effects of moving additional reference quantities out of mountain areas during the first two 12-month periods following their allocation;

Whereas the experience with the additional levy scheme has shown that the transfer of reference quantities through legal constructions such as leases which do not necessarily lead to a permanent allocation of the reference quantities concerned to the transferee, can be an additional cost factor for milk production hampering the improvement of production structures; whereas, in order to strengthen the reference quantities' character as a means of regulating the market of milk and milk products, it is appropriate to provide that in cases of non-permanent transfers a certain part of the relevant reference quantities be returned to the national reserve for re-distribution to active producers; whereas Member States should have the possibility to exempt certain specific categories of persons or cases from the application of the said measure, in the light of an evaluation of the interests involved and the objectives pursued; whereas the percentages applied should be determined by Member States in the light of their specific situation; whereas, moreover, where reference quantities fall back to persons who did not actively produce milk or milk products during a given reference period, Member States should have the possibility to provide that the relevant reference quantities should revert to the national reserve unless they are permanently transferred to an active producer within a certain period; whereas, however, persons who resume milk production within a certain period should have the possibility to apply for a re-allocation of reference quantities;

⁽¹⁾ OJ L 405, 31.12.1992, p. 1. Regulation as last amended by Commission Regulation (EC) No 614/97 of 8.4.1997 (OJ L 94, 9.4.1997, p. 4).

Whereas a certain number of provisions in Regulation (EEC) No 3950/92 have become obsolete and should therefore be deleted,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3950/92 is hereby amended as follows:

1. Article 1(1) is replaced by the following:

‘For six new consecutive periods of twelve months commencing on 1 April 2000, an additional levy shall be payable by producers of cow’s milk on quantities of milk or milk equivalent delivered to a purchaser or sold directly for consumption during the 12-month period in question in excess of a quantity to be determined.’

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

‘(2) The total quantities set out in Annex I and Annex II including the additional reference quantities referred to in Article 4(3) and (4), shall be fixed without prejudice to possible review in the light of the general market situation and particular conditions existing in certain Member States.

The overall quantity for the Austrian deliveries quota may be increased to compensate Austrian ‘SLOM’ producers, up to a maximum of 180 000 tonnes, to be allocated in accordance with Community legislation. This reserve must be non-transferable and used exclusively on behalf of producers whose right to take up production again will be affected as a result of accession.

The overall quantity for the Finnish deliveries quota may be increased to compensate Finnish ‘SLOM’ producers, up to a maximum of 200 000 tonnes, to be allocated in accordance with Community legislation. This reserve must be non-transferable and used exclusively on behalf of producers whose right to take up production again will be affected as a result of accession.

The increase in overall quantities, and the conditions under which the individual reference quantities provided for in the two preceding subparagraphs shall be granted, shall be decided upon in accordance with the procedure referred to in Article 11.’

3. Article 3(3) is hereby deleted.

4. Article 4 is replaced by the following:

‘Article 4

(1) The individual reference quantity available on the holding shall be equal to the quantity available on 31 March 2000. It shall be:

- increased, where appropriate, in accordance with Article 4(3) and (4), and
- adjusted, where appropriate, for each of the periods concerned, so that the sum of the individual reference quantities of the same type does not exceed the corresponding global quantities referred to in Article 3, taking account of any reductions made for allocation to the national reserve provided for in Article 5.

(2) Individual reference quantities shall be increased or established at the duly justified request of producers to take account of changes affecting their deliveries and/or direct sales. The increase or establishment of such a reference quantity shall be subject to a corresponding reduction or cancellation of the other reference quantity the producer owns. Such adjustments may not lead to an increase in the sum of the deliveries and direct sales referred to in Article 3 for the Member State concerned.

Where the individual reference quantities undergo a definitive change, the quantities referred to in Article 3 shall be adjusted in accordance with the procedure laid down in Article 11.

(3) Member States shall:

- (a) allocate the additional reference quantities set out in column (c) of the tables in Annex II with priority to young farmers who intend to start or develop milk production;
- (b) take the necessary measures to ensure that the allocation of these additional reference quantities achieves the intended purpose and, in particular, to provide for cases where reference quantities allocated have not been used in accordance with that purpose.

(4) Member States shall allocate the additional reference quantities set out in column (d) of the tables in Annex II to producers the whole of whose holdings are situated in mountain areas within the meaning of Article 17 of Regulation (EC) No ... [rural development].

For two 12-month periods following the allocation referred to in the first subparagraph:

- (a) Member States shall not authorise the producers who have received such allocations to make

temporary transfers as defined in Article 6(1) to producers other than those referred to in the first subparagraph;

- (b) where all or part of the holding of a producer who has received such an allocation is sold or leased, to producers other than those referred to in the first sub-paragraph, the additional reference quantity shall revert to the national reserve in proportion to the area sold or leased;
- (c) where producers who have received such allocations transfer reference quantities under an authorisation granted pursuant to Article 8(d) or (e) to producers other than those referred to in the first sub-paragraph, a part of the additional reference quantity allocated which shall be equal to the quantity subject to the transfer, shall be transferred to the national reserve;
- (d) where producers who have received such allocations participate in any measure regarding the definitive abandonment of reference quantities, the additional reference quantity allocated shall revert to the national reserve, and compensation shall be paid for the quantity transferred less the said additional quantity.

The additional reference quantities transferred to the national reserve under points (b), (c) and (d) shall be re-allocated to other producers referred to in the first sub-paragraph.

(5) Member States shall allocate the additional reference quantities referred to in paragraphs 3 and 4, taking due account of the requirements resulting from Community legislation in the field of environment.'

5. The second sentence of Article 6(1) first subparagraph is hereby deleted.

6. Article 7(1) second subparagraph is replaced by the following:

'However, where land is transferred to public authorities and/or for use in the public interest, or where the transfer is carried out for non-agricultural purposes, Member States shall provide that the measures necessary to protect the legitimate interests of the parties are implemented, and in particular that the departing producer is in a position to continue milk production, if such is his intention.'

7. Article 8 shall be replaced by the following:

'Article 8

With a view to completing restructuring of milk production or to environmental improvement, Member States may take one or more of the following actions in accordance with detailed rules

which they shall lay down taking account of the legitimate interests of the parties:

- (a) grant compensation in one or more annual instalments to producers who undertake to abandon definitively all or part of their milk production and place the reference quantities thus released in the national reserve,
- (b) determine on the basis of objective criteria the conditions under which producers may obtain, in return for payment, at the beginning of a 12-month period, the reallocation by the competent authority or by the body designated by that authority, of reference quantities released definitively at the end of the preceding 12-month period by other producers in return for compensation in one or more annual instalments equal to the abovementioned payment,
- (c) provide, in the case of land transferred with a view to improving the environment, for the allocation of the reference quantity available on the holding concerned to the departing producer if he intends continuing milk production,
- (d) determine, on the basis of objective criteria, the regions or collection areas within which the transfer of reference quantities between certain producer categories without transfer of the corresponding land is authorised, with the aim of improving the structure of milk production,
- (e) authorise, upon application by the producer to the competent authority or the body designated by that authority, the transfer of reference quantities without transfer of the corresponding land, or *vice versa*, with the aim of improving the structure of milk production at the level of the holding or to allow for extensification of production.'

8. The following is added after Article 8:

'Article 8a

- (1) Where reference quantities are transferred with or without the corresponding land by means of rural leases or by other means involving comparable legal effects, a part of the transferred reference quantities to be determined by the Member State on the basis of objective criteria, shall revert to the national reserve for redistribution to producers.

The first subparagraph shall not apply to cases where due to the expiration of rural leases or in situations involving comparable legal effects, reference quantities, which had been transferred with or without the corresponding land, are transferred back.

Member States may decide, on the basis of objective criteria, not to apply the first subparagraph to certain specific categories of persons or cases, where, taking account of the interests involved, such non-application does not put at risk the achievement of the objectives pursued in the first subparagraph.

(2) Member States may provide that, where due to the expiration of rural leases or in situations involving comparable legal effects, reference quantities, which had been transferred with or without the corresponding land, are transferred back to a person who has not marketed milk or milk products during the 12-month period preceding that during which the transfer took place as well as during the current 12-month period up to the transfer, the relevant reference quantities shall revert to the national reserve for redistribution to producers in accordance with detailed rules to be determined by them, unless the person concerned permanently transfers these reference quantities with or without the corresponding land to another producer.

Where, in the case of the application of the first subparagraph, the person concerned resumes production of milk or other milk products within a period to be determined by the Member State he shall be granted a reference quantity in accordance with Article 4(1) no later than 1 April following the date of his application. Reference quantities re-allocated under this subparagraph shall not be transferred with or without the corresponding land by means of rural leases or by other means involving comparable legal

effects during the two consecutive 12-month periods following their re-allocation.

(3) Paragraph 1 and paragraph 2 first subparagraph shall not apply to temporary transfers under Article 6.'

9. The Annexes set out in the Annex hereto are hereby added to Regulation (EEC) No 3950/92.

Article 2

Where transitional measures are necessary to facilitate the implementation of the amendments provided for in Article 1, they shall be adopted in accordance with the procedure referred to in Article 11 of Regulation (EEC) No 3950/92.

Article 3

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

It shall apply from 1 April 2000.

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

Done at . . .

For the Council

. . .

ANNEX

ANNEX I

TOTAL REFERENCE QUANTITIES REFERRED TO IN ARTICLE 3(1) AS APPLICABLE FROM
1 APRIL 2000 TO 31 MARCH 2001*(in tonnes)*

Member States	Deliveries	Direct supply
	Total reference quantities	Total reference quantities
Belgium	3 109 639	200 792
Denmark	4 454 639	709
Germany	27 764 778	100 038
Greece	629 817	696
Spain	5 438 118	128 832
France	23 749 650	486 148
Ireland	5 235 723	10 041
Italy	9 698 399	231 661
Luxembourg	268 098	951
Netherlands	10 988 039	86 653
Austria	2 382 377	367 000
Portugal	1 835 461	37 000
Finland	2 384 327	10 000
Sweden	3 300 000	3 000
United Kingdom	14 338 375	251 672

ANNEX II

TOTAL REFERENCE QUANTITIES REFERRED TO IN ARTICLE 3(1) INCLUDING THE ADDITIONAL REFERENCE QUANTITIES REFERRED TO IN ARTICLE 4(3) AND (4)

(a) applicable from 1 April 2001 to 31 March 2002

(in tonnes)

Member States	Deliveries			Direct supply
	Total reference quantities	Additional reference quantities "young farmers" ⁽¹⁾	Additional reference quantities for mountain areas ⁽¹⁾	Total reference quantities
(a)	(b)	(c)	(d)	(e)
Belgium	3 117 915	8 276		200 792
Denmark	4 465 777	11 138		709
Germany	27 855 754	69 662	21 314	100 038
Greece	634 435	1 576	3 042	696
Spain	5 493 458	13 917	41 423	128 832
France	23 886 636	60 589	76 397	486 148
Ireland	5 248 837	13 114		10 041
Italy	9 770 989	24 825	47 765	231 661
Luxembourg	268 771	673		951
Netherlands	11 015 726	27 687		86 653
Austria	2 429 221	6 873	39 970	367 000
Portugal	1 848 882	4 681	8 740	37 000
Finland	2 434 316	5 986	44 003	10 000
Sweden	3 319 336	8 258	11 078	3 000
United Kingdom	14 374 850	36 475		251 672

⁽¹⁾ Included in total reference quantities for deliveries.

(b) applicable from 1 April 2002 to 31 March 2003

Member States	Deliveries			Direct supply
	Total reference quantities	Additional reference quantities "young farmers" ⁽¹⁾	Additional reference quantities for mountain areas ⁽¹⁾	Total reference quantities
(a)	(b)	(c)	(d)	(e)
Belgium	3 126 191	8 276		200 792
Denmark	4 476 915	11 138		709
Germany	27 946 730	69 662	21 314	100 038
Greece	639 053	1 576	3 042	696
Spain	5 548 798	13 917	41 423	128 832
France	24 023 622	60 589	76 397	486 148
Ireland	5 261 951	13 114		10 041
Italy	9 843 579	24 825	47 765	231 661
Luxembourg	269 444	673		951
Netherlands	11 043 413	27 687		86 653
Austria	2 476 065	6 873	39 970	367 000
Portugal	1 862 303	4 681	8 740	37 000
Finland	2 484 305	5 986	44 003	10 000
Sweden	3 338 672	8 258	11 078	3 000
United Kingdom	14 411 325	36 475		251 672

⁽¹⁾ Included in total reference quantities for deliveries.

(c) applicable from 1 April 2003 to 31 March 2004

Member States	Deliveries			Direct supply
	Total reference quantities	Additional reference quantities "young farmers" ⁽¹⁾	Additional reference quantities for mountain areas ⁽¹⁾	Total reference quantities
(a)	(b)	(c)	(d)	(e)
Belgium	3 134 467	8 276		200 792
Denmark	4 488 053	11 138		709
Germany	28 037 706	69 662	21 314	100 038
Greece	643 671	1 576	3 042	696
Spain	5 604 138	13 917	41 423	128 832
France	24 160 608	60 589	76 397	486 148
Ireland	5 275 065	13 114		10 041
Italy	9 916 169	24 825	47 765	231 661
Luxembourg	270 117	673		951
Netherlands	11 071 100	27 687		86 653
Austria	2 522 909	6 873	39 970	367 000
Portugal	1 875 724	4 681	8 740	37 000
Finland	2 534 294	5 986	44 003	10 000
Sweden	3 358 008	8 258	11 078	3 000
United Kingdom	14 447 800	36 475		251 672

⁽¹⁾ Included in total reference quantities for deliveries.

(d) applicable as from 1 April 2004

Member States	Deliveries			Direct supply
	Total reference quantities	Additional reference quantities "young farmers" ⁽¹⁾	Additional reference quantities for mountain areas ⁽¹⁾	Total reference quantities
(a)	(b)	(c)	(d)	(e)
Belgium	3 142 743	8 276		200 792
Denmark	4 499 191	11 138		709
Germany	28 128 682	69 662	21 314	100 038
Greece	648 289	1 576	3 042	696
Spain	5 659 478	13 917	41 423	128 832
France	24 297 594	60 589	76 397	486 148
Ireland	5 288 179	13 114		10 041
Italy	9 988 759	24 825	47 765	231 661
Luxembourg	270 790	673		951
Netherlands	11 098 787	27 687		86 653
Austria	2 569 753	6 873	39 970	367 000
Portugal	1 889 145	4 681	8 740	37 000
Finland	2 584 283	5 986	44 003	10 000
Sweden	3 377 344	8 258	11 078	3 000
United Kingdom	14 484 275	36 475		251 672

⁽¹⁾ Included in total reference quantities for deliveries.

(98/0102) (CNS)

Proposal for a
COUNCIL REGULATION (EC) No . . .
of . . .
on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF)
(98/C 170/06)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Whereas a common rural development policy should accompany and complement other instruments of the common agricultural policy and thus contribute to the achievement of the objectives of this policy laid down in Article 39(1) of the Treaty;

Whereas, according to Article 39(2)(a) of the Treaty, in working out the common agricultural policy and the special methods for its application, account shall be taken of the particular nature of agricultural activities which result from the social structure of agriculture and from structural and natural disparities between the various agricultural regions;

Whereas, according to Article 130b of the Treaty, the implementation of the common policies shall take into account the objectives set out in Articles 130a and 130c for the common policy of economic and social cohesion and shall contribute to their achievement; whereas rural development measures should, therefore, contribute to this policy in regions whose development is lagging behind (Objective 1) and regions facing structural difficulties (Objective 2) as defined in Council regulation (EC) No . . . (General Structural Funds Regulation);

Whereas measures designed to support the improvement of agricultural structures have been introduced into the common agricultural policy as early as 1972; whereas

during almost two decades, attempts have been made to integrate agricultural structural policy into the wider economic and social context of rural areas; whereas the 1992 policy reform stressed the environmental dimension of agriculture as the largest land user;

Whereas rural policy is currently carried out through a range of complex instruments which lack overall coherence;

Whereas over the coming years, agriculture will have to adapt to new realities and further changes in terms of market evolution, market policy and trade rules, consumer demand and preferences and the Community's next enlargement; that these changes will not only affect agricultural markets but also local economies in rural areas in general; whereas a rural development policy should aim at restoring and enhancing the competitiveness of rural areas and, therefore, contribute to the maintenance and creation of employment in these areas;

Whereas these developments should be encouraged and supported by a reorganisation and simplification of the existing rural development instruments;

Whereas such reorganisation should take into account the experience gained in applying existing instruments and thus to be based on these instruments, which are those implemented under the current priority objectives which promote rural development by speeding up the adjustment of agricultural structures in the framework of the reform of the common agricultural policy and which facilitate the development and structural adjustment of rural areas (Objectives 5a and 5b), as laid down in Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the General Structural Funds Regulation and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments⁽¹⁾ and Council Regulation (EEC) No 4256/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Agricultural

⁽¹⁾ OJ L 185, 15.7.1988, p. 9. Regulation as last amended by Regulation (EC) No 3193/94, OJ L 337, 24.12.1994, p. 11.

Guidance and Guarantee Fund (EAGGF) Guidance Section⁽¹⁾, and those introduced as accompanying measures of the 1992 common agricultural policy reform by Council Regulation (EEC) No 2078/92 of 30 June 1992 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside⁽²⁾, Council Regulation (EEC) No 2079/92 of 30 June 1992 instituting a Community aid scheme for early retirement from farming⁽³⁾ and Council Regulation (EEC) No 2080/92 of 30 June 1992 instituting a Community aid scheme for forestry measures in agriculture⁽⁴⁾;

Whereas the framework of a reformed rural development policy should cover all rural areas in the Community;

Whereas the three existing accompanying measures introduced by the 1992 reform of the common agricultural policy (agri-environment, early retirement and afforestation) should be supplemented by the less-favoured areas scheme (LFA);

Whereas other rural development measures should form part of integrated development programmes for Objective 1 regions and for Objective 2 regions;

Whereas in the rural areas outside Objective 1 and Objective 2, rural development measures should accompany and complement market policies;

Whereas support from EAGGF for rural development should be based on a single legal framework establishing measures eligible for support, their objectives and criteria for eligibility;

Whereas, given the diversity of the Union's rural areas, rural development policy should follow the principle of subsidiarity; whereas it should, therefore, be as decentralised as possible and emphasis must be on participation and a 'bottom up' approach; whereas, therefore, eligibility criteria for rural development support should not go beyond what is necessary to achieve the objectives of rural development policy;

⁽¹⁾ OJ L 374, 31.12.1988. Regulation as amended by Regulation (EEC) No 2085/93, OJ L 193, 31.7.1993, p. 44.

⁽²⁾ OJ L 215, 30.7.1992, p. 85. Regulation as last amended by Commission Regulation (EC) No 2272/95, OJ L 288, 1.12.1995, p. 35. Regulation rectified by Commission Regulation (EC) No 1962/96, OJ L 259, 12.10.1996, p. 7.

⁽³⁾ OJ L 215, 30.7.1992, p. 91. Regulation as amended by Commission Regulation (EC) No 2773/95, OJ L 288, 1.12.1995, p. 37.

⁽⁴⁾ OJ L 215, 30.7.1992, p. 96. Regulation as last amended by Commission Regulation (EC) No 231/96, OJ L 30, 8.2.1996, p. 33.

Whereas coherence with other instruments of the common agricultural policy and with other common policies requires, however, basic support criteria to be laid down at the Community level; whereas, in particular, unjustified distortions of competition resulting from rural development measures should be avoided;

Whereas, in order to ensure flexibility and to simplify legislation, the Council shall confer all necessary implementing powers to the Commission in accordance with Article 155 of the Treaty;

Whereas the structure of agriculture in the Community is typified by the existence of a large number of holdings which lack the structural conditions which would ensure a fair income and living conditions for farmers and their families;

Whereas the aim of Community investment aid is to modernise agricultural holdings and to improve their viability;

Whereas Community conditions concerning eligibility for investment aids should be simplified as compared to the existing conditions as laid down in Council Regulation (EC) No 950/97 of 20 May 1997 on improving the efficiency of agricultural structures⁽⁵⁾;

Whereas the grant of specific benefits to young farmers may facilitate not only their establishment but also the structural adjustment of their holdings after their initial establishment;

Whereas the evolution and the specialisation of agriculture require an appropriate level of general, technical and economic training for the active farm population, especially as regards new approaches to management, to production or to marketing;

Whereas a particular effort is needed to educate, and inform farmers of, agricultural methods compatible with the environment;

Whereas early retirement from farming should be encouraged in order to improve the viability of agricultural holdings taking into account the experience acquired in the implementation of Regulation (EEC) No 2079/92;

Whereas support to less-favoured areas should contribute to continued agricultural land use, preservation of the countryside, maintenance and promotion of farming systems and to the fulfilment of environmental requirements;

⁽⁵⁾ OJ L 142, 2.6.1997, p. 1.

Whereas the support scheme for less-favoured areas should constitute a basic instrument to maintain and promote low-input farming systems;

Whereas less-favoured areas should be classified on the basis of common criteria; whereas existing criteria should be modified to allow classification of new areas and in particular areas affected by specific environmental handicaps;

Whereas there is no need for any further classification of less-favoured areas to be drawn up at Community level;

Whereas conditions concerning eligibility for compensatory allowances should be laid down in order to ensure the efficiency of this support scheme and to ensure that its objectives are achieved;

Whereas, in the coming years, a prominent role should be given to agri-environmental instruments to support the sustainable development of rural areas and to respond to society's increasing demand for environmental services;

Whereas the existing agri-environmental support under Regulation (EEC) No 2078/92 should be continued for targeted environmental measures taking into account experience gained in the implementation of this scheme, as described in detail in the Commission's report presented pursuant to Article 10(2) of Regulation (EEC) No 2078/92;

Whereas the agri-environmental aid scheme should continue to encourage farmers to serve society as a whole by introducing or continuing the use of farming practices compatible with the increasing need to protect the environment and natural resources and to maintain the landscape and the countryside;

Whereas improvements in the processing and marketing of agricultural products should be encouraged by support for investments in that field;

Whereas such support can largely be based on existing conditions as currently laid down in Council Regulation (EC) No 951/97 of 20 May 1997 on improving the processing and marketing conditions for agricultural products⁽¹⁾;

Whereas it should be ensured that such investments are viable and that farmers have a share in the economic benefits of the action taken;

Whereas forestry is an integral part of rural development and forestry measures should, therefore, be included into the rural development support scheme;

Whereas forestry measures should be adopted in the light of undertakings of the Community and the Member States made at an international level and should be based on Member States forest plans; whereas such measures should also take into account the specific problems of climatic change;

Whereas forestry measures should be pursued on the lines of the existing schemes laid down in Regulation (EEC) No 1610/89 of 29 May 1989 laying down provisions for implementing Regulation (EEC) No 4256/88 as regards the scheme to develop and optimally utilise woodlands in rural areas in the Community⁽²⁾ and in Council Regulation (EEC) No 867/90 of 29 March 1990 on improving the processing and marketing conditions for forestry products⁽³⁾;

Whereas the afforestation of agricultural land is especially important from the point of view of soil use and the environment and as a contribution to increase supplies in certain forestry products; whereas the existing support for afforestation under Regulation (EEC) No 2080/92 should, therefore, be pursued, taking into account experience gained in the implementation of that scheme as described in detail in the Commission's report presented pursuant to Article 8 paragraph 3 of Regulation (EEC) No 2080/92;

Whereas compensatory allowances should be granted for the maintenance of sustainable silviculture in areas with major natural handicaps;

Whereas support should be granted for other measures related to farming activities and their conversion; whereas the list of measures should be defined on the basis of experience and having regard to the need for rural development to be based partly on non-agricultural activities and services so as to reverse the trend towards the economic and social decline and depopulation of the countryside; whereas measures to remove inequalities and to promote equal opportunities for men and women should be supported;

Whereas rural development measures eligible for Community support should comply with Community law and be coherent with other Community policies as well as with other instruments of the common agricultural policy;

⁽¹⁾ OJ L 142, 2.6.1997, p. 22.

⁽²⁾ OJ L 165, 15.6.1989, p. 3.

⁽³⁾ OJ L 91, 6.4.1990, p. 7.

Whereas support should be excluded for certain measures eligible under other common agricultural policy instruments and in particular those falling within the scope of support schemes under common organisations of the market;

Whereas, in view of existing aids to producer groups and their associations in several common organisations of the market, specific support to producer groups in the framework of rural development does not appear to be necessary any more; whereas, therefore, the aid scheme existing under Council Regulation (EC) No 952/97 of 20 May 1997 on producer groups and associations thereof⁽¹⁾ should not be continued;

Whereas the financing of Community support for the accompanying measures and to other rural development measures in areas outside Objective 1 should be made from the Guarantee Section of EAGGF; whereas the basic financial rules laid down in Council Regulation (EC) No .../. . . [General Structural Funds Regulation] have been adapted accordingly;

Whereas the financing of Community support for rural development measures, in areas covered by Objective 1, should continue to be made from the Guidance Section of EAGGF except for the three existing accompanying measures and for less-favoured areas support;

Whereas, with regard to the support for rural development measures covered by Objective 1 and Objective 2 programming, Regulation (EC) No ... [General Structural Funds Regulation] should apply, in particular as to integrated programming of these measures; whereas, however, rules concerning financing should take into account the Guarantee financing of measures in Objective 2 regions;

Whereas rural development measures not covered by Objective 1 or Objective 2 programming should be subject to rural development programming pursuant to specific rules; whereas rates of assistance for such measures should be differentiated according to the general principles laid down in Article 28(1) of Regulation (EC) No ... [General Structural Funds Regulation] taking sufficiently into account the requirement of social and economic cohesion, and as a consequence those assistance rates should, in principle, be differentiated between areas covered by Objective 1 and Objective 2 and other areas; whereas rates laid down in this Regulation are maxima of Community assistance;

Whereas, in addition to Rural Development Programmes, the Commission should be able to make provisions for studies on rural development on its own initiative

notwithstanding the rural development initiative provided for in Articles 18 and 19 of Regulation (EC) No ... [General Structural Funds Regulation];

Whereas appropriate rules should be established for monitoring and evaluation of rural development support, using as a reference well defined indicators to be agreed and established prior to programme implementation;

Whereas rural development measures should be eligible for Member State support without any Community cofinancing; whereas in view of the considerable economic impact of such aids and in order to ensure coherence with measures eligible for Community support, and to simplify procedures specific state aid rules should be established;

Whereas it should be possible to adopt transitional rules to facilitate the transition from existing support schemes to the new rural development support scheme,

HAS ADOPTED THIS REGULATION:

TITLE I

Scope and objectives

Article 1

1. This Regulation establishes the framework for Community support for sustainable rural development.
2. Rural development measures shall accompany and complement other instruments of the common agricultural policy and thus contribute to the achievement of the objectives laid down in Article 39 of the Treaty.
3. Rural development measures shall
 - be integrated into the measures promoting the development and structural adjustment of regions whose development is lagging behind (Objective 1) and
 - accompany the measures supporting the economic and social conversion of areas facing structural difficulties (Objective 2),

⁽¹⁾ OJ L 142, 2.6.1997, p. 30.

in the regions concerned, taking into account the specific targets of Community support under these objectives as laid down in Articles 130a and 130c of the Treaty and in Regulation (EC) No ... [General Structural Funds Regulation] and according to the conditions laid down in this Regulation.

Article 2

Support for rural development, related to farming activities and their conversion, may concern:

- the improvement of structures in agricultural holdings and for the processing and marketing of agricultural products;
- the conversion and reorientation of agricultural production potential, the introduction of new technologies and the improvement of product quality;
- sustainable forest development;
- the diversification of activities with the aim of complementary or alternative activities;
- the maintenance and reinforcement of viable social fabric in rural areas;
- the development of economic activities and the maintenance and creation of employment with the aim of ensuring a better exploitation of existing inherent potential;
- the improvement of working and living conditions;
- the maintenance and promotion of low-input farming systems in less favoured areas;
- the preservation and promotion of a high nature value and a sustainable agriculture respecting environmental requirements;
- the removal of inequalities and the promotion of equal opportunities for men and women, in particular by supporting projects initiated and implemented by women.

Article 3

Support shall be granted for the rural development measures defined, and under the conditions laid down, in Title II.

TITLE II

Rural development measures

CHAPTER I

INVESTMENTS IN AGRICULTURAL HOLDINGS

Article 4

Support for investments in agricultural holdings shall contribute to the improvement of agricultural incomes and of living, working and production conditions.

They shall pursue one or more of the following objectives:

- reduce production costs;
- improve and redeploy production;
- increase quality;
- preserve and improve the natural environment, hygiene conditions and animal welfare standards;
- promote the diversification of farm activities.

Article 5

Support for investments shall be granted to agricultural holdings:

- whose economic viability can be demonstrated;
- which comply with minimum standards regarding the environment, hygiene and animal welfare, and
- where the farmer possesses adequate occupational skill and competence.

Article 6

Support shall not be granted for investments which have as their objective an increase in production for which no normal market outlets can be found.

Article 7

Member States shall set maximum amounts for support for investments.

CHAPTER II

SETTING-UP OF YOUNG FARMERS

Article 8

1. Setting-up aids to young farmers shall be granted under the following conditions:

- the farmer is under 40 years of age;
- the farmer possesses adequate occupational skill and competence;
- the farmer sets up for the first time on an agricultural holding;
- for this holding
 - (i) economic viability can be demonstrated; and
 - (ii) minimum standards regarding the environment, hygiene and animal welfare are complied with;
 and
- the farmer is established as head of the holding.

Specific conditions may be applied to the situation where a young farmer is not established as sole head of the holding. These conditions must be equivalent to those required for a young farmer setting up as a sole head of a holding.

2. The setting-up aid may comprise:

- a single premium up to the maximum eligible amount specified in the Annex;
- an interest subsidy on loans taken on with a view to covering the costs arising from setting up; the capitalised value of the interest subsidy may not exceed the value of the premium.

CHAPTER III

TRAINING

Article 9

Support for vocational training shall contribute to the improvement of the occupational skill and competence of farmers and other persons involved in agricultural activities, and their conversion.

Training shall in particular be intended to prepare farmers for qualitative reorientation of production, the application of production practices compatible with the maintenance of the landscape, the protection of the environment, hygiene standards and animal welfare and

acquisition of the skills needed to enable them to manage an economically viable farm.

CHAPTER IV

EARLY RETIREMENT

Article 10

1. Support for early retirement from farming shall contribute to the following objectives:

- providing an income for elderly farmers who decide to stop farming;
- encouraging the replacement of such elderly farmers by farmers able to improve the economic viability of the remaining agricultural holdings;
- reassigning agricultural land to non-agricultural uses where it cannot be farmed under satisfactory conditions of viability.

2. Early retirement support may include measures to provide an income for farm workers.

Article 11

1. A transferor shall:

- stop all commercial farming activity definitively; he may, however, continue non-commercial farming and retain the use of the buildings in which he continues to live;
- be not less than 55 years old but not yet of normal retirement age at the time of transfer, and
- have practised farming for the 10 years preceding transfer.

2. A farming transferee shall:

- succeed the transferor as the head of the agricultural holding or take over all or part of the land released. The economic viability of the holding of the transferee must be improved within a period and in compliance with conditions to be defined, in terms of, in particular, the occupational skill and competence of the transferee, surface area and volume of work or income, according to the region and type of production;
- possess adequate occupational skill and competence, and
- undertake to practise farming on the agricultural holding for not less than five years in accordance with minimum standards regarding the environment, hygiene and animal welfare.

3. A worker shall:
- stop all farm work definitively;
 - be not less than 55 years old but not yet of normal retirement age;
 - have devoted at least half of his/her working time as a family helper or a farm worker to farm work during the preceding five years;
 - have worked on the transferor's agricultural holding for at least the equivalent of two years full-time during the four-year period preceding the early retirement of the transferor and
 - belong to a social security scheme.

4. A non-farming transferee may be any other person or body who takes over released land to use it for non-agricultural purposes, forestry or the creation of ecological reserves in a manner compatible with protection or improvement of the quality of the environment and of the countryside.

5. The conditions laid down in this Article shall be applied throughout the period during which the transferor receives early retirement support.

Article 12

1. Early retirement support granted to transferors may not exceed the total amount per year fixed in the Annex.

2. The duration of early retirement support shall not exceed 10 years and shall not continue after the normal retirement age of the transferor or the worker's normal retirement age and in no case beyond his 70th birthday. Where a normal retirement pension is paid by the Member State early retirement support shall be granted as a supplement taking into account the amount of the national retirement pension.

CHAPTER V

LESS-FAVOURED AREAS

Article 13

Support for less-favoured areas shall contribute to the following objectives:

- ensuring continued agricultural land use and thereby contributing to the maintenance of a viable rural community,

- preserving the countryside,
- maintaining and promoting sustainable farming systems,
- assuring environmental requirements.

Article 14

1. Farmers in less-favoured areas may be supported by compensatory allowances.

2. Compensatory allowances shall be granted on a per hectare basis to farmers who:

- farm a minimum area of land to be defined;
- undertake to pursue their farming activity in a less-favoured area for at least five years from the first payment of a compensatory allowance; and
- use practices compatible with the need to safeguard the environment and preserve the countryside, in particular by sustainable farming, such practices to be defined for the different areas.

3. Where residues of substances prohibited under Council Directive 96/22/EC⁽¹⁾ 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⁽²⁾ on monitoring, in an animal belonging to the bovine herd of a producer, or where an authorised substance or product, or a substance or product authorised under the Directive 96/22/EC but held illegally is found on the producer's holding in any form, then the producer shall be excluded, for the calendar year of that discovery, from receiving compensatory allowances.

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 from the year in which the repeated infringement was discovered.

⁽¹⁾ Council Directive concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of β -agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC, OJ L 125, 23.5.1996, p. 3.

⁽²⁾ Council Directive on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC, OJ L 125, 23.5.1996, p. 10.

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 of national residue-monitoring plans, or when the investigations and checks provided for under the Directive 96/23/EC referred to in the first subparagraph are being carried out, the penalties provided for in the first subparagraph shall apply.

Article 15

1. Compensatory allowances shall be fixed at a level which:

- is sufficient to contribute effectively to a compensation for existing handicaps and
- avoids overcompensation.

The compensation may, if necessary, take into account the costs to and income foregone by farmers resulting from their obligations under environmental legislation.

2. Compensatory allowances shall be duly differentiated taking into account:

- the situation and development objectives particular to a region,
- the severity of any permanent natural handicap affecting farming activities,
- the particular environmental problems to be solved,
- the type of production and economic situation of the holding and the income of the farmer.

3. Compensatory allowances shall be fixed between the minimum and maximum amounts set out in the Annex. Compensatory allowances higher than the maximum amounts may be granted provided that the average amount of all compensatory allowances granted in the programming region concerned respects this maximum.

Article 16

Less-favoured areas shall include:

- mountain areas,
- other less-favoured areas and
- areas affected by specific handicaps.

Article 17

1. Mountain areas shall be those characterised by a considerable limitation of the possibilities for using the land and an appreciable increase in the cost of working it, due:

- to the existence, because of altitude, of very difficult climatic conditions, the effect of which is substantially to shorten the growing season;
- at a lower altitude, to the presence, over the greater part of the area in question, of slopes too steep for the use of machinery or requiring the use of very expensive special equipment or
- to a combination of these two factors, where the handicap resulting from each taken separately is less acute, provided that this combination gives rise to an equivalent handicap.

2. Areas north of the 62nd parallel and certain adjacent areas shall be treated in the same way as mountain areas.

Article 18

Less-favoured areas in danger of abandonment of land uses and where the conservation of the countryside is necessary, shall be made up of farming areas which are homogenous from the point of view of natural production conditions and exhibit all of the following characteristics:

- the presence of land of poor productivity, difficult cultivation and with a limited potential which cannot be increased except at excessive cost, and which is mainly suitable for extensive livestock farming;
- production which results from low productivity of the natural environment which is appreciably lower than the average, with regard to the main indices of economic performance in agriculture;
- a low or dwindling population predominantly dependent on agricultural activity, the accelerated decline of which would jeopardise the viability of the area concerned and its continued habitation.

Article 19

Less-favoured areas may include other areas affected by specific handicaps, in particular by specific environmental constraints, and in which farming should be continued, where necessary and subject to certain conditions, in order to conserve or improve the environment, maintain the countryside and preserve the tourist potential of the area or in order to protect the coastline.

The total extent of such areas may not in any Member State exceed 10 % of the area of the State concerned.

CHAPTER VI

AGRI-ENVIRONMENT

Article 20

Support for agricultural production methods designed to protect the environment and to maintain the countryside (agri-environment) shall contribute to achieving the Community's policy objectives regarding agriculture and the environment.

Such support shall promote:

- ways of using agricultural land which are compatible with the protection and improvement of the environment, the landscape and its features, natural resources, the soil and genetic diversity,
- an environmentally favourable extensification of farming and management of low intensity pasture systems,
- the conservation of high nature value farmed environments which are under threat,
- the upkeep of the landscape and historical features on farmland,
- the use of environmental planning in farming practice.

Article 21

1. Support shall be granted to farmers in return for agri-environmental undertakings of at least five years. Where necessary, a longer period shall be determined for particular types of undertakings in view of the environmental effects of such undertakings.

2. Agri-environmental undertakings shall go beyond the application of usual good farming practice.

They shall provide for services which are not provided for by other support measures, such as market support or compensatory allowances.

Article 22

1. Support for agri-environmental undertakings shall be granted annually and be calculated on the basis of:

- income forgone,
- additional costs resulting from the undertaking, and
- the need to provide an incentive.

The cost of any non remunerative capital works necessary for the fulfilment of the undertakings may also be taken into account in calculating the level of annual support.

2. Maximum amounts per year eligible for Community support are laid down in the Annex. These amounts shall be based on the area of the holding to which agri-environmental undertakings apply.

CHAPTER VII

IMPROVING PROCESSING AND MARKETING OF AGRICULTURAL PRODUCTS

Article 23

1. Support for investments shall facilitate the improvement and rationalisation of processing and marketing of agricultural products and thereby contribute to increasing the competitiveness and the added value of agricultural products.

2. Such support shall contribute to one or more of the following objectives:

- guiding production in keeping with foreseeable market trends or encouraging the development of new outlets for agricultural products,
- improving or rationalising marketing channels or processing procedures,
- improving the presentation and preparation of products or encouraging a better use or elimination of by-products,
- applying new technologies,
- favouring innovative investments,
- improving and monitoring quality and health conditions,
- protecting the environment.

Article 24

1. Support shall be granted to those persons ultimately responsible for financing the investments in enterprises

- for which economic viability can be demonstrated and
- which comply with minimum standards regarding the environment, hygiene and animal welfare.

2. Investments must contribute to improving the situation of the basic agricultural production sector in question. They must guarantee the producers of such basic products an adequate share in the resulting economic benefits.

3. Sufficient evidence must be given that normal market outlets for the products concerned exist.

Article 25

1. The investments shall concern the processing and marketing of products covered by Annex II to the Treaty except fishery products.

2. Investments shall meet selection criteria setting priorities and indicating which investments are not eligible for support.

Article 26

The following investments shall be excluded from support:

- investments at the retail level,
- investments in the processing or marketing of products from third countries.

CHAPTER VIII

FORESTRY

Article 27

1. Support for forestry shall contribute to the development of the economic, ecological and social functions of forestry in rural areas.

2. Such support shall promote in particular one or more of the following objectives:

- sustainable management and development of forestry,
- conservation of forest resources,
- extension of woodland areas.

2. Such support shall contribute to the fulfilment of undertakings made by the Community and the Member States on international level. It shall be based on national forest plans as adopted in the Intergovernmental Panel on Forests. In relation to areas classified as high or medium forest-fire risk, forest fire protection plans according to

Regulation (EEC) No 2158/92⁽¹⁾ of 23 July 1992 on protection of the Community's forests against fire shall be provided for.

Article 28

1. Support for forestry shall concern one or more of the following measures:

- planting and restocking of non-farm land provided that the planting is adapted to local conditions compatible with the environment,
- investments in forest holdings owned by private forest owners, associations thereof or municipalities, aimed at a significant improvement of their economic or ecological value,
- investments to improve and rationalise the processing and marketing of forestry products; investments related to the use of wood as a raw material shall be limited to all working operations prior to industrial use,
- promoting new outlets for the use and marketing of wood and forestry products,
- setting up of associations of forest holders, that are established to help members to improve sustainable and efficient management of their holdings,
- restoring forestry production potential damaged by natural disasters and fire and introducing appropriate prevention instruments.

2. The rules laid down in Chapters I, III and VII shall apply correspondingly to forestry measures.

Article 29

1. Support shall be granted for the afforestation of agricultural land.

Such support may include in addition to planting costs:

- an annual premium per hectare afforested to cover maintenance cost for a period of up to five years,
- an annual premium per hectare to cover losses of income resulting from afforestation for a maximum period of 20 years for farmers or their associations who worked the land before its afforestation or for any other private law person.

⁽¹⁾ OJ L 217, 31.7.1992, p. 3. Regulation as last amended by Regulation (EC) No 308/97, OJ L 51, 21.2.1997, p. 11.

2. Support for the afforestation of farmland shall not be granted:

- to farmers benefiting from early retirement support,
- in relation to the planting of Christmas trees.

In the case of fast-growing species cultivated in the short term, aid for afforestation costs shall only be granted provided that the planting is adapted to local conditions compatible with the environment.

3. The maximum amounts per year of the annual premium to cover losses of income eligible for Community support are laid down in the Annex.

Article 30

1. With a view to:

- preserving and improving the ecological stability of forests or restoring damaged forests in areas with serious natural handicaps, where the protective and ecological role of these forests are in the general interest and where this role cannot be solely assured by income from silviculture; or
- maintaining fire-breaks through agricultural practices,

support shall be granted as a compensatory payment to individual persons or associations thereof in order to safeguard the public interest in maintaining the forests concerned provided that sustainable management of these forests is ensured.

2. Compensatory payments shall be fixed between the minimum and maximum amounts set out in the Annex. Compensatory payments higher than the maximum amounts may be granted provided that the average amount of all compensatory payments granted in the programming region concerned respects this maximum.

CHAPTER IX

PROMOTING THE ADAPTATION AND THE DEVELOPMENT OF RURAL AREAS

Article 31

Support shall be granted for measures, relating to farming activities and their conversion and related to rural activities, which do not fall within the scope of any other measure referred to in this Title.

These measures shall concern:

- land improvement, reparation,

- setting up of farm relief and farm management services,
- marketing of quality products,
- improvement of living conditions,
- renovation and development of villages and protection and conservation of rural heritage,
- diversification of activities, to provide multiple activities or alternative incomes,
- agricultural water resources management,
- development and improvement of rural infrastructure,
- encouragement for tourist and craft activities,
- preservation of the environment and management of rural areas,
- restoring agricultural production potential damaged by natural disasters and introducing appropriate prevention instruments,
- financial engineering.

CHAPTER X

IMPLEMENTING RULES

Article 32

Detailed rules for the implementation of this Title shall be adopted in accordance with the procedure laid down in Article 49 of Regulation (EC) No ... [General Structural Funds Regulation].

These rules may in particular define:

- conditions for support for investments in agricultural holdings (Articles 4 to 7);
- the period and the conditions for the improvement of economic viability of a farm and conditions of use of land released in the case of early retirement (Article 11(2));
- conditions for granting and calculation of compensatory allowances (Articles 14 and 15);
- conditions governing agri-environmental undertakings (Articles 21 and 22);
- selection criteria for investments improving processing and marketing of agricultural products (Article 25(2));
- conditions governing forestry measures (Articles 27 to 30).

According to the same procedure, the Commission may derogate from Article 26 second indent in ultraperipheral regions subject to the condition that the processed products are destined for the market of the region in question.

TITLE III

General principles. Administrative and financial provisions

CHAPTER I

GENERAL PRINCIPLES

Subchapter I

Support from EAGGF

Article 33

1. Community support for early retirement (Articles 10 to 12), less-favoured areas (Articles 13 to 19), agri-environment (Articles 20 to 22) and afforestation (Article 29) shall be financed by the EAGGF Guarantee Section throughout the Community.
2. Community support for other rural development measures shall be financed by the EAGGF
 - Guidance Section in areas covered by Objective 1,
 - Guarantee Section in areas outside Objective 1.
3. Support for the measures referred to in the third, sixth and eighth indents of Article 31 shall be financed by EAGGF in areas classified under Objectives 1 and 2 in so far as their financing is not ensured by the ERDF.

Article 34

1. With regard to support for rural development measures referred to in Article 33(2)
 - in areas covered by Objective 1, Regulation (EC) No ... [General Structural Funds Regulation] shall apply as supplemented by specific rules contained in this Regulation;
 - in areas covered by Objective 2, Regulation (EC) No ... [General Structural Funds Regulation] shall apply as supplemented by specific rules contained in this Regulation and save as otherwise provided for under this Regulation.
2. With regard to support for rural development measures financed by the EAGGF Guarantee Section, the

specific rules of Regulation (EC) No ... [Agricultural Financial Regulation] and the provisions adopted in implementation thereof shall apply save as otherwise provided for under this Regulation.

Subchapter II

Compatibility and coherence

Article 35

1. Support for rural development shall only be granted for measures which comply with Community law.
2. Such measures shall be coherent with other Community policies and measures implemented thereunder.

In particular, any measure which falls within the scope of this Regulation shall only be eligible for support under other Community support schemes provided that this measure is not incompatible with any specific condition laid down in this Regulation.

3. Coherence shall also be ensured with measures implemented under other instruments of the common agricultural policy. In particular, coherence shall be ensured between rural development support measures on the one hand and measures implemented under the common market organisations and agricultural quality and health measures on the other hand, as well as between the different rural development support measures.

For this purpose, no support under this Regulation may be granted for:

- measures falling within the scope of support schemes under common market organisations,
- measures to support research projects, to promote agricultural products or to eradicate animal diseases.

4. Member States may lay down further or more restrictive conditions for granting Community support for rural development provided that such conditions are coherent with the objectives and requirements laid down in this Regulation.

Article 36

1. Payments may not be made in respect of the same measure under both this Regulation and another Community support scheme.

2. Support for several measures under this Regulation may only be combined provided that they are coherent and compatible between each other. If necessary, the level of support shall be adapted.

Article 37

1. Member States shall take all necessary steps to ensure compatibility and coherence of rural development support measures pursuant to the provisions laid down in this Chapter.

2. In relation to all rural development measures, the plans submitted by Member States shall include an appraisal of the compatibility and the coherence of the rural development support measures envisaged and an indication of the measures taken in order to ensure compatibility and coherence.

3. Where necessary to ensure compatibility and coherence, support measures shall be revised subsequently.

CHAPTER II

PROGRAMMING

Article 38

1. Rural development measures financed by the EAGGF Guidance Section shall form part of the programming for Objective 1 regions according to Regulation (EC) No ... [General Structural Funds Regulation].

2. Rural development measures other than those referred to in Article 33(1) shall form part of the programming for Objective 2 regions in accordance with Regulation (EC) No ... [General Structural Funds Regulation].

3. Other rural development measures shall be subject to Rural Development Programming in accordance with Articles 39 to 42.

Article 39

1. Rural development plans shall be drawn up at the geographical level deemed to be the most appropriate. They shall be prepared by the competent authorities designated by the Member State and shall be submitted by the Member State to the Commission after consultation of competent authorities and organisations at the appropriate territorial level.

2. Rural development support measures to be applied in one area shall be integrated, whenever possible, into a

single plan. Wherever several plans need to be established, the relation between measures foreseen in these plans shall be indicated and their compatibility and coherence shall be ensured.

Article 40

Rural development plans shall cover a period of seven years from 1 January 2000.

Article 41

1. Rural development plans shall include:

- a quantified description of the current situation showing disparities, gaps and potential for development, the financial resources deployed and the main results of operations undertaken in the previous programming period with regard to the evaluation results available,
- a description of the strategy proposed, its quantified objectives, and rural development priorities selected, and the geographic area covered,
- a prior appraisal showing the expected economic, environmental and social impact, including employment effects,
- an indicative overall financial table summarising the national and Community financial resources provided for and corresponding to each rural development priority adopted in the context of the plan,
- a description of the measures contemplated for implementing the plans, and in particular aid schemes, including the points necessary for assessing the rules of competition,
- where appropriate, information on the needs for any studies, demonstration projects, training or technical assistance operations relating to the preparation, implementation or adaptation of the measures concerned,
- the designation of competent authorities and bodies responsible,
- provisions to ensure an effective and correct implementation, including monitoring and evaluation with the definition of quantified indicators for evaluation, arrangements for controls and sanctions and adequate publicity,
- the results of consultations and steps taken to associate competent authorities and bodies as well as the economic and social partners at the appropriate levels.

2. In their plans, Member States shall
- provide for agri-environment measures throughout their territories, and in accordance with their specific needs,
 - ensure the necessary equilibrium between the different measures to be supported.

Article 42

1. Rural development plans shall be submitted not later than six months after the entry into force of this Regulation.

2. The Commission shall appraise the proposed plans to determine whether they are consistent with this Regulation. On the basis of the plans, it shall approve Rural Development Programming Documents in accordance with the procedure referred to in Article 49 of Regulation (EC) No ... [General Structural Funds Regulation] within six months after the submission of the plans.

CHAPTER III

ADDITIONAL MEASURES AND COMMUNITY INITIATIVE

Article 43

1. Pursuant to Article 20(2) of Regulation (EC) No ... (General Structural Funds Regulation) the Commission, following the procedure laid down in Article 51 of that Regulation, may extend the scope of assistance from the EAGGF Guidance Section beyond that provided for in Article 33(2) of this Regulation for the implementation of the rural development Community initiative.

2. The EAGGF Guarantee Section may finance, on the initiative of the Commission, studies related to Rural Development Programming.

CHAPTER IV

FINANCIAL PROVISIONS

Article 44

1. Community support for rural development from the EAGGF Guarantee Section shall be subject to financial planning and accounting on an annual basis. The financial planning shall form part of Rural Development Programming (Article 38(3)) and of programming related to Objective 2.

2. The Commission shall make initial allocations to Member States and per year on the basis of objective criteria taking into account particular situations and needs, and efforts to be undertaken especially for the environment, job creation and the maintenance of landscape.

3. Initial allocations shall be adapted in view of real expenditures and on the basis of revised expenditure forecasts submitted by the Member States taking into account the objectives of programmes and subject to funds available and, as a rule, in coherence with the aid intensity for rural areas covered by Objective 2.

Article 45

1. The financial provisions laid down in Articles 30, 31 (except for the 31(1)(5) thereof), 33, 37 and 38 of Regulation (EC) No ... [General Structural Funds Regulation] shall not apply to support for rural development measures in relation to Objective 2.

The Commission shall take the necessary action to ensure efficient and coherent implementation of these measures which shall at least attain the same standards as those laid down in the provisions referred to in the first subparagraph, including the principle of a single management authority.

2. For measures covered by Rural Development Programming (Article 38(3)), the Community shall contribute to financing pursuant to the principles laid down in Articles 28 and 29 of Regulation (EC) No ... [General Structural Funds Regulation]. The Community contribution shall not exceed 50 % of the total eligible cost and, as a general rule, shall be equal to at least 25 % of eligible public expenditure in areas not covered by Objective 1 and Objective 2. In those areas, the rates laid down in Article 28(4)(a)(ii) and (iii) and (b)(ii) and (iii) of Regulation (EC) No ... [General Structural Funds Regulation] shall apply.

In the programming for the implementation of Articles 20, 21 and 22 of this Regulation, provision may be made, in exceptional cases, for a rate of part-financing up to 10 % higher than the maximum rates laid down in the first subparagraph for specific measures of special merit from the environmental viewpoint.

The fifth subparagraph of Article 31(1) of Regulation (EC) No ... [General Structural Funds Regulation] shall apply to such payments.

3. Payments of financial assistance from the EAGGF Guarantee Section may take the form of advances for programme implementation and of payments in respect of expenditure incurred.

CHAPTER V

MONITORING AND EVALUATION

Article 46

1. The Commission and the Member States shall ensure effective monitoring of implementation of Rural Development Programming (Article 38(3)).

2. Such monitoring shall be carried out by way of jointly agreed procedures.

Monitoring shall be carried out by reference to specific physical and financial indicators agreed and established beforehand.

Member States shall submit annual progress reports to the Commission.

3. Where appropriate, monitoring committees shall be established.

Article 47

Evaluation of measures covered by Rural Development Programming (Article 38(3)) shall be carried out on the basis of the principles laid down in Articles 39 to 42 of Regulation (EC) No ... [General Structural Funds Regulation].

CHAPTER VI

IMPLEMENTING RULES

Article 48

Detailed rules for the application of this Title shall be adopted in accordance with the procedure laid down in Article 49 of Regulation (EC) No ... [General Structural Funds Regulation].

These rules may in particular define the details of

- the presentation of rural development plans (Articles 39 to 42),
- the revision of Rural Development Programming Documents,
- financial planning, in particular to ensure budgetary discipline (Article 44), the participation in financing (Article 45(2)),
- the monitoring and evaluation (Articles 46 and 47).

TITLE IV

*State aids**Article 49*

1. Save as otherwise provided in this Title, Articles 92 to 94 of the Treaty shall apply to aids granted by Member States for measures to support rural development.

However, Articles 92 to 94 of the Treaty shall not apply to financial contribution provided by Member States for measures subject to Community support within the scope of Article 42 of the Treaty in accordance with the provisions of this Regulation.

2. State aids to support farmers in less-favoured areas which fail to satisfy the conditions laid down in Articles 13 to 19 or which exceed the amounts determined in accordance with Article 15 shall be prohibited.

3. State aids to support farmers in return for agri-environmental undertakings which fail to satisfy the conditions laid down in Articles 20 to 22 are prohibited. However, additional aids exceeding maximum amounts fixed according to Article 22(2) may be granted if justified under paragraph 1 of that Article.

Article 50

Within the scope of Article 42 of the Treaty State aids intended to provide additional financing for rural development measures for which Community support is granted shall be notified by Member States and approved by the Commission in accordance with the provisions of this Regulation as part of programming referred to in Article 38. The first sentence of Article 93(3) of the Treaty shall not apply to aids thus notified.

TITLE V

*Transitional and final rules**Article 51*

1. Should specific measures be necessary to facilitate the transition from the system in force to the one established by this Regulation, such measures shall be adopted by the Commission in accordance with the procedures laid down in Article 49 of Regulation (EC) No ... [General Structural Funds Regulation].

2. Such measures shall in particular be adopted for the integration of existing Community support actions, approved by the Commission for a period ending after

1 January 2000 or without any time limit into the rural development support provided for by this Regulation.

Article 52

1. Article 17 of Council Regulation (EEC) No 1696/71 on the common organisation of the market in hops⁽¹⁾ shall be replaced by the following:

'Article 17

1. The Regulations on the financing of the common agricultural policy shall apply to the market in the products referred to in Article 1(1) from the date of implementation of the arrangements laid down herein.
 2. The aid referred to in Article 8 shall be subject to part financing by the Community.
 3. The Member States shall pay the aid referred to in Article 12 to the producers between 16 October and 31 December of the marketing year in respect of which the aid is applied for.
 4. The Commission shall, following the procedure laid down in Article 20, adopt rules for the application of this Article.'
2. Article 6 of Council Regulation (EEC) No 404/93 on the common organisation of the market in bananas⁽²⁾ shall be replaced by the following text:

'Article 6

1. For the five years following the date of recognition, the Member States shall grant recognised producer organisations assistance to encourage their establishment and assist their administrative operation.
2. Such aid:
 - shall be, for the first, second, third, fourth and fifth years respectively, 5 %, 5 %, 4 %, 3 % and 2 % of the value of production marketed under the auspices of the producer organisation,
 - shall not exceed the actual cost of formation and administrative operation of the organisation concerned,
 - shall be paid in annual instalments for a maximum of seven years following the date of recognition.

The value of each year's production shall be calculated on the basis of:

- the annual volume actually marketed,
- the average producer prices obtained.

3. Producer organisations deriving from organisations which already comply to a large extent with the conditions of this Regulation shall qualify for aid under this Article only if they are formed as the result of a merger enabling the objectives referred to in Article 5 to be achieved more effectively. However, in such a case, the aid shall be granted only in respect of the cost of formation of the organisation (expenditure incurred in connection with the preparatory work and the drawing up of the memorandum and articles of association).

4. The aid referred to in this Article shall be notified to the Commission in a report from the Member States at the close of each financial year.'

3. Council Regulation (EC) No 2200/96 on the common organisation of the market in fruit and vegetables⁽³⁾ shall be amended as follows:

- Article 15(6) shall be replaced by the following:

'6. In regions of the Community where the degree of organisation of producers is particularly low, Member States may be authorised, upon duly substantiated request, to pay producer organisations national financial assistance equal to half the financial contributions of producers. This assistance shall be additional to the operational fund.

For Member States less than 15 % of whose fruit and vegetable production is marketed by producer organisations and whose fruit and vegetable production represents at least 15 % of their total agricultural output, the assistance referred to in the first subparagraph may be partly reimbursed by the Community at the request of the Member State concerned'.

- Article 52 shall be replaced by the following:

'Article 52

1. Expenditure relating to the payment of the Community withdrawing compensation and to Community financing of the operational fund, the specific measures referred to in Article 17 and Articles 53, 54 and 55 and checks by experts of the Member States made available to the Commission in application of Article 40(1) shall be deemed to be intervention to stabilise agricultural markets within the meaning of Article 1(2)(b) of Regulation (EC) No ... [Agricultural Financial Regulation].

⁽¹⁾ OJ L 175, 4.8.1971, p. 1. Regulation as last amended by Regulation (EC) No 1554/97, OJ L 208, 2.8.1997, p. 1.

⁽²⁾ OJ L 47, 25.2.1993, p. 1. Regulation as last amended by Regulation (EC) No 3290/94, OJ L 349, 31.12.1994, p. 105.

⁽³⁾ OJ L 296, 21.11.1996, p. 46, as amended by Commission Regulation (EC) No 2520/97, OJ L 346, 17.12.1997, p. 41.

2. Expenditure relating to the aid granted by the Member States in accordance with Article 14 and the second subparagraph of Article 15(6) shall be deemed to be intervention to stabilise agricultural markets within the meaning of Article 1(2)(b) of Regulation (EC) No ... [Agricultural Financial Regulation]. It shall be eligible for part financing by the Community.

3. The Commission shall, following the procedure laid down in Article 46, adopt rules for the application of paragraph 2 of this Article.

4. The provisions of Title VI shall apply without prejudice to the application of Council Regulation (EEC) No 4045/89⁽¹⁾.

Article 53

1. The following Regulations are hereby repealed:

- Regulation (EEC) No 4256/88,
- Regulations (EC) Nos 950/97, 951/97, 952/97, 867/90,
- Regulations (EC) Nos 2078/92, 2079/92, 2080/92,
- Regulation (EEC) No 1610/89.

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

Done at ...

2. The following provisions are hereby deleted:

- Article 21 of Regulation (EEC) No 3763/91⁽²⁾,
- Article 32 of Regulation (EEC) No 1600/92⁽³⁾,
- Article 27 of Regulation (EEC) No 1601/92⁽⁴⁾,
- Article 13 of Regulation (EEC) No 2019/93⁽⁵⁾.

3. The Regulations and provisions repealed under paragraphs 1 and 2 shall remain applicable to actions approved by the Commission under those Regulations before 1 January 2000.

4. Council and Commission Directives adopting lists of less-favoured areas or amending such lists in accordance with Article 21(2) and (3) of Regulation (EC) No 950/97 shall remain in force unless further amended in the framework of programmes.

Article 54

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

It shall apply in relation to Community support as from 1 January 2000.

For the Council

...

⁽¹⁾ Council Regulation of 21 December 1989 on scrutiny by Member States of transactions forming part of the system of financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund and repealing Directive 77/435/EEC, OJ L 388, 30.12.1989, p. 17. Regulation as last amended by Council Regulation (EC) No 3235/94, OJ L 338, 28.12.1994, p. 16.

⁽²⁾ Council Regulation of 16 December 1991 introducing specific measures in respect of certain agricultural products for the benefit of the French overseas departments, OJ L 356, 24.12.1991, p. 1. Regulation as last amended by Council Regulation (EC) No 2598/95, OJ L 267, 9.11.1995, p. 1.

⁽³⁾ Council Regulation of 15 June 1992 concerning specific measures for the Azores and Madeira relating to certain agricultural products, OJ L 173, 27.6.1992, p. 1. Regulation as last amended by Council Regulation (EC) No 2348/96, OJ L 320, 11.12.1996, p. 1.

⁽⁴⁾ Council Regulation of 15 June 1992 concerning measures for the Canary Islands with regard to certain agricultural products, OJ L 173, 27.6.1992, p. 13. Regulation as last amended by Council Regulation (EC) No 2348/96, OJ L 320, 11.12.1996, p. 1.

⁽⁵⁾ Council Regulation of 19 July 1993 introducing specific measures for the smaller Aegean islands concerning certain agricultural products, OJ L 184, 27.7.1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 2417/95, OJ L 248, 14.10.1995, p. 39.

ANNEX

TABLE OF AMOUNTS

Article	Subject	ECU	
8(2)	Setting up aid	25 000	—
12(1)	Early retirement	15 000 3 500	per transferor per worker
15(3)	Minimum compensatory allowance Maximum compensatory allowance	40 200	per hectare per hectare
22(2)	Annual crops Specialised perennial crops Other land uses	600 900 450	per hectare per hectare per hectare
29(3)	Premium to cover losses from afforestation — for farmers or associations thereof — for any other private law person	600 150	per hectare per hectare
30(2)	Minimum compensatory payment Maximum compensatory payment	40 120	per hectare per hectare

98/0112 (CNS)

Proposal for a
COUNCIL REGULATION (EC) No . . .
of . . .
on the financing of the common agricultural policy
(98/C 170/07)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Court of Auditors,

Having regard to the opinion of the Economic and Social Committee,

Whereas by means of Regulation No 25 on the financing of the common agricultural policy⁽¹⁾, the Council established the European Agricultural Guidance and Guarantee Fund (EAGGF), hereinafter referred to as 'the Fund', which forms part of the general budget of the European Union; whereas that Regulation laid down the principles which should apply for the financing of the common agricultural policy;

Whereas at the single market stage, in view of the fact that price systems are standardised and the agricultural policy is a Community policy, the financial consequences devolve upon the Community; whereas, in accordance with that principle as laid down in Article 2(2) of Regulation No 25, refunds on exports to third countries, intervention aimed at stabilising agricultural markets, rural development measures, specific veterinary measures as laid down in Council Decision No 90/424/EEC of 26 June 1990 on expenditure in the veterinary field⁽²⁾ and measures intended to provide information on the common agricultural policy are financed by the Fund in order to achieve the objectives set out in Article 39(1)(a) of the Treaty;

Whereas the 'Guarantee' section of the Fund should in particular finance expenditure of the common

organisation of the agricultural markets, those rural development measures which accompany market support, certain fishery expenditure, certain veterinary expenditure as well as measures intended to provide information on the common agricultural policy;

Whereas the 'Guidance' section of the Fund should finance expenditure for certain rural development measures in regions whose development is lagging behind as well as for the rural development Community initiative;

Whereas the Commission is responsible for the administration of the Fund and whereas close cooperation between Member States and the Commission is provided for within a Committee for the European Agricultural Guidance and Guarantee Fund;

Whereas the responsibility for checking the Fund's Guarantee Section expenditure lies, in the first place, with the Member States, which designate the authorities and bodies empowered to effect expenditure; whereas the Member States must carry out this task fully and effectively; whereas the Commission, being responsible for implementing the Community budget, must verify the conditions under which payments and checks have been made; whereas the Commission can only finance expenditure where those conditions offer all necessary guarantees regarding compliance with Community rules; whereas, in a decentralised system of management of Community expenditure, it is essential that the Commission, as the institution responsible for funding, is entitled and enabled to carry out all checks on the management of expenditure it considers necessary and that there should be full and effective transparency and mutual assistance between the Member States and the Commission;

Whereas, during the clearance of accounts, the Commission is able to determine within a reasonable time the total expenditure to be entered against the Guarantee Section in the general account only if it has satisfactory assurance that the national controls are adequate and transparent and that the paying agencies verify the legality and regularity of the payment requests which they execute; whereas provisions should therefore be made for the accreditation of paying agencies by Member States, the Commission provides guidance on the criteria to be applied; whereas, for that purpose, it should be stipulated that only expenditure effected by

⁽¹⁾ OJ 30, 20.4.1962. Regulation as last amended by Regulation (EEC) No 728/70 (OJ L 94, 28.4.1970, p. 9).

⁽²⁾ OJ L 224, 18.8.1990, p. 19.

paying agencies accredited by the Member States should be financed; whereas, moreover, in order to ensure the transparency of national controls, in particular as regards authorisation, validation and payment procedures, the number of authorities and bodies to which these responsibilities are delegated should, where appropriate, be restricted taking account of the constitutional arrangements of each Member State;

Whereas decentralised management of Community funds, in particular following reform of the common agricultural policy, leads to the designation of several paying agencies; whereas, therefore, where a Member State accredits more than one paying agency, it must designate a single contact body to ensure consistency in the management of the funds, to provide liaison between the Commission and the various accredited paying agencies and to ensure that the information requested by the Commission concerning the operations of several paying agencies is made rapidly available;

Whereas financial resources must be mobilised by the Member States in accordance with the needs of their disbursing agencies, while the Commission makes advance payments against the booking of the expenditure effected by the disbursing agencies; whereas in the framework of rural development measures, genuine advance payments for programme implementation should be provided for; whereas it is appropriate to treat these advance payments according to the financial mechanisms established for advances on the provision for expenditure effected in a reference period;

Whereas two types of decisions should be established, one concerning the clearance of the Guarantee Section of the Fund, the other determining the consequences, including financial corrections, to be drawn from the results of the checks on conformity, with Community rules, of the expenditures;

Whereas the checks on conformity and the ensuing clearance decisions will therefore no longer be linked to the implementation of the budget in a particular financial year; whereas the maximum period to which the consequences to be drawn from the checks on conformity may be applied must be determined; whereas, however, the pluriannual character of rural development measures does not allow to apply such a maximum period;

Whereas measures must be taken to prevent and deal with any irregularities and to recover the amounts lost as a result of such irregularities or negligence; whereas the financial responsibility for such irregularities or negligence must be determined;

Whereas Community expenditure must be made subject to close supervision; whereas, in addition to supervision carried out by Member States on their own initiative, which remains essential, provisions should be made for

verification by officials of the Commission and for it to have the right to enlist the help of Member States;

Whereas information technology needs to be used as fully as possible for producing the information to be sent to the Commission; whereas, when carrying out checks, the Commission must have full and immediate access to information on expenditure held in both documents and electronic files;

Whereas the extent of Community financing makes it necessary for the European Parliament and the Council to be kept regularly informed by means of financial reports;

Whereas Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy⁽¹⁾ has been substantially amended on several occasions; whereas, in the event of new amendments being made to the said Regulation, in order to clarify and rationalise matters, all provisions in question should be recast,

HAS ADOPTED THIS REGULATION:

Article 1

1. The European Agricultural Guidance and Guarantee Fund (hereinafter called the 'Fund') shall form part of the general budget of the European Union.

It shall comprise two sections:

- the Guarantee Section;
- the Guidance Section.

2. The Guarantee Section shall finance:

- (a) refunds on exports to third countries;
- (b) intervention intended to stabilise the agricultural market;
- (c) rural development measures outside Objective 1 programmes except rural development Community initiative;
- (d) measures accompanying the restructuring of the fishing fleets outside Objective 1 regions and all structural measures for the fishing sector outside Objective 1 and Objective 2 regions, according to the relevant legislation in the fisheries sector;

⁽¹⁾ OJ L 94, 28.4.1970, p. 13. Regulation as last amended by Regulation (EC) No 1287/96 (OJ L 125, 8.6.1995, p. 1).

- (e) the Community's financial contribution towards specific veterinary measures, inspection measures in the veterinary field and programmes for the eradication and monitoring of animal diseases (veterinary measures) as well as towards plant health measures;
 - (f) measures intended to provide information on the common agricultural policy.
3. The Guidance Section shall finance rural development measures which are not covered by 2(c).
4. Expenditure relating to administrative costs and personnel borne by Member States and by recipients of aid from the Fund shall not be taken over by the Fund.

Article 2

1. Refunds on export to third countries, granted in accordance with the Community rules within the framework of the common organisation of agricultural markets, shall be financed under Article 1(2)(a).
2. Intervention intended to stabilise the agricultural markets, undertaken in accordance with Community rules within the framework of the common organisation of agricultural markets, shall be financed under Article 1(2)(b).
3. The Council, acting by a qualified majority on a proposal from the Commission, shall, as far as is necessary, adopt the procedure for financing the measures referred to in paragraphs 1 and 2.

Article 3

1. Rural development measures outside Objective 1 undertaken in accordance with Community rules shall be financed under Article 1(2)(c).
2. Fishery measures undertaken in accordance with Community rules shall be financed under Article 1(2)(d).
3. Veterinary and plant health measures undertaken in accordance with Community rules shall be financed under Article 1(2)(e).
4. Information measures undertaken in accordance with Community rules shall be financed under Article 1(2)(f).
5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 13.

Article 4

1. Each Member State shall communicate to the Commission:
- (a) details of the authorities and bodies it accredits to pay the expenditure referred to in Articles 2 and 3, hereinafter referred to as 'paying agencies';
 - (b) where more than one paying agency is accredited, details of the authority or body it charges, first, with bringing together the information to be supplied to the Commission and sending at the same, and, second, with promoting the harmonised application of Community rules, hereinafter referred to as the 'coordinating body'.
2. Paying agencies shall be authorities and bodies of the Member States, which, as regards payments in the areas for which they are responsible, offer sufficient guarantees that:
- (a) the admissibility of claims and compliance with Community rules are checked before payment is authorised;
 - (b) the payments effected are correctly and fully recorded in the accounts, and
 - (c) the necessary documents are submitted within the time and in the form laid down in Community rules.
3. The paying agencies must hold documents justifying the payments effected and documents concerning the carrying out of the prescribed administrative and physical controls. Where the relevant documents are kept by the bodies responsible for authorising the expenditure, those bodies must transmit reports to the paying agency on the number of checks carried out, their content and the measures taken in the light of the results.
4. Only expenditure effected by accredited paying agencies may be the subject of Community financing.
5. Each Member State shall, taking into account its constitutional and institutional structures, limit the number of accredited paying agencies to the minimum necessary in order to effect the expenditure referred to in Articles 2 and 3 under satisfactory administrative and accounting conditions.
6. Each Member State shall communicate to the Commission the following particulars concerning those paying agencies:
- (a) their name and their statutes;
 - (b) the administrative, accounting and internal control conditions under which payments are made relating

to the implementation of Community rules within the framework of the common agricultural policy,

(c) the act of accreditation.

The Commission shall be informed forthwith of any change in those particulars.

7. Where one or more of the conditions for accreditation are not, or are no longer, fulfilled by an accredited paying agency, accreditation shall be withdrawn unless the paying agency makes the necessary adjustments within a time limit to be fixed in relation to the seriousness of the problem. The Member State concerned shall inform the Commission.

8. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 13.

Article 5

1. The financial resources required to cover the expenditure referred to in Articles 2 and 3 shall be made available to the Member States by the Commission by means of advances on the provision for expenditure effected in a reference period.

Advance payments for programme implementation in the framework of rural development measures referred to in Article 3(1) may be granted by the Commission on the approval of the programmes concerned and shall be deemed to be expenditure effected on the first day of the month following the granting decision.

2. Until the advances on the provision for expenditure effected are paid, the resources necessary to meet that expenditure shall be mobilised by the Member States in accordance with the needs of their accredited paying agencies.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 13.

Article 6

1. Member States shall, at regular intervals, transmit to the Commission the following information concerning the accredited paying agencies and coordinating bodies and relating to the transactions financed by the Guarantee Section of the Fund:

(a) statements of expenditure and estimates of financial needs;

(b) annual accounts, accompanied by the information required for clearance and an attestation regarding the integrality, exactitude and veracity of the accounts transmitted.

2. Detailed rules for the application of this Article and, in particular, those covering the attestation of the accounts referred to in paragraph 1(b) shall be adopted in accordance with the procedure laid down in Article 13.

Article 7

1. The Commission, after consulting the Fund Committee shall adopt the decision set out in paragraphs 2, 3 and 4.

2. The Commission shall decide on monthly advances on the provision for expenditure effected by the accredited paying agencies.

Expenditure for October shall be attributed to October if it is effected from 1 to 15 October and to November if it is effected from 16 to 31 October. Advances shall be paid to the Member State not later than the third working day of the second month following that in which the expenditure is effected.

Additional advances may be made, the Fund Committee being informed at the next consultation.

3. The Commission shall, before 30 April of the year following the financial year concerned, on the basis of the information referred to in point (b) of Article 6(1), clear the accounts of the paying agencies.

The clearance of accounts decision shall cover the integrality, exactitude and veracity of the accounts submitted. The decision shall not prejudice the adoption of a subsequent decision pursuant to paragraph 4.

4. The Commission shall decide on the expenditure to be excluded from the Community financing referred to in Articles 2 and 3 where it finds that expenditure has not been effected in compliance with Community rules.

Before a decision to refuse financing is taken, the results of the Commission's checks and the replies of the Member State concerned shall be notified in writing, after which the two parties shall endeavour to reach agreement on the action to be taken.

If no agreement is reached, the Member State may ask for a procedure to be initiated with a view to mediating between the respective positions within a period of four

months, the results of which shall be set out in a report sent to and examined by the Commission, before a decision to refuse financing is taken.

The Commission shall evaluate the amounts to be excluded having regard in particular to the degree of non-compliance found. The Commission shall take into account the nature and gravity of the infringement and the financial loss suffered by the Community.

A refusal to finance may not involve expenditure referred to in Article 2 effected prior to 24 months preceding the Commission's written communication of the results of those checks to the Member State concerned.

However, the fifth subparagraph shall not apply to the financial consequences:

- (a) of irregularities as referred to in Article 8(2);
- (b) concerning national aids, or infringements, for which the procedures referred to in Articles 93 and 169 of the Treaty have been initiated.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 13. Those rules shall cover in particular the treatment of advance payments referred to in Article 5(1) second subparagraph under paragraphs 2, 3 and 4 and the procedures relating to the decisions referred to in the said paragraphs.

Article 8

1. Member States shall, in accordance with national provisions laid down by law, regulation or administrative action, take the measures necessary to:

- (a) satisfy themselves that transactions financed by the Fund are actually carried out and executed correctly;
- (b) prevent and deal with irregularities;
- (c) recover sums lost as a result of irregularities or negligence.

The Member States shall inform the Commission of the measures taken for those purposes and in particular of the state of the administrative and judicial procedures.

2. In the absence of total recovery, the financial consequences of irregularities or negligence shall be borne by the Community, with the exception of the consequences of irregularities or negligence attributable to administrative authorities or other bodies of the Member States.

The sums recovered shall be paid to the accredited paying agencies and deducted by them from the expenditure financed by the Fund. The interest on sums recovered or paid late shall be paid into the Fund.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall lay down general rules for the application of this Article.

Article 9

1. Member States shall make available to the Commission all information required for the proper working of the Fund and shall take all suitable measures to facilitate the supervision which the Commission may consider it necessary to undertake within the framework of the management of Community financing, including inspections on the spot.

Member States shall communicate to the Commission provisions laid down by law, regulation or administrative action which they have adopted for the application of legal acts of the Community relating to the common agricultural policy insofar as those acts have financial consequences for the Fund.

2. Without prejudice to the supervision effected by the Member States in accordance with national provisions laid down by law, regulation or administrative action and without prejudice to Article 188c of the Treaty, or to any inspection organised on the basis of point (c) of Article 209 of the Treaty, authorised representatives appointed by the Commission to carry out inspections on the spot shall have access to the books and all other documents, including information created or stored in electronic form, relating to expenditure financed by the Fund.

They may, in particular, check

- (a) whether administrative practices are in accordance with Community rules;
- (b) whether the requisite supporting documents exist and tally with the transaction financed by the Fund;
- (c) the condition under which transactions financed by the Fund are carried out and checked.

The Commission shall give due notice before the inspection is carried out to the Member State concerned or to the Member State on whose territory it is to take place. Officials of the Member State concerned may take part in the inspection.

At the request of the Commission and with the agreement of the Member State, inspections or inquiries

concerning the transactions referred to in this Regulation shall be carried out by the competent authorities of that Member State. Officials of the Commission may also participate.

To make verification more effective, the Commission may, with the agreement of the Member States concerned, arrange for administrative authorities of those States to participate in certain inspections or inquiries.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall, as far as is necessary, lay down general rules for the application of this Article.

Article 10

Before 1 July of each year, the Commission shall submit to the European Parliament and to the Council a financial report on the administration of the fund during the preceding financial year and, in particular, on the state of its resources and the nature of its expenditure and the conditions for achieving Community financing.

Article 11

The Committee for the European Agricultural Guidance and Guarantee Fund (hereinafter called the 'Fund Committee') shall assist the Commission in administering the Fund, as laid down in Articles 12 to 15.

Article 12

The Fund Committee shall consist of representatives of the Member States and of the Commission. Each Member State shall be represented on the Fund Committee by not more than five officials.

The Fund Committee shall have a representative of the Commission as Chairman.

Article 13

1. Where the procedure laid down in this Article is to be followed, the matter shall be referred to the Fund Committee by the Chairman, either on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is

required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

The Commission shall adopt measures which shall be immediately applicable. However, if such measures are not in accordance with the Opinion delivered by the Fund Committee, they shall at once be communicated by the Commission to the Council. In that case, the Commission may defer for not more than one month from the date of such communication, application of the measures which it has adopted.

The Council, acting by a qualified majority, may adopt a different decision within one month.

Article 14

1. The Fund Committee shall be consulted:
 - (a) in cases where provision is made for it to be consulted;
 - (b) for the assessment of the Fund's credits to be entered in the Commission's estimate for the coming financial year and, if necessary, in additional estimates;
 - (c) on draft reports on the Fund to be submitted to the Council.
2. The Fund Committee may examine any other question referred to it by its Chairman either on his own initiative or at the request of a representative of a Member State.

It shall be informed regularly of the activities of the Fund.

Article 15

The Chairman shall convene the Fund Committee.

Secretarial services shall be provided for the Fund Committee by the Commission.

The Fund Committee shall lay down its own rules of procedure.

Article 16

Regulation (EEC) No 729/70 is hereby repealed.

References to the repealed Regulation shall be construed as reference to this Regulation and should be read in accordance with the correlation table set out in the Annex.

Article 17

Article 15 third subparagraph and Article 40 of Council Decision 90/424/EEC are hereby deleted.

Article 18

The measures required to facilitate the transition from the arrangements provided in Regulation (EEC) No 729/70 to those established by this Regulation shall

be adopted in accordance with the procedure laid down in Article 13.

Article 19

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

It shall apply to expenditure effected as from 1 January 2000.

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

Done at . . .

For the Council

. . .

ANNEX

CORRELATION TABLE

Regulation (EEC) No 729/70	This Regulation
Article 1(1)	Article 1(1)
Article 1(2)(a) and (b)	Article 1(2)(a) and b)
Article 1(4)	Article 1(4)
Article 2(1)	Article 2(1)
Article 2(2)	Article 2(3)
Article 3(1)	Article 2(3)
Article 3(2)	Article 2(3)
Article 3(3)	—
Article 4(1)(a) first subparagraph	Article 4(1)(a)
Article 4(1)(a) second subparagraph	Article 4(2)
Article 4(1)(a) third subparagraph	Article 4(3)
Article 4(1)(b) first subparagraph	Article 4(1)(b)
Article 4(1)(b) second subparagraph	Article 4(4)
Article 4(2)	Article 4(5)
Article 4(3)	Article 4(6)
Article 4(4)	Article 4(7)
Article 4(5) first sentence	Article 5(1) first subparagraph
Article 4(5) second sentence	Article 5(2)
Article 4(6)	Article 4(8) and Article 5(3)
Article 5(1)	Article 6(1)
Article 5(2)(a)	Article 7(2)
Article 5(2)(b)	Article 7(3)
Article 5(2)(c)	Article 7(4)
Article 5a	—
Article 6	—
Article 6a	—
Article 6b	—
Article 6c	—
Article 7	—
Article 8	Article 8
Article 9	Article 9
Article 10	Article 10
Article 11	Article 11
Article 12(1)	Article 12
Article 12(2)	—
Article 13	Article 13
Article 14	Article 14
Article 15	Article 15
Article 16	—

98/0113 (CNS)

Proposal for a
COUNCIL REGULATION (EC) No . . .
of . . .
establishing common rules for direct support schemes under the common agricultural policy
(98/C 170/08)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas for direct payments under the various income support schemes in the common agricultural policy some common conditions should be established;

Whereas payments foreseen under Community support schemes should be made by the competent national authorities in full to beneficiaries without any prejudice of reductions explicitly foreseen in the present Regulation;

Whereas, with respect of better integrating the environment into the common market organisations, Member States should apply appropriate environmental measures in relation to agricultural land and agricultural production; whereas Member States should decide the consequences in case of not observing mandatory environmental requirements and that they should be enabled to reduce or even cancel benefits accruing from support schemes where such environmental requirements are not respected; whereas such measures should be taken by Member States notwithstanding the possibility of granting aids for facultative agri-environmental undertakings;

Whereas, in order to stabilise the employment situation in agriculture and thus contributing to a fair standard of living for the agricultural community, including all persons engaged in agriculture, Member States should be authorised to reduce direct payments to farmers in cases where the labour force used on their holding falls short of limits to be determined; whereas in order to maintain

in particular agricultural productivity, such reductions such reductions should, however, not exceed 20 % of the total amount of payments;

Whereas modalities for reductions of payments for environmental reasons or for reasons of insufficient labour force should be determined by Member States on the basis of objective criteria; whereas Member States should be enabled to use amounts made available from payment reductions for additional agri-environmental measures in the framework of rural development support provided for under Regulation (EC) No . . . ;

Whereas direct payments should be subject to an overall limit in order to take account for economics of scale and to avoid excessively high payments to single beneficiaries; whereas the application of such ceilings should not put into question the objective laid down in Article 39(1) of the Treaty to ensure a fair standard of living for the agricultural community and to stabilise markets; whereas overall ceilings for direct payments should be applied in a degressive way;

Whereas common support schemes have to be adapted to market developments, if necessary within short delays; whereas beneficiaries can, therefore, not rely on support conditions remaining unchanged and should be prepared to possible review of schemes in the light of market developments;

Whereas 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; whereas this objective is closely related to the maintainance of rural areas by enabling farmers to exercise genuine and serious agricultural activities; whereas, in order to avoid misallocations of Community funds, Member States should restrict, in an appropriate manner, the benefit of support payments to farmers who can demonstrate on the basis of the objective and verifiable elements that the main purpose of their support-related activities is of such a genuine and serious nature and thus is not primarily pursued to obtain support payments;

Whereas, in view of the significant budgetary implications of direct payment support and in order to better appraise their impact, Community schemes should be subject to a proper evaluation,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation shall apply to payments granted directly to farmers under support schemes in the framework of the common agricultural policy which are financed in full or in part by the 'Guarantee' section of the EAGGF, except those provided for under Regulation (EC) No ... [Rural Development] (support schemes).

Article 2

Full payment

Payments under support schemes shall be made in full to the beneficiaries.

Article 3

Cross compliance

1. Member States shall take the environmental measures they consider to be appropriate in view of the specific situation of the agricultural land used and the production concerned. These measures may include support in return for agri-environmental undertakings, general mandatory environmental requirements and specific environmental requirements constituting a condition for direct payments.

2. Member States shall decide the sanctions which are appropriate and proportionate to the seriousness of the ecological consequences of not observing the mandatory environmental requirements. They may provide for a reduction or, where appropriate, cancellation of the benefits accruing from the support schemes concerned if such specific environmental requirements are not respected.

Article 4

Modulation

1. Member States may decide to reduce the amounts which would, but for this paragraph and before applying Article 6, be granted to farmers in respect of a given calendar year in cases where the labour force used on their holdings during that calendar year, expressed in annual work units, falls short of limits to be determined by the Member States.

'Annual work unit' shall mean the national or regional average annual working time of adult full-time farm workers employed throughout a calendar year.

2. The reduction of support to a farmer in respect of a given calendar year, resulting from the application of the measures referred to in paragraph 1, shall not exceed 20 % of the total amount of payments which would, but for paragraph 1, be granted to the farmer in respect of the calendar year concerned.

Article 5

Common provision

1. Member States shall apply the measures referred to in Articles 3 and 4 in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions.

2. The difference between the amounts which would, but for Articles 3 and 4, be paid to farmers in a Member State in respect of a calendar year and the amounts calculated after application of those Articles, shall be available to the Member State concerned within time limits to be fixed under the procedure referred to in Article 11 as additional Community support for agri-environment in accordance with Articles 20 to 22 of Regulation (EC) No ... [rural development].

Article 6

Ceiling

Where the total amount of payments which would, but for this Article, be granted to a farmer under the support schemes in respect of a given calendar year exceeds ECU 100 000, that amount shall be reduced by:

- 20 % of the part of that amount which exceeds ECU 100 000 but is not more than ECU 200 000, and
- 25 % of the part of that amount which exceeds ECU 200 000.

Article 7

Review

Support schemes shall be applied without prejudice to possible review at any moment in the light of market developments.

Article 8

Restriction of payments

Member States shall take the measures they consider to be necessary, taking account of the objectives of the support schemes to restrict the benefit of payments to

farmers who, in the case of doubt, are able to demonstrate on the basis of the objective elements of all their income-related activities, with reference in particular to the legal, economic, social and agronomic aspects thereof, that they do not exercise support relevant activities predominantly for the purpose of obtaining the benefit of support payments.

Article 9

Evaluation

In order to gauge their effectiveness, payments under support schemes shall be subject to evaluation designed to appraise their impact with respect of their objectives and to analyse their effects on the relevant markets.

Article 10

Information of the Commission

Member States shall inform the Commission in detail on the measures taken to apply this Regulation.

Article 11

Definitions

For the purposes of this Regulation:

- (a) 'farmer' shall mean an individual agricultural producer, whether a natural or legal person or a group of natural or legal persons, whatever legal status is granted the group and its members by

national law, whose holding is within Community territory,

- (b) 'holding' shall mean all the production units managed by a farmer situated within the same Member State's territory,
- (c) payments to be granted in respect of a calendar year shall include payments to be granted in respect of other periods starting in that calendar year.

Article 12

Detailed rules

Detailed rules for the application of this Regulation including, in particular:

- the list of support schemes referred to in Article 1,
- the measures necessary to avoid Articles 3, 4 and 6 to be circumvented,

shall be adopted by the Commission according to the procedure referred to in Article ... of Regulation (EC) No ... [arable crops], the procedure laid down in Article 39 of Regulation (EC) No ... [beef] or, as appropriate, the corresponding Articles in the other Regulations on the common organisation of agricultural markets.

Article 13

Entry into force

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

It shall apply as from 1 January 2000.

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

Done at ...

For the Council

...