

Official Journal

of the European Union

L 30



English edition

Legislation

Volume 52

31 January 2009

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Price: 22 EUR

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I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COUNCIL REGULATION (EC) No 72/2009

of 19 January 2009

on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

After consulting the European Economic and Social Committee ⁽²⁾,

After consulting the Committee of the Regions ⁽³⁾,

Whereas:

(1) The reforms of the Common Agricultural Policy (CAP) agreed in 2003 and 2004 included provisions for reports to gauge their effectiveness, and in particular to appraise their impact with respect to their objectives and to analyse their effects on the relevant markets. In this context, the Commission presented a Communication to the European Parliament and Council entitled 'Preparing for the "Health Check" of the CAP reform' on

20 November 2007. That Communication and the subsequent discussions of its main elements by the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, as well as numerous contributions arising from public consultation should be taken into account.

(2) The provisions of the CAP concerning public intervention should be simplified and aligned by extending tendering in order to achieve a harmonised approach insofar as possible. In particular, the respect of maximum quantities and quantitative limits for cereals, butter and skimmed milk powder may require rapid action. In order to provide for this, and since closing buying-in at a fixed price, adopting allocation coefficients and, for common wheat, switching to the tendering procedure, do not involve the exercise of discretion, the Commission should be permitted to do so without the assistance of the Committee.

(3) In respect of cereals intervention, the system should be adjusted to ensure competitiveness and market orientation for the sector, while keeping the role of intervention as a safety net in the event of market disruptions and facilitating farmers' response to market conditions. Upon adoption by the Council of Regulation (EC) No 735/2007 ⁽⁴⁾, which reformed the intervention system for maize the Commission undertook to review the cereals intervention system, on the basis of an analysis which revealed some degree of risk for additional

⁽¹⁾ Opinion of 19 November 2008 (not yet published in the Official Journal).

⁽²⁾ Opinion of 23 October 2008 (not yet published in the Official Journal). Opinion delivered following non-compulsory consultation.

⁽³⁾ Opinion of 8 October 2008 (not yet published in the Official Journal). Opinion delivered following non-compulsory consultation.

⁽⁴⁾ Council Regulation (EC) No 735/2007 of 11 June 2007 amending Regulation (EC) No 1784/2003 on the common organisation of the market in cereals (OJ L 169, 29.6.2007, p. 6).

barley intervention if prices were low. The present outlook for cereals has, however, since changed significantly, and is characterised by a favourable world market price environment driven by expanding world demand and low global cereal stocks. Within this context, intervention levels should be set at zero for other feed grains. This would allow for intervention without having negative implications for the cereals market as a whole. The favourable outlook for the cereals sector also applies to durum wheat. This means that buying into intervention has currently lost its relevance since market prices are significantly above the intervention price. Therefore, buying into intervention for durum wheat is not currently necessary and intervention levels should be set at zero. Since intervention for cereals should be a safety net rather than an element which influences price formation, the differences in harvesting periods across Member States, which effectively start the marketing years, are no longer relevant since the system will no longer provide for prices reflecting intervention levels plus monthly increments. In the interests of simplification, the dates for cereals intervention should therefore be harmonised across the Community.

- (4) Since the 2003 CAP reform, the competitiveness of the rice sector has increased, with stable production, falling stocks in view of increasing demand both in the Community and on the world market, and with the expected price significantly above the intervention price. Therefore buying into intervention for rice is not currently necessary and intervention levels should be set at zero.
- (5) Pigmeat production and consumption are projected to increase over the medium term, though at a slower pace than in the past decade, due to the competition from poultry meat and higher feed prices. Pigmeat prices are expected to remain significantly above the intervention price. Buying into intervention has not been used for many years for pigmeat and, in the light of the market situation and its perspectives, the possibility of buying into intervention should therefore be abolished.
- (6) Since the current market situation and perspectives suggest that intervention would not, in any case, be applicable to pigmeat, durum wheat and rice in 2009, the changes to or abolition of intervention for these products should be carried out from the 2009/2010 marketing year. For other cereals, in order to allow farmers to adapt, the changes should only apply from the 2010/2011 marketing year.
- (7) The medium-term outlook for the dairy sector is characterised by a continued increase in Community demand for high value added products; a substantial expansion in global demand for dairy commodities, driven by income and population growth in many regions of the world; and by changes in consumer preferences towards dairy products.
- (8) Constrained by the milk quota ceilings, total Community milk production is projected to follow a gradual, though modest decline over the medium term as continued

restructuring in the Member States, which were not members of the Community before 1 May 2004, will lead to a decline in subsistence milk production, while production growth remains limited due to the existence of quotas. At the same time, the quantity of milk delivered to dairies for processing is expected to continue to increase over the projected period. In the light of strong internal and external demand, the milk quota system is hence restricting production expansion, as opposed to the situation when quotas were introduced as a response to overproduction. In such a market situation, quotas reduce market orientation because they distort farmers' response to price signals, and prevent efficiency gains in the sector by slowing down restructuring. The quotas are scheduled to end in 2015. Appropriate adjustments should be made by degrees so to allow for a smooth transition by avoiding an excessive adjustment after quotas have ended. The phasing-out of dairy quotas by annual increases of 1 % should therefore be provided per marketing year from 2009/2010 to 2013/2014. Other changes to make the milk quota system more flexible as regards the fat adjustment, by abolishing the adjustment set out in Article 80(2) of Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (the Single CMO Regulation) ⁽¹⁾, and as regards the quota inactivity rules, by increasing the percentage in Article 72(2) of that Regulation which a producer should use during a twelve-month period and thus making it easier for unused quota to be reallocated, should also be made for the same reasons. In the context of the restructuring of the sector, Member States should be permitted until 31 March 2014 to grant an additional national aid within certain limits. The quota increases decided by Council Regulation (EC) No 248/2008 of 17 March 2008 amending Regulation (EC) No 1234/2007 as regards the national quotas for milk ⁽²⁾ and the 1 % annual increase, along with the other changes which reduce the likelihood of the surplus levy being incurred mean that only Italy would be at risk of the levy being incurred on the basis of current production patterns if annual increases of 1 % were applied from the 2009/2010 period until 2013/2014. Therefore, taking into account the current production patterns in all Member States, the increase in quota should be front-loaded for Italy in order to avoid this risk. In order to ensure that in all Member States the quota increases lead to a controlled and smooth transition, the surplus levy system should be strengthened for the next two years and be set at an appropriately dissuasive level. An additional levy should therefore be imposed in cases where increases in deliveries would significantly exceed the 2008/2009 quota levels.

- (9) The cheese market is steadily expanding with increased demand from inside as well as from outside the Community. In general, therefore, prices for cheese have for some time remained constant and have not been significantly influenced by the reduction of the institutional

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 76, 19.3.2008, p. 6.

prices for bulk products (butter and skimmed-milk powder). From both an economic and market management point of view, permanent and optional aid for the private storage of a high value, market-driven product like cheese is no longer justified and should therefore be abolished.

- (10) In the context of the dairy reform and the current market situation, the aid for skimmed-milk powder used as animal feed and skimmed milk for casein production is not currently needed. However, should surpluses of milk products build up or be likely to occur, thus creating or likely to create a serious imbalance in the market, such aid could still play a role. The decision should, however, be taken by the Commission based on sound market analysis rather than an obligation to open the scheme every year. The scheme should, therefore, become optional. If applied, the aid should be determined in advance or by tender.
- (11) Disposal aid for butter intended for pastry and ice cream and for direct consumption has been reduced in line with the reduction of the intervention price for butter as from 2004 and was consequently at zero before tenders were suspended due to the favourable market situation. Disposal aid schemes are no longer needed to support the market at intervention price level and should therefore be abolished.
- (12) As was the case with the CAP reform of 2003, with a view to enhancing the competitiveness of Community agriculture and promoting more market-oriented and sustainable agriculture, it is necessary to continue the shift from production support to producer support by abolishing the existing aids in the Single CMO Regulation for dried fodder, flax, hemp and potato starch and integrating support for these products into the system of decoupled income support for each farm. As was the case with the 2003 CAP reform, while decoupling aid paid to farmers will leave the actual amounts paid unchanged, it will significantly increase the effectiveness of the income support.
- (13) The aid for flax and hemp fibre should now be decoupled. However, in order to allow the flax and hemp industry to adapt, integration of this support into the Single Payment Scheme should be carried out during a transitional period. Aid should therefore be provided for long flax fibre, short flax fibre and hemp fibre until 1 July 2012. Maintaining the aid for short flax fibre and hemp fibre, in order to balance the aid in the sector, means that the aid for long flax fibre should be reduced. However, in order to respect the legitimate expectations of growers, this reduction should only take place from the 2010/2011 marketing year.
- (14) The dried fodder regime was reformed in 2003, when part of the aid was given to the industry and the rest was decoupled and integrated into the Single Payment

Scheme. In the context of the overall move towards more market orientation, the present outlook in the markets for feed and protein crops and the particular negative environmental impact that the production of dehydrated fodder has recently been found to generate, the transition to full decoupling for the entire sector should be completed by decoupling the remaining aid to the industry. In order to mitigate the effects of ending the payment of aid to the industry, the appropriate adjustments in the price paid to the producers of the raw materials, who will themselves be receiving increased direct aid entitlements as a result of decoupling, should be made. The sector has been restructuring since the 2003 reform, a transitional period until 1 April 2012 should nonetheless be provided for to allow the sector to adjust.

- (15) The system set out in Council Regulation (EC) No 1868/94 of 27 July 1994 establishing a quota system in relation to the production of potato starch ⁽¹⁾ will no longer be required once the related aid for starch potato growers laid down in Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes under the Common Agricultural Policy and establishing certain support schemes for farmers ⁽²⁾ is abolished. Aid to producers was partially decoupled in 2003 and this aid should now be fully decoupled although a transitional period until 1 July 2012 should be provided to allow farmers to adapt their supply commitments to the potato starch aid scheme. The related minimum price should, therefore, also be extended for the same period. Beyond that date, the quota system related to the direct payment should be removed in parallel with the full integration of that direct payment into the single payment scheme. In the meantime, the provisions concerned should be integrated, as is the case with other aids and quota schemes, into the Single CMO Regulation.
- (16) Developments in domestic and international cereal and starch markets render the starch production refund no longer relevant with respect to its initial objectives, and it should therefore be abolished. The market situation and perspectives are such that the aid has been set at zero for some time and this is expected to continue, which means that abolition may take place rapidly without any negative effects for the sector.
- (17) Producer organisations can serve a useful role in grouping supply in sectors where there is an imbalance in the concentration of producers and purchasers. Member States should therefore be able to recognise producer organisations on a Community level in all sectors.
- (18) Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and

⁽¹⁾ OJ L 197, 30.7.1994, p. 4.

⁽²⁾ See page 16 of this Official Journal.

establishing certain support schemes for farmers ⁽¹⁾ provides for Member States to retain part of the component of national ceilings corresponding to the hops area payments and use them, in particular, to finance certain activities of recognised producer organisations. That Regulation is being repealed and in Regulation (EC) No 73/2009 the hops area payment is being decoupled from 1 January 2010, which means that under the provision the last payment to producer organisations will be made in 2010. In order to allow the hop producer organisations to continue their activities as before, a specific provision should be made for equivalent amounts to be used in the Member State concerned for the same activities with effect from 1 January 2011.

- (19) The Single CMO Regulation provides for amounts withheld from the aid for olive groves under Article 110i(4) of Regulation (EC) No 1782/2003 to be used to finance work programmes of operator organisations. Regulation (EC) No 1782/2003 is being repealed. In the interests of clarity and legal certainty, specific provision should be made to set out the amounts to be used in the Member States concerned for the work programmes.
- (20) In the interests of legal certainty, and simplicity it is appropriate to clarify and harmonise the provisions on the non-application of Articles 87, 88 and 89 of the Treaty to payments made by Member States in conformity with Regulation (EC) No 1234/2007 or Council Regulation (EC) No 247/2006 of 30 January 2006 laying down specific measures for agriculture in the outermost regions of the Union ⁽²⁾, Council Regulation (EC) No 320/2006 of 20 February 2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community ⁽³⁾, Council Regulation (EC) No 1405/2006 of 18 September 2006 laying down specific measures for agriculture in favour of the smaller Aegean islands ⁽⁴⁾, Council Regulation (EC) No 3/2008 of 17 December 2007 on information provision and promotion measures for agricultural products on the internal market and in third countries ⁽⁵⁾ and Council Regulation (EC) No 479/2008 of 29 April 2008 on the common organisation of the market in wine ⁽⁶⁾. In this context, the provisions of those Regulations which otherwise would or might, under certain circumstances, fall within the notion of State aid within the meaning of Article 87(1) of the Treaty should be excluded from the application of State aid rules. The provisions concerned contain appropriate conditions for the granting of support to prevent the undue distortion of competition.

- (21) Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008

and (EC) No 479/2008 should therefore be amended accordingly.

- (22) The following acts are obsolete and should therefore, in the interests of legal certainty, be repealed: Council Regulation (EEC) No 1883/78 of 2 August 1978 laying down general rules for the financing of interventions by the European Agricultural Guidance and Guarantee Fund, Guarantee Section ⁽⁷⁾, Council Regulation (EEC) No 1254/89 of 3 May 1989 fixing, for the 1989/90 marketing year, inter alia, certain sugar prices and the standard quality of beet ⁽⁸⁾, Council Regulation (EEC) No 2247/89 of 24 July 1989 on an emergency measure for the free supply of certain agricultural products to Poland ⁽⁹⁾, Council Regulation (EEC) No 2055/93 of 19 July 1993 allocating a special reference quantity to certain producers of milk and milk products ⁽¹⁰⁾ and Council Regulation (EC) No 1182/2005 of 18 July 2005 adopting autonomous and transitional measures to open a Community tariff quota for the import of live bovine animals originating in Switzerland ⁽¹¹⁾. The following acts will become obsolete with effect from 1 May 2009 and, for the same reasons, should therefore be repealed with effect from that date: Council Regulation (EC) No 2596/97 of 18 December 1997 extending the period provided for in Article 149(1) of the Act of Accession of Austria, Finland and Sweden ⁽¹²⁾ and Council Regulation (EC) No 315/2007 of 19 March 2007 laying down transitional measures derogating from Regulation (EC) No 2597/97 as regards drinking milk produced in Estonia ⁽¹³⁾.
- (23) This Regulation should, as a general rule, apply from the date of its entry into force. However, in order to ensure that the provisions of this Regulation do not interfere with certain aids payable for the 2008/2009 or 2009/2010 marketing years, a later date of application should be provided for in respect of those provisions directly affecting the operation of schemes in sectors for which marketing years are envisaged. This Regulation should in such cases only apply as from the start of the later marketing years,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 247/2006

Article 16 of Regulation (EC) No 247/2006 is amended as follows:

- 1) The second subparagraph of paragraph 3 shall be deleted.

⁽¹⁾ OJ L 270, 21.10.2003, p. 1.

⁽²⁾ OJ L 42, 14.2.2006, p. 1.

⁽³⁾ OJ L 58, 28.2.2006, p. 42.

⁽⁴⁾ OJ L 265, 26.9.2006, p. 1.

⁽⁵⁾ OJ L 3, 5.1.2008, p. 1.

⁽⁶⁾ OJ L 148, 6.6.2008, p. 1.

⁽⁷⁾ OJ L 216, 5.8.1978, p. 1.

⁽⁸⁾ OJ L 126, 9.5.1989, p. 1.

⁽⁹⁾ OJ L 216, 27.7.1989, p. 5.

⁽¹⁰⁾ OJ L 187, 29.7.1993, p. 8.

⁽¹¹⁾ OJ L 190, 22.7.2005, p. 1.

⁽¹²⁾ OJ L 351, 23.12.1997, p. 12.

⁽¹³⁾ OJ L 84, 24.3.2007, p. 1.

2) The following paragraph shall be added:

‘4. Without prejudice to paragraphs 1 and 2 of this Article and by way of derogation from Article 180 of Regulation (EC) No 1234/2007 (*) and Article 3 of Regulation (EC) No 1184/2006 (**), Articles 87, 88 and 89 of the Treaty shall not apply to payments made under Title III, paragraph 3 of this Article and Articles 17 and 21 of this Regulation by Member States in conformity with this Regulation.

(*) Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (the Single CMO Regulation) (OJ L 299, 16.11.2007, p. 1).

(**) Council Regulation (EC) No 1184/2006 of 24 July 2006 applying certain rules of competition to the production of, and trade in, agricultural products (OJ L 214, 4.8.2006, p. 7)’.

Article 2

Amendments to Regulation (EC) No 320/2006

Regulation (EC) No 320/2006 is amended as follows:

1) Article 6(6) shall be replaced by the following:

‘6. Member States shall not grant national aid in respect of diversification measures provided for in this Article. However, if the ceilings referred to in the third subparagraph of paragraph 4 permit the granting of an aid for diversification of 100 %, the Member State concerned shall contribute at least 20 % of the eligible expenditure.’.

2) The following Article shall be inserted:

Article 13a

State aids

Without prejudice to Article 6(5) of this Regulation and by way of derogation from Article 180 of Regulation (EC) No 1234/2007 (*) and Article 3 of Regulation (EC) No 1184/2006 (**), Articles 87, 88 and 89 of the Treaty shall not apply to payments made under Articles 3, 6, 7, 8,

9 and 11 of this Regulation by Member States in conformity with this Regulation.

(*) Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (the Single CMO Regulation) (OJ L 299, 16.11.2007, p. 1).

(**) Council Regulation (EC) No 1184/2006 of 24 July 2006 applying certain rules of competition to the production of, and trade in, agricultural products (OJ L 214, 4.8.2006, p. 7)’.

Article 3

Amendment to Regulation (EC) No 1405/2006

The following paragraph shall be added to Article 11 of Regulation (EC) No 1405/2006:

‘3. Without prejudice to paragraphs 1 and 2 of this Article and by way of derogation from Article 180 of Regulation (EC) No 1234/2007 (*) and Article 3 of Regulation (EC) No 1184/2006 (**), Articles 87, 88 and 89 of the Treaty shall not apply to payments made under Articles 4 and 7 of this Regulation by Member States in conformity with this Regulation.

(*) Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (the Single CMO Regulation) (OJ L 299, 16.11.2007, p. 1).

(**) Council Regulation (EC) No 1184/2006 of 24 July 2006 applying certain rules of competition to the production of, and trade in, agricultural products (OJ L 214, 4.8.2006, p. 7)’.

Article 4

Amendments to Regulation (EC) No 1234/2007

Regulation (EC) No 1234/2007 is amended as follows:

1) Point (a) of Article 8(1) shall be replaced by the following:

‘(a) as regards the cereals sector, EUR 101,31 per tonne’;

2) Paragraph 2 of Article 10 shall be deleted;

- 3) Subsection II of Section II of Chapter I of Title I of Part II shall be replaced by the following:

‘Subsection II

Opening of buying-in

Article 11

Public intervention periods

Public intervention shall be available:

- (a) for cereals, from 1 November to 31 May;
- (b) for paddy rice, from 1 April to 31 July;
- (c) for sugar, throughout the marketing years 2008/2009 and 2009/2010;
- (d) for beef and veal, throughout any marketing year;
- (e) for butter and skimmed milk powder, from 1 March to 31 August.

Article 12

Opening of public intervention

1. During the periods referred to in Article 11, public intervention:

- (a) shall be open for common wheat;
- (b) shall be open for durum wheat, barley, maize, sorghum, paddy rice, sugar, butter and skimmed milk powder up to the intervention limits referred to in Article 13(1);
- (c) shall be opened for beef and veal by the Commission, without the assistance of the Committee referred to in Article 195(1), if the average market price for beef and veal over a representative period in a Member State or in a region of a Member State recorded on the basis of the Community scale for the classification of carcasses provided for in Article 42(1) is below EUR 1 560/tonne.

2. Public intervention for beef and veal, referred to in point (c) of paragraph 1, shall be closed by the Commission, without the assistance of the Committee referred to in Article 195(1), where, over a representative period, the conditions provided for in that point are no longer fulfilled.

Article 13

Intervention limits

1. Buying into public intervention shall be carried out within the following limits:

- (a) for durum wheat, barley, maize, sorghum and paddy rice, 0 tonnes for the periods referred to in Article 11(a) and (b) respectively;

- (b) for sugar, 600 000 tonnes, expressed in white sugar, for each marketing year;

- (c) for butter, 30 000 tonnes for each period referred to in Article 11(e);

- (d) for skimmed milk powder 109 000 tonnes for each period referred to Article 11(e).

2. Sugar stored in accordance with point (b) of paragraph 1 of this Article during a marketing year shall not be subject to any of the other storage measures provided for in Articles 32, 52 and 63.

3. By way of derogation from paragraph 1, for the products referred to in points (a), (c) and (d) of that paragraph, the Commission may decide to continue public intervention beyond the amounts referred to in that paragraph if the market situation and, in particular, the development of market prices, so requires.’

- 4) Subsection III of Section II of Chapter I of Title I of Part II shall be replaced by the following:

‘Subsection III

Intervention prices

Article 18

Intervention prices

1. The intervention price:

- (a) for common wheat shall be equal to the reference price for a maximum quantity offered of 3 million tonnes per intervention period as fixed in Article 11(a);
- (b) for butter shall be equal to 90 % of the reference price for amounts offered within the limit in Article 13(1)(c);
- (c) for skimmed milk powder shall be equal to the reference price for amounts offered within the limit in Article 13(1)(d).

2. The intervention prices and the quantities for intervention for the following products shall be determined by the Commission by means of tendering procedures:

- (a) common wheat for amounts in excess of the maximum quantity offered of 3 million tonnes per intervention period as fixed in Article 11(a);
- (b) durum wheat, barley, maize, sorghum and paddy rice, in application of Article 13(3);
- (c) beef and veal;
- (d) butter for amounts offered in excess of the limit in Article 13(1)(c), in application of Article 13(3), and

- (e) skimmed milk powder for amounts offered in excess of the limit in Article 13(1)(d), in application of Article 13(3).

In special circumstances, tendering procedures may be restricted to, or the intervention prices and the quantities for intervention may be fixed per, Member State or region of a Member State on the basis of recorded average market prices.

3. The maximum buying-in price determined in accordance with tendering procedures under paragraph 2 shall not be higher:

- (a) for cereals and paddy rice, than the respective reference prices;
- (b) for beef and veal, than the average market price recorded in a Member State or a region of a Member State increased by an amount to be determined by the Commission on the basis of objective criteria;
- (c) for butter, than 90 % of the reference price;
- (d) for skimmed milk powder, than the reference price.

4. The intervention prices referred to in paragraphs 1, 2 and 3 shall be:

- (a) for cereals, without prejudice to price increases or reductions for quality reasons, and
- (b) for paddy rice, increased or decreased accordingly if the quality of the products offered to the paying agency differs from the standard quality, defined in point A of Annex IV. Moreover, increases and reductions of the intervention price may be fixed by the Commission in order to ensure that production is orientated towards certain varieties.

5. The intervention price for sugar shall be 80 % of the reference price fixed for the marketing year following the marketing year during which the offer is lodged. However, if the quality of the sugar offered to the paying agency differs from the standard quality defined in point B of Annex IV for which the reference price is fixed, the intervention price shall be increased or reduced accordingly.

- 5) Point (b) of Article 28 shall be deleted.

- 6) Article 30 shall be deleted.

- 7) Article 31 shall be amended as follows:

- (a) point (e) of paragraph 1 shall be deleted;
- (b) in paragraph 2, the second subparagraph shall be deleted.

- 8) Article 36 shall be deleted.

- 9) Article 43 shall be amended as follows:

- (a) point (a) shall be replaced by the following:

‘(a) the requirements and conditions to be met by products to be bought into public intervention as

referred to in Article 10 or for which aid for private storage is granted as referred to in Articles 28 and 31, in particular with respect to quality, quality groups, quality grades, categories, quantities, packaging including labelling, maximum ages, preservation, the stage of the products to which the intervention price relates, and the duration of private storage;’;

- (b) the following point shall be added after point (a):

‘(aa) the respect of the maximum quantities and quantitative limits set out in Article 13(1) and point (a) of Article 18(1); in this context, the implementing rules may authorise the Commission to close buying-in at a fixed price, adopt allocation coefficients and, for common wheat, switch to the tendering procedure referred to in Article 18(2), without the assistance of the Committee referred to in Article 195(1);’.

- 10) Article 46(3) shall be deleted.

- 11) Article 55 shall be replaced by the following:

‘Article 55

Quota systems

1. A quota system shall apply to the following products:

- (a) milk and other milk products within the meaning of points (a) and (b) of Article 65;
- (b) sugar, isoglucose and inulin syrup;
- (c) potato starch which may benefit from Community aid.

2. As regards the quota systems referred to in points (a) and (b) of paragraph 1 of this Article, if a producer exceeds the relevant quota and, with regard to sugar, does not make use of the surplus quantities as provided for in Article 61, a surplus levy shall be payable on such quantities, subject to the conditions set out in Sections II and III.

- 12) In Article 72(2), ‘70 %’ shall be replaced by ‘85 %’.

- 13) The following subparagraph shall be added to Article 78(1):

‘However, for the twelve-month periods starting on 1 April 2009 and 1 April 2010, the surplus levy for milk delivered in excess of 106 % of the national quota for deliveries applicable for the twelve-month period starting on 1 April 2008 shall be set at 150 % of the levy referred to in the second subparagraph.’.

- 14) Article 80 shall be amended as follows:

- (a) the following subparagraph shall be added to paragraph 1:

‘At national level, the surplus levy shall be calculated on the basis of the sum of the deliveries, adjusted in accordance with the first subparagraph.’;

(b) paragraph 2 shall be deleted;

(c) the following subparagraph shall be added to paragraph 3:

‘Where the third subparagraph of Article 78(1) applies, Member States, in establishing each producer’s contribution to the amount of levy payable due to the application of the higher rate referred to in that subparagraph, shall ensure that this amount is contributed proportionately by the producers responsible according to objective criteria to be set by the Member State.’

15) The following Section shall be inserted in Chapter III of Title I of Part II:

‘Section IIIa

Potato starch quotas

Article 84a

Potato starch quotas

1. The potato starch producing Member States shall be allocated quotas for the marketing year during which the quota scheme applies in accordance with Article 204(5) and Annex Xa.

2. Each producer Member State referred to in Annex Xa shall allocate its quota among potato starch manufacturers for use in the marketing years concerned on the basis of the subquotas allocated to each manufacturer in 2007/2008.

3. An undertaking producing potato starch shall not conclude cultivation contracts with potato producers for a quantity of potatoes which would produce a quantity of starch in excess of its quota as referred to in paragraph 2.

4. Any potato starch produced in excess of the quota as referred to in paragraph 2 shall be exported, as such, from the Community before 1 January following the end of the marketing year in question. No export refund shall be paid in respect of it.

5. Notwithstanding paragraph 4, an undertaking producing potato starch may, in any marketing year, in addition to its quota for that year, utilise no more than 5 % of its quota relating to the following marketing year. In such case, the quota for the following marketing year shall be reduced accordingly.

6. The provisions of this Section shall not apply to the production of potato starch by undertakings which are not subject to paragraph 2 of this Article and which purchase potatoes for which producers do not benefit from the payment provided for in Article 77 of Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes under the Common Agri-

cultural Policy and establishing certain support schemes for farmers ⁽¹⁾.

⁽¹⁾ See page 16 of this Official Journal.’

16) In Article 85, the following point shall be added:

‘(d) in respect of Section IIIa, mergers, changes of ownership and the commencement or cessation of trading of potato starch manufacturers.’

17) Subsection I of Section I of Chapter IV of Title I of Part II shall be deleted.

18) In Article 91(1), the first two subparagraphs shall be replaced by the following subparagraph:

‘Aid for processing the straw of long flax grown for fibre and the straw of short flax and hemp grown for fibre shall be granted for the 2009/2010 to 2011/2012 marketing years to authorised primary processors on the basis of the quantity of fibre actually obtained from straw for which a contract of sale has been concluded with a farmer.’

19) The first subparagraph of Article 92(1) shall be amended as follows:

(a) the second indent of point (a) shall be replaced by the following two indents:

— at EUR 200 per tonne for the 2009/2010 marketing year; and

— at EUR 160 per tonne for the 2010/2011 and 2011/2012 marketing years.’

(b) point (b) shall be replaced by the following:

‘(b) at EUR 90 per tonne for the 2009/2010, 2010/2011 and 2011/2012 marketing years for short flax and hemp fibre containing not more than 7,5 % impurities and shives.’

20) Article 94(1) shall be replaced by the following:

‘1. A maximum guaranteed quantity of 80 878 tonnes for each of the 2009/2010 to 2011/2012 marketing years shall be established for long flax fibre in respect of which aid may be granted. That quantity shall be apportioned among certain Member States as national guaranteed quantities in accordance with point A.I. of Annex XI.’

21) Article 94(1a) shall be replaced by the following:

‘1a. A maximum guaranteed quantity of 147 265 tonnes for each of the 2009/2010 to 2011/2012 marketing years shall be established for short flax fibre and hemp fibre in respect of which aid may be granted. That quantity shall be apportioned as national guaranteed quantities among certain Member States in accordance with point A.II. of Annex XI.’

- 22) The following subsection shall be inserted into Section I of Chapter IV of Title I of Part II:

‘Subsection III

Potato starch

Article 95a

Potato starch premium

1. A premium of EUR 22,25 per tonne of starch produced shall be paid for the 2009/2010, 2010/2011 and 2011/2012 marketing years to potato starch manufacturers for the quantity of potato starch up to the quota limit referred to in Article 84a(2), provided that they have paid to potato producers a minimum price for all the potatoes necessary to produce starch up to that quota limit.

2. The minimum price of potatoes intended for the manufacture of potato starch shall be set at EUR 178,31 per tonne for the marketing years concerned.

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

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

3. The Commission shall adopt the detailed rules for the implementation of this Subsection.’.

- 23) Article 96 shall be deleted.

- 24) Articles 99 and 100 shall be replaced by the following:

‘Article 99

Aid for skimmed milk and skimmed milk powder for use as feedingstuffs

1. When surpluses of milk products build up or are likely to occur, creating or likely to create a serious imbalance in the market, the Commission may decide that aid shall be granted for Community-produced skimmed milk and skimmed-milk powder intended for use as feedingstuffs, according to conditions and product standards to be determined by the Commission. The aid may be fixed in advance or by means of tendering procedures.

For the purposes of this Article, buttermilk and buttermilk powder shall be regarded as skimmed milk and skimmed-milk powder.

2. Aid amounts shall be fixed by the Commission taking into account the reference price fixed in point (e)(ii) of Article 8(1) for skimmed-milk powder, and the develop-

ment of the market situation as regards skimmed milk and skimmed-milk powder.

Article 100

Aid for skimmed milk processed into casein and caseinates

1. When surpluses of milk products build up or are likely to occur, creating or likely to create a serious imbalance in the market, the Commission may decide that aid shall be granted for Community-produced skimmed milk processed into casein and caseinates, according to conditions and product standards of such milk and the casein or caseinates produced from it to be determined by the Commission. The aid may be fixed in advance or by means of tendering procedures.

2. Aid shall be fixed by the Commission taking into account the development of the market situation for skimmed-milk powder and the reference price for skimmed-milk powder, fixed in point (e)(ii) of Article 8(1).

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

- 25) Article 101 shall be deleted.

- 26) Article 102(2) shall be replaced by the following:

‘2. Member States may, in addition to Community aid, grant national aid for supplying the products referred to in paragraph 1 to pupils in educational establishments. Member States may finance their national aid by means of a levy on the dairy sector or by any other contribution from the dairy sector.’.

- 27) The following section shall be inserted:

‘Section IIIa

Aids in the hops sector

Article 102a

Aids to producer organisations

1. The Community shall finance a payment to producer organisations in the hops sector recognised under Article 122 to finance the aims referred to in that Article.

2. The Community financing per year for the payment to producer organisations shall be EUR 2 277 000 for Germany.

3. The Commission shall adopt the detailed rules for the implementation of this Section.’.

28) Article 103 shall be amended as follows:

(a) the introductory part of paragraph 1 shall be replaced by the following:

‘1. The Community shall finance three-year work programmes to be drawn up by the operator organisations referred to in Article 125 in one or more of the following areas:’;

(b) the following paragraph shall be inserted:

‘1a. The Community financing per year of the work programmes shall be:

(a) EUR 11 098 000 for Greece,

(b) EUR 576 000 for France, and

(c) EUR 35 991 000 for Italy.’.

29) Article 103e(2) shall be deleted.

30) Article 105(2) shall be replaced by the following:

‘2. Member States may pay specific national aids for the protection of apiaries disadvantaged by structural or natural conditions or under economic development programmes, except for those allocated for production or trade. These aids shall be notified to the Commission by Member States together with the communication of the apiculture programme in accordance with Article 109.’.

31) Article 119 shall be replaced by the following:

‘Article 119

Use of casein and caseinate in the manufacture of cheese

Where aid is paid under Article 100, the Commission may make the use of casein and caseinates in the manufacture of cheese subject to prior authorisation which shall be granted only if such use is a necessary condition for the manufacture of the products.’.

32) The following paragraph shall be added to Article 122:

‘Member States may also recognise producer organisations constituted by producers in any sector referred to in Article 1, other than those sectors referred to in point (a) of the first paragraph, on the conditions set out in points (b) and (c) of that paragraph.’.

33) Article 124(1) shall be replaced by the following:

‘1. Article 122 and Article 123(1) shall apply without prejudice to the recognition, decided by Member States on the basis of national law and in compliance with Community law, of producer organisations or interbranch organisations respectively, in any sector referred to in Article 1

except for the sectors referred to in point (a) of the first paragraph of Article 122 and in Article 123(1).’.

34) Article 180 shall be replaced by the following:

‘Article 180

Application of Articles 87, 88 and 89 of the Treaty

Articles 87, 88 and 89 of the Treaty shall apply to the production of, and trade in, the products referred to in points (a) to (k) and points (m) to (u) of Article 1(1) and in Article 1(3) of this Regulation.

However, Articles 87, 88 and 89 of the Treaty shall not apply to payments made under Articles 44, 45, 46, 47, 48, 102, 102a, 103, 103a, 103b, 103e, 103ga, 104, 105 and 182 of this Regulation by Member States in conformity with this Regulation.’.

35) The following paragraph shall be added to Article 182:

‘7. Member States may grant until 31 March 2014 state aid of a total annual amount of up to 55 % of the ceiling set out in Article 69(4) and (5) of Regulation (EC) No 73/2009 to farmers in the dairy sector in addition to Community support granted in accordance with Article 68(1)(b) of that Regulation. However, in no case shall the total amount of Community support under the measures referred to in Article 68(4) of that Regulation and state aid exceed the ceiling referred to in the Article 68(4).’.

36) The following point shall be added to Article 184:

‘6) before 31 December 2010 and 31 December 2012 to the European Parliament and Council regarding the evolution of the market situation and the consequent conditions for smoothly phasing out the milk quota system, accompanied if necessary by appropriate proposals. Furthermore, a report will study the consequences for producers of cheeses with a protected designation of origin in accordance with Regulation (EC) No 510/2006.’.

37) The following paragraph shall be added to Article 204:

‘5. As regards potato starch, Section IIIa of Chapter III of Title I of Part II shall apply until the end of the 2011/2012 marketing year for potato starch.’.

38) Point 1 of Annex IX shall be replaced by the text in Annex I to this Regulation.

39) The text of Annex II to this Regulation shall be inserted as Annex Xa.

40) The text of Annex III to this Regulation shall be inserted in Annex XXII as point 20a.

Article 5

Amendment to Regulation (EC) No 3/2008

Article 13(6) of Regulation (EC) No 3/2008 shall be replaced by the following:

‘6. By way of derogation from Article 180 of Regulation (EC) No 1234/2007 (*) and Article 3 of Regulation (EC) No 1184/2006 (**), Articles 87, 88 and 89 of the Treaty shall not apply to payments made by Member States, including their financial participations, nor to the financial participations from parafiscal charges or mandatory contributions of Member States or proposing organisations for programmes eligible for Community support under Article 36 of the Treaty, that the Commission has selected in accordance with Article 8(1) of this Regulation.

(*) Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (the Single CMO Regulation) (OJ L 299, 16.11.2007, p. 1).

(**) Council Regulation (EC) No 1184/2006 of 24 July 2006 applying certain rules of competition to the production of, and trade in, agricultural products (OJ L 214, 4.8.2006, p. 7).

Article 6

Amendment to Regulation (EC) No 479/2008

Article 127(2) of Regulation (EC) No 479/2008 shall be replaced by the following:

‘2. Without prejudice to the maximum aid rates referred to in the second subparagraph of Article 8(4) of this Regulation, Articles 87, 88 and 89 of the Treaty shall not apply to payments made under Title II, Chapter III of Title V, and Article 119 of this Regulation by Member States in conformity with this Regulation.’

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

Done at Brussels, 19 January 2009.

Article 7

Repeals

1. Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93 and (EC) No 1182/2005 shall be repealed.

2. Regulations (EC) No 2596/97 and (EC) No 315/2007 shall be repealed with effect from 1 May 2009.

3. Regulation (EC) No 1868/94 shall be repealed with effect from 1 July 2009.

References to the repealed Regulation shall be construed as references to Regulation (EC) No 1234/2007 and shall be read in accordance with the respective correlation table in Annex XXII to that Regulation.

Article 8

Entry into force

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

However:

- (a) Points 5 to 8, 12 to 14 and 38 of Article 4 shall apply from 1 April 2009;
- (b) Points 11, 15, 16, 18 to 25, 31, 37 and 39 of Article 4 shall apply from 1 July 2009;
- (c) Points 1, 3, 4, and 9(b) of Article 4 shall apply from:
 - (i) 1 July 2009, as regards durum wheat,
 - (ii) 1 September 2009, as regards the rice sector,
 - (iii) 1 October 2009, as regards the sugar sector,
 - (iv) 1 July 2010, as regards common wheat, barley, maize and sorghum,
- (d) Point 27 of Article 4 shall apply from 1 January 2011;
- (e) Point 17 of Article 4 shall apply from 1 April 2012.

For the Council

The President

P. GANDALOVIČ

ANNEX I

1. National quotas: quantities (tonnes) per twelve-month period per Member State:

Member State	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
Belgium	3 427 288,740	3 461 561,627	3 496 177,244	3 531 139,016	3 566 450,406	3 602 114,910	3 602 114,910
Bulgaria	998 580,000	1 008 565,800	1 018 651,458	1 028 837,973	1 039 126,352	1 049 517,616	1 049 517,616
Czech Republic	2 792 689,620	2 820 616,516	2 848 822,681	2 877 310,908	2 906 084,017	2 935 144,857	2 935 144,857
Denmark	4 612 619,520	4 658 745,715	4 705 333,172	4 752 386,504	4 799 910,369	4 847 909,473	4 847 909,473
Germany	28 847 420,391	29 135 894,595	29 427 253,541	29 721 526,076	30 018 741,337	30 318 928,750	30 318 928,750
Estonia	659 295,360	665 888,314	672 547,197	679 272,669	686 065,395	692 926,049	692 926,049
Ireland	5 503 679,280	5 558 716,073	5 614 303,234	5 670 446,266	5 727 150,729	5 784 422,236	5 784 422,236
Greece	836 923,260	845 292,493	853 745,418	862 282,872	870 905,700	879 614,757	879 614,757
Spain	6 239 289,000	6 301 681,890	6 364 698,709	6 428 345,696	6 492 629,153	6 557 555,445	6 557 555,445
France	25 091 321,700	25 342 234,917	25 595 657,266	25 851 613,839	26 110 129,977	26 371 231,277	26 371 231,277
Italy	10 740 661,200	11 288 542,866	11 288 542,866	11 288 542,866	11 288 542,866	11 288 542,866	11 288 542,866
Cyprus	148 104,000	149 585,040	151 080,890	152 591,699	154 117,616	155 658,792	155 658,792
Latvia	743 220,960	750 653,170	758 159,701	765 741,298	773 398,711	781 132,698	781 132,698
Lithuania	1 738 935,780	1 756 325,138	1 773 888,389	1 791 627,273	1 809 543,546	1 827 638,981	1 827 638,981
Luxembourg	278 545,680	281 331,137	284 144,448	286 985,893	289 855,752	292 754,310	292 754,310
Hungary	2 029 861,200	2 050 159,812	2 070 661,410	2 091 368,024	2 112 281,704	2 133 404,521	2 133 404,521
Malta	49 671,960	50 168,680	50 670,366	51 177,070	51 688,841	52 205,729	52 205,729
Netherlands	11 465 630,280	11 580 286,583	11 696 089,449	11 813 050,343	11 931 180,847	12 050 492,655	12 050 492,655
Austria	2 847 478,469	2 875 953,254	2 904 712,786	2 933 759,914	2 963 097,513	2 992 728,488	2 992 728,488
Poland	9 567 745,860	9 663 423,319	9 760 057,552	9 857 658,127	9 956 234,709	10 055 797,056	10 055 797,056
Portugal	1 987 521,000	2 007 396,210	2 027 470,172	2 047 744,874	2 068 222,323	2 088 904,546	2 088 904,546
Romania	3 118 140,000	3 149 321,400	3 180 814,614	3 212 622,760	3 244 748,988	3 277 196,478	3 277 196,478

Member State	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
Slovenia	588 170,760	594 052,468	599 992,992	605 992,922	612 052,851	618 173,380	618 173,380
Slovakia	1 061 603,760	1 072 219,798	1 082 941,996	1 093 771,416	1 104 709,130	1 115 756,221	1 115 756,221
Finland	2 491 930,710	2 516 850,017	2 542 018,517	2 567 438,702	2 593 113,089	2 619 044,220	2 619 044,220
Sweden	3 419 595,900	3 453 791,859	3 488 329,778	3 523 213,075	3 558 445,206	3 594 029,658	3 594 029,658
United Kingdom	15 125 168,940	15 276 420,629	15 429 184,836	15 583 476,684	15 739 311,451	15 896 704,566	15 896 704,566'

ANNEX II

‘ANNEX Xa

Potato starch quotas per marketing year as referred to in Article 84a

Member State	(tonnes)
Czech Republic	33 660
Denmark	168 215
Germany	656 298
Estonia	250
Spain	1 943
France	265 354
Latvia	5 778
Lithuania	1 211
Netherlands	507 403
Austria	47 691
Poland	144 985
Slovakia	729
Finland	53 178
Sweden	62 066
TOTAL	1 948 761’

ANNEX III

‘20a. **Regulation (EEC) No 1868/94**

Regulation (EEC) No 1868/94	This Regulation
Article 1	Article 55(1)(c)
Article 2(1) and (2), first subparagraph	Article 84a(1) and (2)
Article 4	Article 84a(3)
Article 4a	Article 95a(2)
Article 5	Article 95a(1)
Article 6	Article 84a(4) and (5)
Article 7	Article 84a(6)
Article 8	Articles 85(d) and 95a(3)’

COUNCIL REGULATION (EC) No 73/2009**of 19 January 2009****establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the 1979 Act of Accession, and in particular paragraph 6 of Protocol No 4 on cotton attached thereto,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament ⁽¹⁾,

After consulting the European Economic and Social Committee ⁽²⁾,

After consulting the Committee of the Regions ⁽³⁾,

Whereas:

- (1) The reforms of the Common Agricultural Policy (CAP) agreed in 2003 and 2004 included provisions to gauge their effectiveness. In this context the Commission presented a Communication to the European Parliament and the Council entitled 'Preparing for the' Health Check 'of the CAP reform' on 20 November 2007. That Communication and the subsequent discussions of its main elements by the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, as well as numerous contributions arising from public consultation should be taken into account.
- (2) Experience drawn from the implementation of Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes ⁽⁴⁾ in particular shows that certain elements of the support mechanism need to be adjusted. In particular, the decoupling of direct support should be extended and the functioning of the single payment scheme should be simplified. Furthermore, Regulation (EC) No 1782/2003 has been substantially

amended on several occasions. In the light of these developments and in the interest of clarity, it should be repealed and replaced by this Regulation.

- (3) Regulation (EC) No 1782/2003 established the principle that farmers who do not comply with certain requirements in the areas of public, animal and plant health, environment and animal welfare are subject to reductions of or exclusion from direct support. This 'cross compliance' system forms an integral part of Community support under direct payments and should therefore be maintained. However, experience has shown that a number of the requirements within the scope of cross compliance are not sufficiently relevant to farming activity or farm land or concern national authorities rather than farmers. It is therefore appropriate to adjust the scope of cross compliance.
- (4) Furthermore, in order to avoid agricultural land being abandoned and to ensure that it is maintained in good agricultural and environmental condition, Regulation (EC) No 1782/2003 established a Community framework within which Member States adopt standards taking account of the specific characteristics of the areas concerned, including soil and climatic conditions and existing farming systems, land use, crop rotation, farming practices and farm structures. This framework should be maintained. Experience has shown nevertheless that the relevance and beneficial effects of certain standards are not sufficient to justify their implementation by all Member States. Such standards should therefore become optional for Member States. However, to ensure that the framework is as consistent as possible, a standard should not be optional where before 2009 the Member State concerned already defined a minimum requirement on the basis of such a standard or where national rules which address such a standard are in place.
- (5) The abolition, in accordance with this Regulation, of compulsory set aside within the single payment scheme could in certain cases have adverse effects on the environment, in particular as regards certain landscape features. It is therefore appropriate to reinforce the Community provisions aimed at protecting specified landscape features. In specific situations it should also be possible for a Member State to provide for the establishment and/or retention of habitats.

⁽¹⁾ Opinion of 19 November 2008 (not yet published in the Official Journal).

⁽²⁾ Opinion of 23 October 2008 (not yet published in the Official Journal). Opinion delivered following non-compulsory obligation.

⁽³⁾ Opinion of 8 October 2008 (not yet published in the Official Journal). Opinion delivered following non-compulsory obligation.

⁽⁴⁾ OJ L 270, 21.10.2003, p. 1.

- (6) Protection and management of water in the context of agricultural activity has increasingly become a problem in certain areas. The Community framework for good agricultural and environmental condition should therefore also be reinforced with the aim of protecting water against pollution and run-off and of managing the use of water.
- (7) Regulation (EC) No 1782/2003 recognised the positive environmental effect of permanent pasture. The measures in that Regulation aimed at encouraging the maintenance of existing permanent pasture to ensure against mass conversion to arable land should be maintained.
- (8) In order to achieve a better balance between policy tools designed to promote sustainable agriculture and those designed to promote rural development, a system of compulsory progressive reduction of direct payments ('modulation') was introduced by Regulation (EC) No 1782/2003. That system should be maintained and should include the exemption of direct payments of up to EUR 5 000.
- (9) The savings made through modulation are used to finance measures under the rural development policy. Since Regulation (EC) No 1782/2003 was adopted, the agricultural sector has been faced with a number of new and demanding challenges such as climate change and the increasing importance of bio-energy, as well as the need for better water management and more effective protection of biodiversity. The Community, as party to the Kyoto Protocol ⁽¹⁾, has been called upon to adapt its policies in the light of climate change considerations. Furthermore, following serious problems relating to water scarcity and droughts, the Council, in its Conclusions 'Water Scarcity and Drought' of 30 October 2007, considered that water management issues in agriculture should be further addressed. Furthermore, the Council emphasised, in its Conclusions 'Halting the Loss of Biodiversity' of 18 December 2006, that protecting biodiversity remains a major challenge and while important progress has been made, the attainment of the Community's biodiversity target for 2010 will require additional efforts. Moreover, since innovation can, in particular, contribute to the development of new technologies, products and processes, it will underpin the efforts to tackle these new challenges. The expiry of the milk quota regime in 2015 in accordance with Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products ⁽²⁾ will require specific efforts on the part of dairy farmers to adapt to changing conditions, particularly in disadvantaged regions. It is therefore appropriate that this particular situation should also be defined as a new challenge which Member States should be able to address with a view to ensuring a 'soft-landing' of their dairy sectors.
- (10) The Community acknowledges the need to tackle these new challenges in the framework of its policies. In the area of agriculture, rural development programmes adopted under Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) ⁽³⁾ are an appropriate tool for dealing with them. To enable Member States to revise their rural development programmes accordingly without being required to reduce their current rural development activities in other areas, additional funding needs to be made available. However, the financial perspective for the period 2007 to 2013 does not provide for the financial means to reinforce the Community's rural development policy as necessary. Under these circumstances, a large part of the financial resources needed should be mobilised by providing for a gradual increase in the reduction of direct payments through modulation.
- (11) The distribution of direct income support among farmers is characterised by the allocation of a large quantity of payments to a rather small number of large beneficiaries. It is clear that larger beneficiaries do not require the same level of unitary support for the objective of income support to be efficiently attained. Moreover, the potential to adapt makes it easier for larger beneficiaries to operate with lower levels of unitary support. It is therefore fair to expect farmers with large amounts of support to make a special contribution to the financing of rural development measures addressing new challenges. Therefore, it is appropriate to establish a mechanism providing for an increased reduction in the larger payments, the proceeds of which are to be used to address the new challenges in the framework of rural development.
- (12) The particular geographical situation of the outermost regions as well as their insularity, small size, mountainous terrain and climate impose additional burdens on their agricultural sectors. In order to mitigate such burdens and constraints, a derogation from the obligation to apply the modulation reduction to farmers in the outermost regions should be provided for.

⁽¹⁾ Council Decision 2002/358/EC of 25 April 2002 concerning the approval, on behalf of the European Community, of the Kyoto Protocol to the United Nations Framework convention on Climate change and the joint fulfilment of commitments thereunder (OJ L 130, 15.5.2002, p. 1).

⁽²⁾ OJ L 299, 16.11.2007, p. 1.

⁽³⁾ OJ L 277, 21.10.2005, p. 1.

- (13) The increased rates of compulsory modulation need to be taken into account by those Member States that opted to apply a system of voluntary modulation. Council Regulation (EC) No 378/2007 of 27 March 2007 laying down rules for voluntary modulation of direct payments provided for in Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers⁽¹⁾ should be therefore amended accordingly.
- (14) The amounts resulting from the application of 5 percentage points corresponding to the modulation reductions determined in Regulation (EC) No 1782/2003 should be allocated amongst Member States according to the same criteria established under that Regulation, that is in accordance with objective criteria, while establishing that a certain percentage of the amounts is to remain in the Member States where they were generated. In view of the structural adjustments resulting from the abolition of rye intervention, the specific measures for certain rye production regions to be financed with part of the amounts generated by modulation should be maintained. Moreover, the amounts raised by applying any further modulation reduction should be made available to the Member States in which they were generated.
- (15) In order to facilitate the functioning of modulation, notably with regard to the procedures for granting direct payments to farmers, and the transfers to the rural development programmes, net ceilings should be determined for each Member State to limit the payments to be made to farmers following the application of modulation. To take into account the specificities of CAP support in the outermost regions and the fact that direct payments are not subject to modulation, the net ceiling for the Member States concerned should not include the direct payments in these regions. Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy⁽²⁾ should therefore be amended accordingly.
- (16) Farmers in the new Member States which acceded to the European Union on or after 1 May 2004 receive direct payments following a phasing-in mechanism provided for in the respective Acts of Accession. In order to achieve a proper balance between policy tools designed to promote sustainable agriculture and those designed to promote rural development, the system of modulation should not be applied to farmers in the new Member States until the level of direct payments applicable in those Member States is equal to the level applicable in the Member States other than the new Member States.
- (17) Modulation should not reduce the net amount paid to a farmer in a new Member State below the amount to be paid to an equivalent farmer in the Member States other than the new Member States. Therefore, once modulation becomes applicable to farmers in the new Member States, the rate of reduction should be limited to the difference between the level under the phasing-in schedule and the level in the Member States other than the new Member States following the application of modulation. Moreover, modulation should be taken into account in the granting of complementary national direct payments to farmers in new Member States who are subject to modulation.
- (18) With a view to ensuring that the amounts for the financing of the CAP comply with the annual ceilings set in the financial perspective, the financial mechanism in Regulation (EC) No 1782/2003 whereby the level of direct support is adjusted when the forecasts indicate that the subceiling of heading 2, with a safety margin of EUR 300 000 000, is exceeded in a given financial year should be maintained. Taking into account the levels of direct payments for farmers in the new Member States as a result of phasing-in, and in the framework of the application of the phasing-in mechanism to all direct payments granted in the new Member States, this instrument of financial discipline should not apply in those Member States until the level of direct payments applicable in those Member States is at least equal to the level applicable in the Member States other than the new Member States. In view of the particular weight in the general budget of the European Communities of the resource referred to in Article 2(1)(c) of Council Decision 2007/436/EC, Euratom of 7 June 2007 on the system of the European Communities' own resources⁽³⁾, it is appropriate to provide, exceptionally, for the Council to adopt the necessary decision to apply the instrument of financial discipline on a proposal from the Commission.
- (19) In order to help farmers to meet the standards of modern, high-quality agriculture, it is necessary that Member States continue to operate the comprehensive system offering advice to farms provided for in Regulation (EC) No 1782/2003. The farm advisory system should help farmers to become more aware of material flows and on-farm processes relating to the environment, food safety, animal health and welfare without in any way affecting their obligation and responsibility to comply with those standards.
- (20) Regulation (EC) No 1290/2005 provides that Member States have to take the measures necessary to satisfy themselves that transactions financed by the European Agricultural Guarantee Fund (EAGF) are actually carried

⁽¹⁾ OJ L 95, 5.4.2007, p. 1.

⁽²⁾ OJ L 209, 11.8.2005, p. 1.

⁽³⁾ OJ L 63, 23.6.2007, p. 17.

out and are executed correctly, and to prevent and deal with irregularities. To this end, they should operate an integrated administration and control system for direct payments. In order to improve the effectiveness and control of Community support, Member States should be authorised to make use of the integrated system also in the case of Community schemes not covered by this Regulation.

- (21) The main elements of the integrated administration and control system and, in particular, the provisions concerning a computerised database, an identification system for agricultural parcels, aid applications from farmers, a harmonised control system and, within the single payment scheme, a system for the identification and recording of payment entitlements should be maintained.
- (22) Managing small amounts is a burdensome task for the competent authorities of the Member States. To avoid an excessive administrative burden, Member States should in general refrain from granting direct payments where the payment would be lower than EUR 100 or the eligible area of the holding for which support is claimed would be less than one hectare. However, as the structures of the Member States' agricultural economies vary considerably and may differ significantly from the average Community farm structure, special provision should be made to allow Member States to apply minimum thresholds that reflect their particular situation. Due to the very specific farming structure in the outermost regions and the Aegean Islands, these regions should not be subject to the application of any minimum threshold. Moreover, Member States should have discretion to opt for the implementation of one of the two types of minimum threshold taking account of the particularities of the structures of their farming sectors. As special payment entitlements were allocated to farmers with so-called 'landless' holdings, the application of the hectare-based threshold would be ineffective. The average support-related minimum amount should therefore apply to such farmers. To ensure equal treatment of farmers whose direct payments are subject to phasing-in, the minimum threshold should be based on the final amounts to be granted at the end of the phasing-in process.
- (23) Experience of the application of the single payment scheme shows that decoupled income support was in a number of cases granted to beneficiaries whose agricultural activities formed only an insignificant part of their overall economic activities or whose business purpose was not or only marginally targeted at performing an agricultural activity. To prevent agricultural income support from being allocated to such beneficiaries and to ensure that Community support is entirely used to ensure a fair standard of living for the agricultural community, Member States should be

empowered, where such allocation occurs, to refrain from granting such natural and legal persons direct payments under this Regulation.

- (24) Payments provided for under Community support schemes should be made by the competent national authorities to beneficiaries in full, subject to any reductions provided for in this Regulation, and within prescribed periods. In order to render the management of direct payments more flexible, Member States should be allowed to pay direct payments in up to two instalments per year.
- (25) The support schemes under the CAP provide for direct income support, in particular with a view to ensuring a fair standard of living for the agricultural community. That objective is closely related to the maintenance of rural areas. In order to avoid any misallocation of Community funds, no support payments should be made to farmers who have artificially created the conditions required to obtain such payments.
- (26) In order to achieve the objectives of the CAP, common support schemes have to be adapted to changing developments, if necessary within short time-limits. Beneficiaries cannot, therefore, rely on support conditions remaining unchanged and should be prepared for a possible review of schemes, in particular in the light of economic developments or the budgetary situation.
- (27) Regulation (EC) No 1782/2003 established a single payment scheme that combined the existing various support mechanisms into a single scheme of decoupled direct payments. Experience of the application of the single payment scheme shows that some of its elements can be simplified for the benefit of farmers and administrations. Furthermore, given that the single payment scheme has in the meantime been implemented by all Member States that were required to do so, a number of provisions that were linked to its initial implementation have become obsolete and should therefore be adjusted. In this context, a significant under use of payment entitlements has been detected in some cases. To avoid such a situation and taking into account the fact that farmers are already familiar with the functioning of the single payment scheme, the period initially fixed for returning unused payment entitlements to the national reserve should be reduced to two years.
- (28) The main elements of the single payment scheme should be maintained. In particular, the determination of national ceilings should ensure that the total level of support and entitlements does not exceed current budgetary constraints. Member States should also operate a national reserve that may be used to facilitate the participation of new farmers in the scheme or to take account

of specific needs in certain regions. Rules on the transfer and use of payment entitlements should be laid down to prevent speculative transfer and accumulation of payment entitlements without a corresponding agricultural basis.

allow farmers reasonably to adapt to the changing levels of support.

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

(30) Compulsory set aside of arable land was introduced as a supply control mechanism. Market developments in the arable crops sector together with the introduction of decoupled aids no longer justify the need for maintaining this instrument, which therefore should be abolished. Set-aside entitlements established in accordance with Regulation (EC) No 1782/2003 should therefore be activated as regards hectares subject to the same eligibility conditions as any other entitlement. The abolition of the set-aside obligation may lead to the result that land that was eligible for the purpose of activating set-aside entitlements is no longer eligible. In order to maintain the eligibility of such land, it should be provided that certain afforested areas, including those afforested under national schemes complying with the relevant rules in Regulation (EC) No 1698/2005, or areas subject to certain environmental commitments are eligible under the single payment scheme.

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

(32) Under Regulation (EC) No 1782/2003, Member States had the option to apply the single payment scheme by way of historic or regional implementation. Since then, Member States have had the opportunity to evaluate the effects of their choice as regards both their economic and administrative appropriateness. Member States should therefore be given the opportunity to review their initial choice in the light of their experience. For this reason, in addition to the possibility of levelling the value of payment entitlements, Member States that applied the historic model should be authorised to change over to a regionalised application of the single payment scheme in accordance with the options already provided for in Regulation (EC) No 1782/2003. In particular, Member States should be allowed to adjust the territorial distribution of direct support by effecting a gradual redistribution between regions. This option would give Member States increased flexibility to target direct support in the most appropriate way on the basis of the objectives laid down in Article 33 of the Treaty and on the basis of objective and non-discriminatory criteria such as agricultural potential and environmental criteria. Furthermore, Member States that chose to apply the regional model should be given the option to review their decisions under certain conditions with the aim of approximating the value of payment entitlements according to pre-established annual steps, while complying with the general principles of Community law and the objectives of the CAP. Such changes should take place during an adequate transition period and within a limited range of reductions in order to allow farmers reasonably to adapt to the changing levels of support.

(33) Regulation (EC) No 1782/2003, while introducing a decoupled single payment scheme, allowed Member States to exclude in whole or in part certain payments from that scheme. That Regulation also provided for the review and possible revision of this option in the light of market and structural developments. An analysis of relevant experience shows that decoupling introduces flexibility in the choice of products to be farmed, enabling farmers to take their production decisions on the basis of profitability and market response. This is particularly the case for the arable crops and hops sectors, and to a certain extent, the beef and veal and seeds sectors. Therefore, the partially coupled payments in the arable crops and hops sectors should be integrated into the single payment scheme from 2010. In the case of hops, Regulation (EC) No 1782/2003 allowed Member States to grant part of the hops area payments to recognised producer organisations. In order to allow the producer organisations to continue their activities as before, Regulation (EC) No 1234/2007, as amended by Regulation

(EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy ⁽¹⁾, provides for equivalent amounts to be used in the Member State concerned for the same activities. Such amounts should therefore be deducted from the national ceilings provided for in this Regulation for that Member State. In order for farmers in the beef and veal and seeds sectors to adjust to the new support arrangements, provision should be made for the integration of the beef and veal payments and the seed aid to be carried out by 2012 at the latest. Since partially coupled payments in the fruit and vegetable sectors were only recently introduced, and only as a transitional measure, the exclusion of such payments from the single payment scheme should be allowed to continue, whilst Member States should be allowed to review their decisions with a view to increasing the degree of decoupling.

(34) However, as regards the suckler cow and sheepmeat and goatmeat sector, maintaining a minimum level of agricultural production may still be necessary for the agricultural economies in certain regions and, in particular, where farmers cannot have recourse to other economic alternatives. Against this background, Member States should have the option to maintain coupled support either at the current level or at a lower level. In that case, special provision should be made for compliance with the identification and registration requirements provided for by Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products ⁽²⁾ and Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals ⁽³⁾, in particular with a view to ensuring the traceability of animals.

(35) Member States should be allowed to use up to 10 % of their national ceilings for the single payment scheme for granting specific support in clearly defined cases. Such support should allow Member States to address environmental and animal welfare issues and improve the quality and marketing of agricultural products. Specific support should also be available to buffer the consequences of the phasing-out of milk quotas and the decoupling of support in particularly sensitive sectors. Given the growing importance of the effective management of risks, Member States should be given the option to contribute financially to the premiums farmers pay for crop, animal and plant insurance as well as to the financing of compensation for certain economic losses in the event of animal or plant diseases and environmental incidents. With a view to respecting the Community's international obligations, the resources that could be used for any coupled support should be limited to an appropriate

level while allowing for transitional measures for Member States facing particular difficulties. The conditions applicable to the financial contributions for crop, animal and plant insurance premiums and compensation in relation to animal and plant diseases and environmental incidents should be established accordingly. Moreover, Member States which have made use of Article 69 of Regulation (EC) No 1782/2003 should be given a sufficient transitional period in order to allow for a smooth transition to the new rules for specific support.

(36) Experience has shown that currently Member States do not use the entire amount of the funds available under the national ceilings for the single payment scheme, in particular where the payment entitlements have not been activated. In order to facilitate the more efficient use of the funds, Member States should be allowed to grant support above their national ceilings up to an amount the level of which ensures that it remains within the margins of the under-execution of the national ceiling. Such amount should be calculated on the basis of the budget under-execution for the most recent year available and should not put into question the respect of the total net ceiling for direct payments per Member State. For this reason and to ensure that farmers do not face unforeseen reductions of payments, the calculation should be carried out within certain safety margins. These amounts should either be used for the funding of specific support or transferred to the EAFRD.

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

(38) Under the regionalised option for the single payment scheme, the new Member States should have the possibility to adjust the value of the payment entitlements per

⁽¹⁾ See page 1 of this Official Journal.

⁽²⁾ OJ L 204, 11.8.2000, p. 1.

⁽³⁾ OJ L 5, 9.1.2004, p. 8.

hectare on the basis of objective criteria in order to ensure equal treatment between farmers and to avoid market distortions.

- (39) The new Member States should have the same possibilities as the other Member States to partially implement the single payment scheme.
- (40) The decoupling of direct support and the introduction of the single payment scheme were essential elements in the process of reforming the CAP. However, in 2003, several reasons called for specific support to be maintained for a number of crops. Experience gained through the application of Regulation (EC) No 1782/2003 together with the evolution of the market situation indicates that schemes that were kept outside the single payment scheme in 2003 can now be integrated into that scheme to promote more market-oriented and sustainable agriculture. This is the case, in particular, with the olive oil sector, where only marginal coupling was applied, as well as with durum wheat, protein crops, rice, potato starch, and nuts payments, where the decreasing effectiveness of remaining coupled payment supports the decoupling option. In the case of flax and hemp, dried fodder and potato starch, the support for processing should be decoupled and the relevant amounts should be integrated into the single payment scheme. As regards protein crops, rice, potato starch, nuts and flax and hemp, in order to allow producers to adjust, it is appropriate to integrate the aids for those sectors into the single payment scheme from 2012 while at the same time, and with the exception of the processing aids which are dealt with under Regulation (EC) No 1234/2007, allowing Member States to decide on an earlier date for their integration. As regards nuts, Member States should be allowed to continue to pay the national part of the aid in a coupled way in order to cushion the effects of decoupling.
- (41) As a consequence of the integration of further sectors into the single payment scheme, provision should be made for the calculation of the new level of individual income support under that scheme. In the case of nuts, potato starch, flax and hemp and dried fodder, such an increase should be granted on the basis of the support farmers received in most recent years. However, in the case of the integration of payments that were partially excluded from the single payment scheme, Member States should be given the option to use the original reference periods. For potato starch, the amounts available for distribution in Germany and the Netherlands should take into account the cross-border deliveries of potato starch produced in one of those Member States for processing in the other. Furthermore, with a view to covering the specific needs of their agricultural sectors and to ensure that the support received in the past by farmers is not drastically reduced, Member States should be allowed under certain limits to use the funds to be integrated into the single payment scheme to support farmers who exercised certain agricultural activities in other sectors during the same years, such as using grass-land or keeping animals.
- (42) Regulation (EC) No 1782/2003 established specific support for energy crops with a view to assisting the development of the sector. Due to recent developments in the bio-energy sector and, in particular, to the strong demand for such products on international markets and the introduction of binding targets for the share of bio-energy in total fuel by 2020, there is no longer sufficient reason to grant specific support for energy crops.
- (43) When the cotton sector was integrated into the single payment scheme, it was deemed necessary for part of the support to continue to be linked to the cultivation of cotton through a crop specific payment per eligible hectare to ensure against any risk of disruption to production in the cotton producing regions. This choice should be maintained in accordance with the objectives set out in Protocol No 4 on cotton attached to the 1979 Act of Accession.
- (44) To buffer the effects of the restructuring process in Member States which have granted the restructuring aid provided for in Council Regulation (EC) No 320/2006 of 20 February 2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community ⁽¹⁾, the aid foreseen for sugar beet and cane producers for a maximum of five consecutive years should be maintained.
- (45) When the fruit and vegetables sector was integrated into the single payment scheme, a temporary coupled area aid for strawberries and raspberries was provided for. It is appropriate to extend such support beyond the original deadline while at the same time providing for the decoupling of this support from production. The national ceilings should be adjusted to take this into account.
- (46) The transitional simplified support scheme for granting direct payments in the new Member States based on area, that is the single area payment scheme, has proved to be an efficient and simple system for granting income support to farmers in the new Member States. In the interest of simplification, the new Member States that opted to apply the scheme should be allowed to continue to apply it until the end of 2013.
- (47) Further to the respective reforms of the sugar and fruit and vegetable sectors and their integration into the single payment scheme, those Member States that opted to apply the single area payment scheme should be allowed to grant income support to growers of sugar beet, cane and chicory and producers of certain fruit and vegetables

⁽¹⁾ OJ L 58, 28.2.2006, p. 42.

in the form of separate payments. Likewise, such Member States should be allowed to pay separate specific support under similar conditions to those applicable to the other Member States.

(48) As a consequence of the phasing-in of direct payments in the new Member States, the new Member States were allowed to grant complementary national direct payments. The conditions for granting such payments should be maintained.

(49) In the initial allocation of payment entitlements by Member States, some errors led to particularly high payments to farmers. This non-compliance is normally the subject of financial correction until such time as corrective measures are taken. However, taking into account the time that has elapsed since the payment entitlements were first allocated, the necessary correction would lead to disproportionate legal and administrative constraints for Member States. In the interest of legal certainty, the allocation of such payments should therefore be regularised.

(50) In accordance with Regulation (EC) No 1782/2003, France, Portugal and Spain decided to exclude from the single payment scheme the direct payments made in the French overseas departments, the Azores and Madeira and the Canary Islands respectively and to grant them under the conditions provided for in Title IV of that Regulation. Part of the aid provided for in that Title has been completely integrated into the single payment scheme. In the interest of simplification and to take into account the specific circumstances of the outermost regions, such aid should be managed within the support programmes established by Regulation (EC) No 247/2006 of 30 January 2006 laying down specific measures for agriculture in the outermost regions of the Union⁽¹⁾. To this end, the relevant funds should be transferred from the national ceilings for direct payments to the financial amount set out in that Regulation. In order to allow the Member States concerned to adapt the support programmes, such transfers should only take place in 2010. In the meantime, direct payments will apply in the outermost regions under the conditions provided for in Regulation (EC) No 1782/2003. Regulation (EC) No 247/2006 should therefore be amended accordingly.

(51) It should be specified that the provisions of this Regulation which could give rise to behaviour of a Member State possibly constitutive of State aid are, save as otherwise provided for in this Regulation, excluded from the application of the State aid rules given that the provisions concerned include appropriate conditions for the

granting of support, or envisage the adoption of such conditions by the Commission, in order to prevent undue distortion of competition.

(52) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽²⁾.

(53) In order to allow Member States as well as the farming community to benefit from the simplification mechanisms introduced by this Regulation, and in particular from the abolition of the set aside obligation, this Regulation should apply from 1 January 2009. However, those provisions that may reduce farmers' rights or create new obligations, *inter alia* the cross compliance obligations with which farmers have to comply throughout the year, should only apply from 2010 and, in the case of the standard on establishment of buffer strips along water courses, by 1 January 2012. Furthermore, Member States should be given sufficient time to implement the provisions allowing further decoupling of direct payments and those allowing them to review the decisions taken in the context of the 2003 reform. For this reason, the relevant provisions of this Regulation should only apply from 2010 and the repealed Regulation (EC) No 1782/2003 should be applied during 2009 to those aid schemes that will only be integrated into the single payment scheme from 2010,

HAS ADOPTED THIS REGULATION:

TITLE I

SCOPE AND DEFINITIONS

Article 1

Scope

This Regulation establishes:

- (a) common rules on direct payments;
- (b) an income support scheme for farmers (hereinafter referred to as the 'single payment scheme');
- (c) a transitional simplified income support scheme for farmers in the new Member States as defined in Article 2(g) (hereinafter referred to as the 'single area payment scheme');
- (d) support schemes for farmers producing rice, starch potatoes, protein crops, nuts, seeds, cotton, sugar, fruit and vegetables, sheepmeat and goatmeat and beef and veal;

⁽¹⁾ OJ L 42, 14.2.2006, p. 1.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

- (e) a framework to enable the new Member States as defined in Article 2(g) to complement direct payments.

Article 2

Definitions

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

- (a) 'farmer' means a natural or legal person, or a group of natural or legal persons, whatever legal status is granted to the group and its members by national law, whose holding is situated within Community territory, as defined in Article 299 of the Treaty, and who exercises an agricultural activity;
- (b) 'holding' means all the production units managed by a farmer situated within the territory of the same Member State;
- (c) 'agricultural activity' means the production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, or maintaining the land in good agricultural and environmental condition as established in Article 6;
- (d) 'direct payment' means a payment granted directly to farmers under a support scheme listed in Annex I;
- (e) 'payments in a given calendar year' or 'payments in the representative period' means the payments granted or to be granted in respect of the year/years concerned, including all payments in respect of other periods starting in that calendar year/years;
- (f) 'agricultural products' means the products listed in Annex I to the Treaty, with the exception of fishery products, as well as cotton;
- (g) 'new Member States' means Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia and Slovakia;
- (h) 'agricultural area' means any area taken up by arable land, permanent pasture or permanent crops.

Article 3

Financing of direct payments

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

TITLE II

GENERAL PROVISIONS ON DIRECT PAYMENTS

CHAPTER 1

Cross compliance

Article 4

Main requirements

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

The obligations referred to in the first subparagraph shall apply only in so far as the agricultural activity of the farmer or the agricultural area of the holding is concerned.

2. The competent national authority shall provide the farmer, *inter alia* by the use of electronic means, with the list of statutory management requirements and the good agricultural and environmental condition to be respected.

Article 5

Statutory management requirements

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

- (a) public, animal and plant health;
- (b) environment;
- (c) animal welfare.

2. The acts referred to in Annex II shall apply as in force and, in the case of Directives, as implemented by the Member States.

Article 6

Good agricultural and environmental condition

1. Member States shall ensure that all agricultural land, especially land which is no longer used for production purposes, is maintained in good agricultural and environmental condition. Member States shall define, at national or regional level, minimum requirements for good agricultural and environmental condition on the basis of the framework established in Annex III, taking into account the specific characteristics of the areas concerned, including soil and climatic condition, existing farming systems, land use, crop rotation, farming practices, and farm structures. Member States shall not define minimum requirements which are not foreseen in that framework.

The standards listed in the third column of Annex III shall be optional except where:

- (a) a Member State had defined, for such a standard, a minimum requirement for the good agricultural and environmental condition before 1 January 2009; and/or
- (b) national rules addressing the standard are applied in the Member State.

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

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

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

CHAPTER 2

Modulation and financial discipline

Article 7

Modulation

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

- (a) in 2009 by 7 %;
- (b) in 2010 by 8 %;
- (c) in 2011 by 9 %;
- (d) in 2012 by 10 %.

2. The reductions provided for in paragraph 1 shall be increased by 4 percentage points for amounts exceeding EUR 300 000.

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

Article 8

Net ceilings

1. Without prejudice to Article 11 of this Regulation, the total net amounts of direct payments which may be granted in a Member State in respect of a calendar year after application of Articles 7 and 10 of this Regulation and Article 1 of Regulation (EC) No 378/2007 and with the exception of direct payments granted under Regulations (EC) No 247/2006 and (EC) No 1405/2006 shall not be higher than the ceilings set out in Annex IV to this Regulation. Where necessary, Member States shall make a linear reduction in the amounts of direct payments which are subject to the reduction provided for in Articles 7 and 10 of this Regulation and Article 1 of Regulation (EC) No 378/2007 in order to comply with the ceilings set out in that Annex.

2. The Commission, in accordance with the procedure referred to in Article 141(2) of this Regulation, shall review the ceilings set out in Annex IV to this Regulation in order to take account of:

- (a) modifications to the total maximum amounts of direct payments that may be granted;
- (b) modifications to the voluntary modulation system provided for in Regulation (EC) No 378/2007;
- (c) structural changes to the holdings;
- (d) transfers to the EAFRD in accordance with Article 136 of this Regulation.

Article 9

Amounts resulting from modulation

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

2. The amounts corresponding to one percentage point shall be allocated to the Member States where the corresponding amounts have been generated. The amounts corresponding to the reduction by 4 percentage points shall be allocated amongst the Member States concerned in accordance with the procedure referred to in Article 141(2), on the basis of the following criteria:

- (a) agricultural area;
- (b) agricultural employment;
- (c) gross domestic product (GDP) per capita in purchasing power.

However, any Member State concerned shall receive at least 80 % of the total amounts referred to in the first subparagraph generated in that Member State.

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

In such a case, without prejudice to the possibilities provided for by Article 68, at least 10 % of the amount allocated to the Member State concerned shall be available for the measures referred to in paragraph 1 of this Article in rye producing regions.

For the purpose of this paragraph, 'cereal' shall mean the products listed in Annex V.

4. The remaining amount resulting from the application of Article 7(1) and the amounts resulting from the application of Article 7(2) shall be allocated to the Member State where the corresponding amounts have been generated, in accordance with the procedure referred to in Article 141(2). They shall be used in accordance with Article 69(5a) of Regulation (EC) No 1698/2005.

Article 10

Special rules for modulation in the new Member States

1. Article 7 shall apply to farmers in a new Member State in any given calendar year only if the level of direct payments applicable in that Member State for that calendar year pursuant to Article 121 is at least equal to the then applicable level in the Member States other than the new Member States, taking into account any reductions applied under Article 7(1).

2. If Article 7 applies to farmers in a new Member State, the percentage applicable under Article 7(1) shall be limited to the difference between the level of direct payments applicable to it under Article 121 and the level in the Member States other than the new Member States, taking into account any reductions applied under Article 7(1).

3. Any amount resulting from the application of Article 7(1) and (2) shall be allocated to the new Member State where the corresponding amounts have been generated, in accordance with the procedure referred to in Article 141(2). They shall be used in accordance with Article 69(5a) of Regulation (EC) No 1698/2005.

Article 11

Financial discipline

1. With a view to ensuring that the amounts for the financing of the market related expenditure and direct payments of the CAP currently under heading 2 of Annex I to the Interinstitutional Agreement between the European Parliament, the

Council and the Commission on budgetary discipline and sound financial management ⁽¹⁾ respect the annual ceilings set out in the Decision 2002/929/EC of the Representatives of the Governments of the Member States, meeting within the Council of 18 November 2002, concerning the Conclusions of the European Council meeting in Brussels on 24 and 25 October 2002 ⁽²⁾, an adjustment of the direct payments shall be determined when the forecasts for the financing of the aforementioned measures under heading 2 for a given financial year, increased by the amounts given in Articles 134 and 135 of this Regulation and before application of modulation provided for in Articles 7 and 10 of this Regulation and Article 1(1) of Regulation (EC) No 378/2007, indicate that the applicable above-mentioned annual ceiling, taking into account a margin of EUR 300 000 000 below that ceiling, will be exceeded.

2. The Council, acting on a proposal from the Commission presented no later than 31 March of the calendar year in respect of which the adjustments referred to in paragraph 1 apply, shall determine these adjustments no later than 30 June of the same calendar year.

3. In the framework of the application of the schedule of increments provided for in Article 121 to all direct payments granted in the new Member States, paragraph 1 of this Article shall not apply to the new Member States until the beginning of the calendar year in respect of which the level of direct payments applicable in the new Member States is at least equal to the then applicable level of such payments in the Member States other than the new Member States.

CHAPTER 3

Farm advisory system

Article 12

Farm advisory system

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

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

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

Member States may determine, in accordance with objective criteria, the priority categories of farmer that have access to the farm advisory system.

⁽¹⁾ OJ C 139, 14.6.2006, p. 1.

⁽²⁾ OJ L 323, 28.11.2002, p. 48.

4. By 31 December 2010, the Commission shall submit a report to the Council on the application of the farm advisory system, accompanied, if necessary, by appropriate proposals.

Article 13

Obligations of designated authorities and private bodies

Without prejudice to national legislation concerning public access to documents, Member States shall ensure that the designated authorities and private bodies referred to in Article 12(1) do not disclose personal or individual information and data they obtain in their advisory activity to persons other than the farmer managing the holding concerned, with the exception of any irregularity or infringement found during their activity which is covered by an obligation laid down in Community or national law to inform a public authority, in particular in the case of criminal offences.

CHAPTER 4

Integrated administration and control system

Article 14

Scope

Each Member State shall set up and operate an integrated administration and control system (hereinafter referred to as the 'integrated system').

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

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

Article 15

Elements of the integrated system

1. The integrated system shall comprise the following elements:

- (a) a computerised database;
- (b) an identification system for agricultural parcels;
- (c) a system for the identification and registration of payment entitlements;
- (d) aid applications;
- (e) an integrated control system;
- (f) a single system to record the identity of each farmer who submits an aid application.

2. Where Articles 52 and 53 of this Regulation apply, the integrated system shall incorporate a system for the identification and registration of animals set up in accordance with Regulations (EC) No 1760/2000 and (EC) No 21/2004.

3. Member States may include a geographical information system for olive cultivation in the identification system for agricultural parcels.

Article 16

Computerised database

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

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

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

Article 17

Identification system for agricultural parcels

The identification system for agricultural parcels shall be established on the basis of maps or land registry documents or other cartographic references. Use shall be made of computerised geographical information system techniques, including preferably aerial or spatial orthoimagery, with a homogenous standard guaranteeing accuracy at least equivalent to cartography at a scale of 1:10 000.

Article 18

System for the identification and registration of payment entitlements

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

2. The system referred to in paragraph 1 shall allow direct and immediate consultation, through the competent authority of the Member State, of the data relating to at least the previous four consecutive calendar years.

Article 19

Aid applications

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

- (a) all the agricultural parcels on the holding, and where the Member State is applying Article 15(3), the number of olive trees and their positioning in the parcel;

- (b) the payment entitlements declared for activation;
- (c) any other information provided for by this Regulation or by the Member State concerned.

2. Member States shall provide, *inter alia* by the use of electronic means, pre-established forms based on the areas determined in the previous year as well as graphic material indicating the location of those areas and, where appropriate, the positioning of olive trees. A Member State may decide that the aid application needs to contain only changes with respect to the aid application submitted the previous year.

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

Article 20

Verification of eligibility conditions

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

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

Member States may use remote sensing and Global Navigation Satellite System (GNSS) techniques as a means of carrying out on-the-spot checks on agricultural parcels.

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

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

Article 21

Reductions and exclusions in the event of non-compliance with eligibility rules

1. Without prejudice to any reduction or exclusion provided for in Article 23, where it is found that a farmer does not comply with the eligibility conditions relating to the granting of the aid as provided for in this Regulation, the payment or part of the payment granted or to be granted for which the conditions of eligibility have been met shall be subject to the reductions and exclusions to be laid down in accordance with the procedure referred to in Article 141(2).

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

Article 22

Controls on cross compliance

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

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

These systems, and notably the system for the identification and registration of animals set up in accordance with Council Directive 2008/71/EC of 15 July 2008 on the identification and registration of pigs ⁽¹⁾ and Regulations (EC) No 1760/2000 and (EC) No 21/2004, shall be compatible with the integrated system, as provided for in Article 26(1) of this Regulation.

Article 23

Reduction of or exclusion from payments in the event of non-compliance with cross compliance rules

1. Where the statutory management requirements or good agricultural and environmental condition are not complied with at any time in a given calendar year (hereinafter referred to as 'the calendar year concerned'), and the non-compliance in question is the result of an act or omission directly attributable to the farmer who submitted the aid application in the calendar year concerned, the total amount of direct payments granted or to be granted, following application of Articles 7, 10 and 11 to that farmer, shall be reduced or excluded in accordance with the detailed rules laid down in Article 24.

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

For the purpose of this paragraph, 'transfer' shall mean any type of transaction whereby the agricultural land ceases to be at the disposal of the transferor.

By way of derogation from the second subparagraph, from 2010, where the person to whom the act or omission is directly attributable has submitted an aid application in the calendar year concerned, the reduction or exclusion shall be applied to the total amounts of direct payments granted or to be granted to that person.

⁽¹⁾ OJ L 213, 8.8.2008, p. 31.

2. Notwithstanding paragraph 1 and in accordance with the conditions laid down in the detailed rules referred to in Article 24(1) of this Regulation, Member States may decide not to apply a reduction or exclusion amounting to EUR 100 or less per farmer and per calendar year.

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

Article 24

Detailed rules on reductions and exclusions in the event of non-compliance with cross compliance rules

1. Detailed rules for the reductions and exclusions referred to in Article 23 shall be laid down in accordance with the procedure referred to in Article 141(2). In this context, account shall be taken of the severity, extent, permanence and repetition of the non-compliance found as well as of the criteria set out in paragraphs 2, 3 and 4 of this Article.

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

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

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

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

4. In any case, the total amount of reductions and exclusions for one calendar year shall not be more than the total amount referred to in Article 23(1).

Article 25

Amounts resulting from cross compliance

The amounts resulting from the application of the reductions and exclusions in the event of non-compliance with Chapter 1

shall be credited to the EAGF. Member States may retain 25 % of those amounts.

Article 26

Compatibility of support schemes with the integrated system

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

- (a) the computerised database;
- (b) the identification systems for agricultural parcels;
- (c) the administrative controls.

To this end, the database, the systems and the controls referred to in points (a), (b) and (c) of the first subparagraph respectively shall be set up so as to allow, without any problems or conflicts, a common functioning or the exchange of data between them.

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

Article 27

Information and control

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

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

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

- (a) any examination or control relating to the measures taken in order to establish and implement the integrated system;
- (b) controls at the specialised agencies and firms referred to in Article 20(3).

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

CHAPTER 5

Other general provisions

Article 28

Minimum requirements for receiving direct payments

1. From 2010, Member States shall not grant direct payments to a farmer in one of the following cases:

- (a) where the total amount of direct payments claimed or due to be granted before the reductions and exclusions provided for in Articles 21 and 23 in a given calendar year is less than EUR 100; or
- (b) where the eligible area of the holding for which direct payments are claimed or due to be granted before the reductions and exclusions provided for in Article 21 is less than one hectare.

In order to take account of the structure of their agricultural economies, Member States may adjust the thresholds referred to in points (a) and (b) of the first subparagraph of this paragraph within the limits set out in Annex VII.

Farmers holding special entitlements referred to in Article 44(1) shall be subject to the condition referred to in point (a) of the first subparagraph of this paragraph.

The Member States concerned may decide not to apply this paragraph in the French overseas departments, in the Azores and Madeira, in the Canary Islands and in the Aegean islands.

Where the amount paid is reduced as a consequence of a progressive introduction of direct payments as foreseen in Article 121 of this Regulation, in point K of Annex VII to Regulation (EC) No 1782/2003 or in point C of Annex IX to this Regulation, the amount claimed or due to be granted shall be calculated on the basis of the final amount of support to be received by the farmer.

2. From 2010, Member States may establish appropriate objective and non-discriminatory criteria to ensure that no direct payments are granted to a natural or legal person:

- (a) whose agricultural activities form only an insignificant part of its overall economic activities; or
- (b) whose principal business or company objects do not consist of exercising an agricultural activity.

3. Payment entitlements not giving right to payments during two consecutive years due to the application of paragraphs 1 and 2 shall revert to the national reserve.

Article 29

Payment

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

2. Payments shall be made in up to two instalments per year within the period from 1 December to 30 June of the following calendar year.

3. Payments under support schemes listed in Annex I shall not be made before the verification of eligibility conditions, to be carried out by the Member State pursuant to Article 20, has been finalised.

4. By way of derogation from paragraph 2 of this Article and in accordance with the procedure referred to in Article 141(2), the Commission may:

- (a) provide for advances;
- (b) authorise the Member States, subject to the budgetary situation, to pay prior to 1 December advances in regions where, due to exceptional conditions, farmers face severe financial difficulties:
 - (i) of up to 50 % of the payments;
 - or
 - (ii) of up to 80 % of the payments where advances have already been provided for.

Article 30

Circumvention clause

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

Article 31

Force majeure and exceptional circumstances

For the purposes of this Regulation, *force majeure* or exceptional circumstances shall be recognised by the competent authority in cases such as:

- (a) the death of the farmer;
- (b) long-term professional incapacity of the farmer;
- (c) a severe natural disaster gravely affecting the holding's agricultural land;
- (d) the accidental destruction of livestock buildings on the holding;
- (e) an epizootic affecting part or all of the farmer's livestock.

Article 32

Review

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

TITLE III

SINGLE PAYMENT SCHEME

CHAPTER 1

General implementation

Article 33

Payment entitlements

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

- (a) hold payment entitlements which they have obtained in accordance with Regulation (EC) No 1782/2003;
- (b) obtain payment entitlements under this Regulation:
 - (i) by transfer;
 - (ii) from the national reserve;
 - (iii) pursuant to Annex IX;
 - (iv) pursuant to Article 47(2), Article 59, the third subparagraph of Article 64(2), Article 65 and Article 68(4)(c).

2. For the purpose of Article 47(2), Article 57(6), Article 64(2) and Article 65, a farmer is considered to be holding payment entitlements where payment entitlements have been allocated or definitively transferred to him.

3. Set-aside entitlements established in accordance with Article 53(2), Article 63(2) and Article 71j of Regulation (EC) No 1782/2003 shall not be subject to previous set aside obligations.

Article 34

Activation of payment entitlements per eligible hectare

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

2. For the purposes of this Title, 'eligible hectare' shall mean:

- (a) any agricultural area of the holding, and any area planted with short rotation coppice (CN code ex 0602 90 41) that is used for an agricultural activity or, where the area is used

as well for non-agricultural activities, predominantly used for agricultural activities; and

- (b) any area which gave a right to payments under the single payment scheme or the single area payment scheme in 2008 and which:

- (i) no longer complies with the definition of 'eligible' as a result of the implementation of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds ⁽¹⁾, Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora ⁽²⁾ and Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy ⁽³⁾; or

- (ii) for the duration of the relevant commitment of the individual farmer, is afforested pursuant to Article 31 of Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) ⁽⁴⁾ or to Article 43 of Regulation (EC) No 1698/2005 or under a national scheme the conditions of which comply with Article 43(1), (2) and (3) of that Regulation; or

- (iii) for the duration of the relevant commitment of the individual farmer, is set aside pursuant to Articles 22, 23 and 24 of Regulation (EC) No 1257/1999 or to Article 39 of Regulation (EC) No 1698/2005.

The Commission, in accordance with the procedure referred to in Article 141(2), shall lay down detailed rules on the use of eligible hectares for non-agricultural activities.

Except in the case of *force majeure* or exceptional circumstances, hectares shall comply with the eligibility condition throughout the calendar year.

Article 35

Declaration of eligible hectares

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

⁽¹⁾ OJ L 103, 25.4.1979, p. 1.

⁽²⁾ OJ L 206, 22.7.1992, p. 7.

⁽³⁾ OJ L 327, 22.12.2000, p. 1.

⁽⁴⁾ OJ L 160, 26.6.1999, p. 80.

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

Article 36

Modification of payment entitlements

The payment entitlements per hectare shall not be modified, save as otherwise provided for in this Regulation.

The Commission, in accordance with the procedure referred to in Article 141(2), shall lay down detailed rules for the modification, from 2010, of payment entitlements, in particular in the case of fractions of entitlements.

Article 37

Multiple claims

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

Article 38

Use of land in the event of the deferred integration of the fruit and vegetables sector

Where a Member State has decided to make use of the option provided for in the second subparagraph of Article 51 of Regulation (EC) No 1782/2003 (hereinafter referred to as 'deferred integration'), the parcels in the regions concerned by the decision, up to a date no later than 31 December 2010, shall not be eligible if used for:

- (a) the production of fruit and vegetables;
- (b) the production of ware potatoes; or
- (c) nurseries.

In the event of deferred integration, Member States may decide to allow secondary crops to be cultivated on the eligible hectares during a maximum period of three months starting each year on 15 August. However, at the request of a Member State, this date may be modified in accordance with the procedure referred to in Article 141(2) for regions where cereals are normally harvested earlier for climatic reasons.

Article 39

Use of land for the production of hemp

1. Areas used for the production of hemp shall only be eligible if the varieties used have a tetrahydrocannabinol content

not exceeding 0,2 %. Member States shall establish a system for verifying the tetrahydrocannabinol content of the crops grown on at least 30 % of the areas under hemp. However, if a Member State introduces a system of prior approval for such cultivation, the minimum shall be 20 %.

2. In accordance with the procedure referred to in Article 141(2), the granting of payments shall be made subject to the use of certified seeds of certain varieties.

Article 40

National ceilings

1. For each Member State and each year, the total value of all allocated payment entitlements and of the ceilings fixed in accordance with Articles 51(2) and 69(3) of this Regulation, or, for 2009, in accordance with Article 64(2) of Regulation (EC) No 1782/2003 shall not be higher than the respective national ceiling determined in Annex VIII to this Regulation.

Where payment entitlements are allocated to wine growers, the Commission shall, taking account of the latest data made available to it by the Member States in accordance with Articles 9 and 102(6) of Council Regulation (EC) No 479/2008 of 29 April 2008 on the common organisation of the market in wine ⁽¹⁾ and in accordance with the procedure referred to in Article 141(2) of this Regulation, adapt the national ceilings determined in Annex VIII to this Regulation. By 1 December of the year preceding the adaptation of the national ceilings, Member States shall communicate to the Commission the regional average of the value of the entitlements referred to in point B of Annex IX to this Regulation.

2. Where necessary, a Member State shall make a linear reduction in the value of the payment entitlements in order to ensure compliance with the ceiling determined in Annex VIII.

Article 41

National reserve

1. Each Member State shall operate a national reserve that incorporates the difference between:

- (a) the national ceilings determined in Annex VIII to this Regulation; and
- (b) the total value of all allocated payment entitlements and the ceilings fixed in accordance with Article 51(2) and Article 69(3) of this Regulation, or, for 2009, the ceilings fixed in accordance with Article 64(2) of Regulation (EC) No 1782/2003.

⁽¹⁾ OJ L 148, 6.6.2008, p. 1.

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

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

4. Member States shall use the national reserve for the purpose of allocating, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, payment entitlements to farmers placed in a special situation, to be defined by the Commission in accordance with the procedure referred to in Article 141(2).

5. When applying this Article, Member States may increase the unit value and/or the number of payment entitlements allocated to farmers.

Article 42

Unused payment entitlements

Any payment entitlement which has not been activated in accordance with Article 34 for a period of two years shall be added to the national reserve, except in the case of *force majeure* or exceptional circumstances. However, for 2009, payment entitlements not activated for the two-year period 2007-2008 shall not be added to the national reserve if they were activated in 2006 and, for 2010, payment entitlements not activated for the two-year period 2008-2009 shall not be added to the national reserve if they were activated in 2007.

Article 43

Transfer of payment entitlements

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

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

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

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

3. Where payment entitlements are sold, with or without land, Member States may, acting in compliance with the general principles of Community law, decide that part of the payment entitlements sold revert to the national reserve or that their unit value is reduced in favour of the national reserve, in accordance with criteria to be defined by the Commission in accordance with the procedure referred to in Article 141(2).

Article 44

Conditions for special entitlements

1. Save as otherwise provided for in this Regulation, payment entitlements established under Section 2 of Chapter 3 of Title III and Article 71m of Regulation (EC) No 1782/2003, as well as Article 60 and the fourth subparagraph of Article 65 of this Regulation (hereinafter referred to as 'special entitlements') shall be subject to the conditions laid down in paragraphs 2 and 3 of this Article.

2. By way of derogation from Article 34(1), a farmer who has special entitlements shall be authorised by the Member State to derogate from the requirement to activate his payment entitlements by an equivalent number of eligible hectares, provided that he maintains at least:

- (a) 50 % of the agricultural activity carried out in the reference period referred to in Regulation (EC) No 1782/2003, expressed in livestock units (LU); or,
- (b) in the case of special entitlements established under Article 60, 50 % of the agricultural activity carried out before the transition to the single payment scheme, expressed in LU; or,
- (c) in the case of Article 65, 50 % of the agricultural activity carried out during the application of Articles 67 and 68 of Regulation (EC) No 1782/2003, expressed in LU.

However, where a farmer has been allocated special entitlements both under Regulation (EC) No 1782/2003 and under this Regulation, he shall maintain at least 50 % of the highest of the levels of activity referred to in the first subparagraph.

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

3. In the case of a transfer of the special entitlements in 2009, 2010 and 2011, the transferee may benefit from the derogation provided for in paragraph 2 only if all of the special entitlements are transferred. From 2012, the transferee shall benefit from the derogation only in the case of actual or anticipated inheritance.

The first subparagraph shall not apply to Malta.

Article 45

Revision of payment entitlements

1. In duly justified cases, the Member States having introduced the single payment scheme in accordance with Chapters 1 to 4 of Title III of Regulation (EC) No 1782/2003 may decide, acting in compliance with the general principles of Community law, to move in or after 2010 towards approximating the value of payment entitlements.

Where that decision applies from 2010, it shall be taken by 1 August 2009. In any other case it shall be taken by 1 August 2010.

2. For the purpose of applying the first subparagraph of paragraph 1, the payment entitlements may be made subject to annual progressive modifications in accordance with objective and non-discriminatory criteria. If the modification results in a reduction in the value of the payment entitlements, it shall be made in at least three pre-established annual steps.

In none of the annual steps referred to in the first subparagraph shall the reduction in the value of any payment entitlement be more than 50 % of the difference between its initial and final value. Where the reduction in the value is less than 10 % of the initial value, Member States may apply fewer than three steps.

3. Member States may decide to apply this Article:

- (a) at the appropriate geographical level which shall be determined according to objective and non-discriminatory criteria such as their institutional or administrative structure and the agricultural potential; or
- (b) where Article 46(4) is applied, in the region defined in accordance with Article 46(2).

CHAPTER 2

Regional and partial implementation

Section 1

Regional implementation

Article 46

Regional allocation of the national ceilings referred to in Article 40

1. Having introduced the single payment scheme in accordance with Chapters 1 to 4 of Title III of Regulation (EC)

No 1782/2003, a Member State may decide to apply the single payment scheme in or after 2010 at regional level under the conditions laid down in this Section.

Where that decision applies from 2010, it shall be taken by 1 August 2009. In any other case it shall be taken by 1 August 2010.

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

Member States may consider their whole territory as one single region.

3. Member States shall divide the national ceilings referred to in Article 40 between the regions in accordance with objective and non-discriminatory criteria. Member States may decide that these regional ceilings shall be subject to annual progressive modifications in accordance with no more than three pre-established annual steps and objective and non-discriminatory criteria such as the agricultural potential or environmental criteria.

4. Where a Member State applying paragraphs 1, 2 and 3 of this Article decides not to apply Article 47, it shall, to the extent necessary to respect the applicable regional ceilings, adjust the value of the payment entitlements in each of its regions. To this end, the payment entitlements shall be subject to linear reductions or increases in their value. The total reduction in the value of the payment entitlements under this paragraph shall be limited to 10 % of their initial value.

5. If a Member State decides to apply both Article 45 and this Article, the reductions in the value of the payment entitlements referred to in paragraph 4 of this Article shall be taken into account for the calculation of the limits set in the second subparagraph of Article 45(2).

Article 47

Regionalisation of the single payment scheme

1. In duly justified cases, Member States may decide to divide no more than 50 % of the regional ceiling established under Article 46 between all the farmers whose holdings are located in the region concerned, including those who do not hold payment entitlements.

2. Farmers shall receive payment entitlements the unit value of which shall be calculated by dividing the corresponding part of the regional ceiling established under Article 46 by the number of eligible hectares established at regional level.

The value of these payment entitlements shall be increased in cases where, prior to the application of this Article, a farmer holds payment entitlements. To this end, the regional unit value of each of the farmer's payment entitlements shall be increased by an amount calculated on the basis of the total value of the payment entitlements which the farmer held by a date to be fixed by the Member State concerned. These increases shall be calculated within the limits of the remaining part of the regional ceiling after application of paragraph 1 of this Article.

3. The number of payment entitlements per farmer shall be equal to the number of hectares the farmer declares in the year of application of the single payment scheme at regional level, as referred to in Article 46(1), in accordance with Article 34(2), except in the case of *force majeure* or exceptional circumstances.

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

Article 48

Revision of payment entitlements

1. In duly justified cases, the Member States applying Article 47 may decide, acting in compliance with the general principles of Community law, to move, in the year following the application of the single payment scheme at regional level as referred to in Article 46(1), towards approximating the value of the payment entitlements established under this Section.

Where that decision applies from 2010, it shall be taken by 1 August 2009. In any other case it shall be taken by 1 August 2010.

For the purpose of applying the first subparagraph, the payment entitlements may be made subject to annual progressive modifications in accordance with objective and non-discriminatory criteria. If the modification results in a reduction in the value of the payment entitlements, it shall be made in at least two pre-established annual steps.

2. In duly justified cases, the Member States having introduced the single payment scheme in accordance with Section 1 of Chapter 5 or Chapter 6 of Title III of Regulation (EC) No 1782/2003 may decide, acting in compliance with the general principles of Community law, to move, in or after 2010, towards approximating the value of the payment entitlements.

Where that decision applies from 2010, it shall be taken by 1 August 2009. In any other case it shall be taken by 1 August 2010.

For the purpose of applying the first subparagraph, the payment entitlements shall be subject to annual progressive modifications

in accordance with objective and non-discriminatory criteria. If the modification results in a reduction in the value of the payment entitlements, it shall be made in at least three pre-established annual steps.

The first subparagraph shall apply without prejudice to the decisions taken by Member States pursuant to Article 63(3) of Regulation (EC) No 1782/2003. The Member States concerned may derogate from the minimum number of steps provided for in the first subparagraph and the limits established in paragraph 3 of this Article.

3. In none of the annual steps referred to in paragraphs 1 and 2 shall the reduction in the value of any payment entitlement be more than 50 % of the difference between its initial and final value. Where the reduction in the value is less than 10 % of the initial value, Member States may apply fewer than three steps.

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

Article 49

Grassland

When applying Article 47, Member States may, in accordance with objective and non-discriminatory criteria, determine, within the regional ceiling established under Article 46 or part of it, different per unit values of the payment entitlements to be allocated to the farmers referred to in Article 47(1):

- (a) for hectares under grassland on the date set for the area aid applications for 2008 and for any other eligible hectare; or
- (b) for hectares under permanent pasture on the date set for the area aid applications for 2008 and for any other eligible hectare.

Article 50

Conditions for the payment entitlements established under this Section

1. Payment entitlements established in accordance with this Section or with Section 1 of Chapter 5 or Chapter 6 of Title III of Regulation (EC) No 1782/2003 may only be transferred or used within the same region or between regions where the value of the payment entitlements per hectare is the same.

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

Section 2

Partial implementation*Article 51***General provisions**

1. The Member States having granted payments in the sheepmeat and goatmeat sector or the beef and veal payments in accordance with Section 2 of Chapter 5 of Title III of Regulation (EC) No 1782/2003 may decide, by 1 August 2009, to continue to grant these payments under the conditions laid down in this Section. They may also decide to set the part of the component of their national ceilings to be used to grant these payments at a lower level than that decided in accordance with Article 64(2) of Regulation (EC) No 1782/2003. Where a Member State does not take that decision, the payments shall be integrated into the single payment scheme from 2010 in accordance with Article 66 of this Regulation.

In the case of the beef and veal payments referred to in Article 53(2) of this Regulation, Member States may also decide, by 1 August 2010, not to grant these payments but to integrate them into the single payment scheme from 2011 in accordance with Article 66 of this Regulation.

Where a Member State excluded all or part of the fruit and vegetable payments from the single payment scheme pursuant to Article 68b of Regulation (EC) No 1782/2003, it may:

- (a) from 2010, grant the fruit and vegetable payments under the conditions laid down in this Section and in accordance with the decision taken on the basis of Article 68b(1) and (2) or 143bc(1) and (2) of Regulation (EC) No 1782/2003; or
- (b) decide, by 1 August 2009, to integrate the fruit and vegetable payments excluded from the single payment scheme pursuant to Article 68b of Regulation (EC) No 1782/2003 into the single payment scheme, in accordance with Article 66 of this Regulation; or
- (c) decide, by 1 August 2009 to grant the transitional fruit and vegetable payment under the conditions laid down in this Section and at a lower level than that decided in accordance with Article 68b of Regulation (EC) No 1782/2003.

The new Member States having applied the single area payment scheme may decide, when introducing the single payment scheme, to grant the payments referred to in the first subparagraph under the conditions laid down in this Section. In the case of the transitional fruit and vegetables payment, the new Member States not having applied Article 143bc of Regulation (EC) No 1782/2003 shall not apply Article 54 of this Regulation. Furthermore, in the case of the transitional fruit and vegetable payment, the new Member States shall take into account, where relevant, Article 128(3) of this Regulation.

2. On the basis of the choice made by each Member State, the Commission shall determine, in accordance with the proce-

cedure referred to in Article 141(2), a ceiling for each of the direct payments referred to in Articles 52, 53 and 54.

This ceiling shall be equal to the component of each type of direct payment in the national ceilings referred to in Article 40, multiplied by the percentages of reduction applied by Member States in accordance with Articles 52, 53 and 54.

*Article 52***Sheepmeat and goatmeat payments**

Member States may retain up to 50 % of the component of the national ceilings referred to in Article 40 of this Regulation corresponding to payments in the sheepmeat and goatmeat sector listed in Annex VI to Regulation (EC) No 1782/2003. In this case they shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted to farmers rearing sheep and goats, under the conditions provided for in Section 10 of Chapter 1 of Title IV of this Regulation and within the ceiling determined in accordance with Article 51(2) of this Regulation.

*Article 53***Beef and veal payments**

1. The Member States having applied Article 68(2)(a)(i) of Regulation (EC) No 1782/2003 and the new Member States having applied the single area payment scheme may retain all or part of the component of the national ceilings referred to in Article 40 of this Regulation corresponding to the suckler cow premium referred to in Annex VI to Regulation (EC) No 1782/2003. In these cases they shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted for maintaining suckler cows, under the conditions provided for in Section 11 of Chapter 1 of Title IV of this Regulation and within the ceiling determined in accordance with Article 51(2) of this Regulation.

2. In 2010 and 2011, the Member States having applied Article 68(1), Article 68(2)(a)(ii) or Article 68(2)(b) of Regulation (EC) No 1782/2003 and the new Member States having applied the single area payment scheme may retain all or part of the national ceilings referred to in Article 40 of this Regulation corresponding to the slaughtering premium for calves, the slaughtering premium for bovine animals other than calves or the special male premium. In these cases, they shall make an additional payment to farmers. The additional payments shall be granted for the slaughtering of calves, for the slaughtering of bovine animals other than calves and for holding male bovine animals, under the conditions provided for in Section 11 of Chapter 1 of Title IV of this Regulation and within the ceiling determined in accordance with Article 51(2) of this Regulation.

Article 54

Transitional fruit and vegetables payments

1. Member States may retain, until 31 December 2011, up to 50 % of the component of the national ceilings referred to in Article 40 corresponding to support for the production of tomatoes.

In this case and within the ceiling determined in accordance with Article 51(2), the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted to farmers producing tomatoes, under the conditions provided for in Section 8 of Chapter 1 of Title IV.

2. Member States may retain:

- (a) until 31 December 2010, up to 100 % of the component of the national ceilings referred to in Article 40 of this Regulation corresponding to support for the production of fruit and vegetable crops other than annual crops listed in the third subparagraph of this paragraph which are supplied for processing and were eligible under the aid schemes set out in Regulations (EC) No 2201/96 and (EC) No 2202/96; and
- (b) from 1 January 2011 until 31 December 2012, up to 75 % of the component of the national ceilings referred to in Article 40 of this Regulation corresponding to support for the production of fruit and vegetable crops other than annual crops listed in the third subparagraph of this paragraph which are supplied for processing and were eligible under the aid schemes set out in Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organization of the markets in processed fruit and vegetable products ⁽¹⁾ and Council Regulation (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruits ⁽²⁾.

In this case and within the ceiling determined in accordance with Article 51(2) of this Regulation, the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted to farmers producing one or more of the following fruit and vegetables, as determined by the Member State concerned, under the conditions provided for in Section 8 of Chapter 1 of Title IV:

- (a) fresh figs;
- (b) fresh citrus fruits;
- (c) table grapes;

⁽¹⁾ OJ L 297, 21.11.1996, p. 29.

⁽²⁾ OJ L 297, 21.11.1996, p. 49.

(d) pears;

(e) peaches and nectarines; and

(f) 'd'Ente' plums.

3. The components of the national ceilings referred to in paragraphs 1 and 2 are those set out in Annex X.

CHAPTER 3

Implementation in the new Member States having applied the single area payment scheme

Article 55

Introduction of the single payment scheme in the Member States having applied the single area payment scheme

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

Article 41 and Section 1 of Chapter 2 shall not apply.

2. Any new Member State having applied the single area payment scheme shall take the decisions referred to in Article 51(1) and Article 69(1) by 1 August of the year preceding that in respect of which it will apply the single payment scheme for the first time.

3. Except for Bulgaria and Romania, any new Member State having applied the single area payment scheme may provide that, in addition to the eligibility conditions established in Article 34(2), 'eligible hectare' shall mean any agricultural area of the holding which has been maintained in good agricultural condition on 30 June 2003, whether or not in production at that date.

Article 56

Application for support

1. Farmers shall apply for support under the single payment scheme by a date to be determined by the new Member States, but no later than 15 May.

2. Except in the case of *force majeure* or exceptional circumstances, payment entitlements shall be allocated only to those farmers who have applied for the single payment scheme by 15 May of the first year of application of the single payment scheme.

Article 57

National reserve

1. Each new Member State shall make a linear percentage reduction in its national ceiling referred to in Article 40 in order to constitute a national reserve.
2. The new Member States shall use the national reserve for the purpose of allocating, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, payment entitlements to farmers placed in a special situation to be defined by the Commission in accordance with the procedure referred to in Article 141(2).
3. During the first year of application of the single payment scheme, the new Member States may use the national reserve for the purpose of allocating, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, payment entitlements to farmers in specific sectors placed in a special situation as a result of the transition to the single payment scheme.
4. The new Member States may use the national reserve to allocate payment entitlements to farmers who have commenced their agricultural activity after 1 January of the first year of application of the single payment scheme and who have not received any direct payment in that year, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions.
5. The new Member States not applying Article 68(1)(c) may use the national reserve for the purpose of allocating, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, payment entitlements to farmers in areas subject to restructuring and/or development programmes relating to one or the other form of public intervention in order to ensure against land being abandoned and to compensate farmers for specific disadvantages in those areas.
6. For the purposes of applying paragraphs 2 to 5, the new Member States may increase the unit value of the payment entitlements held by the farmer concerned, within the limit of EUR 5 000, or may allocate new payment entitlements to the farmer concerned.
7. The new Member States shall make linear reductions in the payment entitlements where their national reserve is not sufficient to cover the cases referred to in paragraphs 2, 3 and 4.

Article 58

Regional allocation of the national ceilings referred to in Article 40

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

2. The new Member States shall define the regions in accordance with objective and non-discriminatory criteria.

3. Where applicable, the new Member State shall divide the national ceiling referred to in Article 40 after any reduction provided for in Article 57 between the regions in accordance with objective and non-discriminatory criteria.

Article 59

Allocation of payment entitlements

1. Farmers shall receive payment entitlements, the unit value of which shall be calculated by dividing the applicable national ceiling referred to in Article 40 after any reduction provided for in Article 57 by the number of payment entitlements established at national level in accordance with paragraph 2 of this Article.
2. Except in the case of *force majeure* or exceptional circumstances, the number of payment entitlements per farmer shall be equal to the number of hectares the farmer declares in accordance with Article 35(1) for the first year of application of the single payment scheme.
3. By way of derogation from paragraph 2, the new Member States may decide that, except in the case of *force majeure* or exceptional circumstances, the number of payment entitlements per farmer shall be equal to the average annual number of all hectares which during one or more years of a representative period to be fixed by the Member State but no later than 2008 conferred a right to the single area payment.

However, where a farmer has commenced agricultural activity in the representative period, the average number of hectares shall be based on the payments he was granted in the calendar year or years during which he exercised the agricultural activity.

Article 60

Farmers with no eligible hectares

A farmer acting in the beef and veal sector, dairy sector or sheepmeat and goatmeat sector who is entitled to receive payment entitlements in accordance with Article 57(3) and Article 59 for which he does not have eligible hectares in the first year of implementation of the single payment scheme shall be allocated special entitlements, not exceeding EUR 5 000 per entitlement, as referred to in Article 44.

Article 61

Grassland

The new Member States may also, in accordance with objective and non-discriminatory criteria, determine, within the regional ceiling established under Article 58 or part of it, different per unit values of the payment entitlements to be allocated to farmers referred to in Article 59(1):

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

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

Article 62

Conditions for payment entitlements

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

2. The new Member States may, acting in compliance with the general principles of Community law, decide to approximate the value of the payment entitlements established in accordance with this Chapter. This decision shall be taken by 1 August of the year preceding the first year of application of the single payment scheme.

For the purpose of applying the first subparagraph, the payment entitlements shall be made subject to annual progressive modifications in accordance with objective and non-discriminatory criteria and in pre-established annual steps.

3. Except in the case of *force majeure* or exceptional circumstances, a farmer may transfer his payment entitlements without land only after he has activated, within the meaning of Article 34, at least 80 % of his payment entitlements during at least one calendar year or after he has surrendered voluntarily to the national reserve all the payment entitlements he has not used in the first year of application of the single payment scheme.

CHAPTER 4

Integration of coupled support into the single payment scheme

Article 63

Integration of coupled support into the single payment scheme

1. As from 2010, Member States shall integrate the support available under the coupled support schemes referred to in Annex XI into the single payment scheme in accordance with the rules laid down in Articles 64, 65, 66 and 67.

2. By way of derogation from paragraph 1:

- (a) the Member States having introduced the single payment scheme in accordance with Chapters 1 to 4 of Title III of Regulation (EC) No 1782/2003 may decide to use all or part of the support referred to in paragraph 1 to establish payment entitlements or to increase the value of the payment entitlements on the basis of the type of agricultural activities exercised by farmers during one or more years in the period 2005 to 2008 and in accordance with objective and non-discriminatory criteria such as the agricultural potential or environmental criteria;

- (b) the Member States having introduced the single payment scheme in accordance with Section 1 of Chapter 5 or Chapter 6 of Title III of Regulation (EC) No 1782/2003 or making use of the option provided for in Article 47 of this Regulation may decide to use all or part of the support referred to in paragraph 1 to increase the value of all payment entitlements by a supplementary amount corresponding to the increase of the regional ceiling divided by the total number of payment entitlements.

Member States may also differentiate the increase in value of the payment entitlements by taking into account the criteria referred to in Article 64(1) of this Regulation or on the basis of the type of agricultural activities exercised by farmers during one or more years in the period 2005 to 2008 and in accordance with objective and non-discriminatory criteria such as the agricultural potential or environmental criteria.

3. Where a Member State makes use of the derogation provided for in paragraph 2(a), it shall take adequate measures to ensure that farmers having benefited from the support referred to in paragraph 1 are not excluded from the single payment scheme. In particular, it shall make sure that the overall support the farmer will receive after the integration of the coupled support schemes referred to paragraph 1 into the single payment scheme does not fall below 75 % of the average annual support the farmer received under all the direct payments during the relevant reference periods referred to in Articles 64, 65 and 66.

Article 64

Integration of coupled support excluded from the single payment scheme

1. The amounts referred to in Annex XII that were available for coupled support under the schemes referred to in points 1 and 2 of Annex XI shall be distributed by the Member States amongst the farmers in the sectors concerned in accordance with objective and non-discriminatory criteria, taking account, in particular, of support that those farmers received, directly or indirectly, under the relevant support schemes during one or more years in the period 2005 to 2008. In the case of the potato starch schemes referred to in points 1 and 2 of Annex XI, Member States may distribute the amounts available under those schemes taking into account the quantities of potato covered by cultivation contracts between the potato producer and the starch manufacturer within the limit of the quota allocated to that manufacturer, as referred to in Article 84a of Regulation (EC) No 1234/2007, in a given year.

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

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

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

- (a) the number of which shall be equal to the number of hectares he declares in accordance with Article 35(1) in respect of the year of integration of the coupled support scheme into the single payment scheme;
- (b) the value of which shall be established by dividing the amount resulting from the application of paragraph 1 by the number established in accordance with point (a) of this subparagraph.

3. However, where the amount per aid scheme is lower than EUR 250 000, the Member State concerned may decide not to distribute the amounts and add them to the national reserve.

Article 65

Integration of coupled support partially excluded from the single payment scheme

The amounts that were available for coupled support under the schemes referred to in point 3 of Annex XI shall be distributed by the Member States amongst the farmers in the sectors concerned in proportion to the support that those farmers received under the relevant support schemes during the relevant reference periods referred to in Regulation (EC) No 1782/2003.

Member States may, however, choose a more recent representative period in accordance with objective and non-discriminatory criteria and, where a Member State introduced the single payment scheme in accordance with Section 1 of Chapter 5 or Chapter 6 of Title III of Regulation (EC) No 1782/2003 or where it makes use of the option provided in Article 47 of this Regulation, in accordance with Article 63(2)(b) of this Regulation.

Member States shall increase the value of the payment entitlements of the farmers concerned or allocate payment entitlements in accordance with Article 64(2) of this Regulation.

Where a farmer that received payments under Articles 67 and 68 of Regulation (EC) No 1782/2003 would be entitled to receive payment entitlements in accordance with this Article for which he does not have eligible hectares in the year of integration of the coupled support scheme into the single payment scheme or where his payment entitlement per hectare results in an amount higher than EUR 5 000, he shall be allocated special entitlements as referred to in Article 44, not exceeding EUR 5 000 per entitlement.

Article 66

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

Where a Member State:

- (a) does not take the decision referred to in the first subparagraph of Article 51(1);
- (b) decides not to grant the beef and veal payments referred to in Article 53(2) from 2011, in application of the second subparagraph of Article 51(1); or
- (c) decides not to grant the fruit and vegetable payments in application of the third subparagraph of Article 51(1),

the amounts that were available for coupled support under the schemes referred to in point 4 of Annex XI shall be integrated into the single payment scheme in accordance with Article 65.

Article 67

Advanced integration of coupled support into the single payment scheme

Member States may decide, by 1 August 2009, to integrate the seed aid referred to in Section 5 of Title IV and the schemes referred to in point 1 of Annex XI, with the exception of the specific quality premium for durum wheat, into the single payment scheme in 2010 or 2011. In this case, the Commission, in accordance with the procedure referred to in Article 141(2), shall adjust the national ceilings referred to in Article 40 by adding the amounts from Annex XII for the aid scheme concerned.

CHAPTER 5

Specific support

Article 68

General rules

1. Member States may grant specific support to farmers under the conditions laid down in this Chapter:

- (a) for:
 - (i) specific types of farming which are important for the protection or enhancement of the environment;
 - (ii) improving the quality of agricultural products;
 - (iii) improving the marketing of agricultural products;
 - (iv) practising enhanced animal welfare standards;
 - (v) specific agricultural activities entailing additional agri-environment benefits;

- (b) to address specific disadvantages affecting farmers in the dairy, beef and veal, sheepmeat and goatmeat and rice sectors in economically vulnerable or environmentally sensitive areas, or, in the same sectors, for economically vulnerable types of farming;
- (c) in areas subject to restructuring and/or development programmes in order to ensure against land being abandoned and/or to address specific disadvantages for farmers in those areas;
- (d) in the form of contributions to crop, animal and plant insurance premiums in accordance with the conditions set out in Article 70;
- (e) by way of mutual funds for animal and plant diseases and environmental incidents in accordance with the conditions set out in Article 71.

2. The support referred to in paragraph 1(a) may only be granted if:

- (a) as regards the specific agricultural activities referred to in paragraph 1(a)(v):
 - (i) it respects the requirements set out in the first subparagraph of Article 39(3) of Regulation (EC) No 1698/2005, and only for the coverage of the additional costs actually incurred and income foregone in order to fulfil the objective concerned; and
 - (ii) it has been approved by the Commission;
- (b) as regards improving the quality of agricultural products referred to in paragraph 1(a)(ii), it is consistent with Council Regulation (EC) No 509/2006 of 20 March 2006 on agricultural products and foodstuffs as traditional specialties guaranteed ⁽¹⁾, Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽²⁾, Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products ⁽³⁾ and Chapter 1 of Title II of Part II of Regulation (EC) No 1234/2007;
- (c) as regards improving the marketing of agricultural products referred to in paragraph 1(a)(iii), it satisfies the criteria laid down in Articles 2 to 5 of Council Regulation (EC) No 3/2008 of 17 December 2007 on information provision and promotion measures for agricultural products on the internal market and in third countries ⁽⁴⁾.

3. The support referred to in paragraph 1(b) of this Article may only be granted to the extent necessary to create an incentive to maintain current levels of production.

For the sheepmeat and goatmeat and beef and veal sectors, if that support is applied together with the support granted under

Articles 52 and 53, the total shall not exceed, respectively, the financial envelope of support obtained after applying the maximum percentage of retention set out in Articles 67 and 68 of Regulation (EC) No 1782/2003.

For the rice sector, the support referred to in paragraph 1(b) of this Article may be granted only from the calendar year where the Member States integrates the crop specific payment for rice provided for in Section 1 of Chapter 1 of Title IV into the single payment scheme.

4. The support referred to:

- (a) in paragraph 1(a) and (d) of this Article shall take the form of annual additional payments;
- (b) in paragraph 1(b) of this Article shall take the form of annual additional payments such as headage payments or grassland premiums;
- (c) in paragraph 1(c) of this Article shall take the form of an increase in the unit value and/or the number of the farmer's payment entitlements;
- (d) in paragraph 1(e) of this Article shall take the form of compensation payments as specified in Article 71.

5. The transfer of payment entitlements with increased unit values and of additional payment entitlements referred to in paragraph 4(c) may only be allowed if the transferred entitlements are accompanied by the transfer of an equivalent number of hectares.

6. Any support granted under paragraph 1 shall be consistent with other Community measures and policies.

7. The Commission, in accordance with the procedure referred to in Article 141(2), shall define the conditions for the Commission approval referred in paragraph 2(a)(ii) of this Article and the conditions for granting of the support referred to in this Section, in particular with a view to ensuring consistency with other Community measures and policies and to avoid cumulation of support.

8. By 1 August 2011, the Member States that took the decision referred to in Article 69(1) may review it and decide, from 2012, to:

- (a) modify the amounts for the funding of the support referred to in this Chapter, within the limits of Article 69; or
- (b) put an end to the application of specific support under this Chapter.

According to the decision taken by each Member State pursuant to the first subparagraph of this paragraph, the Commission shall fix, in accordance with the procedure referred to in Article 141(2), the corresponding ceiling for that support.

⁽¹⁾ OJ L 93, 31.3.2006, p. 1.

⁽²⁾ OJ L 93, 31.3.2006, p. 12.

⁽³⁾ OJ L 189, 20.7.2007, p. 1.

⁽⁴⁾ OJ L 3, 5.1.2008, p. 1.

Where a Member State decides to put an end to the application of this Chapter or where it reduces the amounts used for its funding, Article 72(2) shall apply.

Article 69

Financial provisions for specific support

1. Member States may decide, by 1 August 2009, 1 August 2010 or 1 August 2011, to use from the year following that decision up to 10 % of their national ceiling referred to in Article 40, or, in the case of Malta, the amount of EUR 2 000 000 for the specific support provided for in Article 68(1).

2. Member States may apply the 10 % retention on a sectoral basis by retaining up to 10 % of the component of their national ceiling referred to in Article 41 of Regulation (EC) No 1782/2003 corresponding to any sector referred to in Annex VI of that Regulation. The funds retained may only be used for the application of the support referred to in Article 68(1) of this Regulation in the sectors concerned by the retention.

3. According to the decision made by each Member State pursuant to paragraph 1 on the amount of national ceiling to be used, the Commission shall fix, in accordance with the procedure referred to in Article 141(2), the corresponding ceiling for that support.

For the sole purpose of ensuring compliance with the national ceilings as provided for in Article 40(2), the amounts used to grant the support referred to in point (c) of Article 68(1) shall be deducted from the national ceiling referred to in Article 40(1). They shall be counted as allocated payment entitlements.

4. Support provided for in points (i), (ii), (iii) and (iv) of paragraph 1(a) and paragraphs 1(b) and (e) of Article 68 shall be limited to 3,5 % of the national ceilings referred to in Article 40 or, in the case of Malta, to the amount of EUR 2 000 000, referred to in Article 69(1) of this Regulation, to be used in particular for the funding of the measures referred to in Article 68(1)(b) in the dairy sector.

Member States may set sub-limits per measure.

5. By way of derogation from paragraph 4, during calendar years 2010 to 2013, in those Member States which granted support with regard to suckler cows in accordance with Article 69 of Regulation (EC) No 1782/2003 while not having applied the option provided for in Article 68(2)(a)(i) of that Regulation, the limit set out in paragraph 4 shall be set at 6 % of their national ceiling referred to in Article 40. Furthermore, in Member States where more than 60 % of their milk production takes place north of the 62nd parallel, that limit shall be set at 10 % of their national ceiling referred to in Article 40.

However, any support exceeding 3,5 % of the national ceiling referred to in Article 40 shall be used exclusively for the

funding of measures referred to in Article 68(1)(b) of this Regulation in the dairy and beef and veal sectors.

The Commission shall present to the Council a report on the application of this paragraph by 31 December 2013.

6. Member States shall raise the funds needed to cover the support provided:

- (a) in Article 68(1) by using an amount to be calculated by the Commission in accordance with paragraph 7 of this Article and fixed in accordance with the procedure referred to in Article 141(2); and/or
- (b) in Article 68(1)(a), (b), (c) and (d) by making a linear reduction in the value of the payment entitlements allocated to farmers and/or in the direct payments referred to in Articles 52 and 53 and/or in the national reserve;
- (c) in Article 68(1)(e) by making, if necessary, a linear reduction in one or more of the payments to be made to the beneficiaries of the relevant payments in accordance with this Title and within the limits set out in paragraphs 1 and 4 of this Article.

For the sole purpose of ensuring compliance with the national ceilings provided for in Article 40(2), where a Member State makes use of the option provided for in point (a) of the first subparagraph of this paragraph, the amount concerned shall not be counted as part of the ceilings fixed under paragraph 3 of this Article.

7. The amounts referred to in paragraph 6(a) of this Article shall be equal to the difference between:

- (a) the national ceilings determined in Annex VIII or Annex VIIIa of Regulation (EC) No 1782/2003 for 2007 after application of Article 10(1) of that Regulation and Article 4(1) of Regulation (EC) No 378/2007 and after reduction by 0,5 %; and
- (b) the budget execution for financial year 2008 of the single payment scheme and the payments referred to in Sections 2 and 3 of Chapter 5 of Title III of Regulation (EC) No 1782/2003 with regard to payments in respect of the 2007 reduced ceiling referred to in point (a) of this subparagraph.

In no case shall this amount be higher than 4 % of the ceiling referred to in point (a) of the first subparagraph of this paragraph.

For the new Member States having applied the single payment scheme in 2007, this amount shall be multiplied by 1,75 in 2010, 2 in 2011, 2,25 in 2012 and 2,5 from 2013 onwards.

Upon request from a Member State, the Commission shall revise the established amounts in accordance with the procedure referred to in Article 141(2) of this Regulation and on the basis of detailed rules to be laid down in accordance with the same procedure.

The use by Member States of such amounts shall be without prejudice to the application of Article 8 of this Regulation.

8. The decision referred to in paragraph 1 of this Article, in Article 68(8) and in Article 131(1) shall determine the measures to be applied and cover all further implementing arrangements relevant to the application of this Chapter, including the description of the eligibility conditions for the measures to be applied, the amount concerned and the financial resources to be raised.

9. The new Member States may decide to apply paragraphs 1, 2, 4, 5 and 6 of this Article and Article 131(1) on the basis of their national ceilings:

- (a) specified for the year 2016 in the case of Bulgaria and Romania;
- (b) specified for the year 2013 for the other new Member States.

In that case, Article 132 shall not apply to the measures taken in accordance with this Article.

Article 70

Crop, animal, and plant insurance

1. Member States may grant financial contributions to premiums for crop, animal and plant insurance against economic losses caused by adverse climatic events and animal or plant diseases or pest infestation.

For the purpose of this Article:

- (a) 'adverse climatic event' shall mean weather conditions which can be assimilated to a natural disaster, such as frost, hail, ice, rain or drought;
- (b) 'animal diseases' shall mean diseases mentioned in the list of animal diseases established by the World Organisation for Animal Health and/or in the Annex to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾;
- (c) 'economic losses' shall mean any additional cost incurred by a farmer as a result of exceptional measures taken by the farmer with the objective of reducing supply on the market concerned or any substantial loss of production.

2. A financial contribution may only be granted for loss caused by an adverse climatic event or by an animal or plant disease or a pest infestation which destroys more than 30 % of the average annual production of the farmer in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and lowest entry.

⁽¹⁾ OJ L 224, 18.8.1990, p. 19.

3. The financial contribution granted per farmer shall not exceed 65 % of the insurance premium due.

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

4. Coverage by crop and/or animal and/or plant insurance shall only be available where the occurrence of an adverse climatic event or the outbreak of an animal or plant disease or pest infestation has been formally recognised as such by the competent authority of the Member State concerned.

Member States may, where appropriate, establish in advance criteria on the basis of which such formal recognition shall be deemed to be granted.

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

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

7. Member States' expenditure on the granting of financial contributions shall be co-financed by the Community from the funds referred to in Article 69(1) at a rate of 75 % of the financial contribution.

The first subparagraph shall not prejudice any powers of Member States to cover their participation in the financing of the financial contributions and the part of the insurance premium to be borne by farmers in full or in part through compulsory collective liability schemes in the sectors concerned. This shall be possible notwithstanding Articles 125l and 125n of Regulation (EC) No 1234/2007.

8. Member States shall ensure that economic losses for which compensation is granted in accordance with other Community provisions, including Article 44 of Regulation (EC) No 1234/2007 and any other health and veterinary or plant health measures, shall not be further compensated in accordance with the first subparagraph of paragraph 1.

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

Article 71

Mutual funds for animal and plant diseases and environmental incidents

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

2. For the purpose of this Article:

- (a) 'mutual fund' shall mean a scheme accredited by the Member State in accordance with its national law for affiliated farmers to insure themselves, whereby compensation payments are made to such farmers affected by economic losses caused by the outbreak of an animal or plant disease or an environmental incident;
- (b) 'economic losses' shall mean any additional cost incurred by a farmer as a result of exceptional measures taken by the farmer with the objective of reducing supply on the market concerned or any substantial loss of production;
- (c) 'an environmental incident' shall mean a specific occurrence of pollution, contamination or degradation in the quality of the environment related to a specific event and of limited geographical scope. It shall not cover general environmental risks not connected with a specific event, such as climate change or acid rain.

3. As regards animal diseases, financial compensation may only be granted in respect of diseases mentioned in the list of animal diseases established by the World Organisation for Animal Health and/or in the Annex to Decision 90/424/EEC.

4. Member States shall ensure that economic losses for which financial compensation is granted in accordance with other Community provisions, including Article 44 of Regulation (EC) No 1234/2007 and any other health and veterinary or plant health measures, shall not be further compensated in accordance with paragraph 1.

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

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

- (a) capital stock contributed to the funds by affiliated and non-affiliated farmers or by other operators in the agricultural chain; or
- (b) loans taken out by the funds on commercial terms; and
- (c) any amounts recovered in accordance with paragraph 11.

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

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

- (a) the administrative costs of setting up the mutual fund, spread over a maximum of three years;
- (b) the repayment of the capital and interest on commercial loans taken out by the mutual fund for the purpose of paying financial compensation to farmers;
- (c) the amounts paid by the mutual fund from its capital stock as financial compensation to farmers.

The minimum and maximum duration of the commercial loans eligible for a financial contribution shall be determined by the Commission in accordance with the procedure referred to in Article 141(2).

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

7. Any financial contribution shall not exceed 65 % of the cost referred to in paragraph 6. Any cost not covered by financial contributions shall be borne by the affiliated farmers.

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

- (a) ceilings per fund;
- (b) appropriate per unit ceilings.

8. Member States' expenditure on the financial contributions shall be co-financed by the Community from the funds referred to in Article 69(1) at a rate of 75 %.

The first subparagraph shall not prejudice any powers of Member States to cover their participation and/or the participation of affiliated farmers in the financing of the financial contributions in full or in part through compulsory collective liability schemes in the sectors concerned. This shall be possible notwithstanding Articles 125l and 125n of Regulation (EC) No 1234/2007.

9. Member States shall define the rules for the constitution and management of the mutual funds, in particular for the granting of compensation payments to farmers in the event of crisis and for the administration and monitoring of compliance with these rules.

10. Member States shall submit to the Commission an annual report on the implementation of this Article. The form, content, timing and deadlines of the report shall be laid down by the Commission in accordance with the procedure referred to in Article 141(2).

11. Where a farmer is granted financial compensation by a mutual fund under this Article any legal right for the recovery of damages for the compensated economic losses which the farmer may have under any provisions of Community or national law against any third party shall be transferred to the mutual fund in accordance with rules to be established by the Member State concerned.

Article 72

Transitional provisions

1. Where a Member State applied Article 69 of Regulation (EC) No 1782/2003, the amounts retained under that Article shall be integrated into the single payment scheme in accordance with Article 65 of this Regulation.

2. By way of derogation from the first paragraph, where a Member State having applied Article 69 of Regulation (EC) No 1782/2003 decides to apply the specific support provided for in this Chapter, it may use the amounts retained under Article 69 of Regulation (EC) No 1782/2003 to cover the funding needs referred to in Article 69(6) of this Regulation. Should the funding needs referred to in Article 69(6) be lower than the amounts retained under Article 69 of Regulation (EC) No 1782/2003, the difference shall be integrated into the single payment scheme in accordance with Article 65 of this Regulation.

3. Where a Member State having applied under Article 69 of Regulation (EC) No 1782/2003 measures not compatible with this Chapter decides to apply the specific support provided for in this Chapter, it may decide, by 1 August 2009, to apply under Article 68 of this Regulation the measures communicated to the Commission under Article 69 of Regulation (EC) No 1782/2003 and its implementing rules during 2010, 2011 and 2012. By way of derogation from Article 69(4), the total support under the measures referred to in Article 68(1)(a), (b) and (e) may be limited to the ceiling fixed for the relevant Member State in the application of Article 69 of Regulation (EC) No 1782/2003.

In this case, Member States may also decide, by 1 August 2009, to adjust such measures annually towards making them compatible with this Chapter. Where a Member State decides not to make the measures compatible, the amounts concerned shall be integrated into the single payment scheme in accordance with Article 65 of this Regulation.

4. Member States may grant the support provided for in this Chapter from 2009 provided that, by way of derogation from Article 69(6) of this Regulation, they finance the support referred to in Article 68(1) only by using the amounts of the national reserve and that national provisions are in place by the deadline fixed by the Member State for the lodging of the aid application.

TITLE IV

OTHER AID SCHEMES

CHAPTER 1

Community aid schemes

Section 1

Crop specific payment for rice

Article 73

Scope

For 2009, 2010 and 2011, aid shall be granted to farmers producing rice falling within CN code 1006 10 under the conditions laid down in this Section ('crop specific payment for rice').

Article 74

Conditions and amount of the aid

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

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

2. The amount of the crop specific payment for rice shall be as follows, according to the yields in the Member States concerned:

Member State	EUR/ha
Bulgaria	345,255
Greece	561,00
Spain	476,25
France	
— metropolitan territory	411,75
— French Guyana	563,25
Italy	453,00
Hungary	232,50
Portugal	453,75
Romania	126,075

*Article 75***Areas**

The following base areas are hereby established for each producing Member State:

Member State	base areas (ha)
Bulgaria	4 166
Greece	20 333
Spain	104 973
France	
— metropolitan territory	19 050
— for 2009 only, French Guyana	4 190
Italy	219 588
Hungary	3 222
Portugal	24 667
Romania	500

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

*Article 76***Overrun of the areas**

1. Where, in a Member State, the area given over to rice in a given year exceeds the base area established in Article 75, the area per farmer for which the crop specific payment for rice is claimed shall be reduced proportionately in that year.

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

*Section 2***Aid for starch potato growers***Article 77***Scope and amount of the aid**

For the marketing years 2009/2010, 2010/2011 and 2011/2012, aid shall be granted for farmers producing potatoes

intended for the manufacture of potato starch under the conditions laid down in this Section ('aid for starch potato growers').

The aid shall be EUR 66,32 for the quantity of potatoes needed for making one tonne of starch.

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

*Article 78***Conditions**

The aid for starch potato growers shall be paid only in respect of the quantity of potatoes covered by a cultivation contract between the potato producer and the potato starch manufacturer within the limit of the quota allocated to that potato starch manufacturer in accordance with Article 84a(2) of Regulation (EC) No 1234/2007.

*Section 3***Protein crop premium***Article 79***Scope**

For 2009, 2010 and 2011, aid shall be granted to farmers producing protein crops under the conditions laid down in this Section ('protein crop premium').

Protein crops shall include:

- (a) peas falling within CN code 0713 10;
- (b) field beans falling within CN code 0713 50;
- (c) sweet lupins falling within CN code ex 1209 29 50.

*Article 80***Amount and eligibility**

The protein crop premium shall be EUR 55,57 per hectare of protein crops harvested after the stage of lactic ripeness.

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

*Article 81***Area**

1. A maximum guaranteed area of 1 648 000 ha for which the protein crop premium may be granted is hereby established.

2. Where the area for which the protein crop premium is claimed exceeds the maximum guaranteed area, the area per farmer for which the protein crop premium is claimed shall be reduced proportionately in that year in accordance with the procedure referred to in Article 141(2).

3. Where, in accordance with Article 67, a Member State decides to integrate the protein crop premium provided for in this Section into the single payment scheme, the Commission, in accordance with the procedure referred to in Article 141(2), shall reduce the maximum guaranteed area referred to in paragraph 1 of this Article in proportion to the protein crops amount corresponding to that Member State in Annex XII.

Section 4

Area payment for nuts

Article 82

Community area payment for nuts

1. For 2009, 2010 and 2011, Community aid shall be granted to farmers producing nuts under the conditions laid down in this Section ('area payment for nuts').

Nuts shall include:

- (a) almonds falling within CN codes 0802 11 and 0802 12;
- (b) hazelnuts or filberts falling within CN codes 0802 21 and 0802 22;
- (c) walnuts falling within CN codes 0802 31 and 0802 32;
- (d) pistachios falling within CN codes 0802 50;
- (e) locust beans falling within CN codes 1212 10 10.

2. Member States may differentiate the area payment for nuts according to the products or by increasing or reducing the national guaranteed areas (hereinafter referred to as the 'NGA') established in Article 83(3). However, in each Member State, the total amount of the area payment for nuts granted in a given year shall not be higher than the ceiling established in Article 83(4).

Article 83

Areas

1. Member States shall grant the Community area payment for nuts within the limit of a ceiling calculated by multiplying the number of hectares of their respective NGA as fixed in paragraph 3 by the average amount of EUR 120,75.

2. A maximum guaranteed area of 829 229 ha is hereby established.

3. The maximum guaranteed area referred to in paragraph 2 shall be divided into the following NGAs:

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

4. Member States may subdivide their respective NGA into sub-base areas in accordance with objective criteria, in particular at regional level or in relation to the production.

Article 84

Overrun of the sub-base areas

Where a Member State subdivides its NGA into sub-base areas and one or more sub-base area limits have been exceeded, the area per farmer for which the area payment for nuts is claimed shall be reduced proportionately in that year for the farmers in the sub-base areas where the limit has been exceeded. This reduction shall be made when, in the Member State concerned, the areas in the sub-base areas which have not reached their sub-base area limits have been redistributed to the sub-base areas in which the sub-base area limits have been exceeded.

Article 85

Conditions for eligibility

1. Payment of the area payment for nuts shall be conditional on, in particular, minimum plot size and tree density.

2. Member States may make the granting of the area payment for nuts conditional on farmers being members of a producer organisation recognised in accordance with Article 125b of Regulation (EC) No 1234/2007.

3. If paragraph 2 is applied, Member States may decide that the payment of the area payment for nuts shall be made to a producer organisation on behalf of its members. In this case, the amount of aid received by the producer organisation shall be paid to its members. However, Member States may authorise a producer organisation, as compensation for the services provided to its members, to reduce the amount of the area payment for nuts by a maximum of 2 %.

Article 86

National aid

1. Member States may grant national aid, in addition to the area payment for nuts, up to a maximum of EUR 120,75 per hectare per year.

2. The national aid may be paid only for areas receiving area payment for nuts.

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

Section 5

Seed aid

Article 87

Aid

1. For 2009, 2010 and 2011, the Member States having applied Article 70 of Regulation (EC) No 1782/2003 which do not make use of the option provided for in Article 67 of this Regulation shall grant, on a yearly basis, the aids set out in Annex XIII to this Regulation for the production of basic seed or certified seeds of one or more of the species listed in that Annex, under the conditions laid down in this Section ('seed aid').

2. Where the area accepted for certification for which the seed aid is claimed is used also for claiming support under the single payment scheme, the amount of seed aid, except in the case of the species referred to in Annex XIII points 1 and 2, shall be reduced, but to no less than zero, by the amount of support under the single payment scheme to be granted in a given year for the area concerned.

3. The amount of seed aid claimed shall not exceed a ceiling fixed by the Commission in accordance with the procedure referred to in Article 141(2) of this Regulation and corresponding to the component of seed aid for the species concerned in the national ceiling referred to in Article 40 of

this Regulation, as fixed in accordance with Article 64(2) of Regulation (EC) No 1782/2003 ('seed aid ceiling'). However, for the new Member States, this seed aid ceiling shall correspond to the amounts set out in Annex XIV to this Regulation.

Where the total amount of seed aid claimed exceeds the seed aid ceiling fixed by the Commission, the aid per farmer shall be reduced proportionately in the year concerned.

4. The varieties of hemp (*Cannabis sativa* L.) for which the seed aid provided for in this Article is payable shall be determined in accordance with the procedure referred to in Article 141(2).

Section 6

Crop specific payment for cotton

Article 88

Scope

Aid shall be granted to farmers producing cotton falling within CN code 5201 00 under the conditions laid down in this Section ('crop specific payment for cotton').

Article 89

Eligibility

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

The crop specific payment for cotton shall be paid for cotton of sound and fair merchantable quality.

2. Member States shall authorise the land and the varieties referred to in paragraph 1 of this Article according to detailed rules and conditions adopted in accordance with the procedure referred to in Article 141(2).

Article 90

Base areas, fixed yields and reference amounts

1. The following national base areas are hereby established:

- Bulgaria: 3 342 ha,
- Greece: 250 000 ha,
- Spain: 48 000 ha,
- Portugal: 360 ha.

2. The following fixed yields in the reference period are hereby established:

- Bulgaria: 1,2 tonne/ha,
- Greece: 3,2 tonne/ha,
- Spain: 3,5 tonne/ha,
- Portugal: 2,2 tonne/ha.

3. The amount of the aid per eligible hectare shall be established by multiplying the yields established in paragraph 2 with the following reference amounts:

- Bulgaria: EUR 671,33,
- Greece: EUR 251,75,
- Spain: EUR 400,00,
- Portugal: EUR 252,73.

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

5. Detailed rules for the implementation of this Article shall be adopted in accordance with the procedure referred to in Article 141(2).

Article 91

Approved inter-branch organisations

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

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

2. The Member State where the ginneries are established shall approve inter-branch organisations that satisfy criteria to be adopted in accordance with the procedure referred to in Article 141(2).

Article 92

Payment of the aid

1. Farmers shall be granted the crop specific payment for cotton per eligible hectare pursuant to Article 90.

2. Farmers who are members of an approved inter-branch organisation shall be granted the crop specific payment for cotton per eligible hectare within the base area laid down in Article 90(1), increased by an amount of EUR 2.

Section 7

Aid for sugar beet and cane producers

Article 93

Scope

1. In Member States which have granted the restructuring aid provided for in Article 3 of Regulation (EC) No 320/2006 for at least 50 % of the sugar quota fixed on 20 February 2006 in Annex III to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector⁽¹⁾, aid shall be granted to sugar beet and cane producers under the conditions laid down in this Section.

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

Article 94

Conditions

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

Article 95

Amount of the aid

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

Except for Bulgaria and Romania, Articles 121 and 132 of this Regulation shall not apply to the aid for sugar beet and cane producers.

⁽¹⁾ OJ L 58, 28.2.2006, p. 1.

Section 8

Transitional fruit and vegetables payments*Article 96***Transitional area aids**

1. Where Article 54(1) or Article 128(1) is applied during the period referred to in those provisions, a transitional area aid may be granted, under the conditions laid down in this Section, to farmers producing tomatoes which are supplied for processing.

2. Where Article 54(2) or Article 128(2) is applied during the period referred to in those provisions, a transitional area aid may be granted, under the conditions laid down in this Section, to farmers producing one or more of the fruit and vegetable products listed in the third subparagraph of Article 54(2), as determined by the Member States, and which are supplied for processing.

*Article 97***Amount of the aid and eligibility**

1. Member States shall determine the aid per hectare on which tomatoes and each fruit and vegetable product listed in the third subparagraph of Article 54(2) are grown on the basis of objective and non-discriminatory criteria.

2. The total amount of aid provided for in paragraph 1 of this Article shall in no event exceed the ceiling determined in accordance with Article 51(2) or Article 128.

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

4. Member States may make the granting of the aid provided for in paragraph 1 of this Article subject to further objective and non-discriminatory criteria, including the condition that the farmer is a member of a producer organisation or a producer group recognised respectively under Article 125b or Article 125e of Regulation (EC) No 1234/2007.

Section 9

Transitional soft fruit payment*Article 98***Soft fruit payment**

1. A transitional area aid shall be granted during the period ending on 31 December 2011 to producers of strawberries falling within CN code 0810 10 00 and raspberries falling within CN code 0810 20 10 which are supplied for processing, under the conditions laid down in this Section ('transitional soft fruit payment').

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

3. The amount of the transitional soft fruit payment shall be EUR 230/ha.

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

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

Member State	Maximum national guaranteed area (ha)
Bulgaria	2 400
Hungary	1 700
Latvia	400
Lithuania	600
Poland	48 000

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

6. Articles 121 and 132 shall not apply to the transitional soft fruit payment.

Section 10

Premiums in the sheepmeat and goatmeat sector*Article 99***Scope**

Where Article 52 is applied, Member States shall grant, on a yearly basis, premiums and supplementary premiums to farmers rearing sheep and goats under the conditions provided for in this Section, save as otherwise provided for in this Regulation.

*Article 100***Definitions**

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

- (a) 'ewe' means any female of the ovine species having lambed at least once or at least one year old;

(b) 'she-goat' means any female of the caprine species having kidded at least once or at least one year old.

Article 101

Ewe and goat premiums

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

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

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

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

A list of such areas shall be established in accordance with the procedure referred to in Article 141(2).

3. The ewe premium and the goat premium shall be granted in the form of an annual payment per eligible animal per calendar year and per farmer within the limits of individual ceilings. The minimum number of animals in respect of which an application for a premium is lodged shall be determined by the Member State. This minimum shall not be less than ten nor greater than 50.

4. The amount of the ewe premium shall be EUR 21 per ewe. However, for farmers marketing sheep's milk or products based on sheep's milk, the amount of the ewe premium shall be EUR 16,8 per ewe.

5. The amount of the goat premium shall be EUR 16,8 per she-goat.

Article 102

Supplementary premium

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

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

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

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

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

Article 103

Common rules on premiums

1. Premiums shall be paid to recipient farmers on the basis of the number of ewes and/or she-goats kept on their holding over a minimum period to be determined in accordance with the procedure referred to in Article 141(2).

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

Article 104

Individual limits

1. On 1 January 2009, the individual ceiling per farmer referred to in Article 101(3) shall be equal to the number of premium rights which he held on 31 December 2008 in accordance with the relevant Community rules.

2. Member States shall take the necessary measures to ensure that the sum of premium rights on their territory does not exceed the national ceilings set out in paragraph 4 and that the national reserve referred to in Article 106 may be maintained.

After the end of the period of application of the single area payment scheme in accordance with Article 122 and where Article 52 is applied, the allocation of the individual ceilings to producers and the setting up of the national reserve referred to in Article 106 shall take place no later than the end of the first year of the application of the single payment scheme.

3. Premium rights which have been withdrawn under the measures taken pursuant to the first subparagraph of paragraph 2 shall be cancelled.

4. The following national ceilings shall apply:

Member State	National ceiling
Bulgaria	2 058 483
Czech Republic	66 733
Denmark	104 000
Estonia	48 000
Spain	19 580 000
France	7 842 000
Cyprus	472 401
Latvia	18 437
Lithuania	17 304
Hungary	1 146 000
Poland	335 880
Portugal	2 690 000
Romania	5 880 620
Slovenia	84 909
Slovakia	305 756
Finland	80 000
Total	40 730 523

Article 105

Transfer of premium rights

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

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

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

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

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

3. Member States may take the necessary measures to avoid premium rights being transferred outside sensitive areas or regions where sheep production is particularly important for the local economy.

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

Article 106

National reserve

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

2. Any premium rights withdrawn pursuant to Article 105(2) or other Community provisions shall be added to the national reserve.

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

Article 107

Ceilings

The sum of the amounts of each premium claimed shall not exceed the limit of the ceiling determined by the Commission pursuant to Article 51(2).

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

Section 11

Beef and veal payments

Article 108

Scope

Where Article 53 is applied, Member States shall grant, under the conditions set out in this Section and save as otherwise provided for in this Regulation, the additional payment or payments chosen by the Member State concerned in accordance with that Article.

Article 109

Definitions

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

- (a) 'region' means a Member State or a region within a Member State, at the option of the Member State concerned;
- (b) 'bull' means an uncastrated male bovine animal;
- (c) 'steer' means a castrated male bovine animal;
- (d) 'suckler' cow means a cow belonging to a meat breed or born of a cross with a meat breed, and belonging to a herd intended for rearing calves for meat production;
- (e) 'heifer' means a female bovine animal from the age of eight months which has not yet calved.

Article 110

Special premium

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

For the purposes 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.

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

- (a) once in the life of each bull from the age of nine months; or
- (b) twice in the life of each steer:
 - (i) the first time at the age of nine months;
 - (ii) the second time after it has reached the age of 21 months.

3. To qualify for the special premium:

- (a) any animal covered by an application shall be held by the farmer for fattening for a period to be determined in accordance with the procedure referred to in Article 141(2);
- (b) each animal shall be covered until slaughter or until export by an animal passport referred to in Article 6 of Regulation (EC) No 1760/2000 containing all relevant information on its premium status or, if not available, by an equivalent administrative document.

4. Where in a given region the total number of bulls from the age of nine months and of steers from the age of nine months to 20 months, for which an application has been made and which satisfy the conditions for granting the special premium, exceeds the applicable regional ceiling determined in paragraph 8, the total number of eligible animals under para-

graph 2(a) and (b) per farmer for the year concerned shall be reduced proportionately.

5. By way of derogation from paragraphs 1 and 4, Member States may, on the basis of objective criteria that are part of a rural development policy and only on condition that they take into account environmental as well as employment aspects, change or waive the headage limit of 90 animals per holding and age bracket. In this case, Member States may decide to apply paragraph 4 in such a way as to reach the level of reductions required to comply with the applicable regional ceiling, without applying such reductions to small farmers who, in respect of the year concerned, did not submit special premium applications for more than a minimum number of animals determined by the Member State concerned.

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

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

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

- (a) EUR 210 per eligible bull;
- (b) EUR 150 per eligible steer and age bracket.

8. The following regional ceilings shall apply:

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

Article 111

Suckler cow premium

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

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

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

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

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

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

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

3. The farmers' entitlement to the premium shall be limited by the application of an individual ceiling as defined in Article 112.

4. The amount of the premium shall be set at EUR 200 per eligible animal.

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

As regards holdings located in a region as defined in Articles 5 and 8 of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund ⁽¹⁾, the first EUR 24,15 per animal of this additional premium shall be financed by the EAGF.

As regards holdings located throughout the territory of a Member State, if, in the Member State concerned, the cattle

population has a high proportion of suckler cows, representing at least 30 % of the total number of cows, and if at least 30 % of the male bovine animals slaughtered belong to conformation classes S and E, the EAGF shall finance the additional premium in total. Any overshoot of these percentages shall be established on the basis of the average of the two years preceding that for which the premium is granted.

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

Article 112

Individual ceiling for suckler cow

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

2. Member States shall take the necessary measures to ensure that the sum of premium rights on their territory does not exceed the national ceilings set out in paragraph 5 and that the national reserve referred to in Article 114 may be maintained.

After the end of the period of application of the single area payment scheme in accordance with Article 122 and where Article 53(1) is applied, the allocation of the individual ceilings to producers and the setting up of the national reserve referred to in Article 114 shall take place no later than the end of the first year of application of the single payment scheme.

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

- (a) the rate at which farmers have used their individual ceilings during the three reference years prior to 2000;
- (b) the implementation of an investment or extensification programme in the beef and veal sector;
- (c) particular natural circumstances or the application of penalties, resulting in non-payment or reduced payment of the premium for at least one reference year;
- (d) additional exceptional circumstances having the effect that the payments made for at least one reference year do not correspond to the actual situation as established during the previous years.

4. Premium rights which have been withdrawn under the measures taken pursuant to the first subparagraph of paragraph 2 shall be cancelled.

⁽¹⁾ OJ L 210, 31.7.2006, p. 25.

5. The following national ceilings shall apply:

Member State	National ceiling
Belgium	394 253
Bulgaria	16 019
Czech Republic	90 300
Estonia	13 416
Spain	1 441 539
France	3 779 866
Cyprus	500
Latvia	19 368
Lithuania	47 232
Hungary	117 000
Malta	454
Austria	375 000
Poland	325 581
Portugal	458 941
Romania	150 000
Slovenia	86 384
Slovakia	28 080

Article 113

Transfer of suckler cow premium rights

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

2. The farmer referred to in paragraph 1 may also transfer, in whole or in part, his rights to other farmers without transferring his holding.

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

3. Member States:

(a) shall take the necessary measures to prevent premium rights being transferred outside sensitive areas or regions where

beef and veal production is particularly important for the local economy;

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

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

Article 114

National reserve of suckler cow premium rights

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

2. Any premium rights withdrawn pursuant to the second subparagraph of Article 113(2) or other Community provisions shall be added to the national reserve, without prejudice to Article 112(4).

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

Article 115

Heifers

1. By way of derogation from Article 111(3) of this Regulation, Member States where more than 60 % of suckler cows and heifers are kept in mountain areas within the meaning of Article 50 of Regulation (EC) No 1698/2005 may decide to manage the granting of the suckler cow premium for heifers separately from that for suckler cows within the limits of a separate national ceiling to be set up by the Member State concerned.

Such a separate national ceiling shall not exceed 40 % of the national ceiling of the Member State concerned set out in Article 112(5). That national ceiling shall be reduced by an amount equal to the separate national ceiling. Where, in a Member State making use of the option provided for in this paragraph, the total number of heifers, for which an application has been made, and which satisfy the conditions for granting the suckler cow premium, exceeds the separate national ceiling, the number of eligible heifers per farmer for the year in question shall be reduced proportionately.

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

*Article 116***Slaughter premium**

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

The following shall be eligible for the slaughter premium:

- (a) bulls, steers, cows and heifers from the age of eight months;
- (b) calves of more than one and less than eight months old and of a carcass weight up to 185 kg.

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

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

- (a) EUR 80 per eligible animal as specified in paragraph 1(a);
- (b) EUR 50 per eligible animal as specified in paragraph 1(b).

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

For the new Member States, the following national ceilings shall apply:

	Bulls, steers, cows and heifers	Calves more than 1 and less than 8 months old and of a carcass weight up to 185 kg
Bulgaria	22 191	101 542
Czech Republic	483 382	27 380
Estonia	107 813	30 000
Cyprus	21 000	—
Latvia	124 320	53 280
Lithuania	367 484	244 200

	Bulls, steers, cows and heifers	Calves more than 1 and less than 8 months old and of a carcass weight up to 185 kg
Hungary	141 559	94 439
Malta	6 002	17
Poland	1 815 430	839 518
Romania	1 148 000	85 000
Slovenia	161 137	35 852
Slovakia	204 062	62 841

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

*Article 117***Common rules on premiums**

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

Nevertheless, an animal shall also be deemed eligible for the payments where the information laid down in the second indent of Article 7(1) of Regulation (EC) No 1760/2000 has been reported to the competent authority on the first day of the retention period of the animal as determined in accordance with the procedure referred to in Article 141(2) of this Regulation.

*Article 118***Ceilings**

The sum of the amounts of each payment claimed under this Section shall not exceed the ceiling determined by the Commission in accordance with Article 51(2).

Where the total amount of the payments claimed exceeds the ceiling determined, the payments per farmer shall be reduced proportionately in that year.

Article 119

Substances prohibited under Directive 96/22/EC

1. Where residues of substances prohibited under 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 ⁽¹⁾, or residues of substances authorised under that Directive but used illegally, are detected pursuant to the relevant provisions of Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products ⁽²⁾ in an animal belonging to the bovine herd of a farmer, or where a non-authorised substance or product or a substance or product authorised under Directive 96/22/EC but held illegally is found on the farmer's holding in any form, the farmer shall be excluded, for the calendar year of that discovery, from receiving the amounts provided for in this Section.

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

2. If the owner or holder of the animals obstructs the carrying out of the inspections and the taking of samples which are necessary for the application of national residue-monitoring plans or the carrying out of the investigations and checks provided for in Directive 96/23/EC, the penalties provided for in paragraph 1 of this Article shall apply.

CHAPTER 2

National aids

Article 120

National aid for nuts

1. From 2012 or where in application of Article 67 the area payment for nuts provided for in Section 4 of Chapter 1 of this Title is integrated into the single payment scheme, Member States may grant national aid, up to a maximum of EUR 120,75 per hectare per year, to farmers producing the following products:

- (a) almonds falling within CN codes 0802 11 and 0802 12;
- (b) hazelnuts or filberts falling within CN codes 0802 21 and 0802 22;
- (c) walnuts falling within CN codes 0802 31 and 0802 32;
- (d) pistachios falling within CN codes 0802 50;
- (e) locust beans falling within CN codes 1212 10 10.

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

⁽¹⁾ OJ L 125, 23.5.1996, p. 3.

⁽²⁾ OJ L 125, 23.5.1996, p. 10.

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

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

TITLE V

IMPLEMENTATION OF DIRECT PAYMENTS IN THE NEW MEMBER STATES

CHAPTER 1

General provisions

Article 121

Introduction of direct payments

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

- 60 % in 2009,
- 70 % in 2010,

- 80 % in 2011,
- 90 % in 2012,
- 100 % as from 2013.

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

- 35 % in 2009,
- 40 % in 2010,
- 50 % in 2011,
- 60 % in 2012,
- 70 % in 2013,
- 80 % in 2014,
- 90 % in 2015,
- 100 % as from 2016.

CHAPTER 2

Single area payment scheme

Article 122

Single area payment scheme

1. The new Member States having decided to replace the direct payments, with the exception, for 2009, 2010 and 2011, of the transitional soft fruit payment established in Section 9 of Chapter 1 of Title IV of this Regulation, and, for 2009, of the energy crops payment referred to in Chapter 5 of Title IV of Regulation (EC) No 1782/2003, with a single area payment scheme shall grant aid to farmers in accordance with this Article.

2. The single area payment shall be granted on an annual basis. It shall be calculated by dividing the annual financial envelope established in accordance with Article 123 by the agricultural area of each new Member State established in accordance with Article 124.

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

4. After the end of the period of application of the single area payment scheme, the direct payments shall be applied in accordance with the relevant Community rules and on the basis of the quantitative parameters, such as base area, premium ceilings and maximum guaranteed quantities, specified in the 2003 and 2005 Acts of Accession and subsequent Community legislation for each direct payment. The percentage rates set out in Article 121 of this Regulation for the relevant years shall subsequently apply.

Article 123

Annual financial envelope

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

The annual financial envelope shall be established according to the relevant Community rules and on the basis of the quantitative parameters, such as base areas, premium ceilings and maximum guaranteed quantities, specified in the 2003 and 2005 Acts of Accession and subsequent Community legislation for each direct payment.

The annual financial envelope shall be adjusted using the relevant percentage specified in Article 121 for the gradual introduction of direct payments, except for the amounts available in accordance with Annex XV or in accordance with the differential between these amounts or the amounts corresponding to the fruit and vegetable sector and those actually applied as referred to in Article 130(1).

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

Article 124

Area under the single area payment scheme

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

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

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

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

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

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

3. There shall be no obligation to produce or to employ the factors of production. However, farmers may use the land referred to in paragraph 4 of this Article for any agricultural purpose. In the case of the production of hemp, Article 39 shall apply.

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

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

- (a) requirements referred to in Point A of Annex II shall apply from 1 January 2009;
- (b) requirements referred to in Point B of Annex II shall apply from 1 January 2011;
- (c) requirements referred to in Point C of Annex II shall apply from 1 January 2013.

6. For Bulgaria and Romania, the application of Articles 4, 5, 23, 24 and 25 shall be optional until 31 December 2011 insofar as those provisions relate to statutory management requirements. As from 1 January 2012 a farmer receiving payments under the single area payment scheme in those Member States shall fulfil the statutory management requirements referred to in Annex II in accordance with the following timetable:

- (a) requirements referred to in Point A of Annex II shall apply from 1 January 2012;
- (b) requirements referred to in Point B of Annex II shall apply from 1 January 2014;

(c) requirements referred to in Point C of Annex II shall apply from 1 January 2016.

7. The new Member States may also apply the options provided for in paragraphs 5 and 6 where they decide to terminate the application of the single area payment scheme before the end of the period of application provided for in Article 122(3).

8. The application of the single area payment scheme shall in no way affect the obligation of any new Member State with regard to the implementation of Community rules on the identification and registration of animals as provided for by Regulation (EC) No 1760/2000 and Regulation (EC) No 21/2004.

Article 125

Communication

The new Member States shall inform the Commission in detail of the measures taken to implement this Chapter, and in particular the measures taken pursuant to Article 123(2).

CHAPTER 3

Separate payments and specific support

Article 126

Separate sugar payment

1. Where a new Member State has made use of the option provided for by Article 143ba of Regulation (EC) No 1782/2003, it shall grant a separate sugar payment to farmers eligible under the single area payment scheme. This payment shall be granted on the basis of the criteria adopted by the relevant Member States in 2006 and 2007.

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

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

Article 127

Separate fruit and vegetables payment

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

2. The separate fruit and vegetables payment shall be granted within the limits of the component of the national ceiling referred to in Article 40 of this Regulation corresponding to fruit and vegetables or, where a new Member State made use of the option provided for in Article 143bb(3) of Regulation (EC) No 1782/2003, at a lower ceiling.

Article 128

Separate transitional fruit and vegetables payment

1. Where a new Member State has made use of the option provided for in Article 143bc(1) of Regulation (EC) No 1782/2003, it may retain, up to 31 December 2011, up to 50 % of the component of national ceilings referred to in Article 40 of this Regulation corresponding to tomatoes falling within CN code 0702 00 00 in accordance with its decision of 2007.

In this case and within the limit of the ceiling fixed in accordance with the procedure referred to in Article 141(2) of this Regulation, the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted to farmers producing tomatoes under the conditions provided for in Section 8 of Chapter 1 of Title IV of this Regulation.

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

- (a) up to 31 December 2010, up to 100 % of the component of national ceilings referred to in Article 40 of this Regulation corresponding to the fruit and vegetable crops other than annual crops listed in the third subparagraph of Article 54(2) of this Regulation;
- (b) from 1 January 2011 up to 31 December 2012, up to 75 % of the component of national ceilings referred to in Article 40 of this Regulation corresponding to fruit and vegetable crops other than annual crops listed in the third subparagraph of Article 54(2) of this Regulation.

In this case and within the limit of the ceiling fixed in accordance with the procedure referred to in Article 141(2) of this Regulation, the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted to farmers producing one or more of the fruit and vegetables products, as determined by the Member State concerned, listed in the third subparagraph of Article 54(2) of this Regulation.

3. The new Member States having made use of the options provided for in Article 143bc of Regulation (EC) No 1782/2003 may decide, by 1 August 2009, to review the decision taken in 2007 with a view either:

- (a) to integrate all or part of those payments into the single area payment scheme. In this case, by way of derogation from Article 130 of this Regulation, the amounts concerned shall be included in the annual financial envelope referred to in Article 123(1) of this Regulation; or
- (b) to integrate all or part of those payments into the separate fruit and vegetable payment referred to in Article 127 of this Regulation. In this case, the new payment shall be granted on the basis of objective and non-discriminatory criteria such as those set out in paragraph 2 of point A of Annex IX to this Regulation and in respect of a representative period ending in 2008.

Article 129

Separate soft fruit payment

1. By way of derogation from Article 122, the new Member States applying the single area payment scheme may decide, by 1 August 2011, to grant from 2012 a separate soft fruit payment. It shall be granted on the basis of objective and non-discriminatory criteria such as the payments received under the transitional soft fruit payment provided for in Article 98 and in respect of a representative period to be fixed by that Member State but no later than 2008.

2. The separate soft fruit payment shall be granted within the limits of the amounts referred to in Annex XII corresponding to the soft fruit payment.

3. In 2012, Member States applying this Article may grant national aid in addition to the separate soft fruit payment. The total amount of Community and national aid shall not exceed the following ceilings:

- Bulgaria: EUR 960 000,
- Latvia: EUR 160 000,
- Lithuania: EUR 240 000,
- Hungary: EUR 680 000,
- Poland: EUR 19 200 000.

Article 130

Common provisions for the separate payments

1. The funds made available for granting the payment referred to in Articles 126, 127, 128 and 129 shall not be included in the annual financial envelope referred to in Article 123(1). However, where Article 126(3) is applied, the differential between the ceiling listed in Annex XV and that actually applied shall be included in the annual financial envelope referred to in Article 123(1).

2. Article 132 shall not apply to the separate payments referred to in Articles 127, 128 and 129. Except in the case of Bulgaria and Romania, Article 132 shall not apply to the separate payments referred to in Article 126.

3. In the event of actual or anticipated inheritance, the separate sugar payment referred to in Article 126, the separate fruit and vegetables payment referred to in Article 127 and the separate soft fruit payment referred to in Article 129 shall be granted to the farmer who inherited the holding, on condition that this farmer is eligible under the single area payment scheme.

Article 131

Specific support

1. The new Member States applying the single area payment scheme may decide, by 1 August 2009, 1 August 2010 or 1 August 2011, to use, from the year following that decision, up to 10 % of their national ceilings referred to in Article 40 to grant support to farmers as set out in Article 68(1) and in accordance with Chapter 5 of Title III, as applicable to them.

2. By way of derogation from Article 68(4)(c), support for measures referred to in Article 68(1)(c) shall take the form of an increase in the per hectare amounts granted under the single area payment scheme.

The second subparagraph of Article 68(3) shall not apply to the new Member States applying the single area payment scheme.

3. By way of derogation from Article 69(6), new Member States applying the single area payment scheme referred to in Article 122 shall raise the funds needed to cover the support referred to in paragraph 1 of this Article by:

- (a) reducing their annual financial envelope referred to in Article 123; and/or
- (b) making a linear reduction in the direct payments other than the single area payment scheme.

4. The amounts referred to in paragraph 1 of this Article shall be set by the Commission in accordance with the procedure referred to in Article 141(2).

These amounts shall be deducted from the annual financial envelopes referred to in Article 123(1) of the new Member States concerned.

CHAPTER 4

Complementary national direct payments and direct payments

Article 132

Complementary national direct payments and direct payments

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

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

- (a) with regard to all direct payments, up to 30 percentage points above the applicable level referred to in Article 121 in the relevant year. As far as Bulgaria and Romania are concerned, the following shall apply: 65 % of the level of direct payments in the Community as constituted on 30 April 2004 in 2009 and from 2010 up to 50 percentage points above the applicable level referred to in the second paragraph of Article 121 in the relevant year. However, the Czech Republic may complement direct payments in the potato starch sector up to 100 % of the level applicable in the Member States other than the new Member States. For the direct payments referred to in Chapter 7 of Title IV of Regulation (EC) No 1782/2003, the new Member States may complement the direct payments up to 100 %. As far as Bulgaria and Romania are concerned, the following maximum rates shall apply: 95 % in 2009 and 100 % as from 2010;

or

- (b) (i) with regard to direct payments other than the single payment scheme, up to the total level of direct support the farmer would have been entitled to receive, on a product by product basis, in the new Member State in the calendar year 2003 under a CAP-like national scheme increased by 10 percentage points. However, for Lithuania, the reference year shall be the calendar year 2002. For Bulgaria and Romania, the reference year shall be the calendar year 2006. For Slovenia, the increase shall be 25 percentage points;
- (ii) with regard to the single payment scheme, up to the total amount of complementary national direct aid which may be granted by a new Member State in respect of a given year shall be limited by a specific financial envelope. This envelope shall be equal to the difference between:
 - the total amount of CAP-like national direct support that would be available in the relevant new Member State in respect of the calendar year 2003 or, in the case of Lithuania, of the calendar year 2002, each time increased by 10 percentage points. However, for Bulgaria and Romania, the reference year shall be the calendar year 2006. For Slovenia, the increase shall be 25 percentage points, and
 - the national ceiling of that new Member State listed in Annex VIII adjusted, where appropriate, in accordance with Article 51(2).

For the purpose of calculating the total amount referred to in the first indent of this subpoint, the national direct payments or their components corresponding to the Community direct payments or their components which were taken into account for calculating the effective ceiling of the new Member State concerned in accordance with Article 40 and Article 51(2) shall be included.

For each direct payment concerned, a new Member State may choose to apply either point (a) or (b) of the first subparagraph.

The total direct support which a farmer may be granted in the new Member States after accession under the relevant direct payment, including all complementary national direct payments, shall not exceed the level of direct support a farmer would be entitled to receive under the corresponding direct payment then applicable to the Member States in the Member States other than the new Member States, from 2012, taking into account the application of Article 7 in conjunction with Article 10.

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

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

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

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

Paragraphs 2 and 5 shall not apply to Cyprus.

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

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

- (a) the combined direct payments to the single payment scheme; and/or
- (b) for 2009, one or more of the direct payments that are excluded or may be excluded from the single payment scheme in accordance with Article 70(2) of Regulation (EC) No 1782/2003 or may be subject to partial implementation as referred to in Article 64(2) of that Regulation;
- (c) from 2010, one or more of the direct payments that may be subject to partial implementation or specific support as

provided for in Article 51(2) and Article 68 of this Regulation.

This envelope shall be equal to the difference between:

- (a) the total amount of support per (sub)sector resulting from the application of point (a) or (b) of the first subparagraph of paragraph 2, as appropriate; and
- (b) the total amount of direct support that would be available in the relevant new Member State for the same (sub)sector in the year concerned under the single area payment scheme.

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

7. The authorisation by the Commission shall:

- (a) where point (b) of the first subparagraph of paragraph 2 applies, specify the relevant CAP-like national direct payment schemes;
- (b) define the level up to which the complementary national aid may be paid, the rate of the complementary national aid and, where appropriate, the conditions for the granting thereof;
- (c) be granted subject to any adjustments which may be rendered necessary by developments in the CAP.

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

Article 133

State aid in Cyprus

Cyprus may, in addition to the complementary national direct payments, grant transitional and digressive national aid until the end of 2012. This State aid shall be granted in a form similar to Community aid, such as decoupled payments.

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

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

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

TITLE VI

FINANCIAL TRANSFERS

Article 134

Financial transfer for restructuring in the cotton regions

An amount of EUR 22 000 000 shall be available per calendar year as additional Community support for measures in cotton producing regions under rural development programming financed under the EAFRD.

Article 135

Financial transfer for restructuring in the tobacco regions

As from the financial year 2011, an amount of EUR 484 000 000 shall be available as additional Community support for measures in tobacco producing regions under rural development programming financed under the EAFRD for those Member States in which the tobacco producers received aid in accordance with Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organization of the market in raw tobacco ⁽¹⁾ during 2000, 2001 and 2002.

Article 136

Transfer to EAFRD

Member States may decide, by 1 August 2009, to make an amount to be calculated in accordance with Article 69(7) available from the financial year 2011 for Community support under rural development programming and financing under the EAFRD instead of having recourse to Article 69(6)(a).

TITLE VII

IMPLEMENTING, TRANSITIONAL AND FINAL PROVISIONS

CHAPTER 1

Implementing provisions

Article 137

Confirmation of payment entitlements

1. Payment entitlements allocated to farmers before 1 January 2009 shall be deemed legal and regular as from 1 January 2010.
2. Paragraph 1 shall not apply to payment entitlements allocated to farmers on the basis of factually incorrect applications except in cases where the error could not reasonably have been detected by the farmer.

⁽¹⁾ OJ L 215, 30.7.1992, p. 70.

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

Article 138

Application to the outermost regions

Titles III and IV shall not apply to the French overseas departments, to the Azores and Madeira nor to the Canary Islands.

Article 139

State aid

By way of derogation from Article 180 of Regulation (EC) No 1234/2007 and Article 3 of Council Regulation (EC) No 1184/2006 of 24 July 2006 applying certain rules of competition to the production of, and trade in, agricultural products ⁽²⁾, Articles 87, 88 and 89 of the Treaty shall not apply to payments made under Articles 41, 57, 64, 68, 69, 70 and 71, Article 82(2), Article 86, Article 98(4), Article 111(5), Article 120, Article 129(3) and Articles 131, 132 and 133 of this Regulation by Member States in conformity with this Regulation.

Article 140

Transmission of information to the Commission

Member States shall inform the Commission in detail of the measures taken to implement this Regulation and, in particular, those relating to Articles 6, 12, 28, 41, 45, 46, 47, 48, 51, 57, 58, 68, 69, 70, 71, 72 and 131.

Article 141

Management Committee for Direct Payments

1. The Commission shall be assisted by a Management Committee for Direct Payments.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

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

Article 142

Implementing rules

In accordance with the procedure referred to in Article 141(2), detailed rules shall be adopted for the implementation of this Regulation. They shall include in particular:

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

⁽²⁾ OJ L 214, 4.8.2006, p. 7.

- (b) detailed rules relating to the criteria for the allocation of amounts made available by the application of modulation;
- (c) detailed rules for the granting of aid provided for in this Regulation, including eligibility conditions, dates of application and payment and control provisions as well as for checking and establishing entitlement to the aids including any necessary exchange of data with the Member States, and for the establishment of the overrun of the base areas or maximum guaranteed areas as well as detailed rules concerning the determination of the retention period, the withdrawal and reallocation of unused premium rights established under Sections 10 and 11 of Chapter 1 of Title IV;
- (d) with regard to the single payment scheme, detailed rules relating in particular to the establishment of the national reserve, the transfer of payment entitlements, the definition of permanent crops, permanent pastures and grassland, the options provided for in Chapters 2 and 3 of Title III and the integration of coupled payments provided for in Chapter 4 of Title III;
- (e) detailed rules relating to the implementation of the provisions in Title V;
- (f) detailed rules relating to the inclusion of fruit and vegetables, ware potatoes and nurseries support into the single payment scheme, including the application procedure in the first year of implementation, and relating to the payments referred to in Sections 8 and 9 of Chapter 1 of Title IV;
- (g) detailed rules relating to the inclusion of wine support into the single payment scheme, including the application procedure in the first year of implementation, in accordance with Regulation (EC) No 479/2008;
- (h) with regard to hemp, detailed rules relating to the specific control measures and methods for determining tetrahydrocannabinol levels;
- (i) such amendments to Annex I as may become necessary, taking into account the criteria set out in Article 1;
- (j) such amendments to Annexes V and IX as may become necessary, taking into account in particular new Community legislation;
- (k) the basic features of the identification system for agricultural parcels and their definition;
- (l) any amendments which may be made to the aid application and exemption from the requirement to submit an aid application;
- (m) rules on the minimum amount of information to be included in the aid applications;
- (n) rules on the administrative controls, on the on-the-spot checks and on the checks by remote sensing;
- (o) rules on the application of reductions and exclusions from payments in the event of non-compliance with the obligations referred to in Articles 4 and 22, including cases of non-application of reductions and exclusions;
- (p) such amendments to Annex VI as may become necessary, taking into account the criteria set out in Article 26;
- (q) communications between the Member States and the Commission;
- (r) measures which are both necessary and duly justified to resolve, in an emergency, practical and specific problems, in particular those relating to the implementation of Chapter 4 of Title II and Chapters 2 and 3 of Title III; such measures may derogate from certain parts of this Regulation, but only to the extent, and for such a period as is, strictly necessary;
- (s) with regard to cotton, detailed rules in respect of:
 - (i) the calculation of the reduction in the aid provided for in Article 90(4);
 - (ii) the approved inter-branch organisations, in particular their financing and a control and sanction system.

CHAPTER 2

Transitional and final provisions

Article 143

Amendments of Regulation (EC) No 1290/2005

Regulation (EC) No 1290/2005 is amended as follows:

1. Article 12(2) shall be replaced by the following:

‘2. The Commission shall set the amounts which, pursuant to Articles 9, 10(4), 134, 135 and 136 of Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers (*), Article 4(1) of Council Regulation (EC) No 378/2007 of 27 March 2007 laying down rules for voluntary modulation of direct payments provided for in Regulation (EC) No 1782/2003 (**) and Article 23(2) of Council Regulation (EC) No 479/2008 of 29 April 2008 on the common organisation of the market in wine (***), are made available to the EAFRD.

(*) OJ L 30, 31.1.2009, p. 16.

(**) OJ L 95, 5.4.2007, p. 1.

(***) OJ L 148, 6.6.2008, p. 1.’

2. Article 18(3) shall be replaced by the following:

‘3. National ceilings for direct payments referred to in Article 8(2) of Regulation (EC) No 73/2009, corrected by the adjustments laid down in Article 11(1) of that Regulation, shall be deemed to be financial ceilings in euro.’

Article 144

Amendments of Regulation (EC) No 247/2006

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

1. Article 23(2) shall be replaced by the following:

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

(EUR million)

	Financial year 2007	Financial year 2008	Financial year 2009	Financial year 2010	Financial year 2011 and subsequent
French overseas depart- ments	126,6	262,6	269,4	273,0	278,41
Azores and Madeira	77,9	86,98	87,08	87,18	106,21
Canary Islands	127,3	268,4	268,4	268,4	268,42'

2. The following Article shall be inserted:

'Article 24b

1. By 1 August 2009, Member States shall submit to the Commission the draft amendments to their overall programme to reflect the changes made to Article 23(2) by Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers (*).

2. The Commission shall evaluate the amendments submitted and decide on their approval within four months of their submission in accordance with the procedure referred to in Article 26(2). The amendments shall apply from 1 January 2010.

(*) OJ L 30, 31.1.2009, p. 16.'

Article 145

Amendments of Regulation (EC) No 378/2007

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

1. Article 1 shall be amended as follows:

(a) paragraph 3 shall be replaced by the following:

'3. Reductions under voluntary modulation shall be made on the same basis of calculation as that applicable to modulation pursuant to Article 7 of Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers (*).

(*) OJ L 30, 31.1.2009, p. 16.'

(b) the following paragraph shall be added:

'5. The modulation rates applicable to a farmer resulting from the application of Article 7 of Regulation (EC) No 73/2009 reduced by 5 percentage points shall be deducted from the rate of voluntary modulation applied by Member States pursuant to paragraph 4 of this Article. Both the percentage to be deducted and the final voluntary modulation rate shall be equal to or higher than 0.;

2. In Article 3(1), point (a) shall be replaced by the following:

'(a) by derogation from Article 1(3) of this Regulation, to apply the reductions under modulation on the basis of calculation applicable to modulation pursuant to Article 7 of Regulation (EC) No 73/2009, without taking into account the exclusion of EUR 5 000 provided for in paragraph 1 of that Article; and/or'.

Article 146

Repeals

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

However, Articles 20(2), 64(2), 66, 67, 68, 68a, 68b, 69, 70(1)(b) and (2) and Chapters 1 (durum wheat), 5 (energy crops), 7 (dairy premium), 10 (arable crops area payment), 10b (aid for olive groves), 10c (tobacco production aid) and 10d (hops area payment) of Title IV of that Regulation shall continue to apply for 2009.

2. The references made in this Regulation to Regulation (EC) No 1782/2003 shall be understood as referring to that Regulation such as it was in force before its repeal.

References made in other acts to Regulation (EC) No 1782/2003 shall be construed as being made to this Regulation and shall be read in accordance with the correlation table set out in Annex XVIII.

Article 147

Transitional rules

The Commission, in accordance with the procedure referred to in Article 141(2), may adopt the measures required to facilitate the transition from the arrangements provided for in Regulation (EC) No 1782/2003 to those established by this Regulation.

Article 148

Transitional arrangements for the new Member States

Where transitional measures are necessary in order to facilitate, for the new Member States, the transition from the single area payment scheme to the single payment scheme and other aid schemes referred to in Titles III and IV, such measures shall be adopted in accordance with the procedure referred to in Article 141(2).

*Article 149***Entry into force and application**

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

It shall apply from 1 January 2009.

However:

(a) Article 138 shall apply from 1 January 2010;

(b) the standards on establishment/and or retention of habitats, compliance with authorisation procedures in case of use of water for irrigation and the specification of landscape features, as provided for in Annex III, shall apply from 1 January 2010;

(c) the standard on establishment of buffer strips along water courses, as provided for in Annex III, shall apply from 1 January 2010 at the earliest and by 1 January 2012 at the latest.

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

Done at Brussels, 19 January 2009.

For the Council

The President

P. GANDALOVIČ

ANNEX I

List of support schemes

Sector	Legal base	Notes
Single payment	Title III of this Regulation	Decoupled payment
Single area payment scheme	Title V, Chapter 2 of this Regulation	Decoupled payment replacing all the direct payments listed in this Annex, except separate payments
Durum wheat	Title IV, Chapter 1 of Regulation (EC) No 1782/2003 (*)	Area payment
Protein crops	Title IV, Chapter 1, Section 3 of this Regulation	Area payment
Rice	Title IV, Chapter 1, Section 1 of this Regulation	Area payment
Nuts	Title IV, Chapter 1, Section 4 of this Regulation	Area payment
Energy crops	Title IV, Chapter 5 of Regulation (EC) No 1782/2003 (*)	Area payment
Starch potatoes	Title IV, Chapter 1, Section 2 of this Regulation	Production aid for growers
Seeds	Title IV, Chapter 1, Section 5 of this Regulation	Production aid
Arable crops	Title IV, Chapter 10 of Regulation (EC) No 1782/2003 (*)	Area payment
Sheepmeat and goatmeat	Title IV, Chapter 1, Section 10 of this Regulation	Ewe and goat premiums
Beef and veal	Title IV, Chapter 1, Section 11 of this Regulation	Special premium, suckler cow premium (including when paid for heifers and including the additional national suckler cow premium when part-financed), and slaughter premium
Specific types of farming and quality production	Article 69 of Regulation (EC) No 1782/2003 (*)	
Specific support	Title III, Chapter 5 of this Regulation	
Olive groves	Title IV, Chapter 10b of Regulation (EC) No 1782/2003 (*)	Area aid
Silkworms	Article 111 of Regulation (EC) No 1234/2007	Aid to encourage rearing
Tobacco	Title IV, Chapter 10c of Regulation (EC) No 1782/2003 (*)	Production aid
Hops	Title IV, Chapter 10d of Regulation (EC) No 1782/2003 (*)	Area aid
Sugar beet, cane and chicory used for the production of sugar or inulin syrup	Article 126 of this Regulation	Decoupled payments

Sector	Legal base	Notes
Sugar beet and cane used for the production of sugar	Title IV, Chapter 1, Section 7 of this Regulation	Production aid
Fruit and vegetables delivered for processing	Title IV, Chapter 1, Section 8 of this Regulation	Transitional fruit and vegetables payments
Strawberries and raspberries delivered for processing	Title IV, Chapter 1, Section 9 of this Regulation	Transitional soft fruit payment
Fruit and vegetables	Article 127 of this Regulation	Separate fruit and vegetables payment
Posei	Title III of Regulation (EC) No 247/2006	Direct payments under measures established in the programmes
Aegean islands	Chapter 3 of Regulation (EC) No 1405/2006	Direct payments under measures established in the programmes
Cotton	Title IV, Chapter 1, Section 6 of this Regulation	Area payment

(*) Only for 2009.

ANNEX II

Statutory management requirements referred to in Articles 4 and 5

Point A.

Environment

1.	Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (OJ L 103, 25.4.1979, p. 1)	Article 3(1), Article 3(2)(b), Article 4(1), (2) and (4) and Article 5(a), (b) and (d)
2.	Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances (OJ L 20, 26.1.1980, p. 43)	Articles 4 and 5
3.	Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture (OJ L 181, 4.7.1986, p. 6)	Article 3
4.	Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1)	Articles 4 and 5
5.	Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna (OJ L 206, 22.7.1992, p. 7)	Article 6 and Article 13(1)(a)

Public and animal health

Identification and registration of animals

6.	Council Directive 2008/71/EC of 15 July 2008 on identification and registration of pigs (OJ L 213, 8.8.2005, p. 31)	Articles 3, 4 and 5
7.	Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products (OJ L 204, 11.8.2000, p. 1)	Articles 4 and 7
8.	Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals (OJ L 5, 9.1.2004, p. 8)	Articles 3, 4 and 5

Point B.

Public, animal and plant health

9.	Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L 230, 19.8.1991, p. 1)	Article 3
10.	Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of beta-agonists (OJ L 125, 23.5.1996, p. 3)	Article 3(a), (b), (d) and (e) and Articles 4, 5 and 7
11.	Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1)	Articles 14 and 15, Article 17(1) ⁽¹⁾ and Articles 18, 19 and 20
12.	Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ L 147, 31.5.2001, p. 1)	Articles 7, 11, 12, 13 and 15

Notification of diseases

13.	Council Directive 85/511/EEC of 18 November 1985 introducing Community measures for the control of foot-and-mouth disease (OJ L 315, 26.11.1985, p. 11)	Article 3
14.	Council Directive 92/119/EEC of 17 December 1992 introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease (OJ L 62, 15.3.1993, p. 69)	Article 3
15.	Council Directive 2000/75/EC of 20 November 2000 laying down specific provisions for the control and eradication of blue-tongue (OJ L 327, 22.12.2000, p. 74)	Article 3

Point C.

Animal welfare

16.	Council Directive 91/629/EEC of 19 November 1991 laying down minimum standards for the protection of calves (OJ L 340, 11.12.1991, p. 28)	Articles 3 and 4
17.	Council Directive 91/630/EEC of 19 November 1991 laying down minimum standards for the protection of pigs (OJ L 340, 11.12.1991, p. 33)	Article 3 and Article 4(1)
18.	Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes (OJ L 221, 8.8.1998, p. 23)	Article 4

(¹) As implemented in particular by:

- Regulation (EEC) No 2377/90: Articles 2, 4 and 5,
- Regulation (EC) No 852/2004: Article 4(1) and Annex I part A (II 4 (g, h, j), 5 (f, h), 6; III 8 (a, b, d, e), 9 (a, c)),
- Regulation (EC) No 853/2004: Article 3(1) and Annex III Section IX Chapter 1 (I-1 b, c, d, e; I-2 a (i, ii, iii), b (i, ii), c; I-3; I-4; I-5; II-A 1, 2, 3, 4; II-B 1(a, d), 2, 4 (a, b)), Annex III Section X Chapter 1(1),
- Regulation (EC) No 1831/2003: Article 5(1) and Annex I, part A (I-4 e, g; II-2 a, b, e), Article 5(5) and Annex III (1, 2), Article 5(6), and
- Regulation (EC) No 396/2005: Article 18.

ANNEX III

Good agricultural and environmental condition referred to in Article 6

Issue	Compulsory standards	Optional standards
Soil erosion: Protect soil through appropriate measures	— Minimum soil cover	— Retain terraces
	— Minimum land management reflecting site-specific conditions	
Soil organic matter: Maintain soil organic matter levels through appropriate practices	— Arable stubble management	— Standards for crop rotations
Soil structure: Maintain soil structure through appropriate measures		— Appropriate machinery use
Minimum level of maintenance: Ensure a minimum level of maintenance and avoid the deterioration of habitats	— Retention of landscape features, including, where appropriate, hedges, ponds, ditches trees in line, in group or isolated and field margins	— Minimum livestock stocking rates or/and appropriate regimes
		— Establishment and/or retention of habitats
	— Avoiding the encroachment of unwanted vegetation on agricultural land	— Prohibition of the grubbing up of olive trees
	— Protection of permanent pasture	— Maintenance of olive groves and vines in good vegetative condition
Protection and management of water: Protect water against pollution and run-off, and manage the use of water	— Establishment of buffer strips along water courses ⁽¹⁾	
	— Where use of water for irrigation is subject to authorisation, compliance with authorisation procedures	

(¹) Note: The GAEC buffer strips must respect, both within and outside vulnerable zones designated pursuant to Article 3(2) of Directive 91/676/EEC, at least the requirements relating to the conditions for land application of fertiliser near water courses, referred to in point A.4 of Annex II to Directive 91/676/EEC to be applied in accordance with the action programmes of Member States established under Article 5(4) of Directive 91/676/EEC.

ANNEX IV

(EUR million)				
Calendar year	2009	2010	2011	2012
Belgium	583,2	575,4	570,8	569,0
Czech Republic				825,9
Denmark	987,4	977,3	968,9	964,3
Germany	5 524,8	5 445,2	5 399,7	5 372,2
Estonia				92,0
Ireland	1 283,1	1 272,4	1 263,8	1 255,5
Greece	2 561,4	2 365,1	2 358,9	2 343,8
Spain	5 018,3	5 015,5	4 998,3	5 010,3
France	8 064,4	7 943,7	7 876,2	7 846,8
Italy	4 345,9	4 147,9	4 121,0	4 117,9
Cyprus				49,1
Latvia				133,9
Lithuania				346,7
Luxembourg	35,6	35,2	35,1	34,7
Hungary				1 204,5
Malta				5,1
Netherlands	836,9	829,1	822,5	830,6
Austria	727,6	722,4	718,8	715,5
Poland				2 787,1
Portugal	557,7	545,0	545,0	545,0
Slovenia				131,5
Slovakia				357,9
Finland	550,0	544,5	541,4	539,2
Sweden	733,1	726,5	721,1	717,5
United Kingdom	3 373,1	3 345,6	3 339,6	3 336,1

ANNEX V

List of cereals referred to in Article 9(3)

CN code	Description
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

ANNEX VI

Compatible support schemes referred to in Article 26

Sector	Legal base
Less-favoured areas and areas with environmental restrictions	Article 13(a), Article 14(1), the first two indents of Article 14(2), Articles 15 and 17 to 20, Article 51(3) and Article 55(4) of Regulation (EC) No 1257/1999
Measures targeting the sustainable use of agricultural land through:	
natural handicap payments to farmers in mountain areas	Article 36(a)(i) of Regulation (EC) No 1698/2005
payments to farmers in areas with handicaps, other than mountain areas	Article 36(a)(ii) of Regulation (EC) No 1698/2005
Natura 2000 payments and payments linked to Directive 2000/60/EC	Article 36(a)(iii) of Regulation (EC) No 1698/2005
agri-environment payments	Article 36(a)(iv) of Regulation (EC) No 1698/2005
Measures targeting the sustainable use of forestry land through:	
first afforestation of agricultural land	Article 36(b)(i) of Regulation (EC) No 1698/2005
Natura 2000 payments	Article 36(b)(iv) of Regulation (EC) No 1698/2005
forest-environment payments	Article 36(b)(v) of Regulation (EC) No 1698/2005
Wine	Article 117 of Regulation (EC) No 479/2008

ANNEX VII

Coefficients to be applied under Article 28(1)

Member State	Limit for the EUR threshold (Article 28(1)(a))	Limit for the hectare threshold (Article 28(1)(b))
Belgium	400	2
Bulgaria	200	0,5
Czech Republic	200	5
Denmark	300	5
Germany	300	4
Estonia	100	3
Ireland	200	3
Greece	400	0,4
Spain	300	2
France	300	4
Italy	400	0,5
Cyprus	300	0,3
Latvia	100	1
Lithuania	100	1
Luxemburg	300	4
Hungary	200	0,3
Malta	500	0,1
Netherlands	500	2
Austria	200	2
Poland	200	0,5
Portugal	200	0,3
Romania	200	0,3
Slovenia	300	0,3
Slovakia	200	2
Finland	200	3
Sweden	200	4
United Kingdom	200	5

ANNEX VIII

National ceilings referred to in Article 40

Table 1

(EUR 1 000)

Member State	2009	2010	2011	2012	2013	2014	2015	2016 and subsequent years
Belgium	614 179	611 805	611 805	614 855	614 855	614 855	614 855	614 855
Denmark	1 030 478	1 030 478	1 030 478	1 049 002	1 049 002	1 049 002	1 049 002	1 049 002
Germany	5 770 254	5 771 977	5 771 977	5 852 908	5 852 908	5 852 908	5 852 908	5 852 908
Greece	2 380 713	2 211 683	2 214 683	2 232 533	2 216 533	2 216 533	2 216 533	2 216 533
Spain	4 858 043	5 091 044	5 108 650	5 282 193	5 139 444	5 139 444	5 139 444	5 139 444
France	8 407 555	8 420 822	8 420 822	8 521 236	8 521 236	8 521 236	8 521 236	8 521 236
Ireland	1 342 268	1 340 521	1 340 521	1 340 869	1 340 869	1 340 869	1 340 869	1 340 869
Italy	4 143 175	4 207 177	4 227 177	4 370 024	4 370 024	4 370 024	4 370 024	4 370 024
Luxembourg	37 518	37 536	37 646	37 671	37 084	37 084	37 084	37 084
Netherlands	853 090	853 090	853 090	897 751	897 751	897 751	897 751	897 751
Austria	745 561	745 235	745 235	751 606	751 606	751 606	751 606	751 606
Portugal	608 751	589 499	589 499	605 962	605 962	605 962	605 962	605 962
Finland	566 801	565 520	565 520	570 548	570 548	570 548	570 548	570 548
Sweden	763 082	763 082	763 082	770 906	770 906	770 906	770 906	770 906
United Kingdom	3 985 895	3 975 916	3 975 973	3 988 042	3 987 922	3 987 922	3 987 922	3 987 922

Table 2 (*)

Bulgaria	287 399	336 041	416 372	499 327	580 087	660 848	741 606	814 295
Czech Republic	559 622	654 241	739 941	832 144	909 313	909 313	909 313	909 313
Estonia	60 500	71 603	81 703	92 042	101 165	101 165	101 165	101 165
Cyprus	31 670	38 928	43 749	49 146	53 499	53 499	53 499	53 499
Latvia	90 016	105 368	119 268	133 978	146 479	146 479	146 479	146 479
Lithuania	230 560	271 029	307 729	346 958	380 109	380 109	380 109	380 109
Hungary	807 366	947 114	1 073 824	1 205 037	1 318 975	1 318 975	1 318 975	1 318 975
Malta	3 752	4 231	4 726	5 137	5 102	5 102	5 102	5 102
Poland	1 877 107	2 192 294	2 477 294	2 788 247	3 044 518	3 044 518	3 044 518	3 044 518
Romania	623 399	729 863	907 473	1 086 608	1 264 472	1 442 335	1 620 201	1 780 406
Slovenia	87 942	103 389	117 406	131 537	144 236	144 236	144 236	144 236
Slovakia	240 014	280 364	316 964	355 242	388 176	388 176	388 176	388 176

(*) Ceilings calculated taking into account of the schedule of increments provided for in Article 121.

ANNEX IX

Payment entitlements referred to in Article 33(1)(b)(iii)**A. Fruit and vegetables, ware potatoes and nurseries**

1. For the purposes of this Annex, 'fruit and vegetables' shall mean the products listed in Article 1(1)(i) and (j) of Regulation (EC) No 1234/2007, and 'ware potatoes' shall mean potatoes of CN code 0701 other than those intended for the manufacture of potato starch for which aid is granted under Article 77 of this Regulation.

Farmers shall receive a payment entitlement per hectare which is calculated by dividing the reference amount referred in point 2 by the number of hectares as calculated in accordance with point 3.

2. Member States shall determine the amount to be included in the reference amount of each farmer on the basis of objective and non-discriminatory criteria such as:
 - (a) the amount of market support received, directly or indirectly, by the farmer in respect of fruit and vegetables, ware potatoes and nurseries;
 - (b) the area used to produce fruit and vegetables, ware potatoes and nurseries;
 - (c) the amount of fruit and vegetables produced, ware potatoes and nurseries,

in respect of a representative period which could be different for each product, of one or more marketing years starting from the marketing year ending in 2001 and, in the case of the new Member States, from the marketing year ending in 2004, up to the marketing year ending in 2007.

The application of the criteria in this point may be varied between different fruit and vegetable products, ware potatoes and nurseries, if duly justified on an objective basis. On the same basis, Member States may decide not to determine the amounts to be included in the reference amount and the applicable hectares under this point before the end of a transitional three-year period ending on 31 December 2010.

3. Member States shall calculate the applicable hectares on the basis of objective and non-discriminatory criteria such as the areas referred to in point (b) of the first subpoint of point 2.
4. A farmer whose production was adversely affected during the representative period referred to in point 2 by a case of *force majeure* or exceptional circumstances occurring before or during that reference period shall be entitled to request that the reference amount referred to in point 2 be calculated on the basis of the calendar year or years in the representative period not affected by the case of *force majeure* or exceptional circumstances.
5. If the whole reference period was affected by the case of *force majeure* or exceptional circumstances, the Member State concerned shall calculate the reference amount on the basis of the closest marketing year prior to the representative period chosen in accordance with point 3. In such case, point 1 shall apply *mutatis mutandis*.
6. A case of *force majeure* or exceptional circumstances, with relevant evidence to the satisfaction of the competent authority, shall be notified by the farmer concerned in writing to the authority within a deadline to be fixed by each Member State.

B. Wine (grubbing up)

Farmers who participate in the grubbing up scheme laid down in Chapter 3 of Title V of Regulation (EC) No 479/2008 shall be allocated, in the year following the grubbing up, payment entitlements equal to the number of hectares for which they have received a grubbing up premium.

The unit value of these payment entitlements shall be equal to the regional average of the value of the payment entitlements of the corresponding region. However, the unit value shall in any case not exceed EUR 350/ha.

By way of derogation from the first subpoint, where the hectares for which a farmer has received the grubbing up premium had previously been taken into account for the allocation of payment entitlements, the value of the payment entitlements held by the farmer concerned shall be increased by the amount resulting from the multiplication of the number of hectares grubbed up referred to in the first subpoint with the unit value referred to in the second subpoint.

C. Wine (transfer from support programmes)

Where Member States choose to provide support in accordance with Article 9 of Regulation (EC) No 479/2008, they shall establish a reference amount for each farmer as well as the applicable hectares:

- (a) on the basis of objective and non-discriminatory criteria;

- (b) in respect of a representative reference period of one or more wine years starting from the wine year 2005/2006. However, the reference criteria used to establish the reference amount and applicable hectares shall not be based on a reference period including wine years after the wine year 2007/2008 where the transfer in support programmes concerns compensation to farmers who have previously received support for potable alcohol distillation or have been the economic beneficiaries of the support for the use of concentrated grape must to enrich wine under Regulation (EC) No 479/2008;
- (c) which shall not exceed the overall available amount for this measure referred to in Article 6(e) of Regulation (EC) No 479/2008.

Farmers shall receive a payment entitlement per hectare which is calculated by dividing the abovementioned reference amount by the number of applicable hectares.

ANNEX X

Components of the national ceilings referred to in Article 54

1. The component of the national ceilings referred to in Article 54(1) corresponding to tomatoes shall be as follows:

Member State	Amount (EUR million per calendar year)
Bulgaria	5,394
Czech Republic	0,414
Greece	35,733
Spain	56,233
France	8,033
Italy	183,967
Cyprus	0,274
Malta	0,932
Hungary	4,512
Romania	1,738
Poland	6,715
Portugal	33,333
Slovakia	1,018

2. The component of the national ceilings referred to in Article 54(2) corresponding to fruit and vegetable crops other than annual crops shall be as follows:

Member State	Amount (EUR million per calendar year)
Bulgaria	0,851
Czech Republic	0,063
Greece	153,833
Spain	110,633
France	44,033
Italy	131,700
Cyprus	in 2009: 4,856 in 2010: 4,919 in 2011: 4,982 in 2012: 5,045
Hungary	0,244
Romania	0,025
Portugal	2,900
Slovakia	0,007

ANNEX XI

Integration of coupled support into the single payment scheme as referred to in Article 63

1.

- (a) From 2010, the specific quality premium for durum wheat provided for in Chapter 1 of Title IV of Regulation (EC) No 1782/2003;
- (b) from 2012 at the latest, the protein crop premium provided for in Section 3 of Chapter 1 of Title IV of this Regulation;
- (c) from 2012 at the latest, the crop specific payment for rice provided for in Section 1 of Chapter 1 of Title IV of this Regulation;
- (d) from 2012 at the latest, the area payment for nuts provided for in Section 4 of Chapter 1 of Title IV of this Regulation;
- (e) from 2012 at the latest, the production aid for starch potato growers provided for in Section 2 of Chapter 1 of Title IV of this Regulation.

2.

- (a) From 2012, the aid for processing dried fodder provided for in Subsection I of Section I of Chapter 4 of Title I of Part II of Regulation (EC) No 1234/2007;
- (b) from 2012, the aid for processing flax and hemp grown for fibre provided for in Subsection II of Section I of Chapter 4 of Title I of Part II of Regulation (EC) No 1234/2007;
- (c) from 2012, the potato starch premium provided for in Article 95a of Regulation (EC) No 1234/2007;
- (d) from 2012, the transitional soft fruit payment provided for in Section 9 of Chapter 1 of Title IV of this Regulation.

3.

From 2010, where a Member State granted the:

- (a) arable crops area payment provided for in Chapter 10 of Title IV of Regulation (EC) No 1782/2003;
- (b) aid for olive groves provided for in Chapter 10b of Title IV of Regulation (EC) No 1782/2003;
- (c) hops area aid provided for in Chapter 10d of Title IV of Regulation (EC) No 1782/2003.

From 2012 at the latest, where a Member State granted the:

- (a) seed aid provided for in Section 5 of Chapter 1 of Title IV of this Regulation;
- (b) the beef and veal payments, except the suckler cow premium provided for in Article 53 of this Regulation.

4.

As from 2010, where a Member State in application of Article 51(1) of this Regulation no longer grants the following payments or where it decides to grant them at a lower level:

- (a) the sheep and goat payments referred to in Article 67 of Regulation (EC) No 1782/2003;
 - (b) the beef and veal payments referred to in Article 68 of Regulation (EC) No 1782/2003 or in Article 53(2) of this Regulation, in case of application of the second subparagraph of Article 51(1) of this Regulation;
 - (c) the transitional fruit and vegetable payments referred to in Article 68b of Regulation (EC) No 1782/2003.
-

ANNEX XII

Integration of coupled support into the single payment scheme as referred to in Article 64*Dried fodder (Regulation (EC) No 1234/2007)*

(EUR 1 000)

Member State	2012	2013	2014	2015	2016 and subsequent years
Denmark	2 779	2 779	2 779	2 779	2 779
Germany	8 475	8 475	8 475	8 475	8 475
Ireland	132	132	132	132	132
Greece	1 238	1 238	1 238	1 238	1 238
Spain	43 725	43 725	43 725	43 725	43 725
France	35 752	35 752	35 752	35 752	35 752
Italy	22 605	22 605	22 605	22 605	22 605
Netherlands	5 202	5 202	5 202	5 202	5 202
Austria	64	64	64	64	64
Portugal	69	69	69	69	69
Finland	10	10	10	10	10
Sweden	180	180	180	180	180
United Kingdom	1 478	1 478	1 478	1 478	1 478
Czech Republic	922	922	922	922	922
Lithuania	21	21	21	21	21
Hungary	1 421	1 421	1 421	1 421	1 421
Poland	147	147	147	147	147
Slovakia	91	91	91	91	91

Durum wheat specific quality premium

(EUR 1 000)

Member State	2010	2011	2012	2013	2014	2015	2016 and subsequent years
Greece	20 301	20 301	20 301	20 301	20 301	20 301	20 301
Spain	22 372	22 372	22 372	22 372	22 372	22 372	22 372
France	8 320	8 320	8 320	8 320	8 320	8 320	8 320
Italy	42 457	42 457	42 457	42 457	42 457	42 457	42 457
Austria	280	280	280	280	280	280	280
Portugal	80	80	80	80	80	80	80
Bulgaria	349	436	523	610	698	785	872
Cyprus	173	198	223	247	247	247	247
Hungary	70	80	90	100	100	100	100

Protein crop premium

(EUR 1 000)

Member State	2010	2011	2012	2013	2014	2015	2016 and subsequent years
Belgium	84	84	84	84	84	84	84
Denmark	843	843	843	843	843	843	843
Germany	7 231	7 231	7 231	7 231	7 231	7 231	7 231
Ireland	216	216	216	216	216	216	216
Greece	242	242	242	242	242	242	242
Spain	10 905	10 905	10 905	10 905	10 905	10 905	10 905
France	17 635	17 635	17 635	17 635	17 635	17 635	17 635
Italy	5 009	5 009	5 009	5 009	5 009	5 009	5 009
Luxembourg	21	21	21	21	21	21	21
Netherlands	67	67	67	67	67	67	67
Austria	2 051	2 051	2 051	2 051	2 051	2 051	2 051
Portugal	214	214	214	214	214	214	214
Finland	303	303	303	303	303	303	303
Sweden	2 147	2 147	2 147	2 147	2 147	2 147	2 147
United Kingdom	10 500	10 500	10 500	10 500	10 500	10 500	10 500
Bulgaria	160	201	241	281	321	361	401
Czech Republic	1 858	2 123	2 389	2 654	2 654	2 654	2 654
Estonia	169	194	218	242	242	242	242
Cyprus	17	19	22	24	24	24	24
Latvia	109	124	140	155	155	155	155
Lithuania	1 486	1 698	1 911	2 123	2 123	2 123	2 123
Hungary	1 369	1 565	1 760	1 956	1 956	1 956	1 956
Poland	1 723	1 970	2 216	2 462	2 462	2 462	2 462
Romania	911	1 139	1 367	1 595	1 822	2 050	2 278
Slovenia	63	72	81	90	90	90	90
Slovakia	1 003	1 146	1 290	1 433	1 433	1 433	1 433

Crop specific payment for rice

(EUR 1 000)

Member State	2010	2011	2012	2013	2014	2015	2016 and subsequent years
Greece	11 407	11 407	11 407	11 407	11 407	11 407	11 407
Spain	49 993	49 993	49 993	49 993	49 993	49 993	49 993
France	7 844	7 844	7 844	7 844	7 844	7 844	7 844
Italy	99 473	99 473	99 473	99 473	99 473	99 473	99 473
Portugal	11 193	11 193	11 193	11 193	11 193	11 193	11 193
Bulgaria	575	719	863	1007	1 151	1 294	1 438
Hungary	524	599	674	749	749	749	749
Romania	25	32	38	44	50	57	63

Area payment for nuts

(EUR 1 000)

Member State	2010	2011	2012	2013	2014	2015	2016 and subsequent years
Belgium	12	12	12	12	12	12	12
Germany	181	181	181	181	181	181	181
Greece	4 963	4 963	4 963	4 963	4 963	4 963	4 963
Spain	68 610	68 610	68 610	68 610	68 610	68 610	68 610
France	2 089	2 089	2 089	2 089	2 089	2 089	2 089
Italy	15 710	15 710	15 710	15 710	15 710	15 710	15 710
Luxembourg	12	12	12	12	12	12	12
Netherlands	12	12	12	12	12	12	12
Austria	12	12	12	12	12	12	12
Portugal	4 987	4 987	4 987	4 987	4 987	4 987	4 987
United Kingdom	12	12	12	12	12	12	12
Bulgaria	579	724	868	1 013	1 158	1 302	1 447
Cyprus	431	493	554	616	616	616	616
Hungary	245	280	315	350	350	350	350
Poland	355	406	456	507	507	507	507
Romania	79	99	119	139	159	179	199
Slovenia	25	29	33	36	36	36	36
Slovakia	262	299	337	374	374	374	374

Flax and hemp grown for fibre (Regulation (EC) No 1234/2007)

(EUR 1 000)

Member State	2012	2013	2014	2015	2016 and subsequent years
Belgium	2 954	2 954	2 954	2 954	2 954
Denmark	3	3	3	3	3
Germany	244	244	244	244	244
Spain	138	138	138	138	138
France	13 592	13 592	13 592	13 592	13 592
Italy	50	50	50	50	50
Netherlands	1 111	1 111	1 111	1 111	1 111
Austria	20	20	20	20	20
Finland	5	5	5	5	5
United Kingdom	83	83	83	83	83
Czech Republic	534	534	534	534	534
Latvia	104	104	104	104	104
Lithuania	360	360	360	360	360
Hungary	42	42	42	42	42
Poland	114	114	114	114	114

Potato starch premium (Article 95a of Regulation (EC) No 1234/2007)

(EUR 1 000)

Member State	2012	2013	2014	2015	2016 and subsequent years
Denmark	3 743	3 743	3 743	3 743	3 743
Germany	16 279	16 279	16 279	16 279	16 279
Spain	43	43	43	43	43
France	5 904	5 904	5 904	5 904	5 904
Netherlands	9 614	9 614	9 614	9 614	9 614
Austria	1 061	1 061	1 061	1 061	1 061
Finland	1 183	1 183	1 183	1 183	1 183
Sweden	1 381	1 381	1 381	1 381	1 381
Czech Republic	749	749	749	749	749
Estonia	6	6	6	6	6
Latvia	129	129	129	129	129
Lithuania	27	27	27	27	27
Poland	3 226	3 226	3 226	3 226	3 226
Slovakia	16	16	16	16	16

Aid for starch potato growers

(EUR 1 000)

Member State	2010	2011	2012	2013	2014	2015	2016 and subsequent years
Denmark	11 156	11 156	11 156	11 156	11 156	11 156	11 156
Germany	48 521	48 521	48 521	48 521	48 521	48 521	48 521
Spain	129	129	129	129	129	129	129
France	17 598	17 598	17 598	17 598	17 598	17 598	17 598
Netherlands	28 655	28 655	28 655	28 655	28 655	28 655	28 655
Austria	3 163	3 163	3 163	3 163	3 163	3 163	3 163
Finland	3 527	3 527	3 527	3 527	3 527	3 527	3 527
Sweden	4 116	4 116	4 116	4 116	4 116	4 116	4 116
Czech Republic	1 563	1 786	2 009	2 232	2 232	2 232	2 232
Estonia	12	13	15	17	17	17	17
Latvia	268	307	345	383	383	383	383
Lithuania	56	64	72	80	80	80	80
Poland	6 731	7 692	8 654	9 615	9 615	9 615	9 615
Slovakia	34	39	44	48	48	48	48

Aid for olive groves

(EUR 1 000)

Member State	2010	2011	2012	2013	2014	2015	2016 and subsequent years
Spain	103 140	103 140	103 140	103 140	103 140	103 140	103 140
Cyprus	2 051	2 344	2 637	2 930	2 930	2 930	2 930

*Soft fruit payment**(EUR 1 000)*

Member State	2012	2013	2014	2015	2016 and subsequent years
Bulgaria	552	552	552	552	552
Latvia	92	92	92	92	92
Lithuania	138	138	138	138	138
Hungary	391	391	391	391	391
Poland	11 040	11 040	11 040	11 040	11 040

ANNEX XIII

List of seed species referred to in Article 87

CN code	Description	Amount of aid (EUR/100 kg)
	1. Ceres	
1001 90 10	<i>Triticum spelta</i> L.	14,37
1006 10 10	<i>Oryza sativa</i> L. ⁽¹⁾	
	— long-grain varieties the grains of which are of a length exceeding 6,0 millimetres and of a length/width ratio of more than or equal to 3	17,27
	— other varieties the grains of which are of a length exceeding, not exceeding or equal to 6,0 millimetres and of a length/width ratio of less than 3	14,85
	2. Oleagineae	
ex 1204 00 10	<i>Linum usitatissimum</i> L. (fibre flax)	28,38
ex 1204 00 10	<i>Linum usitatissimum</i> L. (linseed)	22,46
ex 1207 99 10	<i>Cannabis sativa</i> L. ⁽²⁾ (varieties with a tetrahydrocannabinol content not exceeding 0,2 %)	20,53
	3. Gramineae	
ex 1209 29 10	<i>Agrostis canina</i> L.	75,95
ex 1209 29 10	<i>Agrostis gigantea</i> Roth.	75,95
ex 1209 29 10	<i>Agrostis stolonifera</i> L.	75,95
ex 1209 29 10	<i>Agrostis capillaris</i> L.	75,95
ex 1209 29 80	<i>Arrhenatherum elatius</i> (L.) P. Beauv. ex J.S. and K.B. Prest.	67,14
ex 1209 29 10	<i>Dactylis glomerata</i> L.	52,77
ex 1209 23 80	<i>Festuca arundinacea</i> Schreb.	58,93
ex 1209 23 80	<i>Festuca ovina</i> L.	43,59
1209 23 11	<i>Festuca pratensis</i> Huds.	43,59
1209 23 15	<i>Festuca rubra</i> L.	36,83
ex 1209 29 80	<i>Festulolium</i>	32,36
1209 25 10	<i>Lolium multiflorum</i> Lam.	21,13
1209 25 90	<i>Lolium perenne</i> L.	30,99
ex 1209 29 80	<i>Lolium x boucheanum</i> Kunth	21,13
ex 1209 29 80	<i>Phleum Bertolinii</i> (DC)	50,96
1209 26 00	<i>Phleum pratense</i> L.	83,56
ex 1209 29 80	<i>Poa nemoralis</i> L.	38,88
1209 24 00	<i>Poa pratensis</i> L.	38,52
ex 1209 29 10	<i>Poa palustris</i> and <i>Poa trivialis</i> L.	38,88
	4. Leguminosae	
ex 1209 29 80	<i>Hedysarum coronarium</i> L.	36,47
ex 1209 29 80	<i>Medicago lupulina</i> L.	31,88
ex 1209 21 00	<i>Medicago sativa</i> L. (ecotypes)	22,10
ex 1209 21 00	<i>Medicago sativa</i> L. (varieties)	36,59
ex 1209 29 80	<i>Onobrichis viciifolia</i> Scop.	20,04
ex 0713 10 10	<i>Pisum sativum</i> L. (partim) (field peas)	0
ex 1209 22 80	<i>Trifolium alexandrinum</i> L.	45,76
ex 1209 22 80	<i>Trifolium hybridum</i> L.	45,89
ex 1209 22 80	<i>Trifolium incarnatum</i> L.	45,76
1209 22 10	<i>Trifolium pratense</i> L.	53,49

CN code	Description	Amount of aid (EUR/100 kg)
ex 1209 22 80	<i>Trifolium repens</i> L.	75,11
ex 1209 22 80	<i>Trifolium repens</i> L. var. <i>giganteum</i>	70,76
ex 1209 22 80	<i>Trifolium resupinatum</i> L.	45,76
ex 0713 50 10	<i>Vicia faba</i> L. (partim) (field beans)	0
ex 1209 29 10	<i>Vicia sativa</i> L.	30,67
ex 1209 29 10	<i>Vicia villosa</i> Roth.	24,03

(¹) Grain measurements are taken on wholly milled rice by the following method:

- (a) take a sample representative of the batch;
- (b) sieve the sample so as to retain only whole grains, including immature grains;
- (c) carry out two measurements of 100 grains each and work out the average;
- (d) express the results in millimetres, rounded off to one decimal place.

(²) The tetrahydrocannabinol (THC) content of a variety is determined by analysing a sample maintained at constant weight. The weight of THC in relation to the weight of the sample must — for the purposes of granting the aid — not be greater than 0,2 %. The sample is to consist of the upper third of a representative number of plants selected at random at the end of their flowering period and with stalks and seeds removed.

ANNEX XIV

Seed aid ceilings in the new Member States referred to in Article 87(3)

(EUR million)

Calendar year	Bulgaria	Czech Republic	Estonia	Cyprus	Latvia	Lithuania	Hungary	Malta	Poland	Romania	Slovenia	Slovakia
2009	0,15	1,75	0,07	0,06	0,21	0,21	1,55	0,06	1,11	0,26	0,17	0,07
2010	0,17	2,04	0,08	0,07	0,24	0,24	1,81	0,07	1,30	0,30	0,19	0,08
2011	0,22	2,33	0,10	0,08	0,28	0,28	2,07	0,08	1,48	0,38	0,22	0,09
2012	0,26	2,62	0,11	0,09	0,31	0,31	2,33	0,09	1,67	0,45	0,25	0,11
2013	0,30	2,91	0,12	0,10	0,35	0,35	2,59	0,10	1,85	0,53	0,28	0,12
2014	0,34	2,91	0,12	0,10	0,35	0,35	2,59	0,10	1,85	0,60	0,28	0,12
2015	0,39	2,91	0,12	0,10	0,35	0,35	2,59	0,10	1,85	0,68	0,28	0,12
2016	0,43	2,91	0,12	0,10	0,35	0,35	2,59	0,10	1,85	0,75	0,28	0,12
subsequent years	0,43	2,91	0,12	0,10	0,35	0,35	2,59	0,10	1,85	0,75	0,28	0,12

ANNEX XV

Ceilings for the calculation of the aid amount referred in Article 95 (sugar)

(EUR 1 000)

Member State	2009	2010	2011	2012	2013	2014	2015	2016 and subsequent years
Belgium	81 752	81 752	81 752	81 752	81 752	81 752	81 752	81 752
Bulgaria (*)	154	176	220	264	308	352	396	440
Czech Republic	44 245	44 245	44 245	44 245	44 245	44 245	44 245	44 245
Denmark	34 478	34 478	34 478	34 478	34 478	34 478	34 478	34 478
Germany	278 254	278 254	278 254	278 254	278 254	278 254	278 254	278 254
Greece	29 384	29 384	29 384	29 384	29 384	29 384	29 384	29 384
Spain	96 203	96 203	96 203	96 203	96 203	96 203	96 203	96 203
France	272 259	272 259	272 259	272 259	272 259	272 259	272 259	272 259
Ireland	18 441	18 441	18 441	18 441	18 441	18 441	18 441	18 441
Italy	135 994	135 994	135 994	135 994	135 994	135 994	135 994	135 994
Latvia	6 616	6 616	6 616	6 616	6 616	6 616	6 616	6 616
Lithuania	10 260	10 260	10 260	10 260	10 260	10 260	10 260	10 260
Hungary	41 010	41 010	41 010	41 010	41 010	41 010	41 010	41 010
Netherlands	73 504	73 504	73 504	73 504	73 504	73 504	73 504	73 504
Austria	32 955	32 955	32 955	32 955	32 955	32 955	32 955	32 955
Poland	159 392	159 392	159 392	159 392	159 392	159 392	159 392	159 392
Portugal	6 452	6 452	6 452	6 452	6 452	6 452	6 452	6 452
Romania (*)	3 536	4 041	5 051	6 062	7 072	8 082	9 093	10 103
Slovenia	3 740	3 740	3 740	3 740	3 740	3 740	3 740	3 740
Slovakia	19 289	19 289	19 289	19 289	19 289	19 289	19 289	19 289
Finland	13 520	13 520	13 520	13 520	13 520	13 520	13 520	13 520
Sweden	34 082	34 082	34 082	34 082	34 082	34 082	34 082	34 082
United Kingdom	105 376	105 376	105 376	105 376	105 376	105 376	105 376	105 376

(*) Ceilings calculated taking account of the schedule of increments provided for in Article 121.

ANNEX XVI

Table 1

Cyprus: Complementary national direct payments where the normal schemes for direct payments apply

(EUR)

Schedule of increments	60 %	70 %	80 %	90 %
Sector	2009	2010	2011	2012
Arable crops (durum wheat excluded)	4 220 705	3 165 529	2 110 353	1 055 176
Durum wheat	1 162 157	871 618	581 078	290 539
Grain legumes	16 362	12 272	8 181	4 091
Milk and dairy	1 422 379	1 066 784	711 190	355 595
Beef	1 843 578	1 382 684	921 789	460 895
Sheep and goats	4 409 113	3 306 835	2 204 556	1 102 278
Olive oil	3 174 000	2 380 500	1 587 000	793 500
Tobacco	417 340	313 005	208 670	104 335
Bananas	1 755 000	1 316 250	877 500	0
Dried grapes	0	0	0	0
Almonds	0	0	0	0
Total	1 842 0634	13 815 476	9 210 317	4 166 409

Complementary national direct payments under the single payment scheme:

The total amount of complementary national direct payments that may be granted under the single payment scheme shall be equal to the sum of the sectoral ceilings referred to in this table relating to the sectors that are covered by the single payment scheme to the extent that the support in these sectors is decoupled.

Table 2

Cyprus: Complementary national direct payments where the single area payment scheme for direct payments applies

(EUR)

Sector	2009	2010	2011	2012
Arable crops (durum wheat excluded)	0	0	0	0
Durum wheat	1 795 543	1 572 955	1 350 367	1 127 779
Grain legumes	0	0	0	0
Milk and dairy	3 456 448	3 438 488	3 420 448	3 402 448
Beef	4 608 945	4 608 945	4 608 945	4 608 945
Sheep and goats	10 724 282	10 670 282	10 616 282	10 562 282
Olive oil	5 547 000	5 115 000	4 683 000	4 251 000
Dried grapes	156 332	149 600	142 868	136 136
Bananas	4 323 820	4 312 300	4 300 780	4 289 260
Tobacco	1 038 575	1 035 875	1 033 175	1 030 475
Total	31 650 945	30 903 405	30 155 865	29 408 325

ANNEX XVII

STATE AID IN CYPRUS

(EUR)				
Sector	2009	2010	2011	2012
Cereals (durum wheat excluded)	2 263 018	1 131 509	565 755	282 877
Milk and dairy	562 189	281 094	140 547	70 274
Beef	64 887	0	0	0
Sheep and goats	1 027 917	513 958	256 979	128 490
Pig sector	2 732 606	1 366 303	683 152	341 576
Poultry and eggs	1 142 374	571 187	285 594	142 797
Wine	4 307 990	2 153 995	1 076 998	538 499
Olive oil	2 088 857	1 044 429	522 215	261 107
Table grapes	1 058 897	529 448	264 724	132 362
Processed tomatoes	117 458	58 729	29 365	14 682
Bananas	127 286	63 643	31 822	15 911
Deciduous fruit including stone fruit	2 774 230	1 387 115	693 558	346 779
Total	18 267 707	9 101 410	4 552 716	2 277 365

ANNEX XVIII

CORRELATION TABLE

Regulation (EC) No 1782/2003	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3	Article 4
Article 4	Article 5
Article 5	Article 6
Article 6	Article 23
Article 7	Article 24
Article 8	—
Article 9	Article 25
Article 10(1)	Article 7
Article 10(2)	Article 9(1)
Article 10(3)	Article 9(2)
Article 10(4)	Article 9(3)
—	Article 9(4)
Article 11	Article 11(1) and (2)
Article 12	—
—	Article 8
Article 12a(1)	Article 10
Article 12a(2)	Article 11(3)
Article 13	Article 12
Article 14	Article 12
Article 15	Article 13
Article 16	Article 12
Article 17	Article 14
Article 18	Article 15
Article 19	Article 16
Article 20	Article 17
Article 21	Article 18
Article 22	Article 19
Article 23	Article 20
Article 24	Article 21
Article 25	Article 22
Article 26	Article 26

Regulation (EC) No 1782/2003	This Regulation
Article 27	Article 27
—	Article 28
Article 28	Article 29
Article 29	Article 30
Article 30	Article 32
Article 31	—
Article 32	Article 3
Article 33	Article 33
Article 34	—
Article 35	Article 37
Article 36	—
Article 37	Annex IX
Article 38	—
Article 39	—
Article 40(1), (2) and (3)	Annex IX, Point A(4), (5) and (6)
Article 40(4)	Article 31
Article 40(5)	—
Article 41	Article 40
Article 42	Article 41
Article 43	Annex IX
Article 44(1) and (2)	Article 34
Article 44(3) and (4)	Article 35
Article 45	Article 42
Article 46	Article 43
Article 47	—
Article 48	—
Article 49	Article 44
Article 50	—
Article 51, first paragraph	—
Article 51, second paragraph	Article 38
Article 52	Article 39
Article 53	—
Article 54	—
Article 55	—
Article 56	—

Regulation (EC) No 1782/2003	This Regulation
Article 57	—
—	Article 45
Article 58	Article 46
Article 59	Article 47
Article 60	—
Article 61	Article 49
Article 62	—
Article 63(1)	Article 51(1)
Article 63(2)	—
Article 63(3)	Article 48
Article 63(4)	Article 50(2)
Article 64	Article 51
Article 65	—
Article 66	—
Article 67	Article 52
Article 68	Article 53
Article 68a	—
Article 68b	Article 54
Article 69	—
Article 70	—
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Article 71a	Article 55
Article 71b	Article 56
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Article 71d	Article 57
Article 71e	Article 58
Article 71f	Article 59
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Article 71h	Article 61
Article 71i	—
Article 71j	—
Article 71k	Article 62
Article 71l	—

Regulation (EC) No 1782/2003	This Regulation
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—	Article 63
—	Article 64
—	Article 65
—	Article 66
—	Article 68
—	Article 70
—	Article 69
Article 72	—
Article 73	—
Article 74	—
Article 75	—
Article 76	Article 79
Article 77	Article 80
Article 78	Article 81
Article 79	Article 73
Article 80	Article 74
Article 81	Article 75
Article 82	Article 76
Article 83	Article 82
Article 84	Article 83
Article 85	Article 84
Article 86(1), (2) and (4)	Article 85(1), (2) and (3)
Article 86(3)	—
Article 87	Article 120
Article 88	—
Article 89	—
Article 90	—
Article 91	—
Article 92	—
Article 93	Article 77
Article 94	Article 78
Article 95	—
Article 96	—

Regulation (EC) No 1782/2003	This Regulation
Article 97	—
Article 98	—
Article 99	Article 87
Article 100	—
Article 101	—
Article 102	—
Article 103	—
Article 104	—
Article 105	—
Article 106	—
Article 107	—
Article 108	—
Article 109	—
Article 110	—
Article 110a	Article 88
Article 110b	Article 89
Article 110c	Article 90
Article 110d	Article 91
Article 110e	Article 92
Article 110f	—
Article 110g	—
Article 110h	—
Article 110i	—
Article 110j	—
Article 110k	—
Article 110l	—
Article 110m	—
Article 110n	—
Article 110o	—
Article 110p	—
Article 110q	Article 93
Article 110r	Article 94
Article 110s	Article 95
Article 110t	Article 96

Regulation (EC) No 1782/2003	This Regulation
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Article 110v	Article 98
Article 111	Article 99
Article 112	Article 100
Article 113	Article 101
Article 114	Article 102
Article 115	Article 103
Article 116	Article 104
Article 117	Article 105
Article 118	Article 106
Article 119	—
Article 120	Article 107
Article 121	Article 108
Article 122	Article 109
Article 123	Article 110
Article 124	—
Article 125	Article 111
Article 126	Article 112
Article 127	Article 113
Article 128	Article 114
Article 129	Article 115
Article 130	Article 116
Article 131	—
Article 132	—
Article 133	—
Article 134	—
Article 135	—
Article 136	—
Article 136a	—
Article 137	—
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Article 140	Article 119

Regulation (EC) No 1782/2003	This Regulation
Article 141	—
Article 142	—
Article 143	—
Article 143a	Article 121
Article 143b(1)(2)(9) and (10)	Article 122
Article 143b(3) and (7)	Article 123
Article 143b(4)(5) and (6)	Article 124
Article 143b(13)	Article 125
Article 143ba(1) to (3)	Article 126
Article 143ba(3a)	—
Article 143ba(4) to (6)	Article 130
Article 143bb(1) and (2)	Article 127
Article 143bb(3)	—
Article 143bb(4) to (6)	Article 130
Article 143bc(1) and (2)	Article 128
—	Article 129
Article 143bc(3) and (4)	Article 130(1) and (2)
—	Article 131
Article 143c(1) to (8)	Article 132
Article 143c(9)	Article 133
Article 143c(10)	—
Article 143d	Article 134
Article 143e	Article 135
—	Article 136
—	Article 137
—	Article 138
—	Article 139
Article 144	Article 141
Article 145	Article 142
Article 146	Article 140
Article 147	—
Article 148	—
Article 149	—
Article 150	—

Regulation (EC) No 1782/2003	This Regulation
Article 151	—
Article 152	—
—	Article 143
—	Article 144
—	Article 145
Article 153	Article 146
Article 154	—
Article 154a	Article 148
Article 155	Article 147
Article 155a	—
Article 156	Article 149

COUNCIL REGULATION (EC) No 74/2009**of 19 January 2009****amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

After consulting the European Economic and Social Committee ⁽²⁾,

After consulting the Committee of the Regions ⁽³⁾,

Whereas:

- (1) In the assessment of the implementation of the Common Agricultural Policy (CAP) reform of 2003, climate change, renewable energies, water management, biodiversity and dairy restructuring were identified as crucial new challenges for European agriculture.
- (2) In this context, the Commission presented a Communication to the European Parliament and Council entitled 'Preparing for the "Health Check" of the CAP reform' on 20 November 2007. That Communication and the subsequent discussions of its main elements by the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, as well as numerous contributions arising from public consultation should be taken into account.
- (3) The Community, as party to the Kyoto Protocol ⁽⁴⁾, has been called upon to implement and/or further elaborate policies and measures in accordance with their national circumstances, such as the promotion of sustainable forms of agriculture in the light of climate change considerations. Furthermore, the Kyoto Protocol obliges parties to formulate, implement, publish and regularly update national and, where appropriate, regional programmes containing measures to mitigate climate change and measures to facilitate adequate adaptation to climate change. Such programmes would, *inter alia*, concern agriculture and forestry. The role of support for rural development should be further strengthened in this context. Strong scientific evidence underlines the need for urgent action. The Community has also been called upon to

examine all possible ways of reducing greenhouse gas emissions. Although European agriculture has contributed more than other sectors to curbing greenhouse gas emissions, in the future the agriculture sector will be called upon to step up its emission reduction efforts as part of the EU global climate change strategy.

- (4) Following serious problems related to water scarcity and droughts, the Council, in its Conclusions on 'Water Scarcity and Drought' of 30 October 2007, considered that water management issues, including water quality, should be further addressed in the relevant CAP instruments. It is essential for European agriculture to have sustainable water management, in order to improve efficiency as regards the quantity of water used for agriculture and in order to better protect the quality of water. In the context of the climatic changes expected, drought-affected areas are likely to increase in extent and frequency.
- (5) Furthermore, the Council has emphasised in its Conclusions on 'Halting the Loss of Biodiversity' of 18 December 2006, that protecting biodiversity remains a major challenge, which is further increased by climate change and water demand, and that, while important progress has been made, the attainment of the Community's biodiversity target for 2010 will require additional efforts. European agriculture has a key role to play in protecting biodiversity.
- (6) It is important that operations related to these Community priorities are further strengthened in the rural development programmes approved in accordance with Council Regulation (EC) No 1698/2005 ⁽⁵⁾.
- (7) Innovation can, in particular, contribute to the development of new technologies, products and processes and will therefore underpin the efforts to tackle climate change, renewable energies, water management and biodiversity. Specific support for innovation should be provided with reference to these challenges, in order to increase the effectiveness of the respective operations.
- (8) The expiry of the milk quota regime in 2015 under Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural

⁽¹⁾ Opinion of 19 November 2008 (not yet published in the Official Journal).

⁽²⁾ Opinion of 23 October 2008 (not yet published in the Official Journal). Opinion delivered following non-compulsory consultation.

⁽³⁾ Opinion of 8 October 2008 (not yet published in the Official Journal). Opinion delivered following non-compulsory consultation.

⁽⁴⁾ Adopted by Council Decision 2002/358/EC (OJ L 130, 15.5.2002, p. 1).

⁽⁵⁾ OJ L 277, 21.10.2005, p. 1.

products ⁽¹⁾ will require specific efforts from dairy farmers to adapt to changing conditions, particularly in disadvantaged regions. It is therefore appropriate that this particular situation should also be considered as a new challenge which Member States should be able to address with a view to ensuring a 'soft landing' of their dairy sectors.

(9) Given the importance of these priorities, Member States should provide, in their rural development programmes, for operations related to the new challenges, approved in accordance with this Regulation.

(10) Regulation (EC) No 1698/2005 provides that, with a view to taking account of major changes in the Community priorities, the Community strategic guidelines for rural development (programming period 2007 to 2013) adopted by Council Decision 2006/144/EC ⁽²⁾ may be subject to review. Therefore, Member States which receive additional funds should revise the national strategy plans following the review of the Community strategic guidelines, in order to establish a framework for the programmes to be modified. This obligation should apply only to those Member States which will receive, as of 2010, additional financial resources resulting from the compulsory modulation under Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers ⁽³⁾ and, as from 2011, the amounts of unused funds under the national ceilings for the single payment scheme under that Regulation which they decide to transfer to the EAFRD.

(11) It is necessary to fix a deadline for the introduction of the operations related to the new challenges into rural development programmes and for the submission of the revised rural development programmes to the Commission, in order to allow a reasonable period of time for Member States to modify their rural development programmes in the light of the revised Community strategic guidelines and national strategy plans.

(12) Given that the 2003 and 2005 Acts of Accession provided that the farmers in the new Member States, except for Bulgaria and Romania, will receive direct payments following a phasing-in mechanism and that the rules for modulation apply to those farmers only as from 2012, the new Member States will not have to revise their national strategy plans. The deadlines for the new Member States to revise and submit their rural development programmes should be adapted accordingly. Given that, for the same reason, the rules for modulation do not apply to Bulgaria and Romania before 2013, the obligation to revise their national strategy plans and rural

development programmes should not apply to these new Member States.

(13) In view of the new obligations, the requirements as to the content of the rural development programmes should be adapted. A non-exhaustive list of types of operation and their potential effects should be established in order to help Member States to identify the relevant operations related to the new challenges in the context of the legal framework for rural development.

(14) In order to provide additional incentives to beneficiaries for the uptake of operations related to the new priorities, the possibility of establishing higher amounts and rates of support for such operations should be provided for.

(15) In order to reinforce cooperation for development of new products, processes and technologies in the agriculture and food sector and in the forestry sector, more flexibility as regards the composition of the project partners should be provided.

(16) For farmers affected by substantial reductions in the value of their direct payments granted in accordance with Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers ⁽⁴⁾, restructuring support should be granted as of budget year 2011, which is transitional, degressive, and non-discriminatory. Such support should be provided via the rural development programmes in order to assist the farmers concerned in adapting to the changed conditions by restructuring their economic activities inside and outside agriculture.

(17) In order to provide more flexibility for support which produces agri-environmental effects, Member States should be able to put an end to agri-environmental commitments and to make available equivalent support under the first pillar, on the condition that the economic interests and the legitimate expectations of the beneficiary are respected and the global environmental benefit is maintained.

(18) Regulation (EC) No 1782/2003 established the principle that farmers who do not comply with certain requirements in the areas of public, animal and plant health, environment and animal welfare are subject to reductions of or exclusion from direct support. Regulation (EC) No 1698/2005 introduced the same principle in rural development for certain measures. This 'cross compliance' system forms an integral part of Community support under direct payments and rural development. However, differences can be identified between the two fields of application, since several of the rules of the direct

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 55, 25.2.2006, p. 20.

⁽³⁾ See page 16 in this Official Journal.

⁽⁴⁾ OJ L 270, 21.10.2003, p. 1.

payments cross compliance system are not included in the cross compliance for rural development. In order to ensure consistency, it is necessary to align rural development rules on cross compliance with those of direct payments, in particular as regards liability in the case of transfer of land, minimum thresholds applicable to reductions and exclusions, minor cases of non-compliance, the specific criteria to be taken into account for the detailed rules on reductions and exclusions to be laid down and new dates of application for requirements concerning animal welfare in new Member States.

(19) In accordance with Regulation (EC) No 73/2009, financial resources resulting from the application of compulsory modulation under that Regulation together with, as from 2011, the amounts of unused funds under the national ceilings for the single payment scheme under that Regulation which Member States decide to transfer to the EAFRD are to be used for rural development support. It is appropriate to ensure that an amount equal to those financial resources should be used to support operations related to the new challenges.

(20) Given the additional, specific and binding use of the amounts corresponding to those financial resources, the established balance between objectives of support for rural development should not be affected.

(21) Given the importance of the new challenges at Community level and the urgency to respond to them, the EAFRD contribution should be increased to facilitate the implementation of the related operations.

(22) The role and functions of the monitoring committee with regard to changes in the rural development programmes should be modified in order to increase its efficiency.

(23) In the interest of legal certainty and simplicity, it is appropriate to clarify and harmonise the provisions which provide for the non-application of Articles 87, 88 and 89 of the Treaty to payments made by Member States pursuant to, and in conformity with, this Regulation.

(24) In order to further facilitate the initial establishment of young farmers and the structural adjustment of their holdings after their initial setting up, the maximum amount of support should be increased.

(25) In order to provide the new framework for the implementation of revised national strategy plans and rural development programmes in a timely manner, particularly with regard to the amounts to be made available by

way of modulation, this Regulation should apply as of 1 January 2009, together with Regulation (EC) No 73/2009. Given the nature of provisions of this Regulation, such retroactive application should not infringe the principle of legal certainty of the beneficiaries concerned. However, and in view of that principle, the amended provisions concerning the application of cross compliance should apply from 1 January 2010.

(26) Regulation (EC) No 1698/2005 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1698/2005 is hereby amended as follows:

(1) In Article 11(3), point (d) shall be replaced by the following:

‘(d) a list of the rural development programmes implementing the national strategy plan, an indicative EAFRD allocation for each programme, including the amounts provided for in Article 12(2) of Regulation (EC) No 1290/2005, and a separate indication of the amounts provided for in Article 69(5a) of this Regulation.’;

(2) The following Article shall be inserted in Chapter II:

‘Article 12a

Revision

1. Each Member State receiving, as of 2010, the additional funds resulting from the application of the compulsory modulation under Articles 9(4) and 10(3) together with, as from 2011, the amounts generated under Article 136 of Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers (*) shall revise, in accordance with the procedure referred to in Article 12(1) of this Regulation, its national strategy plan following the review of the Community strategic guidelines as referred to in Article 10 of this Regulation.

2. The revised national strategy plan referred to in paragraph 1 of this Article shall be sent to the Commission no later than 30 June 2009.

(*) OJ L 30, 31.1.2009, p. 16.;

(3) The following Article shall be inserted:

'Article 16a

Specific operations related to certain priorities

1. From 1 January 2010, Member States shall provide in their rural development programmes, in accordance with their specific needs, for types of operations having the following priorities as described in the Community strategic guidelines and specified further in the national strategy plans:

- (a) climate change,
- (b) renewable energies,
- (c) water management,
- (d) biodiversity,
- (e) measures accompanying restructuring of the dairy sector,
- (f) innovation linked to the priorities mentioned in points (a), (b), (c) and (d).

The types of operations to be linked to the priorities referred to in the first subparagraph shall be aimed at achieving effects such as the potential effects specified in Annex II. An indicative list of such types of operations and their potential effects is set out in that Annex.

The revised rural development programmes related to the operations referred to in this paragraph shall be submitted to the Commission no later than 30 June 2009.

2. From 1 January 2010, for types of operations referred to in paragraph 1, the aid intensity rates fixed in Annex I may be increased by 10 percentage points.

3. From 1 January 2010, each rural development programme shall also include:

- (a) the list of types of operations and the information referred to in Article 16(c) on the specific types of operations referred to in paragraph 1 of this Article;
- (b) a table setting out, for the period from 1 January 2010 to 31 December 2013, the total Community contribution for types of operations referred to in paragraph 1 of this Article.

4. For new Member States, as defined in Article 2(g) of Regulation (EC) No 73/2009, the starting dates referred to in the introductory phrases of paragraphs 1 and 3 shall be 1 January 2013, the date for the submission of the revised rural development programmes referred to in paragraph 1 shall be 30 June 2012 and the period referred to in

point (b) of paragraph 3 shall be 1 January 2013 to 31 December 2013.

5. Paragraphs 1, 3 and 4 shall not apply to Bulgaria and Romania.';

(4) The following paragraph shall be added to Article 17:

'3. The amounts equal to those resulting from the application of the compulsory modulation under Article 69(5a) shall not be taken into account in the EAFRD total contribution from which the minimum Community financial contribution per axis is calculated as provided for in paragraphs 1 and 2 of this Article.';

(5) In Article 20(1), point (d) shall be replaced by the following:

'(d) transitional measures concerning:

- (i) supporting semi-subsistence agricultural holdings undergoing restructuring (for Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia and Slovakia);
- (ii) supporting the setting up of producer groups (for Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia and Slovakia);
- (iii) supporting agricultural holdings undergoing restructuring, including diversification to activities outside agriculture, due to a reform of a common market organisation.';

(6) The following sentence shall be added to Article 29(1):

'The cooperation shall involve at least two actors of which at least one is either a primary producer or belongs to the processing industry.';

(7) The following Article shall be inserted in Subsection 4 'Conditions for transitional measures':

'Article 35a

Holdings undergoing restructuring due to a reform of a common market organisation

1. Support provided for in Article 20(d)(iii) for agricultural holdings which undergo restructuring, including diversification outside agricultural activities, due to a reform of a common market organisation shall be granted to farmers whose direct payments are reduced as of 2010 by more than 25 % compared to 2009 in accordance with Regulation (EC) No 1782/2003 and who submit a business plan.

2. Progress in respect of the business plan referred to in paragraph 1 shall be assessed after twelve months.

3. The support shall be paid in the form of a degressive flat-rate aid and only in the years 2011, 2012 and 2013. The support shall be limited to the maximum amount laid down in Annex I and, in any event, shall not exceed 50 % of the reduction of direct payments compared to 2009 in accordance with Regulation (EC) No 1782/2003.;

(8) The following subparagraph shall be added to Article 39(3):

'Member States may put an end to such commitments, without obligation for the beneficiary concerned to reimburse support already received, provided that:

(a) support under Regulation (EC) No 73/2009 is newly made available in the framework of which rules are applied which produce global agri-environmental effects equivalent to those of the agri-environmental measure which is closed;

(b) such support is not financially less favourable for the beneficiary concerned;

(c) the beneficiary concerned is informed of this possibility at the time he undertakes his commitments.;

(9) The following Article shall be inserted in Subsection 4 'Respect of Standards':

'Article 50a

Main requirements

1. A beneficiary receiving payments under Article 36(a)(i) to (v) and Article 36(b)(i), (iv) and (v) shall respect, on the whole holding, the statutory management requirements and the good agricultural and environmental condition provided for in Articles 5 and 6 of, and in Annexes II and III to, Regulation (EC) No 73/2009.

The obligation to comply with the statutory management requirements and the good agricultural and environmental condition referred to in the first subparagraph shall not apply to non-agricultural activities on a holding and non-agricultural areas for which no support in accordance with Articles 36(b)(i), (iv) and (v) of this Regulation is claimed.

2. The competent national authority shall provide the beneficiary, *inter alia* by the use of electronic means, with the list of statutory management requirements and the good agricultural and environmental condition to be respected.;

(10) Article 51(1) shall be replaced by the following:

'1. Where the statutory management requirements or good agricultural and environmental condition are not complied with at any time in a given calendar year (hereinafter referred to as "the calendar year concerned"), and the non-compliance in question is the result of an act or omission directly attributable to the beneficiary who

submitted the payment claim under Article 36(a)(i) to (v) and Article 36(b)(i), (iv) and (v) in the calendar year concerned, the total amount of these payments granted or to be granted to that beneficiary related to the calendar year concerned shall be reduced or excluded in accordance with detailed rules referred to in paragraph 4.

The reduction or exclusion referred to in the first subparagraph shall also apply where the minimum requirements for fertiliser and plant protection product use referred to in Article 39(3) are not complied with at any time of the calendar year concerned and the non-compliance in question is the result of an act or omission directly attributable to the beneficiary who submitted the payment claim under Article 36(a)(iv).

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

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

By way of derogation from the third subparagraph, where the person to whom the act or omission is directly attributable has submitted a payment claim in the calendar year concerned, the reduction or exclusion shall be applied to the total amounts of payments granted or to be granted to that person.;

(11) Article 51(2) shall be replaced by the following:

'2. The reduction or exclusion of payments referred to in paragraph 1 of this Article shall not apply to standards for which a period of grace has been granted in accordance with Article 26(1) during the period of grace.

Notwithstanding paragraph 1 and in accordance with the conditions laid down in the detailed rules referred to in paragraph 4, Member States may decide not to apply a reduction or exclusion amounting to EUR 100 or less per beneficiary and per calendar year.

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

(12) Article 51(3) shall be amended as follows:

(a) in the second subparagraph, point (c), the date '1 January 2011' shall be replaced by '1 January 2013';

(b) in the third subparagraph, point (c), the date '1 January 2014' shall be replaced by '1 January 2016';

(13) Article 51(4) shall be replaced by the following:

‘4. Detailed rules for the reductions and exclusions shall be laid down in accordance with the procedure referred to in Article 90(2). In this context account shall be taken of the severity, extent, permanence and repetition of non-compliance found as well as of the following criteria:

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

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

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

- (b) In case of intentional non-compliance, the percentage of reduction shall not in principle be less than 20 % and may go as far as total exclusion from one or several aid schemes and apply for one or more calendar years.
- (c) In any case, the total amount of reductions and exclusions for one calendar year shall not be more than the total amount referred to in Article 51(1).’

(14) The following paragraphs shall be inserted in Article 69:

‘5a. An amount equal to the amounts resulting from the application of the compulsory modulation under Article 9(4) and Article 10(3) together with, as from 2011, the amounts generated under Article 136 of Regulation (EC) No 73/2009 shall be exclusively spent by Member States in the period from 1 January 2010 to 31 December 2015 as Community support under the current rural development programmes for operations of the types referred to in Article 16a of this Regulation.

For new Member States, as defined in Article 2(g) of Regulation (EC) No 73/2009, the period referred to in the first subparagraph shall be from 1 January 2013 to 31 December 2015.

The first two subparagraphs shall not apply to Bulgaria and Romania.

5b. If, at the closure of the programme, the actual amount of Community contribution spent on the operations referred to in paragraph 5a of this Article is lower than the amount referred to in paragraph 5a of this Article, the difference shall be reimbursed by the Member State to the general budget of the European Communities up to the amount by which the total allocations available for operations other than those referred to in Article 16a have been exceeded.

5c. Amounts referred to in paragraph 5a of this Article shall not be taken into account for the purpose of Article 25 of Regulation (EC) No 1290/2005.’

(15) The following subparagraph shall be added to Article 70(4):

‘Notwithstanding the ceilings set out in paragraph 3, the EAFRD contribution may be increased to 90 % for convergence and to 75 % for non-convergence regions for the operations of the types referred to in Article 16a of this Regulation, up to the amount resulting from the application of the compulsory modulation under Article 9(4) and Article 10(3) together with, as from 2011, the amounts generated under Article 136 of Regulation (EC) No 73/2009’;

(16) In Article 78, point (f) shall be replaced by the following:

‘(f) shall consider and approve any substantial proposal for changes in rural development programmes.’;

(17) In Article 88(1), the second subparagraph shall be replaced by the following:

‘However, and without prejudice to Article 89 of this Regulation, Articles 87, 88 and 89 of the Treaty shall not apply to payments made by Member States pursuant to, and in conformity with, this Regulation within the scope of Article 36 of the Treaty.’;

(18) The word ‘Annex’ shall be replaced by ‘Annex I’ in the title of the Annex and in the following Articles: 22(2), 23(6), 24(2), 26(2), 27(3), 28(2), 31(2), 32(2), 33, 34(3), 35(2), 37(3), 38(2), 39(4), 40(3), 43(4), 44(4), 45(3), 46, 47(2), 88(2), 88(4), 88(6);

(19) The Annex shall be amended as follows:

- (a) the amount in EUR for the setting up support under Article 22(2), indicated in the third column of the first row, shall be replaced by the following:

‘70 000’;

- (b) the following row shall be inserted after the eleventh row concerning the support for producer groups under Article 35(2):

'35a(3)	Maximum amount of support for restructuring due to a reform of a common market organisation	4 500	Per holding
		3 000	in 2011
		1 500	in 2012
			in 2013';

(c) the endnote '*' shall be replaced by the following:

'(*) The setting up support may be given in the form of a single premium up to a maximum of EUR 40 000, or in the form of an interest rate subsidy, the capitalised value of which may not exceed EUR 40 000. For both forms of support combined, the maximum may not exceed EUR 70 000.;

(d) the endnote '****' shall be replaced by the following:

'(****) These amounts may be increased for the types of operations referred to in Article 16a and in other exceptional cases taking account of

specific circumstances to be justified in the rural development programmes.;

(20) A new Annex, the text of which is set out in the Annex to this Regulation, shall be added.

Article 2

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

It shall apply from 1 January 2009, with the exception of points (10), (11) and (13) of Article 1, which shall apply from 1 January 2010.

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

Done at Brussels, 19 January 2009.

For the Council

The President

P. GANDALOVIČ

ANNEX

‘ANNEX II

Indicative list with types of operations and potential effects related to priorities referred to in Article 16a

Priority: Climate change adaptation and mitigation

Types of operations	Articles and measures	Potential effects
Improve efficiency of nitrogen fertiliser use (e.g. reduced use, equipment, precision agriculture), improvement of manure storage	Article 26: modernisation of agricultural holdings Article 39: agri-environment payments	Reduction of methane (CH ₄) and nitrous oxide (N ₂ O) emissions
Improvement of energy efficiency (e.g. use of construction materials which reduce heat loss)	Article 26: modernisation of agricultural holdings Article 28: adding value to agricultural and forestry products Article 29: cooperation for new products, processes and technologies	Reduction of carbon dioxide (CO ₂) emissions by saving energy
Preventive mechanisms against adverse effects of climate-related extreme events (e.g. setting up of hail nets)	Article 26: modernisation of agricultural holdings	Reduction of negative effects from extreme weather events on agricultural production potential
Soil management practices (e.g. tillage methods, catch crops, diversified crop rotations)	Article 39: agri-environment payments	Reduction of nitrous oxide (N ₂ O), carbon sequestration, adaptation to the effects of climate change on soil
Land use change (e.g. conversion of arable land to pastures, permanent set-aside)	Article 39: agri-environment payments Article 41: non-productive investments	Reduction of nitrous oxide (N ₂ O), carbon sequestration
Extensification of livestock (e.g. reduction of stocking density) and grassland management	Article 39: agri-environment payments	Reduction of methane (CH ₄) and nitrous oxide (N ₂ O)
Afforestation, establishment of agro-forestry systems	Articles 43 and 45: first afforestation of agricultural and non-agricultural land Article 44: first establishment of agro-forestry systems on agricultural land	Reduction of nitrous oxide (N ₂ O), carbon sequestration
Flood prevention and management measures (e.g. projects related to coastal and interior flood protection)	Article 20: restoring agricultural production potential damaged by natural disaster and introducing appropriate prevention actions	Reduction of the negative effects of extreme weather events related to climate change on agricultural production potential

Priority: Climate change adaptation and mitigation

Types of operations	Articles and measures	Potential effects
Training and use of farm advisory services in relation to climate change	Article 21: vocational training and information actions Article 24: use of advisory services Article 58: training and information	Provision of training and advice to farmers to reduce greenhouse gases and to adapt to climate change
Prevention actions against forest fires and climate-related natural disasters	Article 48: restoring forestry potential and introducing prevention actions	Carbon sequestration in forests and avoidance of carbon dioxide (CO ₂) emissions, reduction of negative effects of climate change on forests
Conversion to more resistant forest stand types	Article 47: forest-environment Article 49: non-productive investments	Reduction of negative effects of climate change on forests

Priority: Renewable energies

Types of operations	Articles and measures	Potential effects
Biogas production using organic waste (on farm and local production)	Article 26: modernisation of agricultural holdings Article 53: diversification into non-agricultural activities	Substitution of fossil fuels, reduction of methane (CH ₄)
Perennial energy crops (short rotation coppice and herbaceous grasses)	Article 26: modernisation of agricultural holdings	Substitution of fossil fuels, carbon sequestration, reduction of nitrous oxide (N ₂ O)
Processing of agricultural/forest biomass for renewable energy	Article 26: modernisation of agricultural holdings Article 28: adding value to agricultural and forestry products Article 29: cooperation for development of new products, processes and technologies in the agriculture and food sector and in the forestry sector Article 53: diversification into non-agricultural activities Article 54: support for business creation and development	Substitution of fossil fuels
Installations/infrastructure for renewable energy using biomass and other renewable energy sources (solar and wind power, geothermal)	Article 53: diversification into non-agricultural activities Article 54: support for business creation and development Article 56: basic services for the economy and rural population Article 30: infrastructure related to the development and adaptation of agriculture and forestry	Substitution of fossil fuels

Priority: Renewable energies

Types of operations	Articles and measures	Potential effects
Information and dissemination of knowledge related to renewable energies	Article 21: vocational training and information actions Article 58: training and information	Raising awareness and knowledge and thus, indirectly, the efficiency of other operations related to renewable energies

Priority: Water management

Types of operations	Articles and measures	Potential effects
Water saving technologies (e.g. efficient irrigation systems) Water storage (including water overflow areas) Water saving production techniques (e.g. adapted cropping patterns)	Article 26: modernisation of agricultural holdings Article 30: infrastructure Article 28: adding value to agricultural and forestry products Article 39: agri-environment payments	Improvement of the capacity to use water more efficiently and to improve the capacity to store water
Wetland restoration Conversion of agricultural land into swamps	Article 41: non-productive investments Article 39: agri-environment payments Article 38: Natura 2000 payments	Conservation of high-value water bodies, protection and improvement of water quality
Conversion of agricultural land into forest/agro-forestry systems	Articles 43 and 45: first afforestation of agricultural land and non-agricultural land	Protection and improvement of water quality
Installations for waste water treatment on farms and in processing and marketing	Article 26: modernisation of agricultural holdings Article 28: adding value to agricultural land and forestry products	Improvement of the capacity to use water more efficiently
Development of semi-natural water bodies Creation of natural banks Meandering rivers	Article 39: agri-environment payments Article 57: conservation and upgrading of the rural heritage	Conservation of high-value water bodies, protection and improvement of water quality
Soil management practices (e.g. catch crops, organic farming, conversion of arable land into permanent pasture)	Article 39: agri-environment payments	Contributing to the reduction of losses of different compounds to water, including phosphorus
Information and dissemination of knowledge related to water management	Article 21: vocational training and information actions Article 58: training and information	Raising awareness and knowledge and thus, indirectly, the efficiency of operations related to water management

Priority: Biodiversity

Types of operations	Articles and measures	Potential effects
No application of fertilizer and pesticides on high nature value agricultural land Extensive forms of livestock management Integrated and organic production	Article 39: agri-environment payments	Conservation of species-rich vegetation types, protection and maintenance of grasslands
Perennial field and riparian boundary strips and biobeds Setting up of management plans for Natura 2000 Construction/management of biotopes/habitats within and outside Natura 2000 sites Land use change (extensive grassland management, conversion of arable land to permanent pasture, long-term set-aside) Management of high nature value perennials Setting up and preservation of meadow orchards	Articles 38 and 46: Natura 2000 payments Article 39: agri-environment payments Article 41: non-productive investments Article 47: forest-environment payments Article 57: conservation and upgrading of the rural heritage	Protection of birds and other wildlife and improvement of biotope network, reducing entry of harmful substances in bordering habitats, conservation of protected fauna and flora
Conservation of genetic diversity	Article 39: agri-environment payments	Conservation of genetic diversity
Information and dissemination of knowledge related to biodiversity	Article 21: vocational training and information actions Article 58: training and information	Raising awareness and knowledge and thus, indirectly, the efficiency of operations related to biodiversity

Priority: Measures accompanying restructuring of the dairy sector

Types of operations	Articles and measures	Potential effects
Investment support related to dairy production	Article 26: modernisation of agricultural holdings	Improvement of the competitiveness of the dairy sector
Improvements in processing and marketing related to dairy	Article 28: adding value to agricultural and forestry products	Improvement of the competitiveness of the dairy sector
Innovation related to the dairy sector	Article 29: cooperation for development of new products, processes and technologies	Improvement of the competitiveness of the dairy sector
Grassland premia and extensive livestock production, organic production related to dairy production, permanent pasture premia in less favoured areas, grazing premia	Article 39: agri-environment payments	Enhancement of the positive environmental effects of the dairy sector

Priority: Innovative approaches relevant to the priorities under Article 16a(1)(a), (b), (c) and (d)		
Innovative operations to address climate change mitigation and adaptation measures	Article 29: cooperation for development of new products, processes and technologies	Reduction of GHG emissions and adaptation of agriculture to climate change
Innovative operations to support the development of renewable energies	Article 29: cooperation for development of new products, processes and technologies	Substitution of fossil fuel and reduction of GHG
Innovative operations to enhance water management	Article 29: cooperation for development of new products, processes and technologies	Improvement of the capacity to use water more efficiently and to improve water quality
Innovative operations to support the conservation of biodiversity	Article 29: cooperation for development of new products, processes and technologies	Halting the loss of biodiversity'

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COUNCIL

COUNCIL DECISION

of 19 January 2009

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

(2009/61/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament ⁽¹⁾,

Whereas:

allenges for European agriculture. The objectives related to these priorities should be strengthened in the rural development programmes approved in accordance with Regulation (EC) No 1698/2005.

(4) The Community strategic guidelines should identify those areas that are important for the implementation of the revised Community priorities related to climate change, renewable energies, water management, biodiversity and dairy restructuring.

(1) The Council adopted the Community strategic guidelines for rural development (programming period 2007 to 2013) by Decision 2006/144/EC ⁽²⁾ (hereinafter referred to as 'Community strategic guidelines').

(2) Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) ⁽³⁾ provides that, with a view to taking account of major changes in the Community priorities, the Community strategic guidelines may be subject to review.

(3) In the assessment of the implementation of the Common Agricultural Policy reform of 2003, climate change, renewable energies, water management, biodiversity and dairy restructuring were identified as crucial new chal-

(5) The effectiveness of the operations related to the priorities related to climate change, renewable energies, water management and biodiversity should be increased by innovation. In this context, providing support for innovation can in particular contribute to the objectives by developing new technologies, products and processes.

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

⁽¹⁾ Opinion of 19 November 2008 (not yet published in the Official Journal).

⁽²⁾ OJ L 55, 25.2.2006, p. 20.

⁽³⁾ OJ L 277, 21.10.2005, p. 1.

(7) Decision 2006/144/EC should therefore be amended accordingly,

HAS DECIDED AS FOLLOWS:

Sole Article

Decision 2006/144/EC shall be amended in accordance with the Annex to this Decision.

Done at Brussels, 19 January 2009.

For the Council
The President
P. GANDALOVIČ

ANNEX

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

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

‘2.5 Meeting the new challenges

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

- (i) Climate and energy have become priorities, as the EU is taking the lead in building a global low carbon economy. In March 2007, the European Council adopted conclusions ⁽¹⁾ on reducing greenhouse gas emissions by at least 20 % by 2020 compared to 1990 (30 % as part of an international agreement on global targets) and to set a binding 20 % target for the use of renewable energy sources by 2020, including a 10 % share of biofuels in transport petrol and diesel consumption. Agriculture and forestry can make an important contribution in providing the feed stocks for bio-energy, in carbon sequestration and in further reducing greenhouse gas emissions.
- (ii) The objectives of the EU with regard to water policy are laid down in Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy ⁽²⁾, which will start to reach full implementation in the period 2010-2012. As main users of water and water resources, agriculture and forestry have a major role to play in sustainable water management both in terms of quantity and of quality. Water management will be an increasingly important part of the adaptation strategy to deal with already unavoidable climate change.
- (iii) Member States have committed themselves to halting biodiversity decline by 2010, a target which seems increasingly unlikely to be met. A large part of Europe's biological diversity is dependent on agriculture and forestry and the efforts to protect biodiversity will have to be increased, particularly in the light of the expected adverse effects of climate change and increasing water demand.
- (iv) Dairy producers make a substantial contribution to maintaining the countryside through sustainable farming activity, especially in disadvantaged regions. In view of their high production costs and the structural changes they have to face as a result of the phasing-out of the milk quota system, accompanying support measures should be made available to dairy producers, in order to allow them to better adapt to new market conditions.
- (v) Rural development measures can be used in particular to encourage innovation in water management, in production and use of renewable energies, in protection of biodiversity and in dealing with climate change mitigation and adaptation and to promote win-win solutions for competitiveness and the environment. In order to promote full use of innovation, specific support for innovative operations related to the new challenges should be made available.’

(2) In Part 3, the following point shall be inserted:

‘3.4a. Addressing the new challenges

Community strategic guideline

Climate change, renewable energy, water management, biodiversity (including related support for innovation) and dairy restructuring are crucial challenges for Europe's rural areas, agriculture and forestry. As part of the EU global climate change strategy, agriculture and forestry will be called upon to make a greater contribution to curbing greenhouse gas emissions and increasing carbon sequestration. Increasing production of renewable energy from agriculture and forestry biomass should also help to meet the new EU targets for total fuel and energy consumption by 2020. More sustainable water management practices in agriculture will be essential to ensure sufficient quantity and quality of water for the future, and to adapt to the projected climate change impacts on water resources. Furthermore, halting biodiversity decline remains a major challenge. Support for innovation related to the above-mentioned new challenges may facilitate the implementation of these priorities. In view of the expiry of the dairy quota regime, the need for restructuring in agriculture will increase. In this context, rural development measures will be an important accompaniment to the reforms in the dairy sector. The additional resources which will be made available as of 2010 by an increase in compulsory modulation should be devoted to reinforcing the Community action in the fields of climate change, renewable energy, water management, biodiversity and dairy restructuring.

⁽¹⁾ Presidency conclusions of the European Council of Brussels (8 and 9 March 2007).

⁽²⁾ OJ L 327, 22.12.2000, p. 1.

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

- (i) In particular, investment support under axis 1 can be targeted towards energy, water and other input saving machinery and equipment as well as to the production of renewable energy for on farm use. In the agriculture and food sector and in the forestry sector, investment support should help to develop innovative and more sustainable ways of biofuel processing.
 - (ii) Under axis 2, the agri-environment measures and forestry measures can be used in particular to enhance biodiversity by conserving species-rich vegetation types and protecting and maintaining grassland and extensive forms of agricultural production. Specific actions under axis 2, such as agri-environment measures or afforestation, can also help to improve the capacity to better manage the available water resources in terms of quantity and protect them in terms of quality. Furthermore, certain agri-environmental and forestry actions contribute to curbing emissions of nitrous oxide (N₂O) and methane (CH₄) and help to promote carbon sequestration.
 - (iii) Under axis 3 and 4, local scale projects and cooperation for renewable energy projects can be supported as well as diversification of farmers into bioenergy production. Conservation of natural heritage can help in protecting high-nature-value habitats and high-value water bodies.
 - (iv) As all rural areas are being confronted with the climate change and renewable energy issues, Member States can encourage the local action groups under axis 4 (Leader) to pick up these issues in their local development strategies as a cross-cutting theme. The groups are well placed to contribute to climate change adaptation and renewable energy solutions tailored to the local situation.
 - (v) Innovation has the potential to achieve particularly positive effects in meeting the new challenges of climate change, the production of renewable energies, more sustainable water management practices and halting biodiversity decline. Support for innovation in these areas could take the form of encouraging the development, take-up and application of relevant technologies, products and processes.
 - (vi) As a general principle, support shall be targeted on types of operations which are coherent with the objectives and provisions established in Regulation (EC) No 1698/2005 and which contribute to generating positive potential effects in view of the new challenges such as those specified in Annex II to that Regulation.
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NOTE TO THE READER

The institutions have decided to no longer quote in their texts the last amendment to cited acts.

Unless otherwise indicated, references to acts in the texts published here are to the version of those acts currently in force.