

II

(Preparatory Acts)

COMMISSION

Amended proposal for a Council Regulation concerning producer groups and associations thereof

(Submitted by the Commission to the Council on 31 May 1977 pursuant to the second paragraph of Article 149 of the EEC Treaty)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

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

1. Whereas, in Italy, the supply of agricultural produce reflects very severe structural deficiencies; whereas this supply is represented on the market by a very large number of holdings which are small in size and insufficiently organized; whereas, in particular, available information indicates that only about 16 % of Italian holdings are members of producer organizations set up to market produce and that only about 13 % of the total agricultural output of the country is marketed by such organizations; whereas these structural deficiencies in supply concern the whole Italian territory, subject to certain exceptions; whereas these exceptions, because of their limited nature, do not prevent from being taken into consideration the situation in Italy as a whole;

2. Whereas the persistence of the deficiencies outlined is an obstacle to the fulfilment of objectives of Article 39 (1) of the Treaty; whereas that makes difficult technical progress, rational development of

production, optimum use of the factors of production, as well as the attainment of a fair standard of living for the farming population and market stability; whereas, furthermore, this situation is likely to affect the level of prices for consumers;

3. Whereas this situation could be remedied by grouping farmers so that the economic process can be influenced by common measures designed to centralize supply and adapt production to market requirements; whereas such grouping should therefore be encouraged while at the same time ensuring, by means, of a system of recognition, that such grouping takes place within bodies with the appropriate production and marketing discipline, which offer sufficient guarantees as to the stability and effectiveness of the groups and do not, by virtue of their position and their economic activity, conflict with the operation of the common market and the general objectives of the Treaty;

4. Whereas in order to promote a greater centralization of supply than can be achieved by one group, encouragement should be given not only to the grouping of farmers within producer groups but also to the formation of associations of such groups;

5. Whereas the granting of aid to cover part of their formation and operation is likely to be an appropriate incentive for the creation of groups and associations thereof and for existing producer organizations to adapt to the conditions laid down;

6. Whereas the aid granted to the associations should however be limited to an overall maximum sum so as to take account of the fact that each of the groups which belongs to such associations have already received or are still receiving aid for formation and operation;

7. Whereas in order to guarantee that the envisaged system is implemented in all those regions of the Community where it is considered necessary, the granting of aid to groups and associations thereof up to certain minimum and maximum amounts should be made obligatory; whereas, however, it should be made possible to exceed these limits in the case of certain aid for regions or sectors encountering very serious problems;

8. Whereas it would be appropriate, for the information of the Member States and of all those concerned, to stipulate that, at the beginning of each year, a list should be published of those groups and associations thereof which were granted recognition or from which recognition was withdrawn during the preceding year;

9. Whereas all the envisaged measures are in the Community interest and are designed to achieve the objectives outlined in Article 39 (1) (a) of the Treaty, including the structural changes necessary for the proper functioning of the common market; whereas they therefore represent a common measure within the meaning of Article 6 of Council Regulation (EEC) No 729/70 on the financing of the common agricultural policy ⁽¹⁾;

10. Whereas the Commission must be able to ensure that the provisions introduced by the Member States to apply this common measure fulfil the relevant conditions; whereas it should also be able to assess each year the practical results of the implementation of the common measure;

11. Whereas the aid from the fund over a period of five years and at an estimated cost of 20 million units of account can help to improve the supply structure for agricultural produce in regions where such an improvement is essential;

12. Whereas to facilitate the future implementation of certain planned measures, a procedure establishing close cooperation between the Member States and the

Commission should be introduced; whereas the appropriate body for ensuring such cooperation is the Standing Committee on Agricultural Structures set up under Article 1 of the Council Decision of 4 December 1962 on the coordination of policies on the structure of agriculture ⁽²⁾,

HAS ADOPTED THIS REGULATION:

TITLE I

FIELDS OF APPLICATION

Section I

Territorial field of application

Article 1

This Regulation shall apply to the whole of Italy. The Council, acting by a qualified majority on a proposal from the Commission, may apply it to other regions where the structural deficiencies in the marketing of produce are as serious as those in Italy.

For this purpose the Member States shall communicate to the Commission the list of regions where such a situation exists together with all the necessary details from which an appreciation of the situation can be made.

Section II

Products

Article 2

This Regulation shall apply to the products of the soil and to the livestock products listed in Annex II to the Treaty, excluding the following products:

- products referred to in Article 1 (2) of Council Regulation (EEC) No 1035/72 on the common organization of the market in fruit and vegetables ⁽³⁾,
- fishery products falling within headings No 03.01 to 03.03 of the Common Customs Tariff,

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽²⁾ OJ No 136, 17. 12. 1962, p. 2892/62.

⁽³⁾ OJ No L 118, 20. 5. 1972.

- hops falling within heading No 12.06 of the Common Customs Tariff,
- potatoes falling within subheading 07.01 A of the Common Customs Tariff,
- silkworms falling within heading No ex 01.06 of the Common Customs Tariff.

Article 3

1. This Regulation shall apply also to the processed products listed in the Annex.
2. The Council acting by a qualified majority on a proposal from the Commission may decide to amend the Annex.

TITLE II

RECOGNITION OF PRODUCER GROUPS AND ASSOCIATIONS

Article 4

Member States concerned shall recognize producer groups and associations thereof, including those existing at the time when this Regulation comes into force, which apply for recognition, fulfil the conditions listed in Articles 5 and 6 and of which:

- (a) in the case of groups, at least two-thirds of the members are farmers situated in the regions listed in Article 1;
- (b) in the case of associations, at least two-thirds of the members fulfil the conditions provided for under (a).

Recognition shall cover the activities:

- referred to in Article 6 (1) (b) and (c), and
- those relating to the products referred to in Articles 2 and 3.

Article 5

1. Producer group shall:

- be set up for the purpose of jointly adapting the produce and output of the producers who are members of it to market requirements;
- consist of:
 - (a) producers, or
 - (b) producers and other persons whose activity is calculated to facilitate the attainment of the

object of the group, on condition that these be set up under a legal form provided by national law for the specific purpose of ensuring that producers, whether individual or associated, retain control of the groups and their decisions.

2. Associations shall consist of recognized producer groups and shall pursue the same objectives as those groups.

3. The concept of 'producer', for the purposes of paragraph 1 (a), shall be defined according to the procedure provided for in Article 17 within two months from the entry into force of this Regulation.

Article 6

1. Any producer groups or association thereof must, subject to the limits for the sector or products in respect of which they are recognized, fulfil the following general conditions:

- (a) they must, through the activities in respect of which they request recognition, contribute to the achievement of the objectives of Article 39 of the Treaty;
- (b) they must apply:
 - common rules for production (including, where appropriate, common rules for producing natural products),
 - common rules for placing goods on the market, which rules can also relate to the fixing of prices;
- (c) they must, in their statutes, make it obligatory for producers who are members of groups and for recognized producer groups which are members of the association:

- to place on the market the whole of the production intended for marketing in respect of the products for which they are members of the group or association in accordance with rules for contribution of assets and placing goods on the market which are established and supervised either by the group or by the association respectively,
- or to place on the market the whole of the production intended for marketing in respect of the products for which they are recognized by the group or the association respectively either on their behalf and for their account or for their account but on behalf of the group or association or for the account of and on behalf of the group or association. In that case, the group or association may however authorize its members to place on the market part of its production in accordance with the

provisions of the previous indented subparagraph.

With regard to the producer groups, this obligation shall not apply to that part of the production in respect of which the producers had concluded sales contracts or agreed to options before joining the group, provided that the said group was informed, before joining, of the extent and duration of the obligations thus contracted;

(d) they must include in their statutes:

- provisions to ensure that the members of a group or of an association who wish to withdraw from membership may do so:
 - after they have been members of the group or of the association, following the recognition of the letter, for a minimum of three years,
 - and on condition that they inform the group or the association of their intention to withdraw not less than 12 months before their so doing;

The provisions under (d) shall apply without prejudice to national laws or provisions designed to protect the group or association or their creditors, in specified cases, against any financial consequences which might result from the withdrawal of a member or to preclude a member from withdrawing from membership in the course of the budgetary year.

(e) they must give proof of adequate economic activity;

(f) they must exclude, by virtue of their constitution and the whole range of their activities, any discrimination which runs counter to the operation of the common market and the achievement of the general objectives of the Treaty, and in particular, any discrimination connected with the nationality or place of establishment:

- of producers or groups which may become members, or
- of their economic partners;

(g) they must have legal personality or sufficient legal capacity to exercise rights and be subject to obligations in accordance with national laws;

(h) they must keep separate accounts for activities in respect of which they are recognized. These

separate accounts and those relating to any other activities of the group or association may be inspected with a view to ascertaining whether the condition laid down in (e) is still fulfilled and what use has been made of the aid;

(i) they must not hold a dominant position in the common market.

2. The placing of goods on the market for the purposes of paragraph 1 (b) and (c) shall cover the following operations:

- centralization of supply,
- preparation for sale,
- supply to bulk buyers.

3. Within two months following the entry into force of this Regulation, and in accordance with the procedure laid down in Article 17, provisions shall be adopted concerning:

- the criteria which the common rules provided for in paragraph 1 (b) must meet,
- the minimum cultivated area, turnover, or volume of production of the product or group of products concerned, which, under paragraph 1 (e), these groups or associations must represent and, if necessary, the minimum number of members they must have.

Article 7

The concerned Member States:

- shall take a decision on recognition within three months from the time recognition is requested,
- shall make their decision known to the Commission within two months.

Article 8

Recognition of a producer group or of an association shall be withdrawn:

- (a) if the conditions for recognition laid down in Articles 5 and 6 are not or are no longer fulfilled;
- (b) if such recognition is based on false information;

- (c) if the group or association obtained recognition fraudulently;
- (d) if the Commission decides that Article 85 (1) applies to the agreements, decisions and practices referred to in Article 18.

In the case provided for in (c) withdrawal of recognition shall have retroactive effect and the aid granted pursuant to Articles 10 and 11 (1) shall be recovered.

Article 9

At the beginning of each year the Commission shall ensure that the list, divided into products or groups of products of producer groups and associations recognized during the previous year, is published in the *Official Journal of the European Communities*. It shall also ensure that withdrawals of recognition decided during the previous year are published.

TITLE III

AID TO RECOGNIZED PRODUCER GROUPS AND ASSOCIATIONS THEREOF

Article 10

1. The concerned Member States shall grant to recognized producer groups, during the three years following the date of their recognition, aid to encourage their formation and facilitate their operation. The amount of such aid, for the first, second and third year respectively,

(a) shall be equal to:

- a minimum of 1.5 %, 1 % and 0.5 %, and
- a maximum of 3 %, 2 % and 1 %,

of the value of the produce to which the recognition refers and which are placed on the market;

(b) may not exceed 60 %, 40 % and 20 % of the actual formation and operation expenses.

However the aid provided for in paragraph 1 may be paid over five years.

2. Larger amounts may be fixed by the Council, for certain regions and for certain products for a specified period, acting by a qualified majority on a proposal from the Commission.

Article 11

1. The aid provided for in Article 10 shall also be granted to associations of recognized groups, with however an overall maximum of 50 000 units of account per association.

2. Within a period of six months from the date of entry into force of this Regulation shall be adopted, in accordance with the procedure laid down in Article 17:

- the conditions for granting the aid laid down in Article 10 and paragraph 1 of this Article to producer groups, or to associations existing or formed from organizations existing at the time of entry into force of this Regulation,
- particulars required to define the scope of the aid.

TITLE IV

FINANCIAL AND GENERAL PROVISIONS

Article 12

The measures provided for by this Regulation shall, taken as a whole, constitute common measures within the meaning of Article 6 (1) of Council Regulation (EEC) No 729/70 on the financing of the common agricultural policy.

Article 13

1. The period of time envisaged for the implementation of the common measures shall be five years from the date on which this Regulation enters into force pursuant to Article 21.

2. Before the period referred to in paragraph 1 expires, this Regulation shall be reviewed by the Council on a proposal from the Commission and on the basis of a report by the Commission showing the results of application.

3. The estimated total cost to be borne by the EAGGF shall be 20 million units of account.

4. The provisions of Article 6 (5) of Regulation (EEC) No 729/70 shall apply to this Regulation.

Article 14

1. The expenditure incurred by the Member States in connection with the measures provided for in Articles

10 (1) and 11 (1) shall be chargeable to the EAGGF, Guidance Section.

The Council, acting by a qualified majority on a proposal from the Commission, may declare that expenditure incurred by the Member States in connection with the measures referred to Article 10 (2) shall be chargeable to the Fund.

2. The EAGGF, Guidance Section, shall refund 25 % of the chargeable expenditure to the Member States.

3. The Council, acting by a qualified majority on a proposal from the Commission, may decide that Community participation may be more than 25 % and may achieve 65 % of chargeable expenditure incurred by Member States concerned in giving aids, of an amount equal to the maxima laid down in Articles 10 (1) and 11 (1), to:

- (a) producer groups of which at least two-thirds of the members are farmers in areas concerned by Directive 75/268/EEC or in areas to which Article 10 (2) applies;
- (b) associations in which at least two-thirds of the members fulfil the conditions referred to in (a).

4. The financial participation of the Community shall cover chargeable expenditure incurred by aid granted after the date of entry into force of this Regulation.

5. The detailed rules for the application of paragraph 2 shall be adopted in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 15

1. Applications for reimbursement shall relate to expenditure incurred by the Member States during the calendar year and shall be submitted to the Commission before 1 July of the following year.

2. The decision whether to grant aid from the Fund shall be taken in accordance with Article 7 (1) of Regulation (EEC) No 729/70.

3. Payments on account may be agreed by the Commission.

4. The detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 16

1. The Member States shall inform the Commission of the measures applied in respect of

recovery pursuant to the last paragraph of Article 8 and, in particular, notify it regularly of progress in the legal and administrative procedures relating to such measures.

2. The sums recovered shall be paid to the paying departments and agencies and subtracted by the latter from expenditure financed by the Fund in proportion to Community financing.

3. The financial consequences arising from inability to recover sums paid out shall be borne by the Community and the Member States in proportion to their respective financial participation.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure provided for in Article 13 of Regulation (EEC) No 729/70.

Article 17

1. Where the procedure laid down in this Article is to be followed, the matter shall be referred to the Standing Committee on Agricultural Structures, set up under Article 1 of the Council Decision of 4 December 1962 on the coordination of agricultural structural policies, by its Chairman, either on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit a draft of the measures to be taken. The Committee shall deliver its opinion on such measures within a time limit set by the Chairman according to the urgency of the matter. An opinion shall be adopted by a majority of 41 votes. The votes of the Member States shall be weighted as provided for in Article 148 (2) of the Treaty. The Chairman shall not vote.

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

The Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, may adopt a different decision within one month.

Article 18

Should the Commission decide, pursuant to Article 2 of Regulation No 26, that Article 85 (1) is applicable to an agreement, a decision or a practice:

— by which producers join together in a group fulfilling the conditions laid down in this Regulation, or groups form an association fulfilling the conditions of this Regulation,

— or by which the common rules referred to in Article 6 (1) (b) are adopted or executed,

a decision relating thereto shall apply only from the date on which the Commission reached its conclusion.

Article 19

This Regulation shall not prejudice the right of the Member States to adopt, within the sphere of this Regulation, additional aid measures, the conditions or procedures for the granting of which differ from those laid down in this Regulation or the amounts of which exceed the upper limits laid down therein, provided that these measures are taken in accordance with Articles 92 to 94 of the Treaty.

Article 20

The Member States shall communicate to the Commission:

— the laws, regulations and administrative provisions concerning the application of this Regulation not later than one month after they have been adopted,

— a report on the results achieved through application of this Regulation each year before 31 December, and for the first time before 31 December 1978.

Article 21

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

It shall apply as from the adoption of the provisions laid down in Article 6 (3).

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

ANNEX

CCT heading No	Products
02.01 A	Edible meat of bovine animals, swine, sheep, other than frozen
ex 02.01 B	Edible offals of bovine animals, swine, sheep, other than frozen
02.02	Dead poultry (fowls, ducks, geese, turkeys and guinea fowls) and edible offals thereof
ex 02.03	Poultry liver, fresh, chilled, frozen, salted or in brine
04.04	Cheese and curd
ex 12.10 B	Dehydrated fodder
ex 15.07	Olive oil
22.04	Grape must, in fermentation or with fermentation arrested otherwise than by the addition of alcohol
22.05	Wine of fresh grapes; grape must with fermentation arrested by the addition of alcohol
ex 22.08 22.09	Ethyl alcohol, whether or not denatured, of any strength, obtained from agricultural products listed in Annex II to the Treaty, excluding potable spirits, liqueurs and other spirituous beverages, compound alcoholic preparations (known as 'concentrated extracts') for the manufacture of beverages