

COMMISSION OF THE EUROPEAN COMMUNITIES

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REPORT

concerning the coresponsibility levy arrangements
in the cereals sector

Proposal for a
COUNCIL REGULATION (EEC)

amending Regulation (EEC) No 2727/75
on the common organization of the market in cereals

(presented by the Commission)

REPORT

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in the cereals sector

I. INTRODUCTION

In the context of the agreement on agricultural prices for the 1989/90 marketing year it was agreed that the Commission should examine the administrative difficulties resulting from the application of the coresponsibility levy arrangements in the cereals sector and present a report accompanied, if necessary, by appropriate proposals.

However, in the meantime discussions in the Council of Ministers and in professional circles about the coresponsibility levy arrangements have increasingly been turned towards the application of the coresponsibility levy arrangement as such rather than the administrative difficulties resulting from the measure.

Before examining in detail the current arrangements, it would therefore be appropriate to examine the concept of producer coresponsibility in general and its introduction in the cereals sector.

II. THE PRINCIPLE OF PRODUCER CORESPONSIBILITY

During the seventies and the beginning of the eighties the Commission had put forward reports to the Council about the increasing structural surpluses in the main agricultural sectors and proposals for policy adjustments designed to tackle this situation. A main principle in these adjustments has been to make producers more aware of the realities of the markets and coresponsible for the disposal of the increasing surpluses. The principle of producer coresponsibility was already applied in 1977 in the milk sector in the form of a linear coresponsibility levy paid by the producers.

In 1980 the Commission proposed that a general principle of producer coresponsibility should be introduced into the CAP whereby all or part of the cost of disposal of any production in excess of a certain quantity should be borne by the producers themselves.

In 1981 the concept of guarantee thresholds was elaborated. If these thresholds are exceeded, producers cannot expect to obtain the full guarantee for their production.

This concept was first applied in connection with the 1982/83 price fixing, where guarantee thresholds were introduced for cereals (except durum wheat), milk, rape seed and some processed fruit and vegetables. In the following years, guarantee thresholds, or similar arrangements, have been implemented in all major surplus sectors and sectors for which budgetary expenditure was liable to increase rapidly.

The importance of producer coresponsibility was again confirmed in the green paper (COM(85)333 final) and the reforms resulting from the related consultations. Finally the principle of producer coresponsibility has been substantially extended by the introduction of the agricultural stabilizers.

III. INTRODUCTION OF PRODUCER CORESPONSIBILITY IN THE CEREALS SECTOR

Since its introduction in 1982/83 the system of producer coresponsibility in the cereals sector has undergone substantial changes:

- In 1982/83 a system of guarantee threshold was implemented
- In 1986/87 the guarantee threshold system was replaced by a coresponsibility levy
- In 1988/89 the coresponsibility levy arrangements were extended by the system of stabilizers.

IIIa. The system of guarantee thresholds

In the cereals sector a guarantee threshold was implemented in 1982/83 for all cereals except durum wheat. The threshold for 1982/83 was fixed at 119,5 mio tonnes. If imports of cereal substitutes exceeded 15 mio tonnes during the marketing year preceding the fixing of the guarantee threshold, the threshold would be raised accordingly.

If the average production of cereals (except durum wheat) during the previous three marketing years was higher than the threshold, the intervention prices would be reduced by 1% for every million tonnes in excess of the threshold, subject to a maximum of 5%.

This system of producer coresponsibility was operated as a linear price reduction for all producers and did not consider the particular difficulties for small producers.

In 1982/83 the proposed increase in the intervention prices for 1983/84 was reduced by 1% due to an overrun of the threshold, while the 1983/84 guarantee threshold was not exceeded.

The 1984/85 guarantee threshold was exceeded and triggered the maximum price reduction of 5% in 1985/86. Furthermore the maximum price reduction would probably have been triggered in 1986/87 and 1987/88 due to the excellent 1984 harvest because the production estimate was based on a three years average.

In this situation the Council could not accept the automatic and linear price adjustment resulting from the application of the guarantee threshold system.

The main reason for the dropping of the guarantee threshold system was that the automatic reduction of prices in the following marketing year (years) would result in excessive producer coresponsibility because producers, on the top of lower market prices during marketing years with high production, would be penalized in subsequent marketing years, even if production was substantially lower than the guarantee threshold.

111b. Introduction of the coresponsibility levy arrangements

In the framework of the consultations on the basis of the green paper and the Commissions' proposal for a general reform of the cereals market organisation (Com (85) 700), the Council decided to replace the guarantee threshold system by the coresponsibility levy arrangements. The aim of the levy is to make farmers more aware of the realities of the markets, to contribute to the costs of disposal of the surplus, and to develop outlets for cereals on the internal and external markets.

Furthermore the linear application of the producer coresponsibility has been abandoned by the introduction of measures exempting small producers from the levy.

The levy is estimated on the basis of the difference between the production and the unsubsidized consumption, adjusted by the imported quantity of substitutes.

These arrangements make farmers only partially responsible for the disposal of the surplus, first of all because farmers are not made responsible for the quantity of cereals replaced by imported substitutes, secondly because the levy is fixed at a level which only partially covers the costs of disposal of the above mentioned surplus, and thirdly because a substantial number of cereals producers are exempted from the levy.

111c. Introduction of the agricultural stabilizers in the cereals sector

With the introduction of the agricultural stabilizers in 1988/89 the producer coresponsibility has been strengthened substantially in the cereals sector. The concept of guarantee threshold is reintroduced in terms of the maximum guaranteed quantity (MGQ). The MGQ is fixed at 160 mio tonnes for four marketing years (1988/89 - 1991/92).

If the production exceeds the MQQ, intervention prices will automatically be reduced by three percent in the following marketing year. Furthermore an additional coresponsibility levy of maximum 3% of the intervention price for common wheat is applied. The stabilizers are directly linked to the level of production in a given marketing year and they will not apply if the production is below the MQQ.

IV. THE IMPLEMENTATION OF THE CORESPONSIBILITY LEVY ARRANGEMENTS

IVa. 1986/87 - the first coresponsibility levy arrangement

The first levy arrangement was implemented in the 1986/87 marketing year. The Commission initially proposed a measure whereby the levy was collected at the stage of first sale. Furthermore the proposed measure included a general exemption from the levy for the first 25 tonnes marketed in order to alleviate in particular the impact of the levy on the income of small producers. However, this proposal was rejected by the Council. Member States argued that it would be difficult to control, in particular as regards sales between farmers.

Instead the Council adopted a measure whereby the levy was collected at the stage of first processing, sales into intervention and export. Furthermore a direct aid measure to small producers reimbursing the levy on a maximum marketed quantity of 25 tonnes was adopted. In Italy and Spain, however, the aid to small producers was applied in the form of direct exemption from the levy when they marketed their grain.

The major difficulty in implementing these measures was the number of exemptions provided for, in particular with regard to processing of cereals on the farm and contract processing (cereals delivered by a farmer to a processing plant for processing and subsequent use on the same farm).

For administrative and control reasons and in order to avoid distortion in the industry, it was decided to exempt only processing carried out by the farmer on his own holding for subsequent use in animal feed, while contract processing, including processing operated by mobile processing units operating at the farm gate, was subject to the levy.

The management of the levy arrangements was relatively complicated because both cereals subject to the levy and cereals not subject to the levy circulated on the market. Imported cereals, cereals bought from intervention stocks and cereals sold by small producers in Italy and Spain were not subject to the levy. It was therefore necessary to apply a system of exemption certificates for these cereals.

Furthermore the fact that the levy had to be passed on to the producers gave rise to some difficulties in intra Community trade because of the monetary differences, i.e. traders might be charged a higher/lower levy in national currency in the country of destination, than they were able to pass on to the producers in the country of origin.

The measure has been strongly attacked, in particular by the processing industry, claiming that it was discriminatory to them because of the exemption of on-farm processing and because of the impossibility of passing on the exact levy to producers across the border.

Four cases have been brought to the European Court of Justice all of them contesting the validity of the measure for the above mentioned reasons. The Court of Justice did not follow the plaintiffs except as regards contract processing. The Court of Justice considered that the different treatment of on-farm processing and contract processing was discriminatory to producers, in particular small producers who would not be in a position to undertake processing on their own farms.

IVb. 1987/88 - Application of two different systems

Already during the first year of application some Member States pressed for basic changes of the systems and from the beginning of the 1987/88 marketing year the basic Regulation was amended in order to allow Member States, who so wished, to collect the levy at the stage of first sale.

Italy and France applied this system during the 1987/88 marketing year while other Member States continued to operate the initial system. Obviously the co-existence of two different systems complicated further the administrative procedures, in particular as regards border control between the two Member States and the rest of the Community.

IVc. 1988/89 - Basic changes of the system and implementation of the stabilizers

In the context of the implementation of the agricultural stabilizers in the cereals sector, the levy system has again been modified fundamentally in order to take into account the system of the supplementary levy and to improve the administrative procedures.

From the beginning of the 1988/89 marketing year the following coresponsibility arrangements have been in force:

- Application of a basic coresponsibility levy, currently 3% of the intervention price for common wheat. The levy is fixed annually by the Council. The basic levy is a continuation of the initial levy and is fixed on the basis of the same principles (see ch. IIIb above). During the three years of application the levy has not been changed. For the 1989/90 marketing year the basic levy remains 3% of the intervention price, but the levy amount is reduced slightly due to the reduction of the intervention price by 3%.

- Application of a provisional additional coresponsibility levy of 3% of the intervention price for common wheat from the beginning of the marketing year. If it transpires that the definitive additional levy is lower than the provisional levy, the difference is reimbursed to the producers.
- The Commission fixes before 1 March every year actual production and calculates the overrun of the MGQ. Based on this calculation the Commission fixes the definitive additional levy and the amount to be reimbursed to producers, if any. Furthermore the intervention prices are automatically reduced by 3% in the following marketing year if the MGQ is exceeded.
- Three major exemptions from the coresponsibility levies are operated:
 - . small producers (defined by Member States) are exempted from the levies up to a maximum of 25 tonnes of cereals marketed. The exemption is operated as a reimbursement of the levies paid, except in Greece, Italy and Spain where small producers are directly exempted at the stage of first sale. The global amount reimbursed to small producers is fixed at 220 mio ecu for the whole Community and the amount is distributed between Member States according to sales from producers marketing less than 25 tonnes. The amount will be reduced proportionally, if the definitive additional levy is lower than three percent.
 - . Producers participating in the set-aside programme, with at least 30% of their area, are exempted from the levies on sales of up to 20 tonnes of cereals. The exemption is operated in the form of a reimbursement.
 - . Certified seed. The exemption is operated as a proportional reduction of the levies paid on cereals purchased under a propagation contract.

Furthermore, in accordance with the judgement by the Court of Justice, deliveries of cereals subject to contract processing are considered as direct on-farm consumption and are not subject to the levy.

The levy arrangements have been subject to some further adjustments of the administrative procedures during the 1988/89 marketing year, in particular as regards the system of reimbursement of the supplementary levy and the deadlines for payment of the levy.

Furthermore the Commission has been requested by Member States to examine the levy arrangements in order to solve certain technical and administrative difficulties in the arrangements as soon as possible.

The Commission has examined the rules of application in close cooperation with experts from the Member States. However, only minor adjustments appeared to be necessary. These amendments were adopted during the month of August 1989.

V. ADMINISTRATIVE DIFFICULTIES RESULTING FROM THE APPLICATION OF THE CURRENT CORESPONSIBILITY LEVY ARRANGEMENTS

The major difficulty encountered since the beginning of 1988/89 has been the management of the additional levy, in particular as regards fixing definitive production and the reimbursement system for that levy.

Moreover administrative and control difficulties have been encountered by Member States as regards

- . sales between farmers
- . sales of cereals on the field
- . the control of the exemption of cereals subject to contract processing
- . changes of the levy in national currency during the marketing year (green rate adjustments).

These latter points have been discussed in detail with experts from the Member States with a view to alleviating the administration of the levy arrangements.

The Commission is aware that the control of sales between farmers, including sales on the field, is difficult. Nevertheless, a control measure ensuring entirely satisfactory control of these operations would be complicated and expensive, and would not be in a reasonable proportion to the size of the problem. At the same time, an exemption of sales between farmers should be avoided, first of all because these operations are the equivalent to sales to any other market operator, secondly because an exemption of these operations would create a legal bypassing of the levy arrangements and result in distortion between market operators. The Commission has therefore, in agreement with the Member States, refrained from changes in the current control measures in order to avoid a further complication. However, if it appears that by-passing is taking place, the Commission will take action immediately.

The exemption of cereals subject to contract processing results from the judgement by the Court of Justice which establishes that cereal producers having recourse to contract processing should not be treated differently from cereal producers using their cereals directly on the farm.

In order to avoid any ambiguity about this exemption, the Commission has presented a declaration in the Management Committee stating that only cereals which are processed either by the producer himself or by a third party on his behalf and which are used on the producers holding are not subject to the coresponsibility levy.

In order to avoid the levy amount changing in national currency during the marketing year, the rules of application have been amended such that the levy amount is converted into national currency by the green rate at the beginning of the marketing year.

Furthermore a strengthening of the measures in the form of charging of interest for late payment of the levy has been introduced in the application rules in order to take away any advantage from which operator could profit by late payment.

Va. Management of the additional levy

The management of the additional levy has in particular caused difficulties in two aspects:

- the reimbursement of the levy collected in excess.
- the fixing of the production for the estimate of the overrun of the MGO

The system of reimbursement was initially designed such that Member States were responsible for the reimbursement of the additional levy to producers and that the reimbursement should be made at the latest at the end of the marketing year in question. On request from Member States the procedure has been modified as follows:

- . Member States decide whether reimbursement shall be operated by the Government or directly by the operator collecting the levy.
- . If the reimbursement is operated by the Government, the operators concerned pay the additional levy together with the basic levy following the normal deadlines for payment (quarterly). The Government is required to reimburse the excess levy collected to producers not later than the end of June following the fixing of the sum to be reimbursed.
- . If the reimbursement is operated directly by the operators having collected the levy, the operators concerned keep the additional levy on their account until the definitive additional levy and the amount to be reimbursed are fixed, and reimburse the amount involved to producers within 1 month after the fixing.

From the 1989/90 marketing year all Member States, except the United Kingdom, operate the reimbursement directly by the operators concerned. Once cereals production is fixed, the reimbursement is thus made with a very short delay in almost all Member States.

The Commission must fix the definitive production each year before the 1 March. However, both in 1988 and 1989 the fixing has been subject to sensitive political discussion because the production estimates in both years have been within the limit where the additional levy could be partially or totally reimbursed. The Commission has therefore been put under strong political pressure for an early decision and reimbursement of levy collected in excess. However, due to the very long harvest period in the Community, from the beginning of June to the end of October, it is very difficult to make a safe estimate before the maize production is known. Furthermore it has been difficult to obtain serious production estimates, in particular from the parties most concerned.

Under the current Regulation the fixing of the production is done definitively and fixes both the definitive additional levy and the impact on the intervention prices in the following marketing year.

The Commission has therefore been very hesitant to decide the level of production before estimates were sufficiently firm, in view of the definitive consequences arising from the fixing.

VI. CONCLUSION

The principle of producer coresponsibility is a generally accepted principle in the current agricultural policy and is considered as an important element in the process of adjustments necessary to tackle the imbalance between supply and demand, and to give producers a signal of the realities on the markets.

The application of producer coresponsibility in the cereals sector only in the form of linear price reductions was not politically acceptable and the guarantee threshold system was replaced by the coresponsibility levy arrangements.

The current coresponsibility levy arrangements are in place for a four years period (1988/89 - 1991/92). During the first year of application big efforts have been made to get it to operate satisfactorily and to ensure that necessary adjustments are made.

From a technical and administrative point of view the coresponsibility levy arrangements in the current form operates satisfactorily and without major difficulties. The system of reimbursement of the additional levy, when managed directly by the operators collecting the levy, operates rapidly and without unnecessary delays. It is the general impression that the management of the levy arrangements, including the direct reimbursement, does not cause particular difficulties for the operators concerned once implemented.

The control of certain operations, in particular sales between farmers, contract processing and the direct exemption of small producers, is difficult. However the Commission is following the development of these operations closely and will continue to examine the possibilities of improving the situation.

The main problems relates to the date of determination of the cereals production on which depends the fixing of the definitive additional levy and the possible need to reimburse all or part of the levies collected until the fixing, as well as the possible impact on intervention prices in the following year.

In order to remove the conflict of interest between having an early fixing of the production enabling reimbursement as soon as possible and the necessity for having firm and reliable estimates for the fixing of the production in view of the definitive consequences arising from the fixing, the following mechanism could be considered:

- before 1 September a provisional estimate of the cereal harvest is to be made; the consequence of that estimate is to fix definitively the additional coresponsibility levy for the current marketing year and to permit its full or partial reimbursement as soon as possible for deliveries during the preceding June, July, August period;
- before 1 March cereal production will be determined definitively; that determination has two consequences for the following marketing year:
 - (a) the intervention price will be reduced by 3% if the maximum guaranteed quantity is exceeded;
 - (b) the basic coresponsibility levy will be increased or reduced by any difference, expressed as a percentage, between the provisional estimate and the definitive determination of production for the current year, to be applied to the intervention price for breadmaking common wheat applicable for the current marketing year, thus correcting any error in the level of the additional coresponsibility levy for the marketing year in question.

With the above proposed adjustments of the basic Council Regulation, it is the Commission's impression that further major amendments of the coresponsibility levy arrangements for administrative reasons would not be justified.

EXPLANATORY MEMORANDUM

At the time of the adoption of the overall compromise on the agricultural prices and related measures for the 1989/90 marketing year, the Commission undertook to examine the administrative difficulties arising from the application of the co-responsibility levy and to submit to the Council a report together, where appropriate, with suitable proposals.

An initial discussion took place with the Member States to examine those points it was considered desirable to relax as regards the rules of application of the co-responsibility levy arrangements.

The main problems appeared to stem from the general arrangements introduced by the Council. One of the major problems relates to the date of fixing of cereal production, whence depends in particular the definitive additional co-responsibility levy and the possible need to reimburse all or part of levies collected until such fixing.

For their part, the trade interests wish cereals production to be fixed quickly, so enabling possible reimbursement of amounts collected in excess as soon as possible.

In order to reduce risks of mistakes, for its part the Commission cannot accede to the trade interests' desires in the present situation and in view of the definitive consequences arising from fixing.

In order to bring the interests of all parties into line and to stop substantial sums from remaining on the collection centres' accounts for a long period, the following mechanism is contemplated:

- before 1 September a
provisional estimate of the cereal harvest is to be made; the consequence of that estimate is to fix definitively the additional co-responsibility levy for the current marketing year and to permit its full or partial reimbursement as soon as possible for deliveries between June and August;
- before 1 March cereal production will be determined definitively; that determination has two consequences for the following marketing year:
 - (a) the intervention price will be reduced by 3% if the maximum guaranteed quantity is exceeded;

- (b) the basic co-responsibility levy will be increased or reduced by any difference, expressed as a percentage, between the provisional estimate and the definitive determination, to be applied to the intervention price for breadmaking common wheat applicable for the preceding marketing year, thus correcting any error in the level of the additional co-responsibility levy for the marketing year in question. The correction of the basic co-responsibility levy may be explained by the constant nature of the latter while the additional co-responsibility levy is dependent on production recorded.

proposal for a

COUNCIL REGULATION

amending Regulation (EEC) No 2727/75 on the
common organization of the market in cereals

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Article 4b of the abovementioned Regulation provides for the payment
of the maximum additional levy at the beginning of the marketing year and,
where appropriate, for its reimbursement in full or in part depending on the
definitive harvest recorded;

Whereas the abovementioned arrangements lead to uncertainty and administrative
complications throughout a substantial part of the marketing year; whereas
they should accordingly be replaced by arrangements which, while providing for
the application from the beginning of the marketing year of the highest level
of the additional levy, enable the levy actually due for the marketing year in
question to be determined quickly and sums collected in excess to be
reimbursed;

Whereas such arrangements may be established by making the levy applicable to
the marketing year in question and the level of reimbursements to be made
dependent on a provisional determination of the harvest to be made before
1 September;

Whereas, however, in the framework of such arrangements, the stabilizing effect desired could not be achieved without applying during the following marketing year corrective percentages arising from the definitive recording of the harvest to be made before 1 March; whereas, in order to ensure that the objectives sought are achieved, the contemplated corrections must relate to the basic co-responsibility levy,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2727/75 is hereby amended as follows:

1. Article 4b(4) is replaced by the following:

"4. For the purposes of applying this Article, each year the Commission shall establish:

- provisionally, before 1 September, whether or not the cereal production from the current marketing year has exceeded the maximum guaranteed quantity fixed for that marketing year; such determination shall result in the consequences referred to in paragraph 2 of this Article for the current marketing year;
- definitively, before 1 March, whether or not the cereal production from the current marketing year has exceeded the maximum guaranteed quantity fixed for that marketing year; such determination shall result in the consequences referred to in paragraph 3 of this Article and, where appropriate, to an adjustment of the co-responsibility levy as referred to in Article 4, and applicable for the following marketing year. The amount of that adjustment shall, within a limit of 3%, be equal to the difference expressed as a percentage between the determination referred to in the first indent and that referred to in this indent, to be applied to the intervention price applicable to breadmaking common wheat at the beginning of the preceding marketing year."

2. Article 4b(5) is replaced by the following:

"5. Detailed rules for the application of this Article and in particular the amount of the additional levy and any adjustment as provided for in the second indent of paragraph 4 shall be adopted in accordance with the procedure laid down in Article 26."

Article 2

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

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

Done at Brussels,

For the Council

FINANCIAL STATEMENT

Date: 4 July 1989

1. Budget heading: 103 Appropriations: - ECU 784 million

2. Title: Amendment to Regulation (EEC) No 2727/75 on the common organization of the market in cereals

3. Legal basis: Treaty establishing the European Economic Community

4. Aims of project: To fix the level of cereal production on which the application of the stabilizers depends, in two stages, so as to avoid administrative difficulties arising from the present system.

	period of 12 months	current financial year (1989)	following financial year (1990)
5. Financial implications			
5.0 Expenditure			
- charged to the EC budget (refunds/intervention)	p.m.	-	p.m.
- national administration			
- other			
5.1 Receipts			
- own resources of the EC (levies/customs duties)			
- national			
	1991	1992	
5.0.1 Estimated expenditure			
5.1.1 Estimated receipts	p.m.	p.m.	

5.2 Method of calculation:

6.0 Can the project be financed from appropriations entered in the relevant chapter of the current budget ? yes

6.1 Can the project be financed by transfer between chapters of the current budget ? yes/no

6.2 Is a supplementary budget necessary ? no

6.3 Will future budget appropriations be necessary ? yes

Observations: The proposal amends the technical rules for applying the additional co-responsibility levy.

Firstly it introduces a system for estimating the harvest in two stages (provisional estimates before 1 September and definitive estimate before the following 1 March).

In addition, where the definitive production proves to be different from the provisional estimate used to calculate the additional levy, it enables the necessary correction to be carried over to the following marketing year.

From the budget viewpoint it may thus result in an extension of the period relating to a given marketing year without however being calculated.