



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a  
COUNCIL REGULATION (EC)

on improving the efficiency of agricultural structures

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Proposal for a  
COUNCIL REGULATION (EC)

on improving the processing and marketing conditions  
for agricultural products

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Proposal for a  
COUNCIL REGULATION (EC)

on producer groups and associations thereof

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(presented by the Commission)



## EXPLANATORY MEMORANDUM

### **Consolidation of Objective 5(a) on the adjustment of agricultural structures throughout the Community**

1. The adjustment of agricultural structures is an essential element in improving the rural economy, both in the context of the economy in general and in the development of the common agricultural policy in particular.
2. In November 1994 the Council adopted Regulation (EC) No 2843/94 which improved and completed the Community rules concerning Objective 5(a).

At the time of this modification, the Commission undertook to work on the consolidation of the different instruments in force. This present proposal fulfils that undertaking.

3. The three basic Regulations concerning Objective 5(a) [Regulations (EEC) Nos 1360/78, 866/90 and 2328/91] were adopted at different times (1978, 1990 and 1991) and have been amended more than a dozen times. As a result, the texts in force are difficult to find and barely understandable to the non-specialist.

A clear presentation of the rules governing agricultural structures across the whole Community is an essential step towards the achievement of the stated objectives. Only if official texts are readable and transparent will potential applicants be able to check the usefulness and relevance of the available opportunities, with a view to making an application and following through successfully to implementation.

In addition, one of the Regulations affected [Regulation (EEC) No 2328/91] governs the conditions for the granting of compensatory allowances in less-favoured agricultural areas. However, the rules for the definition of these areas (criteria for mapping and procedures) are contained in a separate instrument, Council Directive 75/268/EEC of 28 April 1975. These rules can easily be incorporated into the new consolidated text of Regulation (EEC) No 2328/91.

4. This proposal for consolidation comprises an updating of the original legal texts by incorporating their successive amendments and by introducing the following elements of simplification and clarity :
  - incorporation into the text of Regulation (EEC) No 2328/91 of the articles still in force of Council Directive 75/268/EEC on the adjustment of agricultural structures throughout the Community (see 2 above), thus reducing the number of legal instruments;

- introduction of titles and sub-titles corresponding to the areas covered by the articles;
- retention, as far as possible, of current article numbering, which is familiar to administrators and other users of the texts;
- removal to an annex, of rates of aid in Regulation (EEC) No 2328/91 in order to facilitate future updating;
- deletion of unnecessary references;
- correction of several material errors in certain linguistic version;
- rewriting of articles (very few in number) to improve clarity.

5. This proposal aims to update and to consolidate the relevant instruments and, notwithstanding the amendments in the interests of simplification and clarity, this proposal does not contain any substantive changes.

**COUNCIL REGULATION (EC) No**

of .....

on improving the efficiency of agricultural structures

96/0044 (CNS)

**THE COUNCIL OF THE EUROPEAN UNION,**

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

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the European Parliament<sup>2</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>3</sup>,

Whereas Council Regulation (EEC) No 2328/91 of 15 July 1991 on improving the efficiency of agricultural structures<sup>4</sup>, has been substantially amended on several occasions; whereas in the interests of clarity and rationality it is appropriate to consolidate the said regulation; whereas moreover in the interests of simplification and coherence it is appropriate to incorporate in the same text Council Directive 75/268/EEC of 28 April 1975 on mountain and hill farming in certain less-favoured areas<sup>5</sup>;

Whereas, pursuant to Article 1 of Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments<sup>6</sup>, Community action through the Structural Funds, in particular, is to support the achievement of the general objectives set out in Articles 130a and 130c of the Treaty by

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<sup>1</sup> OJ No ...

<sup>2</sup> OJ No

<sup>3</sup> OJ No ...

<sup>4</sup> OJ No L 218, 6.8.1991, p. 1, as last amended by Commission Regulation (EC) No 2387/95, OJ No L 244 of 12.10.1995, p.50.

<sup>5</sup> OJ No L 128, 19.5.1975, p.1

<sup>6</sup> OJ No L 374 of 31.12.1988, p.25, as last amended by the Act of Accession of Austria, Finland and Sweden.

contributing to the attainment of five priority objectives; whereas it is for the Guidance Section of the European Agricultural Guarantee and Guidance Fund (EAGGF) to contribute towards promoting rural development by speeding up the adjustment of agricultural structures in the context of reform of the common agricultural policy;

Whereas intervention by the EAGGF for the attainment of Objective 5 (a) is governed by Council Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments<sup>7</sup>, and by Council Regulation (EEC) No 4256/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the EAGGF Guidance Section<sup>8</sup>;

Whereas this common measure must fit in with other horizontal measures decided on for the attainment of Objective 5 (a); whereas it also reflects certain principles of Community policy and agricultural structures that are generally applicable to any intervention by the Funds;

Whereas it is not possible to achieve the objectives of the common agricultural policy set out in Article 39 (1) (a) and (b) of the Treaty without aiding the improvement of the efficiency of agricultural structures, especially in regions experiencing particularly acute problems;

Whereas this improvement of the efficiency of agricultural structures is an indispensable element in the development of the common agricultural policy; whereas it is therefore necessary that such improvement be based on Community concepts and criteria;

Whereas, because of the diversity of their causes, nature and gravity, structural problems in agriculture may require solutions which vary according to region and are capable of adjustment over a period of time; whereas such solutions must contribute to the overall economic and social development of each region concerned;

Whereas the situation of agricultural markets has changed,

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<sup>7</sup> OJ No L 374, 31.12.1988, p. 25, as last amended by the Act of Accession of Austria, Finland and Sweden.

<sup>8</sup> OJ No L 374, 31.12.1988, p.25, as last amended by Resolution (EEC) No 2085/93 of 20 July 1993, OJ No L 193, 31.7.1993, p. 5.

and will change further, as a result of the new direction imposed on the common agricultural policy by the need to secure a gradual drop in output in those sectors where there is a surplus;

Whereas, in this context, structural policy must be used to help farmers adapt to this new situation and to cushion the effects that the new markets and prices policy is likely to have on agricultural incomes in particular;

Whereas, if European agriculture is to maintain a presence on world markets, the common agricultural policy must continue to aim at increasing the efficiency and competitiveness of agricultural holdings; whereas, while the basic adjustments necessary to ensure the long-term competitiveness of Community agriculture must be made through the markets policy, the structural policy also must make its contribution by strengthening production and marketing structures as far as possible but without in any way worsening the imbalance between the productive resources allocated to agriculture and the foreseeable outlets;

Whereas, within the framework of this common measure, in order to achieve the aim of improving the effectiveness of agricultural structures, Member States should have the choice, according to the specific position of their farmers, to implement the measures or not and to adapt them to the different situations, while maintaining the obligation to respect the sectoral prohibitions and limitations as well as the rules on State aids;

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

Whereas, in the future, the only holdings capable of adjusting to economic conditions will be those on which the farmer has adequate vocational skill and competence, and on which profitability is verified by accounts and by a material improvement plan;

Whereas the aim of Community investment aid is to modernize agricultural holdings and thus improve their viability in the context of the rational development of agricultural production; whereas this aspect of the structural policy must be adjusted so as to permit the modernization and diversification of agriculture while remaining consistent with the measures taken to limit surplus production;

Whereas, in order to qualify for Community investment aid, a

**farmer must normally practise farming as his main occupation, that is, he must devote at least half of his working time to his holding and derive at least half of his income therefrom; whereas investment aid should, however, be extended to persons who do not practise farming as their main occupation, provided that on their holding they engage in forestry, tourism or craft activities or activities designed to safeguard the environment and maintain the countryside;**

**Whereas investment aid should be concentrated on holdings which are in greatest need of such aid;**

**Whereas the adjustment of farm structures by an improvement in productivity resulting in an increase in production is confronted by insurmountable limits because of the state of the market for many agricultural products; whereas investment aid is intended not necessarily to increase production capacity but also to improve the quality of production conditions; whereas it appears necessary to concentrate such aid on those investments which allow for a reduction in production costs and for the improvement in living and working conditions or which aim at conversion of production; whereas such aid may also be granted for investments aimed at finding new sources of income, such as tourism or craft activities or the farm-based manufacture and sale of farm products, and to investments aimed at improving conditions for the hygiene and welfare of animals and at safeguarding and improving the environment;**

**Whereas, in addition, the objective of market balance in the Community requires that specific conditions be attached to the granting of investment aid in the pig, milk, and beef and veal production sectors as well as in the egg and poultrymeat sectors;**

**Whereas the grant of specific benefits to young farmers may facilitate not only their installation but also the structural adjustment of their holding after their first installation;**

**Whereas the keeping of accounts is essential to the correct assessment of the financial and economic situation of holdings, and in particular of those undergoing modernization; whereas a financial incentive may encourage the keeping of accounts;**

**Whereas, in the interests of rational production and of improvement in living conditions, encouragement should also be given to the formation of groups having as their purpose mutual aid between holdings, including the use of new technologies and practices for safeguarding and improving the environment and preserving the countryside, and to the**

formation of groups which would introduce alternative farming practices or a more rational joint use of agricultural means of production, or group farming operations;

Whereas in the same context it is also necessary to encourage the creation of agricultural associations whose objective is the establishment of replacement and management services;

Whereas, the Council has adopted the Community lists of less-favoured areas, for which special measures adapted to their situation should be enacted at Community level, in particular in order to take account of the natural conditions of production and to ensure reasonable incomes for farmers in these regions;

Whereas it may be essential, if the objectives assigned to farming in less-favoured regions are to be attained, that farmers permanently engaged in agriculture in such areas be paid annual allowances aimed at compensation for the permanent natural handicaps; whereas it should be left to Member States to fix the amount of such allowances according to the severity of the handicaps involved and taking account of the economic situation and farmers' incomes within the limits and conditions fixed for the different types of areas, both as to the amounts which may be paid and the types of production which may be covered;

Whereas, in order to reduce the drawbacks both in terms of market balance and environmental protection, the allowance should be granted for only 1.4 livestock units (LU) per hectare of the total forage area of the holding; whereas, in addition, as regards the maximum amount of Community aid per holding, the administrative difficulties should be overcome by replacing the existing scheme by a simpler one designed to concentrate the Community's efforts on those holdings which are in greatest need, that is, the Community contribution would be restricted to the equivalent of 120 units;

Whereas the rationalization of holdings and the need to preserve the countryside necessitate the granting of aid for joint investment schemes in the less-favoured areas in particular for fodder production and for land improvement and capital equipment for pasture and hill grazing;

Whereas the evolution and the specialization of agriculture require an appropriate level of general, technical and economic training for the active farm population, especially as regards new orientations of management, of production, or of marketing, as well as for young people about to be installed or recently installed on a holding;

Whereas the insufficient financial means available for vocational training and further training, and, in particular, that of the leaders and managers of cooperatives and agricultural groups, impedes the structural adjustment of agriculture in many regions;

Whereas, in accordance with the principles of the reform of the Structural Funds, and in particular with Article 5 and 11 of Regulation (EEC) No 2052/88, the EAGGF cofinances national aid schemes by reimbursing expenditure incurred by Member States; whereas the rate of Community part-financing may be differentiated on the basis of the criteria and within the limits laid down in Article 13 of the said Regulation; whereas these rates are to be determined by the Commission;

Whereas, for the purposes of administrative management, Member States should be authorized to lay down additional conditions for the execution of the Member States provided for in this Regulation;

Whereas to facilitate structural improvement of the agricultural sector in certain regions, provision must be made for some temporary adjustments to the rules on the acceleration of structural adjustment in the context of the reform of the common agricultural policy;

Whereas it is appropriate, in the interests of clarity and in order to facilitate periodic updating, to place the levels of aids in an annex,

HAS ADOPTED THIS REGULATION:

## TITLE I

### Framework for the common measure

#### Article 1

With a view to expediting the adjustment of agricultural structures in the Community pursuant to Objective 5 (a) as set out in Article 1 of Regulation (EEC) No 2052/88, a common measure within the meaning of Article 2 (1) of Regulation (EEC) No 4256/88, to be implemented by the Member States, is hereby introduced with the following objectives:

- (i) to help restore the balance between production and market capacity;

- (ii) to help improve the efficiency of farms by developing and reorganizing their structures and by promoting supplementary activities;
- (iii) to maintain a viable agricultural community and thus help develop the social fabric of rural areas by ensuring a fair standard of living for farmers and by offsetting the effects of natural handicaps in less-favoured areas;
- (iv) to contribute to the safeguarding of the environment and the preservation of the countryside, including the long-term conservation of natural farming resources.

## Article 2

The EAGGF, Guidance Section, (the Fund) shall be used, where action is taken under the common measure referred to in Article 1, to provide part-financing for national aid schemes concerning:

- (a) measures relating to investments in agricultural holdings, in particular to reduce production costs, to improve the living and working conditions of farmers, to promote the diversification of their activities, including the marketing of products on the farm, and to preserve and improve the natural environment;
- (b) measures to encourage the setting-up of young farmers;
- (c) measures to assist agricultural holdings, involving the introduction of accounts and the launching of groups, services and other measures serving several holdings;
- (d) measures to support farm incomes and to maintain viable agricultural communities in less-favoured areas by means of agricultural aid for offsetting natural handicaps;
- (e) vocational training projects connected with the measures referred to in points (a), (b) and (c).

## Article 3

The Community contribution to aid under this Regulation shall be limited to the financial resources resulting from the allocation referred to in Article 12 (4) of Regulation (EEC) No 2052/88 without prejudice to Article 32 (2) of this Regulation.

To this end, Member States may limit the right of applicants to benefit from such aid according to the financial resources

available.

## TITLE II

### Aid scheme for investments in agricultural holdings

#### Article 4

In order to contribute to the improvement of agricultural incomes and of living, working and production conditions on agricultural holdings, Member States may introduce a scheme for investment aid to agricultural holdings, pursuant to the common measure.

#### Article 5

1. The aid scheme is confined to agricultural holdings where the farmer:

(a) practises farming as his main occupation.

Member States may, however, apply the aid scheme to part-time farmers who derive at least 50% of their total income from farming, forestry, tourism, craft activities, or activities for maintaining the countryside which benefit from public aid, carried out on the holding, provided that the proportion of income deriving directly from farming on the holding is not less than 25% of the farmer's total income and that off-farm activities do not account for more than half the farmer's total working time;

(b) possesses adequate occupational skill and competence;

(c) submits a material improvement plan for the holding. This plan must show that the investments are justified with regard to the situation of the holding and its economic position and that implementation of the plan will bring about a lasting improvement of that situation;

(d) undertakes to keep simplified accounts comprising at a minimum:

- records of revenue and expenditure of the holding, with supporting documents,
- the drawing up of an annual balance sheet of the assets and liabilities of the holding.

2. The aid system shall be limited to agricultural holdings

where labour income per man work unit (MWU) is less than 1,2 times the reference income referred to in paragraph 3.

Member States may restrict the aid scheme to aid for family farms.

3. Member States shall fix the reference income at a level not exceeding the average gross wage of non-agricultural workers in the region.

4. The plan for the material improvement of the holding shall contain at least:

- a description of the initial situation,
- a description of the situation upon completion of the plan, drawn up on the basis of an estimated budget,
- an indication of the measures and in particular the investments planned.

5. Member States shall define the term: 'farmer practising farming as his main occupation'.

This definition shall, in the case of natural persons, include at least the condition that the proportion of income derived from the agricultural holding must be 50 % or more of the farmer's total income and that the working time devoted to non-farm activities must be less than half of the farmer's total working time.

On the basis of the criteria referred to in the second subparagraph, the Member States shall define what is meant by the said expression in the case of legal entities other than natural persons.

6. Member States shall lay down the criteria for assessing the occupational skill and competence of the farmer, by reference to the standard of agricultural training received and/or to a minimum period of farming experience.

#### Article 6

1. The aid scheme may be applied to investments relating to:

- the qualitative improvements and redeployment of production, in line with market requirements and, where necessary, with a view to adapting it to Community quality standards,
- the diversification of activities on the holding, in

particular by the introduction of tourism and craft activities or the manufacture and sale of farm produce on the holding,

- the adaptation of the holding for the purposes of reducing production costs and saving energy,
- the improvement of living and working conditions,
- the improvement of the hygiene conditions of livestock enterprises and compliance with Community animal welfare standards, or, failing these, national standards until Community standards are adopted,
- the protection and improvement of the environment.

2. The grant of investment aid may be refused or limited where the effect of the investments concerned would be to increase the holding's production of products for which no normal market outlets can be found.

The Council, acting by a qualified majority on a proposal from the Commission, shall adopt the necessary measures and shall define the products falling within the meaning of the preceding subparagraph.

3. The investment aid shall not be granted in respect of investments relating to milk production the effect of which is to exceed the reference quantity determined in accordance with rules on the additional levy for milk and milk products, unless an additional reference quantity has been granted beforehand as provided for in accordance with the said rules.

In such cases, the granting of aid shall be subject to the condition that the investment does not serve to raise the number of dairy cows to more than 50 per MWU and more than 80 per holding or, where the holding has more than 1.6 MWU, does not serve to raise the number of dairy cows by more than 15 %.

4. Aid may not be granted for investments which have the effect of increasing pig places.

The place required by one breeding sow shall correspond to 6.5 fattening pig places.

Furthermore, where an improvement plan provides for investment in the pig production sector, the granting of aid in respect of such an investment shall be subject to the condition that, upon completion of the plan, at least the equivalent of 35% of the quantity of feed consumed by pigs can be produced on the holding.

However, in accordance with the procedure laid down in Article 30 the Commission may authorize a Member State to derogate from that condition, in exceptional cases and solely for investment to reduce emissions from animal droppings and the elimination of slurry in existing holdings, provided that such investment leads to a better result for the protection of the environment than that obtained by the condition derogated from and that it does not in any circumstances lead to an increase in production capacity.

5. Aid granted for investments relating to the beef sector, other than aid for safeguarding the environment, improvement of hygiene conditions on livestock enterprises and animal welfare, where there is no increase in capacity, shall be restricted to livestock enterprises where the beef-cattle stocking rate does not, in the final year of the plan, exceed 3, 2.5 and 2 livestock units (LU) per hectare of forage area used for feeding the cattle for plans ending respectively in 1994, 1995 and 1996 or later. The limits of 2.5 and 2 LU per hectare shall apply only to applications submitted as from 1 January 1994.

Where the number of animals on a holding which are to be taken into account for the determination of the stocking rate in accordance with Article 4 (g) (1) of Regulation (EEC) No 805/68<sup>9</sup> does not exceed 15 LU, the maximum rate of 3 LU/ha shall apply.

The LU conversion table is given in Annex II.

6. The granting of investment in the egg and poultry sector is not permitted, with the exception of aid for safeguarding the environment, improvement of hygiene conditions on livestock enterprises and animal welfare, provided there is no increase in capacity.

#### Article 7

1. The investment aid scheme shall cover aid in the form of capital grants or the equivalent thereof in interest rate subsidies or deferred repayments, or a combination of these, in respect of the investments necessary to carry out the improvement plan but with the exception of expenditure incurred in buying:

- land,
- livestock in the form of pigs, poultry and calves for

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<sup>9</sup> OJ No L 148, 28.6.1968, p. 24, as last amended...

slaughter.

With regard to the purchase of livestock, only the first purchase foreseen in the improvement plan may be charged to the account.

The aid scheme may cover guarantees for loans contracted and the interest thereon, where it is necessary to supplement an otherwise insufficient security or personal guarantee.

2. The total value of the aid expressed as a percentage of the amount of the investment, shall not exceed:

(a) In the case of the less-favoured areas:

- 45 % for investments in fixed assets,
- 30 % for other types of investments;

(b) in the case of other areas:

- 35 % for investments in fixed assets,
- 20 % for other types of investment.

3. Capital grants may apply to the level of investments specified in Annex I. Member States may set these limits at lower levels.

Where the aid is not granted in the form of a capital grant, Member States shall draw up each year a table showing the value of the aid, expressed as a percentage of the amount of the investment, taking into consideration the average annual rate of interests on non-subsidized loans, the value of the interest subsidy, the term of the loans, interest subsidies and deferred repayments and any other factor used for expressing the aid in grant equivalent terms.

In accordance with the procedure laid down in Article 30, a Member State may be authorized, for a specified period, to grant aid exceeding the level specified in the first subparagraph, if such action is warranted by the situation on the capital market in that Member State.

#### Article 8

The number of plans for the material improvement of a holding which may be accepted successively per beneficiary during a six-year period shall be limited to three. The total investment eligible for co-financing shall be limited to the amounts specified in Annex I.

## Article 9

1. A material improvement plan may relate to an individual holding or to a number of holdings grouped together with a view to the merger of all or part of these holdings.
2. In the case of group-operated holdings, the material improvement plan shall concern the group-operated holding and, where necessary, any parts of holdings which continue to be run by the group members.
3. Member States may grant the investment aid to group-operated holdings if at least two-thirds of the members of the group holding satisfy the conditions laid down in Article 5 (1).
4. Except for aquaculture, the ceilings for livestock or for the amounts referred to in Articles 6 (3), 7 (3) and 8 may be multiplied by the number of holdings belonging to the group.

However, these ceilings may not exceed:

- 200 cows,
  - the amounts specified in Annex I,
- per group-operated holding, including any parts of holdings which continue to be run by the group members.

5. The Commission, in accordance with the procedure laid down in Article 30, may authorize a Member State to grant the investment aid, under the conditions stipulated for the group-operated holdings, to agricultural cooperatives and similar associations whose sole objective is to manage an agricultural holding. At the same time, the Commission shall lay down specific conditions for the granting of aid to such cooperatives and associations, as well as the conditions under which and the limits within which the volume of investment provided for group-operated holdings may be exceeded.

6. Member States shall lay down the conditions to be met by group-operated holdings, in particular:

- their legal form,
- their minimum duration, which must not be less than six years,
- the formation of their capital,
- the participation of members in management.

## TITLE III

Measures specifically benefitting young farmers

## Article 10

1. Member States may grant setting-up aid to young farmers under 40 years of age on condition that:
  - the young farmer is established as head of the holding, which means that he assumes civil and tax liability or joint liability for the management of the holding and the social status accorded in the Member State concerned to self-employed heads of holding,
  - the young farmer sets up as a farmer practising farming as his main occupation or begins, after having set up as a part-time farmer, to practise farming as his main occupation. However, Member States may grant this aid to young farmers who set up as part-time farmers deriving at least 50 % of their total income from farming, forestry, tourism or craft activities or activities for maintaining the countryside which benefit from public aid, carried out on the holding, provided that the proportion of income deriving directly from farming on the holding is not less than 25 % of the farmer's total income and that non-farm activities do not account for more than half the farmer's total working time;
  - the occupational qualifications of the young farmer are at a satisfactory level at the time of his setting up or at the latest two years thereafter;
  - the holding requires a volume of work equivalent to at least one MWU, which must be achieved at the latest two years after the setting up.
2. The setting-up aid may comprise:
  - (a) a single premium of a maximum eligible amount specified in Annex I. The premium may be paid over a period not exceeding five years. Member States may replace the premium by an equivalent interest subsidy;
  - (b) an interest subsidy on loans taken with a view to covering the costs arising from setting up.

The duration of the interest subsidy shall not exceed 15 years; the capitalized value of the interest subsidy may not exceed the value of the single premium.

Member States may pay, in the form of a grant, the equivalent of the interest subsidy resulting from the volume and duration of the loans taken out.

**3. Member States shall define:**

- the conditions governing setting up,
- specific conditions in a situation where a young farmer is not established as sole head of the holding, in particular where he sets up as a member of an association or cooperative whose principal object is the management of an agricultural holding; these conditions must be equivalent to those required for setting up as a sole head of a holding,
- the agricultural qualifications required at the time of the setting up, or which must be attained within two years thereafter,
- the conditions under which it will be recognized that the volume of work equivalent to at least one MWU has been achieved within the maximum time of two years after setting up.

**Article 11**

Member States may grant young farmers under 40 years of age additional aid for investments to be made under a material improvement plan amounting to a maximum of 25 % of the aid granted pursuant to Article 7 (2) and (3), provided that the young farmer submits the improvement plan within five years of setting up and provided that he possesses the occupational qualifications referred to in Article 10 (1).

**TITLE IV**

**State aids for investments in agricultural holdings**

**Article 12**

1. State aids for investments in agricultural holdings, granted outside the aid scheme referred to in Title II, are subject to the conditions set out in this article.

This article applies even in Member States which do not institute the system of investment aids provided for in Title II.

2. (Aids generally allowed.) The Member States may grant aid for investments for:

- land purchase;
- operating loans the term of which does not exceed one marketing year,

- the purchase of male breeding stock,
- securities for loans contracted, including interest,
- the protection and improvement of the environment, provided that such investments do not entail an increase in production capacity,
- the improvement of hygiene conditions in livestock enterprises or of compliance with Community animal welfare standards or national standards where these are stricter than Community standards, provided that these investments do not give rise to an increase in production capacity,
- agricultural holdings, for activities not relating to field crops or stockfarming.

Articles 92 to 94 of the Treaty apply to these aids.

3. (Aid for eligible farms.) In the case of individual or associated holdings which satisfy the conditions of eligibility laid down in Articles 5 and 9, aid for investments which exceed the amounts laid down in Article 7(2) and (3) and 11, are prohibited.

This prohibition does not apply to aid for investments for:

- the construction of farm buildings,
- the relocation of farm buildings where this is done in the public interest,
- land improvement operations,
- the protection and improvement of the environment.

Articles 92 to 94 of the Treaty, as well as the prohibitions and limitations provided for in Article 6 of this Regulation apply to these aids.

4. (Aid for ineligible farms.) In the case of holdings which do not satisfy the conditions of eligibility laid down in Article 5, the Member States may provide investment aid.

(a) The levels of aids may be up to those set out in Title II in so far as the aids are for:

- energy saving,
- land improvement,
- the protection and improvement of the environment, provided that such investments do not entail an increase in production capacity,
- the improvement of hygiene conditions in livestock enterprises or of compliance with Community animal welfare standards or national standards where these are stricter than Community standards, provided that these investments do not give rise to an increase in production capacity.

(b) The aids may be granted at the levels set out in Annex I as temporary aids in small agricultural holdings. These aids may not be granted under conditions more favourable than those set out in Articles 7 and 11.

(c) In all other cases, these aids must:

- be less than or equal to one quarter of the levels of aid granted by Title II,
- relate to investments which do not exceed the total amount set out in Annex I, for a period of six years, and
- meet the conditions set out in Articles 6 and 7, the number of dairy cows referred to in Article 6(3) being fixed at 50 per MWU and per farm, only if they are allocated;
  - = in the sector of geese and ducks, for the production of foie gras,
  - = for the purchase of livestock which may be encouraged under Article 7(1), even where it is not the first purchase.

With the exception of Article 92(2) of the Treaty, Articles 92-94 of the Treaty do not apply to these aids..

## TITLE V

### Aid for the introduction of accounting practices

#### Article 13

1. Member States may introduce a scheme to encourage

**the introduction of accounting on agricultural holdings.**

The scheme shall involve granting to farmers whose main occupation is farming an aid spread over at least the first four years during which management accounts are kept on their holdings. Accounts will be kept for at least four years.

Member States will determine the amount of such aid within the range specified in Annex I.

**2. The keeping of accounts shall,**

**(a) comprise:**

- the preparation of annual opening and closing valuations,
- the systematic and regular recording over the accounting year of the various transactions in cash or in kind concerning the holding;

**(b) conclude with the presentation each year of:**

- a description of the general characteristics of the holding, and in particular of the factors of production employed,
- a detailed balance sheet (assets and liabilities) and a detailed trading account (expenditure and income),
- the necessary data, including in particular the earned income per MWU and the farmer's income, for assessing the efficiency of the management of the holding as a whole, and the profitability of the main enterprises of the holding.

**3. Where a holding is chosen by bodies appointed by Member States for the collection of accountancy data for the purposes of information and scientific study, in particular within the framework of the Community accountancy data network, and the farmer is the beneficiary of aid, he must undertake to make available to those bodies, under conditions of anonymity, the accountancy data relating to his holding.**

## **TITLE VI**

### **Setting-up aid for groups**

#### **Article 14**

Member States may grant setting-up aid to recognized farmers' groups which have as their object:

- mutual aid between holdings, including the use of new technologies and practices for safeguarding and improving the environment and preserving the

- countryside,**
- the introduction of alternative farming practices,**
- the more rational joint use of agricultural means of production, and**
- the operation of a group holding.**

**This setting-up aid will contribute to the costs of operating a group during not more than the first five years after the formation.**

**Member States shall fix the amount of such aid by reference to the number of members and to the activity performed jointly. The maximum amount is specified in Annex I.**

**Member States shall determine the legal form of such groups and the provisions governing cooperation between members.**

## **TITLE VII**

### **Setting-up aid for farm relief services**

#### **Article 15**

- 1. Member States may grant launching aid to contribute to covering the management costs of agricultural associations having as their object the provision of farm relief services. This aid is designed to contribute to covering the costs of their organization.**
- 2. The relief service must be approved by the Member State and employ at least one full-time worker who is fully qualified for the work he is called upon to perform.**
- 3. Member States shall lay down the conditions for the approval of relief services, and in particular:**
  - their legal form,**
  - the provisions governing their management and accounting practices,**
  - the type of replacement which may comprise the replacement of the farmer, his spouse or an adult worker,**
  - their minimum duration, which must not be less than 10 years,**
  - the minimum number of affiliated farmers.**
- 4. Member States shall fix the amount of the setting-up aid, which shall not exceed the amount specified in Annex I per relief worker employed on a full-time basis. This amount shall be spread over the first five years of each worker's employment; it may be spread degressively over that period.**

## TITLE VIII

### Aid for farm management services

#### Article 16

1. Member States may grant aid to agricultural associations for the purpose of creating or stepping up services to assist farm management and which is to help cover their management costs.
2. Farm management services must be approved by the Member State and must employ on a full-time basis at least one member of qualified staff.
3. The aid shall be granted in respect of the work of staff responsible for providing individual assistance in the technical, economic, financial and administrative management of agricultural holdings.
4. Member States shall lay down the conditions for the approval of these services, and in particular:
  - their legal form,
  - the provisions governing their management and accounting practices,
  - their minimum duration, which must not be less than 10 years,
  - the minimum number of affiliated farmers.
5. Member States shall fix the amount of the aid per member of staff employed on a full-time basis. This amount shall be spread over the first five years of each member of staff's employment; it may be spread degressively over this period. The maximum eligible total of the aid is that specified in Annex I.
6. Member States may replace the system of aid provided for in paragraph 5 with a system to introduce farm management aid for farmers practising farming as their main occupation who make use of the services to assist farm management.

In this event, Member States shall set aid at up to the maximum specified in Annex I per holding, to be spread over at least two years.

## TITLE IX

### Aid scheme to benefit less-favoured agricultural areas

#### Sub-title I: Compensatory allowances

## Article 17

1. In order to ensure the continuation of farming, thereby maintaining a minimum population level or conserving the countryside in certain less-favoured areas the list of which is determined in accordance with the procedure laid down in Article 21, Member States may introduce an aid scheme to encourage farming and to raise incomes in these areas.

The application of the measures provided for in this scheme should take into account the situation and development objectives particular to each region.

2. In these areas Member States may grant an annual compensatory allowance to assist farming activities, such allowance to be fixed according to the permanent natural handicaps.

## Article 18

1. Member States may grant compensatory allowances to farmers who work at least three hectares of usable agricultural area (UAA) and who undertake to pursue a farming activity in accordance with the aims of Article 17 for at least five years from the first payment of a compensatory allowance shall be eligible for such an allowance; where a farmer gives up farming and the area concerned continues to be worked, he may be released from such undertaking; he shall be released from such undertaking in cases of *force majeure*, for example where his property is compulsorily purchased or purchased in the public interest; in addition, farmers in receipt of a retirement or early-retirement pension shall be released from such undertaking.

However, in the Italian Mezzogiorno region, including the islands, in the regions in the French overseas departments and in the Greek, Portuguese and Spanish regions, the minimum UAA per holding shall be two hectares.

2. Member States may lay down additional or limiting conditions for the grant of the compensatory allowance, including conditions which encourage the use of practices compatible with the need to safeguard the environment and preserve the countryside.

## Article 19

1. Member States shall fix the amounts of the compensatory allowance according to the severity of the permanent natural handicaps affecting farming activities and having regard to the limits set out below, although no

allowance may be less than the amount specified in Annex I per LU or, where appropriate, per hectare.

- (a) (Headage payment.) In the case of farms keeping cattle, sheep, goats or equine animals the allowance shall be calculated in relation to livestock numbers. The allowance may not exceed the amount specified in Annex I per LU. The total amount of the allowance granted may not exceed the amount specified in Annex I per hectare of total forage area of the holding. A conversion table for expressing cattle, equine animals, sheep and goats as LUs is given in Annex II.

However, in less-favoured areas where the permanent natural handicaps are serious enough to justify it, the local allowance granted may be increased to the amount specified in Annex I per LU and per hectare.

The allowance shall be granted in respect of not more than 1.4 LU per hectare of the total forage area of the holding.

Cows whose milk is intended for marketing may be taken into consideration for the calculation of the compensatory allowance only:

- in mountain areas;
- in other less-favoured areas where dairying forms an important part of farming activity, subject to a limit of 20 dairy cows per beneficiary.

- (b) (Area payment.) In the case of production other than of cattle, equine animals, sheep and goats, the allowance shall be proportional to the area farmed, less that devoted to the feeding of livestock and:

- (i) in all less favoured areas, less that given over to wheat growing, except areas given over to the growing of common wheat, in areas the average yield from which does not exceed 2.5 tonnes per hectare used for this product;
- (ii) in all less-favoured areas, less any areas which are full plantations of apple, pear or peach trees exceeding 0.5 hectares per holding;
- (iii) in the less-favoured areas other than mountain areas, less any areas assigned to the production of wine, apart from vineyards the yield from which does not exceed 20 hectolitres per hectare, or the production of sugarbeet or intensive crops.

The allowance may not exceed the amount specified in Annex I per hectare. However in less-favoured areas in which the severity of the permanent natural handicaps is great enough so to justify, the total amount granted may be increased to the amount specified in Annex I.

- (c) (Variation of allowances.) Member States may vary the compensatory allowance on the basis of the economic situation of the holding and of the income of the farmer. The amount of the allowance may also be adjusted in the light of the use of agricultural practices compatible with the requirement for safeguarding the environment and preserving the countryside; the benefit of any increases may not, however, be combined with the aid referred to in Regulation (EEC) No 2078/92<sup>10</sup>.

2. The granting of a compensatory allowance which exceeds those limits or which fails to satisfy the conditions laid down in this Title shall be prohibited.

Expenditure in respect of the compensatory allowances shall not be eligible for part-financing by the Fund where the farmer is in receipt of a retirement or early-retirement pension.

3. The maximum amount eligible under the fund shall be limited to the equivalents of 120 units per holding, whether livestock units (LU) or area units (ha); beyond the equivalent of the first 60 units, the maximum eligible amount shall be reduced by half.

4. In Finland, for the purpose of applying this Article, all the less-favoured areas shall be considered as mountain area.

#### Sub-title II: Aid for joint investments

#### Article 20

1. In the less-favoured areas, Member States may grant aid to joint investment schemes for fodder production, including the storage and distribution of fodder, and for the improvement and equipping of pastures which are farmed jointly and, in mountain areas, to joint or individual investment in water points, in minor roads for immediate access to pastures, including mountain pastures, and in shelters for herds.

However, where stock-breeding constitutes a peripheral

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<sup>10</sup> OJ No L 215 of 13.7.1992, p. 85.

activity in these areas, the aid shall be extended to agricultural activities other than stock-breeding.

2. Where economically justified, the work referred to in paragraph 1 may include small-scale farm water supply measures compatible with protection of the environment, including small-scale irrigation works, and the construction or repair of shelters necessary for transhumance.

3. The aid eligible for co-financing may not exceed the amounts specified in Annex I per joint investment project, per hectare of pasture or mountain pasture improved or equipped and per hectare irrigated.

### Sub-title III: Delimitation of less-favoured areas

#### Article 21

1. Member States shall communicate to the Commission the boundaries of the areas in which they propose to apply the special system of aids provided for in this Title, and which, in the light of the characteristics specified in Articles 22 to 25, are eligible for inclusion in the list of less-favoured areas. Member States shall at the same time submit all relevant information concerning the characteristics of these areas and the measures which they propose to apply in those areas under the aid scheme.

2. The Council, acting in accordance with the procedure laid down in Article 43 of the Treaty, shall adopt the list of less-favoured areas.

3. At the request of a Member State, submitted in accordance with paragraph 1, amendments may be made to the limits of the areas in accordance with the same procedure as that laid down in Article 30. These amendments may not have the effect of increasing the effective amount of agricultural land of all the areas in the Member State concerned by more than 1.5% of the total UAA of that State.

#### Article 22

1. The less-favoured areas shall include mountain areas, in which farming is necessary to protect the countryside, particularly for reasons of protection against erosion or in order to meet leisure needs; they shall also include other areas where the maintenance of a minimum population or the conservation of the countryside are not assured.

2. These areas must have adequate infrastructures, including access roads to farms, electricity and drinking water and, in

tourist and recreation areas, disposal of sewage. Should such amenities be lacking, their provision should be envisaged in the near future in public amenity programmes.

#### Article 23

1. Mountain areas shall be made up of local government districts or parts thereof characterized by a considerable limitation of the possibilities for using the land and an appreciable increase in the cost of working it, due :

- (a) either to the existence, because of the altitude, of very difficult climatic conditions the effect of which is substantially to shorten the growing season,
- (b) or, at a lower altitude, to the presence, over the greater part of the district in question, of slopes too steep for the use of machinery or requiring the use of very expensive special equipment,
- (c) or to the combination of these two factors, where the handicap resulting from each taken separately is less acute, provided that this combination gives rise to a handicap equivalent to that caused by the situation referred to in the first two indents.

2. Areas north of the 62nd parallel and certain adjacent zones are to be included as mountain areas in so far as they are subject to very difficult climatic conditions the effect of which is substantially to shorten the growing season.

#### Article 24

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

- (a) the presence of land of poor productivity, unsuitable for cultivation and with a limited potential which cannot be increased except at excessive cost, and mainly suitable for extensive livestock farming;
- (b) the production which results from the low productivity of the natural environment is appreciably lower than the average, with regard to the main indices of economic performance in agriculture;
- (c) either a low or dwindling population predominantly dependent on agricultural activity, and the accelerated

decline of which would jeopardies the viability of the area concerned and its continued habitation.

#### Article 25

Less-favoured areas may include small areas affected by specific handicaps and in which farming must be continued, where necessary and subject to certain conditions, in order to conserve the environment, maintain the countryside and to preserve the tourist potential of the area or in order to protect the coastline. The total extent of such areas may not in any Member State exceed 4% of the area of the State concerned.

#### TITLE X

#### Adjustment of vocational training to the requirements of modern agriculture

#### Article 26

1. In so far as no provision is made for their financing in Regulation (EEC) No 4255/88<sup>11</sup>, Member States may, in regions where the need is apparent and with a view to the smooth implementation of the relevant measures, introduce a scheme of special aid for the improvement of the agricultural skills of beneficiaries of the measures referred to in Articles 5 to 16 and young farmers under 40 years of age.

#### Article 27

The aid scheme may comprise:

- courses of basic and advanced vocational instruction or training for farmers, family helpers and agricultural workers who have passed the minimum school-leaving age and courses of additional training for such persons, intended to prepare them for qualitative reorientation of production; the application of production practices compatible with protection of the landscape and acquisition of skills needed to enable them to manage their woodlands,
- courses of instruction or training for leaders and managers of producer groups and cooperatives, where this is necessary to improve the economic organization of producers and the processing and marketing of agricultural products from the region concerned,

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<sup>11</sup> OJ No L 374 of 31.12.1988, p. 21, as last amended...

- the courses of further training, needed to achieve the level of qualifications referred to in Article 10(1), which must be of a minimum length of 150 hours.

#### Article 28

1. The system shall comprise the granting of aid:
  - (a) for attendance at courses of instruction or training;
  - (b) for the organization and provision of courses of instruction and training.
2. The expenditure incurred by Member States in granting the aid for training shall be eligible for co-financing up to a maximum amount, specified in Annex I, per person having completed a course of instruction or training. Of this amount, a sum, as specified in Annex I, must be spent on further courses on reorientation of production, with regard to production practices compatible with landscape protection and management of woodlands.

The measures covered by this Article shall not include courses of instruction or training which form part of normal programmes or systems of agricultural education at secondary or higher level.

### TITLE XI

#### General and financial provisions

#### Article 29

1. Member States shall forward to the Commission:
  - drafts of all laws, regulations or administrative provisions which they propose to adopt pursuant to this Regulation, including those relating to Article 12,
  - the texts of any existing provisions which may make it possible to implement this Regulation.
2. When submitting, pursuant to paragraph 1, drafts of laws, regulations or administrative provisions or the texts of existing provisions, Member States shall also submit an explanatory memorandum showing the relationship at regional level between the measure in question and economic and structural conditions in the agricultural sector.

3. The Commission shall examine drafts forwarded in accordance with the first indent of paragraph 1 for the purpose of determining whether, having regard to the objectives of this Regulation and to the need for a proper connection between the various measures, such drafts comply with the Regulation and thus satisfy the conditions for a financial contribution by the Community to the measure referred to in Article 1.

4. Member States shall, on enactment of any law, regulation or administrative provision as referred to in paragraph 3, forward the text thereof to the Commission.

#### Article 30

With regard to provisions forwarded pursuant to the second indent of Article 29 (1) or to Article 29 (4), the Commission shall decide within two months of their being forwarded, in accordance with the procedure laid down in Article 29(1), sub-paragraphs 2-5 of Regulation (EEC) No 4253/88, whether, in the light of their compliance with this Regulation and having regard to the objectives of this Regulation and to the need to ensure that the various measures are properly related, such provisions satisfy the conditions for a financial contribution by the Community to the common measure referred to in Article 1.

#### Article 31

1. On the basis of the data referred to in Article 29 (2) and to ensure consistency with the allocation of appropriations between Member States pursuant to Article 12 (4) of Regulation (EEC) No 2052/88, Member States shall establish for 1994 to 1999 annual expenditure forecasts.

Austria, Finland and Sweden shall establish such forecasts for 1995-1999.

These forecasts shall cover all expenditure financed by the EAGGF, Guidance Section, pursuant to:

- this Regulation;
- Directive 72/159/EEC;
- Directive 72/160/EEC;
- Regulation (EEC) No 1035/72;
- Regulation (EEC) No 1360/78;
- Regulation (EEC) No 389/82;
- Regulation (EEC) No 1696/71.

2. Member States shall forward, together with the annual expenditure forecasts, an aid application submitted in

accordance with Article 14 (1) of Regulation (EEC) No 4253/88.

The aid application shall include the information necessary to enable the Commission to make an evaluation and, in particular, a description of the proposed measures, their scope, including geographical coverage, their specific objectives, an indication of the bodies responsible for carrying out the measures and the beneficiaries.

To the extent that the Regulations referred to in paragraph 1 of this Article and the national implementing provisions communicated to the Commission contain a description of the measures and their specific objectives it is not necessary for the information relating thereto to appear in the aid application.

In any event the aid application shall include a breakdown of forecast expenditure between the Regulations referred to in paragraph 1 and, in the case of Regulation (EEC) No 2328/91, between the various titles of the Regulation for the entire period, together with a breakdown by year of all expenditure.

3. In the case of regions covered by Objectives 1 and 6 as defined in Article 1 of Regulation (EEC) No 2052/88, the expenditure forecasts referred to in paragraph 1 shall be included in the documents relating to the programming referred to in Article 8 (7) of the said Regulation and Article 5 (2) of Regulation (EEC) No 4253/88.

4. In the case of regions not eligible under Objectives 1 and 6, Member States shall transmit the expenditure forecasts referred to in paragraph 1 by 30 April 1994 at the latest, distinguishing the information relating to Objective 5 (b) areas from that relating to the rest of the territory.

Austria, Finland and Sweden shall communicate such forecasts within three months of their accession.

Where appropriate, Member States shall draw up by 30 April at the latest an update of the expenditure forecasts and of the information submitted with the aid applications.

5. The Commission shall adopt detailed rules for the application of this Article, in accordance with the procedure laid down in Article 30.

Article 32

1. Expenditure incurred by Member States in the framework of the measures provided for in Articles 5 to 11 and 13 to 28 shall be eligible for part-financing under the Fund.

2. In the case of regions not eligible under Objectives 1 and 6 as defined in Article 1 of Regulation (EEC) No 2052/88, the Commission shall, in accordance with the procedure laid down in Article 30, decide on the conditions for a financial contribution from the Community, including the rate of community part-financing, in accordance with the criteria and limits laid down in Article 13 of Regulation (EEC) No 2052/88, so that consistency is ensured with the allocation of the appropriations between Member States pursuant to the second subparagraph of Article 12 (4) of the latter Regulation.

In order to ensure compliance with the resources available for the whole set of measures referred to in Article 2 of Regulation (EEC) No 4256/88, the conditions referred to in the first subparagraph may be revised in accordance with the same procedure.

3. Where appropriate, the Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 30.

#### Article 33

1. Assistance shall be paid in accordance with Article 21 of Regulation (EEC) No 4253/88; however, in addition to the conditions listed in paragraph 4 of the said Article, payment of the balance or a refund shall be based on:

- a declaration of the expenditure effected by Member States during a calendar year, and
- a report on the application of the measures during the calendar year in question, prepared in accordance with Article 25 (4) of the said Regulation,

both of which shall be submitted to the Commission before 1 July the following year.

2. The Commission shall in accordance with the procedure laid down in Article 30 adopt detailed rules for the application of this Article.

#### Article 34

Member States may lay down additional conditions as regards the implementation of the aid measures provided for

**in this Regulation.**

#### **Article 35**

**The Commission shall in accordance with the procedure laid down in Article 30 adopt detailed rules on monitoring and assessment to ensure in particular that the common measures referred to in Article 2 of Regulation (EEC) No 4256/88 are carried out in a manner consistent with the allocation of appropriations between the Member States pursuant to Article 12 (4) of Regulation (EEC) No 2052/88.**

#### **Article 36**

**In accordance with the procedure laid down in Article 29 of Regulation (EEC) No 4253/88, the Commission may, on its own initiative or at the request of a Member State, adjust the amounts laid down in this Regulation to take account of trends in inflation.**

#### **Article 37**

**1. This Regulation shall be without prejudice to the right of Member States to adopt additional aid measures in the areas covered by this Regulation, with the exception of those covered by Articles 5 to 9, 11, 12 (4) and 17, on terms differing from those laid down therein, or in amounts exceeding the ceilings laid down therein, provided that Articles 92, 93 and 94 of the Treaty are not infringed.**

**2. Articles 92, 93 and 94 of the Treaty, with the exception of Article 92 (2), shall not apply to the aid measures governed by Articles 5 to 9, 11, 12 (4) and 17 of this Regulation.**

#### **Article 38**

**Checks shall be carried out in accordance with Article 23 of Regulation (EEC) No 4253/88.**

#### **Article 39**

**The following special provisions shall apply to Portugal until 31 December 1995:**

- (a) the Commission may, when taking decisions as referred to in Article 30, authorize the Portuguese Republic, for the purposes of fixing the reference income within the meaning of Article 5 (3), to apply a correction coefficient to the average gross income of non-agricultural workers throughout Portuguese**

territory. This coefficient may not exceed:

- 1,7 for 1993,
- 1,5 for 1994,
- 1,3 for 1995;

- (b) the compensatory allowance within the meaning the Article 17 may be granted to farmers who farm at least 1 ha of utilized agricultural area in mainland Portugal.

#### Article 40

The following special provisions shall apply to the new German Länder:

- (a) When family holdings are being set up:
- the condition in the first indent of Article 5 (2) shall not apply,
  - Germany may grant the aid referred to in Articles 10 and 11 to farmers below the age of 55 years. However, aid granted to farmers over the age of 40 years is not eligible under the Fund.
- (b) The conditions in the second subparagraph of Article 6 (3) and the first indent of Article 9 (4) shall not apply to aid granted in the context of the creation of new family holdings or the restructuring of cooperative holdings if the number of dairy cows on all the new or restructured holdings does not exceed the number of dairy cows held previously on the old holdings.

The conditions laid down in the pig production sector in Article 6 (4) referring to the number of pig places and in the second indent of the second subparagraph of Article 9 (4) shall not apply to aid granted in the context of the creation of new family holdings or the restructuring of co-operative holdings if the number of pig places on all the new or restructured holdings does not exceed the number of pig places previously held on the old holdings.

- (c) The level of investment referred to in the first subparagraph of Article 7 (2) shall be as specified in Annex I.

The ceiling laid down in the second indent of the second subparagraph of Article 9 (4) shall be increased to three times that volume of investment per holding.

- (d) In the context of the restructuring of cooperative holdings, Article 9 (5) shall also apply to associations which do not adopt the legal form of a cooperative.

#### Article 41

1. Regulation (EEC) No 2328/91 and Directive 75/268/EEC are hereby repealed.

2. References to the repealed Regulation and Directive shall be construed as references to this Regulation and should be read in accordance with the correlation table in Annex III.

#### Article 42

This Regulation shall enter into force on the seventh day following 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.

**ANNEX I  
TABLE OF AMOUNTS**

Article	Paragraph	Subject	ECU	
7	2	level of investment	90 000	per MWU
			180 000	per holding
8	-	total investment	90 000	per MWU
			180 000	per holding
9	4	total income	360 000	per MWU
			720 000	per holding
10	2 (a)	single premium	15 000	-
	4 (b)	amount of investment	45 000	-
12	4 (c)	total investment : between	90 000	per MWU
		and	180 000	per holding
13	1	range: between	700	-
		and	1 500	-
14	-	maximum amount	22 500	per group
15	4	amount not to be exceeded	18 000	per worker
16	5	maximum eligible total	54 000	per member of staff
	6	maximum	750	per holding
19	1	allowance not less than	20.3	per LU or per hectare
	1(a) 1st sub-para.	allowance may not exceed	150	per LU and per hectare
	1(a) 2nd sub-para.	allowance may be increased to	180	per LU and per hectare
	1(b) (iii)	allowance may not exceed	150	per hectare
20	3	total amount may be increased	180	per hectare
		may not exceed	150 000	per joint investment project
			750	per hectare of pasture or mountain pasture improved or equipped
28	2		7 300	per hectare irrigated
		up to a maximum amount	10 500	per person
		of which	4 000	spent on further courses
40	(c)	the level of investment	173 038	per MWU
			346 078	per holding

## ANNEX II

### Table of livestock units (LU)

Bulls, cows and other bovine animals over two years, equine animals over six months	1.0 LU
Bovine animals from six months to two years	0.6 LU
Sheep	0.15 LU
Goats	0.15 LU

The coefficients relating to sheep and goats apply to all amounts per livestock unit as defined in Articles 6 (5) and 19 (1).

**ANNEX III  
CORRELATION TABLE**

Regulation (EEC) No 2328/91	Directive No 75/268/EEC	Present Regulation
Article 1(1)		Title I Article 1
Article 1(2)		Article 2
Article 1(3)		Article 3
Title IV: Article 5 (1), 1st sentence		Title II: Article 4
Article 5		Article 5
Article 6		Article 6
Article 7		Article 7
Article 8		Article 8
Article 9		Article 9
Article 10		Title III: Article 10
Article 11		Article 11
Article 12		Title IV: Article 12
Title V: Article 13		Title V: Article 13
Article 14		Title VI: Article 14
Article 15		Title VII: Article 15
Article 16		Title VIII: Article 16
Title VI: Article 17 (1)	Article 1	Title IX: Article 17 (1)
Article 17 (2)		Article 17 (2)
Article 18		Article 17 (3)
Article 19		Article 18
Article 20		Article 19
	Article 2	Article 20
	Art. 3 (1)	Article 21
	Art. 3 (2)	Article 22 (1)
	Art. 3 (3)	Article 22 (2)
	Art. 3 (4)	Article 23
	Art. 3 (5)	Article 24
Title IX: Article 28 (1), 1st sub-par.		Article 25
Article 28 (1), 2nd sub-par.		Title X: Article 26
Article 28 (2) and (3)		Article 27
Title X: Article 29		Article 28
Article 30		Title XI: Article 29
Article 31		Article 30
Article 32		Article 31
Article 33		Article 32
Article 34		Article 33
		Article 34

Article 34a

Article 34b

Article 35

Article 36

Article 37

Article 38

Article 40

Article 41

Annex I

Annex II

Article 35

Article 36

Article 37

Article 38

Article 39

Article 40

Article 41

Article 42

Annex I

Annex II

Annex III

**COUNCIL REGULATION (EC) No ...**

**of ...**

**on improving the processing and marketing conditions  
for agricultural products.**

96/0045 (CNS)

**THE COUNCIL OF THE EUROPEAN UNION,**

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

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the European Parliament<sup>2</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>3</sup>,

Whereas Council Regulation (EEC) No 866/90 of 29 March 1990 on improving the processing and marketing conditions for agricultural products<sup>4</sup> has been substantially amended several times; whereas it is advisable, in the interests of clarity and rationality, to carry out a consolidation of the said Regulation;

Whereas Article 10 (1) of Council Regulation (EEC) No 4256/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No

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<sup>1</sup> OJ...

<sup>2</sup> OJ...

<sup>3</sup> OJ...

<sup>4</sup> OJ N° L 91 of 6.4.1995, p. 1

2052/88 as regards the EAGGF Guidance Section<sup>5</sup> provides for a Council Decision on the forms of the Fund's contribution to measures to improve the conditions under which agricultural products are processed and marketed with a view to achieving the objectives referred to in Council Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments<sup>6</sup>;

Whereas the types of investments eligible for a contribution from the EAGGF Guidance Section (hereinafter referred to as the 'Fund') should be defined, taking account of the current situation both on the agricultural markets and in the agriculture and food sector, as well as the prospects for developing outlets for agricultural products;

Whereas, in order to ensure a coherent improvement in the processing and marketing of agricultural products, financial assistance from the Fund for investments in that field should be made conditional on the inclusion of such investments in sectoral plans containing an in-depth analysis of the situation in the sector and the proposed improvement;

Whereas, for such plans, the Commission should adopt sectoral Community support frameworks, to be drawn up in agreement with the Member States concerned, within the framework of the partnership, taking account, as appropriate, of the Community support frameworks adopted for plans relating to Objectives 1 and 5 (b) defined in Article 1 of Council Regulation (EEC) No 2052/88<sup>7</sup>;

Whereas an effective means should be adopted for

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<sup>5</sup> OJ No L 374, 31.12.1988, p.25, as last amended by Regulation (EEC) No 2085/93 of 20 July 1993, OJ No L 193 of 31.7.1993, p.44.

<sup>6</sup> OJ No L 374, 31. 12. 1988, p. 1, as last amended by Council Regulation (EEC) No 2082/93 of 20 July 1993, OJ No L 193 of 31.7.1993, p. 20.

<sup>7</sup> OJ No L 185, 15. 7. 1988, p. 9, as last amended. on Regulation (EEC) N°2085/93 (OJ N°L 193 of 31.7.1993, p44)

ensuring that Community action is consistent with the common agricultural policy; whereas the most effective way to achieve this is to adopt selection criteria with which to determine which investments should be given priority for consideration;

Whereas in order to ensure the necessary transparency in the operations of the Fund, eligible expenditure should be defined;

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

Whereas application of the measure should in general be restricted to the agricultural products listed in Annex II to the Treaty; whereas in certain cases, however, processed products no longer included in the Annex may be of importance to farmers in so far as they create new market outlets and/or increase the added value of the basic product;

Whereas, in connection with the reform of the Structural Funds, Regulation (EEC) No 4256/88 provides for new forms of assistance by the Fund as regards improving structures for processing and marketing agricultural products; whereas general rules should therefore be laid down for its implementation;

Whereas, to allow for the differing structural situations in the various regions of the Community, contribution rates should be differentiated by category of region;

Whereas, to ensure harmony between the Community's actions and those of the Member State and to ensure the additionality of Community assistance, the investments selected for financing by the Fund should be co-financed by the Member State;

Whereas provision should be made for the possibility of laying down certain specific implementing rules adapted to the special nature of the measure that is the subject of this Regulation, to ensure that it is implemented effectively,

**HAS ADOPTED THIS REGULATION:**

## Article 1

### Objectives of the common measure

1. A common measure within the meaning of Article 2 (1) of Regulation (EEC) No 4256/88 and under Objective 5 (a), as defined in Article 1 of Regulation (EEC) No 2052/88, is hereby introduced with the aim of facilitating the improvement and rationalization of the treatment, processing and marketing of agricultural products. This measure shall also help to achieve Objectives 1, 6 and 5 (b) as set out in the said Article 1, namely promoting the development of those regions in which development is lagging behind and rural areas.

2. To facilitate the improvement and rationalization of the treatment, processing and marketing of agricultural products, the Fund, may contribute to the financing of investments which satisfy at least one of the following criteria:

- (a) helping to guide production in keeping with foreseeable market trends or encouraging the development of new outlets for agricultural products, in particular through facilitating the production and marketing of new products or of high-quality products, including organically-grown products;
- (b) relieving the intervention mechanisms of the market organizations by furthering long-term structural improvement where this is needed;
- (c) being located in regions which are faced with special problems in adapting to the economic consequences of developments on the agricultural markets, or being of benefit to such regions;
- (d) helping to improve or rationalize marketing channels or processing procedures for agricultural products;
- (e) helping to improve the quality, presentation and preparation of products or encouraging a better use of by-products, particularly by recycling waste;

- (f) contributing to the adjustment of sectors facing new situations as a result of the reform of the common agricultural policy;
- (g) helping to facilitate the adoption of new technologies relating to environmental protection;
- (h) encouraging the improvement and monitoring of quality and of health conditions.

## TITLE I

### Plans, Community support frameworks and selection criteria

#### Article 2

##### Plans and Community support frameworks

1. In order to ensure that the marketing and processing sectors develop in a way that is consistent with Community policy, and particularly with the common agricultural policy, and to ensure the effectiveness of Community aid, the financing of investments must take place within the framework of plans designed to improve the structures relating to the various products in question, to be presented by the Member States, and on the basis of the corresponding Community support frameworks.
2. Measures under this Regulation shall be included in the plans drawn up and presented by the Member States for the Objective 1 and 6 regions.
3. In the case of regions not eligible under Objectives 1 or 6, the plans referred to in paragraph 1 shall be prepared by the Member States with the information relating to Objective 5 (b) areas given separately from that relating to the rest of the territory.

#### Article 3

##### Content of the plans

1. The plans referred to in Article 2 must include

at least the following information:

- (a) determination of the sectors covered and the reasons for such determination;
- (b) the initial situation and the trends which can be inferred from it, particularly as regards:
  - the importance of agriculture and the prospective outlets for agricultural products;
  - the situation as regards the processing and marketing of agricultural products and in particular the existing capacity of the undertakings concerned and their geographical distribution;
- (c) the plan's aims and means:
  - the estimated time required for the execution of the plan, which in principle should be between three and six years;
  - the needs to be met by the plan and the objectives which it is intended to achieve, in particular the capacity to be reached and the implications for agricultural undertakings;
  - any aid measures established in the sector covered by the plan;
  - the means proposed for achieving the objectives, particularly the total amount of investment and the financial participation of the Member State;
  - the arrangements made to associate the competent environmental authorities designated by the Member State in the preparation and implementation of the measures laid down in the plan and to ensure compliance with Community rules on the environment.

#### Article 4

The plans corresponding to the first phase of execution shall be submitted to the Commission by 30 April 1994 at the latest.

## Article 5

Austria, Finland and Sweden shall present the plans within three months from their accession.

## Article 6

### Updating and new plans

If the period initially estimated by the Member State for implementation of a plan has expired, or if economic developments make it necessary for the plan to be adjusted, an updated or new plan must, in addition to the information referred to in Article 3, include a report showing:

- (a) the progress made in relation to the forecasts in the plan, including the public funds made available;
- (b) a description of developments in the situation regarding the processing and marketing of products, showing that there is a need for updating or for a new plan.

## Article 7

### Community support frameworks

1. The Community support frameworks relating to the plans submitted to the Commission by the Member States shall be prepared in partnership, in accordance with the procedure laid down in Article 29 of Regulation (EEC) No 4253/88, so as to ensure consistency with the allocation of appropriations between the Member States pursuant to the second subparagraph of Article 12 (4) of Regulation (EEC) No 2052/88. In the case of regions not covered by Objective 1, the Community support frameworks may be revised annually, in accordance with the same procedure, in particular in order to keep within the resources available for all the measures referred to in Article 2 of Regulation (EEC) No 4256/88.
2. In accordance with the principles laid down in Title III of Regulation (EEC) No 4253/88, Community support frameworks shall include a statement of the priorities for Community intervention, the total amount

of the financial assistance chargeable to the Fund and an indicative figure for the rate of aid envisaged as the Fund's contribution.

3. In the case of Objective 1 and 6 regions, the information specified in paragraph 2 shall be included in the Community support frameworks in accordance with Article 8 (7) of Regulation (EEC) No 2052/88.

4. In the case of regions not covered by Objective 1 and 6, the Community support frameworks must include two financial indicative tables, one of which relates to Objective 5 (b) areas and the other to the rest of the territory.'

## Article 8

### Selection criteria

1. Investments eligible for assistance from the Fund under this Regulation shall meet selection criteria fixing priorities and indicating investments which may not receive Community financing.

2. The selection criteria shall be drawn up in accordance with the guidelines of the Community's policies, particularly the common agricultural policy.

3. The selection criteria and, where applicable, amendments thereto shall be adopted by the Commission in accordance with the procedure laid down in Article 29 of Regulation (EEC) No 4253/88. The Decision shall be communicated to the Member States and published in the Official Journal of the European Communities.

## TITLE II

### Operational programmes and global grants

## Article 9

### Forms of assistance

The Fund shall provide assistance in the implementation of the measure which is the subject of this Regulation by means of:

- (a) the part-financing of operational programmes within the meaning of Article 5 (2) (a) of Regulation (EEC) No 2052/88,
- or
- (b) the provision of global grants within the meaning of Article 5 (2) (c) of Regulation (EEC) No 2052/88.

## Article 10

### Applications for aid and single programming document

1. Member States shall:
  - (a) submit their aid applications in accordance with Article 14 (1) and (2) of Regulation (EEC) No 4253/88;
  - (b) communicate to the Commission the laws, regulations and administrative provisions for implementing the common measure defined in Article 1 of this Regulation.
2. Both for regions covered by Objectives 1 and 6 and for regions not covered by those Objectives, Member States may submit a single programming document which includes all the information required in the plans and that required in the aid applications. If they do so, the Commission shall adopt a single decision on a single document in accordance with the last subparagraph of Article 10 (1) of Regulation (EEC) No 4253/88.'

## Article 11

### Eligible investments and expenditure

1. To be eligible for aid from the Fund in the forms listed in Article 9, investments must relate to:
  - rationalizing or developing the preparation, preservation, treatment and processing of agricultural products or recycling of by-products or manufacturing waste and eliminating or treating waste;

- improving marketing channels, including the transparency of price formation,
- applying new processing techniques, including the development of new products and by-products, or opening up new markets and innovative investments,
- improving product quality.

2. Special priority may be given to investments to improve the marketing structures for agricultural products, particularly if such investments encourage the development of new outlets by facilitating the marketing of new products or of high-quality products having characteristics which comply with the Community's policy on foodstuffs, including organically-grown products, in accordance in particular with Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs<sup>8</sup>.

3. Eligible expenditure in respect of the investments referred to in paragraph 1 may include:

- (a) the construction and acquisition of immovable property, with the exception of land purchase;
- (b) new machinery and equipment, including computer software and programmes;
- (c) general costs, such as architects', engineers' and consultants' fees and feasibility studies, up to a ceiling of 12 % of the cost referred to in (a) and (b).

## Article 12

### Products concerned and participation of the producers

1. Investments must contribute to improving the situation of the basic agricultural production sector in question; in particular, having regard to the specific nature of each sector, they must guarantee the

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<sup>8</sup> OJ No L 198, 22. 7. 1991, p. 1.

producers of the basic products an adequate and lasting share in the resulting economic benefits.

2. The investments must concern the products listed in Annex II to the Treaty, to the exclusion of those covered by Council Regulation (EEC) No 4042/89 of 19 December 1989 on the improvement of the conditions under which fishery and aquaculture products are processed and marketed<sup>9</sup>. However, investments concerning the products of CN codes 4502, 4503 and 4504 shall also be allowed.

In accordance with the procedure laid down in Article 29 of Regulation (EEC) No 4253/88, the Commission may accept investments relating to other products provided:

- the aid recipients have direct contractual links with the producers of the basic agricultural products,

or

- the products in question have been processed from products listed in Annex II to the Treaty and proper justification can be provided that links exist proving the benefit to the producers of the basic agricultural products.

3. Sufficient evidence must be given that the investments will be profitable.

#### Article 13

##### Ineligible investments

The following investments shall be excluded:

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

#### Article 14

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<sup>9</sup> OJ No L 388, 30. 12. 1989, p. 1.

## **Recipients**

**Aid from the Fund shall be granted to the natural or legal persons, or groups thereof, who are ultimately responsible for financing the investments.**

## **Article 15**

### **Decision to grant aid and budget commitment**

- 1. The Commission shall decide on the granting of aid from the Fund in accordance with Article 14 of Regulation (EEC) No 4253/88 and, where appropriate, the second and third subparagraphs of Article 10 (1) of the said Regulation**
- 2. The decision referred to in paragraph 1 shall be communicated to the authority referred to in Article 14 (1) of Regulation No 4253/88 or to the intermediary referred to in Article 16 (1) of that Regulation, and to the Member State concerned.**

## **TITLE III**

### **Financial and general provisions**

## **Article 16**

### **Aid rates and rules**

- 1. Aid from the Fund may not exceed, in relation to the eligible costs of the selected investments:**
  - (a) 50 % in the Objective 1 and 6 regions referred to in point 1 of Article 1 of Regulation (EEC) No 2052/88;**
  - (b) 30 % in other regions.**
- 2. Aid from the Fund shall in general take the form of capital grants. If other forms of assistance are used, they must not exceed the said capital grant equivalent.**
- 3. The Member States concerned must undertake to participate in financing the investments selected as eligible for assistance from the Fund, to at least 5 % of the eligible costs.**

4. The financial contribution by the recipients in relation to the eligible costs of the selected investments must be not less than:

- (a) 25 % in the Objective 1 and 6 regions referred to in point 1 of Article 1 of Regulation (EEC) No 2052/88;
- (b) 45 % in other regions.

5. Within the field of application of this Regulation, Member States may take aid measures which are subject to conditions or rules concerning granting which differ from those provided for in this Regulation, or, where the amounts of aid exceed the ceilings specified herein, on condition that such measures comply with Articles 92 to 94 of the Treaty.

Article 17

Procedures for payment of the aid

1. Payment of advances or balances to be carried out in accordance with Article 21 of Regulation (EEC) No 4253/88 shall be made to the authority designated in accordance with Article 14 (1) of the said Regulation or, where applicable, to the intermediary referred to in Article 16 (1) of that Regulation, the Member States concerned being duly informed of these payments.

2. The authority or intermediary referred to in paragraph 1 shall check the supporting documents relating to the expenditure of the final recipients and ensure that they are in order before paying the Community contribution. It shall also make on-the-spot checks to verify that the information contained in the application corresponds to the true situation.

3. At the end of each quarter the authority or intermediary referred to in paragraph 1 shall forward to the Commission a statement of the payments made to recipients.

4. An implementation report shall be sent to the Commission every year.

Article 18

Checks

Checks shall be carried out in accordance with Article 23 of Regulation (EEC) No 4253/88.

## Article 19

### Transitional provisions

1. The operational programmes introduced at the latest by 31 December 1993 under this Regulation and which have not been granted aid from the fund may be included in the operational programmes to be financed during the period 1994/1999 provided they fulfil the criteria and conditions stipulated in this Regulation and provided they fall within a Community support framework. Article 15 (2) of Regulation (EEC) No 4253/88 shall not apply.
2. Investments eligible under this Regulation and for which work has begun between 1 July 1993 and 31 December 1993 and which it has not been possible to insert into the operational programmes referred to in paragraph 1, may be financed during the period 1994/1999, provided they fulfil the criteria and conditions stipulated in this Regulation and provided they are covered by a request for aid to be submitted by the Member State not later than 30 April 1994.
3. The criteria for choice referred to in Article 8 of this Regulation applicable to the operational programmes referred to in paragraph 1 shall be those in force at the date of receipt of the request for aid.'

## Article 20

### Application

The Commission shall adopt detailed rules for the application of this Regulation in accordance with the procedure laid down in Article 29 (1) sub-paragraphs 2 to 5 of Regulation (EEC) No 4253/88.

## Article 21

1. Regulation (EEC) No 866/90 is hereby repealed.
2. References to the repealed Regulation shall be construed as references to this Regulation and should be read in accordance with the correlation table in the

**Annex.**

**Article 22**

**This Regulation shall enter into force on the third day following 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 ... , ..... 1996.**

**For the Council**

**The President**

**ANNEX****CORRELATION TABLE**

<i>Regulation (EEC) No 866/90</i>	<i>This Regulation</i>
Article 1	Article 1
Article 2	Article 2
Article 3 (1)	Article 3
Article 3 (2) 1st indent	Article 4
Article 3 (2) 2nd indent	Article 5
Article 6	Article 6
Article 7	Article 7
Article 8	Article 8
Article 9	Article 9
Article 10	Article 10 (1)
Article 10a	Article 10 (2)
Article 11	Article 11
Article 12	Article 12
Article 13	Article 13
Article 14	Article 14
Article 15	Article 15
Article 16	Article 16
Article 17	Article 17
Article 18	Article 18
Article 19	Article 19
Article 23	Article 20
-	Article 21
Article 24	Article 22

**COUNCIL REGULATION (EC) No..../96**

**of.....**

**on producer groups and associations thereof**

96/0046 (CNS)

**THE COUNCIL OF THE EUROPEAN UNION,**

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

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the European Parliament<sup>2</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>3</sup>,

Whereas Council Regulation (EEC) No 1360/78 of 19 June 1978 on producer groups and associations thereof<sup>4</sup> has been substantially amended several times; whereas it is advisable, in the interests of clarity and rationality, to carry out a consolidation of the said Regulation;

Whereas a feature of the Community is the variation in the situation regarding the supply and marketing of agricultural products in the different regions;

Whereas the persistence of the above deficiencies is an obstacle to the fulfilment of the objectives of

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<sup>1</sup> OJ No ...

<sup>2</sup> OJ No

<sup>3</sup> OJ No ...

<sup>4</sup> OJ No L 166 of 23.6.1978, p.1, as last amended by Regulation (EEC) No 746/93 of 17 March 1993 (OJ No L 77 of 31.3.1993, p.14).

Article 39 ( 1) of the Treaty in as much as it makes it difficult to increase agricultural productivity, to promote technical progress, to ensure rational development of agricultural production and optimum use of the factors of production, to ensure a fair standard of living for the agricultural community and to stabilize markets; whereas, furthermore, this situation is likely to affect the level of prices to consumers;

Whereas this situation can 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 henceforth the regions concerned without however preventing the arrangements envisaged being extended to other regions which give proof of similar requirements;

Whereas, however, steps should be taken to ensure, by means of a system of recognition, that the grouping of holdings takes place within bodies with the appropriate production and marketing discipline, which offer sufficient guarantees as to the stability and effectiveness of their action 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;

Whereas in order to promote 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;

Whereas the granting of aid to cover part of the formation and operating expenses would be an appropriate incentive for the creation of groups and associations thereof and for the adaptation of existing producer organizations to the conditions laid down;

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 belong to such associations has

already received or is still receiving aid for formation and operation;

Whereas in order to guarantee that the proposed system is implemented in all those regions of the Community where it is considered necessary, the granting of aid to groups and associations thereof should be made obligatory; whereas maximum amounts should be laid down for such aid although it should be made possible to exceed these limits in the case of certain aid for regions or sectors encountering special difficulties;

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

Whereas all the proposed 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 constitute a common measure within the meaning of article 2 of Council Regulation (EEC) No 4256/88<sup>5</sup>;

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;

Whereas aid from the European Agricultural Guidance and Guarantee Fund, hereinafter referred to as 'the Fund', can help to improve the supply structure for agricultural produce in regions where such an improvement is essential, it being covered by the provisions of annual expenditure stipulated in Article 31 (1) [*old Regulation (EEC) No*

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<sup>5</sup> OJ No L 374 of 31.12.1988, p.25, as last amended by Regulation (EEC) No 2085/93 of 20 July 1993 (OJ No L 193 of 31.7.1993, p.44).

2328/91];

Whereas to facilitate the future implementation of certain proposed 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,

HAS ADOPTED THIS REGULATION :

Article 1.

To remedy the structural deficiencies affecting the supply and marketing of agricultural products in certain regions, resulting from insufficient producer organization, this Regulation hereby introduces a system to encourage the formation of producer groups and associations thereof in those regions.

Title I

Scope

Article 2

This Regulation shall apply:

- in Italy,
- in the French regions of Languedoc-Roussillon, Provence-Cote d'Azur, Midi-Pyrenees, Corsica, the departments of Drome and Ardeche and in the French Overseas Departments,
- in Belgium,
- in Greece,
- in Spain,
- in Portugal,
- in Ireland,
- in Austria,

- in Finland.

### Article 3

1. In the case of Italy, Greece, Spain, Portugal, Austria and Finland, this Regulation shall apply to the following products:

- the products of the soil and the livestock products listed in Annex II to the Treaty, excluding:
  - products referred to in Article 1 (2) of Regulation (EEC) No 1035/72 on the common organization of the market in fruit and vegetables<sup>6</sup>,
  - hops (CN code 1210),
  - silkworms (CN code 0106 00 99),
- the processed agricultural products listed in Annex I hereto.

2. In the case of France, this Regulation shall apply:

- wine of fresh grapes and grape must in fermentation or with fermentation arrested, including mistelles (CN codes ex 2204 10, 2204 21, ex 2204 29 and 2204 30 10), in Languedoc-Roussillon, Provence-Côte d'Azur, Midi-Pyrénées and Corsica,
- plants used in perfumery and lavender (CN code ex 1211) in Provence-Côte d'Azur and the departments of Drôme and Ardèche,
- table olives (CN code 0710 80 10) in Languedoc-Roussillon, Provence-Côte d'Azur, Corsica and the department of Drôme,
- live bovine animals (CN code 0102); beef

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<sup>6</sup> OJ No L 118, 20. 5. 1972, p. 1., as last amended by Regulation (EEC) No 1363/95 of 16.6.1995, p.8.

and veal carcasses or quarters (CN codes ex 0201 and ex 0202); live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage (Chapter 6 of the combined nomenclature); fresh fruit and vegetables (Chapters 7 and 8 of the combined nomenclature and not covered by Regulation (EEC) No 1035/72); vanilla (CN code 0905 00 00); and plants (CN code 1211), in the overseas departments,

- olive oil (CN code 1509) in the metropolitan areas listed in the second indent of Article 2.

3. In the case of Belgium, this Regulation shall apply to:

- cereals (CN codes 1001 to 1005, 0709 90 60 and 0712 90 19),
- live bovine animals (CN code 0102, with the exception of CN code 0102 90 90),
- piglets (CN code ex 0103),
- lucerne (CN code ex 1214).

4. In the case of Ireland, this Regulation shall apply to the following products:

- cereals (CN codes 1001, 1003 and 1004),
- potatoes (CN code 0701 90),
- live bovine animals (CN code 0102, with the exception of CN code 0102 90 90) and beef and veal carcasses and quarters (CN codes ex 0201 and ex 0202),
- live sheep and goats (CN code 0104) and sheep and goat carcasses (CN code ex 0204).

## TITLE II

### Recognition of producer groups and associations

thereof

#### Article 4

The Member States shall recognize producer groups and associations thereof, including those in existence when this regulation comes into force:

- (a) which apply for recognition;
- (b) which fulfil the conditions listed in articles 5 and 6;
- (c) provided that, in the case of groups:
  - at least two-thirds of the members operate undertakings in the regions referred to in Article 2,
  - at least half of the produce marketed in accordance with Article 6 (1) (c) comes from the regions referred to in article 2.

Recognition shall cover the activities relating to the production and marketing of the products referred to in Article 3 for each of the regions to which this regulation applies.

#### Article 5

1. Producer groups shall :
  - be set up for the purpose of jointly adapting the production and output of the producers who are members of such groups to market requirements;
  - consist of:
    - individual producers, or
    - individual producers and organizations for producing or increasing returns from agricultural products, consisting solely of agricultural producers.

'Producer' shall be taken to mean any person working an agricultural holding situated within Community territory:

- who produces the products of the soil and livestock products listed in Article 3, or
- who, while being a primary producer, produces the processed products listed in Article 3.

2. The Member States may, when their national provisions so provide, recognize producer groups which also include persons other than those covered by paragraph 1. In such cases the groups' statutes must ensure that the members covered by paragraph 1 retain control over the groups and any decisions the latter may take.

3. Associations shall consist of recognized producer groups and shall pursue the same objectives as those groups, but on a larger scale.

#### Article 6

1. All producer groups or associations thereof shall, within the limits of the sector of the product or products in respect of which they are recognized, fulfil the following general conditions:

- (a) they shall, 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 shall decide on and apply in respect of persons covered by Article 5 (1):
  - common rules on production, in particular on product quality or use of organic practices;
  - common rules for placing goods on the market;
  - rules on production information, with particular regard to harvesting and availability;

- (c) the articles of association shall at least require producers who are members of groups and recognized producer groups that are members of the association to place on the market all of the production for marketing of the products in respect of which they belong to the group or association, in accordance with the rules on supply and placing on the market drawn up and supervised by the group or by the association.

Member States may authorize this obligation to be replaced by an obligation to have all the production for marketing of the products in respect of which they are recognized placed on the market by the group or by the association either in their name and on their behalf, or on their behalf but in the name of the group or the association, or in the name and on behalf of the group or the association. The group or association may however authorize its members to place part of their production on the market in the manner specified in the first subparagraph.

As far as producer groups are concerned, these obligations shall not apply to that part of their production for which producers have included sales contracts or granted options before they join the group, provided that the group was informed before they joined of the scope and the duration of the obligations contracted;

- (d) the articles of association shall include 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 for a minimum of three years following recognition thereof, and
  - on condition that they inform the group or the association in writing of their intention to withdraw not less

than 12 months before so doing.

These provisions 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 withdrawal of a member in the course of the financial year;

- (e) they shall give proof of adequate economic activity;
- (f) without prejudice to Article 4 (c), they shall exclude, as regards 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 shall have legal personality or sufficient legal capacity to exercise rights and be subject to obligations in accordance with national laws;
- (h) they shall 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, calculating the amount of aid and ascertaining the use which has been made of it;
- (i) they shall not hold a dominant position in the common market, unless this is necessary for the pursuit of the objectives laid down in Article 39 of the Treaty;

(j) producer groups to which organizations referred to in Article 5 (1), second indent, also belong shall also make it compulsory in their statutes for the latter to ensure that their members comply with the conditions in (b) and (c) at the latest as from the date :

- on which recognition takes effect, or
- on which they join if this is later than the date of recognition.

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. Detailed rules of application shall be adopted, in accordance with the procedure laid down in Article 29 (1) 2nd to 5th indents of Regulation (EEC) No 4253/88<sup>7</sup>, concerning:

- the criteria which the common rules provided for in paragraph 1 (b) shall meet, where necessary,
- the minimum cultivated area, turnover or volume of production for the product or product group in question coming from the members whom, under the terms of paragraph 1 (a), the groups are to represent, and if necessary the minimum number of members they must have,
- the area covered, including the minimum crop area, turnover and proportion of the national volume of production for the product or product group in question

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<sup>7</sup> OJ No L 374, 31.12.1988, p. 1, as last modified by Regulation (EEC) No 2082/93 of 20 July 1993 (OJ No L 193 of 31.7.1993, p.20).

coming from the groups which the associations are to represent, and, if necessary, the minimum number of producer groups in the membership.

#### Article 7

The Member States:

- shall take a decision on recognition within three months of the date on which 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 this regulation were not or are no longer fulfilled;
- (b) if such recognition is based on erroneous information;
- (c) if the group or association obtained recognition by irregular means;
- (d) if the Commission decides that Article 85 (1) of the Treaty applies to the agreements, decisions and practices referred to in Article 17 of this regulation.

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

#### Article 9

At the beginning of each year the Commission shall ensure that the list of producer groups and associations recognized during the previous year, divided according to products or groups of products, is published in the Official Journal of the European Communities.

It shall also ensure that withdrawals of recognition decided on during the previous year are published.

### TITLE III

#### Aid to producer groups and associations thereof

#### Article 10

1. The Member States concerned shall grant aid to recognized groups and associations, during the three years following the date of their recognition, to encourage their formation and to facilitate their operation. The amount of such aid may be paid over five years.
2. The aid granted to producer groups recognized after 1 July 1985 for the first five years following the date on which they are recognized:
  - shall, for the first, second, third, fourth and fifth years be respectively a maximum of 5 %, 5 %, 4 %, 3 % and 2 % of the value of the products coming from the members, as defined in the second indent of Article 5 (1), in respect of which they are recognized and which are marketed,
  - may not exceed the actual cost of setting up and running the group,
  - shall be paid in annual instalments over at the most seven years following the date of recognition.'
3. The amount of aid granted to associations:
  - shall be equal to a maximum of 60 %, 40 % and 20 % of the actual formation and operating expenses for the first second and third year respectively;
  - may not, however, exceed a total of ECU 120 000.
4. Larger amounts than those provided for in paragraphs 2 and 3 may be fixed for a specified period by the Council, acting by a qualified

majority on a proposal from the Commission, in respect of certain regions and certain products encountering special difficulties in adapting to the conditions and economic implications of the common agricultural policy.

5. For Portugal the percentages set out in paragraph 2 first indent shall be doubled and those set out in paragraph 3 first indent shall be 100, 80 and 40.

#### Article 11

1. The aid provided for in Article 10 shall be granted only:

- in so far as a group or an association has not already received aid under national provisions,
- in proportion to the actual additional expenditure on formation and operation incurred in complying with the requirements of Article 6, in the case of producer groups or associations already in existence or set up by producers who are members of existing organizations.

2. The value of the products referred to in Article 10 (2) first indent shall be calculated for each year as a flat rate on the basis of :

- the annual volume placed on the market in accordance with Article 6 (1) (c),
- the average producer prices obtained.

3. The necessary definitions of actual formation and operating expenditure within the meaning of Article 10 (2) second indent and (3) first indent shall be adopted in accordance with the procedure laid down in Article 29 (1) second to fifth indent of Regulation (EEC) No 4253/88.

#### TITLE IV

##### Financial and general provisions

## Article 12

1. The set of measures provided for in this Regulation shall constitute a common measure within the meaning of Article 2 (1) of Regulation (EEC) No 4256/88<sup>8</sup>.
2. Article 3 of Regulation (EC) No ..../96<sup>9</sup> shall apply.

## Article 13

Before 1 January 1997 the Commission shall submit to the Council, on the basis of information supplied by the Member States, a report on the results of the implementation of this common measure.

## Article 14

The measures provided for in Article 10 and the aid resulting from the application of Regulation (EEC) No 389/82<sup>10</sup> shall be covered by the annual expenditure forecasts referred to in Article 31 (1) of Regulation (EEC) No ..../96 [old R. 2328/91].

## Article 15

1. Assistance shall be paid in accordance with Article 21 of Regulation (EEC) No 4253/88. However, in addition to the conditions listed in paragraph 4 of the said Article, payment of the balance or refund shall be based on:

- a declaration of the expenditure effected by Member States during a calendar year,
- and
- a report on the application of the measures during the calendar year in question,

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<sup>8</sup> OJ No L 374, 31.12.1988, p. 25.

<sup>9</sup> [old R.2328]

<sup>10</sup> OJ No L 51 of 23.2.1982, p.1.

prepared in accordance with Article 25 (4)  
of the said Regulation,

which shall be submitted to the Commission before  
1 July of the following year.

#### Article 16

The Commission shall adopt detailed rules for the  
application of this Article after consulting the  
Committee referred to in Article 29 (1) second to  
fifth indent of Regulation (EEC) No 4253/88.

#### Article 17

Should the Commission decide, pursuant to Article  
2 of Regulation No 26 applying certain rules of  
competition to production of and trade in  
agricultural products<sup>11</sup>, that Article 85 (1) of the  
Treaty is applicable to agreements, decisions or  
concerted practices:

- by which persons referred to in Article 5  
(1), second indent, 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 18

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 herein,  
provided that these measures are taken in

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<sup>11</sup> OJ No 30 of 20.4.1962, p.993/62.

accordance with Articles 92, 93 and 94 of the Treaty.

#### Article 19

The Member States shall notify 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 of the application of this Regulation each year before 31 March.

#### Article 20

1. Regulation (EEC) No 1360/78 is hereby repealed.
2. References to the repealed Regulation shall be construed as references to this Regulation and should be read in accordance with the correlation table in Annex II.

#### Article 21

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

Done at ... , ..... 1996.

For the Council

The President

## ANNEX I

### List of processed products referred to in Article 3 (1)

<i>CN code</i>	<i>Description</i>
ex 0201 } ex 0202 }  ex 0203  ex 0204  ex 0205 00 00	<b>Meat:</b> - of bovine animals, in quarters  - of swine, in half-carcases  - of sheep, in whole carcasses  - of horses
ex 0206	Edible offal of bovine animals, swine and sheep
ex 0207 with the exception of 0207 31 00 0207 39 90 and 0207 50	Meat and edible offal (with the exception of livers) of the poultry of CN code 0105, fresh, chilled or frozen
0207 31 00 0207 39 0207 50 0210 90 71 0210 90 79	Poultry livers, fresh, chilled, frozen, salted or in brine
0208 10 10	Meat of domestic rabbits
0406	Cheese and curd
ex 1214 10 00 ex 1214 90 90	Dehydrated fodder
1509 1510 00	Olive oil
2204 30 10	Grape must, in fermentation or with fermentation arrested otherwise than by addition of alcohol
2204 10 2204 21 2204 29	Wine of fresh grapes; grape must with fermentation arrested by the addition of alcohol (including mistelles)

**ANNEX II**  
**CORRELATION TABLE**

<i>Regulation (EEC) No 1360/78</i>	<i>This Regulation</i>
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3
Article 4	Article 4
Article 5	Article 5
Article 6	Article 6
Article 7	Article 7
Article 8	Article 8
Article 9	Article 9
Article 10	Article 10
Article 11	Article 11
Article 12	Article 12
Article 13	Article 13
Article 14	Article 14
Article 15 (1)	Article 15
Article 15 (2)	Article 16
Article 17	Article 17
Article 18	Article 18
Article 19	Article 19
-	Article 20
Article 20	Article 21
Annex	Annex I
-	Annex II







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