



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 25.06.1996
COM(96) 175 final

96/ 0167 (CNS)

Proposal for a

COUNCIL REGULATION (EC)

**amending Regulation (EEC) N° 1765/92 establishing a support
system for producers of certain arable crops**

(presented by the Commission)

EXPLANATORY MEMORANDUM

This draft Council Regulation is in response to a request by the Agriculture Council in November 1995 that the Commission submit a proposal, within two months, for making the system of penalties applied when the base area is exceeded more flexible.

This draft Regulation contains two proposals:

Under the first proposal, the Commission could help producers in areas which had suffered climatic disaster by granting partial or total exemption in the year in question from the rule under which, when regional base areas are exceeded, the area per farmer eligible for the arable compensatory aid is reduced.

Under the second proposal, Member States which opt to treat the whole of their territory as a single base area could subdivide that area into sub-base areas and concentrate all or part of the penalties which arise when base areas are exceeded on sub-base areas where expansion has taken place.

The first of these measures complements the measure already adopted by the Council under which the Commission can give partial or total exemption from supplementary set-aside when a base area has been overshoot for exceptional climatic reasons (Regulation (EC) No 2989/95). If one of the two penalties which arise from base areas being overshoot may, exceptionally, be relaxed in cases where the overshoot is due to climatic disaster such as that recently experienced in Spain, then it is only reasonable to provide the possibility for the other to be relaxed also.

It has to be stressed, however, that this possibility can never constitute a right. The general principle remains that base area overshoots lead to reductions in the area eligible for aid even when climatic conditions have contributed to the overshoot. The possibility of providing derogations is meant to be used under very exceptional circumstances. Furthermore the possibility which will be introduced by this measure to relax the rule on the reduction of eligible areas will have budgetary consequences. It can, therefore, only be applied in years when the necessary budgetary resources are available.

The second measure arises from an undertaking given by the Commission on 28 September 1995 to examine the possibility of giving Member States which apply a single national base area the power to concentrate penalties arising from that area being exceeded, in whole or in part, on the sub-base areas which were responsible for that excess. This examination has taken account of a number of key considerations referred to in that undertaking: equality of treatment of producers, the effective application of the base area system and the possible consequence in terms of the Union's budget and its international obligations.

As regards the budget, the proposal does not introduce any risk of additional expenditure going beyond what could arise at present as it does not allow a Member State to apply lower penalties than would arise in the case of a national base area. All it does is to allow for the distribution of these penalties to be modulated. There are potential budgetary risks inherent in allowing Member States to have base areas whose boundaries do not coincide with their yield regions, but these consequences already exist and the means of controlling them is provided by the yield stabiliser (Article 3(6) of Regulation (EEC) No 1765/92).

As regards the Union's international obligations, the measure in question does not derogate from the principle that the aids provided under CAP reform are limited to a set area. Nor does it imply an additional production by comparison with the existing provision permitting a national base area, provided that it does not lead to situations in which the base area system could not be applied effectively.

As regards the effective application of the base area system, there are two dangers which must be avoided.

- The first is that the risk of penalties may be less clearly perceived by producers and that the way in which the penalties were divided could be controversial, particularly in the case of federal states. Such controversies could lead to delays in the announcement of the penalties, which would make it difficult to respect the dates laid down by the Council Regulation for the payment of the arable aids and the starting date for supplementary set-aside.
- The second is that within a regional sub-base area producers might expand their area planted with eligible arable crops over several years without any warning signals being applied in terms of eligible area reductions or supplementary set-aside, because of offsetting reductions in sub-base areas in other parts of that Member State. Then, as a result of an expansion in the area elsewhere in that Member State, they could find themselves confronted with penalties which were either too high to be borne economically or which led to such a large supplementary set-aside requirement that participation in the general scheme could become uneconomic for most producers. In such circumstances producers could opt to reduce their claims to the limit for access to the small producer scheme, thereby escaping both supplementary set-aside and obligatory set-aside.

These potential problems would be overcome by two important provisions of the current proposal.

- First, it is proposed that Member States which wish to use this option must announce publicly, and communicate to the Commission, the rules which will be applied to distribute penalties arising from base area overshoots before 31 March, the deadline for the submission of claims.
- Second, it is proposed that the size of sub-base areas be limited.

As regards equality of treatment between producers, big differences already exist between the size of the regional base areas in different Member States. The existing Council Regulation, in the spirit of subsidiarity, gives individual Member States the right to choose to have a series of regional base areas or a national base area, depending on their judgement as to the size of the area within which producers have a sufficient degree of mutual solidarity to be prepared to share in the risk of being subject to penalties arising from expansion of others, in return for the possibility of being able to benefit from area reductions by others. Given that, at the level of the individual producers, there is a balance between the advantages and disadvantages of being situated in a large base area, the difference in the size of the regional base areas does not create a feeling of unfairness. The current proposal would not change this, given that all producers within national base areas could, at least in principle, be asked to share to some degree in the adverse consequences of an expansion by others, just as they could benefit from the consequences of a contraction by others.

These are the major principles of this proposal.

One subsidiary point has also to be mentioned.

In the new Länder of the Federal Republic of Germany the base area was temporarily adjusted to take account of the special problems arising from the application of the common agricultural policy in this new part of the Union. The supplementary hectares provided for this purpose should, of course, be reserved for the new Länder, even if the Federal Republic of Germany as a whole were to opt for a single base area.

Proposal for a
Council Regulation (EC) N°....
amending Regulation (EEC) N° 1765/92 establishing a support
system for producers of certain arable crops

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 Commission¹,

Having regard to the opinion of the European Parliament²,

Whereas the support system for producers of certain arable crops introduced by Regulation (EEC) No 1765/92³ provides that in the case where the sum of the individual areas for which aid is claimed is in excess of the regional base area two types of measures are to be applied, one in the form of a reduction in eligible area, the other in the form of extraordinary set-aside; whereas that Regulation also provides that in the case where exceptional climatic conditions have caused a reduction in yields and an overshoot of the regional base area the producers concerned may be exempted from extraordinary set-aside; whereas severe climatic conditions have adverse financial consequences for the producers in the affected regions; whereas it is thus justified to broaden the scope of the exemption possible to include the reduction in eligible area provided that the budgetary situation allows it; whereas severe climatic conditions have been noted in certain regions of the Union in 1995; whereas the exemption from one or both measures under such conditions should already apply from 1995 onwards;

¹ OJ No C

² OJ No C

³ OJ No L 181, 1.7.1992, p. 12. Regulation last amended by Regulation (EC) No 2989/95 (OJ No L 312, 23.12.1995, p. 5).

Whereas Member States may apply one or more national base areas; whereas in such a case the measures to be applied in the case of a possible overshoot of the base area are currently applied on a national basis; whereas it is considered appropriate that the Member States which choose this option should be able to divide each national base area into sub-base areas; whereas the minimum size of such sub-base areas should be laid down; whereas when a national base area has been exceeded the Member State concerned should be allowed to concentrate the application of the measures totally or partially on those areas for which the overshoot has been noted; whereas the Member States should be required to notify the Commission and producers, in due time, of the exercise of this option and how they intend to apply the measures;

Whereas Regulation (EEC) N° 1765/92 should therefore be amended,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) N° 1765/92 is hereby amended as follows:

1. Article 2(6) is replaced by the following:

"6. In the case of a regional base area, when the sum of the individual areas for which aid is claimed under the arable producers' scheme, including the set-aside provided for under that scheme, and land counted as being set-aside pursuant to Article 7(2) and to Council Regulation (EEC) N° 2328/91 of 15 July 1991 on improving the efficiency of agricultural structures⁴, is in excess of the regional base area, the following measures will be applied in the region in question:

⁴ OJ No L 218, 6.8.1991, p. 1. Regulation last amended by Regulation (EC) No 2387/95 (OJ No L 244, 12.10.1995, p. 50).

- during the same marketing year, the eligible area per farmer will be reduced proportionately for all the aids granted under this Title,

- in the following marketing year, producers in the general scheme will be required to make, without compensation, an extraordinary set-aside. The percentage rate for extraordinary set-aside shall be equal to the percentage by which the regional base area has been exceeded, established by deducting 85% of the area set aside under voluntary set-aside in accordance with Article 7(6). This shall be additional to the set-aside requirement given in Article 7. However, if the excess in the regional base area leads to a level of extraordinary set-aside of less than 1% being applied in respect of the 1996 harvest, the extraordinary set-aside shall not be applied.

Areas which are the subject of extraordinary set-aside in accordance with the second indent of the preceding subparagraph shall not be taken into account in applying this paragraph.

In the event that exceptional climatic conditions have affected production in a marketing year in which it is found that the regional base area has been exceeded, and those conditions have had the effect of lowering yields to a level considerably below the normal and of causing the excess in question, the Commission may, pursuant to the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 on the common organisation of the market in cereals⁵, totally or partially exempt producers in the regions affected from one or both measures applicable under this paragraph."

⁵ OJ No L 181, 1.7.1992, p. 21. Regulation last amended by Regulation (EC) No 1863/95 (OJ No L 179, 29.7.1995, p. 1).

2. The following is added after Article 2(6):

"7. Without prejudice to Article 3, where a Member State has chosen to establish one or more national base areas, it may subdivide each national base area into sub-base areas established in accordance with paragraph 2. A sub-base area shall not be smaller than level 2 of the Nomenclature of Territorial Statistical Units (NUTS).

In the case of an overshoot of a national base area, the Member State concerned may, in accordance with objective criteria, concentrate the measures applicable under paragraph 6 totally or partially on the sub-base areas for which the overshoot has been noted.

The Member State which has decided to apply the possibility provided for in the first and second subparagraphs shall notify producers and the Commission by 31 March of its choices and the rules and procedures for their application.

Where the option provided for in this paragraph is applied, the consequences must be the same as those that would result from application of the measures at national level.

If the option provided for in this paragraph is applied, the expression "regional base area" shall, for the purposes of Article 5(1)(f), be understood to mean a sub-base area."

3. In Article 12 the following is added at the end of the first indent:

"and (7), including the special conditions to be applied in the case of Germany,".

(PCER\EN\0142.wpd)

Article 2

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

However, Article 1(1) shall apply from 1995/96 onwards.

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

Done at Brussels, 1996

For the Council

FINANCIAL STATEMENT

(PCER\EN\0143.wpd)

DATE: 18. VI 1996

1. BUDGET HEADING: 1040 to 1055		APPROPRIATIONS: ECU 15 545 million		
2. TITLE: Council Regulation amending Regulation (EEC) No 1765/92 establishing a support system for producers of certain arable crops				
3. LEGAL BASIS: Articles 42 and 43				
4. AIMS OF PROJECT: To alter the application of penalties in the case of overshoot of base areas, to introduce the possibility of creating sub-base areas within a national base area.				
5. FINANCIAL IMPLICATIONS	PERIOD OF 12 MONTHS million ecu	CURRENT FINANCIAL YEAR (96) million ecu	FOLLOWING FINANCIAL YEAR (97) million ecu	
5.0. EXPENDITURE - CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTION) - NATIONAL ADMINISTRATION - OTHER		+ 143,6		
5.1. REVENUE - OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES) - NATIONAL				
	1998	1999	2000	2001
5.0.1. ESTIMATED EXPENDITURE				
5.1.1. ESTIMATED REVENUE				
5.2. METHOD OF CALCULATION: SEE ANNEX TO FINANCIAL STATEMENT				
6.0. CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?				YES/NO
6.1. CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?				
6.2. IS A SUPPLEMENTARY BUDGET NECESSARY?				YES/NO
6.3. WILL FUTURE BUDGET APPROPRIATIONS BE NECESSARY?				YES/NO
OBSERVATIONS: The additional expenditure for 1996 is offset by savings, in particular through lower cereals exports and more profitable use of cereal stocks resold within the Community.				

ANNEX TO FINANCIAL STATEMENT

Firstly, the proposal is intended to exempt Member States from financial penalties arising from overshoots that are the consequence of exceptional weather conditions.

The measure will apply from the 1995 harvest and concerns overshoots noted in Spain. Detailed figures for the cost of this measure for 1996 (ECU 143.6 million) are shown in the attached table.

Figures cannot be calculated for the measure as such for the following budget years. However, one may consider that any expenditure will be offset by savings on refunds and production aid in the cereals sector or other sectors such as rice, cotton or tobacco.

Secondly, the proposal authorizes Member States that opt to create one or more national base areas, possibly subdivided into sub-base areas, to concentrate any penalties partially or entirely on one or more of those sub-base areas provided that such redistribution does not lead to an overall reduction in the national penalty.

In the context of current regionalization plans, the budget impact of this measure is neutral.

ANNEX FINANCIAL TABLE

Supplementary expenditure in Spain in 1996 arising from Article 1(1)
Impact of drought for 1995 marketing year

CROPS	WITHOUT REDUCTIONS			WITH REDUCTIONS			DIFFERENCE (ECU million)
	AREA ¹ (1000 ha)	AID (ECU/ha)	COST ² (ECU million)	AREA ¹ (1000 ha)	AID (ECU/ha)	COST ² (ECU million)	
<i>Simplified system</i>							
- maize base	84	142.37	12.0	84	141.28	11.9	0.09
- other crops	1770	142.37	252.0	1676	141.28	236.8	15.21
<i>General system</i>							
- maize base	153	432.00	66.1	153	432.00	66.1	0.00
- other crops	4401	132.59	583.5	4165	130.42	543.2	40.33
- oil seeds	1069	360.94	385.8	977	343.03	335.1	50.70
- protein crops	91	259.02	23.6	83	230.76	19.2	4.42
- non-textile flax	5	392.9	2.0	4	380.26	1.5	0.44
- set-aside	1426	182.39	260.1	1339	176.20	235.9	24.16
TOTAL	8999		1585.0	8481		1449.7	135.4

Impact of double rate: ECU 135.4 million x 1.061 (double rate) = ECU 143.6 million

¹ Excluding five-year set-aside and forage area

² Excluding supplementary expenditure on durum wheat

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