

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(81) 403 final

Brussels, 14th October 1981

## PROPOSAL FOR A COUNCIL REGULATION (EEC)

amending Regulation (EEC) No 1035/72 on the common organization of the market in fruit and vegetables as regards producers' organizations

## PROPOSAL FOR A COUNCIL REGULATION (EEC)

amending Regulation (EEC) No 1035/72 on the common organization of the market in fruit and vegetables

(presented by the Commission to the Council)

COM(81) 403 final

Explanatory Memorandum

In document COM(80) 55 the Commission indicated that in its view some modification of the existing market organizations for fruit and vegetables, olive oil and wine was necessary before the enlargement of the Community to include Spain and Portugal. This approach was based on the present importance and the future potential of Spain as a producer of these products, which could give rise to a fundamental change in the balance of these markets.

The Commission's ideas have been discussed in the ad hoc group of Directors-General, which has submitted a report to the Council. The Commission now presents to the Council its proposals on fruit and vegetables. These proposals are broadly on the lines already sketched out in COM(80) 55 but take account of discussions in the ad hoc group and with professional organizations. The Commission emphasizes that the main elements are interrelated and are based on the following approach -

1. strengthening of the basic organizational structure of producers. The Commission continues to take the view that for the medium term the matching of production to consumer demand and the avoidance of marketing crises can be helped by a steady strengthening of the coverage and disciplines of producer groups. For this reason it proposes
  - a) the establishment on a more permanent basis of launching aids for producer groups for a five-year period under conditions which are more favourable than under the present regulation
  - b) the possibility, at the request of a producer group, for a member state to extend the disciplines (e.g. on quality control or marketing) required by a producer group to other producers within the production area in question. It is emphasized that there is no obligation on member states to take this action.

2. action in case of a market price collapse. In the light of discussions in the ad hoc group and with COPA the Commission has modified its ideas on this question. In particular, it would wish to avoid the risk that, in order to take advantage of any new system of withdrawal at the level of the wholesale market, products were simply diverted from the first point of sale to the wholesale market. The Commission continues to attach importance, however, to the avoidance of market price collapse and to the earliest possible re-establishment of good marketing conditions if a price collapse should nonetheless take place. For this reason it proposes that
- a) the conditions for withdrawal of produce from the market at the point of first sale should be made operative if there is evidence of a price collapse in the wholesale markets.
  - b) this facility should apply to the particularly price-sensitive products, namely peaches, pears, tomatoes, aubergines and apricots which must therefore be added to the list of products subject to the price and intervention system.
3. imports and import prices. The Commission considers that the reference price system has proved capable of ensuring the orderly marketing of fruit and vegetables. It now
- a) announces its intention of discarding the quantity limits on imports that the Member States can still impose on certain products under Article 22(1) of Regulation (EEC) No 1035/72 and in their stead applying reference prices for products (apricots, artichokes, melons, green beans and lettuces) for which there is not yet a reference price and extending the period of application of the existing reference prices (tomatoes and table grapes). The Commission will submit to the Council in good time proposals in the areas that fall within the latter's competence.

b) proposes to replace the provisions of Article 24(4) of Regulation (EEC) No 1035/72, the conditions of application of which could not be verified within a sufficiently short time for the subsequent measures to be properly effective, by provisions allowing the prices of Community products to be automatically taken into account in the calculation of the entry prices of imported products. These provisions would not however apply to cucumbers and summer pears, the customs duties for which are bound under GATT (cucumbers part, of the year only), but would be limited to tomatoes, peaches and table grapes.

4. citrus fruit. The accession of Spain will make a substantial change in the citrus economy and the existing measures are not suitable for application throughout an enlarged Community. It is therefore proposed to extend the existing restructuring plan but to modify its conditions so that it can be more effective and respond more directly to the needs of those areas which require Community aid for restructuring and marketing in order to meet the increased competition in prospect. Precise details on this point are given in the proposals for amendment of Council Regulation (EEC) No 2511/69.

5. Strengthening and supervision of quality standards

The Commission feels that these measures could make a major contribution towards avoiding collapse of markets in conditions of short-term surplus. The effective application of Community quality standards by new Member States from the time of accession should also be the objective. It will very shortly add a further proposal providing for measures to strengthen the Member States' efforts to supervise and enforce quality standards in the interests of the consumer and, through maintenance of reasonable prices for high-quality products, of the producer;

6. Early potatoes

The Commission feels that, in the context of the Council's study of the proposals on fruit and vegetables, work on the proposed common market organization for potatoes should be speeded up, particularly in respect of early potatoes. The Commission will propose a suitable amendment as and when necessary.

Proposal for a Council Regulation amending Regulation N° 1035/72  
on the common organization of the market in fruit and vegetables as regards  
producers' organizations

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The Council of the European Communities,

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

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

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

Whereas Article 14 of Council Regulation (EEC) N° 1035/72 on the common organisation of the market in fruit and vegetables (3), as last amended by Regulation (EEC) N° 1367/80(4), makes provision for measures to encourage the formation and facilitate the operation of producers' organizations; whereas such measures consist, in particular, of two systems of aid :

- . aid, in respect of the three years following the date on which they are formed, in proportion to the value of marketed production only; and
- . a transitional system for aid not exceeding the actual cost of formation and administrative operation concerned to be granted over a five-year period ;

Whereas experience in the application of these measures has shown that some adjustment is necessary in order to ensure that producers' organizations comply more closely with the conditions laid down and that the period in respect of which aid is granted is more accurately and suitably determined; whereas experience has also shown that the level of the aid should be raised in order to provide a satisfactory incentive to the formation of producers' organizations ;

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(1)  
(2)  
(3) O.J. N° L 118, 20. 5.1972, p. 1  
(4) O.J. N° L 140, 5. 6.1980, p.24

Whereas the introduction of a system whereby producers' organizations are officially recognized and are granted aid on the basis of such recognition may help to meet some of these requirements ;

Whereas the second of the two systems of aid referred to above for the formation and operation of producers' organizations should, in the long term, help further to underpin the operation of the organizations concerned; whereas, accordingly, provision should be made for this particular system to be maintained indefinitely and for the level of the aid granted under it to be raised ;

Whereas an adjustment in the method used for calculating the aid involving a reference to the value of the production actually marketed by the producers' organizations should also help to ensure that such organizations actually perform the tasks in question; whereas provision should also be made for producers' organizations to keep specific accounts in respect of the activities for which recognition is given, so that such accounts, together with the accounts relating to their other activities, can be used to calculate the aid and check the use thereof ;

Whereas the level of the aid to be granted should be determined accurately and in an appropriate manner in cases of mergers of organizations which already comply with the conditions,

HAS ADOPTED THIS REGULATION :

Article 1

Article 13 of Regulation N° 1035/72 is hereby amended to read as follows :

" Article 13

1. For the purposes of this Regulation, "producers' organization" means any organization of fruit and vegetable producers which is formed on the producers' own initiative for the purposes, in particular :

- of promoting the concentration of supply and the stabilization of prices at the producer stage in respect of one or more of the products referred to in Article 1; and
- of making suitable technical facilities available to producer members for presenting and marketing the relevant products and which requires the member producers :
  - to sell their total output of the product or products by reason of which they have become members through it ; the organization may, however, waive this requirement in respect of certain quantities ;
  - to apply, with regard to production and marketing, rules which have been adopted by it with a view to improving product quality and adapting the volume of supply to market requirements; and
  - to provide the information requested by it on harvests and supplies.

2. On application, organizations referred to in paragraph 1 shall be recognized by the Member States if :

- there is sufficient evidence as regards the duration and effectiveness of their activities, in particular the tasks referred to in paragraph 1 ;
- they keep specific accounts in respect of the activities for which recognition is sought.

The Member States :

- shall, not later than three months after an application is lodged, take a decision on whether to grant the recognition ;
- shall, within two months, notify the Commission of any decision granting, refusing or withdrawing recognition ;
- shall draw up each year a report on the application of this Article and Article 14, to be transmitted to the Commission by 31 March, the first such report to be transmitted by 31 March 1982. The report shall, in particular, describe how the producers' organizations operate and the quantity of production marketed through them in the various regions.

Article 2

Article 14 of Regulation N° 1035/72 is hereby amended to read as follows :

" Article 14

1. Member States may grant to recognized producers' organizations aid in respect of the five years following the date of their recognition, to encourage their formation and to facilitate their administrative operation. The amount of such aid:
  - shall not exceed, for the first, second, third, fourth and fifth year respectively, 5%, 5%, 4%, 3% and 2% of the value of production marketed under the auspices of the producers' organization ;
  - shall not exceed the actual cost of formation and administrative operation of the organization concerned ;
  - shall be paid in annual instalments within seven years following the date of recognition;Producers' organizations which, prior to the entry into force of this provision, were the subject of a decision to grant Community aid for their formation and operation in respect of the five years following their formation shall be granted aid in respect of the annual payments still outstanding.

The value of each year's production shall be calculated on the basis of :

- the annual volume actually marketed in accordance with the Article 13 (1) third indent ;
- the average producer prices obtained.

1 a. Producers' organizations deriving from organizations which already comply with the conditions of this Regulation shall qualify for aid under this Article only if they are formed as a result of a merger enabling the objectives referred to in Article 13 to be achieved more effectively.

However, in such a case, the aid shall be granted only in respect of the cost of formation of the organization (expenditure incurred in connection with the preparatory work and the drawing up of the constitutional instruments).

2. Member States may, during the five years immediately following the setting up of the intervention fund referred to in Article 15, grant aid to producers' organizations, either directly or through credit institutions in the form of loans on special terms to cover part of the anticipated cost of the market intervention operations referred to in Article 15.
3. The aid referred to in this Article shall be notified to the Commission in a report from the Member States at the close of each financial year.
4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 33.

### Article 3

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

However, producers' organizations which are already eligible under a decision to grant aid in accordance with the previous version of Article 14 (1) of Regulation N° 1035/72 shall continue to receive aid under that provision.

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

Done at Brussels,

For the Council



ANNEX

For 1978, 1979 and 1980, expenditure by the EAGGF, Guidance Section, under Article 14 of Regulation 1035/72 in respect of producer groups in the fruit and vegetable sector was as follows :

<u>Year</u>	<u>million EUA</u>
1978	0.320
1979	0.774
1980	1.651
Average	0.915

Article 14 of Regulation 1035/72 provides for a choice between two methods for calculating the aid :

- for the three years after formation, 3, 2 and 1 % respectively of the value, calculated on a standard basis, of the members' average marketed production during the three years preceding the year in which they became members, in which case the aid is not limited to the actual cost of formation and administrative operation;
- for the five years after formation, 5, 4, 3, 2 and 1 % respectively of the value of production marketed by the group, provided the aid does not exceed the actual cost of formation and administrative operation.

In view of the choice referred to above and the annual decrease in the potential number of groups to be formed, it is very difficult to quantify the additional cost arising from the new, single rate of 5, 5, 4, 3 and 2 % of the marketed value for the five years following formation.

It is estimated that the increase in costs will be of the order of 50 %. Accordingly, from 1983, the cost to the EAGGF, Guidance Section, will be 1.5 million ECU per year instead of 1 million ECU, i.e. an increase of 0.5 million ECU per year.

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Proposal for Council Regulation (EEC)

amending Regulation (EEC) No 1035/72 on the common organization of the market in fruit and vegetables.

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas measures by the producers' organizations within the meaning of Article 13 of Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables <sup>1)</sup>, as last amended by Regulation (EEC) No 1367/80 <sup>2)</sup>, are likely to contribute towards attaining the objectives of the common market organization in the sector concerned; whereas in order to reinforce measures by these organizations, thus encouraging greater market stability, Member States should be permitted to extend, under certain conditions, to all producers not members of the organization in a region, the rules relating to production and marketing adopted for its members by the organization or association in the region concerned ;

Whereas application of the scheme described above entails expenditure by the organization or association whose rules have been so extended ; whereas it is therefore appropriate to oblige non-member producers to contribute towards these costs; whereas it also seems desirable to oblige these producers to contribute towards the cost of measures to promote sales undertaken by the organization or the association in question; whereas compensation should also be granted to these producers for products which, while complying with quality standards, cannot be marketed or which have been withdrawn from the market;

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1) OJ No L 118, 20.5.1972, p. 1.

2) OJ No L 140, 5.6.1980, p. 24.

Whereas aubergines and apricots are of special significance for the incomes of some categories of producer; whereas the system of basic and buying-in prices should be extended to cover those products accordingly;

Whereas, in order to ensure greater market stability for certain sensitive products, provision should be made for public buying-in where a state of serious crisis has been recorded by an accelerated procedure following a drop in prices at the wholesale/retail stage on representative consumer markets; whereas, since the strength of the producers' organizations varies as between Member States and since that strength has an effect on market stability in the States concerned, provision should be made for exempting Member States from compulsory buying-in where the producers' organizations control a sufficient share of production;

Whereas in order to ensure the effectiveness of these measures, it should be possible to limit, in the Member States where buying-in is practised, the quantities of products accepted for marketing;

Whereas experience has shown that certain producers store less perishable products beyond the marketing year corresponding to the year of harvest; whereas, to prevent these products depressing the market during the following marketing year and thus being able to benefit from intervention measures during that year, such measures should apply only to products marketed during the marketing year in which they were harvested;

Whereas Article 24(4) of Regulation (EEC) No 1035/72 provides that, in certain conditions and for certain products, the prices of Community products may be used for calculating the entry price for imported products to be compared with the reference price;

Whereas experience has shown that it is impossible to check with sufficient speed whether the relevant conditions are met; whereas, therefore, there is a risk that the provisions of Article 24(4) may not be applied in time; whereas in order to remedy this situation the provisions should be amended, with due regard to international commitments;

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1035/72 is amended as follows :

1. The following Article 15b is inserted.

"Article 15b

1. In cases where

- a producers' organization or
- an association of producers' organizations having adopted the same rules,

operating in a specific economic area is considered to be representative of production and producers in that area the Member State concerned may, at the request of the organization or association, make the following rules binding on producers established in the area who do not belong to one of the organization referred to above :

- a) the rules on notifying production referred to in the last indent of Article 13(1),
- b) the rules on production referred to in the penultimate indent of Article 13(1),
- c) the rules on marketing referred to in the penultimate indent of Article 13(1),
- d) for products listed in Annex II, the rules adopted by the organization or association with regard to market withdrawals, provided that the withdrawal price does not exceed the level laid down in Article 18(1)(a),

on condition that these rules have been in force for at least one year.

2. For the purposes of this Article "economic area" shall be understood to mean a region made up of bordering or neighbouring production zones in which production and marketing conditions are the same.

3. Member States shall notify the Commission of the rules which they intend to make binding on all producers in a specific economic area.

The rules referred to in paragraph 1 (c) may not be made binding until one month after they have been notified.

4. The Commission may

- a) decide that the rules notified cannot be made binding, or
- b) may repeal the extension of the rules decided on by the Member State,
  - if its finds that the extension prevents free competition in a substantial part of the common market or that the objectives of Article 39 of the EEC Treaty are endangered,
  - if it finds, pursuant to Article 2 of Regulation No 26, that Article 85(1) of the Treaty is applicable to the agreement, decision or practice the extension of which is notified or decided. In that case the Commission's decision with regard to the agreement, decision or practice shall apply only from the date of such finding.

5. Member States shall take all appropriate measures
- to ensure that the rules referred to above are respected,
  - to penalize infringements of these rules.

They shall notify the Commission of such measures immediately.

6. Where paragraph 1 is applied, the Member State concerned may decide that non-member producers are liable to the organization, or where applicable the association, for all or part of the membership fees paid by the member producers where these are used to cover :

- administrative costs resulting from application of the scheme referred to in paragraph 1,
- the cost of measures to promote sales, undertaken by the organization or association and benefiting all producers in the area.

7. Where paragraph 1(c) and (d) is applied, Member States shall, through the producers' organizations or any other agency or natural or legal persons designated for the purpose, withdraw those products which do not comply with the marketing rules or which could not be sold at a price at least equal to the withdrawal price.

8. The list of economic areas, the criteria relating to the representativeness referred to in paragraph 1 and other rules for implementing this Article shall be adopted in accordance with the procedure laid down in Article 33 ".

2. The following Article 17a is inserted

"Article 17a

1. During the period 1 July to 31 August, for tomatoes, aubergines, apricots, peaches and pears, Member States shall notify the Commission, on each market day during the period in which the basic and buying-in prices are applied, of the prices recorded at the wholesale/retail stage on their most representative markets for products of Community origin having the same characteristics as those by reference to which the basic price is fixed or, if these prices are unavailable for a given market on a given day, the prices for products to be defined in accordance with the procedure laid down in Article 33.
2. A list of the markets referred to in paragraph 1 shall be drawn up in accordance with the procedure laid down in Article 33. "

3. The following Article 18a is inserted

"Article 18a

1. Where the provisions of Article 15b(1)(c) and (d) are applied, the Member State shall grant compensation to non-member producers in respect of the quantities of products covered by Annex II
  - which cannot be marketed pursuant to Article 15b (1)(c) or
  - which have been withdrawn from the market pursuant to Article 15b(1)(d).
2. This compensation shall be calculated in accordance with the provisions of the second subparagraph of Article 19(2).
3. Article 18(3) shall apply to the granting of the compensation for products withdrawn from the market.
4. Detailed rules for the application of this Article shall be adopted where necessary in accordance with the procedure laid down in Article 33".

4. The following Article 19b is inserted.

"Article 19b

1. Where, for one of the products referred to in Article 17a(1) and for one of the representative markets referred to in paragraph 2 of the same Article, the prices notified to the Commission in accordance with paragraph 1 of that Article remain in a Member State for two consecutive market days below the buying-in price plus 5% of the basic price and the amount defined in paragraph 6, the Commission shall without delay record that the market in the product in question is in a state of serious crisis.

The buying-in price and the basic price referred to in the preceding subparagraph shall be those valid in the Member State where the crisis is recorded.

2. Immediately upon this situation being recorded the producer Member States shall, through the agency or the natural or legal persons appointed by it for the purpose, buy-in the products of Community origin offered to it, provided that these products satisfy the requirements as to quality and sizing laid down by the quality standards and that they were not withdrawn from the market pursuant to Article 15(1) or Article 15b(1). The products concerned shall be bought in at the price referred to in the second subparagraph of Article 19(2) valid in the Member State in which the product originated.

3. Buying-in operations shall be suspended when, starting from the date when the state of serious crisis was recorded, prices remain, for two consecutive market days, higher than the buying-in price increased in accordance with paragraph 1. Once this condition is fulfilled, the Commission shall record the fact without delay.

4. The Commission may, on request, exempt a producer Member State from the obligation provided for in paragraph 2, on condition that a significant share of the output of the product concerned is marketed in that Member State through producers' organizations.

5. Where, in accordance with the provisions of this Article, the Commission records a state of serious crisis for a given product, it may decide at the same time if the market situation so requires :

- to suspend the use of class III, if this class is in use,
- to adopt the measure provided for in Article 5(2) provided that class III is not in use.

These measures shall be applicable in the Member States engaged in the buying-in operations referred to in paragraph 2; they shall take account of the special situation of products held by wholesalers or which are in transit to one of the consumer centres in that Member State.

They shall cease to be applicable as soon as the Commission makes the finding provided for in paragraph 3.

6. The amount referred to in paragraph 1, which may be fixed at a flat rate, shall cover the cost of packaging, the transport costs for products from the production areas to the representative consumer centres in the Community for the marketing of domestic products, and the wholesaler's profit margin.

7. The amount referred to in paragraph 6 and the rules for implementing this Article shall be adopted in accordance with the procedure laid down in Article 33".

5. The following Article 19c is inserted.

"Article 19c

Intervention operations may be carried out pursuant to this Regulation only in respect of products which are marketed in the marketing year during which they were harvested".

6. The text of Article 24(4) is replaced by the following :

"4. For tomatoes, peaches and table grapes, the prices of Community products shall also be used for calculating the entry price where, for a given product from a given exporting country, those prices are below the price of the imported product calculated in accordance with paragraph 3.

The price of a Community product shall be equal to the arithmetical mean of the prices recorded on each market day on the representative producer markets referred to in Article 17, plus the cost of packaging and the transport costs used to calculate the reference prices.

Where, for a given market, the prices recorded for Community products relate to products grown by a method different from that of the products used for determining the reference prices, the prices in question shall be adjusted after the addition of the cost of packaging and transport costs, by the coefficients laid down for calculating the entry price of such products in the regulations fixing the reference prices.

Where the condition for implementing the first subparagraph is fulfilled, the entry price for a product from the exporting country in question shall be equal to the arithmetical mean of the price of the imported product, calculated in accordance with paragraph 3, and the price of the Community product, calculated in accordance with this paragraph."

7. The following Articles are amended as follows :

1. In Article 16(4), "Article 19 or Article 19a" shall be replaced by "Articles 19, 19a or 19b".
2. In Articles 19(2) and 19a(2), "Article 15(1)" shall be replaced by "Articles 15(1) and 15b(1)".
3. In Article 20(1), "Articles 18, 19 and 19a" shall be replaced by "Articles 18, 18a, 19, 19a and 19b".
4. In Article 21(1) and (2), "under Article 18" and "under Articles 19 and 19a" shall be replaced by "under Articles 15b and 18" and "under Articles 19, 19a and 19b" respectively.

8. The following products are added to Annex II:

"Aubergines,  
Apricots."

Article 2

This Regulation shall enter into force on

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

Done at Brussels,

For the Council

# FINANCIAL STATEMENT

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Date : 29/6/1981

1. BUDGET HEADING : 6.810 (nomenclature 1981)      APPROPRIATIONS : 106 Mio ECU (1981)  
 1.501 (nomenclature 1982)

2. TITLE : Proposed Regulation amending Regulation (EEC) No 1035/72 on the common organization of the market in fresh fruit and vegetables

3. LEGAL BASIS : Art. 43 du Traité

4. AIMS OF PROJECT : Adaptation of the Common market organization

5. FINANCIAL IMPLICATIONS	PERIOD OF 12 MONTHS	CURRENT FINANCIAL YEAR ( 81 )	FOLLOWING FINANCIAL YEAR ( 82 )
5.0 EXPENDITURE - CHARGED TO THE EC BUDGET (REVENUES/INTERVENTIONS) - NATIONAL ADMINISTRATION - OTHER 5.1 RECEIPTS - ON PERSONAL SERVICES OF THE EC - EXCESS CUSTOMS DUTIES - OTHER	10 Mio ECU	- (1)	10 Mio ECU
	1982	1983	1984
5.0.1 ESTIMATED EXPENDITURE 5.1.1 ESTIMATED RECEIPTS	10 Mio ECU	10 Mio ECU	10 Mio ECU

5.2 METHOD OF CALCULATION - Proposed Art. 18(a) : based on assumption of a 5% increase in expenditure on withdrawal and buying-in = 7 Mio ECU  
 - Proposed Art. 19 : estimated increase = 3 Mio ECU  
Total      10 Mio ECU

6.0 CAN THE PROPOSED FINANCIAL STATEMENT BE FINANCED FROM APPROPRIATIONS ENTERED UNDER THE RELEVANT CHAPTER OF THE CURRENT BUDGET?      YES/NO

6.1 CAN THE PROPOSED FINANCIAL STATEMENT BE FINANCED FROM APPROPRIATIONS ENTERED UNDER THE RELEVANT CHAPTER OF THE CURRENT BUDGET?      YES/NO

6.2 IS A SUPPLEMENTARY BUDGET BE NECESSARY?      YES/NO

6.3 WILL FUTURE BUDGET APPROPRIATIONS BE NECESSARY? (expenditure not included in the 1982 draft Budget)      YES/NO

OBSERVATIONS :      See attached

(1) Assumption : measures to enter into force in 1992.