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from : General Secretariat

to : Delegations

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No. Cion prop. : 9656/08 - COM(2008) 306 final

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Subject :

- Proposal for a Council Regulation establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers
- Proposal for a Council Regulation on modifications to the common agricultural policy by amending Regulations (EC) No 320/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No [...]/2008
- Proposal for a Council Regulation amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)
- Proposal for a Council Decision amending Decision 2006/144/EC on the Community strategic guidelines for rural development (programming period 2007 to 2013)

- *Health Check*

– **Presidency compromise**

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Delegations will find attached in Annex the revised and final **Presidency compromise** (in agreement with the Commission) on the above proposal, on which a **political agreement** was reached by the Council on 20 November 2008<sup>1</sup>.

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<sup>1</sup> Statements made at the time of agreement by the Belgian and Portuguese delegations will be distributed as an Addendum to this document.

**REVISED AND FINAL PRESIDENCY COMPROMISE  
ON HEALTH CHECK PROPOSALS**

The Commission proposal as contained in doc. 9656/08 – COM (2008) 306 final - is agreed as modified by doc. 15558/08 with addenda 1-5<sup>1</sup> with the modifications as indicated below.

**1. MODULATION**

**1.1. Increase in basic modulation**

*PM. Basic modulation presently 5% with 5 000 € franchise. Further recall the principles of the declaration in document 12977/03 ADD 1 point 3. See footnote 1<sup>2</sup>.*

Overall increase of modulation by 5% distributed over four steps beginning in 2009.

2009 (budget year 2010) +2%, i.e. 5 + 2 = 7% in total

2010 (budget year 2011) +1%, i.e. 5 + 3 = 8% in total

2011 (budget year 2012) +1%, i.e. 5 + 4 = 9% in total

2012 (budget year 2013) +1%, i.e. 5 + 5 = 10% in total

**1.2. Progressive modulation (additional to basic modulation)**

Only 1 threshold,

over 300 000 €: + 4%

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<sup>1</sup> Subject to legal linguistic revision.

<sup>2</sup> **Application of the modulation and financial discipline to G.A.E.C (Article 12)**

"The Commission considers that all the holdings which are part of a G.A.E.C. (*groupements agricoles d'exploitation en commun*) as established by the French "Code Rural" are considered each as a single farmer for the purpose of applying the additional amount of aid provided for in case of modulation and the franchises in the context of the financial discipline mechanism."

## **2. RURAL DEVELOPMENT/NEW CHALLENGES – FINANCIAL PERIOD 2007/2013**

### **2.1. Co-financing on increased modulated funds limited to new challenges**

Standard rate: 75%

Convergence regions: 90%

### **2.2 Scope of increased modulated funds**

In addition to the New Challenges proposed by the Commission:

- (a) climate change
- (b) renewable energies
- (c) management of water
- (d) biodiversity

the following areas are included in Article 16a:

- (e) dairy - accompanying measures
- (f) innovation linked to the abovementioned points in (a), (b), (c) and (d)

Annex II in Regulation 1698/2005 will be complemented as indicated in the Annex 1.

Article 29 is modified to insert in paragraph 1 a second sentence *"The cooperation shall involve at least two actors of which at least one is either a primary producer or belongs to the processing industry."*

### **2.3. Investment limits for young farmers**

The investment limit of 55 000 € for young farmers is increased to 70 000 €. Modification of Article 22(2) in the current Annex of 1698/2005.

### **2.4. Discontinuation of agri-environmental commitments**

A modification of Article 39(3) of Reg. 1698/2005 allows Member States to put an end to agri-environmental commitments, without the obligation for the beneficiary concerned to reimburse support already received, provided that:

- support is newly made available in the framework of which rules are applied which produce global agri-environmental effects equivalent to those of the agri-environmental measure which is closed,
- the support is not financially less favourable for the beneficiary concerned,
- the beneficiary concerned is informed of this possibility at the time he undertakes his commitments.

This modification is required in order to allow a conversion of an agri-environmental payment into a payment under the first pillar without sanctions.

### **2.5. Abolition of the restriction of investment support in relation to dairy production**

The rules of the European Agricultural Fund for RD (EAFRD) restrict investment support to dairy farmers to stay within their available milk quota.

This rule will be abolished in the context of the modification to Regulation 1974/2006 (RD implementing rules).

## **2.6. New transitional measure under rural development for "Agricultural holdings undergoing restructuring"**

An additional measure is included under Art. 20d of Reg. 1698/2005 as part of the transitional measures. This measure will offer income support in 2011, 2012 and 2013 for "agricultural holdings undergoing restructuring" on the condition of submission of a business plan.

Support may be provided to farmers whose direct payments are reduced as of 2010 by more than 25% compared to 2009 in application of Council Regulation (EC) n° 1782/2003.

Support will be granted on the basis of the conditions that:

- The farm undergoes restructuring (inside and outside agriculture) due to a reform of the CMO;
- A business plan is submitted (this condition is also applied for the semi-subsistence measure).
- Progress in respect of the business plan shall be assessed after 12 months.

The support shall be paid in the form of a digressive flat-rate aid and only in the years 2011, 2012 and 2013. Support shall be limited to the maximum amount laid down in the following paragraph and, in any event, shall not exceed 50% of the reduction of direct payments compared to 2009 in application of Council Regulation (EC) n° 1782/2003.

The upper limit of the payment for 2011, 2012, and 2013 shall not exceed the following levels: 4500, 3000 and 1500 €, respectively per agricultural holding/year.

To be consistent with the structure of the Regulation (see the semi-subsistence measure) the requirements for the business plan (i.e. establishing objective, scope and characteristics of the restructuring process) will be set out at the implementing rules level.

### **3. SINGLE PAYMENT SCHEME**

#### **3.1. Minimum amounts Article 30 – Annex VIa**

The minimum eligible area in Annex VIa is fixed at 0,3 hectares for Portugal, Hungary and Slovenia.

#### **3.2. Use of amounts resulting from decoupling for other purposes. To be used in a decoupled way. (ex: grassland premia, support to sheep and goat sector)**

Article 64 is modified to allow for additional flexibility across sectors in the distribution of the funds resulting from further decoupling. Member States will be allowed to use all or part of money coming from decoupling to grant new payment entitlements or increase their value on the basis of the type of agricultural activities such as using grassland or keeping animals exercised by farmers during one or more years of the period 2005 to 2008 and in accordance with objective and non-discriminatory criteria such as agricultural potential or environmental criteria.

Where a Member State makes use of this flexibility, it shall take adequate measures to ensure that farmers having benefited from direct payments in the past are not excluded from the Single Payment Scheme. In particular it shall ensure that the overall support the farmer will receive after decoupling does not fall below 75% of the average annual support he received under all direct payments.

### **3.3 Modified Article 47 to allow a Member State with historical model to redistribute the value of the payment entitlements on a regional basis within certain limits**

Article 47 is modified to introduce additional flexibility in the geographical distribution of decoupled support under the historic model. Member States with historical model will be authorised to make progressive modifications to the value of entitlements in accordance with no more than three pre-established steps and objective and non-discriminatory criteria such as agricultural potential or environmental criteria. The resulting funds will be redistributed on a regional basis. The value of existing entitlements in each of its regions will be adjusted in accordance with the applicable regional ceiling. The total value of the payment entitlements may not be reduced by more than 10% of their initial value. Such reductions will be taken into account when applying Article 46.

### **3.4 Article 69 (insurance) and 70 (mutual funds) – aid intensities**

In Article 69 and 70, the maximum intensity of public support will be limited to 65%.

EU co-financing will be limited to 75%.

### **3.5 Transition arrangements for transfer of special entitlements**

The existing rules in 1782/2003, Article 49, paragraph 2, on transfer of special entitlements may continue to apply for 2009, 2010 and 2011 by derogation from Article 45, paragraph 3.

### 3.6. Eligibility of land for Single Payment Scheme

The Commission has laid down a guidance document regarding areas to be considered as eligible for direct payments. This document also relates to areas containing trees. The Commission states that Member States have considerable leeway with regard to the interpretation of the provisions regarding eligibility. However, to overcome certain difficulties in this respect, the Commission declares the following:

Commission declaration:

*"The Commission confirms that there is sufficient flexibility within the current community legal framework and the guidelines for its implementation, to accommodate needs concerning traditional semi natural pasture land, which are used for agricultural activity and where the tree density is higher than the recommended 50 trees per hectare. Within semi natural pastures, shrubs and impediment of special importance might also be eligible if classified as landscape elements. Concerning traditional limestone and woodland pastures, ineligible features may be deducted by the application of an appropriate coefficient.*

*It is up to the Member State to take the responsibility and define concrete and controllable criteria for the delimitation of this kind of land, whilst at the same time ensuring transparency for the farmer. The general eligibility rules for payments under the Single Payment Scheme (SPS) apply also for those areas. Therefore areas deemed to be ineligible shall, in accordance with those rules, be deducted from payment under the SPS. Specific eligibility criteria can be chosen for support within the Rural Development Program, criteria which are not strictly the same as for payments under the SPS."*



### **3.7. Eligibility of afforested areas financed by state aid**

Afforested areas, which have received support by way of state aid may be eligible to the Single Payment Scheme if the state aid is given in accordance with the conditions laid down in Article 35, paragraph 2(b)(ii). Article 35 will be amended accordingly.

### **3.8. Allow Member States the option to impose financing to farmers not members of insurance schemes or mutual funds (Article 69 and 70)**

Member States may be allowed to extend the financing of insurance premiums and of mutual funds to non-affiliated farmers/operators who also may benefit by way of compensation payments made to farmers affected by economic losses caused by the outbreak of an animal or plant disease.

This shall be possible notwithstanding the provisions in the single CMO on the extension of the rules and the financial contributions of non-members for the fruit and vegetables sector.

### **3.9. Soft fruit – extension of payments into Annex VIII**

Transitional support for soft fruit production will continue until 31 December 2011 (budget year 2012) and be converted into decoupled payment as of 2012 (budget year 2013) under Annex VIII.

### **3.10. Further decoupling for fruit and vegetables**

Member States are allowed to review the decision taken with regard to the decoupling of fruit and vegetables following the reform of fruit and vegetables in 2007 provided that it results in lower coupled payments.

### **3.11. National aid - Cyprus**

Cyprus may continue to provide the state aid for an additional period of 2 years with the amount in 2011 50% and in 2012 25% of that in 2010.

### **3.12 Increase in maximum top-up percentage for EU-2**

The New Member States, which joined the EU on 1 January 2007, are allowed, as of 2010, to pay complementary national direct payments (CNDP) by up to 50% beyond the phasing-in level as laid down in Article 110. Article 120(2)(a) is modified accordingly.

### **3.13. Single Area Payment Scheme in Bulgaria**

Commission declaration:

*"The Commission will examine how the area under the Single Area Payment Scheme in Bulgaria could be adjusted in 2009 to take into account the experience of the implementation of the scheme in 2007 and 2008 on the basis of the information communicated by the Bulgarian authorities."*

### **3.14. Abolition of set-aside**

The Council agrees to abolish set-aside requirements as laid down in 1782/2003. The formal adoption of the legal text on Direct Payments will, however, only take place in the beginning of 2009 with date of entry into force 1.1.2009.

In order to inform farmers of the upcoming situation, the Commission already published a Communication in OJ 2008/C 186 on 23 July 2008.

The Council and the Commission therefore reiterate the decision to abolish set-aside and a new Communication in the OJ C version will be published in order to avoid any legitimate expectations amongst farmers.

In this connection the Council and the Commission agree that there is no need for Member States to undertake any controls as of 15 January 2009 as regards set-aside, since the Regulation on Direct Payments will apply from 1 January 2009.

## **4. CROSS COMPLIANCE**

### **4.1. Application of Cross Compliance in New Member States**

Point C of Annex II (animal welfare) shall apply as of 1 January 2013 for EU-10 and as of 1 January 2016 for EU-2.

### **4.2. Date of application of changed cross compliance requirements**

The additional requirements in Annex III of the Single Payment Scheme regulation will be applied as of 1 January 2010. However the standard for buffer strips has to be implemented not later than 2012.

### **4.3. Modification of Article 6 and Annex III**

See Annex 5.

#### **4.4 De minimis rule regarding Cross Compliance Pillar I and Pillar II**

Article 25, paragraph 3, allows Member States not to apply a reduction or exclusion amounting to 100 € or less in case of non-compliance.

The same amount will be provided for separately under Rural Development and Cross Compliance.

Articles 25(3) of the Direct Payments text and 51(2)(b) of Council Regulation (EC) No 1698/2005 will be adapted accordingly.

#### **4.5. Simplification of Cross Compliance requirements**

Council and Commission declaration:

*"The Council and the Commission declare that work will continue with the objective of obtaining further simplification for farmers as well as national administrations regarding the application of requirements on cross compliance."*

#### **4.6. Farm advisory system**

Article 15 on the review of the Farm Advisory system is modified as follows: "By 31 December at the latest, the Commission shall submit a report on the application of the farm advisory system, accompanied, if necessary, by appropriate proposals ~~with a view to rendering it compulsory~~".

## 5. FINANCIAL ASPECTS

### 5.1. Financing of Article 68 as of 2010 (budget year 2011)

a) As regards Member States applying Single Payment Scheme (SPS):

Use of unused amounts under Annex VIII: Member States may decide by 1<sup>st</sup> August 2009 to use as of 2010 "unused amounts" within a safety margin of 0,5% and an overall ceiling of 4% of their modulated Annex VIII amounts. Based on their "under-execution" in budget year 2008, this results in an increase in the amounts available for EU-17 applying SPS. However, the net financial ceilings in Annex IV for the same Member States remain the same. Upon request from a Member state the amounts may be adjusted.

The amounts shall be used for Art.68 or as referred to in point 5.2.

b) As regards the New Member States (EU-10 and EU-2):

EU-12 may calculate their amounts to finance measures under Article 68 on the basis of amounts in Annex VIII for 2013/2016 (budget years 2014/2017), i.e. when full phasing-in is completed.

In addition the amounts for the New Member States in Annex VIII are increased by a total amount of 90 million € per year distributed amongst the New Member States in proportion to their fully phased-in amounts in Annex VIII (see table 1 in Annex 3).

See the adjusted Annex IV (Annex 2), which takes into account the modulation in point 1.1 and 1.2, and Annex VIII (Annex 3, table 2).

## **5.2. Adjustment of amounts in Annex IV to be used in Rural Development**

As an alternative to the use of unused funds to finance measures under Article 68 and at the choice of the Member State, the amounts calculated as in point 5.1 may be used for Rural Development measures. As a consequence the amounts in Annex IV are reduced as indicated in Annex 2. The amounts thus liberated shall be made available for Rural Development programming. A new provision will be drafted accordingly, naming those Member States where this option will apply.

## **6. ARTICLE 68**

Article 68 is modified in order to implement the following elements:

### **6.1. Financial ceiling of coupled payments**

Ceiling for coupled payments (paragraph 1(a), (b) and (e)): 3.5% of national ceiling in Annex VIII.

### **6.2. Decision concerning use of article 68**

Member States may decide by 1<sup>st</sup> August 2009 or 1<sup>st</sup> August 2010 or 1<sup>st</sup> August 2011 to use up to 10% of their national ceilings for Article 68.

### **6.3. Option for Member States to finance Article 68 measures also by cuts in coupled payments**

Member States may in addition to the linear cut in direct payments as provided for in Article 68, paragraph 8, finance measures under Article 68 by way of a cut in coupled payments under Article 54 and 55 established ex-ante.

#### **6.4. Scope for payments under Article 68(1)(b), disadvantaged sectors**

Article 68(1)(b) is modified as follows: *"Address specific disadvantages in the dairy, beef and veal, sheep and goat meat and rice sectors in economically vulnerable or environmentally sensitive areas or, in the same sectors, for economically vulnerable types of farming."*

#### **6.5. Transition from existing Article 69 measures in 1782/2003**

The transition period in Article 70a will be 3 years (2010, 2011 and 2012) with the consequence that existing Article 69 measures are no longer financed as of the budget 2014.

#### **6.6. Derogation from the financial limit of coupled payments**

A derogation from the financial limit of 3,5% is provided for those Member States, which have made use of Article 69, and have decided to decouple the suckler cow premium and in that connection to use more than 50% of the amounts established in accordance with Article 69 for the beef and veal sector.

This derogation applies for Finland and Slovenia.

Article 68, paragraph 4, is modified as follows:

" ...

*By way of derogation from the first subparagraph, during calendar years 2010 to 2013, in those Member States which granted support with regard to suckler cows in accordance with Article 69 of Regulation (EC) No 1782/2003 while not having applied the option provided for in Article 68(2)(a)(i) of that Regulation, the limit set out in the first subparagraph shall be set at 6% of their national ceiling. Further, in Member States where more than 60% of milk production takes place north of the 62nd parallel that limit shall be set at 10%.*

*However, any support exceeding 3.5% shall be used exclusively for the funding of measures referred to in paragraph 1(b) in the dairy and beef and veal sectors.*

*This derogation shall be subject to a Commission report before 31 December 2013 at the latest.*

*Member States may set sub-limits per measure."*

#### **6.7. Option for Member States to reduce direct payments on a sectorial basis to finance Article 68 measures**

The present Article 69 in 1782/2003 provides for a linear cut in direct payments to be used in the same sector. Member States will be allowed on an optional basis to continue such a provision in the new Article 68.

#### **6.8. Derogation for Malta**

In derogation from the limits laid down in Article 68, paragraph 4, Malta may be permitted to use up to 2 million € to support in particular its dairy farmers.

#### **6.9. Prior decoupling for use of Article 68.1(b)**

Irrespective of Article 68, paragraph 3a), it will be possible to retain partial coupling in a sector and at the same time grant support in that sector under Article 68(1)(b) provided that total amount of coupled support in the sector is not increased based on ex-ante established amounts (financial envelopes).



**6.10. Financing of measures regarding the environment not respecting the maximum coupled ceiling of 3.5%**

Allow Member States to finance measures with additional agri-environmental benefits, which go beyond the baseline as required for agri-environmental measures in Pillar II without having to respect the overall limit of 3.5% of the national ceiling in Article 68, paragraph 4, but within the overall of 10% limit. Commission to approve the measures.

Moreover, Member States may also apply measures which are important for the protection or enhancement of the environment without complying with the above conditions and within the 3.5% limit and without Commission approval.

**6.11. Financing of animal welfare type of support within the 3.5% ceiling**

In Article 68 1(a) animal welfare is added as a fourth area.

**6.12. Use of national reserve for Article 68 measures already in 2009**

Member States are allowed to finance Article 68 measures already as of 2009 on the basis of money in the national reserve, provided national provisions are in place by the latest day to be fixed by the Member State for the farmers' aid application.

## 7. DECOUPLING SPEED

- 7.1. For processing aids a fixed date of decoupling is necessary which is the same for all MS, for reasons of budget management and transparency for the farmers. Consequently the following processing aids are decoupled as follows:

Dried fodder, 1<sup>st</sup> April 2012

Potato starch, 1<sup>st</sup> July 2012

Flax and hemp, 1<sup>st</sup> July 2012

The amounts will be integrated into the Single Payment Scheme on 1<sup>st</sup> January 2012.

- 7.2. The following products are decoupled from 1<sup>st</sup> January 2010:

Arable crops

Durum wheat

Olive oil

Hops

- 7.3. The following products are decoupled by 1<sup>st</sup> January 2012 at the latest:

Beef and veal payments, except suckler cow premium

Rice

Nuts

Seeds

Protein crops

Aid for starch potato growers

NB. In relation to point 7.3, Annex IV and Annex VIII will be calculated for the Council Regulation on the basis of decoupling in 2012 (budget year 2013) and with the amounts for modulation fixed.

Member States are given a possibility to communicate to the Commission by 01.08.09 whether they want to decouple any schemes on an earlier date for those products mentioned in point 7.3. This is a one off possibility to communicate this in the same way they have to communicate their decisions regarding Article 68.

Commission has the powers to change Annex VIII and Annex IV (and Annex XI) to take account of any such communications, but the amount for modulation will not change in order to ensure a fixed amount already now for rural development which is necessary for the programming.

#### **7.4. Report on decoupling progress**

Commission declaration:

*"The Commission declares that it will prepare a report by 31 December 2012 on the status of Health Check implementation in particular as regards progress on decoupling".*

## 8. SINGLE CMO

### 8.1. Milk

#### 8.1.1. *Adaptation of quota/additional super levy 2009/2010 and 2010/2011/fat adjustment*

##### a) Quota increase

Quotas are increased as proposed by the Commission, i.e. by five times 1% in 2009, 2010, 2011, 2012 and 2013.

However, for Italy the 5% increase will take place already as of 2009<sup>3</sup>.

##### b) Super levy

Modification of Article 78

For the market year 2009/2010 and 2010/2011 the super levy will be fixed as follows:

For deliveries up to 6% more than the quota 2008/2009 produced in those 2 marketing years the normal level of super levy is applied in case quota is exceeded.

For deliveries which exceed 6% the super levy to be paid on these quantities will be 150% of the normal super levy in case the quota is exceeded.

For the subsequent market years, the normal super levy will apply.

Article 80 will be adapted accordingly.

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<sup>3</sup> Declaration from Italy: "Italy declares that the additional quota will be allocated in priority to those producers who have been responsible for the national milk quota having been exceeded."

c) Fat adjustment

i) The Commission under its own responsibility will make a proposal in the management committee to change the fat adjustment coefficient as provided for in Article 10 of Regulation 595/2004 reducing the coefficient from 0,18 to 0,09 for those producers whose fat content in their milk deliveries is over their reference fat level. No change in the coefficient (0,18) for producers whose fat content is below their reference fat level.

ii) Article 80 (2) of Council Regulation (EC) 1234/2007 is abolished.

*8.1.2 Private storage aid for butter (PSA)*

Status quo.

*8.1.3 Quota inactivity rule (Article 72 of Regulation 1234/2007)*

The figure in Article 72(2) is increased from 70% to 85%.

**8.2. Modified article on milk report**

*Modified Article 184 (5)*

**"Reporting in respect of certain sectors**

*The Commission shall present a report:*

*"(5) before 31 December 2010 and 31 December 2012 to the European Parliament and Council regarding the evolution of the market situation and the consequent conditions for smoothly phasing out the milk quota system, accompanied if necessary by appropriate proposals. Furthermore, a report will study the consequences for producers of cheeses with a protected designation of origin in accordance with Regulation (EC) No 510/2006."*

### **8.3. State aid for dairy farmers – Addition to article 182 single CMO**

*"7. Member States may grant until 31 March 2014 state aid of a total annual amount of up to 55% of the ceiling set out in Article 68(4) of Regulation (EC) No ...../2009 [direct payments] to farmers in the dairy sector in addition to Community support granted in accordance with Article 68(1)(b) of that Regulation. However, in no case shall the total amount of Community support under the measures referred to in Article 68(4) of that Regulation and state aid exceed the ceiling referred to in the said Article 68(4)."*

### **8.4. Flax and hemp**

- Aid for long fibres 200 €/t from 1.7.2009
- Aid for long fibres 160 €/t from 1.7.2010 with full decoupling 1.7.2012 and integration into Single Payment Scheme (SPS) from 1.1.2012
- Aid for short fibres 90 €/t from 1.7.2009 with full decoupling 1.7.2012 and integration into SPS from 1.1.2012

## **9. INTERVENTION**

### **9.1. Milk sector**

The present arrangements will be maintained in a simplified version for the dairy sector, i.e. buying-in of butter and SMP at fixed prices from the beginning of the intervention period (1 March until 31 August) up to a maximum offered quantity of 30.000 t of butter and 109.000 t of SMP. Continuation of buying-in beyond these quantities by tender and at Commission discretion.

## 9.2. Cereals

9.2.1. Intervention for bread-making wheat will take place during the intervention period 1 November to 31 May at the level of the intervention price 101,31 €/t up to a maximum quantity of 3 million t. Once this quantity has been reached, intervention will take place by way of buying-in by tender.

9.2.2. Commission declaration:

*"The Commission draws the attention to article 13(1) and (3) as well as article 18(1) in the single CMO which allows the Commission to take all the necessary measures, including at regional level, to support the market for cereals, including for maize."*

## 9.3. Durum and rice

Intervention for durum and rice will be maintained as proposed for barley and sorghum with a figure of 0 (maize model)

## 10. TOBACCO

The Council recalls the decision in relation to reform of the tobacco regime decided in 2004. This is reflected in Article 143e in Regulation 1782/2003.

"Article 143e

### **Financial transfer for restructuring in the tobacco regions**

As from budget year 2011, an amount of EUR 484 million representing 50 percent of the three-year average total aid amount in the years 2000, 2001 and 2002 for the subsidised tobacco shall be available as additional Community support for measures in tobacco producing regions under rural development programming financed under the EAGGF 'Guarantee' Section according to Regulation (EC) No 1257/1999, for those Member States

in which the tobacco producers received aid in accordance with Regulation (EC) No 2075/92 during the years 2000, 2001 and 2002."

In Regulation 1698/2005 a number of measures can be put in place to support farmers in tobacco producing regions.

Member States may provide targeted support with a wide range of rural development measures. Examples of such measures are:

Early retirement

Investment aid for farms converting into alternative highly specialised production, e.g. vegetable production, spices etc.

Measures such as "Adding value to agricultural products", "food quality schemes" and "Information and promotion activities".

Agri-environmental schemes can be designed to convert the land from intensive production to extensive production.

Diversification into non-agricultural economic activities and support for business creation.

Vocational training can be offered to producers to help them to start new economic activities.

Commission declaration regarding putting such measures into action:

*"The Commission declares that it is ready to assist Member States in taking appropriate Rural Development initiatives in regions concerned by the 2004 tobacco reform."*



## 11. COTTON

The Council decided by regulation 637/2008 to provide for a four-year national restructuring programme for the cotton sector in Spain and in Greece. The financing takes place by way of a reduction in the coupled payments to the sector. At the latest at the end of the four-year period the funds are transferred into the Annex VIII as decoupled payments.

The Council invites the Commission to present a proposal to allow the concerned MS to extend the four-year period for another four years to allow the restructuring process to be carried out in the most effective manner. Consequently, this would postpone the transfer of the funds into Annex VIII as decoupled payments at the latest after an eight-year restructuring period.

## 12. FUTURE CAP POST 2013

The Council had a discussion in Annecy on the 23 September 2008 about the future of the CAP post 2013. In this connection it is clear that all aspects of the CAP, including the issue of direct payments, will be reviewed and discussed based on Commission proposals in due time. This discussion will also be the opportunity to discuss different future models for direct payments, e.g. the level of direct payments between Member States. Consequently the following statement is made in connection with the agreement of the Health Check package.

Council and Commission declaration:

*"In the framework of the discussions that started in Annecy on the 23/9/08 on the future of the Common Agricultural Policy after 2013 and without prejudice to the new financial perspective for that period the Council and the Commission are committed to thoroughly examine the possibilities for development of the direct payment system in the Community and addressing the differing level of the direct payments between Member States".*

### 13. DATE OF ENTRY INTO FORCE

In Annex 4 the entry into force for the different subjects.

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## ANNEX 1

<b>Priority: Dairy accompanying measures</b>		
<b>Types of operations</b>	<b>Articles and measures</b>	<b>Potential effects</b>
<b>Investment support related to dairy production</b>	<b>Article 26: modernisation of agricultural holdings</b>	<b>Improvement of the competitiveness of the dairy sector</b>
<b>Improvements in processing and marketing related to dairy</b>	<b>Article 28: adding value to agricultural and forestry products</b>	<b>Improvement of the competitiveness of the dairy sector</b>
<b>Innovation related to the dairy sector</b>	<b>Article 29: cooperation for development of new products, processes and technologies</b>	<b>Improvement of the competitiveness of the dairy sector</b>
<b>Grassland premia and extensive livestock production; organic production related to dairy production; permanent pasture premia in less favoured areas; grazing premia</b>	<b>Article 39: agri-environment payments</b>	<b>Enhance the positive environmental effects of the dairy sector</b>

<b>Priority: Innovative approaches relevant to the above mentioned priorities</b>		
<b>Innovative operations to address climate change mitigation and adaptation measures</b>	<b>Article 29: cooperation for development of new products, processes and technologies</b>	<b>Reduction of GHG emissions and adaptation of agriculture to climate change</b>
<b>Innovative operations to support the development of renewable energies</b>	<b>Article 29: cooperation for development of new products, processes and technologies</b>	<b>Substitution of fossil fuel and reduction of GHG</b>
<b>Innovative operations to enhance water management</b>	<b>Article 29: cooperation for development of new products, processes and technologies</b>	<b>Improve the capacity to use water more efficiently and to improve water quality</b>
<b>Innovative operations to support the conservation of biodiversity</b>	<b>Article 29: cooperation for development of new products, processes and technologies</b>	<b>Halt the loss of biodiversity</b>

**ANNEX 2**

*Annex IV will be adapted according to the compromise*

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### ANNEX 3

**Table 1. Amounts to be added to Annex VIII for the EU-12.**

	(EUR 1000)							
	2009	2010	2011	2012	2013	2014	2015	2016 +
Bulgaria		8071	8071	8071	8071	8071	8071	
Czech Republic		9019	9019	9019				
Estonia		1003	1003	1003				
Cyprus		531	531	531				
Latvia		1452	1452	1452				
Lithuania		3769	3769	3769				
Hungary		13078	13078	13078				
Malta		51	51	51				
Poland		30087	30087	30087				
Romania		17659	17659	17659	17659	17659	17659	
Slovenia		1430	1430	1430				
Slovakia		3850	3850	3850				
Total:	0	90000	90000	90000	25730	25730	25730	0

**Table 2****New Annex VIII (allocating the 90 mio. € to new MS)***Annex VIII will be adapted according to point 3.9*

National ceilings referred to in Article 41

Member State	(EUR 1000)							2016 and subsequent years
	2009	2010	2011	2012	2013	2014	2015	
Belgium	614179	611805	611805	614855	614855	614855	614855	614855
Denmark	1030478	1030478	1030478	1049002	1049002	1049002	1049002	1049002
Germany	5770254	5771977	5771977	5852908	5852908	5852908	5852908	5852908
Greece	2380713	2211683	2214683	2232533	2216533	2216533	2216533	2216533
Spain	4858019	5091044	5108650	5282193	5139444	5139444	5139444	5139444
France	8404502	8420822	8420822	8521236	8521236	8521236	8521236	8521236
Ireland	1342268	1340521	1340521	1340869	1340869	1340869	1340869	1340869
Italy	4143175	4207177	4227177	4370024	4370024	4370024	4370024	4370024
Luxembourg	37518	37536	37646	37671	37084	37084	37084	37084
Netherlands	853090	853090	853090	897751	897751	897751	897751	897751
Austria	745561	745235	745235	751606	751606	751606	751606	751606
Portugal	589723	589499	589499	605962	605962	605962	605962	605962
Finland	566801	565520	565520	570548	570548	570548	570548	570548
Sweden	763082	763082	763082	770906	770906	770906	770906	770906
United Kingdom	3985895	3975916	3975973	3988042	3987922	3987922	3987922	3987922
Bulgaria	287399	336041	416372	498775	579535	660296	741054	813743
Czech Republic	559622	654241	739941	832144	909313	909313	909313	909313
Estonia	60500	71603	81703	92042	101165	101165	101165	101165
Cyprus	31670	38928	43749	49146	53499	53499	53499	53499
Latvia	90016	105368	119268	133886	146387	146387	146387	146387
Lithuania	230560	271029	307729	346820	379971	379971	379971	379971
Hungary	807366	947114	1073824	1204646	1318584	1318584	1318584	1318584
Malta	3752	4231	4726	5137	5102	5102	5102	5102
Poland	1877107	2192294	2477294	2777207	3033478	3033478	3033478	3033478
Romania	623399	729863	907473	1086608	1264472	1442335	1620201	1780406
Slovenia	87942	103389	117406	131537	144236	144236	144236	144236
Slovakia	240014	280364	316964	355242	388176	388176	388176	388176

## ANNEX 4

### **Application dates**

The general date of application of the legal acts adopted in the framework of the Health check will be 1.1.2009. However, given that the formal adoption and publication of those acts will only take place in the course of the first trimester 2009 certain provisions can for reasons of legal certainty only be made applicable at later dates. These dates are:

#### **1. with regard to the proposal for a new regulation on direct payments:**

1.1.2010 for

- Cross compliance: the additional requirements in Annex III (authorisation for use of water for irrigation, specification of landscape features and establishment and/or retention of habitats)
- the new provisions on minimum requirements in Article 30
- the changed provision on the eligibility of land in Article 35
- Article 43 on unused entitlements
- Article 37 on the modification of entitlements
- the transfer of direct payment funds for outermost regions to POSEI programmes.

Not later than 2012 for

Cross compliance – buffer strips

#### **2. with regard to the proposal for a regulation amending the single CMO (Regulation No 1234/2007)**

1.4.2009 for

- the changes in the milk quota scheme
- rules on private storage aid for cheese

1.7.2010 for

- the new provisions on public intervention for common wheat and feed grains

**3. with regard to the proposal for a regulation amending the regulation on rural development (No 1698/2005)**

1.1.2010 for

- the changes in certain cross compliance rules on transfer of land, minor non-compliances and "de minimis" (Article 51)

The relevant provisions in the proposed legal acts will be adapted accordingly.

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## ANNEX 5

### *"Article 6"*

#### ***Good agricultural and environmental condition***

1. Member States shall ensure that all agricultural land, especially land which is no longer used for production purposes, is maintained in good agricultural and environmental condition. Member States shall define, at national or regional level, minimum requirements for good agricultural and environmental condition on the basis of the framework established in Annex III, taking into account the specific characteristics of the areas concerned, including soil and climatic condition, existing farming systems, land use, crop rotation, farming practices, and farm structures. Member States may not define minimum requirements which are not foreseen in this framework.

Standards referred to in the third column of Annex III shall be optional except where:

- a Member State had defined, for such standard, a minimum requirement for good agricultural and environmental condition before 1 January 2009
- where rules addressing the standard are applied in the Member State in accordance with national provisions."

Issue	<u>Compulsory standards</u>	
Soil erosion:  Protect soil through appropriate measures	– Minimum soil cover	– <i>Retain terraces</i>
	– Minimum land management reflecting site- specific conditions	
	– Retain terraces	
Soil organic matter:  Maintain soil organic matter levels through appropriate practices	<del>Standards for crop rotations where applicable</del>	
	– Arable stubble management	– <i>Standards for c.</i>
Soil structure:  Maintain soil structure through appropriate measures	<del>Appropriate machinery use</del>	– <i>Appropriate ma</i>
Minimum level of maintenance:  Ensure a minimum level of maintenance and avoid the deterioration of habitats	<del>Minimum livestock stocking rates or/and appropriate regimes</del>	– <i>Minimum live regimes</i>
	<del>Protection of permanent pasture</del>	
	– Retention of landscape features, including, where appropriate, hedges, ponds, ditches trees in line, in group or isolated and field margins;  <del>where appropriate, prohibition of the grubbing up of olive trees</del>	<u><i>Establishment an</i></u>
	– Avoiding the encroachment of unwanted vegetation on agricultural land	– <i>Prohibition of t</i>

	vegetative condition	vegetative con.
	<b>– Protection of permanent pasture</b>	
Protection and management of water:	– Establishment of buffer strips along water courses <sup>1</sup> ,	
Protect water against pollution and run-off, and manage the use of water	– <b>Where use of water for irrigation is subject to authorisation,</b> €compliance with authorisation procedures. <del>for using water for irrigation.</del>	

<sup>1</sup> *Note : The GAEC buffer strips must comprise, both within and outside vulnerable zones designated pursuant to Article 3(2) of Directive 61/676/EEC concerning the protection of water against pollution caused by nitrates from agricultural sources, at least the requirements relating to conditions for land application of fertiliser near water courses, referred to in point A4 of Annex II of Directive 91/676/EEC to be applied in accordance with the Action Programmes of Member States established in respect of Article 5(4) of Directive 91/676/EEC. Member States shall implement this standard by 2012 at the latest.*