



**COUNCIL OF  
THE EUROPEAN UNION**

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Subject: Proposal for a Council Regulation amending Regulations (EC) No 1290/2005 on the financing of the common agricultural policy and (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) in order to set up a School Fruit Scheme

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With a view to the discussions at the Council "Agriculture and Fisheries" session on 18-20 November 2008, delegations will find attached a **consolidated revised text** of the draft Regulation as amended by the Presidency, in consultation with the Commission.

The consolidated suggested changes to the Commission proposal are indicated in **bold** and deletions by [...].

[...]Draft

**COUNCIL REGULATION**

**amending Regulations (EC) No 1290/2005 on the financing of the common agricultural policy and (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) in order to set up a School Fruit Scheme**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 36 and 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament<sup>1</sup>,

Whereas:

- (1) Council Regulation (EC) No 1182/2007<sup>2</sup>, which lays down specific rules as regards the fruit and vegetable sector, provided for a wide-ranging reform of the fruit and vegetables sector to promote the competitiveness and market orientation of this sector and bring it more closely in line with the rest of the reformed Common Agricultural Policy (CAP). One of the key objectives of the reformed regime is to reverse the declining consumption of fruit and vegetables.

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<sup>1</sup> OJ C ..., ..., p. ....

<sup>2</sup> OJ L 273, 17.10.2007, p. 1.

- (2) [...] **It is desirable to address the low consumption of fruit and vegetables amongst children by durably increasing the share of fruit and vegetable in the diets of children at the stage when their eating habits are formed.** The provision of Community aid under a School Fruit Scheme to supply fruit and vegetable and banana products to [...] **children** in educational establishments [...] should bring young consumers to appreciate fruit and vegetables and [...] **thus** enhance future consumption [...]. **As a result, the School Fruit Scheme would meet the objectives of the CAP, including the promotion of earnings in agriculture, the stabilisation of markets and the availability of both current and future supplies.** [...] **Furthermore,** under Article 35(b) of the Treaty, provision may be made within the framework of the common agricultural policy for joint measures, such as a School Fruit Scheme, to promote consumption of certain products.
- (3) Moreover, Article 152(1) of the Treaty requires that "a high level of human health protection shall be ensured in the definition and implementation of all Community policies". The clear health benefits of a School Fruit Scheme are aspects which should be integrated into the implementation of the CAP.
- (4) Provision should therefore be made for Community aid to co-finance the **supply to children** [...] in educational establishments **of** certain healthy products of the fruit and vegetables, processed fruit and vegetables and bananas sectors and also [...] **to co-finance** certain related costs of logistics, distribution, equipment, communication, monitoring and evaluation. [...]

- (5) **The Community School Fruit Scheme should be without prejudice to any national school fruit schemes which respect Community law in order to retain the benefits of such schemes. It should respect the diversity of the Member States' educational systems. Therefore, educational establishments benefiting from the School Fruit Scheme may include nurseries, other pre-school establishments, primary and secondary schools.**
- (6) **Member States willing to participate in the School Fruit Scheme may, in addition to Community aid, grant national aid for the supply of the aforementioned products and for certain related costs. Accompanying measures will be needed to make the scheme effective. Member States may therefore grant national aid for financing the accompanying measures. In the light of budgetary constraints, Member States should be able to replace their financial contribution to the School Fruit Scheme with contributions from the private sector.**
- (7) In order to ensure orderly implementation of the School Fruit Scheme, Member States, at national or regional level, wishing to make use of it should draw up a prior strategy. [...]
- (8) **The scheme should not cover unhealthy products that contain, for example, a high percentage of fat or added sugar. The Commission should therefore draw up a list of products or ingredients that should be excluded from the School Fruit Scheme. Member States' discretion as regards their choice of products should otherwise not be unnecessarily interfered with. They may thus base their selection of eligible products on objective criteria including seasonality, availability of produce or environmental concerns. In this connection, Member States may give preference to products of Community origin. For clarity, Member States should establish the list of products eligible under their scheme when drawing up their strategies.**

- (9) In the interest of sound administration and budget management, Member States participating in the scheme should apply every year for a Community aid. Following the requests of the Member States, the Commission should decide on the definitive allocations, within the appropriations available in the budget.**
- (10) Community aid should be allocated to each Member State on the basis of objective criteria based on their proportion of children in the core target group of 6 to 10 year olds. This age group has been selected because of budgetary reasons, but also because eating habits are formed at a young age. However, the limited demographic size of a Member State should not prevent it from implementing a cost effective scheme. Therefore, each participating Member State should receive at least EUR 175 000 of Community aid.**
- (11) In order to ensure sound budgetary management, a fixed ceiling of Community aid and maximum co-financing rates should be provided for and the Community financial contribution to the scheme should be added to the list of measures eligible for EAFG financing set out in Article 3(1) of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy<sup>3</sup>.**
- (12) Having regard to their social, structural and economical difficulties, it is appropriate to provide for a higher co-financing rate in the regions eligible under the Convergence objective in accordance with Article 5(1) of Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 and for the outermost regions referred to in Article 299(2) of the EC Treaty.**

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<sup>3</sup> OJ L 209, 11.8.2005, p. 1. Regulation as last amended by Regulation (EC) No 1437/2007 (OJ L 322, 7.12.2007, p. 1).

- (13) In order not to diminish the overall effectiveness of the School Fruit Scheme, Community aid should not be used to replace funding for any existing national school fruit schemes or other school distribution schemes that include fruit. However, if a Member State already has a scheme in place that would be eligible for Community aid under this regulation and intends to extend it or make it more effective, including as regards the target group of the scheme, its duration or eligible products, Community aid may be granted provided that the maximum co-financing rates provided for under this regulation are respected as regards the proportion of Community aid to the total national funding. In this case, the Member State shall indicate in its strategy how it intends to extend its scheme or make it more effective. As a result, Member States' achievements in introducing a national school fruit scheme should be preserved.**
- (14) In order to allow time for the smooth implementation of the Scheme, it should apply from the 2009/10 school year. A report on it should be delivered after three years.
- (15) In order to make the scheme more effective, the Community should be able to finance information, monitoring and evaluation measures aimed at raising public awareness of, and networking measures related to, the School Fruit Scheme and its objectives without prejudice to its powers to co-finance, in the framework of Council Regulation (EC) No 3/2008 of 17 December 2007 on information provision and promotion measures for agricultural products on the internal market and in third countries<sup>4</sup>, necessary accompanying measures to raise awareness about the beneficial health effects of fruit and vegetables consumption.

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<sup>4</sup> OJ L 3, 5.1.2008, p. 1.

- (16) The Commission should establish the detailed rules for the application of the School Fruit Scheme, including rules on the allocation of aid between Member States, financial and budgetary management, national strategies, related costs, accompanying measures and information, monitoring and evaluation and networking measures.**
- (17) The provisions of Regulation (EC) No 1182/2007 have been integrated into Regulation (EC) No 1234/2007<sup>5</sup> with effect from 1 July 2008 by Regulation (EC) No 361/2008<sup>6</sup>.
- (18) Regulations (EC) No 1290/2005 and (EC) No 1234/2007 should therefore be amended accordingly,

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<sup>5</sup> OJ L 299, 16.11.2007, p. 1. Regulation as last amended by Regulation (EC) No .../2008 (OJ L ..., ....2008, p. ...).

<sup>6</sup> OJ L 121, 7.5.2008, p. 1.

HAS ADOPTED THIS REGULATION:

*Article 1*

**Amendment of Regulation (EC) No 1290/2005  
[as lastly amended by the Health Check Regulation]**

In Article 3(1) of Regulation (EC) No 1290/2005, the following point (f) is added:

"(f) the Community's financial contribution to the School Fruit Scheme referred to in Article 103ga(1) of Council Regulation (EC) No 1234/2007(\*).

(\* ) OJ L 299, 16.11.2007, p. 1."

*Article 2*

**Amendment of Regulation (EC) No 1234/2007**

Regulation (EC) No 1234/2007 is amended as follows:

(1) Section IVa of Chapter IV of Title I of Part II is amended as follows:

(a) the following Subsection IIa is inserted after Article 103g:

**"SUBSECTION IIa**

**SCHOOL FRUIT SCHEME**

*Article 103ga*

**Aid for the supply of fruit and vegetable, processed fruit and vegetable  
and banana products to [...] children**

1. Under conditions to be determined by the Commission, from the 2009/10 school year **onwards**, Community aid shall be granted for :

- (a) [...] **the supply** to [...] **children** in educational establishments, **including nurseries, other pre-school establishments, primary and secondary schools, of [...]** products of the fruit and vegetables, processed fruit and vegetables and bananas sectors; **and**
- (b) [...] certain related costs of logistics [...] **and** distribution, equipment, communication, monitoring and evaluation.



2. Member States, at national or regional level, wishing to participate in the scheme shall draw up a prior strategy for its implementation **containing in particular the budget of their scheme including the Community and national contributions, duration, target group, eligible products and the involvement of relevant stakeholders**. They shall also provide for accompanying measures necessary to make the scheme effective.
  
3. **When drawing up their strategies, Member States shall draw up the list of products of the fruit and vegetables, processed fruit and vegetables and bananas sectors that will be eligible under their scheme. This list, however, shall not include products excluded by a measure adopted by the Commission under Article 103h(f). They shall choose their products on the basis of objective criteria which may include seasonality, availability of produce or environmental concerns. In this connection, Member States may give preference to products of Community origin.**
  
4. The Community aid referred to in paragraph 1 shall not:
  - (a) exceed EUR 90 million per school year,
  - (b) exceed 50% of the costs of supply and related costs referred to in paragraph 1, or 75% of such costs in the regions eligible under the Convergence Objective **in accordance with Article 5(1) of Council Regulation (EC) No 1083/2006 and in the outermost regions referred to in Article 299(2) of the Treaty**,
  - (c) cover costs other than the costs of supply and related costs referred to in paragraph 1.

[...]

5. **The Community aid referred to in paragraph 1 shall be allocated to each Member State on the basis of objective criteria based on their proportion of 6 to 10 year old children. However, Member States participating in the scheme shall each receive at least EUR 175 000 of Community aid. Member States participating in the scheme shall apply every year for Community aid on the basis of their strategy. Following the requests of the Member States, the Commission shall decide on definitive allocations, within the appropriations available in the budget.**
  
6. **Community aid referred to in paragraph 1 shall not be used to replace funding for any existing national school fruit schemes or other school distribution schemes that include fruit. However, if a Member State already has a scheme in place that would be eligible for Community aid under this Article and intends to extend it or make it more effective, including as regards the target group of the scheme, its duration or eligible products, Community aid may be granted provided that the limits of paragraph 4(b) are respected as regards the proportion of Community aid to the total national contribution. In this case, the Member State shall indicate in its strategy how it intends to extend its scheme or make it more effective.**
  
7. **Member States may, in addition to Community aid, grant national aid for the supply of products and related costs referred to in paragraph 1. These costs may also be covered by private sector contributions. Member States [...] may also grant national aid for financing the accompanying measures referred to in paragraph 2.**

8. The Community school fruit scheme shall be without prejudice to any separate national school fruit schemes which respect Community law.
9. The Community may also finance, under Article 5 of Regulation (EC) No 1290/2005, information, monitoring and evaluation measures relating to the School Fruit Scheme, including raising public awareness of it, and related networking measures.";

(b) the following heading is inserted before Article 103h:

**"SUBSECTION III  
PROCEDURAL PROVISIONS";**

(c) in Article 103h, the following point is added:

"(f) provisions on the School Fruit Scheme referred to in Article 103ga, including [...] **a list of products or ingredients that should be excluded from the School Fruit Scheme, [...]** the **definitive** allocation of aid between Member States, financial and budgetary management, and the related costs, [...] **the strategies of the Member States**, accompanying measures and information, monitoring and evaluation and networking measures."

(2) In the second paragraph of Article 180, "103ga" is inserted after "103e".

(3) In Article 184, the following point 6) is added:

"6) before 31 August 2012 to the European Parliament and the Council on the application of the School Fruit Scheme provided for in Article 103ga, accompanied, if necessary, by appropriate proposals. The report shall in particular address the issues of the extent to which the scheme has promoted the establishment of well functioning School Fruit Schemes in Member States and the impact of the Scheme on the improvement of children's eating habits."

*Article 3*

**Entry into force**

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

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

Done at Brussels,

*For the Council*

The President

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