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THE EUROPEAN UNION**

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ADDENDUM TO THE "A" ITEM NOTE

from : General Secretariat

to : Council

No. prev. doc. : 16049/08 + COR 1

16306/08 + COR 1 + COR 2, 16178/08, 16314/08, 16315/08

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

Subject : – Adoption of

- (a) Council Regulation establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers
- (b) 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 479/2008
- (c) Council Regulation amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)
- (d) Council Decision amending Decision 2006/144/EC on the Community strategic guidelines for rural development (programming period 2007 to 2013)

- Health Check

STATEMENTS TO BE ENTERED IN THE COUNCIL MINUTES

A. DIRECT SUPPORT REGULATION (point a) above)

1. COMMISSION STATEMENTS

Commission statement on eligibility of land for the Single Payment Scheme

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 is used for agricultural activity and where the tree density is higher than the recommended 50 trees per hectare. Within semi-natural pastures, shrubs and impediments 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 Programme without being strictly the same as for payments under the SPS.

Commission statement on the Single Area Payment Scheme in Bulgaria

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

Commission statement on maintaining the status quo as regards existing schemes of insurance

The Commission considers that the adoption of Article 70 (crop, animal and plant insurance) in the Council Regulation establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers will not affect the continuation of Member States' agricultural insurance schemes that have been approved by the Commission in accordance with Chapter V.B.5 (aid towards the payment of insurance premia) of the Community Guidelines for State aid in the agriculture and forestry sector 2007 to 2013 (2006/C 319/01) or communicated under Commission Regulation (EC) No 1857/2006 which fulfilled the conditions set under that Regulation and in particular under its Article 12 (aid towards the payment of insurance premiums). However, any co-existence of insurance schemes under Article 70 on the one hand and the Community state aid rules on the other will have to be examined separately on its own merits.

**Commission statement on an increase from 4 % to 5% of the threshold provided for
in Article 9 of Regulation (EC) No 883/2006**

Article 9 of Commission Regulation (EC) No 883/2006 provides for the progressive reduction of the monthly payments to Member States for the late expenditures incurred by Member States above a threshold of 4 % of the expenditure effected before the deadlines provided. The Commission will consider increasing this threshold from 4% to 5%.

**Commission statement on the application of modulation and financial discipline to
"Groupements agricoles d'exploitation en commun" (G.A.E.C) (Article 12 "Additional
Amount of aid" Regulation (EC) No 1782/2003)**

The Commission further recalls the principles underlying the statement it made upon adoption of Regulation (EC) No 1782/2003 whereby the Commission considers that all the holdings which are part of a G.A.E.C. ("groupement agricole 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 the case of modulation and the franchise in the context of the financial discipline mechanism.

Commission statement on the Report on decoupling progress

The Commission will prepare a report by 31 December 2012 for Council on the status of implementation of the Health Check in particular as regards progress on decoupling.

Commission statement on wine

The Commission confirms that, acting in accordance with the procedure laid down in Article 141(2) of the Direct Support Regulation, it will adjust Annex VIII for the Member States concerned to take account of their notifications on the amounts to be transferred from their wine national envelopes.

2. COUNCIL AND COMMISSION STATEMENTS

Council and Commission statement on the abolition of set-aside

The Council agrees to abolish set-aside requirements as laid down in Regulation (EC) No 1782/2003. The formal adoption of the Regulation on Direct Support will, however, only take place at the beginning of 2009 with date of entry into force after 1 January 2009.

In order to inform farmers of the upcoming situation, the Commission already published a Communication in OJ 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 series will be published in order to avoid creating any legitimate expectations amongst farmers¹.

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 Support will apply from 1 January 2009.

Council and Commission statement on simplification of cross compliance requirements

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 the requirements on cross compliance.

¹ See Communication from the Commission to all farmers concerning set aside from 2009 (OJ C 324, 19.12.2008, p.11).

Council and Commission statement on the future CAP post 2013

In the framework of the discussions that started in Annecy on 23 September 2008 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 examining the possibilities for development of the direct payment system in the Community and addressing the differing level of the direct payments between Member States.

3. COUNCIL STATEMENT

Council statement on cotton

The Council decided by Regulation (EC) No 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 Annex VIII as decoupled payments.

The Council invites the Commission to present a proposal to allow the Member States concerned 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.

4. STATEMENT BY PORTUGAL

The successive reforms of the Common Agricultural Policy, like the changes that are being made to that policy, must take account of their specific effects in the outermost regions. Those effects are most sorely felt in the dairy sector and on the sugar-supply conditions in the Autonomous Region of the Azores.

Portugal recalls that the European Parliament shares its concern, in particular in its opinion on the Common Agricultural Policy health check, and has also adopted a proposal on the Azores' sugar supply.

Portugal accordingly feels that the Commission must bear its position in mind and hopes that it will submit proposals at the appropriate moment.

B. REGULATION ON MODIFICATIONS TO THE COMMON AGRICULTURAL POLICY (point b) above)

1. COMMISSION STATEMENTS

Commission statement with regard to Article 44 of Regulation (EC) No 1234/2007

The Commission states that it intends to apply Article 44 of Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) in accordance with previous practice, i.e. to only support farmers affected by movement restrictions imposed by veterinary measures.

Commission statement on 2010/2011 fat adjustment

The Commission under its own responsibility will make a proposal in the Management Committee to adjust the fat adjustment coefficient as provided for in Article 10 of Commission Regulation (EC) No 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. There will be no change in the coefficient (0,18) for producers whose fat content is below their reference fat level.

Commission declaration on cereals

The Commission draws attention to Article 13(1) and (3) as well as Article 18(1) of the Single CMO Regulation which allows the Commission to take all the necessary measures, including at regional level, to support the market for cereals, including for maize.

2. STATEMENT BY BELGIUM

Belgium can support the Presidency compromise on the CAP Health Check. However, with reference in this connection to the explanations given at meetings by the Commission, the Belgian delegation considers that the evaluation reports scheduled for 2010 and 2012 which are mentioned in point 8.2 of the compromise² may, depending on their conclusions, also lead to a drop in national reference quantities or the stopping of scheduled increases. Moreover, Belgium requests an early start on examination of mechanisms to regulate supply in the interests of farmers and consumers.

3. STATEMENT BY 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.

² Point 8.2 of doc 16049/08 + COR 1 and contained in Article 184(5) of Regulation (EC) No 1234/2007.

C. **AMENDMENTS TO THE RURAL DEVELOPMENT REGULATION** (point c) above)

COMMISSION STATEMENTS

**Commission statement on the abolition of the restriction of investment support in relation to
dairy production**

Commission Regulation (EC) No 1974/2006 of 15 December 2006 laying down detailed rules for the application of Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) restricts investment support to dairy farmers so that they stay within their available milk quota.

This rule will be abolished in the context of the modification to Regulation (EC) No 1974/2006.

Commission statement on tobacco

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

D. DIRECT SUPPORT REGULATION (point a) above)

AMENDMENTS TO THE RURAL DEVELOPMENT REGULATION (point c) above)

AMENDMENTS TO THE DECISION ON COMMUNITY STRATEGIC GUIDELINES FOR RURAL DEVELOPMENT (point d) above)

STATEMENT BY LATVIA

Latvia did not agree with the CAP “Health Check” compromise reached by the Council on 27 and 28 October 2008. This was because immediate and adequate financing will not be available for direct payments nor for the new challenges within rural development. Latvia maintains this requirement and in this context refers to the Conclusions adopted by the European Council on 19-20 June 2008 which underlined that it is necessary to ensure fair competition and sustainable agriculture across the European Union in order to continue to improve the market orientation of agriculture thus enabling farmers to better respond to market signals. Latvia reiterates that the historic financial distribution criteria should be abolished. In order to ensure equal support eligibility conditions and amounts, new distribution keys should be introduced based on objective and updated criteria for all the EU Member States, which are more suited for today’s situation and which are not market distorting.

Taking into account all of the above, with regret Latvia cannot support and is against the adoption of the above three legislative proposals. Latvia invites the European Parliament, the Council of the European Union and the Commission to raise awareness and to take immediate action.