

公开文本

此呈： 中华人民共和国商务部

马铃薯淀粉反补贴措施期终复审调查申请书

之附件

期终复审申请人：

中国淀粉工业协会马铃薯淀粉专业委员会

申请人全权代理人：

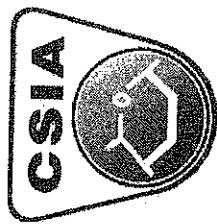
北京市博恒律师事务所

二〇一六年七月十五日

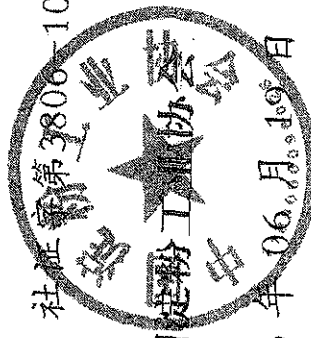
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- 附件二： 马铃薯淀粉生产企业会员单位情况
- 附件三： 关于马铃薯淀粉反补贴期终复审事务商讨会的会议纪要。
- 附件四： 律师指派书和律师执业证明
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- 附件九： 第 1234/2007 号条例
- 附件十： 第 73/2009 号条例
- 附件十一： 第 1307/2013 号条例
- 附件十二： 欧盟相关马铃薯淀粉生产企业的农民股东介绍
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- 附件十四： 奥地利 Agrana 公司审计年报节选
- 附件十五： 中国人民银行公布美元兑人民币汇率表
- 附件十六： 申请人会员单位财务数据和报表
- 附件十七： 马铃薯淀粉市场信息调研报告
- 附件十八： 欧盟马铃薯淀粉对外出口统计数据

附件一： 申请人社会团体法人登记证书和授权委托书



社证第3806-10号



发证机关：中国淀粉工业协会
发证日期：2016年06月10日
登记日期：2006年7月14日

有效期限：自2016年6月19日至2021年6月18日

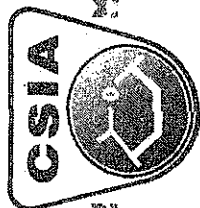
名称：中国淀粉工业协会马铃
薯淀粉专业委员会

住所：内蒙古自治区呼和浩特市
和林格尔县和清路98号

负责人：周庆锋

活动地域：全国

业务范围：行业管理、信息交流、
书刊编辑、业务培训、
国际合作、咨询服务



社证字第 3806-10 号

名 称：中国淀粉工业协会马铃薯淀粉专业委员会

负 责 人：周庆锋

住 所：内蒙古自治区呼和浩特市和林格尔县
和清路98号

业务范围：行业管理、信息交流、书刊编辑、
业务培训、国际合作、咨询服务

活动地域：全国

登记日期：2006年7月14日

有效期限：自 2016年06月19日至 2021年06月18日

发证机关：中国淀粉工业协会

发证日期：2016年6月19日



授权委托书

委托人：中国淀粉工业协会马铃薯淀粉专业委员会

被委托人：北京市博恒律师事务所

委托事由：委托人特此全权委托北京市博恒律师事务所代表委托人对原产于欧盟的进口马铃薯淀粉产品所适用的反补贴措施提请反补贴期终复审及相关事宜。

北京市博恒律师事务所的代理权限为：全权代理。具体权限包括但不限于：

- 1、制订反补贴日落复审工作计划和方案，根据调查结果和案件的实际进展提供相应的法律意见和策略性建议；
- 2、在委托人的协助下，代表或者协助收集和整理案件所需要的证据材料和信息，包括国内外市场信息和国内企业生产经营状况等证据资料；
- 3、根据法律规定起草反补贴日落复审申请书及准备相关附件材料；
- 4、代表委托人与调查机关进行磋商并正式提出反补贴日落复审书面申请；
- 5、指导和协助委托人填写调查机关发放的调查问卷；
- 6、指导和协助委托人配合国家调查机关的实地核查工作；
- 7、代表委托人参加题述案件的审理和听证会等；
- 8、根据案件的进展情况代表委托人依法向调查机关查阅应诉方的抗辩和评论意见，并及时提出相应反驳意见；
- 9、根据案件具体情况，代表委托人向调查机关提出相应请求和意见；
- 10、代表委托人进行反补贴日落复审案件所需的其他工作。

本授权委托书所规定的权限在授权委托事宜完成时终结。

委托人：中国淀粉工业协会马铃薯淀粉专业委员会（盖章）

日期：二〇一六年四月二十日



附件二： 马铃薯淀粉生产企业会员单位情况

中国淀粉工业协会马铃薯淀粉专业委员会文件

中淀协马淀委发(2016)第9号

签发人:周庆锋

马铃薯淀粉生产企业会员单位情况

中国淀粉工业协会马铃薯淀粉专业委员会是全国从事马铃薯淀粉加工和深加工的生产、应用、流通、科研、设备制造等相关企、事业单位及相关行业工作者自愿组成的全国性行业组织、是非营利性的社会团体。

目前,中国淀粉工业协会马铃薯淀粉专业委员会共有43家马铃薯淀粉会员单位,均为国内规模较大,并且具有代表性和影响力的企业。我会43家马铃薯淀粉会员单位名称如下:

序号	企业名称	序号	企业名称
1	承德泓辉双合淀粉有限公司	23	庄浪县鑫喜淀粉加工有限责任公司
2	内蒙古华欧淀粉工业股份有限公司	24	讷河市家良淀粉食品有限公司
3	北大荒马铃薯产业有限公司	25	内蒙古蒙森农业科技股份有限公司
4	甘肃祁连雪淀粉工贸有限公司	26	静宁县红光淀粉有限责任公司
5	甘肃蓝天马铃薯产业发展有限公司	27	固原长城淀粉有限公司
6	宁夏绿色六盘农业发展有限公司	28	固原利华淀粉有限公司
7	榆林市新田源集团富元淀粉有限公司	29	庄浪县南湖镇成林三豪淀粉有限公司
8	固原亚雪淀粉集团	30	青海江河淀粉有限公司
9	土豆集(内蒙古)农业科技有限公司	31	张家口富鑫农业开发有限公司
10	青海威思顿薯业集团有限责任公司	32	沾源县鑫华农业科技发展有限公司

11	庄浪县宏达淀粉加工有限公司	33	沽源县邦谷农业开发有限公司
12	大兴安岭丽雪精淀粉公司	34	甘肃高原薯业有限责任公司
13	黑龙江鹏程优薯农业科技有限公司	35	定西陇峰淀粉制品有限责任公司
14	甘肃兴达淀粉工业有限责任公司	36	西吉县万里淀粉有限公司
15	内蒙古科鑫源食品集团	37	黑龙江省如意淀粉食品有限公司
16	云南云淀淀粉有限公司	38	达茂旗万禾淀粉加工厂
17	宁夏固原福宁广业有限责任公司	39	定西薯峰淀粉有限责任公司
18	围场满族蒙古族自治县斌发马铃薯淀粉有限公司	40	内蒙古锡林郭勒盟正蓝旗嘉然马铃薯淀粉厂
19	围场满族蒙古族自治县长宏马铃薯淀粉有限公司	41	呼伦贝尔鹤声薯业发展有限公司
20	固原雪冠淀粉有限责任公司	42	新疆疆达薯业有限公司
21	固原玉明淀粉有限公司	43	尼勒克县雪龙精淀粉有限责任公司
22	宁夏华晶淀粉有线责任公司		

根据各会员单位的数据汇总, 2012年至2016年1季度我会上述会员单位的合计马铃薯淀粉(优级品和一级品)总产量如下表所示:

会员单位合计	产量(吨)
2012年	211,213
2013年	187,622
2014年	263,226
2015年	306,622
2015年1季度	13,356
2016年1季度	8,007

以上情况, 特此说明。

中国淀粉工业协会马铃薯淀粉专业委员会



附件三： 关于马铃薯淀粉反补贴期终复审事务商讨会的会议纪要

附件三 非保密性概要

本附件为申请人内部对原产于欧盟的进口马铃薯淀粉提起反补贴措施期终复审申请事务商讨会的会议纪要和确认书。鉴于会议纪要和确认书涉及申请人的内部表决程序、反补贴期终复审工作方案、聘请律师事务所、律师费支付事宜以及对内对外保密工作等事宜，属于内部保密资料，只在协会及会员内部传印，对外披露将对申请人的日常管理运作以及会员单位的生产经营造成不便或其他不利影响，故申请保密处理，不予全文对外公开披露。但是，申请人提供非保密性概要如下：

根据《中国马铃薯淀粉专业委员会章程》的有关规定和年度工作安排，申请人召开会议，本次专题商讨会会员单位应到 43 家，实际到会 42 家，符合章程的有关规定。

会议审议通过了马铃薯淀粉反补贴期终复审工作方案；决定由中国淀粉工业协会马铃薯淀粉专业委员会作为申请人，代表国内马铃薯淀粉产业尽快向商务部提交反补贴措施期终复审申请材料；聘请北京市博恒律师事务所全权代理，会员单位同意积极配合协会、律师事务所以及国家调查机关的相关申请及或调查工作，并按照要求提供案件所需的相关材料和数据。

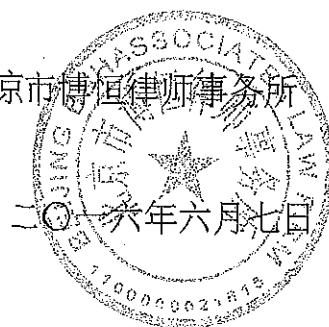
附件四： 律师指派书和律师执业证明

马铃薯淀粉反补贴措施期终复审调查申请律师指派书

为中国马铃薯淀粉产业对原产于欧盟的进口马铃薯淀粉产品所适用的反补贴措施进行期终复审调查申请之目的，中国淀粉工业协会马铃薯淀粉专业委员会授权北京市博恒律师事务所作为其全权代理人，代理题述案件的申请及调查工作。

北京市博恒律师事务所根据上述委托，特指派本所郭东平律师、蓝雄律师和贺京华律师共同代理，处理上述委托的与题述案件有关的全部事宜，同时指派本所律师助理姚峰文、曾新祥、耿令通和荆惠云处理上述委托的与题述案件有关的事宜，包括但不限于提交问卷答卷、提交问题单答复意见、提交评论意见、文件签收、公开信息查阅室查询并复印资料、资料收集等。

北京市博恒律师事务所



律师事务所 执业许可证

(副本)

证号:21101200310423105

北京市博恒
律师事务所,
符合《律师法》及《律师事务所管理办法》
规定的条件,准予设立并执业。

发证机关:北京市司法局

发证日期:2013年04月22日

执业机构 北京市博恒律师事务所

执业种类 专职律师

执业证号 1101200310402131

法律职业资格证 11010073020756

发证机关 北京市司法局

发证日期 2013 年 1 月 4 日



姓名 1101200310402131

持有人 郭本平

性别 男

身份证号 532721197702012418

执业机构 北京市信通律师事务所

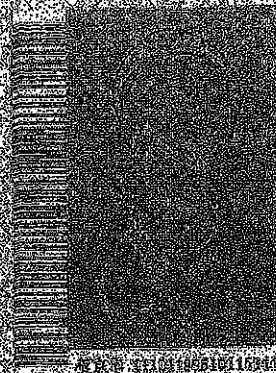
执业证类别 专职律师

执业证号 11010931011324

律师执业证号(京)司律证字 3805 号

发证机关 北京市司法局

发证日期 2013 年 12 月 11 日



姓名 刘京华

性别 男

身份证号 110106196209012259

执业机构 北京市博恒律师事务所

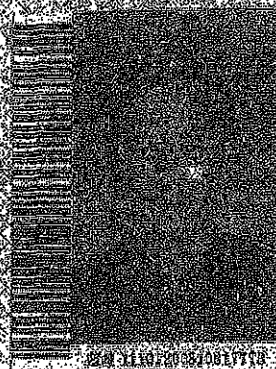
执业类别 专任律师

执业证号 1101200510817773

执业地址 北京市西城区
宣武门大街 101 号 100077

发证机关 北京市司法局

发证日期 2015 年 04 月 22 日



证号 1101200510817773

持证人 董菲

性别 女

身份证号 352614197412221617

附件五： 关于我国马铃薯淀粉生产和销售情况的说明

中国淀粉工业协会

中淀协[2016] 第 24 号

关于我国马铃薯淀粉生产和销售情况的说明

根据我会的统计, 2012 年至 2016 年 1 季度我国马铃薯淀粉的总产量和总销售数量如下所示:

单位: 万吨

期 间	产 量	销售数量
2012 年	31.74	28.94
2013 年	24.34	29.95
2014 年	35.77	32.78
2015 年	35.63	33.44
2015 年 1 季度	1.84	5.88
2016 年 1 季度	1.20	7.47

注: (1) 销售数量不含出口销售数据;

(2) 我会统计的马铃薯淀粉是指符合国标 GB/T8884-2007 优级品和一级品要求的马铃薯淀粉。

以上情况, 特此说明。



附件六： 中华人民共和国进出口税则，2012 年—2016 年版

中华人民共和国 海关进出口税则

十位编码·监管条件·申报目录·出口退税·政策法规·海关代征税一览表

2012年中英文对照版(附光盘)

中华人民共和国海关进出口税则 编委会 编

Customs Import and Export Tariff
of the People's Republic of China

Decade Coding of HS, Customs Control Conditions, Declares Contents,
Export Drawback, Regulations, Detailed Customs Duties Levied on Commission Basis

Compiled by the Editorial Department of the Customs
Import and Export Tariff of the people's Republic of China

经济日报出版社
Economic Daily Press

税则号列	货 品 名 称	最惠 (%)	普通	增值 税率	出口 退税	计量 单位	监管 条件	Article Description
1104.2200	--燕麦的	20	50	17		千克	AB	--Of oats
1104.2300	--玉米的		180	13		千克		--Of maize (corn)
1104.2300 01	经其他加工的玉米(配额内)	10	180	13		千克	4xAByt	Maize (corn) otherwise worked (in-quota)
1104.2300 90	经其他加工的玉米(配额外)	65	180	13		千克	4xABy	Maize (corn) otherwise worked (out-quota)
	--其他:							--Other:
1104.2910	---大麦的	65	114	13		千克	AB	---Of barley
1104.2990	---其他	20	50	13		千克	AB	---Other
1104.3000	-谷物胚芽,整粒、滚压、制片或磨碎的	20	50	17		千克	AB	-Germ of cereals, whole, rolled, flaked or ground
11.05	马铃薯的细粉、粗粉、粉末、粉片、颗粒及团粒:							Flour, meal, powder, flakes, granules and pellets of potatoes:
1105.1000	-细粉、粗粉及粉末	15	50	17	15	千克	AB	-Flour, meal and powder
1105.2000	-粉片、颗粒及团粒	15	50	17	15	千克	AB	-Flakes, granules and pellets
11.06	用税目 07.13 的干豆或税目 07.14 的西谷茎髓及植物根茎、块茎制成的细粉、粗粉及粉末;用第八章的产品制成的细粉、粗粉及粉末:							Flour, meal and powder of the dried leguminous vegetables of heading No. 07.13, of sago or of roots or tubers of heading No. 07.14; or of the products of Chapter 8;
1106.1000	-用税目 07.13 的干豆制成的	10	30	17	15	千克	AB	-Of the dried leguminous vegetables of heading No. 07.13
1106.2000	-用税目 07.14 的西谷茎髓及植物根茎、块茎制成的	20	50	17	15	千克	AB	-Of sago or of roots or tubers of heading No. 07.14
1106.3000	-用第八章的产品制成的	20	80	17	5,15	千克	AB	-Of the products of Chapter 8
11.07	麦芽,不论是否焙制:							Malt, whether or not roasted:
1107.1000	-未焙制	10	50	17	15	千克	AB	-Not roasted
1107.2000	-已焙制	10	50	17	15	千克	AB	-Roasted
11.08	淀粉;菊粉:							Starches; inulin:
	--淀粉:							--Starches:
1108.1100	--小麦淀粉	20	50	17		千克	AB	--Wheat starch
1108.1200	--玉米淀粉	20	50	17		千克	AB	--Maize (corn) starch
1108.1300	--马铃薯淀粉	15	50	17	15	千克	AB	--Potato starch
1108.1400	--木薯淀粉	10	50	17	15	千克	AB	--Manioc (cassava) starch
1108.1900	--其他	20	50	17	15	千克	AB	--Other starches
1108.2000	-菊粉	20	50	17	15	千克	AB	-Inulin
11.09	面筋,不论是否干制:							Wheat gluten, whether or not dried:
1109.0000	面筋,不论是否干制	18	80	17	15	千克	AB	Wheat gluten, whether or not dried

中华人民共和国 海关进出口税则

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Decade Coding of HS, Customs Control Conditions, Declare Contents,
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经济日报出版社
Economic Daily Press

税则号列	货 品 名 称	最惠 (%)	普通	增值 税率	出口 退税	计量 单位	监管 条件	Article Description
1104. 2200	--燕麦的	20	50	17		千克	AB	--Of oats
1104. 2300	--玉米的		180	13		千克		--Of maize (corn)
1104. 2300 01	经其他加工的玉米(配额内)	10	180	13		千克	4xAByt	Maize (corn) otherwise worked (in-quota)
1104. 2300 90	经其他加工的玉米(配额外)	65	180	13		千克	4xABy	Maize (corn) otherwise worked (out-quota)
	--其他:							--Other:
1104. 2910	--大麦的	65	114	13		千克	AB	--Of barley
1104. 2990	--其他	20	50	13		千克	AB	---Other
1104. 3000	--谷物胚芽,整粒、滚压、制片或磨碎的	20	50	17		千克	AB	-Germ of cereals, whole, rolled, flaked or ground
11. 05	马铃薯的细粉、粗粉、粉末、粉片、颗粒及团粒:							Flour, meal, powder, flakes, granules and pellets of potatoes:
1105. 1000	--细粉、粗粉及粉末	15	50	17	15	千克	AB	-Flour, meal and powder
1105. 2000	--粉片、颗粒及团粒	15	50	17	15	千克	AB	-Flakes, granules and pellets
11. 06	用税目 07.13 的干豆或税目 07.14 的西谷茎髓及植物根茎、块茎制成的细粉、粗粉及粉末;用第八章的产品制成的细粉、粗粉及粉末:							Flour, meal and powder of the dried leguminous vegetables of heading No. 07.13, of sago or of roots or tubers of heading No. 07.14; or of the products of Chapter 8:
1106. 1000	--用税目 07.13 的干豆制成的	10	30	17	15	千克	AB	-Of the dried leguminous vegetables of heading No. 07.13
1106. 2000	--用税目 07.14 的西谷茎髓及植物根茎、块茎制成的	20	50	17	15	千克	AB	-Of sago or of roots or tubers of heading No. 07.14
1106. 3000	--用第八章的产品制成的	20	80	17	5,15	千克	AB	-Of the products of Chapter 8
11. 07	麦芽,不论是否焙制:							Malt, whether or not roasted:
1107. 1000	--未焙制	10	50	17	15	千克	AB	-Not roasted
1107. 2000	--已焙制	10	50	17	15	千克	AB	-Roasted
11. 08	淀粉;菊粉:							Starches; inulin:
	--淀粉:							--Starches:
1108. 1100	--小麦淀粉	20	50	17		千克	AB	--Wheat starch
1108. 1200	--玉米淀粉	20	50	17		千克	AB	--Maize (corn) starch
1108. 1300	--马铃薯淀粉	15	50	17	15	千克	AB	--Potato starch
1108. 1400	--木薯淀粉	10	50	17	15	千克	AB	--Manioc (cassava) starch
1108. 1900	--其他	20	50	17	15	千克	AB	--Other starches
1108. 2000	--菊粉	20	50	17	15	千克	AB	-Inulin
11. 09	面筋,不论是否干制:							Wheat gluten, whether or not dried:
1109. 0000	面筋,不论是否干制	18	80	17	15	千克	AB	Wheat gluten, whether or not dried

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1104 2300	--玉米的		180	13		千克		--Of maize (corn)
1104 2300 01	经其他加工的玉米(配额内)	10	180	13		千克	4xAByt	Maize (corn) otherwise worked (in-quota)
1104 2300 90	经其他加工的玉米(配额外)	65	180	13		千克	4xABy	Maize (corn) otherwise worked (out-quota)
	--其他:							--Other:
1104 2910	---大麦的	65	114	13		千克	AB	---Of barley
1104 2990	---其他	20	50	13		千克	AB	---Other
1104 3000	--谷物胚芽, 整粒、滚压、制片或磨碎的	20	50	17		千克	AB	--Germ of cereals, whole, rolled, flaked or ground
11 05	马铃薯的细粉、粗粉、粉末、粉片、颗粒及团粒:							Flour, meal, powder, flakes, granules and pellets of potatoes:
1105 1000	--细粉、粗粉及粉末	15	50	17	15	千克	AB	--Flour, meal and powder
1105 2000	--粉片、颗粒及团粒	15	50	17	15	千克	AB	--Flakes, granules and pellets
11 06	用税目 07.13 的干豆或税目 07.14 的西谷 茎髓及植物根茎、块茎制成的细粉、粗粉及 粉末;用第八章的产品制成的细粉、粗粉及 粉末:							Flour, meal and powder of the dried leguminous vegetables of heading No. 07.13, of sago or of roots or tubers of heading No. 07.14; or of the products of Chapter 8:
1106 1000	--用税目 07.13 的干豆制成的	10	30	17	15	千克	AB	--Of the dried leguminous vegetables of heading No. 07.13
1106 2000	--用税目 07.14 的西谷茎髓及植物根茎、 块茎制成的	20	50	17	15	千克	AB	--Of sago or of roots or tubers of heading No. 07.14
1106 3000	--用第八章的产品制成的	20	80	17	5,15	千克	AB	--Of the products of Chapter 8
11 07	麦芽, 不论是否焙制:							Malt, whether or not roasted:
1107 1000	--未焙制	10	50	17	15	千克	AB	--Not roasted
1107 2000	--已焙制	10	50	17	15	千克	AB	--Roasted
11 08	淀粉; 菊粉:							Starches; inulin:
	--淀粉:							--Starches:
1108 1100	--小麦淀粉	20	50	17		千克	AB	--Wheat starch
1108 1200	--玉米淀粉	20	50	17		千克	AB	--Maize (corn) starch
1108 1300	--马铃薯淀粉	15	50	17	15	千克	AB	--Potato starch
1108 1400	--木薯淀粉	10	50	17	15	千克	AB	--Manioc (cassava) starch
1108 1900	--其他	20	50	17	15	千克	AB	--Other starches
1108 2000	--菊粉	20	50	17	15	千克	AB	--Inulin
11 09	面筋, 不论是否干制:							Wheat gluten, whether or not dried:
1109 0000	面筋, 不论是否干制	18	80	17	15	千克	AB	Wheat gluten, whether or not dried

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1104.2200	--燕麦的	20	50	17		千克	AB	--Of oats
1104.2300	--玉米的		180	13		千克		--Of maize (corn)
1104.2300 01	经其他加工的玉米(配额内)	10	180	13		千克	4xAByt	Maize (corn) otherwise worked (in-quota)
1104.2300 90	经其他加工的玉米(配额外)	65	180	13		千克	4xABy	Maize (corn) otherwise worked (out-quota)
	--其他:							--Other:
1104.2910	---大麦的	65	114	13		千克	AB	---Of barley
1104.2990	---其他	20	50	13		千克	AB	---Other
1104.3000	-谷物胚芽,整粒、滚压、制片或磨碎的	20	50	17		千克	AB	-Germ of cereals, whole, rolled, flaked or ground
11.05	马铃薯的细粉、粗粉、粉末、粉片、颗粒及团粒:							Flour, meal, powder, flakes, granules and pellets of potatoes;
1105.1000	-细粉、粗粉及粉末	15	50	17	15	千克	AB	-Flour, meal and powder
1105.2000	-粉片、颗粒及团粒	15	50	17	15	千克	AB	-Flakes, granules and pellets
11.06	用税目 07.13 的干豆或税目 07.14 的西谷茎髓及植物根茎、块茎制成的细粉、粗粉及粉末;用第八章的产品制成的细粉、粗粉及粉末:							Flour, meal and powder of the dried leguminous vegetables of heading No. 07.13, of sago or of roots or tubers of heading No. 07.14; or of the products of Chapter 8:
1106.1000	-用税目 07.13 的干豆制成的	10	30	17	15	千克	AB	-Of the dried leguminous vegetables of heading No. 07.13
1106.2000	-用税目 07.14 的西谷茎髓及植物根茎、块茎制成的	20	50	17	15	千克	AB	-Of sago or of roots or tubers of heading No. 07.14
1106.3000	-用第八章的产品制成的	20	80	17	5,15	千克	AB	-Of the products of Chapter 8
11.07	麦芽,不论是否焙制:							Malt, whether or not roasted.
1107.1000	-未焙制	10	50	17	15	千克	AB	-Not roasted
1107.2000	-已焙制	10	50	17	15	千克	AB	-Roasted
11.08	淀粉;菊粉:							Starches; inulin:
	-淀粉:							-Starches:
1108.1100	--小麦淀粉	20	50	17		千克	AB	--Wheat starch
1108.1200	--玉米淀粉	20	50	17		千克	AB	--Maize (corn) starch
1108.1300	--马铃薯淀粉	15	50	17	15	千克	AB	--Potato starch
1108.1400	--木薯淀粉	10	50	17	15	千克	AB	--Manioc (cassava) starch
1108.1900	--其他	20	50	17	15	千克	AB	--Other starches
1108.2000	-菊粉	20	50	17	15	千克	AB	-Inulin
11.09	面筋,不论是否干制:							Wheat gluten, whether or not dried:
109.0000	面筋,不论是否干制	18	80	17	15	千克	AB	Wheat gluten, whether or not dried

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1104.2300	--玉米的		180	13		千克		--Of maize (corn)
1104.2300 01	经其他加工的玉米(配额内)	10	180	13		千克	4xAByt	Maize (corn) otherwise worked (in-quota)
1104.2300 90	经其他加工的玉米(配额外)	65	180	13		千克	4xABy	Maize (corn) otherwise worked (out-quota)
	--其他:							--Other:
1104.2910	--大麦的	65	114	13		千克	AB	--Of barley
1104.2990	--其他	20	50	13		千克	AB	--Other
1104.3000	--谷物胚芽,整粒、滚压、制片或磨碎的	20	50	17		千克	AB	--Germ of cereals, whole, rolled, flaked or ground
11.05	马铃薯的细粉、粗粉、粉末、粉片、颗粒及团粒:							Flour, meal, powder, flakes, granules and pellets of potatoes:
1105.1000	--细粉、粗粉及粉末	15	50	17	15	千克	AB	--Flour, meal and powder
1105.2000	--粉片、颗粒及团粒	15	50	17	15	千克	AB	--Flakes, granules and pellets
11.06	用税目 07.13 的干豆或税目 07.14 的西谷茎髓及植物根茎、块茎制成的细粉、粗粉及粉末;用第八章的产品制成的细粉、粗粉及粉末:							Flour, meal and powder of the dried leguminous vegetables of heading No. 07.13, of sago or of roots or tubers of heading No. 07.14; or of the products of Chapter 8:
1106.1000	--用税目 07.13 的干豆制成的	10	30	17	15	千克	AB	--Of the dried leguminous vegetables of heading No. 07.13
1106.2000	--用税目 07.14 的西谷茎髓及植物根茎、块茎制成的	20	50	17	15	千克	AB	--Of sago or of roots or tubers of heading No. 07.14
1106.3000	--用第八章的产品制成的	20	80	17	5,15	千克	AB	--Of the products of Chapter 8
11.07	麦芽,不论是否焙制:							Malt, whether or not roasted:
1107.1000	--未焙制	10	50	17	15	千克	AB	--Not roasted
1107.2000	--已焙制	10	50	17	15	千克	AB	--Roasted
11.08	淀粉;菊粉:							Starches; inulin:
	--淀粉:							--Starches:
1108.1100	--小麦淀粉	20	50	17		千克	AB	--Wheat starch
1108.1200	--玉米淀粉	20	50	17	13	千克	AB	--Maize (corn) starch
1108.1300	--马铃薯淀粉	15	50	17	15	千克	AB	--Potato starch
1108.1400	--木薯淀粉	10	50	17	15	千克	AB	--Manioc (cassava) starch
1108.1900	--其他	20	50	17	15	千克	AB	--Other starches
1108.2000	--菊粉	20	50	17	15	千克	AB	--Inulin
11.09	面筋,不论是否干制:							Wheat gluten, whether or not dried:
1109.0000	面筋,不论是否干制	18	80	17	15	千克	AB	Wheat gluten, whether or not dried

附件七： 中华人民共和国海关总署马铃薯淀粉进口数据统计

马铃薯淀粉进口数据统计表

期 间	国别/地区	数量 (吨)	金额 (美元)	价格 (美元/吨)	数量所占比例	数量变化幅度	价格变化幅度
2012 年	中国总进口	37,353.10	28,894,100	773.54	100.00%	-	-
	欧盟	34,630.34	26,909,016	777.04	92.71%	-	-
2013 年	中国总进口	36,729.51	29,050,762	790.94	100.00%	-1.67%	2.25%
	欧盟	30,063.67	23,607,986	785.27	81.85%	-13.19%	1.06%
2014 年	中国总进口	30,156.751	26,328,628	873.06	100.00%	-17.90%	10.38%
	欧盟	26,652.16	23,449,835	879.85	88.38%	-11.35%	12.04%
2015 年	中国总进口	65,575.58	46,267,753	705.56	100.00%	117.45%	-19.18%
	欧盟	57,219.50	40,117,487	701.12	87.26%	114.69%	-20.31%
2015 年 1 季度	中国总进口	12,523.57	9,215,531.00	735.85	100.00%	-	-
	欧盟	11,723.00	8,591,081	732.84	93.61%	-	-
2016 年 1 季度	中国总进口	9,661.88	6,976,983.00	722.11	100.00%	-22.85%	-1.87%
	欧盟	8,680.43	6,340,624	730.45	89.84%	-25.95%	-0.33%

注：数据来源于海关总署信息中心，具体参见后附海关数据。

2012年12月进口八位商品/国别量值表

3287

单位: 美元

八位商品	国别	计量单位	1至12月累计	
			数 量	金 额
11081300 马铃薯淀粉		千克	37,353,103	28,894,100
	109 朝鲜		1,884,465	814,940
	115 以色列		150	318
	116 日本		68,587	356,843
	133 韩国		889	7,417
	143 台澎金马关税区		1,648	2,146
	302 丹麦		1,944,535	1,760,258
	304 德国		18,921,184	15,204,030
	305 法国		808,800	574,852
	309 荷兰		12,094,820	8,743,236
	327 波兰		861,000	626,640
	502 美国		247,000	494,000
	601 澳大利亚		520,000	309,400
	701 国(地)别不详		25	20
	欧盟		34,630,339	26,909,016

2013年12月进口八位商品/国别量值表

3287

单位: 美元

八位商品	国别	计量单位	1至12月累计	
			数 量	金 额
11081300 马铃薯淀粉		千克	36,729,506	29,050,762
	109 朝鲜		597,650	298,825
	116 日本		70,812	307,716
	143 台澎金马关税区		15,149	17,674
	302 丹麦		3,747,250	2,761,070
	304 德国		17,290,400	13,822,986
	305 法国		505,450	352,322
	309 荷兰		7,092,574	5,651,680
	327 波兰		1,428,000	1,019,928
	340 白俄罗斯		4,516,000	3,426,320
	502 美国		483,810	748,823
	601 澳大利亚		940,000	559,300
	701 国(地)别不详		42,411	84,118
	欧盟		30,063,674	23,607,986

2014年12月进口八位商品/国别量值表

3287

单位: 美元

八位商品	国别	计量单位	1至12月累计	
			数 量	金 额
11081300 马铃薯淀粉		千克	30,156,751	26,328,628
	103 孟加拉国		200,000	122,366
	109 朝鲜		1,210,328	605,165
	111 印度		10	1,827
	112 印度尼西亚		19,950	14,165
	116 日本		47,172	221,795
	132 新加坡		2,016	3,533
	136 泰国		293,975	205,912
	137 土耳其		24,000	47,521
	143 台澎金马关税区		9,046	9,973
	302 丹麦		2,631,750	2,086,465
	304 德国		12,577,391	11,268,436
	305 法国		773,017	612,784
	309 荷兰		10,670,000	9,482,074
	327 波兰		1	76
	340 白俄罗斯		42,000	30,660
	502 美国		1,026,814	1,173,076
	601 澳大利亚		580,000	345,100
	701 国(地)别不详		49,281	97,700
	欧盟		26,652,159	23,449,835

2015年12月进口八位商品/国别量值表

3287

单位: 美元

八位商品	国别	计量单位	1至12月累计	
			数 量	金 额
11081300 马铃薯淀粉		千克	65,575,583	46,267,753
	109 朝鲜		2,971,351	1,493,779
	111 印度		3	765
	112 印度尼西亚		400,025	247,439
	116 日本		92,136	350,149
	143 台澎金马关税区		17,830	18,765
	301 比利时		120,000	93,600
	302 丹麦		2,143,010	1,743,363
	304 德国		23,115,788	15,932,028
	305 法国		520,704	312,347
	307 意大利		2	24
	309 荷兰		30,940,000	21,797,344
	327 波兰		380,000	238,781
	340 白俄罗斯		1,050,000	706,125
	347 乌克兰		42,000	21,274
	502 美国		3,003,397	2,738,540
	601 澳大利亚		700,000	416,500
	701 国(地)别不详		79,337	156,930
	欧盟		57,219,504	40,117,487

2015年1季进口八位商品/国别量值表

3287

单位: 美元

八位商品	国别	计量单位	1至1季累计	
			数 量	金 额
11081300 马铃薯淀粉		千克	12,523,573	9,215,531
	109 朝鲜		550,208	276,794
	111 印度		1	266
	116 日本		20,285	69,783
	143 台澎金马关税区		3,029	3,875
	301 比利时		120,000	93,600
	302 丹麦		568,500	511,478
	304 德国		2,704,500	1,892,003
	305 法国		80,000	40,000
	309 荷兰		8,250,000	6,054,000
	502 美国		112,000	184,443
	601 澳大利亚		100,000	59,500
	701 国(地)别不详		15,050	29,789
	欧盟		11,723,000	8,591,081

2016年1季进口八位商品/国别量值表

3287

单位: 美元

八位商品	国别	计量单位	1至1季累计	
			数 量	金 额
11081300 马铃薯淀粉		千克	9,661,875	6,976,983
	109 朝鲜		583,340	293,720
	112 印度尼西亚		159,950	115,164
	116 日本		31,769	94,602
	143 台澎金马关税区		4,385	6,173
	302 丹麦		1,124,250	823,311
	304 德国		1,962,131	1,478,971
	305 法国		664,050	395,450
	309 荷兰		4,720,000	3,512,692
	327 波兰		210,000	130,200
	347 乌克兰		42,000	31,500
	601 澳大利亚		160,000	95,200
	欧盟		8,680,431	6,340,624

附件八： 反补贴原审案件最终裁定

商务部公告 2011 年第 54 号 关于原产于欧盟的进口马铃薯淀粉反补贴调查的最终裁定公告

【发布单位】中华人民共和国商务部

【发布文号】公告 2011 年第 54 号

【发布日期】2011-09-16

根据《中华人民共和国反补贴条例》的规定，商务部于 2010 年 8 月 30 日发布立案公告，决定对原产于欧盟的进口马铃薯淀粉进行反补贴调查。

商务部对被调查产品是否存在补贴和补贴金额、被调查产品是否对中国马铃薯淀粉产业造成损害及损害程度以及补贴与损害之间的因果关系进行了调查。根据调查结果和《中华人民共和国反补贴条例》第二十五条的规定，商务部于 2011 年 5 月 16 日发布初裁公告，认定被调查产品存在补贴，中国国内马铃薯淀粉产业受到了实质损害，而且补贴与实质损害之间存在因果关系。

初步裁定后，商务部继续对补贴和补贴金额、损害和损害程度以及补贴与损害之间因果关系进行调查。现案件调查结束，根据调查结果，并依据《中华人民共和国反补贴条例》第二十六条的规定，商务部作出最终裁定（见附件）。现将有关事项公告如下：

一、最终裁定

经过调查，商务部最终裁定，在案件调查期内，原产于欧盟的进口被调查产品存在补贴，中国国内马铃薯淀粉产业受到了实质损害，而且补贴与实质损害之间存在因果关系。

二、被调查产品及调查范围

调查范围：原产于欧盟的进口马铃薯淀粉

被调查产品名称：马铃薯淀粉，也称马铃薯原淀粉、马铃薯精制淀粉、马铃薯生粉、土豆淀粉或洋芋淀粉等英文名称：Potato Starch

被调查产品的具体描述：马铃薯淀粉是以马铃薯为原料加工而成的由多葡萄糖分子组成的一种白色粉状物，其理化指标为：白度（457nm 蓝光反射率） $\geq 90\%$ ，水份 $\leq 20\%$ ，粘度（4%浓度，700cmg） $\geq 1100\text{BU}$ ，蛋白质（干物质中含量） $\leq 0.15\%$ 。

主要用途：马铃薯淀粉在中国主要用于食品行业，是生产乳化剂、增稠剂、稳定剂、膨化剂、赋形剂等的重要原料，广泛应用于膨化食品，方便食品，香肠、火腿肠等肉类制品，冷冻食品，酱类、泥类、汤类食品，饮料，酱料，烹饪，制糖，水产品加工等行业。

税则号：该产品归在《中华人民共和国进出口税则》：11081300。

三、征收反补贴税

根据《中华人民共和国反补贴条例》第三十九条的规定，商务部向国务院关税税则委员会提出对原产于欧盟的进口马铃薯淀粉征收反补贴税的建议。国务院关税税则委员会根据商

务部的建议作出决定,自本公告发布次日起,对原产于欧盟的进口马铃薯淀粉征收反补贴税。

对各公司征收的反补贴税税率如下:

1、法国罗盖特公司 7.5%

(ROQUETTEFRERES)

2、荷兰艾维贝公司 12.4%

(AVEBEU.A.)

3、德国艾维贝马铃薯淀粉工厂 12.4%

(AvebeKartoffelstarkefabrikPrignitz/WendlandGmbH)

4、其他欧盟公司 12.4%

(AllOthers)

自2011年9月17日起,进口经营者在进口原产于欧盟的进口马铃薯淀粉时,应向中华人民共和国海关缴纳相应的反补贴税。反补贴税以海关审定的完税价格从价计征,计算公式为:反补贴税额=海关完税价格×反补贴税税率。进口环节增值税以海关审定的完税价格加上关税和反补贴税作为计税价格从价计征。

对自2011年5月19日起至本决定公告之日止,有关进口经营者依初裁决定向中华人民共和国海关所提供的临时反补贴税保证金,按终裁所确定的征收反补贴税的商品范围和反补贴税税率计征并转化为反补贴税,并按相应的增值税税率计征进口环节增值税。对在此期间有关进口经营者所提供的保证金超出反补贴税和与之相应的进口环节增值税的部分,海关予以退还,少征部分则不再征收。

对实施临时反补贴措施决定公告之日前进口的原产于欧盟的进口马铃薯淀粉不再追溯征收反补贴税。

对原产于欧盟的进口马铃薯淀粉征收反补贴税,实施期限自2011年9月17日起5年。

四、复审

在征收反补贴税期间,有关利害关系方可根据《中华人民共和国反补贴条例》的相关规定,向调查机关书面申请复审。

五、行政复议和行政诉讼

对本案终裁决定及征收反补贴税的决定不服的,根据《中华人民共和国反补贴条例》第五十二条的相关规定,可以依法申请行政复议,也可以向人民法院提起诉讼。

六、本公告自 2011 年 9 月 17 日起执行

特此公告

附件：中华人民共和国商务部关于原产于欧盟的进口马铃薯淀粉反补贴调查的最终裁定

二〇一一年九月十六日

不构成实质性差别。

4. 荷兰艾维贝公司和德国艾维贝马铃薯淀粉工厂在其提交的国外（地区）生产者/出口商调查问卷答卷中明确承认，中国新建工厂和欧洲工厂在技术和机器设备的使用上没有差别，所生产的马铃薯淀粉可以与欧洲工厂相比；在中国市场，来自荷兰和德国艾维贝的马铃薯淀粉与中国生产商的马铃薯淀粉产品相互竞争。[详见荷兰艾维贝公司和德国艾维贝马铃薯淀粉工厂国外（地区）生产者/出口商调查问卷答卷第 10 页]法国罗盖特公司在实地核查过程中也向调查机关确认，在中国国内马铃薯淀粉的主要应用领域食品行业中，中国生产者生产的符合国家标准中优级品和一级品标准的马铃薯淀粉与被调查产品可以替代使用，两者在市场上存在竞争关系。

（二）国内产业的认定。

根据《反补贴条例》第十一条和《反补贴产业损害调查规定》第十三条的规定，调查机关对本案国内产业范围进行了审查。

现有证据显示，调查期内，本案中提交国内生产者调查问卷答卷 15 家国内生产者的同类产品产量占国内同类产品总产量的比例分别为 47.04%、55.57%和 70.52%，符合《反补贴条例》第十一条和《反补贴产业损害调查规定》第十三条关于国内产业认定的规定，可以代表国内产业。本案裁决依据的国内产业数据，除特别说明外，均来自上述 15 家国内生产者问卷答卷企业。

四、补贴和补贴金额

根据申请人的申请，在应诉各方无异议情况下，调查机关决定以 17 年作为本案一次性补贴利益的调查和分摊期，即对补贴调查期内及之前 16 年中可能给应诉公司带来利益的财政资助以及任何形式的收入或价格支持展开调查。

调查问卷要求，应诉公司及其符合条件的关联公司均应填答问卷，法国罗盖特公司、荷兰艾维贝公司和德国艾维贝马铃薯淀粉工厂分别递交补贴答卷。其中，德国艾维贝马铃薯淀粉工厂声称，其为荷兰艾维贝公司的全资子公司，仅负责生产，其生产的产品全部由其母公司荷兰艾维贝公司以荷兰艾维贝公司名义进行销售。经审查，调查机关认为，德国艾维贝马铃薯淀粉工厂虽然是单独的法律实体，但其仅负责生产，实质上为荷兰艾维贝公司的一个生产部门。调查机关决定在计算从价补贴率时将荷兰艾维贝公司及德国艾维贝马铃薯淀粉工厂合并计算，并最终适用同一从价补贴率。在调查中，调查机关依据获得补贴利益的产品范围分摊补贴项目的利益。

荷兰艾维贝公司和德国艾维贝马铃薯淀粉工厂在初裁后评论意见中认为，如按照从价补贴率征收反补贴税，在出现价格上涨时，会超过认定的补贴金额，主张调查机关在终裁中采取从量征税的方法。调查机关认为，本案以调查期内应诉公司提交的信息来计算应诉公司的从价补贴率，这一做法是适当的。并且，采取从价补贴率的方法征收反补贴税符合中国的反补贴实践和世贸组织规则。应诉公司仅以远远超出调查期之外的某个月份的海关数据作为证明文件，其主张缺乏充分的证据支持，调查机关不予接受。

通过初裁后继续调查和实地核查，调查机关对各补贴项目作如下认定：

（一）马铃薯淀粉生产商补贴

初裁中，调查机关认定欧盟通过提供资金资助的方式向欧盟马铃薯淀粉生产商提供财政资助，并产生利益，构成了《反补贴条例》项下可采取反补贴措施的补贴。

1. 财政资助的认定

初裁中，调查机关认定，欧盟理事会第 1234/2007 条例第 95 款明确规定向马铃薯淀粉生产商提供资金资助，欧盟通过欧洲农业担保基金为该项目提供资金，属欧盟财政预算，该项目由欧盟和成员国的部门依据欧盟法律共同管理实施。

初裁后，调查机关对初裁中认定的事实进行了进一步调查。在实地核查中，调查机关在欧盟和成员国政府对实施该项目的法律依据、管理实施部门、资金来源、项目的申请、检查、批准及拨付情况等内容进行了核实，确认了上述事实：欧盟在配额范围内向马铃薯淀粉生产商提供资金资助，资助标准为每吨马铃薯淀粉 22.25 欧元；该项目资金来源于欧洲农业担保基金，属欧盟财政预算；该项目的管理方式为共管制，即由欧盟和成员国政府共同管理实施；欧盟负责制定法律和进行监管，成员国负责具体执行；各成员国的具体执行方式并不完全相同，但均需符合欧盟的法律规定；在欧盟层面该项目的主管机构是欧盟委员会，成员国的主管机构是其农业部门和经欧盟认证的付款机构。

调查证据显示，初裁中认定的事实并没有发生改变，调查机关决定在终裁中继续维持初裁中关于财政资助的认定，即欧盟向马铃薯淀粉生产商提供了《反补贴条例》第三条项下的财政资助。

2. 专向性的认定

初裁中，调查机关认定，根据欧盟理事会第 1234/2007 条例第 95A 款和欧委会第 571/2009 条例，欧盟向特定产业，即符合条件的马铃薯淀粉生产商，提供财政资助，具有专向性。

初裁后，调查机关对初裁中认定的事实进行了进一步调查。在实地核查中，调查机关在欧盟和成员国政府对该项目的授予对象和补贴标准等内容进行了核实，确认了上述事实：在配额范围内，欧盟向符合条件的马铃薯淀粉生产商提供财政资助，资助标准均为每吨马铃薯淀粉 22.25 欧元；为获得该项目下资助，马铃薯淀粉生产商具体需要满足的条件包括（1）在配额范围内生产马铃薯淀粉，（2）每年须基于配额与淀粉马铃薯种植者签订种植合同，（3）基于种植合同所采购的淀粉马铃薯的淀粉含量不得低于 13%，（4）马铃薯淀粉生产商不能低于法律要求的最低价格向淀粉马铃薯种植者采购淀粉马铃薯。

欧盟初裁后的评论意见，“鉴于补偿可以通过适当特定奖励的形式支付，鉴于授予马铃薯淀粉生产部门的奖励必须以向马铃薯种植者支付最低采购价格为条件”也进一步确认了上述条件。

因此，现有调查证据显示，初裁中认定的事实没有发生改变，即该项目只针对特定产业——马铃薯淀粉生产商提供资助。因此，调查机关决定在终裁中继续维持初裁的认定，即该项目具有专向性。

3. 补贴利益的确定

初裁中,调查机关认定,欧盟对于该项目的资金资助增加了马铃薯淀粉生产商的现金收入,降低了被调查产品的生产成本,进而使其获得利益,并根据调查期内应诉公司在该项目下获得的资助数额、马铃薯淀粉生产数量和向中国出口被调查产品的 CIF 价格,计算了应诉公司的从价补贴率。

三家应诉公司对调查机关在初裁中关于利益的认定并无异议,欧盟则在初裁后评论中表示,“没有证据显示该项目仅用于补偿马铃薯淀粉生产商较之谷物淀粉生产商的不利;正如欧洲理事会第 1543/93 条例所明确指出的,‘鉴于补偿可以通过适当特定奖励的形式支付,鉴于授予马铃薯淀粉生产部门的奖励必须以向马铃薯种植者支付最低采购价格为条件’,马铃薯淀粉生产商必须支付的最低采购价格是其可以获得该项目资助的原因之一。”

根据《反补贴条例》第六条的规定,以拨款形式提供的补贴,补贴金额以企业实际接受的金额计算,公司在该项目下获得的补贴金额,即利益额,为其实际收到的资助金额。因此,调查机关认为,上述评论意见并不影响调查机关对补贴利益的认定。

初裁后,调查机关对初裁中认定的事实进行了进一步调查。在实地核查中,调查机关在成员国政府就该项目下实际拨付应诉公司资助的情况,应诉公司获得该项目下资助及其账务处理的情况,应诉公司被调查产品的生产和销售情况等内容进行了核实,并了解到如下情况:在配额范围内,欧盟按照马铃薯淀粉的理论产量向符合条件的马铃薯淀粉生产商提供每吨马铃薯淀粉 22.25 欧元的现金资助;应诉公司将收到的该项目下现金资助记录为成本的减项,应诉公司会计系统所记录的该项目下资助数额与答卷数额一致;而且,应诉公司马铃薯淀粉的实际产量高于其理论淀粉产量。

因此,现有调查证据显示,初裁中认定的事实没有发生改变,欧盟对于该项目的资金资助增加了马铃薯淀粉生产商的现金收入,降低了被调查产品的生产成本,进而使其获得利益。

在终裁中,调查机关以应诉公司在调查期内在该项目下获得的资助数额除以其马铃薯淀粉实际生产数量,得到公司单位马铃薯淀粉在该项目下获得的利益额,再除以公司在调查期内向中国销售被调查产品的 CIF 价格,计算得到法国罗盖特公司在该项目下的从价补贴率为 7.5%,荷兰艾维贝公司和德国艾维贝马铃薯淀粉工厂在该项目下的从价补贴率为 6.3%。

为了充分尊重利害关系方的权利,调查机关对欧盟初裁后评论意见进行了进一步调查,并再次指出:该评论意见仅说明马铃薯淀粉生产商获得该项目资助的条件之一是支付最低采购价格,该项目的设立目的不应与该项目的授予条件混为一谈,不能在上下文缺失的情况下简单地推断该项目下的资助是用于补偿淀粉马铃薯最低采购价格。对此,调查机关认为,调查机关并没有否认马铃薯淀粉生产商获得该项目资助的条件之一是支付最低采购价格,但现有调查证据均显示,该项目设立的目的是对马铃薯淀粉生产商较之谷物淀粉生产商的不利地位的补偿。具体理由如下:

首先,如初裁所述,欧盟和应诉公司在原始答卷和补充答卷中均明确表示该项目下资助是用于补偿马铃薯淀粉生产商较之谷物淀粉生产商的不利地位。

其次,在实地核查中,调查机关对上述主张进行了核实,欧委会农业总司和成员国政府农业部门官员均明确表示,设置该项目的目的是弥补马铃薯淀粉生产商较之谷物淀粉生产商所存在的劣势,该项目是项平衡津贴。其中,欧委会农业总司官员指出,该项目设立以来资助标准没有显著变化,最初该项目的标准是每吨马铃薯淀粉18.67欧元,1995年,由于货币兑换比例的原因,资助标准提升至每吨马铃薯淀粉22.25欧元,之后就一直未发生变化。设定资助标准时,主要考虑玉米淀粉和马铃薯淀粉直接竞争,但玉米淀粉的生产更具优势。玉米淀粉可全年生产,而马铃薯淀粉的生产有周期性,该项目下资助是为了补偿马铃薯淀粉生产商的结构性损失,该标准可以充分弥补马铃薯淀粉生产者的损失。在实地核查中,法国罗盖特公司也指出,欧盟共同农业政策项下对马铃薯淀粉的干预政策,均来自于马铃薯淀粉与玉米淀粉政策的对接,但实际上两者差异较大,马铃薯淀粉的原材料不宜储存和运输,而且生产马铃薯淀粉还要承担其他额外成本,如只能在全年的6个月中生产。因此,欧盟在原始答卷和补充答卷中关于设立该项目目的是对马铃薯淀粉生产商较之谷物淀粉生产商不利地位的补偿的主张在实地核查中得到了确认。综上,调查机关认为,本案初裁中认定的事实并没有发生改变,即该项目下资助是对马铃薯淀粉生产商较之谷物淀粉生产商所面临的不利地位的补偿。

再次,调查机关认为,综合分析欧盟的共同农业政策立法背景和目的以及对淀粉马铃薯生产商及其上下游的干预措施,可以发现,淀粉马铃薯最低采购价格是欧盟根据其各种客观因素所确定的采购价格标准,是欧盟在其综合干预体系下所认为的合理价格安排,并通过法律的形式予以规定。因此,调查机关认为,欧盟淀粉马铃薯最低采购价格要求是马铃薯淀粉生产商在欧盟共同农业政策下生产马铃薯淀粉的必要支出,也是欧盟认为的合理支出,而该项目实际使得应诉公司在必要支出的基础上获得额外资助资金,增加了其现金收入。

最后,调查机关认为,尽管调查机关在原始及补充问卷中反复要求欧盟提供能够证明该项目设立目的的相关法律文件,但欧盟始终未能提供过欧洲理事会1543/93条例的任何具体条款,而仅是在初裁后评论中引用上述条款部分内容,并未提交该条例甚至该条款的完整内容。

因此,调查机关决定在终裁中继续维持初裁认定。

(二) 淀粉马铃薯种植者补贴

在初裁中调查机关认定欧盟通过提供拨款的方式向淀粉马铃薯(以下称马铃薯)种植者提供财政资助,并产生利益,构成了《反补贴条例》项下的可采取反补贴措施的补贴。

1. 财政资助的认定

初裁中,调查机关认定,欧盟通过立法设立淀粉马铃薯种植者补贴项目,明确规定向符合条件的马铃薯种植者提供现金资助,构成财政资助。

初裁后,调查机关对初裁中认定的事实进行了进一步的调查。通过实地核查,调查机关确认了以下事实:2009年欧盟理事会第73/2009条例第77和78条是关于建立该项补贴的条款,具体规定为“2009至2011农事年,种植马铃薯的农户将获得补贴,补贴金额以生产一吨马铃薯淀粉为基数进行计算。一吨马铃薯淀粉的补贴金额为66.32欧元”。该条例附件十二明确规定了该项目下欧盟给予马铃薯种植者的补贴预算总金额和各成员国之间的分配额。

在实地核查中，欧委会农业总司的官员向调查机关确认，该项目资金来源于欧洲农业担保基金，属于欧盟财政预算。该项目由欧盟与成员国共同负责管理和实施。具体为，欧盟理事会和欧盟委员会负责制定该项目的整体法律框架，该项目的补贴金额标准、补贴申请和审查条件等均由欧盟相关法律和条例所规定。欧委会农业总司负责马铃薯淀粉配额的管理、淀粉补贴项目预算的分配，并就成员国在该项目下的支付进行返还、以及监管成员国对有关法律要求的遵守情况。成员国则按照欧盟法律规定负责接受申请，审核该申请是否符合资助条件以及拨付补贴等工作。成员国负责该项目实施的部门各不相同，有的是由政府农业部门直接负责，有的是由独立于政府之外的支付代理机构负责。这些支付代理机构都经过欧盟的资格认证，其日常运转的经费来自各成员国政府。

通过实地核查，调查机关进一步确认，该项目下补贴的申请和支付流程为，马铃薯种植者直接或通过与其签订种植采购合同的淀粉生产商向成员国的农业部门或支付代理机构提出申请，成员国农业部门或支付代理机构经审核后向合格的申请人发放该项目下的补贴。此后，成员国农业部门或支付代理机构向欧委会农业总司申请返还其所发放的补贴。欧委会农业总司和成员国官员均确认，所有符合欧盟法律规定条件的申请人均将获得补贴。调查期内，没有任何该项目下的申请被拒绝。

调查机关认为，实地核查中发现的事实与初裁中认定的事实一致，即欧盟通过立法设立该项目，明确规定向符合条件的马铃薯种植者提供现金资助，项目资金来源于欧盟预算，并由欧盟和成员国政府部门依据欧盟法律共同管理。因此，调查机关决定在终裁维持初裁中关于财政资助的认定。《反补贴条例》第三条规定，出口国（地区）政府或者任何公共机构，以拨款形式直接提供资金构成财政资助。欧盟通过立法明确规定向马铃薯种植者提供现金资助，符合《反补贴条例》第三条的规定，构成财政资助。

2. 专向性的认定

在初裁中，调查机关认定该补贴项目具有专向性。

经过初裁后的进一步调查和实地核查，调查机关确认以下事实：种植者获得该项目下补贴的基本条件是必须按照欧盟法律规定与淀粉生产商签订种植采购合同，并完成合同约定的供货义务。关于种植采购合同，欧盟理事会第 571/2009 号条例规定，种植采购合同应当包括下列主要内容：（1）淀粉生产商按照不低于欧盟委员会制定的工厂交货最低价格向种植者购买马铃薯；（2）基于欧盟委员会确定的配额，签订种植采购合同；（3）种植者出售给淀粉生产商的马铃薯淀粉含量不得低于 13%。

在实地核查中，接受核查的欧委会农业总司及成员国官员均表示，欧盟没有标准的种植采购合同模板，但只要包含法律规定要件的合同，就是有效的合同。而种植者只有在有效合同规定的数量范围内向淀粉生产商供货，才能获得该项目下的补贴。同时，接受核查的应诉公司人员表示，在马铃薯淀粉配额机制下，马铃薯淀粉配额决定了生产商的淀粉产量，淀粉生产商每年从政府获得生产配额后，根据配额与种植者签订种植采购合同。种植者根据种植采购合同确定其应播种的马铃薯数量。调查机关认为，上述事实与初裁中认定的事实一致，即根据欧盟法律规定，只有符合特定条件的马铃薯种植者，才有资格申请并获得该项目下的补贴。

通过对应诉公司的实地核查,调查机关确认,向荷兰艾维贝公司提供马铃薯的种植者主要是作为公司股东的荷兰或德国的农民;向德国艾维贝马铃薯淀粉工厂提供马铃薯的种植者既包括荷兰艾维贝公司股东,也包括与公司签订长期种植采购合同的农民;向法国罗盖特公司提供马铃薯的种植者为独立于公司之外的农户。种植者均须按照法律规定与应诉公司签订种植采购合同并履行供货义务后,才可以获得该项目下的补贴。

在实地核查中,接受核查的欧委会农业总司及成员国官员和应诉公司人员都承认,与应诉公司签订种植采购合同的种植者,其一般都分布在距应诉公司生产工厂 40 至 100 公里的半径内。由于马铃薯种植的特点,如气候、土壤、不适于长途运输等,决定了马铃薯淀粉工厂一般只与其工厂周边范围内的种植者签订种植采购合同。欧委会也鼓励淀粉生产商就近采购马铃薯并进行生产。除此之外,欧盟法律禁止淀粉生产商从其他途径购买马铃薯。在欧盟内不存在公开的、自由交易的马铃薯市场,也没有可供比较的马铃薯国际报价。

因此,调查机关认定,上述事实表明,根据欧盟法律规定,获得本项目下补贴的对象,只能是与马铃薯淀粉生产商签订种植采购合同的马铃薯种植者。由于马铃薯淀粉配额机制的存在和马铃薯的种植特点,也决定了只有位于欧盟境内,并受种植采购合同约束的马铃薯种植者才可以获得该项目下的补贴。《反补贴条例》第四条规定,由出口国(地区)法律、法规明确规定的某些企业、产业获得的补贴具有专向性。调查机关决定在终裁中维持初裁的认定,即欧盟在该项目下对符合特定条件的马铃薯种植者提供的补贴具有专向性。

3. 补贴利益的确定

初裁中,调查机关认定马铃薯淀粉生产商获得了该项目下的补贴利益,并将欧盟法律规定的种植者总收入(即法律规定的马铃薯采购最低限价与该项目的资助标准之和)推定为公平的马铃薯市场价格,用该价格与各应诉公司的实际采购价格进行比较,其差异即为各应诉公司在该项目下所获得的补贴利益。初裁后,欧盟、荷兰艾维贝公司和德国艾维贝马铃薯淀粉工厂(两家公司为关联公司,以下统称艾维贝公司)均就该项目提交了评论意见。在对各方评论意见进行充分考虑的基础上,经过初裁后的进一步调查和实地核查,调查机关就该项目补贴利益认定如下:

(1) 该项目下补贴金额的确定。

在初裁中,调查机关认定该项目下的补贴金额为等于或略低于每吨马铃薯淀粉 66.32 欧元。法国罗盖特公司和艾维贝公司均在初裁评论中认为,“虽然欧盟理事会的条例中规定一吨马铃薯淀粉的补贴金额为 66.32 欧元,但在实践中,给予马铃薯种植者的补贴金额以越来越大的幅度下调,以更多支持欧盟农村发展项目(此项目和马铃薯淀粉无关)。2009 年马铃薯种植者每吨马铃薯淀粉实际获得补贴金额比 66.32 欧元低 7%,即 61.68 欧元。”

针对应诉公司的评论意见,调查机关在实地核查中发现,根据欧盟法律规定,凡是符合条件的申请均可按照每吨马铃薯淀粉 66.32 欧元的标准获得该项目下的补贴,但欧盟法律同时规定成员国可对该补贴金额按照一定比例进行调整。即成员国政府按照一定比例提取补贴金额用于农村发展。在实地核查中,欧委会农业总司官员向调查机关解释了该项目补贴金额标准的设定依据和变化情况,并就补贴金额按比例调整的情况向调查机关提供了相关法律依据。根据欧盟理事会第 73/2009 条例第二章第 7 条规定:“在特定年份给予农民超过 5000 欧元的直接支付在 2012 年之前,包括 2012 年,每年按照下面比例下调: a) 2009 年 7%; b)

2010年8%；c) 2011年9%；d) 2012年10%。”因此，调查机关认为，上述法律规定证明了应诉公司的主张。调查机关在终裁决定中接受该主张，以实地核查中各成员国提交的实际补贴金额为基础计算该项目下的补贴利益。

(2) 马铃薯淀粉生产商是否获得该项目下补贴利益分析。

在初裁中，调查机关曾详细分析了生产商获得该项目下补贴利益的原因：即该项目的立法目的、授予条件以及实际效果均表明，欧盟设立该项目的目的是为了维持马铃薯淀粉的生产，使马铃薯淀粉能够与谷类淀粉竞争。该项目减少了马铃薯淀粉生产商的采购成本，使马铃薯淀粉生产商获得了该项目下的补贴利益。

艾维贝公司在初裁评论中主张，“该补贴项目的受益者是马铃薯种植者，而非马铃薯淀粉生产企业。调查机关忽略了本项目是欧盟共同农业政策下的内容之一，而共同农业政策的根本目的是保证农民的收入。由于要保证农民的收入，欧盟设立了各种农产品的最低限价。如果欧盟政府设定最低限价高于世界市场价格，欧盟政府必须通过生产返款和出口返款向下游生产商进行补偿，以维持下游生产商的竞争力。如果欧盟政府设定最低限价保持与世界市场价格一致，那么农民收入的减少通过欧盟政府直接资助进行补偿，以维持农民的收入水平。”

调查机关对艾维贝公司的上述评论意见进行了调查。在实地核查中，欧委会农业总司官员证实，其补贴政策的目的，其一是为了稳定农民收入，并保持马铃薯种植的可持续性，使马铃薯淀粉生产有稳定的原材料供应。对于农民而言，马铃薯只能卖给淀粉生产商才能获得最大利益；其二是弥补马铃薯淀粉从原料种植（土地比较贫瘠的地区，且不利于长途运输）到生产（周期短，一年中的特定月份进行而非全年进行）的结构性损失，使马铃薯淀粉能够与谷类淀粉竞争。欧盟并非所有农产品都规定了最低限价，作为马铃薯淀粉主要竞争对象的谷物类淀粉而言，其主要原材料玉米不存在最低限价，而只有干预价格，种植玉米的农民在市场上出售产品，其成交价格既可能高于干预价格，也可能低于干预价格。欧盟淀粉生产商也可以从欧盟外购买玉米进行生产。但对于马铃薯淀粉生产商而言，其采购马铃薯支付的价格必须符合欧盟最低限价的要求，且只能向与其签订种植供货合同的种植者购买马铃薯，而不能从其他渠道购买。

根据实地核查确认的事实，调查机关形成结论如下：第一，调查机关并不否认保证农民收入是欧盟共同农业政策的根本目标之一，但共同农业政策框架下，针对不同农产品的具体补贴政策目标并不相同。就该补贴项目而言，从项目的设立目的看，该项目是针对马铃薯淀粉生产，并以保证马铃薯淀粉与谷类淀粉竞争为直接目标的；第二，从该项目资助标准设立的基础和授予条件看，该项目也是针对马铃薯淀粉的。无论是欧盟法律规定的最低限价，还是该项目的补贴金额标准均是以马铃薯淀粉单位产量为基数的，而不是以马铃薯单位产量为基数。补贴金额的发放也是依据淀粉产量来确定的。因此，该项目依然是为了马铃薯淀粉的生产。马铃薯种植者只有按照种植采购合同的约定将马铃薯卖给淀粉生产商后，才有资格申请并获得该项目下的补贴金额；第三，从该项目的实际效果来看，一方面，该项目下的补贴保证马铃薯种植者有稳定的收入来源，也保证了马铃薯淀粉生产有稳定的原材料供应；另一方面，通过该项目下的补贴向种植者提供资金支持，实质降低了马铃薯淀粉生产商的支付成本。综上分析，调查机关认为，欧盟设立该项目，其目的是确保马铃薯淀粉的生产，该项目减少了马铃薯淀粉生产商对其原材料马铃薯的采购支出，马铃薯淀粉生产商从该项目下资助中获得利益。因此，调查机关在终裁决定中对艾维贝公司的评论意见不予考虑，仍维持初裁

认定，即马铃薯淀粉生产商可以获得该项目下补贴利益。

(3) 马铃薯淀粉生产商从该项目下获得补贴利益额计算。

在初裁中，由于欧盟并不存在公开的、自由交易的淀粉马铃薯（以下称马铃薯）市场，调查机关将欧盟法律规定的种植者总收入推定为基准的马铃薯市场价格，并用该价格与各应诉公司的实际马铃薯采购价格进行比较，其差异即为各应诉公司在该项目下所获得的补贴利益。

欧盟在初裁评论中主张，“关于对马铃薯淀粉种植者的支持，委员会强调了中国商务部关于传递效应分析以及传递给马铃薯淀粉生产商的效益计算分析的不足。特别是，中国商务部应该解释为何种植者收到的所有的支付利益临时被裁定为完全传递给了生产者，特别是考虑到付款是为了鼓励种植者而不是放弃用于生产马铃薯淀粉的马铃薯种植。”针对欧盟的评论意见，调查机关强调，关于补贴利益计算方法，在初裁公告及初裁所依据的基本事实披露中，已有较为详细的说明。调查机关强调，在计算补贴利益时，调查机关并没有认为种植者接受的所有补贴利益都被传递给马铃薯淀粉生产商，而是通过推定马铃薯的公平市场交易价格的方法，进而比较公平市场交易价格与马铃薯淀粉生产商实际支付的价格之间的差异，来确定马铃薯淀粉生产商的补贴利益。

艾维贝公司在初裁评论中主张，“调查机关选用马铃薯种植者最低收入作为基准价格，存在错误。其原因为：其一、商务部采用的这个基准价格，按照商务部分析更是政府干预价格，与商务部设定基准价格时的标准相冲突。根据设定基准价格的公平、合理和独立性原则，不该使用该价格；其二、艾维贝公司认为，对于马铃薯生产商来说，欧盟并不存在法律所保障的马铃薯种植者最低收入这个概念；其三，由于商务部在初裁中认定欧盟内部不存在一个真正市场化的、未受政府干预的淀粉马铃薯的市场价格，所以初裁采用任何欧盟的价格或价格组合均与商务部裁定不符。”

调查机关通过进一步调查和实地核查后认为，本项目的一个重要特点是，表面上，接受财政资助的是马铃薯种植者，但淀粉生产商在实质上也接受了该项目下的补贴利益。由于欧盟实施的一系列干预手段，包括通过生产配额对马铃薯淀粉的产量进行限制、对马铃薯采购设定最低限价，要求种植者和淀粉生产商之间签订合同并对合同内容作出明确规定，禁止淀粉生产商从其他渠道购买马铃薯，向马铃薯种植者提供补贴支持等，事实上高度控制了马铃薯市场的供求关系。欧盟并不存在公平的、可供比较的马铃薯交易价格，并且，调查机关也没有发现可供比较的国际市场价格。因此，调查机关推定欧盟法律规定的马铃薯种植者单位总收入为基准市场价格具有合理性。由于马铃薯淀粉生产商与马铃薯种植者的关系不同，为了保证本调查的公正性和准确性，调查机关在终裁时，根据应诉公司的实际情况计算应诉公司的补贴利益时。

就法国罗盖特公司而言，马铃薯淀粉只是该公司全部产品的极小一部分。向其供货的马铃薯种植者与公司之间，除履行种植交货合同外，并不发生其他的权利义务关系。因此，对于该公司而言，该项目是作为一个上游补贴而存在的，在计算该公司补贴利益时，调查机关决定维持初裁的计算方法。经计算，该公司并没有获得该项目下的补贴利益。

经过实地核查，调查机关发现，艾维贝公司性质为农业合作社企业，其设立之初就是马铃薯种植者的销售办公室，其后从事马铃薯淀粉的生产。目前，公司的股东均为马铃薯种植

者,股东以其持有的股份与公司签订种植交货合同并履行交货义务,即向艾维贝公司提供了主要用于生产马铃薯淀粉的投入品,并有权根据公司的盈利情况获得艾维贝公司分红。当艾维贝公司出现资金紧张时,股东需以个人资产缓解危机,当艾维贝公司出现资不抵债的情况时,股东还需以个人资产对公司债务承担连带责任。而艾维贝公司除向股东购买马铃薯外,还负责承担马铃薯的集中运输(从种植地点运输到工厂),代理股东申请该项目下的补贴,并可以预先向股东支付该项目下应得的补贴,再从政府得到返还,还可以根据公司利润向股东进行分红。特别需要说明的是,该公司为采购马铃薯支付的交易价格,由支付给股东的马铃薯采购价格和运费构成,其虽然在表面上符合欧盟法律关于马铃薯支付最低限价的规定,但实质上使公司承担了作为其股东的种植者应承担的运费。因此,在事实上,艾维贝公司与作为该公司股东的种植者之间是一体的,其本身既为种植者,也为生产者。其股东在该项目下接受的财政资助,即为艾维贝公司在该项目下接受的财政资助,艾维贝公司获得了该项目下的补贴利益。

鉴于艾维贝公司属于农业合作社这一特点,调查机关在核查后决定在终裁计算该公司补贴利益时,将作为该公司股东的种植者在调查期内接受该项目下的补贴金额,除以艾维贝公司在调查期内的销售收入和作为艾维贝公司股东的马铃薯种植者向公司销售马铃薯的收入之和,再乘以该公司马铃薯淀粉销售单价,得到该公司单位马铃薯淀粉在该项目下获得的利益额,用该利益额除以该公司在调查期内向中国销售马铃薯淀粉的 CIF 价格,计算出艾维贝公司(包括荷兰艾维贝公司和德国艾维贝马铃薯淀粉工厂)在该项目下的从价补贴率为 6.1%。

需要进一步说明的是,除了艾维贝公司股东向德国艾维贝马铃薯淀粉工厂供货外,还有与该工厂存在长期合同的种植者(非股东)向其供应马铃薯。这些种植者虽然与该工厂之间存在长期合同关系,表明他们之间的供货生产关系是稳定的。但是,由于这些种植者是一个个独立的个体,其并不像艾维贝公司股东那样根据持有的股份享受权利及履行义务,因此,在计算艾维贝公司就该部分财政资助所获得的补贴利益时,调查机关仍按照初裁的认定和计算方法。经计算,在其他非艾维贝公司股东种植者供货方面,艾维贝公司没有获得该项目下的补贴利益。

(三) 法国污水处理设备投资补贴

初裁中,调查机关认定,阿图瓦-庇卡底水资源管理署(以下简称,管理署)在该项目下以赠款类投资补贴的形式向法国罗盖特公司提供财政资助,该资助具有专向性,且被调查产品从中获得了利益,构成了《反补贴条例》项下的可采取反补贴措施的补贴。

初裁后,法国政府和法国罗盖特公司均在初裁评论中表示法国政府的该类资助并不具有专向性。对此,在实地核查中,调查机关就该项目询问了管理署工作人员,请其就该项目所属的去除水污染类援助的补贴资格和补贴数量标准情况进行解释。管理署工作人员指出,管理署针对其管辖区域内的各类团体和组织提供该类援助,包括工业企业、中小企业、手工业、农民等私营主体,也包括从事健康与社会活动等非营利团体。援助并不针对特定地区、企业或产业,而是一视同仁。管理署文件明确规定了补贴资格和补贴数量的标准,标准客观、中立且得到严格执行,授予机关没有自由裁量权,所有符合基本环境要求和保证项目建设效率的申请都会获得批准。调查机关在实地核查中现场审查了 2002 年至 2007 年获得该类资助的企业名单,调查机关发现获得该类资助的企业所属产业广泛,不限于工业企业,还包括其他各类私营主体和非营利团体,而且授予机关及其依据的法律给予补贴的标准是客观、中立和

可自动获得的，因而从补贴授予方式和获得结果来看，该项目不能满足《反补贴条例》第四条项下的关于专向性的认定标准。因此，调查机关在终裁中认定，管理署的该类资助不具有专向性，该项目不构成《反补贴条例》项下的可采取反补贴措施的补贴。

此外，经初裁后实地核查和继续调查，调查机关未能获得充足证据材料证明法国罗盖特公司的被调查产品从法国绿色化工补贴中获得利益，因此调查机关在本案终裁中认定该项目不构成《反补贴条例》项下的可采取反补贴措施的补贴。

对于其他项目，调查机关作出如下裁定：

调查期内未向被调查产品授予利益的项目

马铃薯淀粉出口返款补贴

荷兰投资项目补贴

法国绿色化工补贴

对于其他未应诉的欧盟公司，根据《反补贴条例》第二十一条的规定，调查机关决定采用可获得的事实作出从价补贴率的裁定，以本案调查中从价补贴率最高的应诉公司的从价补贴率作出从价补贴率的认定。

综上，各公司从价补贴率分别为：

法国罗盖特公司 7.5%

荷兰艾维贝公司 12.4%

德国艾维贝马铃薯淀粉工厂 12.4%

其他欧盟公司 12.4%

五、产业损害及损害程度

（一）被调查产品进口量及所占中国国内市场份额。

1. 被调查产品进口数量

根据中华人民共和国海关统计数据，2007年、2008年和2009年来自于欧盟的被调查产品进口数量分别为7357.47吨、8745.01吨和31597.12吨。2008年比2007年增长18.86%；2009年比2008年增长261.32%。

2. 被调查产品在中国国内市场份额

调查证据显示，调查期内来自于欧盟的被调查产品占中国国内市场份额2007年为

附件九： 第 1234/2007 号条例

信息来源: <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32007R1234>

第 1234/2007 号条例 (2007 年 10 月 22 日)

关于建立单一共同农业市场的规定和对相关农产品的具体规定 (单一共同农业市场条例)

欧盟理事会,

根据《建立欧洲共同体的条约》第 36 条和第 37 条的规定,

根据欧盟委员会的提议,

根据欧盟议会的建议,

鉴于,

- (1) 基于共同农业政策的需要, 为农产品共同市场的经营和发展的目的, 根据条约第 34 条的规定, 可以根据产品的需要建立各种形式的共同农业市场。
- (2) 自从引入共同农业政策以来, 理事会针对一种或一类农产品已经建立了 21 个不同的共同农业市场。每个共同农业市场受到相关法律的约束。

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(42) 考虑到谷物和马铃薯淀粉的特殊市场状况, 谷物共同市场组织认为有必要给予生产补贴。生产补贴具有某种特征, 即保证用于工业加工的基础原料的价格低于正常交易行为中的价格。糖类共同市场组织的建立是为了对与部分工业产品、化工产品和医药产品有关的糖类产品实行生产补贴。这些条款必须予以保留。

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第 1 条 范围

1、针对下列农产品部门 (部门产品分类详见附件 1), 本条例特设单一共同市场组织已进行管理:

- (1) 谷物类, 附件 1 第一部分
- (2) 大米, 附件 1 第二部分
- (3) 糖, 附件 1 第三部分
- (4) 干饲料, 附件 1 第四部分
- (5) 种子, 附件 1 第五部分
- (6) 啤酒花, 附件 1 第六部分
- (7) 橄榄油和食用橄榄油, 附件 1 第七部分

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第 3 条 农事年

有关产品的农事年具体如下:

- (a) 香蕉的农事年为 1 月 1 日至 12 月 31 日

(b) 下列产品的农事年为 4 月 1 日至 3 月 31 日

(i) 干饲料

(ii) 桑蚕

(c) 下列产品的农事年为 7 月 1 日至 6 月 30 日

(i) 谷物类

(ii) 种子类

(iii) 橄榄油类

(iv) 亚麻类

(v) 牛奶和奶制品类

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第三部分 (a) 马铃薯淀粉配额

第 84 (a) 条

- 1、各成员国马铃薯淀粉的配额按照第 204 (5) 条和附件 Xa 的规定进行分摊。
- 2、各成员应当按照附件 Xa 确定的配额再次分摊给每家马铃薯淀粉生产企业。
- 3、获得配额的马铃薯淀粉生产商在与马铃薯种植者签订种植采购合同的时候, 所采购的马铃薯数量不应超过生产配额范围内马铃薯淀粉所需要的马铃薯数量。
- 4、超出配额范围的马铃薯淀粉必须在次年 1 月 1 日前将产品对外出口, 并且不会得到任何出口退税。
- 5、不受第 4 款约束, 除当年配额外, 获得配额的马铃薯淀粉生产商可以生产不超过次年配额 5% 的马铃薯淀粉数量。在这种情况下, 次年的配额应相应调减。
- 6、不在第 73/2009 号条例第 77 条范围内的马铃薯淀粉不受本条例的约束。

第三部分 (a) 马铃薯淀粉

第 95 (a) 条 马铃薯淀粉补贴

- 1、2009/2010, 2010/2011 和 2011/2012 这三年, 根据马铃薯淀粉商所获得配额量, 每生产一吨马铃薯淀粉给予 22.25 欧元的额外补贴, 前提是生产商已支付所有购买马铃薯的费用。
- 2、为生产马铃薯淀粉而采购马铃薯的最低支付价格为 178.31 欧元/吨。

该价格为生产 1 吨马铃薯淀粉所需马铃薯的价格, 工厂交货价。

根据淀粉含量, 最低支付价格应当进行相应调整。

3、为执行本条例规定，委员会应当制定相应的实施细则。

附件 Xa

马铃薯淀粉配额

单位：吨

捷克共和国	33,660
丹麦	168,215
德国	656,298
爱沙尼亚	250
西班牙	1,943
法国	265,354
拉脱维亚	5,778
立陶宛	1,211
荷兰	507,403
奥地利	47,691
波兰	144,985
斯洛伐克	729
芬兰	53,178
瑞典	62,066
总计	1,948,761

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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)

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 ⁽¹⁾,

Whereas:

- (1) The operation and development of the common market for agricultural products should be accompanied by the establishment of a common agricultural policy (hereinafter CAP) to include, in particular, a common organisation of agricultural markets (hereinafter CMO) which may, according to Article 34 of the Treaty, take various forms depending on the product.
- (2) Since the introduction of a CAP, the Council has adopted 21 CMOs for each product or group of products, each governed by a separate Council basic regulation:
 - Council Regulation (EEC) No 234/68 of 27 February 1968 on the establishment of a common organisation of the market in live trees and other plants, bulbs, roots and the like, cut flowers and ornamental foliage ⁽²⁾.
 - Council Regulation (EEC) No 827/68 of 28 June 1968 on the common organisation of the market in certain products listed in Annex II to the Treaty ⁽³⁾.
 - Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat ⁽⁴⁾.
 - Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs ⁽⁵⁾.
 - Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organisation of the market in poultrymeat ⁽⁶⁾.
 - Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organisation of the market in raw tobacco ⁽⁷⁾.

⁽¹⁾ Opinion of 24 May 2007 (not yet published in the Official Journal).

⁽²⁾ OJ L 55, 2.3.1968, p. 1. Regulation as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

⁽³⁾ OJ L 151, 30.6.1968, p. 16. Regulation as last amended by Regulation (EC) No 865/2004 (OJ L 161, 30.4.2004, p. 97).

⁽⁴⁾ OJ L 282, 1.11.1975, p. 1. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

⁽⁵⁾ OJ L 282, 1.11.1975, p. 49. Regulation as last amended by Regulation (EC) No 679/2006 (OJ L 119, 4.5.2006, p. 1).

⁽⁶⁾ OJ L 282, 1.11.1975, p. 77. Regulation as last amended by Regulation (EC) No 679/2006.

⁽⁷⁾ OJ L 215, 30.7.1992, p. 70. Regulation as last amended by Regulation (EC) No 1679/2005 (OJ L 271, 15.10.2005, p. 1).

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quota, reduced by a flat-rate amount of 1 % in order to take account of cases of bankruptcy or the definitive inability of certain producers to make their contribution to the payment of the levy due.

- (39) Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy⁽¹⁾ qualifies the proceeds flowing from the application of the additional levy in the dairy sector as 'assigned revenue' which has to be paid to the Community budget and, in the event of reuse, has to be used exclusively to finance expenditure under the EAGF or the European Agricultural Fund for Rural Development (EAFRD). Article 22 of Regulation (EC) No 1788/2003 according to which levy proceeds are considered as intervention to stabilise agricultural markets and are to be applied to financing expenditure in the milk sector, has therefore become obsolete and should not be incorporated in this Regulation.
- (40) Various CMOs have provided for different kinds of aid schemes.
- (41) The CMOs for dried fodder and for flax and hemp provided for processing aids for these sectors as a means to govern the internal market in respect of the sectors concerned. These provisions should be maintained.
- (42) In view of the special market situation for cereals and potato starch the CMO for cereals contained provisions which allowed the granting of a production refund if that proves necessary. The production refund should be of such a nature that the basic products used by the industry concerned can be made available to it at a lower price than that resulting from the application of the common prices. The CMO for sugar established the possibility of the granting of a production refund in cases where, with regard to the manufacturing of certain industrial, chemical or pharmaceutical products the need arises to take measures aimed at making available certain sugar products. These provisions should be maintained.
- (43) To contribute to balancing the milk market and to stabilise the market prices for milk and milk products, measures are needed to increase the possibility of disposing of milk products. The CMO for milk and milk products therefore provided for the grant of aids for the marketing of certain milk products with a view to specific uses and destinations. Moreover, that CMO provided that, in order to stimulate the consumption of milk by young people, the Community should defray a part of the expenditure occasioned by granting aid for the supply of milk to pupils in schools. These provisions should be maintained.
- (44) Community finance, consisting of the percentage of direct aid that Member States are allowed to withhold in accordance with Article 110i(4) of Regulation (EC) No 1782/2003, is required to encourage approved operator organisations to draw up work programmes for the purpose of improving the production quality of olive oil and table olives. In that context, the CMO for olive oil and table olives provided for Community support to be allocated in accordance with the priorities given to the activities undertaken within the work programmes in question. These provisions should be maintained.
- (45) A Community tobacco fund financed by certain deductions from aid schemes in that sector was established under Regulation (EEC) No 2075/92 with a view to carrying out various measures in respect of that sector. The year 2007 is the last in which deductions from the aid scheme provided for in Chapter 10c of Title IV of Regulation (EC) No 1782/2003

⁽¹⁾ OJ L 209, 11.8.2005, p. 1. Regulation as last amended by Regulation (EC) No 378/2007 (OJ L 95, 5.4.2007, p. 1).

▼B

PART I

INTRODUCTORY PROVISIONS

Article 1

Scope

1. This Regulation establishes a common organisation of the markets for the products of the following sectors, as provided further in Annex I:

- (a) cereals, Part I of Annex I;
- (b) rice, Part II of Annex I;
- (c) sugar, Part III of Annex I;
- (d) dried fodder, Part IV of Annex I;
- (e) seeds, Part V of Annex I;
- (f) hops, Part VI of Annex I;
- (g) olive oil and table olives, Part VII of Annex I;
- (h) flax and hemp, Part VIII of Annex I;
- (i) fruit and vegetables, Part IX of Annex I;
- (j) processed fruit and vegetables, Part X of Annex I;
- (k) bananas, Part XI of Annex I;
- (l) wine, Part XII of Annex I;
- (m) live plants and products of floriculture, Part XIII of Annex I (hereinafter referred to as the live plants sector);
- (n) raw tobacco, Part XIV of Annex I;
- (o) beef and veal, Part XV of Annex I;
- (p) milk and milk products, Part XVI of Annex I;
- (q) pigmeat, Part XVII of Annex I;
- (r) sheepmeat and goatmeat, Part XVIII of Annex I;
- (s) eggs, Part XIX of Annex I;
- (t) poultrymeat, Part XX of Annex I;
- (u) other products, Part XXI of Annex I.

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3. This Regulation establishes specific measures for the following sectors as listed and, as the case may be, as further defined in Annex II:

- (a) ethyl alcohol of agricultural origin, Part I of Annex II (hereinafter referred to as the agricultural ethyl alcohol sector);
- (b) apiculture products, Part II of Annex II (hereinafter referred to as the apiculture sector);
- (c) silkworms, Part III of Annex II.

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4. In respect of potatoes, fresh or chilled of CN code 0701, Chapter II of Part IV shall apply.

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*Article 2***Definitions**

1. For the purposes of application of this Regulation, the definitions concerning certain sectors as set out in Annex III shall apply.
2. For the purposes of this Regulation:
 - (a) 'farmer' shall mean a farmer as defined in Regulation (EC) No 1782/2003;
 - (b) 'paying agency' shall mean the body or the bodies assigned by a Member State in accordance with Regulation (EC) No 1290/2005;
 - (c) 'intervention price' shall mean the price at which products shall be bought into public intervention.

*Article 3***Marketing years**

The following marketing years shall be established:

- (a) 1 January to 31 December of a given year for the banana sector;
- (b) 1 April to 31 March of the following year for:
 - (i) the dried fodder sector;
 - (ii) the silkworm sector;
- (c) 1 July to 30 June of the following year for:
 - (i) the cereals sector; (1982) 10月1日 - 6月30日
 - (ii) the seeds sector;
 - (iii) the olive oil and table olives sector;
 - (iv) the flax and hemp sector;
 - (v) the milk and milk products sector;

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- (ca) 1 August to 31 July of the following year for the wine sector;

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- (d) 1 September to 31 August of the following year for the rice sector;
- (e) 1 October to 30 September of the following year for the sugar sector.

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For products of the fruit and vegetables and processed fruit and vegetables sectors, the marketing years shall, if necessary, be fixed by the Commission.

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*Article 4***Commission powers**

Save as otherwise provided for by this Regulation, where powers are conferred upon the Commission, it shall act in accordance with the procedure referred to in Article 195(2).

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(a) use partially or totally the excess to finance the measures in point (a) of Article 75(1), and/or

(b) redistribute it partially or totally to producers who:

— fall within priority categories established by the Member State on the basis of objective criteria and within the period to be laid down by the Commission, or

— are affected by an exceptional situation resulting from a national rule unconnected with the quota system for milk and other milk products set up by this Chapter.

2. Where it is established that no surplus levy is payable, any advances collected by purchasers or the Member State shall be reimbursed no later than the end of the following twelve-month period.

3. Where a purchaser does not meet the obligation to collect the producers' contribution to the surplus levy in accordance with Article 81, the Member State may collect unpaid amounts directly from the producer, without prejudice to any penalties it may impose upon the defaulting purchaser.

4. Where a producer or a purchaser fails to comply with the time limit for payment, interest on arrears to be fixed by the Commission shall be paid to the Member State.

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Section IIIa

Potato starch quotas

Article 84a

Potato starch quotas

1. The potato starch producing Member States shall be allocated quotas for the marketing year during which the quota scheme applies in accordance with Article 204(5) and Annex Xa.

2. Each producer Member State referred to in Annex Xa shall allocate its quota among potato starch manufacturers for use in the marketing years concerned on the basis of the subquotas allocated to each manufacturer in 2007/2008.

3. An undertaking producing potato starch shall not conclude cultivation contracts with potato producers for a quantity of potatoes which would produce a quantity of starch in excess of its quota as referred to in paragraph 2.

4. Any potato starch produced in excess of the quota as referred to in paragraph 2 shall be exported, as such, from the Community before 1 January following the end of the marketing year in question. No export refund shall be paid in respect of it.

5. Notwithstanding paragraph 4, an undertaking producing potato starch may, in any marketing year, in addition to its quota for that year, utilise no more than 5 % of its quota relating to the following marketing year. In such case, the quota for the following marketing year shall be reduced accordingly.

6. The provisions of this Section shall not apply to the production of potato starch by undertakings which are not subject to paragraph 2 of this Article and which purchase potatoes for which producers do not benefit from the payment provided for in Article 77 of Regulation

▼ M7

(EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes under the Common Agricultural Policy and establishing certain support schemes for farmers ⁽¹⁾.

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Section IV

Procedural rules concerning sugar, milk and potato starch quotas

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Article 85

Implementing rules

► M10 The Commission shall adopt detailed rules for the application of Sections I to IIIa which may relate, in particular, to: ◄

- (a) supplementary information to be submitted by approved undertakings referred to in Article 57 as well as the criteria for administrative penalties, suspensions and withdrawal of approval of the undertakings;
- (b) the establishment and the communications of the amounts referred to in Article 58 and the surplus levy referred to in Article 64;
- (c) derogations from the dates laid down in Article 63;

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- (d) in respect of Section IIIa, mergers, changes of ownership and the commencement or cessation of trading of potato starch manufacturers.

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Section IVa

Production potential in the wine sector

Subsection I

Unlawful plantings

Article 85a

Unlawful plantings planted after 31 August 1998

1. Producers shall grub up at their own cost areas planted with vines without a corresponding planting right, where applicable, after 31 August 1998.
2. Pending grubbing-up in accordance with paragraph 1, grapes and products made from grapes from areas referred to in that paragraph may be put into circulation only for the purposes of distillation at the exclusive expense of the producer. The products resulting from distillation may not be used in the preparation of alcohol having an actual alcoholic strength by 80 % volume or less.
3. Without prejudice, where applicable, to earlier penalties imposed by Member States, Member States shall impose penalties on producers who have not complied with this grubbing-up obligation graduated according to the severity, extent and duration of the non-compliance.
4. The end of the transitional ban on new plantings on 31 December 2015, as provided for in Article 85g(1), shall not affect the obligations provided for in this Article.

⁽¹⁾ See page 16 of this Official Journal.

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Processing aid shall be granted only in respect of the quantities referred to in paragraphs 1 and 1a, respectively, adjusted in accordance with the first two subparagraphs of this paragraph.

*Article 94a***Additional aid**

During the 2008/2009 marketing year, additional aid shall be granted to the authorised primary processor in respect of areas under flax in zones I and II as described in point A.III. of Annex XI and the straw production of which has been the subject of:

- (a) a sale/purchase contract or a commitment as referred to in Article 91(1); and
- (b) aid for processing into long fibre.

The amount of additional aid shall be EUR 120 per hectare in zone I and EUR 50 per hectare in zone II.

▼B*Article 95***Implementing rules**

The Commission shall adopt the detailed rules for the implementation of this Subsection which may, in particular, include rules concerning:

- (a) the conditions for authorisation of primary processors referred to in Article 91;
- (b) the conditions to be met by approved primary processors as regards the contracts of sale and commitments referred to in Article 91(1);
- (c) the requirements to be complied with by farmers in the case referred to in the second subparagraph of Article 91(1);
- (d) the criteria to be met by long flax fibre;
- (e) the conditions for the grant of aid and the advance payment, and in particular proof of the processing of straw;
- (f) the conditions to be met for fixing the limits referred to in Article 92(2).

▼M7**Subsection III****Potato starch***Article 95a***Potato starch premium**

1. A premium of EUR 22,25 per tonne of starch produced shall be paid for the 2009/2010, 2010/2011 and 2011/2012 marketing years to potato starch manufacturers for the quantity of potato starch up to the quota limit referred to in Article 84a(2), provided that they have paid to potato producers a minimum price for all the potatoes necessary to produce starch up to that quota limit.

2. The minimum price of potatoes intended for the manufacture of potato starch shall be set at EUR 178,31 per tonne for the marketing years concerned.

This price applies to the quantity of potatoes, delivered to the factory, which is needed to make one tonne of starch.

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The minimum price shall be adjusted according to the starch content of the potatoes.

3. The Commission shall adopt the detailed rules for the implementation of this Subsection.

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Section 11

Production refund

▼M7**▼B***Article 97***Production refund in the sugar sector**

1. A production refund may be granted on the products of the sugar-sector listed in points (b) to (c) of Part III of Annex I if surplus sugar or imported sugar, surplus isoglucose or surplus inulin syrup is not available at a price corresponding to the world price for the manufacturing of the products referred to in Article 62(2)(b) and (c).

2. The production refund referred to in paragraph 1 shall be fixed taking into account in particular the costs arising from the use of imported sugar which the industry would have to bear in the event of supply on the world market and the price of the surplus sugar available on the Community market or the reference price if there is no surplus sugar.

*Article 98***Conditions for granting**

The Commission shall adopt the conditions for the granting of the production refunds referred to in this Section, as well as the amount of such refunds and, as regards the production refund for sugar provided for in Article 97, the eligible quantities.

Section 111**Aids in the milk and milk products sector****▼M7***Article 99***Aid for skimmed milk and skimmed milk powder for use as feedingstuffs**

1. When surpluses of milk products build up or are likely to occur, creating or likely to create a serious imbalance in the market, the Commission may decide that aid shall be granted for Community-produced skimmed milk and skimmed-milk powder intended for use as feedingstuffs, according to conditions and product standards to be determined by the Commission. The aid may be fixed in advance or by means of tendering procedures.

For the purposes of this Article, buttermilk and buttermilk powder shall be regarded as skimmed milk and skimmed-milk powder.

2. Aid amounts shall be fixed by the Commission taking into account the reference price fixed in point (c)(ii) of Article 8(1) for skimmed-milk powder, and the development of the market situation as regards skimmed milk and skimmed-milk powder.

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ANNEX I

LIST OF PRODUCTS REFERRED TO IN ARTICLE 1(1)

Part I: Cereals

谷類產品

As regards cereals, this Regulation shall cover the products listed in the following table:

CN code	Description
(a) 0709 90 60	Sweetcorn, fresh or chilled
0712 90 19	Dried sweetcorn, whole, cut, sliced, broken or in powder, but not further prepared, other than hybrid for sowing
1001 90 91	Common wheat and meslin seed
1001 90 99	Spelt, common wheat and meslin other than for sowing
1002 00 00	Rye
1003 00	Barley
1004 00	Oats
1005 10 90	Maize (corn) seed other than hybrid
1005 90 00	Maize other than seed
1007 00 90	Grain sorghum, other than hybrids for sowing
1008	Buckwheat, millet and canary seed; other cereals
(b) 1001 10	Durum wheat
(c) 1101 00 00	Wheat or meslin flour
1102 10 00	Rye flour
1103 11	Groats and meal of wheat
1107	Malt, whether or not roasted
(d) 0714	Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, fresh, chilled, frozen or dried, whether or not sliced or in the form of pellets; sago pith
ex 1102	Cereal flours other than of wheat or meslin:
1102 20	- Maize (corn) flour
1102 90	- Other:
1102 90 10	- Barley flour
1102 90 30	- Oat flour
1102 90 90	- Other
ex 1103	Cereal groats, meal and pellets with the exception of groats and meal of wheat (subheading 1103 11), groats and meal of rice (subheading 1103 19 50) and pellets of rice (subheading 1103 20 50)

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CN code	Description
ex 1104	Cereal grains otherwise worked (for example, hulled, rolled, flaked, pearled, sliced or kibbled), except rice of heading 1006 and flaked rice of subheading 1104 19 91; germ of cereals, whole, rolled, flaked or ground
1106 20	Flour, meal and powder of sago or of roots or tubers of heading 0714
ex 1108	Starches; inulin:
	Starches:
1108 11 00	Wheat starch
1108 12 00	- - Maize (corn) starch
1108 13 00	- - Potato starch
1108 14 00	- - Manioc (cassava) starch
ex 1108 19	- - Other starches:
1108 19 90	- Other
1109 00 00	Wheat gluten, whether or not dried
1702	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel:
ex 1702 30	Glucose and glucose syrup, not containing fructose or containing in the dry state less than 20 % by weight of fructose:
	Other:
	Other:
ex 1702 30 50	- - -Other: In the form of white crystalline powder, whether or not agglomerated, containing in the dry state less than 99 % by weight of glucose
ex 1702 30 90	- - Other, containing in the dry state less than 99 % by weight of glucose
ex 1702 40	- Glucose and glucose syrup, containing in the dry state at least 20 % but less than 50 % by weight of fructose, excluding invert sugar:
1702 40 90	- - Other
ex 1702 90	- Other, including invert sugar and other sugar and sugar syrup blends containing in the dry state 50 % by weight of fructose:
1702 90 50	- - Maltodextrine and maltodextrine syrup
	- - Caramel:
	Other:
1702 90 75	- - - In the form of powder, whether or not agglomerated
1702 90 79	- - - Other
2106	Food preparations not elsewhere specified or included:

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ANNEX Xa

Potato starch quotas per marketing year as referred to in Article 84a

Member State	(tonnes)
Czech Republic	33 660
Denmark	168 215
Germany	656 298
Estonia	250
Spain	1 943
France	265 354
Latvia	5 778
Lithuania	1 211
Netherlands	507 403
Austria	47 691
Poland	144 985
Slovakia	729
Finland	53 178
Sweden	62 066
TOTAL	1 948 761

附件十： 第 73/2009 号条例

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<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1471141120948&ur=CELEX-3-2009R0073>

2009 年 1 月 19 日 (EC) 第 73/2009 号欧盟委员会条例
为共同条例下农民直接资助计划制定共同规则, (EC) 第
1250/2005 号、(EC) 第 247/2006 号、(EC) 第 378/2007 号修
正条例, 并废除 (EC) 第 1782/2003 号条例

2009R0073 — ZH — 05.05.2010 — 004.001 — 1

此文件纯属一种文件工具, 本机构不对其内容承担任何责任。

► B

2009 年 1 月 19 日 (EC) 第 73/2009 号理事会条例

根据共同农业政策制定的农民直接资助计划共同规则以及制定特定资助计划, (EC) 第
1250/2005 号、(EC) 第 247/2006 号、(EC) 第 378/2007 号修正条例, 并废除 (EC) 第
1782/2003 号条例

(OJ L 30, 31.1.2009, p. 16)

由下述条例修正:

欧盟官方期刊

	编号	页码	日期
► M1	2009 年 9 月 25 日 (EC) 第 889/2009 号欧盟委员会条例	L 254	73
► M2	2009 年 10 月 22 日 (EC) 第 992/2009 号欧盟委员会条 例	L 278	7
► M3	2009 年 11 月 30 日 (EC) 第 1250/2009 号欧盟委员会 条例	L 338	1
► M4	2010 年 4 月 27 日 (EC) 第 360/2010 号欧盟委员会条例	L 106	1

由下述附表修正:

► C1 勘误表, OJ L 43, 18.2.2010, p. 7 (73/2009)

鉴于成立欧洲共同体的条约, 尤其是条约第 36 条、第 37 条和第
299(2) 条,

鉴于 1979 年制定的《加入法案》, 尤其是法案《第 4 号议定书》
第 6 款关于棉花的规定,

鉴于欧盟委员会的建议,

鉴于欧洲议会的意见⁽¹⁾,

咨询欧洲经济与社会委员会⁽²⁾后,

咨询区域委员会⁽³⁾后,

鉴于:

(1) 2003 年和 2004 年通过的共同农业政策 (Common
Agriculture Policy, 简称 CAP) 改革包含了用于评定其有效性的
规定。在此情况下, 欧盟委员会于 2007 年 11 月 20
日向欧洲议会和理事会提交了题为“CAP 改革: 健康检查”准
备的《沟通》。本《沟通》和欧洲议会、欧洲理事会、欧
洲经济与社会委员会及区域委员会对沟通主要内容进行的
讨论和大量公共咨询建议, 均应考虑在内。

(2) 2003 年 9 月 29 日 (EC) 第 1782/2003 号理事会条例
根据共同农业政策制定了农民直接资助计划的共同规则, 尤
其制定了某些资助计划⁽⁴⁾。本条例的实施经验表明该资助机
制的某些方面需要调整。尤其应扩大直接资助范围政策, 并
简化单一支付计划的效能。另外, (EC) 第 1782/2003 号
条例已在多方面做出显著修改。鉴于上述情况, 并为将政
策简化, 应废除本条例并替换为本条例。

(3) (EC) 第 1782/2003 号条例规定, 不达标公众、动植物健康
、环境和动物福利有关规定的农民, 将无资格或仅部分资
格享受直接资助。这一“交叉达标”制度构成欧共体直接支持
政策下的主要部分, 因此应被保留。但是, 经验表明, “交
叉达标”范围内的许多要求对农业活动或采用土地都无重要
意义或者这些要求关系的是国家主管部门, 而非农民。因
此, 应调整“交叉达标”的范围。

2008 年 11 月 19 日意见 (尚未在《欧盟官方期刊》上公布)。
2008 年 10 月 23 日意见 (尚未在《欧盟官方期刊》上公布)。
2008 年 10 月 8 日意见 (尚未在《欧盟官方期刊》上公布)。
2008 年 10 月 8 日意见 (尚未在《欧盟官方期刊》上公布)。
OJ L 270, 21.10.2003, p. 1.

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(4) 此外,为避免农业用地被遗弃,确保农业用地保持良好状态并符合环境条件, (EC) 第 1782/2003 号条例已建立一个共同框架。本框架内,成员国须根据土壤气候条件、现有耕作系统、土地使用、耕作情况、耕作方式以及农场结构等各个方面的特征,采取相关标准。本框架旨在保持然而,经验表明某些标准的相关性与有益的效果还不足以表明,标准可在所有成员国中实施。因此,成员国可以自由选择实施这些标准。但是,为尽可能保证本框架的一致性,标准规定,如果相关成员国已在 2009 年之前已根据这些标准规定了最低要求,或者其国内法规已体现该标准适用,这一标准必须实施。

(5) 根据本条例,除单一支付计划内的强制性耕种制度,这样在特定情况下可能对环境造成负面影响,尤其是对某些景观特征。因此,应强化欧盟以保护特殊景观特征为宗旨的规定。在特定情况下,成员国还应当可以制定产地的建造和/或保留制度。

(6) 在某些地区,农业活动中水和保护和管理问题已日益趋严重。因此,应继续加强欧盟关于良好农业与环境条件的框架,以防止水资源污染和水枯竭,管理水资源的使用。

(7) (EC) 第 1782/2003 号条例认可永久牧场对环境的积极影响。应保留本条例中鼓励维持现有永久性牧场,防止大量土地沦为耕地的措施。

(8) 为更好地平衡为推动可持续农业制定的政策和为推动农村发展制定的政策, (EC) 第 1782/2003 号条例提出了直接支付(“调整”)强制性递减制度。该制度应被保留,其中排除的直接支付应高达 5000 欧元。

(9) 根据农业政策,因调整而产生的存款将用于金融措施。自从 (EC) 第 1782/2003 号条例实施以来,农业一直面临着各种严峻的新挑战,如气候变化、日益重要的生物能、亟待改进的水资源管理以及更有效的生物多样性保护。欧共体作为《京都议定书》的成员之一,已响应各方要求,就气候变化考虑因素修改本议定书。另外,随着水资源稀缺和干旱引起的问题加剧,理事会于 2007 年 10 月 30 日《总论》“水资源稀缺和干旱问题”中指出,应进一步解决农业活动中的水资源管理问题。理事会还在 2006 年 12 月 16 日《总论》“停止物种多样性减少”中强调,保护物种多样性仍是一项严峻的挑战。虽然已取得一定进展,但欧共体实现 2010 年生物多样性的目标仍需要更多努力。

(1) 理事会代表欧共体制定 2002 年 4 月 25 日第 2002/385/EC 号理事会决议,该决议是《联合国气候变化公约》(《京都议定书》)的批准和根据本决议需要共同实现的承诺 (OJ L 130, 15.5.2002, p. 1)。

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另外,由于创新有助于开发新技术、新产品和新工艺,欧共体也将为这些挑战所做的努力。2007 年 10 月 22 日 (EC) 第 1234/2007 号理事会条例建立农业市场共同管理,对某些农产品进行了具体规定⁽¹⁾。依据本条例,牛奶配额制度将于 2015 年终止。因此,奶农需要努力适应变化情况,尤其是一个新的挑战。为确保乳制品行业实现“软着陆”,成员国应设法应对这一挑战。

(10) 欧共体确认需要在政策框架内解决这些挑战。在农业方面,根据 2005 年 9 月 20 日 (EC) 第 1698/2005 号理事会条例有关农村发展资助的规定,欧洲农村发展基金⁽¹⁾。为使成员国修正其农村发展计划的同时,又无需减少他们在其他领域的当前农村发展计划,需要获得更多的资金。但是,2007 年至 2013 年的财政规划未规定财政手段,以便在必要时加强欧共体农村发展政策。在此情况下,应通过调整来制定逐渐加大直接支付的降低,来调动大部分所需财政资源。

(11) 向农民分配直接收入资助的特点是,大量支付款项分配给了受益丰厚的少数人。显然,这些受益丰厚的少数人并不需要同等的水平。资助,来看实现收入资助的目标。此外,受益人受益越丰厚,就越容易发挥适应潜力,进而经营所需的单一资助水平就越低。因此,有理由期待资助金额较大的农民克服新挑战,在农村发展措施的筹资方面做出特殊的贡献。因此,应该建立机制来规定增加直接支付的降低,并将该收入用于解决农村发展框架的新挑战。

(12) 最外区域的特殊地理条件及其岛国性质、面积小、多山岭区和山区气候,为农业发展增加了新负担。为缓和负担,降低限制,应规定减少最外区域农民降低资助的义务。

(13) 采取自愿调整制度的成员国应兼顾强制性调整增加的比率。(EC) 第 1782/2003 号条例规定了共同农业政策下的直接资助计划共同规则和某些对农民⁽¹⁾的资助计划。因此,2007 年 3 月 27 日 (EC) 第 378/2007 号理事会条例关于该条例直接支付制定的自愿调整规则必须做出相应修改。

(14) 成员国应用 (EC) 第 1782/2003 号条例决定的调整降低中相应的 5 个百分点后,所产生的数额应依照本条例中规定的同一标准进行分配,即目标标准。同时,需规定将定比例的数额应保留在其他成员国中产生该数额的地方。

(1) OJ L 299, 16.11.2007, p. 1.
(2) OJ L 277, 21.10.2005, p. 1.
(3) OJ L 95, 5.4.2007, p. 1.

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鉴于调整产生的结构调整,某些黑麦产区,应继续实施由调整产生的部分金额所资助的具体措施。另外,实行进一步调整产生的金额应用于产生该金额的成员国。

- (15) 为协助调整的效率,尤其是生产商给农民的直接支付款项和向农村发展计划的转移,应为每个成员国确定最高净限额,以限制调整后支付给农民的数额。考虑到最外区域的CAP资助期限,且直接支付不受调整影响,相关成员国的最高净限额不应包括这些区域的直接支付款项。2005年6月21日(EC)第1290/2005号理事会关于为共同农业政策(1)提供资助的规定应做相应的修正。

- (16) 在2004年5月1日或此日期之后加入欧盟的新成员国应遵循各自《加入法案》中规定的分阶段引入机制。为促进农业可持续发展并促进农村发展所制定的政策之间能实现平衡,应该在新成员国的直接支付水平与成员国(新成员国除外)适用的水平相当后,再对新成员国实施调整制度。

- (17) 支付给新成员国农民的数额不得调整至低于支付给成员国(新成员国除外)农民的数额。因此,一旦调整适用于新成员国的农民,降幅应控制在阶段引入计划的水平和成员国(新成员国除外)调整实施后的水平之间的差距范围内。另外,对接受调整的新成员国的农民实施国家补充直接支付时,应考虑调整。

- (18) 当安全裕度为300 000 000欧元,且预期表明标题2中的附加限制在某一销售年度超限时,应依照(EO)第1782/2003号条例调整直接资助水平。为确保CAP资助金额符合财政方案所设置的年度限制,应保持本条例中的财政限制。考虑到新成员国农民阶段引入产生的直接支付水平,并在新成员国进行直接支付时实施阶段引入机制框架下,应在这些成员国进行直接支付水平至少等于成员国(新成员国除外)的适用水平时,再实施这一财政规定措施。鉴于欧共体对第2007/436/EC号理事会决议第2(1)(e)条规定的资源设置预算在总预算具有特殊重要性,

(1) OJ L 209, 11.8.2005, p. 1.

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以及2007年6月7日针对欧共体内部资源(1)成立的欧洲能源共同体,应例外地理事务会采取必要决议,实施欧盟委员会提出的财政规定措施。

- (19) 为帮助农民实现现代优质农业标准,委员会有必要继续实行全面制度。为(EO)第1782/2003号条例规定的农场提供建议。农场建议制度应帮助农民更好地认识农场加工过程中与环保、食品安全、动物健康和福利相关的标准,无论如何不影响农场必须遵守这些标准的义务和责任。

- (20) (EO)第1290/2005号条例规定,成员国必须采取必要措施以满足自身需求,确保欧洲农业保证基金资助的交易正确实施,并防止和处理不法行为。为实现此目的,成员国应采取直接支付整合管理控制系统。为提高欧共体资助的效力和控制力,应授权成员国根据本条例未规定的欧共体计划利用整合系统。

- (21) 整合管理和控制系统的要素,尤其是有关的计算机数据库、农业用地鉴别系统、农民的资助应用、协调的控制系统、单一支付计划、补贴鉴定和记录系统等,均应继续实施。

- (22) 对成员国主管部门来说,管理小额是一项繁重的工作。为避免过度的管理负担,通常成员国应控制发放金额低于100欧元的直接支付款项,或符合资助条件的土地面积小于一公顷。但是,由于各成员国的农业经济结构各不相同,可能与欧共体平均农场结构存在较大差异,因此应制定特殊规定,允许成员国采取符合其特殊情况的最低标准。由于最外区域和爱琴海各岛特殊的农业结构,这些区域应不受任何最低标准的限制。另外,成员国应有自由裁量权,根据国内农业结构来选择实施两种最低限制中的一种。由于“无土地”财产的农民已分配特殊补贴,基于公顷的限制实施无效。因此,应对上述农民实施最低资助平均数额,为确定直接支付阶段引入实施的农民待遇平等,最低限制以阶段性引入未期的最终数额为基础。

- (23) 单一支付计划的实施经验表明,在多数情况下,接受补贴的收入资助的受益人中,有的农业活动在其整个经济活动中比例较小,有的不以农业为经营目的,有的仅仅从事极少数的农业经营活动。为防止农业收入资助分配给上述受益人,并确保欧共体的资助资金用于保证农业社区平等的生活水平,发生此类分配时,应赋予成员国权利来防止将本条例规定的直接支付分配给此类自然人或法人。

(1) OJ L 63, 23.6.2007, p. 17.

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(24) 欧共体资助计划规定的支付应由国家主管部门向受益人全额支付，并在规定的时期内遵循本条例的任何限制规定。为了使直接支付管理更灵活，应允许成员国每年分两次进行直接支付。

(25) CAP 资助计划规定了直接收入资助，尤其以保证农业社区内公平的生活条件为目的。这一目标与农村维护密切相关。为避免任何欧共体基金出现任何分配不当的问题，对于为获取支付款而人为创造条件的农民，不应支付资助。

(26) 为实现 CAP 目标，共同资助计划必须适应不断变化的新发展，必要时应在短期期限内适应。因此，受益人不得依赖一成不变的资助条件，而应为可能的计划检查做好准备，尤其要考虑到经济发展和预算情况。

(27) 将现有的各种资助机制与直接支付的单一计划相结合。单一支付计划的实施经验表明，为了农民和管理机构利益，其中部分规定可以简化。另外，鉴于所有要求成员国的规定都已经过时，因此应予以调整。在这种情况下，已发现某些地区有严重的补贴使用不足现象。为避免此情况，并考虑到农民已了解单一支付计划，最初确定将未使用补贴退还给国家储备的期限应缩短至两年。

(28) 单一支付计划的主要内容应被保留。尤其是国家限制的制定，必须保证资助和补贴的总水平不超过现有的预算限制。成员国还应启用国家储备，以便在需要时用于帮助新农民加入计划，或用于资助某些区域的特殊需求。应针对补贴的转让和使用制定规范，防止没有相应农业基础的人进行投机性的转让或累计补贴。

(29) 其他行业逐渐整合至单一支付计划，因此有必要审查补贴。从该计划受益土地的确定或补贴的激活。但是，在成员国选择推迟将某一行业整合至单一支付计划的情况下，应规定用于种植水果和蔬菜的地区不得享受资助。此外，还应为大麻制定详细措施，防止为非法作物提供资助。

(30) 对可耕地实行强制休耕政策，该政策是一项供应控制机制。种植作物行业市场不断发展，应给予援助已提出，无需再保留这一文书，因此应予以废除。因此，根据 (EC) 第 1782/2003 号条例休耕补贴应予以激活。这些公顷须符合的条件应与其他补贴符合的条件相同。

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废除休耕义务可能导致符合激活休耕补贴的土地不再合格。为保持此类土地的合格性，应规定某些绿化区域，包括国家计划下遵循 (EC) 第 1698/2005 号条例相关规定绿化的区域，或某些环境承诺规定的区域，均符合单一资助计划。

(31) 关于将先前挂钩的市场资助整合至单一支付计划，在选择过去实施模式的成员国国内，补贴数额以过去资助的个人水平为基础。随着单一支付引入时间越来越长，其他行业也逐步整合至该计划。对于仅以过去资助为基础确定的资助水平，证明个人资助水平存在巨大差异的合理性变得日益困难。为此，应允许选择过去实施模式的成员国，根据某些条款粗略估计已分配补贴的单位数额，以便审查这些补贴。审查应遵循欧共体法律的一般原则和 CAP 目标。在此情况下，成员国在确定更合适的数额时，应将各地理区域的特殊差异性考虑在内。平衡补贴应在充足的转换期进行并遵循一定的限制，使农民更好地适应资助水平的变化。

(32) 根据 (EC) 第 1782/2003 号条例，成员国有权选择根据历史实施还是地区实施单一支付计划。此后，成员国已有机会评估所选择经济和管理的效果是否良好。因此，应给予成员国机会根据各自经验审查最初选择。基于此原因，除平衡补贴的数额外，实施过去模式的成员国还应有权根据 (EC) 第 1782/2003 号条例规定的选择，从历史模式转至单一计划的地区模式。尤其是，成员国应有权通过在各区域间逐步进行再分配，调整直接资助的区域分配。这种选择可以使成员国在《条约》第 33 条规定的目标基础上，或在如农业潜力和环境影响等非歧视标准的基础上，更灵活地以最佳方式确定直接资助目标。另外，停止实施地区模式的成员国，根据往年步骤估计补贴数额，应有权依据公共法律一般原则和 CAP 目标，依照特定条款审查各目标的决定。这种变更应在充足的过渡期内进行，并遵循一定的限制，使农民更好地适应资助水平的变化。

(33) (EC) 第 1782/2003 号条例在制定融合单一支付计划的同一时，允许成员国将某些支付完全或部分从该计划中除去。本条例亦规定，根据市场和结构的发展，可以审查或修改选择。对相关经验分析显示，鼓励使农民可以以更灵活地选择要种植何种产品，农民可以依据利润和市场反应决定生产。

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对种植作物和啤酒花尤其如此。某种程度上对于牛肉、小牛肉和种子行业亦然。因此，种植作物和啤酒花行业的小部分挂钩支付应从 2010 年开始整合至单一支付计划。对于啤酒花来说，(EC) 第 1782/2003 号条例允许成员国将部分啤酒花区域的支付款项给予认可的生产商团体。为使生产商团体能够和从前一样继续进行各项活动，2009 年 1 月 19 日有关共同农业政策修订的 (EC) 第 72/2009 号条例修订案，修订了 (EC) 第 1234/2007 号条例，规定了成员国从本国相同样活动获得的相当数额。因此，该部分数额应从本条例规定的该成员国国家最高限额中扣除。为使食用牛、小牛和种子行业的农民适应新资助计划，应规定最迟在 2012 年实施食用牛和小牛支付与种子资助整合计划。由于水果和浆果行业的部分挂钩支付最近才制定，且仅作为过渡措施，因此，应允许继续将此类支付从单一计划中排除。同时，考虑到增加挂钩程度，应允许成员国审查各自的目标。

(34) 但是，对于带仔母牛、绵羊肉和山羊肉行业，某些区域的农业经济仍然需要保持最低的地方。尤其是在当地农民没有其他经济来源的地方。在这种情况下，成员国应有权利将挂钩资助维持在现有水平或降低至现有水平以下。此情况下需要特别规定，须符合欧洲议会和理事会就牛科动物制定签别和登记系统以及为牛肉和羊肉产品 (C) 贴标签制定的 2007 年 7 月 17 日 (EC) 第 1760/2000 号条例中规定的签别和登记要求，符合 2003 年 12 月 17 日 (EC) 第 217/2004 号理事会条例，尤其以保证动物可追溯性为目的而建立的绵羊和山羊科动物 (C) 签别和登记系统。

(35) 应允许成员国将单一支付计划下国家限制的 10% 用于明确规定的特殊资助。成员国利用该资助可以解决环境和动物福利问题，并提高农产品质量和市场营销。还应制定特别规定，缓和截留牛奶配额和结构资助对其敏感行业的影响。有效的风险管理日益重要，因此，成员国应有权资助农民缴付农作物和动物保险基金，或为因动植物疾病和突发环境污染引起的经济损失进行赔偿。为承担欧合理水平，同时考虑为有特殊困难的成员国制定过渡措施，在农作物和动植物保险以及动植物疫病和突发环境污染补偿的资助方面，应制定相应的适用条款。另外，采用 (EC) 第 1782/2003 号条例第 69 条的成员国应被给予充足的过渡期，以实现特殊资助新规则的平稳过渡。

《欧共体官方期刊》第 1 页。
OJ L 204, 11.8.2000, p. 1.
OJ L 5, 9.12.2004, p. 8.

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(36) 经验表明，成员国目前不会用完单一支付计划下国家限制范围内的所有资金，尤其是在补贴尚未激活的地方。为帮助成员国更有效地利用资金，应允许成员国在资助数额高于其最高限额，但应确保该数额的水平维持在国家最高限额实施的范围内。该数额应以最近一年的预算为基础进行计算，且不得影响每个成员国直接支付的总净额。基于这一原因，同时为确保农民不会面临不可预期的支付款项削减，计算应在一定的安全裕度内进行。这些资金可以用于筹集特殊资助，也可以转入欧洲农业基金。

(37) 单一支付计划下的直接支付款项应以过去收到的直接支付款项的参考数额为基础，或以按照地区规定的每公顷的数额为基础。新成员国未收到公共直接支付款项，也没有 2000 年、2001 年和 2002 年历史参考。因此，(EC) 第 1782/2003 号条例规定，新成员国的单一支付计划应基于按照地区规定的每公顷数额。但是，在新成员国加入欧元体系几年后，不应让未加入单一支付计划的新成员国采用参考阶段。为方便向单一支付计划过渡，尤其为防止投机性活动，新成员国在计算单一支付计划下的补贴时，应有权考虑曾经享受过单一区域支付计划资助的区域。

(38) 在单一支付计划分区选择下，新成员国应能够以客观标准为基础调整每公顷的补贴数额，以避免农民间享有平等的待遇，同时避免市场扭曲。

(39) 新成员国还应具有与其他成员国相同的能力，部分实施单一支付计划。

(40) 直接资助挂钩和单一支付计划的制定是 CAP 改革过程中至关重要的一部分。但在 2003 年，由于某些原因一些农作物需要继续实行特殊资助。从 (EC) 第 1782/2003 号条例的实施中所作出的经验和市场环境的变化表明，2003 年被限定在单一支付计划以外的计划现在可以整合至该计划，以更好地促进以市场为导向的可持续农业。在粮食行业尤其如此。该行业已实施了较小一部分的挂钩政策。另外，在硬质小麦、蛋白作物、大米、马铃薯淀粉和坚果支付中亦是如此。这些行业中剩余的挂钩支付有效降低，资助了饲料的采购。对于亚麻、大麻、干饲料和马铃薯淀粉的资助，原定的数额应整合至单一支付计划。对于其他农作物、大米、马铃薯淀粉、坚果、亚麻和大麻，为了使生产能够进行调整，应将这些行业的资助从 2012 年开始整合至单一支付计划。同时，除了 (EC) 第 1234/2007 号条例规定的加工资助外，应允许成员国提前决定整合。

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对于坚果,成员国应被允许继续以挂钩的方式支付国家资助部分,以缓和挂钩的影响。

- (41) 由于进一步将各行整合至单一支付计划,必须做出具体规定,以计算本计划下个人收入资助的新水平。对于坚果、马铃薯淀粉、亚麻和短麻及干饲料,基于农民在最近几年内接受的资助,应批准这一增长。但是,如果整合使用单一支付计划的支付款项,则需授予成员国使用原计划所规定的选择权。对于马铃薯淀粉,在成员国和荷兰分销的可用数量须考虑在其成员国所生产马铃薯的跨境交付,以便在另一成员国进行加工。另外,为了满足农业领域的具体需求并确保农民过去接受的资助不会大幅降低,在其限制条件下,必须允许成员国使用整合至单一支付计划的资金,以便支持农民在同年间在其他行业开展某些农业活动,如使用草地或饲养动物。

- (42) 为了协助开发其他行业,(EC)第1782/2003号条例规定了对于能源作物给予的特定资助。由于生物能源领域的近期发展,尤其是对国际市场需求,以及2020年有足够的理由对能源作物给予特定资助。

- (43) 当棉花行业整合至单一支付计划时,则认为有必要通过合格公顷数的特定农作物支付款项继续支持播种棉花,以确保避免在棉花生产区造成扰乱生产风险。本选择须根据1979年制定的《加入法案》有关棉花行业的《第4号议定书》中规定的目标加以维持。

- (44) 根据2006年2月20日(EC)第320/2006号理事会条例(其中规定了欧共体⁽¹⁾内部制糖行业调整的暂行计划)的规定,成员国同意给予调整援助,为了缓解调整过程带来的影响,必须对糖用甜菜和甘蔗生产预计的援助连续保持最多5年。

- (45) 当水果和蔬菜行业整合至单一支付计划时,规定向草莓和树莓提供临时挂钩区域援助。在从生产中断除援助的同时,须适当地在原始截止日期之上扩展援助。考虑此因素应调整国家最高限额。

- (46) 在向前成员国中的农民给予收入资助方面,被区域在新成员国中为给予直接付款的过渡性简化援助计划是一个既有成效又简单的体系。为了便于简化,选择应用计划的新成员国可以继续使用计划,直至2013年末。

⁽¹⁾ OJ L 58, 28.2.2006, p. 42.

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- (47) 为了进一步对糖、水果和蔬菜行业分别加以改革并将其整合至单一支付计划,选择应用单一区域支付计划的成员国允许以单独支付形式向糖用甜菜、甘蔗和葡萄种植者与某些水果和蔬菜生产者给予收入资助。同样,这些成员国也可以在与适用条件类似的条件下向其他成员国给予单独特定资助。

- (48) 由于在新成员国中同步实施直接支付,新成员国允许给予补充性国家直接支付款项,给予此支付款项的条件必须加以维持。

- (49) 在成员国初期分配补贴中,某些错误导致向农民支付过高的支付款项。本非个别性通常为财务纠正的目标,除非此时采取纠正措施。但是,在考虑自补贴首次分配后所经过的时间时,必要的纠正会对成员国造成不当比例的法律限制和管理限制。为了实现法律确定性,此类支付款项的分配必须加以合法化。

- (50) 根据(EC)第1782/2003号条例,法国、葡萄牙和西班牙决定在单一支付计划中排除在法国海外省、亚得尔群岛与马德拉群岛、加那利群岛直接支付款项,并在条例第四篇所规定的条件下给予支付款项。此篇中规定的援助部分已完全整合至单一支付计划中。为了便于简化并且考虑外延地区的具体情况,此援助应在2006年1月30日(EC)第247/2006号条例(其中规定了欧盟⁽¹⁾外延地区中农业的具体措施)确定的援助计划内加以管理。为此,相关资金应从直接支付款项的国家最大限额转移到条例规定的财政金额。为使相关成员国采用援助计划,此资金转移仅在2010年执行。与此同时,根据(EC)第1782/2003号条例规定的条件,直接支付将适用于外延地区。另外也必须相应地修正(EC)第247/2006号条例。

- (51) 为了防止过度不当竞争,应规定,依据本条例的规定可能造成成员国不符合国家资助的行为。除非本条例另有规定,则只要相关援助符合资助条件,或委员会采取这些条件,就不应采用国家资助规定。

- (52) 依据本条例所必须采取的措施,均应遵循理事会决议就欧盟委员会⁽¹⁾执行其实施权的程序制定的1989年6月28日第1999/468/EC号条例进行实施。

⁽¹⁾ OJ L 42, 14.2.2006, p. 1.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

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(53) 为了使成员国和农业社群从本条例简化的机制中受益，尤其是休耕义务的废除，本条例应从 2009 年 1 月 1 日起实施。但是，对于可能减少农民权利，并产生新义务的规定，尤其是农民必须全年遵循的“交叉达标”义务，均应从 2010 年开始实施。沿河堤岸修建缓冲带的标准则应从 2012 年 1 月 1 日起执行。另外，应给予成员国足够的时间进一步实施直接支付脱钩规定和审查其在 2003 年改革背景下采取的决定。为此，本条例的相关规定应在 2010 年开始实施，废除的 (EC) 第 1782/2003 号条例应在 2009 年期间用于从 2010 年开始整合至单一支付计划的资助计划。

已采纳本条例。

第一篇 范围与定义

第 1 条 范围

本条例规定：

- 直接支付总额；
- 农民收入资助计划（以下简称“单一支付计划”）；
- 第 2(9) 条定义新成员国过渡简化的农民收入资助计划（以下简称“单一区域支付计划”）；
- 农民生产大米、淀粉马铃薯、蛋白质作物、坚果、种子、棉花、糖、水果蔬菜、绵羊肉、山羊肉、牛肉和小牛肉的资助计划；
- 第 2(9) 条定义中授予新成员国的框架，以补充直接支付制度。

第 2 条 定义

为实施本条例，适用下列定义：

- “农民”指协议第 299 条中定义的欧共体区域内拥有土地且从事农业活动的自然人或法人，无论国内法律向该团体及其成员授予何种法律地位；
- “土地”是所有由相同成员国区域内的农民所经营的生产单位；
- “农业活动”指生产、养殖或栽种各种农产品（包括以务农为目的收割、挤奶、繁殖动物与饲养动物）或按照第 6 条规定维护土地良好的农业与环境条件；

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- “直接支付”指按照附录一 所列收入资助计划向农民授予的支付款项。
- “指定日历年内支付款项”或“代表指定时期内的支付款项”指在相关年份内已经或将授予的支付款项，包括该日历年开始后其他时期内相关的支付款项；
- “农业产品”指协议附录一 内所列产品，渔业产品和棉花除外；
- “新成员国”指保加利亚、捷克共和国、爱沙尼亚、拉脱维亚、立陶宛、匈牙利、马耳他、波兰、罗马尼亚、斯洛文尼亚和斯洛伐克；
- “农业区域”指所有可耕地、永久性牧场和永久性农作物用地。

第 3 条 直接支付筹资

本条例附录一 所列支付计划必须根据 (EC) 第 1290/2005 号条例第 3(1)(c) 条筹措资金。

第二篇 直接支付总额

第 1 章 “交叉达标”

第 4 条 主要要求

1. 接受直接支付款项的农民必须遵守附录二 所列的法定管理要求以及第 6 条所指的良好农业与环境条件、

第一项规定的义务必须仅适用于农民的农业活动或相关土地的区域。

2. 除使用电子通信的方式外，国家主管机关还必须向农民提供法定管理要求和须遵守的良好农业与环境条件之列表。

第 5 条 法定管理要求

1. 附录二 所列的法定管理要求必须由下列领域的欧共体立法机构制定：

- 公共健康与动植物健康；
- 环境；
- 动物福利。

2. 如果成员国实施指令，附录二 所指法令则须强制实行。

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第 6 条

良好的农业与环境条件

1. 成员国必须保证所有农用地, 尤其是不再供生产目的使用的土地, 都能维持良好的农业与环境条件。成员国必须以附录三确立的框架为基础, 在国家或地区范围内确定良好农业与环境条件的最低要求, 且必须考虑相关区域的具体特征, 如土壤与气候条件、现有耕作体系、土地使用、轮作情况、耕作方式以及农场结构。成员国不得规定本框架没有预知的最低要求。

附录三第三栏所列的标准为可选标准, 以下情况除外:

(a) 成员国已于 2009 年 1 月 1 日前为本标准制定了良好农业与环境条件制定最低要求; 且/或

(b) 针对此标准的国家法规已在成员国内得以实施。

2. 除新成员国外, 成员国在 2003 年中请资助时土地若为永久性牧场, 则必须确保土地现在仍按照永久性牧场进行维护。除保加利亚与罗马尼亚外, 新成员国必须确保 2004 年 5 月 1 日时属于永久性牧场的土地现在仍以永久性牧场进行维护。保加利亚与罗马尼亚必须确保 2007 年 1 月 1 日时属于永久性牧场的土地现在仍以永久性牧场进行维护。

然而, 如果成员国采取措施预防永久性牧场大幅度下降, 则该成员国可以在具备正当理由的情况下违背第一项。

如果即将绿化的永久性牧场土地能与环境相容共存 (不包括圣诞树造林和短期种植的生林), 则第一项不适用于此类土地。

第 2 章

调整与财政纪律

第 7 条

调整

1. 在特定日历年内向农民授予的直接支付款项超过 5000 欧元, 则在 2012 年以前每年都必须按以下百分比调整降幅:

(a) 2009 年降幅为 7%;

(b) 2010 年降幅为 8%;

(c) 2011 年降幅为 9%;

(d) 2012 年降幅为 10%;

2. 若金额超过 300 000 欧元, 则第 1 款中规定的降幅必须增加 4 个百分点。

3. 第 1 款与第 2 款不适用于向法国海外省、亚述尔群岛与马德拉斯群岛、加那利群岛以及爱琴海群岛农民授予的直接支付款项。

VB

第 8 条

1. 除 (EC) 第 247/2006 号条例与 (EC) 第 1405/2006 号条例外, 成员国适用本条例第 7 条与第 10 条以及 (EC) 第 378/2007 号条例第 1 条后可授予相关日历年度的直接支付款项。在不影响本条例第 11 条的情况下, 该直接支付款项总额不得超过本条例附录四中规定的最大限额。必要时, 成员国必须直接降低符合本条例第 7 条和第 10 条以及 (EC) 第 378/2007 号条例第 1 条减额规定的直接支付金额, 以遵守该附录规定的最大限额。

2. 根据本条例第 141(2) 条所指的程序, 欧盟委员会必须审查本条例附录四规定的最大限额, 以便于考虑:

(a) 可授予直接支付金额最大总金额的修改;

(b) 根据 (EC) 第 378/2007 号条例规定对自主调整系统的修改;

(c) 土地结构更改;

(d) 根据本条例第 136 条向欧洲农村发展基金进行的土地转让。

第 9 条

调整后金额

1. 根据 (EC) 第 1698/2005 号条例规定, 所有成员国 (新成员国除外) 根据本条例第 7 条规定运用减额政策后的金额, 必须按照本条规定条款, 将此金额用于欧洲农村发展基金资助中农业发展计划措施的附加欧共体资助金额中。

2. 一个百分点对应的金额必须分配给已产生对应金额的成员国。降幅为 4 个百分点对应的金额分配给相应成员国时, 必须遵循第 141(2) 条程序规定, 并基于以下标准:

(a) 农业区;

(b) 农业就业;

(c) 购买力人均国内生产总值 (GDP)。

然后, 所有相关成员国必须至少接受第一项所指成员国所产生总金额的 80%。

3. 对于违背第 2 款第 2 项的规定, 如果 2000 年至 2002 年期间成员国国内粮食产量作为总谷类产量的一部分其比例平均超过 5%, 且同时期内欧共体粮食总产量比例超过 50%, 那么该成员国内产生的调整金额中至少 90% 须重新分配至相关成员国, 直到 2013 年结束。

此情况下, 在不影响第 68 条规定的可能情况的前提下, 分配到相关成员国的金额中, 至少有 10% 必须用于粮食生产区域中符合本条第 1 款所指的措施。

VB

第 15 条

整合系统的要素

- 整合系统包括以下要素：
 - 计算机数据库；
 - 农业用地鉴别系统；
 - 鉴别和登记补贴的系统；
 - 资助申请；
 - 整合控制系统；
 - 身份记录单一系统，用于记录每个提交资助申请的农民的身份。
- 本条例第 52 条和第 53 条适用时，整合系统将包括依据 (EC) 第 1760/2000 号条例和 (EC) 第 21/2004 号所制定的动物鉴别和登记系统。
- 成员国可能包括农业用地鉴别系统中橄榄种植的地理信息系统。

第 16 条

计算机数据库

- 计算机数据库将为每片农业占有地记录从资助申请中获得的数据。特别是，从 2000 年起，本数据库允许通过成员国的主管当局访问与日历年营销年有关的数据，还必须允许直接且及时访问与过去四年有关的数据。
- 成员国可设立分布式数据库，前提是该数据库以及记录与获取数据的管理程序在成员国领土内统一制定，且各数据库之间相协调，可进行反复核对。

第 17 条

农业土地鉴别系统

农业土地鉴别系统必须根据地图、土地登记文件或其他制图参考文件来建立。该系统的使用必须由计算机地理信息系统技术构成，其中必须优先包含空间正射影像，且必须拥有统一标准来确保精确度，精确度至少等同于制图比例 1:10000。

第 18 条

补贴鉴别和登记系统；

- 补贴鉴别和登记系统的设立必须用于审核补贴以及反复审查资助应用情况和农业用地鉴别系统。
- 第 1 款所指系统必须允许通过成员国主管机构进行直接即时的查询，查询内容至少为最近四个营销日历年内的相关数据。

VB

第 19 条

资助申请

- 农民必须每年提交一份直接支付申请，其中指出（若有）：
 - 所有土地中的农业用地。若成员国正适用第 15(3) 条，须指出农业用地中橄榄树的数目和土地分配；
 - 申请激活的补贴；
 - 本条例或相关成员国规定的所有其他信息。
- 除使用电子通信的方式外，成员国必须根据上一年确定的区域和该区域位置的图片资料来提供申请表，适当时还须提供橄榄树的种植位置。成员国可决定，资助申请只需包含与上一年提交的资助申请的相关变更。
- 成员国可决定，单一资助申请必须包含附录一或其他支持计划所列的几项或所有资助计划。

第 20 条

合格条件审核

- 成员国必须对资助申请实行行政管理控制，以审核资助合格条件。
 - 行政管理控制必须与现场检查相辅相成，以审核资助合格条件。为实现此目的，成员国必须制定农业土地抽样检查办法。成员国可使用遥感技术和全球导航卫星系统技术作为实施现场检查农业用地的方法。
 - 每个成员国必须授权一机构来负责协调本章规定的管理控制和检查。
- 若成员国规定将本章下实施的部分工作内容授权给专门机构或企业，则该授权机构必须全权控制并负责该工作。

第 21 条

因违反合格规则而降低和排除支付的规定

- 在不影响第 23 条的所有降低或非排除规定的情况下，且证实农民不符合本条例规定有关资助授予的合格条件，那么，满足合格条件而授予（或即将授予）的支付金额（或部分支付金额）必须根据第 14(2) 条所述程序进行降低和排除。
- 降幅必须根据已证实不符合情况的严重程度、范围、持久程度和重复程度而评定等级，其等级可能达到一日历年（或多个日历年）中一项（或多项）资助计划的总排除数额。

VB

第 22 条

“交叉达标”管理控制

1. 成员国必须实行现场检查，以审核农民是否遵守第 1 章所述义务。
 2. 成员国可利用现有行政与控制管理系统，以确保法定管理要求和良好的农业与环境条件的遵循情况。
- 上述系统，尤其是根据 2008 年 7 月 15 日第 2008/71/EC 号理事会指令关于猪的鉴别与登记⁽¹⁾以及 (EC) 第 1760/2000 号条例和 (EC) 第 21/2004 号规定而设立的动物鉴别与登记系统，必须根据本条例第 26(1) 条规定与整合系统相一致。

第 23 条

因违反“交叉达标”规则而降低或排除支付的规定

1. 如果在特定日历年（以下简称“相关日历年”）任何时间内，违反法定管理要求或良好农业和环境条件，且此违反情况直接归因于相应日历年内提交资助申请的农民的行为或不作为，那么，根据第 7 条、第 10 条与第 11 条申请向农民已授予或即将授予的总直接支付金额，必须根据第 24 条规定予以降低或排除。

若上述违反情况直接归因于已转让农业土地农民的作为或不作为，则必须适用第一项规定。

以实施本款为目的，“转让”必须指终止承让人对指定农业用地支配权的任何交易。

如证据显示第二项规定的情况，从 2010 年起，可直接导致作为或不作为的人已在相关日历年内提交资助申请，则此人已授予或即将授予的总直接支付金额必须适用降低或排除规定。

2. 虽然须实行第一款和本条例第 24(1) 条所述细则中规定的条件，成员国可决定不实行每人每日历年降低或排除金额等于或少于 100 欧元的政策。

如成员国决定使用第一项规定的选项，则主管部门次年必须采取必要措施，以确保农民对已检查的违反规则现象进行了补救。必须向农民通知检查结果和采取补救措施的义务。

第 24 条

违反“交叉达标”规则的降低和排除细则

1. 第 23 条所述降低和排除细则必须根据第 141(2) 所述程序予以制定。在此情况下，必须考虑已违反规则的严重程度、范围、持久程度和重要程度以及本条例第 2 条、第 3 条和第 4 条规定的标准。

⁽¹⁾ OJ L 213, 8.8.2008, p. 31.

VB

2. 原疏忽情况时降幅不得超过 5%，属反复违反规定时降幅不得超过 15%。

在正当情况下，成员国可决定，鉴于严重程度、范围和持久程度可将违反行为视为情节轻微而不降低支付金额。然而，对公共和动物健康造成直接危险的违反情况不得视为情节轻微。

若农民未立即采取补救措施来结束已违反行为，主管部门必须在合适且受限于行政控制管理的情况下采取必要措施，以确保农民对已查的相关违反行为进行补救。必须向农民通知轻微违反行为的检查结果和采取补救措施的义务。

3. 对于故意违反情况，原则上降幅不得少于 20%，而且可能达到一日历年（或多个日历年）中一项（或多项）资助计划的总排除金额。

4. 在任何情况下，一日历年的降低和排除总金额不得超过第 23(1) 所述总金额。

第 25 条

“交叉达标”产生的数额

因违反第 1 章实施降低和排除规定而产生的数额必须归 EAGF 所有。成员国可保留上述金额的 25%。

第 26 条

整合系统资助计划的相容性

1. 以适用附录六所述资助计划为目的，成员国必须确保适用这些计划的行政与控制管理程序必须在以下方面与整合系统保持一致。

(a) 计算机数据库；

(b) 农业用地鉴别系统；

(c) 行政控制管理。

为此，须立一项第 (a) 点、第 (b) 点和第 (c) 点所述的相关数据库、系统和控制必须优于三者之间正常运行或共享数据，并防止出现任何问题或矛盾。

2. 为了适用欧共体或国家资助计划，而非附录十一所列计划，成员国可将整合系统的一个或多个组成部分整合至行政和控制管理步骤。

第 27 条

信息和控制

1. 必须定期汇报委员会有关整合系统的实施情况。

VB

委员会必须组织成员国对此主题交换意见。

2. 根据 (EC) 第 1290/2005 号条例第 37 条规定, 及时向相关主管部门汇报后, 委员会指定的授权代表可执行;

(a) 审核并控制任何已采取的措施, 以建立并实施整合系统为目的;

(b) 控制第 20(3) 条所述的专业机构和企业。

3. 在无须成员国实施和适用整合系统职责的情况下, 委员会可向专业机构或个人求助以促进整合系统的建立、监督和利用, 尤其为了能根据成员国主管机构的要求向他们提供技术建议。

第 5 章

其他总则

第 28 条

接收直接支付款项的最低要求

1. 从 2010 年起, 若发生任何一种情况, 成员国都不得授予直接支付款项:

(a) 在特定日历年度内, 第 21 条和第 23 条规定的降低和排除条款前, 申报或应享有的直接支付总额低于 100 欧元; 或

(b) 适用第 21 条规定的降低和排除制度前, 申报或应享有直接支付的土地合格区域低于 1 公顷。

为计入成员国农业经济结构, 成员国可调整本条例第一项第 (a) 点和第 (b) 点所述的限额, 其限额必须在附录七规定的范围内。

拥有第 44(1) 所述特殊补贴的农民, 必须遵守本条例第一项第 (a) 点所述的条件。

相关成员国可决定本款不适用于法国海外省、亚速尔群岛与马德拉群岛、加那利群岛以及圣马力诺群岛农民授予的直接支付款项。

如果根据本条例第 121 条、(EC) 第 1782/2003 号条例附录七第 K 点或本条例附录九第 C 点预测, 逐步或施加直接支付导致已付金额减少, 则申报或应享有的金额必须根据农民获得的最终资助金额来计算。

2. 从 2010 年起, 成员国可确定合适的客观、非歧视标准, 以确保不向以下自然人或法人授予直接支付款项:

(a) 农业活动仅占总经济活动极小部分的自然人或法人; 或

(b) 主要业务或企业目标不包含执行农业活动的自然人或法人。

VB

3. 由于适用第 1 款和第 2 款而在连续两年内不能享有支付的补贴, 必须转移至国家储备。

第 29 条

支付

1. 除非本条例另有规定, 附录一所有资助计划的支付款项必须全额发放给受益人。

2. 支付款项必须在每年 12 月 1 日到次日历年 6 月 30 日期间按两次分期来发放。

3. 必须在成员国根据第 20 条规定执行合格条件审核结束后, 方可按照附录一所有资助计划发放支付款项。

4. 如遇减损本条第 2 款规定且符合第 141(2) 所述程序的情况, 委员会可:

(a) 规定预付款;

(b) 在农民因特殊条件而面临严重财政困难的区域, 依据预算情况批准成员国在 12 月 1 日前支付预付款;

(i) 支付款项的 50%;

或

(ii) 已规定预付款时为支付款项的 80%。

第 30 条

规定条款

在无须个体资助计划中所有具体条款的情况下, 为获得通过该支付计划条件的利益和支付款项, 而制造虚假要求条件的受益人, 不可获得该支付款项。

第 31 条

不可抗力特殊情况

为实施本条例, 不可抗力或特殊情况必须指经主管机构认可的下情况:

(a) 农民死亡;

(b) 农民缺乏长期的专业能力;

(c) 极大影响持有农业土地的严重自然灾害;

(d) 所持养殖场遭遇意外毁灭;

(e) 感染部分或所有农民家畜的动物流行疾病。

VB

第 32 条

审查

实施附录一资助计划不得影响任何时候因经济发展和预算形势而执行的审查。

第三篇

单一支付计划

第 1 章

整体实施

第 33 条

补贴

1. 单一支付计划规定的资助必须适用符合下列条件的农民：

(a) 持有根据 (EC) 第 1782/2003 号条例获得的补贴；

(b) 通过下列方式获得本条例规定的补贴：

(i) 转移；

(ii) 国家储备；

(iii) 符合附录九规定；

(iv) 符合第 47(2) 条、第 59 条、本条例第 64(2) 条第三项、第 65 条和第 68(4)(c) 条。

2. 以实施第 47(2) 条、第 57(6) 条、第 64(2) 条和第 65 条为目的，已接受分配或转移补贴的农民视为正持有补贴予以考虑。

3. 根据 (EC) 第 1782/2003 号条例第 53(2) 条、第 63(2) 条和第 71j 条设定的休耕补贴不得受先前休耕义务的影响。

第 34 条

每合格公顷补贴的激活

1. 单一支付计划规定的资助必须在激活每合格公顷补贴后授予农民。激活的补贴必须给予支付款项中已确定金额的补贴。

2. 以实施本篇为目的，“合格公顷”必须指：

(a) 任何土地的农业区；任何用于农业活动，或用于非农业活动如主要以农业活动为目的而种植短期轮作绿地的区域（ex 0602 90 41）；

(b) 任何在 2008 年根据单一支付计划或单一区域支付计划授予补贴的区域，且该区域：

(i) 由于实施 1979 年 4 月 2 日第 79/409/EEC 号理事会指令关于保护野生鸟类⁽¹⁾的制度、1992 年 5 月 21 日第 92/43/EEC 号理事会指令关于保护自然生境和野生动植物⁽²⁾的制度、2000 年 10 月 23 日第 2000/60/EC 号欧洲议会和理事会指令制定的欧共同体行动有关水政策领域的框架⁽³⁾，不再遵循“合法”的规定；或

⁽¹⁾ OJ L 103, 25.4.1979, p. 1.

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(ii) 对于每个农民履行相关承诺的时期内，根据 1999 年 5 月 17 日 (EC) 第 1257/1999 号理事会条例第 31 条关于欧洲农业指导和担保基金 (EAGGF) ⁽¹⁾ 农村发展资助的规定，(EC) 第 1698/2005 号条例第 43 条或根据符合上述第 43(1)、(2) 和 (3) 条条例条件的国家计划，实施绿化；或

(iii) 对于每个农民履行相关承诺的时期内，根据 (EC) 第 1257/1999 号条例第 22 条、第 23 条和第 24 条规定，实行休耕。

根据第 141(2) 条所有程序，委员会必须制定非农业活动合格公顷细则。

除不可抗力或特殊情况外，公顷必须全年都符合合格条件。

第 35 条

申报合格公顷数

1. 农民必须申报土地。该土地必须与附寄补贴的合格公顷数一致。除非因不可抗力或异常情况，上述用地从成员国确定当日起供农民支配，该日期不得晚于该成员国为修订资助实施而确定的日期。

2. 在有正当理由的情况下，成员国可向农民授权修订申报，前提是农民必须遵守与补贴一致的公顷数目以及向相关区域授予单一支付款项的条件。

第 36 条

补贴修订

每公顷补贴不得进行修订，除非本条例另有规定。

根据第 141(2) 条所述程序规定，委员会从 2010 年起必须制定补贴修订细则，尤其是补贴比例方面。

第 37 条

多次索赔

除非本条例另有规定，已提交单一支付申请且与合格公顷数一致的区域，可成为申请任何其他直接支付和其他本条例不适用资助的主体。

⁽¹⁾ OJ L 206, 22.7.1992, p. 7.

⁽²⁾ OJ L 327, 22.12.2000, p. 1.

⁽³⁾ OJ L 160, 26.6.1998, p. 80.

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第 38 条

延迟整合水果蔬菜行业前土地的使用

若成员国已决定使用 (EC) 第 1782/2003 号条例第 51 条第二项所述的选项权 (以下简称“延迟整合”), 则在 2010 年 12 月 31 日前, 决定内某些用途的相关区域土地不得成为合格土地, 此用途包括:

- 生产水果和蔬菜;
- 生产商品马铃薯; 或
- 苗圃。

若延迟整合, 成员国可决定, 从每年 8 月 15 日起最长三个月内允许在合格公顷范围内种植次要作物。然而, 对于通常因气候缘故而丰收时较迟的谷类区域, 成员国可提出请求, 根据第 141(2) 条所述程序修改上述时间。

第 39 条

生产大麻的土地使用

1. 只有使用品种的总大麻酚含量不超过 0.2% 时, 生产大麻的区域才可成为合格区域。成员国必须设立农作物大麻酚含量核查系统, 对至少 30% 的大麻种植区域进行检查。然而, 如果该成员国采用预先核准的系统向此耕作进行检查, 则最小值须为 20%。

2. 根据第 141(2) 条所述程序, 必须根据特定品种认证种子的使用情况授予支付款项。

第 40 条

国家最高限额

1. 每年每个成员国的所有分配补贴和最高限额总额必须不超过本条例附录八确定的相关国家最高限额。此外, 每个成员国的最高限额是指根据本条例第 51(2) 条和第 69(3) 条规定的或 2009 年根据 (EC) 第 1782/2003 号条例第 64(2) 条规定的最高限额。

对于分配给葡萄种植的补贴, 委员会必须考虑成员国提供的最新数据, 修改本条例附录八的国家最高限额。该最新数据必须遵循 2008 年 4 月 29 日 (EC) 第 479/2008 号理事会条例第 9 条和第 102(6) 条关于葡萄酒市场共同组织 (1) 的规定以及本条例第 141(2) 条所述程序。到修改国家最高限额前一年的 12 月止, 成员国必须向委员会提供本条例附录九第 B 点所述补贴额度的区域平均水平。

2. 必要时, 成员国必须设置降低补贴额, 以确保能遵循附录八确定的最高限额。

(1) OJ L 148, 6.6.2008, p. 1.

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第 41 条

国家储备

1. 每个成员国实行的国家储备必须包含以下两点之间的差异:

- 本条例附录八确定的国家最高限额; 和
- 所有分配补贴的总额以及根据本条例第 51(2) 条和第 69(3) 条确定的最高限额, 或 2009 年根据 (EC) 第 1782/2003 号条例第 64(2) 条确定的最高限额。

2. 成员国可优先使用国家储备向开始农业活动的农民分配补贴。此必须遵循客观标准, 才能确保农民能获得公平待遇, 避免市场和竞争扭曲。

3. 未适用第 69(1)(c) 条的成员国可将国家储备用于向某些区域制定农民补贴制度, 以防止手弄土地巨/或赔偿这些区域等定损失。这些区域是指受一种或几种形式的公共干预相关的结构调整和或发展计划影响的区域。此必须遵循客观标准, 才能确保农民能获得公平待遇, 避免市场和竞争扭曲。

4. 成员国必须根据客观标准, 将国家储备用于向农民分配补贴。这些农民必须符合的特殊条件必须由委员会根据第 141(2) 条规定的程序定义。同时须确保所有农民享受同等的待遇, 避免市场和竞争扭曲。

5. 适用本条时, 成员国可增加分配给农民的单位数额和/或补贴数额。

6. 成员国适用第 59 条或第 63 条时, 该国可规定在部分或所有的土地租赁或权利金出售、授权或满期的情况下, 即将分配给相关农民的补贴或所有补贴数额或补贴增加额必须转移至国家储备。该储备中分配或增加的数额将为相关农民带来意外利润。此必须遵循客观标准, 才能确保农民能获得公平待遇, 避免市场和竞争扭曲。该标准必须至少包含下列内容:

(a) 租赁最短期限;

(b) 可视为未意外利润的租赁出售、授权或满期时期。该时期的开始时间不得早于相关租赁合同政策的开始时间, 其结束时间不得迟于告知相关农民脱附政策和相关条件的日期;

(c) 接收的支付款项中必须转移到国家储备的比例。

第 42 条

未用补贴

除不可抗力或特殊情况外, 任何根据第 34 条两年内未激活的补贴, 必须添加到国家储备。然而, 在 2009 年, 两年内 (即 2007 年至 2008 年) 未激活且 2006 年已激活的补贴不得添加到国家储备。此外, 在 2010 年, 两年内 (即 2008 年到 2009 年) 未激活且 2007 年已激活的补贴不得添加至国家储备。

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第 43 条

补贴转让

1. 补贴仅可转让给同一成员国内规定的农民,由实际或预计继承情况而引起的转让除外。

但是,即便出现实际或预计继承,补贴也只在规定的补贴的成员国国内使用。

成员国有权决定是否仅在同一地区转让或使用补贴。

2. 补贴可通过销售或任何其他涉及或不涉及土地的明确转让途径加以转让。相比之下,如果转让的补贴伴随对等的合格公顷数转让,则允许租赁或类似交易。

3. 根据第 141(2) 条所述的程序,在出售补贴的情况下,不管是否涉及土地,成员国都可根据欧盟法律一般原则决定所售补贴部分归还国家储备,或根据欧盟委员会规定的标准以有利于国家储备的方式降低其单位数额。

第 44 条

特殊补贴的条件

1. 除非本条例另有规定,否则根据 (EC) 第 1782/2003 号条例第三篇第 3 章第 2 节和第 71m 条以及本条例第 60 条和第 65 条第 4 项确定的补贴(以下简称“特殊补贴”)须遵循本条第 2 款和第 3 款规定的条件。

2. 如遇减损第 34(1) 条的情况,拥有特殊补贴的农民经成员国授权后可以背离通过对等的合格公顷数激活补贴的要求,前提是农民必须满足以下条件:

(a) 在 (EC) 第 1782/2003 号条例所述的基期中执行 50% 的农业活动并且以公顷单位 (LU) 表示;或,

(b) 在第 60 条规定的特殊补贴的情况下,过渡到单一支付计划前执行 50% 的农业活动并且以公顷单位 (LU) 表示;或,

(c) 在第 65 条规定的情况下,适用 (EC) 第 1782/2003 号条例第 67 条和第 68 条期间执行 50% 的农业活动并且以公顷单位 (LU) 表示。

但是,根据 (EC) 第 1782/2003 号条例和本条例规定向农民分配特殊补贴时,该农民必须至少保持 50% 的第 1 项中的所述最高活动级别。

第 1 项中所述的条件不适用于马耳他。

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3. 在 2009 年、2010 年和 2011 年转让特殊补贴的情况下,如果转让所有特殊补贴,则受让人可从第 2 款的减损规定中受益。从 2012 年起,只有在实际或预计继承的情况下,受让人才会从减损规定中受益。

第 1 项不适用于马耳他。

第 45 条

补贴修订

1. 在正当情况下,成员国若已根据 (EC) 第 1782/2003 号条例第三篇第 1 章到第 4 章实施单一支付计划,则可以根据欧盟法律一般原则,决定于 2010 年或 2010 年后开始估算补贴数额。

如果决定从 2010 年开始实施,则应于 2009 年 8 月 1 日前确立此决定。在任何其他情况下,应于 2010 年 8 月 1 日前确立此决定。

2. 为了实施第 1 款第 1 项,可根据客观、非歧视标准确定符合年度更新修订的补贴。如果修订规定降低补贴,则修订必须采取至少三个预设的年度步骤。

执行第 1 款规定的任一年度步骤,补贴数额的降幅不得超过最初数额和最终数额差距的 50%。如果支付数额降幅低于最初数额的 10%,成员国执行的步骤可以少于三个。

3. 成员国有权在以下情况决定适用本条:

(a) 在合理的地域层面上,地域层面根据客观、非歧视标准确定,如制度结构、管理结构和农业潜力;或

(b) 第 46(4) 条适用时,第 46(2) 条所规定的地区内。

第 2 章

区域和部分实施

第 1 节

地域实施

第 46 条

第 40 条所述的国家最高限额区域分配

1. 成员国已制定 (EC) 第 1782/2003 号条例第三篇第 1 章至第 4 章规定的单一支付计划,可决定于 2010 年或 2010 年后按照本节规定的条件,在区域层面实施单一支付计划。

如果决定从 2010 年开始实施,则应于 2009 年 8 月 1 日前确立此决定。在任何其他情况下,应于 2010 年 8 月 1 日前确立此决定。

2. 成员国应根据客观、非歧视标准确定各区域,如各区域的制度结构、管理结构和区域农业潜力。

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成员国可以将其全国领土视为一个区域。

3. 成员国应按照客观、非歧视的标准，在各区域间分配第 40 条规定的国家最高限额。成员国可以决定这些区域最高限额必须与年度更新修订为准，且不超过三个预先确定的年度步骤，符合客观、非歧视的标准，如农业潜力或环境标准。

4. 如果采用本条第 1、2 和 3 款的成员国决定不采用第 47 条，则应相应地调整区域最高限额的必要程度来调整本成员国各区域的补贴数额。为此，补贴应以支付数额的线性降低或增加为准。本款规定的补贴数额总额应控制在其最初数额的 10%。

5. 如果成员国决定同时采用第 45 条和本条，那么在计算第 45(2) 条第二项中的限制时，应考虑本条第 4 款的补贴数额降低。

第 47 条

单一支付计划区域

1. 在正当情况下，成员国可以决定将第 16 条规定的区域最高限额的 50% 分配给财产位于相关区域的所有农民，包括不持有补贴的农民。

2. 农民获取补贴的单位数额计算方法为：用第 46 条规定的区域最高限额相应部分除以区域层面的合格公顷数。

如果农民在实施本条之前持有补贴，则必须增加这些补贴的数额。为此，应在补贴总数额的基础上，计算农民每项补贴的单位数额应增加的数额。农民在相关成员国确定的日期前持有这些补贴。实施了本条第 1 款后，上述增加数额的计算结果必须在剩余的区域内最高限额范围之内。

3. 根据第 34(2) 条规定，除非因不可抗力或特殊情况外，则必须遵守第 45(1) 条规定，每个农民的补贴数目应等于农民在当年实施区域单一支付计划申报的公顷数。

4. 农民进行第 1 款和第 2 款中规定的分配前所持有的补贴应取消，并由第 3 款中的新补贴取代。

第 48 条

补贴修订

1. 在正当情况下，实施第 47 条的成员国按照欧共体法律的一般原则，在实施第 45(1) 条规定的区域层面单一支付计划后一年，可以决定开始估算本节规定的补贴数额。

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如果决定从 2010 年开始实施，则应于 2009 年 8 月 1 日前确立此决定。在任何其他情况下，应于 2010 年 8 月 1 日前确立此决定。

为了实施第一项，可根据客观、非歧视标准确定符合年度更新修订的补贴。如果修订规定降低补贴，则修订必须采取至少两个预先确定的年度步骤。

2. 在正当情况下，成员国若已根据 (EC) 第 1782/2003 号条例第三篇第 5 章第 1 节或第 6 章提出单一支付计划，则可以依据欧共体法律一般原则，决定于 2010 年或 2010 年后开始估算补贴数额。

如果决定从 2010 年开始实施，则应于 2009 年 8 月 1 日前确立此决定。在任何其他情况下，应于 2010 年 8 月 1 日前确立此决定。

为了实施第一项，必须根据客观、非歧视标准确定符合年度更新修订的补贴。如果修订规定降低补贴，则修订必须采取至少三个预先确定的年度步骤。

第一款的实施不得影响成员国根据 (EC) 第 1782/2003 号条例第 63(3) 条所做的决定。相关成员国可以违反第一项规定的最少步骤和本条第 3 款规定的限额。

3. 执行第 1 款和第 2 款规定的任一年度步骤，支付数额的降低不得超过最初支付数额和最终支付数额差距的 50%。如果支付数额降低低于最初数额的 10%，成员国执行的步骤可以少于三个。

4. 成员国可以在合理的地域层面上决定执行第 1 款、第 2 款和第 3 款。地域层面应根据客观、非歧视标准确定，如制度结构、管理结构和农业潜力。

第 49 条

草原

执行第 47 条时，成员国可以根据客观、非歧视标准，在第 46 条规定的区域最高限额或部分限额内，决定根据第 47(1) 条应分配给农民补贴的不同单位数额。

(a) 2008 年实施面积补贴时确定的草原公顷数和其他任何合格公顷数；或

(b) 2008 年实施面积补贴时确定的永久牧场公顷数和其他任何合格公顷数。

第 50 条

本节规定的补贴条件

1. 根据本节或 (EC) 第 1782/2003 号条例第三篇第 5 章第 1 节或第 6 章规定的补贴，只能在同一区域或每公顷补贴相同的区域间转让或使用。

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2. 除非本条另有规定, 否则应执行本条规定。

第 2 节 部分实施

第 51 条

总则

1. 若成员国已按照 (EC) 第 1782/2003 号条例第三篇第 5 章第 2 节规定, 授予了绵羊肉和山羊肉行业、牛肉和小牛肉行业支付款项, 则可在 2009 年 8 月 1 日前决定继续根据本节规定授予支付款项。成员国也可以决定将其国家最高限额的一部分给予低于 (EC) 第 1782/2003 号条例第 64(2) 规定的层面。如果成员国不做出该决定, 那么根据本条例第 66 条, 支付款项将从 2010 年开始整合至单一支持计划。

对于本条例第 53(2) 条所述的牛肉和小牛肉支付款项情况, 成员国可以在 2010 年 8 月 1 日前决定不发放此支付款项, 但须根据本条例第 66 条规定从 2011 年起将其整合至单一支付计划。

如果成员国将全部或部分水果和蔬菜支付款项从 (EC) 第 1782/2003 号条例第 68b 条中提到的单一支付计划中排除, 则可以:

- (a) 从 2010 年开始, 依照本节条款和基于 (EC) 第 1782/2003 号条例第 68b(1) 和 (2) 条、第 143bq(1) 和 (2) 条的决定, 授予水果和蔬菜支付款项; 或
- (b) 在 2009 年 8 月 1 日前, 决定将根据 (EC) 第 1782/2003 号条例第 68b 条从单一支付计划中排除的水果和蔬菜支付款项, 按照本条例第 66 条整合至单一支付计划; 或
- (c) 在 2009 年 8 月 1 日前, 决定将本节规定条件下的过渡水例第 68b 条决定的层面。

执行单一区域支付计划的新成员国在推出单一支付计划时, 可决定将本节规定的条款给予第一项规定的支付款项。对于水果和蔬菜支付, 尚未执行 (EC) 第 1782/2003 号条例第 143bc 条的新成员国不应执行本条例第 54 条。另外, 对于水果和蔬菜支付, 新成员国应将本条例第 128(3) 条相关规定考虑在内。

TM3

如果成员国已给利用 (EC) 第 1782/2003 号条例第三篇第五章第 2 节规定的选择权执行区域层面的单一支付计划, 可以在相同区域层面执行第一和第二项。

VB

2. 基于每个成员国所做的选择, 委员会应根据第 141(2) 条所述程序, 确定第 52 条、第 53 条和第 54 条规定的每项直接支付最高限额。

VB

此最高限额应等于, 第 40 条规定的国家最高限额内的每种直接支付组成部分乘以成员国根据第 52 条、第 53 条和第 54 条执行的降幅百分比。

TM3

3. 任何实施第 1 款第 5 项可能性规定的成员国, 都应在 2009 年 12 月 1 日前向委员会提交以下信息:

- (a) 根据客观标准, 为 2010 年至 2012 年相关的一个措施或数个措施预计的单位区域分配数额;

- (b) 用于确定第 (a) 点所指数额的统计数据和其他支持数据。

成员国应在一个半月内向委员会对所提交信息提出的任何要求, 以便做出进一步解释。

委员会应以本款第一项第 (a) 点所述数额为基础, 根据本条例第 2 款规定, 为第 52 条和第 53 条所述相关成员国的每项直接支付确定最高限额。

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第 54 条
水果和蔬菜过渡支付

1. 截止 2011 年 12 月 31 日, 成员国可以保留第 40 条规定的国家援助限制部分的 50%, 并与马铃薯生产资助相一致。

在此情况下, 并根据第 51(2) 条确定的最高限额, 相关成员国每年应给予农民额外支付款项。

应按照第四篇第 1 章第 8 节规定条款, 将额外支付款项发放给马铃薯种植农民。

2. 成员国可以保留:

(a) 截止 2010 年 12 月 31 日, 本条例第 40 条所述国家最高限额的 100%。该部分与水果和蔬菜作物资助相对应, 而非本款第三项所列的一年生作物。本款第三项所列一年生作物用于加工, 且符合 (EC) 第 2201/96 号条款和第 (EC) No 2202/96 号规定的支付计划; 及

(b) 从 2012 年 1 月 1 日至 2012 年 12 月 31 日, 保留本条例第 40 条所述国家最高限额的 75%。该部分与水果和蔬菜作物资助相对应, 而非本款第三项所列的一年生作物。而且, 该水果与蔬菜作物符合 1996 年 10 月 28 日 (EC) 第 2201/96 号理事会条例市场共同组织关于加工水果和蔬菜产品 (1) 的规定, 以及 1996 年 10 月 28 日 (EC) 第 2202/96 号理事会条例对某些柑橘类水果生产商推出的欧共体资助计划。

在此情况下, 并根据本条例第 51(2) 条确定的最高限额, 相关成员国应每年给予农民额外支付款项。

根据第四篇第 1 章第 8 节规定的条件, 额外支付款项应发放给生产以下一种或一种以上水果和蔬菜的农民, 水果和蔬菜的种类由相关成员国决定:

- (a) 新鲜无花果;
 - (b) 新鲜柑橘类水果;
 - (c) 鲜食葡萄;
 - (d) 梨;
 - (e) 桃子和油桃;
 - (f) 'd'Ente' 李子
3. 第 1 款和第 2 款所述国家限制构成部分如附录十所列。

(1) OJ L 297, 16.11.2007, p. 29.
(2) OJ L 297, 16.11.2007, p. 49.

VB

第 3 章
新成员国单一区域支付计划实施

第 55 条

执行单一区域支付计划的成员国单一支付计划介绍

1. 除非本章另有规定, 本章应适用于执行第五篇第 2 章规定的单一区域支付计划的新成员国。

第 41 条和第 2 章第 1 节不适用。

2. 执行单一区域支付计划的任何新成员国, 应在其将第一次执行单一支付计划后次年 8 月 1 日前做出第 51(1) 条和第 69(1) 条的决定。

3. 除保加利亚和罗马尼亚外, 所有执行单一区域支付计划的成员国, 除了第 34(2) 条规定的资格条件外, 可以将“合格公顷数”定义为: 所有的任何在 2003 年 6 月 30 日农业条件良好的农业区域, 无论当日是否出于生产当中。

第 56 条

资助实施

1. 农民应根据单一支付计划, 在新成员国确定的日期前申请资助, 不晚于 5 月 15 日。

2. 除非在不可抗力或异常环境下, 补贴应分配给在申请单一支付计划的第一年 5 月 15 日前申请单一支付计划的农民。

第 57 条

国家储备

1. 每个新成员国应在第 40 条所述国家最高限额内设定线性百分比降幅, 构成国家储备。

2. 新成员国应根据客观标准, 将国家储备用于向农民分配补贴。这些农民须符合的特殊条件应由委员会根据第 14(1)(2) 条规定的程序来制定。同时须确保所有农民享受同等的待遇, 避免市场和竞争扭曲。

3. 有些从事特定行业的农民因单一支付计划过渡而处于特殊环境。因此, 在执行单一支付计划第一年期间, 新成员国应根据客观标准, 将国家储备分配给此类农民。同时须确保所有农民享受同等的待遇, 避免市场和竞争扭曲。

4. 有些农民执行单一支付计划第一年 1 月 1 日后开始农业活动, 且在这一年没有获得任何直接支付款项。新成员国应根据客观标准将国家储备分配给此类农民。同时须确保农民享受同等的待遇, 避免市场和竞争扭曲。

VB

5. 未适用第 68(1)(c) 条的新成员国可将国家储备用于向某些区域分配农民补贴制度, 以防止丢弃土地且或赔偿这些区域特定损失。这些区域是指受一种或几种形式的公共干预相关的结构调整和/或发展计划影响的区域。此等必须遵循客观标准, 才能确保农民能获得公平待遇, 避免市场和竞争扭曲。

6. 为了执行第 2 款至第 5 款, 新成员国可增加向农民所获单位补贴数额, 增加不得超过 5000 欧元。也可将新补贴数额分配给相关农民。

7. 如果新成员国的国家储备不足以涵盖第 2 款、第 3 款和第 4 款所述情况, 新成员国应在补贴数额内设定线性降幅。

第 59 条

第 40 条规定的国家最高限额区域分配

1. 新成员国可在区域层面执行单一支付计划。
2. 新成员国应根据客观、非歧视标准确定区域。
3. 按照第 57 条规定在各区域削减后, 新成员国在必要时应根据客观、非歧视标准分配第 40 条所述的国家最高限额。

第 59 条

补贴分配

1. 农民获得的补贴数额, 其单位数额的计算方法为: 本条第 2 款规定的国家层面补贴数额按第 57 条规定削减后, 除以第 40 条所述适用国家最高限额。
 2. 除非因不可抗力或异常情况, 每个农民的补贴数额应与该农民执行单一支付计划第一年第 35(1) 条申报的公顷数相同。
 3. 如适用第 2 款的情况, 除非在不可抗力或异常情况下, 新成员国可决定每个农民获得的补贴数额应与所有公顷年平均公顷数相同。被授予单一区域支付计划的成员国确定一年或几年的代表期。所有公顷年平均公顷数在该代表期内确定, 但不得晚于 2008 年。
- 但是, 如果农民已在代表期内开始农业活动, 平均每公顷的补贴数额应以农民进行农业活动的一个或几个日历年度期间获得的补贴为基础。

第 60 条

不拥有合格公顷数的农民

依据第 57(3) 条和第 59 条规定, 从事牛肉、小牛肉、奶制品、猪肉和山羊肉等行业的农民, 若在执行单一支付计划第一年没有合格公顷数而授予了补贴, 农民应获得特殊补贴, 每个补贴数额不超过第 44 条规定的 5000 欧元。

VB

第 61 条

草原

新成员国可根据客观、非歧视标准, 在第 58 条规定的地域最高限额内或部分地区内, 按照第 59(1) 条所述应分配给农民不同单位支付数额, 确定:

- (a) 2008 年 6 月 30 日确定的草原公顷数和其他合格公顷数; 或
- (b) 2008 年 6 月 30 日确定的永久牧场公顷数和其他合格公顷数。

第 62 条

补贴条件

1. 根据本章建立的补贴仅可在同一区域或每公顷补贴相同的区域间转让。

2. 新成员国可遵循欧共体法律一般原则, 决定估算按照本章规定设立的补贴数额。这一决定应在执行单一支付计划第二年 8 月 1 日前做出。

为了实施第一项, 可以根据客观、非歧视标准和预设的年度步骤, 确定符合年度更新修订的补贴。

3. 除非因不可抗力或异常情况, 农民可在不转让土地的情况下下转让补贴数额。转让前, 该农民须根据第 34 条规定, 在至少一个日历年度内已激活至少 80% 的补贴, 或已自愿地将其执行单一支付计划第一年末使用的所有补贴整合至国家储备。

第 4 章

将挂钩资助整合至单一支付计划

第 63 条

将挂钩资助整合至单一支付计划

1. 从 2010 年开始, 成员国应根据第 64 条、第 65 条、第 66 条和第 67 条的规定, 将附录十一所述挂钩支付计划下可获得的资助整合至单一支付计划。
2. 下述情况将减损第 1 款:
 - (a) 已按照 (EC) 第 1782/2003 号条例第三篇第 1 章至第 4 章规定提出单一支付计划的成员国, 可决定利用第 1 款所述全部或部分资助确定的补贴数额, 或在农民 2005 至 2008 年间进行的农业活动类型基础上, 增加补贴数额。同时须符合客观、非歧视标准, 如农业潜力或环境标准。

VB

- (b) 已经按照 (EC) 第 1782/2003 号条例第三篇第 5 章第 1 节或第 6 章推出单一支付计划, 或利用本条例第 47 条中选举权的成员国, 可决定利用第 1 款所述全部或部分资助, 增加补贴数额。补充数额应与总补贴数额除以区域最高限额所得数额相对应。

成员国还可以考虑本条例第 64(1) 条所述标准。在农民 2005 至 2008 年间进行的农业活动类型基础上, 按照客观、非歧视标准, 如农业潜力或环境标准, 不同程度地增加补贴数额。

3. 若成员国使用了第 2(a) 款的减损规定, 则须采取合适的措施, 以确保从第 1 款所述资助受益的农民不会从单一支付计划中排除。尤其要确保第 1 款所述挂钩支付计划整合至单一支付计划后, 农民获得的资助总额不低于农民在第 64 条、第 65 条和第 66 条所述参考阶段内所获所有直接支付款项的 75%。

第 64 条

整合从单一支付计划中排除的挂钩资助

1. 附录十二第 1 点和第 2 点所述计划已规定挂钩资助制度。附录十二所述可用于这些挂钩资助的数额应由成员国根据客观、非歧视标准, 在相关行业农民中进行分配。同时, 尤其需要根据相关资助计划, 将这些资金在 2005 至 2008 年间的某一年或几年直接或间接获得的资助考虑在内。成员国应将附录十一所述马铃薯资助计划中可赋予的数额分配给马铃薯生产商和淀粉生产企业。分配给淀粉生产企业的数额, 须符合这一年内根据 (EC) 第 1234/2007 号条例分配给该企业的配额限制。同时, 需考虑种植合同范围内的马铃薯数量。

2. 成员国应在执行第 1 款产生数额的基础上增加相关农民持有的补贴数额。

每个农民补贴的增加额应为每个相关农民的补贴数额除以第一款所述数额。

但如果相关行业的农民不持有任何补贴数额, 应向其分配以下补贴数额。

- (a) 数额等于该农民根据第 35(1) 条, 在挂钩资助整合至单一支付计划这一年中申报拥有的公顷数。

VB

TM3

- (b) 补贴数额应为根据本项第 (a) 点确定的数额除以执行第 1 款产生的数额。

如遇减损第三项规定的情况, 如果相关行业的农民不持有任何补贴数额, 但在挂钩资助整合至第一年持有的一些租赁补贴数额, 则应为该农民分配补贴。数额应与其拥有的合格公顷数和租赁补贴数额相对应。分配的补贴数额等于执行第 1 项产生的数额除以分配的补贴数额。但是, 分配的每个补贴数额不应超过 5000 欧元。

执行本款第四项后, 为了确保充分分配执行第 1 款所产生的数额, 分配给相关行业农民每项补贴数额不得超过 5000 欧元。如遇减损第 35 条规定的情况, 未申报相应的公顷数, 上述补贴须根据单一支付计划项下为年资助数额。但是, 通过适用此项规定, 须规定获得的补贴数目, 不得超过同年适用第 35 条后激活的补贴数目。如果相关行业农民持有足够的合格公顷数来按照第 35 条的规定获得补贴数额或部分补贴数额, 则此减损规定从第一年开始停止实施。根据本项第一句分配了补贴数额后, 应在任何补贴转让给农民前, 农民将按可用合格公顷数获得这些补贴数额。

对于本款第五项产生的补贴数额转让, 而非由实际或预计继承情况或法律地位变更而引起的补贴数额转让, 转让人应适用第 35 条来激活这些补贴数额。

3. 但是, 如果每个支付计划的数额低于 250000 欧元, 则相关成员国可决定不分配该数额, 并将其加入国家储备。

第 65 条

整合从部分单一支付中排除的挂钩资助

根据附录十第 3 点所述计划的挂钩资助数额, 应由成员国分配给相关行业农民。分配应与 (EC) 第 1782/2003 号条例所述相关参考阶段期间农民获得相关资助计划的资助数额成比例。

但是, 如果成员国根据 (EC) 第 1782/2003 号条例第三篇第 5 章第 1 节和第 6 章推出了单一支付计划, 或根据本条例第 63 (2)(b) 条利用本条例第 47 条规定的选择权, 成员国可按照客观、非歧视标准, 选择更近的代表时期。

成员国应根据本条例第 64(2) 条增加对相关农民补贴数额或分配补贴。

VB

如果农民根据 (EC) 第 1782/2003 号条例第 67 条和第 68 条获得支付款项, 按照本条规定在挂钩支付计划整合至单一支付计划这一年没有合格公顷数, 但将给予补贴, 或该农民每公顷的补贴数额超过 5000 欧元, 则应根据第 44 条, 为其分配特殊补贴, 每笔补贴不超过 5000 欧元。

第 66 条

部分从单一支付计划排除的挂钩资助选择整合

如果成员国:

- 不采用第 51(1) 条第一项规定决定;
- 决定遵循第 51(1) 条第二项, 从 2011 年开始不为第 53(2) 所述牛肉和小牛肉给予支付款项; 或
- 决定遵循第 51(1) 条第三项, 不为水果和蔬菜给予支付款项。

附录十一第 4 点所述计划规定的挂钩资助可获得数额应根据第 65 条整合至单一支付计划。

第 67 条

提前将挂钩资助整合至单一支付计划

► M3 1. 4 成员国可在 2009 年 8 月 1 日前决定将第四篇第 5 节所述种子资助和附录十一第 1 点所述计划整合至 2010 年或 2011 年单一支付计划, 但不包括硬质小麦特殊质量奖金。在此情况下, 委员会应根据第 141(2) 条所述程序, 通过为相关支付计划增加从附录十二获得的数额, 调整第 40 条所述国家最高限额。

TM3

2. 如果成员国仅在其部分领土内利用了 (EC) 第 1782/2003 号条例第三篇第五章第 1 节规定的选择权执行区域层面的单一支付计划, 可以在相同区域层面执行本条。

任何执行第 1 项可能性的成员国都应在 2009 年 12 月 1 日前向委员会提交以下信息:

- 根据客观标准, 为 2010 年至 2012 年相关的一个措施或数个措施预计的单位区域分配数额;
- 用于确定第 (a) 点所述数额的统计数据和其他支持数据。

成员国应在一个月内向理事会对所提交信息提出的任何要求, 以便做出进一步解释。

欧盟委员会以本款第二项第 (a) 点所述数额为基础, 按照本条规定, 调整第 40 条规定的相关成员国国家储备。

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第 5 章

特殊资助

第 68 条

总则

1. 在本章规定的条件下, 成员国可给予农民特殊资助:

(a) 以实现下列目的:

- 对保护或改善环境具有重要意义之特殊农业类型;
- 提高农产品质量;
- 提高农产品销售;
- 实践提高的动物福利标准;
- 需要额外农业环境收益之特殊农业活动;
- 以解决在经济脆弱或环境敏感地区农民对奶制品、牛肉、小牛肉、绵羊肉、山羊肉和大米行业或同行经济脆弱养殖业的具体损失;
- 在上述区域中, 为确保受结构调整和/或发展计划影响的区域内土地不被遗弃, 并或解决该区域内农民的具体损失;
- 根据第 70 条规定的条件采取对农作物和动植物保险金的方形式;
- 根据第 71 条规定的条件采取对动植物疾病和突发环境污染提供共同基金的方式。

2. 第 1(a) 款所述资助的授予必须满足如下条件:

(a) 关于第 1(a)(v) 款所述之特殊农业活动:

- 该资助遵守 (EC) 第 1698/2005 号条例第 39(3) 条第一项规定的要求, 且仅用于实际产生的额外开支和先前收入, 以实现相关目标; 且
- 该资助已经过委员会批准;

(b) 在改革第 1(a)(ii) 款所述农产品质量方面, 该资助必须符合 2006 年 3 月 20 日 (EC) 第 509/2006 号理事会条例有关获得保证的传统农产品和食品特产 (*) 的规定, 2006 年 3 月 20 日 (EC) 第 510/2006 号理事会条例有关地理标志的保护和农产品和食品产地名称 (*) 的规定, 2007 年 6 月 28 日 (EC) 第 834/2007 号理事会条例有关有机产品的有机生产和标签 (*) 的规定以及 (EC) 第 1234/2007 号条例第二部分第二篇第 1 章;

(c) 在改革第 1(a)(iii) 款所列农产品销售方面, 该资助必须符合 2007 年 12 月 17 日 (EC) 第 3/2008 号理事会条例第 2 条至第 5 条关于内部市场和第三国 (*) 农产品供应信息和促销措施规定的标准。

*) OJ L 93, 31.3.2006, p. 1.
*) OJ L 93, 31.3.2006, p. 12.
*) OJ L 169, 20.7.2007, p. 1.

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3. 本条第 1(b) 款所述的资助只允许在必要时下发放, 以创造能维持现有生产水平的激励作用。

对于给绵羊肉、山羊肉、牛肉和小牛肉行业, 如果第 52 条和 53 条规定的资助同该资助一同发放, 总额不得超过实施 (EC) 第 1782/2003 号条例第 67 条所列最高保留百分比之后获得的资助财政信封。

对于大米行业, 必须从成员国将第四篇第 1 章第 1 节规定的大米作物特殊支付整合至单一支付计划那一日历年度开始发放本条第 1(b) 条所述资助。

4. 此资助指:

- (a) 本条第 1(a) 和 (d) 款以年度额外支付款项的形式发放;
- (b) 本条第 1(b) 款以年度额外支付款项的形式发放, 如头数补贴或草原奖金;
- (c) 本条第 1(c) 款以增加农民补贴数额的单位数额和/或补贴数额的形式发放;
- (d) 本条第 1(e) 款应以第 71 条规定的补偿支付款项形式发放。

5. 已增加附加补贴数额单位数额的补贴转让和第 4(c) 款所述额外支付款项转让, 只允许在转让补贴与相当公顷数一同转让的情况下进行。

6. 根据第 1 款发放的任何资助均应符合其他欧共体措施和政策。

7. 委员会应根据第 141(2) 条规定的程序, 确定本条第 2(a)(ii) 款所述委员会批准条件和发放本节所述资助的条件, 尤其是为确保这些条件符合欧共体的措施和政策, 并避免累积资助。

8. 截止 2011 年 8 月 1 日, 已经做出第 59(1) 条所述决定的成员国应从 2012 年开始审查该决定, 并决定:

- (a) 在第 69 条限制范围内, 修正本章所述资助基金数额; 或
 - (b) 停止本章规定的特殊资助申请。
- 根据成员国按照本款第一项做出的决定, 欧盟委员会应根据第 141(2) 条所述程序, 确定该资助相应的最高限额。
- 如果成员国决定停止本章所述申请或决定降低筹资数额, 则应适用第 72 (2) 条。

(¹) OJ L 3, 5.1.2008, p. 1.

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第 69 条

特殊资助财政规定

1. 成员国可在 2009 年 8 月 1 日、2010 年 8 月 1 日或 2011 年 8 月 1 日前决定, 从该决定次年起使用第 40 条所述国家最高限额的 10%。对于马耳他, 则可使用第 68(1) 条规定特殊资助金额 2000000 欧元。

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成员国决定, 从 2010 年起根据本条例第 68(1)(b) 条规定向奶制品行业的农民发放资助。如递减第 69(6) 条规定的情况, 该资助仅通用国家储备的数据资助, 则前一项所述 2009 年 8 月 1 日的最后期限应改为 2010 年 1 月 1 日。

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2. 成员国可保留 (EC) 第 1782/2003 号条例第 41 条所述国家最高限额的 10%, 并与该条例附录六所述任何行业相符, 进而以行业为基础使用 10% 的保留数额。保留资金只用于在保留相关行业申请本条例第 68(1) 条所述的资助。

3. 成员国按照第 1 款规定确定需使用的国家最高限额。根据该决定, 欧盟委员会必须按照第 141(2) 条所述程序确定该资助相应的最高限额。

为了遵守条例第 40(2) 号规定的国家最高限额, 用于发放第 68(1) 条第 (c) 点所述资助的数额应从第 40(1) 条所述的国家最高限额中扣除。这些数额须作为已分配补贴数额计算。

4. 第 1(a) 款第 (i) 点、第 (ii) 点和第 (iv) 点、第 68 条第 1(b) 和 (e) 款确定的资助应控制在第 40 条所述国家最高限额的 3.5% 之内。对于马耳他, 尤其用于资助奶制品行业第 68(1)(b) 条规定的措施时, 应限制在本条例第 69(1) 条所述 2000000 欧元范围内。

成员国可为每项措施制定子限额。

5. P M3 如递减第 4 款规定的情况, 如果在 2010 至 2013 日历年期间, 成员国根据 (EC) 第 1782/2003 号条例第 69 条发放的每公顷牛奶类的资助, 尚未执行该条例第 68(2)(a)(i) 条规定的选择权, 且在这方面使用的数额超过条例第 69 条对牛肉和小牛肉行业规定的数额的 50%, 那么, 本条第 4 项规定的限额应设为本条例第 40 条规定的该成员国国家最高限额的 6%。另外, 如果成员国超过 60% 的牛奶产于北纬 52 以北, 那么该限额应设为本条例第 40 条中该成员国规定的国家最高限额的 10%。<

但是, 任何超过第 40 条所述国家最高限额 3.5% 的资助, 必须专用于资助本条例第 68(1)(b) 条为奶制品、牛肉和小牛肉行业制定的措施。

欧盟委员会应在 2013 年 12 月 31 日前向理事会提交关于本款执行情况的报告。

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6. 成员国应筹集如下规定资助所需的资金:

- (a) 第 68(1) 条规定的资助。数额由欧盟委员会根据本条第 7 条计算, 并根据第 141(2) 条规定的程序确定; 且/或
- (b) 第 68(1)(a)、(b)、(c) 和 (d) 条规定的资助。通过直线降低分配给农民的补贴数额, 且/或缩小第 52 条和 53 条所述直接支付, 且/或国家储备;
- (c) 第 68(1)(e) 条规定的资助。必要时根据本条规定且在本条第 1 款至第 4 款限定的范围内, 直线降低发放给受益人的一项或多项相关支付款项。

为了确定遵守第 40(2) 条规定的国家最高限额, 若成员国利用本条第一款第 (a) 点规定的选择权, 相关数额应作为限额的一部分不得计算在本条第 3 款下确定的最高限额内。

7. 本条第 6(a) 款所述数额应等于:

- (a) 2007 年 (EC) 第 1782/2003 号条例第 10(1) 条适用后, 该条例附录八或八 a 确定的国家限额与 (EC) 第 378/2007 号条例第 4 (1) 条扣除 0.5% 后的差额; 和

- (b) 2008 财年单一支付计划预算执行和 (EC) 第 1782/2003 号条例第三篇第 5 章第 2 节至第 3 节所述支付款项之间的差额。该支付款项是为本项第 (a) 点所述有关 2007 年削减后的最高限额。

该数额无论如何不得高于本条第一款第 (a) 点所述国家最高限额的 4%。

已经在 2007 年执行单一支付计划的新成员国, 该数额在 2010 年应乘以 1.75, 在 2011 年乘以 2, 在 2012 年乘以 2.25, 从 2013 年以后乘以 2.5。

在成员国的请求下, 欧盟委员会应根据本条第 141(2) 条所述程序, 并在按照相同程序制定的详细规则基础上, 更改已经确定的数额。

成员国使用该数额时, 不得影响本条例第 8 条的实施。

8. 本条以及第 68(8) 条和第 131(1) 条所述决定, 应制定适用该决定和通用本条第 6 条所述资助条件的详细规则, 包括确定适用的合格条件、相关数额以及要筹集的资金来源。

9. 新成员国可决定适用本条第 1 项、第 2 项、第 4 项、第 5 项、第 6 项和第 131(1) 条, 并以他们国家限额为基础。

(a) 保加利亚和罗马尼亚在 2016 年规定的国家最高限额;

(b) 其他新成员国在 2013 年规定的国家最高限额。

在此情况下, 第 132 条不得适用于根据本条所采取的各项措施。

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第 70 条

农作物、动植物保险

1. 成员国可发放农作物、动植物保险, 以补偿因恶劣气候、动植物疾病或虫害导致的经济损失。

以适用本条为目的:

- (a) "恶劣气候"指可视为自然灾害的天气情况, 如霜冻、冰雹、冰、雨、干旱;
- (b) "动植物疾病"指世界卫生组织在动物疾病目录中列出的动物疾病, 和/或 1990 年 6 月 26 日第 90/424/EEC 号理事会议决附录中就兽医领域开支 (1) 列出的动物疾病目录。
- (c) "经济损失"指农民为降低相关市场供应应采取特殊措施, 或因严重生产损失而导致的任何额外开支。

2. 因恶劣气候、动植物疾病或虫害感染而引起经济损失, 且该损失超过前三年平均产量的 30%, 或超过前五年除去最高产量和最低产量后剩余三年的平均产量的 30%, 方可获得财政补贴。

3. 发放给每个农民的财政补贴不得超过应缴纳保险费的 65%。

成员国可设定合理的最高限额, 限制享受财政补贴的保险费数额。

4. 相关成员国的主管部门应提前确认恶劣气候、动植物疾病或虫害感染后, 方可对农作物和/或动物和/或植物发放保险。

成员国在合理情况下可提前建立标准, 且必须根据此标准进行正式确认。

5. 保险支付款项的补偿数额不得超过第 1 款所列损失总支出, 且不得要求或规定未来生产的类型或数量。

6. 任何财政补贴都应直接支付给相关农民。

7. 成员国发放财政补贴的开支应由欧共体利用第 69(1) 条所述的资金共同出资, 金额为财政资助的 75%。

第一项规定不影响成员国参与筹集财政补贴和分担保险费的权力, 此部分保险费是指由相关行业内的农民通过完全或部分强制性集体责任计划而承担的保险费。在 (EC) 第 1234/2007 号条例第 1251 条和第 125n 条规定下, 此规定仍可执行。

8. 成员国应确保根据欧共体其他规定, 包括 (EC) 第 1234/2007 号条例和其他任何卫生、兽医或植物健康措施的规定, 发放补偿的经济损失。并根据第 1 款第 1 项规定, 不再享受进一步补偿。

(1) OJ L 224, 18.8.1990, p. 19.

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9. 财政补贴不得阻碍保险业的内部市场运行。财政补贴不得仅限于由一个保险公司或保险集团提供的保险,或受限于相关成员国国内成立的公司签订的保险合同中规定的条件。

第 71 条

动植物疾病和突发环境污染共同基金

1. 成员国可规定,以资助共同基金的方式,补偿农民因动植物疾病或突发环境污染造成的损失。

2. 以实施本条为目的:

(a) “共同基金”必须指成员国根据其国家法律认可的相关农民保险计划。因动植物疾病或突发的环境污染对农民造成的经济损失,应通过该计划对农民进行补偿资助。

(b) “经济损失”必须指为降低相关市场供应或严重生产损失,农民采取得措施而造成的任何额外开支;

(c) “突发环境污染”指与某个特定事件相关、在有限地理范围内发生的污染或环境质量下降。但不涵盖不与某特定事件相关的普遍环境危险,如气候变化或酸雨。

3. 对于动植物疾病,经济补偿只针对对世界动物卫生组织在动物疾病目录中列出的动物疾病,和/或决议第90/424/EEC号附录中列出的动物疾病。

4. 成员国应确保根据欧共体其他规定,包括(EEC)第1234/2007号条例第44条和其他任何卫生、兽医或植物健康措施的规定,发放补偿的经济损失。并根据第1款不再享受进一步补偿。

5. 共同基金应直接给经济补偿发放给遭受经济损失的农民。

共同基金进行经济补偿的资金来源包括:

(a) 由附属农民或非附属农民投入基金的股本或农业产业链的其他经营者投资基金的股本;或

(b) 基金以商业条件向外贷款;和

(c) 根据第11款恢复的任何金额。任何原始股本不得由公共基金出资。

6. 第1款所述财政出资可涉及:

(a) 建立共同基金最多三年的管理开支;

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(b) 为了向农民支付财政补偿而办理的商业贷款,共同基金需偿还的本金和利息;

(c) 共同基金利用原本向农民发放的经济补偿数额。委员会应根据第141(2)条所述程序决定符合财政补贴的最长和最短商业贷款期限。

根据第一项规定(c)点利用基金支付财政补贴,公共财政补贴应遵循与商业贷款最低期限相同的规律。

7. 任何财政补贴不得超过第6款所述开支的65%。财政补贴不得涵盖的任何开支应由附属农民承担。

要限制符合财政补贴的花费,成员国可限制

(a) 每笔基金的最高限额;

(b) 合理的单位最高限额。

8. 成员国发放财政补贴的花费应由欧共体以75%的比率利用第69(1)条所述资金。

第一项不得影响成员国参与财政补贴的权力和在相关行业,为农民承担的完全或部分强制征收计划责任提供的保险部分提供财政补贴。在(EEC)第1234/2007号条例第1251条和第125n条规定下,此规定仍可执行。

9. 成员国应制定共同基金组建和管理法规,尤其是为出现危机时对农民发放补偿支付款项制定法规,管理和监督这些法规的遵守情况。

10. 成员国应每年向欧盟委员会提交本条例实施报告。报告的形式、内容、时间和最后期限由欧盟委员会根据第141(2)条所述程序规定。

11. 如果根据本条规定,利用共同基金为农民发放财政补贴,根据欧共体法律或报告第三方的法律,农民拥有的恢复经济损失破坏的合法权利,应根据相关成员国制定的法规,转入公共基金。

第 72 条

过渡条款

1. 如果成员国执行(EEC)第1782/2003号条例第69条,根据该条例保留的金额应根据本条例第65条整合至单一支付计划。

2. 如过渡条款第一款的情况,执行(EEC)第1782/2003号条例第69条的成员国决定实施本章规定的特殊资助,该成员国可将根据条例第(EEC) No 1782/2003号第69条保留的金额用于本条例第69(6)条所述基金。如果第69(6)条所述基金低于(EEC)第1782/2003号条例第69条规定的保留数额,则差额应根据本条例第65条整合至单一支付计划。

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3. 如果成员国根据 (EC) 第 1782/2003 号条例第 69 条规定, 实施的措施与本章规定不相容, 且决定实施本章规定的特殊援助, 该成员国可从 2009 年 8 月 1 日起, 根据本条例第 68 条, 实施 (EC) 第 1782/2003 号条例第 69 条向委员会沟通的措施和 2010 年、2011 年和 2012 年的实施规定。如上述第 69(4) 条规定, 第 68(1)(a) 条、第 68(1)(b) 条和第 68(1)(e) 条规定的援助总额, 可按照 (EC) 第 1782/2003 号条例第 69 条, 将其限定在相关成员国确定的最高限额范围内。

在这种情况下, 成员国也可决定在 2009 年 8 月 1 日前, 每年调整上述措施, 使其符合本章规定。如果成员国决定不使上述措施与本章规定相容, 则相关数额应根据本条例第 65 条整合至单一支付计划。

4. 如遇减损本条例第 69(6) 条规定的情况, 成员国仅利用国家保留额度援助第 68(1) 条所述的援助, 且在成员国确立的最后期限前已经建立了资助实施国家规定的, 成员国可从 2009 年发放本章规定的援助。

第四篇

其他资助计划

第 1 章

欧共体资助计划

第 1 节

大米作物特殊支付

2009R0073 — ZH — 05.05.2010 — 004.001 — 50

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第 2 节

粉马铃薯种植农民的资助

第 77 条

资助范围及数额

2009/2010、2010/2011 和 2011/2012 销售年度内, 应根据本节 (“淀粉马铃薯种植农民资助”) 规定的条件, 对用于生产淀粉的马铃薯生产发放资助。

生产一公吨淀粉所需的马铃薯资助为 66.32 欧元。

此数额应根据马铃薯淀粉含量做相应调整。

第 78 条

条件

只有马铃薯生产商和淀粉生产企业所签订种植合同范围内的马铃薯, 才可授予马铃薯种植农民应享有的资助。而且, 马铃薯数量必须符合 (EC) 第 1234/2007 号条例第 84a(2) 条有关马铃薯淀粉生产企业配额的规定。

第 3 节

蛋白类作物奖金

VB

VB

第 4 节
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VB

第 5 节
种子资助

第 6 节
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VB

第 7 节
甜菜和甘蔗生产资助

第 8 节
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第 9 节
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第 10 节

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第五章

新成员国直接支付的实施

第 1 章

总则

第 121 条

直接支付的实施

除保加利亚和罗马尼亚以外的成员国，应依照下述时间安排实施直接支付措施。根据百分比表述成员国（新成员国除外）当时的支付款项适用水平。

- 2009 年为 60%，
- 2010 年为 70%，
- 2011 年为 80%，
- 2012 年为 90%，
- 从 2013 年起为 100%。

在保加利亚和罗马尼亚，应依照下述时间安排实施直接支付措施。根据百分比表述成员国（新成员国除外）当时的支付适用水平。

- 2009 年为 35%，
- 2010 年为 40%，
- 2011 年为 50%，
- 2012 年为 60%，
- 2013 年为 70%，
- 2014 年为 80%，
- 2015 年为 90%，
- 从 2016 年起为 100%。

VB

第 2 章

单一区域支付计划

第 122 条

单一区域支付计划

1. 如果新成员国已决定用单一区域支付计划取代直接支付，则应根据本条规定为农民发放资助，但 2009 年、2010 年和 2011 年本条例第四篇第 1 章第 9 节规定的过渡性水果支付以及 2009 年 (EC) 第 1782/2003 号条例第四篇第 5 章所述能源作物支付除外。

2. 单一区域支付款项必须每年发放一次。其计算方法为：每个成员国根据第 123 条确定的年度财政信封除以根据第 124 条确定的农业面积。

3. 单一区域支付计划应从 2013 年 12 月 31 日起实施。新成员国如要停止实施该计划，应在实施计划最后一年 8 月 1 日前通知欧盟委员会。

4. 在停止执行单一区域支付计划后，应依照欧共体相关法规以数量参数为基础实施直接支付，如最低面积、资金最高限额、最高保证数量。2003 年和 2005 年《加入法案》以及欧共体相继续对每项直接支付制定的法规已规定上述数量参数。本条例第 121 条规定的百分比率应继续实施。

第 123 条

年度财政信封

1. 对于所有新成员国，欧盟委员会应制定年度财政信封政策作为资助数额。在相关日历年度的新成员国国内，可再发放该资助数额。

年度财政信封制度的确立必须遵循欧共体相关法规且以数量参数为基础，如最低面积、资金最高限额、最高保证数量。2003 年和 2005 年《加入法案》以及欧共体相继续对每项直接支付制定的法规已规定上述数量参数。

年度财政信封制度应依照第 121 条规定的相关百分比进行调整，逐渐实施直接支付。除了根据附录十五可获得的数额或这些数额间的差额，或水果和蔬菜行业的响应数额和第 130(1) 条所述实际使用的数额。

2. 如果新成员国某年单一区域支付超过其年度财政信封制度的数额，则按新成员国适用的每公顷国家数额应按适用削减系数的比例降低。

第 124 条

单一区域支付计划规定的区域

1. 除了保加利亚和罗马尼亚，新成员国单一区域计划规定的农业面积应为使用面积的一部分。该部分面积在 2003 年 6 月 30 日应状态良好，无论当日是否生产作物，在合理情况下根据新成员国制定、欧盟委员会批准的客观、非歧视标准都得以调整。

VB

本条中“使用农业面积”指委员会为进行统计而规定的耕地、永久草原、永久农作物和菜园所占总面积。

对于保加利亚和罗马尼亚，单一区域支付计划规定的农业面积为农业状况良好的使用农业面积部分。无论是否处于生产当中，且按照保加利亚和罗马尼亚制定、委员会批准的客观、非歧视标准进行调整。

2. 为了根据单一区域支付计划发放支付款项，所有与第 1 款标准相应的农业用地以及种植短期轮作森林的农业用地 (CN code ex 0602 90 41) 在 2003 年 8 月 30 日状况良好，均符合支付款项条件。

但是，对于保加利亚和罗马尼亚，所有与第 1 款制定标准相应的农业用地以及种植短期轮作森林 (CN code ex 0602 90 41) 的农业用地，均符合支付款项条件。

除非因不可抗力或异常情况，第一项规定的日期从成员国确定当日起供农民使用。该日期不得晚于在该成员国境内为修订资助实施确定的日期。

申请支付的单位持有土地的最小面积必须为 0.3 公顷。但是，任何新成员国可根据委员会批准的客观标准决定增加最小面积，但不得超过 1 公顷。

3. 无义务生产或使用生产要素。但是，农民可为任何农业目的使用本条第 4 款规定的土地。第 39 条适用于大麻生产。

4. 任何享受单一区域支付计划支付款项的土地应如第 6 条规定，保持良好的农业和环境状况。

5. 任何获取单一支付计划资助的农民，应按下述时间表遵守附录二所述的法定管理要求：

(a) 附录二第 A 点所述要求应从 2009 年 1 月 1 日起适用；

(b) 附录二第 B 点所述要求应从 2011 年 1 月 1 日起适用；

(c) 附录二第 C 点所述要求应从 2013 年 1 月 1 日起适用；

6. 保加利亚和罗马尼亚在 2011 年 12 月 31 日前可选择是否执行第 4 条、第 5 条、第 23 条、第 24 条和第 25 条，但这些规定须与法定管理要求有关。从 2012 年 1 月 1 日开始，成员国境内享受单一区域支付计划下支付款项的农民应根据下述时间表，达到附录二规定的法定管理要求：

(a) 附录二第 A 点所述要求应从 2012 年 1 月 1 日起执行；

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(b) 附录二第 B 点所述要求应从 2014 年 1 月 1 日起适用；

(c) 附录二第 C 点所述要求应从 2016 年 1 月 1 日起适用；

7. 新成员国在第 123(3) 条规定的实施阶段末期决定终止实施单一支付计划时，也可采用第 5 条和第 6 条规定的选择权。

8. 单一区域支付计划的实施，不得影响任何新成员国实施 (EC) 第 1760/2000 号条例和 (EC) 第 217/2004 号条例有关动物鉴别和注册的欧共体法规。

第 125 条

通知

新成员国应通知委员会实施本章规定采取的详细措施，尤其是依据第 123(2) 条采取的措施。

第 3 章

单独支付和特殊资助

第 126 条

糖类单独支付

1. 如果新成员国已使用 (EC) 第 1782/2003 号条例第 143ba 条规定的选择权，则该成员国应向符合单一区域支付计划的农民发放糖类单独支付款项。该支付款项根据相关成员国在 2006 年和 2007 年通过的标准发放。

2. 糖类单独支付款项应在附录十五规定的最高限额范围内发放。

3. 如递减第 2 款的情况，每个相关新成员国可在以客观标准发放糖类单独支付款项这一年的 3 月 31 日前，决定降低采取糖类支付款项最高限额，使其低于附录十五规定的水平。如果根据第 1 款确定的数额超过相关成员国决定的最高限额，则每年为农民发放的数额应按比例减少。

第 127 条

水果和蔬菜单独支付

1. 如果新成员国已经使用了 (EC) 第 1782/2003 号条例第 143bb 条规定的选择权，该成员国应为符合单一区域支付计划的农民发放水果和蔬菜单独支付款项。该支付款项的发放应符合成员国在 2007 年通过的标准。

2. 水果和蔬菜单独支付款项发放数额应在本条例第 40 条对水果和蔬菜规定的国家最高限额范围内。如果新成员国利用了 (EC) 第 1782/2003 号条例第 143bb(3) 规定的选择权，则应在最低最高限额范围内。

VB

第 128 条

过渡水果和蔬菜单独支付

1. 如果新成员国已经采用了 (EC) 第 1782/2003 号条例第 143bc(1) 条规定的选择权, 该成员国可于 2011 年 12 月 31 日前, 根据 2007 年决定保留本条例第 40 条为马铃薯规定的国家限制, 限制 50%。该马铃薯的 CN 代码为 0702 00 00。在此情况下, 按照本条例第 141(2) 条规定程序设定的最高限额范围内, 相关成员国应每年给予农民额外支付款项, 应按照本条例第四篇第 1 章第 8 节规定的条件, 将额外支付款项发放给马铃薯种植农民。
2. 如果新成员国已经采取 (EC) 第 1782/2003 号条例第 143bc(2) 条规定的选择权, 该成员国可根据其 2007 年决定, 保留:

(a) 2010 年 12 月 31 日前, 本条例第 40 条规定水果和蔬菜作物相应的国家最高限额的 100%, 而非本条例第 54(2) 条第三项所列一年生作物。

(b) 从 2011 年 1 月 1 日到 2012 年 12 月 31 日, 本条例第 40 条规定水果和蔬菜作物相应的国家最高限额的 75%, 而非本条例第 54(2) 条第三项所列一年生作物。

在此情况下, 在按照本条例第 141(2) 条规定程序设定的最高限额范围内, 相关成员国应每年给予农民额外支付款项。

根据本条例第 54(2) 条第三项所述规定, 额外支付款项应发放给生产下面一种或一种以上水果和蔬菜的农民, 水果和蔬菜的种类由相关成员国决定:

3. 已经采用 (EC) 第 1782/2003 号条例第 143bc 条规定的选择权的新成员国, 可在 2009 年 8 月 1 日前决定审查 2007 年做出的决定, 以达到下列目的:

(a) 将全部或部分支付款项整合至单一区域支付计划。在此情况下, 如通过本条例第 130 条的情况, 相关数额应包含在本条例第 123(1) 号所述年度财政信封政策。

(b) 将全部或部分支付款项整合至本条例第 127 条所述水果和蔬菜单独支付款项。在此情况下, 新支付款项应参照客观、非歧视标准发放, 如本条例附录九第 A 点第 2 款设定的标准和 2008 年结束的代表时期。

第 129 条

水果单独支付

1. 如通过第 122 条规定的情况, 实施单一区域支付计划的新成员国可在 2011 年 8 月 1 日前决定从 2012 年开始发放水果单独支付款项。发放支付款项应遵循客观、非歧视的标准, 如第 98 条规定在过渡期水果支付下获得的支付款项, 以及该成员国规定的相关代表期, 但不得晚于 2008 年。

VB

2. 水果单独支付应符合附录十二对水果规定的限制。

3. 2012 年, 执行本条规定的成员国除过发放水果单独支付款项外, 还可发放国家资助。欧共体资助和国家资助总额不得超过下述最高限额:

— 保加利亚: 960000 欧元,
— 拉脱维亚: 160000 欧元,
— 立陶宛: 240000 欧元,
— 匈牙利: 680000 欧元,
— 波兰: 1920000 欧元。

第 130 条

单独支付一般规定

1. 用于发放第 128 条、第 127 条、第 123 条和第 129 条所述支付资金, 不应包括在第 123(1) 条所述年度财政信封内。但是, 在第 126(3) 条适用的情况下, 附录十五所列最高限额和实际使用数额之间的差额应包含在第 123(1) 条所述年度财政信封中。

2. 第 132 条不应适用于第 127 条、第 128 条和第 129 条所述单独支付款项。除过保加利亚和罗马尼亚, 第 132 条不适用于第 126 条所述单独支付款项。

3. 如果发生实际或预期的继承, 且继承农民符合单一区域支付计划条件, 那么第 126 条所述水果单独支付款项、第 127 条所述水果和蔬菜单独支付款项以及第 129 条所述水果单独支付款项均应及成给继承支付款项持有权的农民。

第 131 条

特殊资助

1. 执行单一区域支付计划的新成员国可在 2009 年 8 月 1 日前、2010 年 8 月 1 日前、2011 年 8 月 1 日前决定从做出决定第二年开始适用第 40 条所述国家最高限额的 10%, 根据第三篇第 5 章规定, 为适用于第 68(1) 条规定的农民发放资助。

TMB3

执行单一区域支付计划的新成员国决定从 2010 年开始发放本条例第 68(1)(b) 条规定的有利于奶制品行业农民的资助, 如果该资助根据本条例第 3(a) 款规定而筹资, 那么, 第一项规定的 2009 年 8 月 1 日的最后期限应改为 2010 年 1 月 1 日。

VB

2. 如通过第 68(4)(c) 条规定的情况, 第 68(1)(c) 条所述措施的资金应采取单一区域支付计划下每公顷土地发放数额增加的形式。

第 68(3) 条第二项不适用于执行单一区域支付计划的成员国。

3. 如遇减收第 69(6) 条规定的情况, 执行第 122 条所述单一区域支付计划的新成员国, 应采取下列融资方式, 为本条第 1 款所述资助融资。

(a) 减少第 123 条为这些成员国规定的年度财政信封; 和/或

(b) 递减非单一区域支付计划下的直接支付数额。

4. 委员会应根据第 141(2) 条规定的程序设定本条第 1 款所述数额。

这些数额应从第 123(1) 条所述相关新成员国的年度财政信封中扣除。

第 4 章

强制国家直接支付和强制直接支付

第 132 条

强制国家直接支付和强制直接支付

1. 本条中“CAP 类国家计划”指新成员国加入之日前的任何通用国家直接支付计划。在该计划下, 农民可对直接支付中的一项目所涵盖的生产享受资助。

2. 新成员国经委员会授权, 可补充下列任何直接支付:

(a) 第 121 条所述在相关年度内适用水平以上 30 个百分点的所有相关直接支付。对于保加利亚和罗马尼亚, 按下述规定实施: 2003 年为欧共体 2004 年 4 月 30 日所设直接支付水平的 85%, 从 2010 年开始为第 121 条第二款所述相关年度适用水平以上 50 个百分点。但是, 捷克共和国对马铃薯淀粉行业直接支付的补充可达到非新成员国的成员国适用水平的 100%。根据 (EC) 第 1782/2003 号条例第四篇第 7 章所述, 直接支付, 新成员国对直接支付的补充可达 100%。对于保加利亚和罗马尼亚, 按下述最高比率实施: 2009 年为 95%, 从 2010 年开始为 100%;

或

(b) (i) 对于非单一支付计划下的直接支付款项, 此款项必须是新成员国在 2003 日历年根据 CAP 类国家计划增加 10 个百分点, 且以产品对产品为基础, 农民已接收获得的直接资助总水平。但是, 立陶宛的参考年度为日历年 2002 年, 保加利亚和罗马尼亚的参考年度为 2006 日历年。斯洛文尼亚增加 25 个百分点。

(ii) 对于单一支付计划, 新成员国对某一年度的国家直接支付补充达到的总额应受到特殊财政信封的限制。该财政信封数额等于:

相关新成员国 2003 日历年可获得的 CAP 类国家直接资助总额与调整后的附录八所述该新成员国的国家最高限额之间的差额。其中, 立陶宛为 2002 日历年, 每次增加 10 个百分点。但对于保加利亚和罗马尼亚, 参考年度为 2006 日历年。斯洛文尼亚增加 25 个百分点。

附录八所述新成员国调整的国家最高限额, 在合理情况下应遵循第 51(2) 条。

为了计算本小点第一级所述总额, 国家直接支付或欧盟直接支付相对应的补充, 或根据第 40 条和第 51(2) 计算相关成员国有效最高限额时考虑在内的补充数额, 均应包括在内。

TC1

对每项相关直接支付, 新成员国可选择执行第一项第 (a) 点或第 (b) 点。

根据相关直接支付, 新成员国加入后农民可获得的直接资助总额, 包括所有补充国家直接支付款项, 不应超过成员国 (新成员国除外) 当时适用的相关直接支付下, 农民可获得的直接资助水平。> C1 从 2012 年开始, 将第 7 条联合第 10 条的执行考虑在内。

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3. 塞浦路斯可根据附录一所述的资助计划, 补充根据任何直接支付下向农民发放的直接资助, 数额可达到该农民 2001 年在塞浦路斯能获得资助的水平。

塞浦路斯当局应确保塞浦路斯加入后, 根据相关直接支付, 包括所有补充国家直接支付款项, 发放给农民的直接资助总额在任何情况下都不应超过相关年度内成员国 (新成员国除外) 根据直接支付向国内农民应授予的直接支付水平。

应发放的补充国家资助总额如附录十六所述。

应发放的补充国家资助应遵循任何调整。这些调整可能是 CAP 发展所必须进行的调整。

第 2 款和第 5 款不适用于塞浦路斯。

4. 如果新成员国决定实施单一区域支付计划, 该新成员国可在第 5 款和第 8 款所述条件下发放补充国家直接支付款项。

5. 实施单一区域支付计划当年发放的补充直接支付总额, 可由每行业 (附属行业) 的特殊财政信封限制, 前提是行业 (附属行业) 的特殊财政信封与下列各项无关:

(a) 与单一支付计划联合的直接支付款项; 和/或

(b) 根据 (EC) 第 1782/2003 号条例第 70(2) 条, 2009 年从单一支付计划中排除或可能排除的一项或多项直接支付, 或可能受限于该条例第 84(2) 条所述部分实施的支付;

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从 2010 年开始,可能需遵守部分实施的一项或多项直接支付款项或本条例第 51(2) 和 第 68 条规定的或特殊资助。

该财政信封数额应等于:

(a) 在合理情况下,每个行业(附属行业)适用第 2 款第一项第 (a) 点或第 (b) 点所获得的资助总额; 和

(b) 根据单一区域支付计划,相关成员国在相关年度相同行业(附属行业)可获得的直接资助总额之间的差额。

6. 经欧盟委员会批准,新成员国可根据客观标准决定应发放的补充国家资助数额。

7. 欧盟委员会的授权应:

(a) 在第 2 款第一项第 (b) 点适用的情况下,详细规定相关 CAP 类国家直接支付计划;

(b) 确定补充国家资助达到的水平,补充国家资助的比率,必要时规定发放的条件;

(c) 应遵循任何因 CAP 新情况而做出的调整。

8. 如果非新成员国的成员国未规定农业活动的直接支付款项,那么这些农业活动不享受补充国家支付款项。

第 133 条

塞浦路斯国家资助

塞浦路斯除了补充国家直接支付以外,截止 2012 年末可发放过渡国家资助和附带国家资助。该国家资助发放形式类似于欧共体资助形式,如脱钩支付款项。

鉴于 2001 年发放的国家资助实质及数额,塞浦路斯可向附录十七所列行业(附属行业)发放国家资助,数额为该附录规定的数额。

应发放的国家资助应接受任何调整。这些调整可能是 CAP 发展所必须进行的调整。如果这种调整证明是必须的,其资助数额或发放条件应根据委员会的决议进行修正。

塞浦路斯应就国家资助措施的实施向委员会提交年度报告,说明每行业(附属行业)资助的形式及数额。

第六篇

财政转移

第 134 条

棉区重建的财政转移

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第 135 条

烟区重建的财政转移

第 136 条

转移至欧洲农村发展农业基金会

成员国可在 2009 年 8 月 1 日前决定,根据第 69(7) 条计算自 2011 财政年起农村发展计划所获得的欧共体资助以及 EAFRD 所获得的筹资,而不借助第 69(3)(a) 条的规定。

第七篇

实施、过渡及最后条款

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第 149 条
生效与适用

本条例在其出版《欧盟官方期刊》之后第一天生效。

本条例将于 2009 年 1 月 1 日起生效。

但是：

- (a) 第 138 条将于 2010 年 1 月 1 日起生效；
- (b) 附录三中规定的建造和/或保留制度的标准、灌溉水使用时授权程序的合规性以及景观特征的具体规定，将于 2010 年 1 月 1 日起生效；
- (c) 附录三中规定的沿河道缓冲带修建标准最早于 2010 年 1 月 1 日、最晚于 2012 年 1 月 1 日起生效。

本条例须完整并直接适用于所有成员国。

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附录一

TM4

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附录三

第 6 条所指的良好农业与环境条件

问题	强制标准	可选标准
水土流失: 采用适当措施保护土壤	— 土壤覆盖层最小厚度 — 反映特定地区条件的土地管理最佳限度	— 保留梯田
土壤有机质: 采用适当措施维护土壤有机质含量	— 可耕地残株管理	— 轮作标准
土壤结构: 通过适当措施维护土壤结构		— 使用合适的机器
最低维护标准: 维护最低维护标准, 杜绝 土壤破坏	— 保留景观特征, 包括篱笆、池塘、沟渠和树木, 合适时可划分为行区、组区、零散区和场区。	— 最低家畜饲养价格和或合适制度 — 新建且/或保留生境
	— 避免占用农业土地的空闲植被	— 禁止连根拔除植被树

维护果园和橄榄园的良好植物状态

保护与管理水资源。
保护水资源免受污染和流失, 并管理对水资源的使
用

沿河道修建缓冲带⁽¹⁾
若将水资源用于灌溉, 必须通过
授权且遵守授权程序。

(1) 注: 见欧盟委员会 91/676/EEC 号指令第 3(2) 条和欧盟委员会 91/676/EEC 号指令附件二第 A.4 点所附标准, 其应用必须遵守欧盟指令 91/676/EEC 号指令第 5(4) 条规定的行动指南。

根据第 63 条规定将挂钩市场资助整合至单一支付计划

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1.

- (a) 从 2010 年起，各成员国 (EC) No 1782/2003 号条例第 1 章规定的
优质小麦具体质量奖金。
(b) 最迟从 2012 年起，本条例第四篇第 1 章第 3 节规定的蛋
白质作物奖金。
(c) 最迟从 2012 年起，本条例第四篇第 1 章第 1 节规定的
米作物具体质量奖金。
(d) 最迟从 2012 年起，本条例第四篇第 1 章第 4 节规定的
菜区域交付。
(e) 最迟从 2012 年起，本条例第四篇第 1 章第 2 节规定的
甜马铃薯种植商的生产资助。

2.

- (a) 从 2012 年起，：
(b) 从 2010 年起，(EC) 第 1234/2007 号条例第 95a 条规定的
转渡粉奖金。
(c) 从 2012 年起，本条例第四篇第 1 章第 9 节规定的过渡款
水果支付。

3.

- 从 2010 年起，成员国授予如下区域。
(a) 根据 (EC) 第 1782/2003 号条例第四篇第 10 章规定的可耕
庄稼用地支付。
(b) 根据 (EC) 第 1782/2003 号条例第四篇第 10b 章规定的橄榄
园资助。
(c) 根据 (EC) 第 1782/2003 号条例第四篇第 10d 章规定的啤酒
花用地资助。

最迟从 2012 年起，成员国授予如下区域：

- (a) 本条例第四篇第 1 章第 5 节规定的种子资助。
(b) 本条例第 53 条规定的牛肉和小牛肉支付，带仔母牛奖金除
外。

4.

- 从 2010 年起，适用本条例第 51(1) 条的成员国不再授予如下支付款
项，或成员国决定授予更低的支付款项：
(a) (EC) 第 1782/2003 号条例第 67 条规定的绵羊和山羊支付款项；
(b) (EC) 第 1782/2003 号条例第 68 条或本条例第 53(2) 条规定的牛
肉和小牛肉支付款项，如果应用本条例第 51(1) 条第二项。
(c) (EC) 第 1782/2003 号条例第 68b 条规定的过熟水果蔬菜支付款
项。

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根据第 64 条规定将挂钩市场资助整合至单一支付计划

于附件 (EC) 第 1234/2007 号条例

马铃薯资助奖金 (EC) 第 1234/2007 号条例第 95a 条)

(1 000 欧元)

2018 年及以后

成员国	2012	2013	2014	2015	2016 年及以后
丹麦	3 743	3 743	3 743	3 743	3 743
德国	16 279	16 279	16 279	16 279	16 279
西班牙	43	43	43	43	43
法国	5 904	5 904	5 904	5 904	5 904
荷兰	9 614	9 614	9 614	9 614	9 614
奥地利	1 061	1 061	1 061	1 061	1 061
芬兰	1 183	1 183	1 183	1 183	1 183
瑞典	1 381	1 381	1 381	1 381	1 381
捷克共和国	749	749	749	749	749
爱沙尼亚	6	6	6	6	6
拉脱维亚	129	129	129	129	129
立陶宛	27	27	27	27	27
波兰	3 226	3 226	3 226	3 226	3 226
斯洛伐克	16	16	16	16	16

爱沙尼亚马铃薯生产者资助

(1 000 欧元)

2018 年及以后

成员国	2010	2011	2012	2013	2014	2015	2016 年及以后
丹麦	11 156	11 156	11 156	11 156	11 156	11 156	11 156
德国	48 521	48 521	48 521	48 521	48 521	48 521	48 521
西班牙	129	129	129	129	129	129	129
法国	17 598	17 598	17 598	17 598	17 598	17 598	17 598
荷兰	28 655	28 655	28 655	28 655	28 655	28 655	28 655
奥地利	3 163	3 163	3 163	3 163	3 163	3 163	3 163
芬兰	3 527	3 527	3 527	3 527	3 527	3 527	3 527
瑞典	4 116	4 116	4 116	4 116	4 116	4 116	4 116
捷克	1 563	1 563	2 009	2 232	2 232	2 232	2 232
共和国	12	13	15	17	17	17	17
爱沙尼亚	268	307	345	363	363	363	363
拉脱维亚	56	64	72	80	80	80	80
立陶宛	6 731	8 654	9 615	9 615	9 615	9 615	9 615
波兰	34	35	44	48	48	48	48
斯洛伐克	34	35	44	48	48	48	48

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►B COUNCIL REGULATION (EC) No 73/2009

of 19 January 2009

establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003

(OJ L 30, 31.1.2009, p. 16)

Amended by:

		No	page	date
►M1	Commission Regulation (EC) No 889/2009 of 25 September 2009	L 254	73	26.9.2009
►M2	Commission Regulation (EC) No 992/2009 of 22 October 2009	L 278	7	23.10.2009
►M3	Council Regulation (EC) No 1250/2009 of 30 November 2009	L 338	1	19.12.2009
►M4	Commission Regulation (EU) No 360/2010 of 27 April 2010	L 106	1	28.4.2010

Corrected by:

►C1 Corrigendum, OJ L 43, 18.2.2010, p. 7 (73/2009)

COUNCIL REGULATION (EC) No 73/2009

of 19 January 2009

establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 36 and 37 and Article 299(2) thereof,

Having regard to the 1979 Act of Accession, and in particular paragraph 6 of Protocol No 4 on cotton attached thereto,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament (1),

After consulting the European Economic and Social Committee (2),

After consulting the Committee of the Regions (3),

Whereas:

(1) The reforms of the Common Agricultural Policy (CAP) agreed in 2003 and 2004 included provisions to gauge their effectiveness.

In this context the Commission presented a Communication to the European Parliament and the Council entitled 'Preparing for the Health Check of the CAP reform' on 20 November 2007. That Communication and the subsequent discussions of its main elements by the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, as well as numerous contributions arising from public consultation should be taken into account.

(2) Experience drawn from the implementation of Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes (4) in particular shows that certain elements of the support mechanism need to be adjusted. In particular, the decoupling of direct support should be extended and the functioning of the single payment scheme should be simplified. Furthermore, Regulation (EC) No 1782/2003 has been substantially amended on several occasions. In the light of these developments and in the interest of clarity, it should be repealed and replaced by this Regulation.

(3) Regulation (EC) No 1782/2003 established the principle that farmers who do not comply with certain requirements in the areas of public, animal and plant health, environment and animal welfare are subject to reductions of or exclusion from direct support. This 'cross compliance' system forms an integral part of Community support under direct payments and should therefore be maintained. However, experience has shown that a number of the requirements within the scope of cross compliance are not sufficiently relevant to farming activity or farm land or concern national authorities rather than farmers. It is therefore appropriate to adjust the scope of cross compliance.

(4) Opinion of 19 November 2008 (not yet published in the Official Journal).

(5) Opinion of 23 October 2008 (not yet published in the Official Journal).

(6) Opinion delivered following non-compulsory obligation.

(7) Opinion of 8 October 2008 (not yet published in the Official Journal).

(8) Opinion delivered following non-compulsory obligation.

(9) OJ L 270, 21.10.2003, p. 1.

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(4) Furthermore, in order to avoid agricultural land being abandoned and to ensure that it is maintained in good agricultural and environmental condition, Regulation (EC) No 1782/2003 established a Community framework within which Member States adopt standards taking account of the specific characteristics of the areas concerned, including soil and climatic conditions and existing farming systems, land use, crop rotation, farming practices and farm structures. This framework should be maintained. Experience has shown nevertheless that the relevance and beneficial effects of certain standards are not sufficient to justify their implementation by all Member States. Such standards should therefore become optional for Member States. However, to ensure that the framework is as consistent as possible, a standard should not be optional where before 2009 the Member State concerned already defined a minimum requirement on the basis of such a standard or where national rules which address such a standard are in place.

(5) The abolition, in accordance with this Regulation, of compulsory set aside within the single payment scheme could in certain cases have adverse effects on the environment, in particular as regards certain landscape features. It is therefore appropriate to reinforce the Community provisions aimed at protecting specified landscape features. In specific situations it should also be possible for a Member State to provide for the establishment and/or retention of habitats.

(6) Protection and management of water in the context of agricultural activity has increasingly become a problem in certain areas. The Community framework for good agricultural and environmental condition should therefore also be reinforced with the aim of protecting water against pollution and run-off and of managing the use of water.

(7) Regulation (EC) No 1782/2003 recognised the positive environmental effect of permanent pasture. The measures in that Regulation aimed at encouraging the maintenance of existing permanent pasture to ensure against mass conversion to arable land should be maintained.

(8) In order to achieve a better balance between policy tools designed to promote sustainable agriculture and those designed to promote rural development, a system of compulsory progressive reduction of direct payments ('modulation') was introduced by Regulation (EC) No 1782/2003. That system should be maintained and should include the exemption of direct payments of up to EUR 5 000.

(9) The savings made through modulation are used to finance measures under the rural development policy. Since Regulation (EC) No 1782/2003 was adopted, the agricultural sector has been faced with a number of new and demanding challenges such as climate change and the increasing importance of bio-energy, as well as the need for better water management and more effective protection of biodiversity. The Community, as party to the Kyoto Protocol (1), has been called upon to adapt its policies in the light of climate change considerations. Furthermore, following serious problems relating to water scarcity and droughts, the Council, in its Conclusions 'Water Scarcity and Drought' of 30 October 2007, considered that water management issues in agriculture should be further addressed. Furthermore, the Council emphasised in its Conclusions 'Halting the Loss of Biodiversity' of 18 December 2006, that protecting biodiversity remains a major challenge and while important progress has been made,

(1) Council Decision 2002/358/EC of 25 April 2002 concerning the approval, on behalf of the European Community, of the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the joint fulfilment of commitments thereunder (OJ L 130, 15.5.2002, p. 1).

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the attainment of the Community's biodiversity target for 2010 will require additional efforts. Moreover, since innovation can, in particular, contribute to the development of new technologies, products and processes, it will underpin the efforts to tackle these new challenges. The expiry of the milk quota regime in 2015 in accordance with 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 (1) will require specific efforts on the part of dairy farmers to adapt to changing conditions, particularly in disadvantaged regions. It is therefore appropriate that this particular situation should also be defined as a new challenge which Member States should be able to address with a view to ensuring a 'soft-landing' of their dairy sectors.

(10) The Community acknowledges the need to tackle these new challenges in the framework of its policies. In the area of agriculture, rural development programmes adopted under Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (2) are an appropriate tool for dealing with them. To enable Member States to revise their rural development programmes accordingly without being required to reduce their current rural development activities in other areas, additional funding needs to be made available. However, the financial perspective for the period 2007 to 2013 does not provide for the financial means to reinforce the Community's rural development policy as necessary. Under these circumstances, a large part of the financial resources needed should be mobilised by providing for a gradual increase in the reduction of direct payments through modulation.

(11) The distribution of direct income support among farmers is characterised by the allocation of a large quantity of payments to a rather small number of large beneficiaries. It is clear that larger beneficiaries do not require the same level of unitary support for the objective of income support to be efficiently attained. Moreover, the potential to adapt makes it easier for larger beneficiaries to operate with lower levels of unitary support. It is therefore fair to expect farmers with large amounts of support to make a special contribution to the financing of rural development measures addressing new challenges. Therefore, it is appropriate to establish a mechanism providing for an increased reduction in the larger payments, the proceeds of which are to be used to address the new challenges in the framework of rural development.

(12) The particular geographical situation of the outermost regions as well as their insularity, small size, mountainous terrain and climate impose additional burdens on their agricultural sectors. In order to mitigate such burdens and constraints, a derogation from the obligation to apply the modulation reduction to farmers in the outermost regions should be provided for.

(13) The increased rates of compulsory modulation need to be taken into account by those Member States that opted to apply a system of voluntary modulation. Council Regulation (EC) No 378/2007 of 27 March 2007 laying down rules for voluntary modulation of direct payments provided for in Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers (3) should be therefore amended accordingly.

(14) The amounts resulting from the application of 5 percentage points corresponding to the modulation reductions determined in Regu-

(1) OJ L 299, 16.11.2007, p. 1.
(2) OJ L 277, 21.10.2005, p. 1.
(3) OJ L 95, 5.4.2007, p. 1.

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lation (EC) No 1782/2003 should be allocated amongst Member States according to the same criteria established under that Regulation, that is in accordance with objective criteria, while establishing that a certain percentage of the amounts is to remain in the Member States where they were generated. In view of the structural adjustments resulting from the abolition of rye inter-cropping, the specific measures for certain rye production regions to be financed with part of the amounts generated by modulation should be maintained. Moreover, the amounts raised by applying any further modulation reduction should be made available to the Member States in which they were generated.

(15) In order to facilitate the functioning of modulation, notably with regard to the procedures for granting direct payments to farmers, and the transfers to the rural development programmes, net ceilings should be determined for each Member State to limit the payments to be made to farmers following the application of modulation. To take into account the specificities of CAP support in the outermost regions and the fact that direct payments are not subject to modulation, the net ceiling for the Member States concerned should not include the direct payments in these regions. Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (1) should therefore be amended accordingly.

(16) Farmers in the new Member States which acceded to the European Union on or after 1 May 2004 receive direct payments following a phasing-in mechanism provided for in the respective Acts of Accession. In order to achieve a proper balance between policy tools designed to promote sustainable agriculture and those designed to promote rural development, the system of modulation should not be applied to farmers in the new Member States until the level of direct payments applicable in those Member States is equal to the level applicable in the Member States other than the new Member States.

(17) Modulation should not reduce the net amount paid to a farmer in a new Member State below the amount to be paid to an equivalent farmer in the Member States other than the new Member States. Therefore, once modulation becomes applicable to farmers in the new Member States, the rate of reduction should be limited to the difference between the level under the phasing-in schedule and the level in the Member States other than the new Member States following the application of modulation. Moreover, modulation should be taken into account in the granting of complementary national direct payments to farmers in new Member States who are subject to modulation.

(18) With a view to ensuring that the amounts for the financing of the CAP comply with the annual ceilings set in the financial perspective, the financial mechanism in Regulation (EC) No 1782/2003 whereby the level of direct support is adjusted when the forecasts indicate that the subceiling of heading 2, with a safety margin of EUR 300 000 000, is exceeded in a given financial year should be maintained. Taking into account the levels of direct payments for farmers in the new Member States as a result of phasing-in, and in the framework of the application of the phasing-in mechanism to all direct payments granted in the new Member States, this instrument of financial discipline should not apply in those Member States until the level of direct payments applicable in those Member States is at least equal to the level applicable in the Member States other than the new Member States. In view of the particular weight in the general budget of the European Communities of the resource referred to in Article 2(1)(c) of Council Decision 2007/436/EC,

(1) OJ L 209, 11.8.2005, p. 1.

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Enacted on 7 June 2007 on the system of the European Communities' own resources (1), it is appropriate to provide, exceptionally, for the Council to adopt the necessary decision to apply the instrument of financial discipline on a proposal from the Commission.

(19) In order to help farmers to meet the standards of modern, high-quality agriculture, it is necessary that Member States continue to operate the comprehensive system offering advice to farmers provided for in Regulation (EC) No 1782/2003. The farm advisory system should help farmers to become more aware of material flows and on-farm processes relating to the environment, food safety, animal health and welfare without in any way affecting their obligation and responsibility to comply with those standards.

(20) Regulation (EC) No 1290/2005 provides that Member States have to take the measures necessary to satisfy themselves that transactions financed by the European Agricultural Guarantee Fund (EAGF) are actually carried out and are executed correctly, and to prevent and deal with irregularities. To this end, they should operate an integrated administration and control system for direct payments. In order to improve the effectiveness and control of Community support, Member States should be authorised to make use of the integrated system also in the case of Community schemes not covered by this Regulation.

(21) The main elements of the integrated administration and control system and, in particular, the provisions concerning a computerised database, an identification system for agricultural parcels, aid applications from farmers, a harmonised control system and, within the single payment scheme, a system for the identification and recording of payment entitlements should be maintained.

(22) Managing small amounts is a burdensome task for the competent authorities of the Member States. To avoid an excessive administrative burden, Member States should in general refrain from granting direct payments where the payment would be lower than EUR 100 or the eligible area of the holding for which support is claimed would be less than one hectare. However, as the structures of the Member States' agricultural economies vary considerably and may differ significantly from the average Community farm structure, special provision should be made to allow Member States to apply minimum thresholds that reflect their particular situation. Due to the very specific farming structure in the outermost regions and the Aegean Islands, these regions should not be subject to the application of any minimum threshold. Moreover, Member States should have discretion to opt for the implementation of one of the two types of minimum threshold taking account of the particularities of the structures of their farming sectors. As special payment entitlements were allocated to farmers with so-called 'landless' holdings, the application of the hectare-based threshold would be ineffective. The average support-related minimum amount should therefore apply to such farmers. To ensure equal treatment of farmers whose direct payments are subject to phasing-in, the minimum threshold should be based on the final amounts to be granted at the end of the phasing-in process.

(23) Experience of the application of the single payment scheme shows that decoupled income support was in a number of cases granted to beneficiaries whose agricultural activities formed only an insignificant part of their overall economic activities or whose business purpose was not or only marginally targeted at performing an agricultural activity. To prevent agricultural income support from being allocated to such beneficiaries and to ensure that Community support is entirely used to ensure a fair standard of living for the agricultural community, Member

(1) OJ L 63, 23.6.2007, p. 17.

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States should be empowered, where such allocation occurs, to refrain from granting such natural and legal persons direct payments under this Regulation.

(24) Payments provided for under Community support schemes should be made by the competent national authorities to beneficiaries in full, subject to any reductions provided for in this Regulation, and within prescribed periods. In order to render the management of direct payments more flexible, Member States should be allowed to pay direct payments in up to two instalments per year.

(25) The support schemes under the CAP provide for direct income support, in particular with a view to ensuring a fair standard of living for the agricultural community. That objective is closely related to the maintenance of rural areas. In order to avoid any misallocation of Community funds, no support payments should be made to farmers who have artificially created the conditions required to obtain such payments.

(26) In order to achieve the objectives of the CAP, common support schemes have to be adapted to changing developments, if necessary within short time-limits. Beneficiaries cannot, therefore, rely on support conditions remaining unchanged and should be prepared for a possible review of schemes, in particular in the light of economic developments or the budgetary situation.

(27) Regulation (EC) No 1782/2003 established a single payment scheme that combined the existing various support mechanisms into a single scheme of decoupled direct payments. Experience of the application of the single payment scheme shows that some of its elements can be simplified for the benefit of farmers and administrations. Furthermore, given that the single payment scheme has in the meantime been implemented by all Member States that were required to do so, a number of provisions that were linked to its initial implementation have become obsolete and should therefore be adjusted. In this context, a significant under use of payment entitlements has been detected in some cases. To avoid such a situation and taking into account the fact that farmers are already familiar with the functioning of the single payment scheme, the period initially fixed for returning unused payment entitlements to the national reserve should be reduced to two years.

(28) The main elements of the single payment scheme should be maintained. In particular, the determination of national ceilings should ensure that the total level of support and entitlements does not exceed current budgetary constraints. Member States should also operate a national reserve that may be used to facilitate the participation of new farmers in the scheme or to take account of specific needs in certain regions. Rules on the transfer and use of payment entitlements should be laid down to prevent speculative transfer and accumulation of payment entitlements without a corresponding agricultural basis.

(29) The progressive integration of further sectors into the single payment scheme makes it necessary to review the definition of the land eligible to benefit from the scheme or for the activation of payment entitlements. However, provision should be made for excluding support for areas cultivated with fruit and vegetables in cases where Member States have opted for deferred integration of this sector into the single payment scheme. Besides, specific measures should be laid down for hemp to prevent support being granted for illegal crops.

(30) Compulsory set aside of arable land was introduced as a supply control mechanism. Market developments in the arable crops sector together with the introduction of decoupled aids no longer justify the need for maintaining this instrument, which therefore should be abolished. Set-aside entitlements established

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in accordance with Regulation (EC) No 1782/2003 should therefore be activated as regards hectares subject to the same eligibility conditions as any other entitlement. The abolition of the set-aside obligation may lead to the result that land that was eligible for the purpose of activating set-aside entitlements is no longer eligible. In order to maintain the eligibility of such land, it should be provided that certain affected areas, including those affected under national schemes complying with the relevant rules in Regulation (EC) No 1698/2005, or areas subject to certain environmental commitments are eligible under the single payment scheme.

(31) Further to the integration of formerly coupled market support into the single payment scheme, the value of payment entitlements was, in those Member States opting for historic implementation, based on the individual level of past support. With the time elapsing since the introduction of the single payment scheme and following the successive integration of further sectors into that scheme, it is becoming increasingly hard to justify the legitimacy of significant individual differences in the support level which are based only on past support. For this reason, Member States that chose the historic implementation model should be allowed under certain conditions to review the allocated payment entitlements with a view to approximating their unit value while complying with the general principles of Community law and the objectives of the CAP. In this context, Member States may take into account the specificities of geographical areas when fixing closer values. The levelling of payment entitlements should take place during an adequate transition period and within a limited range of reductions in order to allow farmers reasonably to adapt to the changing levels of support.

(32) Under Regulation (EC) No 1782/2003, Member States had the option to apply the single payment scheme by way of historic or regional implementation. Since then, Member States have had the opportunity to evaluate the effects of their choice as regards both their economic and administrative appropriateness. Member States should therefore be given the opportunity to review their initial choice in the light of their experience. For this reason, in addition to the possibility of levelling the value of payment entitlements, Member States that applied the historic model should be authorised to change over to a regionalised application of the single payment scheme in accordance with the options already provided for in Regulation (EC) No 1782/2003. In particular, Member States should be allowed to adjust the territorial distribution of direct support by effecting a gradual redistribution between regions. This option would give Member States increased flexibility to target direct support in the most appropriate way on the basis of the objectives laid down in Article 33 of the Treaty and on the basis of objective and non-discriminatory criteria such as agricultural potential and environmental criteria. Furthermore, Member States that chose to apply the regional model should be given the option to review their decisions under certain conditions with the aim of approximating the value of payment entitlements according to pre-established annual steps, while complying with the general principles of Community law and the objectives of the CAP. Such changes should take place during an adequate transition period and within a limited range of reductions in order to allow farmers reasonably to adapt to the changing levels of support.

(33) Regulation (EC) No 1782/2003, while introducing a decoupled single payment scheme, allowed Member States to exclude in whole or in part certain payments from that scheme. That Regulation also provided for the review and possible revision of this option in the light of market and structural developments. An analysis of relevant experience shows that decoupling introduces flexibility in the choice of products to be farmed, enabling farmers to take their production decisions on the basis of profit-

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ability and market response. This is particularly the case for the arable crops and hops sectors, and to a certain extent, the beef and veal and seeds sectors. Therefore, the partially coupled payments in the arable crops and hops sectors should be integrated into the single payment scheme from 2010. In the case of hops, Regulation (EC) No 1782/2003 allowed Member States to grant part of the hops area payments to recognised producer organisations. In order to allow the producer organisations to continue their activities as before, Regulation (EC) No 1234/2007, as amended by Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy⁽³⁾, provides for equivalent amounts to be used in the Member State concerned for the same activities. Such amounts should therefore be deducted from the national ceilings provided for in this Regulation for that Member State. In order for farmers in the beef and veal and seeds sectors to adjust to the new support arrangements, provision should be made for the integration of the beef and veal payments and the seed aid to be carried out by 2012 at the latest. Since partially coupled payments in the fruit and vegetable sectors were only recently introduced, and only as a transitional measure, the exclusion of such payments from the single payment scheme should be allowed to continue, whilst Member States should be allowed to review their decisions with a view to increasing the degree of decoupling.

(34) However, as regards the suckler cow and sheepmeat and goatmeat sector, maintaining a minimum level of agricultural production may still be necessary for the agricultural economies in certain regions and, in particular, where farmers cannot have recourse to other economic alternatives. Against this background, Member States should have the option to maintain coupled support either at the current level or at a lower level. In that case, special provision should be made for compliance with the identification and registration requirements provided for by Regulation (EC) No 1760/2009 of the European Parliament and of the Council of 17 July 2009 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products⁽⁴⁾ and Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals⁽⁵⁾, in particular with a view to ensuring the traceability of animals.

(35) Member States should be allowed to use up to 10 % of their national ceilings for the single payment scheme for granting specific support in clearly defined cases. Such support should allow Member States to address environmental and animal welfare issues and improve the quality and marketing of agricultural products. Specific support should also be available to buffer the consequences of the phasing-out of milk quotas and the decoupling of support in particularly sensitive sectors. Given the growing importance of the effective management of risks, Member States should be given the option to contribute financially to the premiums farmers pay for crop, animal and plant insurance as well as to the financing of compensation for certain economic losses in the event of animal or plant diseases and environmental incidents. With a view to respecting the Community's international obligations, the resources that could be used for any coupled support should be limited to an appropriate level while allowing for transitional measures for Member States facing particular difficulties. The conditions applicable to the financial contributions for crop, animal and plant insurance premiums and compensation in relation to animal and plant diseases and environmental incidents should be established accordingly. Moreover, Member States which have made use of Article 69 of Regulation

⁽³⁾ See page 1 of this Official Journal.
⁽⁴⁾ OJ L 264, 11.6.2009, p. 1.
⁽⁵⁾ OJ L 5, 9.1.2004, p. 8.

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(EC) No 1782/2003 should be given a sufficient transitional period in order to allow for a smooth transition to the new rules for specific support.

(36) Experience has shown that currently Member States do not use the entire amount of the funds available under the national ceilings for the single payment scheme, in particular where the payment entitlements have not been activated. In order to facilitate the more efficient use of the funds, Member States should be allowed to grant support above their national ceilings up to an amount the level of which ensures that it remains within the margins of the under-execution of the national ceiling. Such amount should be calculated on the basis of the budget under-execution for the most recent year available and should not put into question the respect of the total net ceiling for direct payments per Member State. For this reason and to ensure that farmers do not face unforeseen reductions of payments, the calculation should be carried out within certain safety margins. These amounts should either be used for the funding of specific support or transferred to the EAFRD.

(37) Direct payments under the single payment scheme were based on reference amounts of direct payments that were received in the past or on regionalised per hectare amounts. Farmers in the new Member States did not receive Community direct payments and had no historical references for the calendar years 2000, 2001 and 2002. Therefore, provision was made under Regulation (EC) No 1782/2003 for the single payment scheme in the new Member States to be based on regionalised per hectare amounts. Several years after the accession of the new Member States to the Community, however, the use of reference periods could be considered for those new Member States that have not yet moved to the single payment scheme. With a view to facilitating the transition to the single payment scheme and, in particular, to preventing speculative applications, the new Member States should be authorised to take account, for the purpose of the calculation of the payment entitlements under the single payment scheme, of the areas for which, historically, support under the single area payment scheme was granted.

(38) Under the regionalised option for the single payment scheme, the new Member States should have the possibility to adjust the value of the payment entitlements per hectare on the basis of objective criteria in order to ensure equal treatment between farmers and to avoid market distortions.

(39) The new Member States should have the same possibilities as the other Member States to partially implement the single payment scheme.

(40) The decoupling of direct support and the introduction of the single payment scheme were essential elements in the process of reforming the CAP. However, in 2003, several reasons called for specific support to be maintained for a number of crops. Experience gained through the application of Regulation (EC) No 1782/2003 together with the evolution of the market situation indicates that schemes that were kept outside the single payment scheme in 2003 can now be integrated into that scheme to promote more market-oriented and sustainable agriculture. This is the case, in particular, with the olive oil sector, where only marginal coupling was applied, as well as with durum wheat, protein crops, rice, potato starch, and nuts payments, where the decreasing effectiveness of remaining coupled payment supports the decoupling option. In the case of flax and hemp, dried fodder and potato starch, the support for processing should be decoupled and the relevant amounts should be integrated into the single payment scheme. As regards protein crops, rice, potato starch, nuts and flax and

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hemp, in order to allow producers to adjust, it is appropriate to integrate the aids for those sectors into the single payment scheme from 2012 while at the same time, and with the exception of the processing aids which are dealt with under Regulation (EC) No 1234/2007, allowing Member States to decide on an earlier date for their integration. As regards nuts, Member States should be allowed to continue to pay the national part of the aid in a coupled way in order to cushion the effects of decoupling.

(41) As a consequence of the integration of further sectors into the single payment scheme, provision should be made for the calculation of the new level of individual income support under that scheme. In the case of nuts, potato starch, flax and lupinus and dried fodder, such an increase should be granted on the basis of the support farmers received in most recent years. However, in the case of the integration of payments that were partially excluded from the single payment scheme, Member States should be given the option to use the original reference periods. For potato starch, the amounts available for distribution in Germany and the Netherlands should take into account the cross-border deliveries of potato starch produced in one of those Member States for processing in the other. Furthermore, with a view to covering the specific needs of their agricultural sectors and to ensure that the support received in the past by farmers is not drastically reduced, Member States should be allowed under certain limits to use the funds to be integrated into the single payment scheme to support farmers who exercised certain agricultural activities in other sectors during the same years, such as using grassland or keeping animals.

(42) Regulation (EC) No 1782/2003 established specific support for energy crops with a view to assisting the development of the sector. Due to recent developments in the bio-energy sector and, in particular, to the strong demand for such products on international markets and the introduction of binding targets for the share of bio-energy in total fuel by 2020, there is no longer sufficient reason to grant specific support for energy crops.

(43) When the cotton sector was integrated into the single payment scheme, it was deemed necessary for part of the support to continue to be linked to the cultivation of cotton through a crop-specific payment per eligible hectare to ensure against any risk of disruption to production in the cotton producing regions. This choice should be maintained in accordance with the objectives set out in Protocol No 4 on cotton attached to the 1979 Act of Accession.

(44) To buffer the effects of the restructuring process in Member States which have granted the restructuring aid provided for in Council Regulation (EC) No 320/2006 of 20 February 2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community (¹), the aid foreseen for sugar beet and cane producers for a maximum of five consecutive years should be maintained.

(45) When the fruit and vegetables sector was integrated into the single payment scheme, a temporary coupled area aid for strawberries and raspberries was provided for. It is appropriate to extend such support beyond the original deadline while at the same time providing for the decoupling of this support from production. The national ceilings should be adjusted to take this into account.

(46) The transitional simplified support scheme for granting direct payments in the new Member States based on area, that is the single area payment scheme, has proved to be an efficient and simple system for granting income support to farmers in the new Member States. In the interest of simplification, the new Member

(¹) OJ L 38, 28.2.2006, p. 42.

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States that opted to apply the scheme should be allowed to continue to apply it until the end of 2013.

(47) Further to the respective reforms of the sugar and fruit and vegetable sectors and their integration into the single payment scheme, those Member States that opted to apply the single area payment scheme should be allowed to grant income support to growers of sugar beet, cane and chicory and producers of certain fruit and vegetables in the form of separate payments. Likewise, such Member States should be allowed to pay separate specific support under similar conditions to those applicable to the other Member States.

(48) As a consequence of the phasing-in of direct payments in the new Member States, the new Member States were allowed to grant complementary national direct payments. The conditions for granting such payments should be maintained.

(49) In the initial allocation of payment entitlements by Member States, some errors led to particularly high payments to farmers. This non-compliance is normally the subject of financial correction until such time as corrective measures are taken. However, taking into account the time that has elapsed since the payment entitlements were first allocated, the necessary correction would lead to disproportionate legal and administrative constraints for Member States. In the interest of legal certainty, the allocation of such payments should therefore be regularised.

(50) In accordance with Regulation (EC) No 1782/2003, France, Portugal and Spain decided to exclude from the single payment scheme the direct payments made in the French overseas departments, the Azores and Madeira and the Canary Islands respectively and to grant them under the conditions provided for in Title IV of that Regulation. Part of the aid provided for in that Title has been completely integrated into the single payment scheme. In the interest of simplification and to take into account the specific circumstances of the outermost regions, such aid should be managed within the support programmes established by Regulation (EC) No 247/2006 of 30 January 2006 laying down specific measures for agriculture in the outermost regions of the Union (¹). To this end, the relevant funds should be transferred from the national ceilings for direct payments to the financial amount set out in that Regulation. In order to allow the Member States concerned to adapt the support programmes, such transfers should only take place in 2010. In the meantime, direct payments will apply in the outermost regions under the conditions provided for in Regulation (EC) No 1782/2003. Regulation (EC) No 247/2006 should therefore be amended accordingly.

(51) It should be specified that the provisions of this Regulation which could give rise to behaviour of a Member State possibly constitutive of State aid are, save as otherwise provided for in this Regulation, excluded from the application of the State aid rules given that the provisions concerned include appropriate conditions for the granting of support, or envisage the adoption of such conditions by the Commission, in order to prevent undue distortion of competition.

(52) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (²).

(¹) OJ L 42, 14.2.2006, p. 1.
(²) OJ L 184, 17.7.1999, p. 23.

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(53) In order to allow Member States as well as the farming community to benefit from the simplification mechanisms introduced by this Regulation, and in particular from the abolition of the set aside obligation, this Regulation should apply from 1 January 2009. However, those provisions that may reduce farmers' rights or create new obligations, *inter alia* the cross compliance obligations with which farmers have to comply throughout the year, should only apply from 2010 and, in the case of the standard on establishment of buffer strips along water courses, by 1 January 2012. Furthermore, Member States should be given sufficient time to implement the provisions allowing further decoupling of direct payments and those allowing them to review the decisions taken in the context of the 2003 reform. For this reason, the relevant provisions of this Regulation should only apply from 2010 and the repeated Regulation (EC) No 1782/2003 should be applied during 2009 to those aid schemes that will only be integrated into the single payment scheme from 2010.

HAS ADOPTED THIS REGULATION:

TITLE I

SCOPE AND DEFINITIONS

Article 1

Scope

This Regulation establishes:

- common rules on direct payments;
- an income support scheme for farmers (hereinafter referred to as the 'single payment scheme');
- a transitional simplified income support scheme for farmers in the new Member States as defined in Article 2(g) (hereinafter referred to as the 'single area payment scheme');
- support schemes for farmers producing rice, starch potatoes, protein crops, nuts, seeds, cotton, sugar, fruit and vegetables, sheepmeat and goatmeat and beef and veal;
- a framework to enable the new Member States as defined in Article 2(g) to complement direct payments.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- 'farmer' means a natural or legal person, or a group of natural or legal persons, whatever legal status is granted to the group and its members by national law, whose holding is situated within Community territory, as defined in Article 299 of the Treaty, and who exercises an agricultural activity;
- 'holding' means all the production units managed by a farmer situated within the territory of the same Member State;
- 'agricultural activity' means the production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, or maintaining the land in good agricultural and environmental condition as established in Article 6;

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(d) 'direct payment' means a payment granted directly to farmers under a support scheme listed in Annex I;

(e) 'payments in a given calendar year' or 'payments in the representative period' means the payments granted or to be granted in respect of the year/years concerned, including all payments in respect of other periods starting in that calendar year/years;

(f) 'agricultural products' means the products listed in Annex I to the Treaty, with the exception of fishery products, as well as cotton;

(g) 'new Member States' means Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia and Slovakia;

(h) 'agricultural area' means any area taken up by arable land, permanent pasture or permanent crops.

Article 3

Financing of direct payments

The support schemes listed in Annex I to this Regulation shall be financed in accordance with Article 3(1)(c) of Regulation (EC) No 1290/2005.

TITLE II

GENERAL PROVISIONS ON DIRECT PAYMENTS

CHAPTER I

Cross compliance

Article 4

Main requirements

1. A farmer receiving direct payments shall respect the statutory management requirements listed in Annex II and the good agricultural and environmental condition referred to in Article 6.

The obligations referred to in the first subparagraph shall apply only in so far as the agricultural activity of the farmer or the agricultural area of the holding is concerned.

2. The competent national authority shall provide the farmer, *inter alia* by the use of electronic means, with the list of statutory management requirements and the good agricultural and environmental condition to be respected.

Article 5

Statutory management requirements

1. The statutory management requirements listed in Annex II shall be established by Community legislation in the following areas:

- public, animal and plant health;
- environment;
- animal welfare.

2. The acts referred to in Annex II shall apply as in force and, in the case of Directives, as implemented by the Member States.

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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 shall not define minimum requirements which are not foreseen in that framework.

The standards listed in the third column of Annex III shall be optional except where:

- (a) a Member State had defined, for such a standard, a minimum requirement for the good agricultural and environmental condition before 1 January 2009; and/or
 - (b) national rules addressing the standard are applied in the Member State.
2. The Member States other than the new Member States shall ensure that land which was under permanent pasture at the date provided for the area aid applications for 2003 is maintained under permanent pasture. The new Member States other than Bulgaria and Romania shall ensure that land which was under permanent pasture on 1 May 2004 is maintained under permanent pasture. Bulgaria and Romania shall ensure that land which was under permanent pasture on 1 January 2007 is maintained under permanent pasture.

However a Member State may, in duly justified circumstances, derogate from the first subparagraph, provided that it takes action to prevent any significant decrease in its total permanent pasture area.

The first subparagraph shall not apply to land under permanent pasture to be afforested if such afforestation is compatible with the environment and with the exclusion of plantations of Christmas trees and fast growing species cultivated in the short term.

CHAPTER 2

Modulation and financial discipline

Article 7

Modulation

1. Any amount of direct payments to be granted in a given calendar year to a farmer in excess of EUR 5 000 shall be reduced for each year until 2012 by the following percentages:

- (a) in 2009 by 7 %;
- (b) in 2010 by 8 %;
- (c) in 2011 by 9 %;
- (d) in 2012 by 10 %.

2. The reductions provided for in paragraph 1 shall be increased by 4 percentage points for amounts exceeding EUR 300 000.

3. Paragraphs 1 and 2 shall not apply to direct payments granted to farmers in the French overseas departments, in the Azores and Madeira, in the Canary Islands and in the Aegean islands.

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Article 8

Net ceilings

1. Without prejudice to Article 11 of this Regulation, the total net amounts of direct payments which may be granted in a Member State in respect of a calendar year after application of Articles 7 and 10 of this Regulation and Article 1 of Regulation (EC) No 378/2007 and with the exception of direct payments granted under Regulations (EC) No 247/2006 and (EC) No 1405/2006 shall not be higher than the ceilings set out in Annex IV to this Regulation. Where necessary, Member States shall make a linear reduction in the amounts of direct payments which are subject to the reduction provided for in Articles 7 and 10 of this Regulation and Article 1 of Regulation (EC) No 378/2007 in order to comply with the ceilings set out in that Annex.

2. The Commission, in accordance with the procedure referred to in Article 141(2) of this Regulation, shall review the ceilings set out in Annex IV to this Regulation in order to take account of:

- (a) modifications to the total maximum amounts of direct payments that may be granted;
- (b) modifications to the voluntary modulation system provided for in Regulation (EC) No 378/2007;
- (c) structural changes to the holdings;
- (d) transfers to the EAFRD in accordance with Article 136 of this Regulation.

Article 9

Amounts resulting from modulation

1. The amounts resulting from application of the reductions provided for in Article 7 of this Regulation in any Member State other than the new Member States shall be available as additional Community support for measures under rural development programming financed under the EAFRD, as specified in Regulation (EC) No 1698/2005, in accordance with the conditions set out in this Article.

2. The amounts corresponding to one percentage point shall be allocated to the Member States where the corresponding amounts have been generated. The amounts corresponding to the reduction by 4 percentage points shall be allocated amongst the Member States concerned in accordance with the procedure referred to in Article 141(2), on the basis of the following criteria:

- (a) agricultural area;
 - (b) agricultural employment;
 - (c) gross domestic product (GDP) per capita in purchasing power.
- However, any Member State concerned shall receive at least 80 % of the total amounts referred to in the first subparagraph generated in that Member State.

3. By way of derogation from the second subparagraph of paragraph 2, if in a Member State the proportion of rye as part of its total cereal production exceeded 5 % on average during the period 2000-2002 and its proportion of the total Community production of rye exceeded 50 % during the same period, at least 90 % of the amounts which the modulation generated in the Member State concerned shall be reallocated to that Member State, until 2013 included.

In such a case, without prejudice to the possibilities provided for by Article 68, at least 10 % of the amount allocated to the Member State concerned shall be available for the measures referred to in paragraph 1 of this Article in rye producing regions.

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For the purpose of this paragraph, 'cereal' shall mean the products listed in Annex V.

4. The remaining amount resulting from the application of Article 7(1) and the amounts resulting from the application of Article 7(2) shall be allocated to the Member State where the corresponding amounts have been generated, in accordance with the procedure referred to in Article 141(2). They shall be used in accordance with Article 69(5a) of Regulation (EC) No 1698/2005.

Article 10

Special rules for modulation in the new Member States

1. Article 7 shall apply to farmers in a new Member State in any given calendar year only if the level of direct payments applicable in that Member State for that calendar year pursuant to Article 121 is at least equal to the then applicable level in the Member States other than the new Member States, taking into account any reductions applied under Article 7(1).

2. If Article 7 applies to farmers in a new Member State, the percentage applicable under Article 7(1) shall be limited to the difference between the level of direct payments applicable to it under Article 121 and the level in the Member States other than the new Member States, taking into account any reductions applied under Article 7(1).

3. Any amount resulting from the application of Article 7(1) and (2) shall be allocated to the new Member State where the corresponding amounts have been generated, in accordance with the procedure referred to in Article 141(2). They shall be used in accordance with Article 69(5a) of Regulation (EC) No 1698/2005.

Article 11

Financial discipline

1. With a view to ensuring that the amounts for the financing of the market-related expenditure and direct payments of the CAP currently under heading 2 of Annex I to the Institutional Agreement between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (*) respect the annual ceilings set out in the Decision 2002/929/EC of the Representatives of the Governments of the Member States, meeting within the Council of 18 November 2002, concerning the Conclusions of the European Council meeting in Brussels on 24 and 25 October 2002 (*), an adjustment of the direct payments shall be determined when the forecasts for the financing of the aforementioned measures under heading 2 for a given financial year, increased by the amounts given in Article 190a of Regulation (EC) No 1234/2007, the amounts given in Articles 134 and 135 and the amounts referred to in Article 136 of this Regulation and before application of modulation provided for in Articles 7 and 10 of this Regulation and Article 1(1) of Regulation (EC) No 3782/2007, indicate that the applicable abovementioned annual ceiling, taking into account a margin of EUR 300 000 000 below that ceiling, will be exceeded.

2. The Council, acting on a proposal from the Commission presented no later than 31 March of the calendar year in respect of which the adjustments referred to in paragraph 1 apply, shall determine these adjustments no later than 30 June of the same calendar year.

(*) OJ C 139, 14.6.2006, p. 1.
(*) OJ L 323, 28.11.2002, p. 48.

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3. In the framework of the application of the schedule of increments provided for in Article 121 to all direct payments granted in the new Member States, paragraph 1 of this Article shall not apply to the new Member States until the beginning of the calendar year in respect of which the level of direct payments applicable in the new Member States is at least equal to the then applicable level of such payments in the Member States other than the new Member States.

CHAPTER 3

Farm advisory system

Article 12

Farm advisory system

1. Member States shall operate a system of advising farmers on land and farm management (hereinafter referred to as the 'farm advisory system') operated by one or more designated authorities or by private bodies.

2. The farm advisory system shall cover at least the statutory management requirements and the good agricultural and environmental condition referred to in Chapter 1.

3. Farmers may participate in the farm advisory system on a voluntary basis.

Member States may determine, in accordance with objective criteria, the priority categories of farmer that have access to the farm advisory system.

4. By 31 December 2010, the Commission shall submit a report to the Council on the application of the farm advisory system, accompanied, if necessary, by appropriate proposals.

Article 13

Obligations of designated authorities and private bodies

Without prejudice to national legislation concerning public access to documents, Member States shall ensure that the designated authorities and private bodies referred to in Article 12(1) do not disclose personal or individual information and data they obtain in their advisory activity to persons other than the farmer managing the holding concerned, with the exception of any irregularity or infringement found during their activity which is covered by an obligation laid down in Community or national law to inform a public authority, in particular in the case of criminal offences.

CHAPTER 4

Integrated administration and control system

Article 14

Scope

Each Member State shall set up and operate an integrated administration and control system (hereinafter referred to as the 'integrated system').

The integrated system shall apply to the support schemes listed in Annex I.

To the extent necessary, it shall also apply to the administration and control of the rules laid down in Chapters 1 and 2 of this Title.

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Article 15

Elements of the integrated system

1. The integrated system shall comprise the following elements:
 - (a) a computerised database;
 - (b) an identification system for agricultural parcels;
 - (c) a system for the identification and registration of payment entitlements;
 - (d) aid applications;
 - (e) an integrated control system;
 - (f) a single system to record the identity of each farmer who submits an aid application.
2. Where Articles 52 and 53 of this Regulation apply, the integrated system shall incorporate a system for the identification and registration of animals set up in accordance with Regulations (EC) No 1760/2000 and (EC) No 21/2004.
3. Member States may include a geographical information system for olive cultivation in the identification system for agricultural parcels.

Article 16

Computerised database

1. The computerised database shall record, for each agricultural holding, the data obtained from aid applications.
This database shall in particular allow consultation through the competent authority of the Member State, of the data relating to the calendar and/or marketing years, starting from 2000. It shall also allow direct and immediate consultation of the data relating to the four previous years.
2. Member States may set up decentralised databases on condition that these, and the administrative procedures for recording and accessing data, are designed homogeneously throughout the territory of the Member State and are compatible with one another in order to allow for cross-checks.

Article 17

Identification system for agricultural parcels

The identification system for agricultural parcels shall be established on the basis of maps or land registry documents or other cartographic references. Use shall be made of computerised geographical information system techniques, including preferably aerial or spatial orthorectified, with a homogenous standard guaranteeing accuracy at least equivalent to cartography at a scale of 1:10 000.

Article 18

System for the identification and registration of payment entitlements

1. A system for the identification and registration of payment entitlements shall be set up allowing for verification of the entitlements and for cross-checks with the aid applications and the identification system for agricultural parcels.
2. The system referred to in paragraph 1 shall allow direct and immediate consultation, through the competent authority of the Member State, of the data relating to at least the previous four consecutive calendar years.

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Article 19

Aid applications

1. Each year, a farmer shall submit an application for direct payments indicating, where applicable:
 - (a) all the agricultural parcels on the holding, and where the Member State is applying Article 15(3), the number of olive trees and their positioning in the parcel;
 - (b) the payment entitlements declared for activation;
 - (c) any other information provided for by this Regulation or by the Member State concerned.
2. Member States shall provide, *inter alia* by the use of electronic means, pre-established forms based on the areas determined in the previous year as well as graphic material indicating the location of those areas and, where appropriate, the positioning of olive trees. A Member State may decide that the aid application needs to contain only changes with respect to the aid application submitted the previous year.
3. A Member State may decide that a single aid application shall cover several or all support schemes listed in Annex I or other support schemes.

Article 20

Verification of eligibility conditions

1. Member States shall carry out administrative controls on the aid applications to verify the eligibility conditions for the aid.
2. Administrative controls shall be supplemented by a system of on-the-spot checks to verify eligibility for the aid. For this purpose, Member States shall draw up a sampling plan of agricultural holdings. Member States may use remote sensing and Global Navigation Satellite System (GNSS) techniques as a means of carrying out on-the-spot checks on agricultural parcels.
3. Each Member State shall designate an authority responsible for coordinating the controls and checks provided for in this Chapter.

Where a Member State provides for the delegation of some aspects of the work to be carried out under this Chapter to specialised agencies or firms, the designated authority shall retain control over, and responsibility for, that work.

Article 21

Reductions and exclusions in the event of non-compliance with eligibility rules

1. Without prejudice to any reduction or exclusion provided for in Article 23, where it is found that a farmer does not comply with the eligibility conditions relating to the granting of the aid as provided for in this Regulation, the payment or part of the payment granted or to be granted for which the conditions of eligibility have been met shall be subject to the reductions and exclusions to be laid down in accordance with the procedure referred to in Article 14(2).
2. The percentage of reduction shall be graduated according to the severity, extent, permanence and repetition of the non-compliance found and may go as far as total exclusion from one or several aid schemes for one or more calendar years.

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*Article 22***Controls on cross compliance**

1. Member States shall carry out on-the-spot checks to verify whether a farmer complies with the obligations referred to in Chapter I.
2. Member States may make use of their existing administration and control systems to ensure compliance with the statutory management requirements and good agricultural and environmental condition. These systems, and notably the system for the identification and registration of animals set up in accordance with Council Directive 2008/71/EC of 15 July 2008 on the identification and registration of pigs⁽¹⁾ and Regulations (EC) No 1760/2000 and (EC) No 212/2004, shall be compatible with the integrated system, as provided for in Article 26(1) of this Regulation.

*Article 23***Reduction of or exclusion from payments in the event of non-compliance with cross compliance rules**

1. Where the statutory management requirements or good agricultural and environmental condition are not complied with at any time in a given calendar year (hereinafter referred to as 'the calendar year concerned'), and the non-compliance in question is the result of an act or omission directly attributable to the farmer who submitted the aid application in the calendar year concerned, the total amount of direct payments granted or to be granted, following application of Articles 7, 10 and 11 to that farmer, shall be reduced or excluded in accordance with the detailed rules laid down in Article 24.

The first subparagraph shall also apply where the non-compliance in question is the result of an act or omission directly attributable to the person to whom or from whom the agricultural land was transferred.

For the purpose of this paragraph, 'transfer' shall mean any type of transaction whereby the agricultural land ceases to be at the disposal of the transferor.

By way of derogation from the second subparagraph, from 2010, where the person to whom the act or omission is directly attributable has submitted an aid application in the calendar year concerned, the reduction or exclusion shall be applied to the total amounts of direct payments granted or to be granted to that person.

2. Notwithstanding paragraph 1 and in accordance with the conditions laid down in the detailed rules referred to in Article 24(1) of this Regulation, Member States may decide not to apply a reduction or exclusion amounting to EUR 100 or less per farmer and per calendar year.

Where a Member State decides to make use of the option provided for in the first subparagraph, in the following year the competent authority shall take the actions required to ensure that the farmer remedies the findings of non-compliance concerned. The finding and the obligation to take remedial action shall be notified to the farmer.

*Article 24***Detailed rules on reductions and exclusions in the event of non-compliance with cross compliance rules**

1. Detailed rules for the reductions and exclusions referred to in Article 23 shall be laid down in accordance with the procedure referred to in Article 14(1)(2). In this context, account shall be taken

⁽¹⁾ OJ L 213, 8.8.2008, p. 31.

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of the severity, extent, permanence and repetition of the non-compliance found as well as of the criteria set out in paragraphs 2, 3 and 4 of this Article.

2. In the case of negligence, the percentage of reduction shall not exceed 5 % and, in the case of repeated non-compliance, 15 %.

In duly justified cases Member States may decide that no reduction shall be applied where, given its severity, extent and permanence, a case of non-compliance is to be considered as minor. However, cases of non-compliance which constitute a direct risk to public or animal health shall not be considered as minor.

Unless the farmer has taken immediate remedial action putting an end to the non-compliance found, the competent authority shall take the actions required that may, where appropriate, be limited to an administrative control to ensure that the farmer remedies the finding of non-compliance concerned. The finding of minor non-compliance and the obligation to take remedial action shall be notified to the farmer.

3. In the case of intentional non-compliance, the percentage of reduction shall not in principle be less than 20 % and may go as far as total exclusion from one or several aid schemes and apply for one or more calendar years.

4. In any case, the total amount of reductions and exclusions for one calendar year shall not be more than the total amount referred to in Article 23(1).

*Article 25***Amounts resulting from cross compliance**

The amounts resulting from the application of the reductions and exclusions in the event of non-compliance with Chapter I shall be credited to the EAGF. Member States may retain 25 % of those amounts.

*Article 26***Compatibility of support schemes with the integrated system**

1. For the purpose of applying the support schemes listed in Annex VI, Member States shall ensure that the administration and control procedures applied to these schemes are compatible with the integrated system in the following respects:

- (a) the computerised database;
- (b) the identification systems for agricultural parcels;
- (c) the administrative controls.

To this end, the database, the systems and the controls referred to in points (a), (b) and (c) of the first subparagraph respectively shall be set up so as to allow, without any problems or conflicts, a common functioning or the exchange of data between them.

2. Member States may, for the purposes of applying Community or national support schemes other than those listed in Annex VI, incorporate into their administration and control procedures one or more components of the integrated system.

*Article 27***Information and control**

1. The Commission shall be kept regularly informed of the application of the integrated system.

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It shall organise exchanges of views on this subject with the Member States.

2. In accordance with Article 37 of Regulation (EC) No 1290/2005, after informing the competent authorities concerned in good time, authorised representatives appointed by the Commission may carry out:
 - (a) any examination or control relating to the measures taken in order to establish and implement the integrated system;
 - (b) controls at the specialised agencies and firms referred to in Article 20(3).
3. Without prejudice to the responsibilities of the Member States for the implementation and application of the integrated system, the Commission may seek the assistance of specialised bodies or persons in order to facilitate the establishment, monitoring and utilisation of the integrated system, in particular with a view to providing the competent authorities of the Member States with technical advice, should they request it.

CHAPTER 5

Other general provisions

Article 28

Minimum requirements for receiving direct payments

1. From 2010, Member States shall not grant direct payments to a farmer in one of the following cases:
 - (a) where the total amount of direct payments claimed or due to be granted before the reductions and exclusions provided for in Articles 21 and 23 in a given calendar year is less than EUR 100; or
 - (b) where the eligible area of the holding for which direct payments are claimed or due to be granted before the reductions and exclusions provided for in Article 21 is less than one hectare.

In order to take account of the structure of their agricultural economies, Member States may adjust the thresholds referred to in points (a) and (b) of the first subparagraph of this paragraph within the limits set out in Annex VII.

Farmers holding special entitlements referred to in Article 44(1) shall be subject to the condition referred to in point (a) of the first subparagraph of this paragraph.

The Member States concerned may decide not to apply this paragraph in the French overseas departments, in the Azores and Madeira, in the Canary Islands and in the Aegean islands.

Where the amount paid is reduced as a consequence of a progressive introduction of direct payments as foreseen in Article 121 of this Regulation, in point K of Annex VII to Regulation (EC) No 1782/2003 or in point C of Annex IX to this Regulation, the amount claimed or due to be granted shall be calculated on the basis of the final amount of support to be received by the farmer.

2. From 2010, Member States may establish appropriate objective and non-discriminatory criteria to ensure that no direct payments are granted to a natural or legal person.
 - (a) whose agricultural activities form only an insignificant part of its overall economic activities; or
 - (b) whose principal business or company objects do not consist of exercising an agricultural activity.

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3. Payment entitlements not giving right to payments during two consecutive years due to the application of paragraphs 1 and 2 shall revert to the national reserve.

Article 29

Payment

1. Save as otherwise provided for in this Regulation, payments under support schemes listed in Annex 1 shall be made in full to the beneficiaries.
2. Payments shall be made in up to two instalments per year within the period from 1 December to 30 June of the following calendar year.
3. Payments under support schemes listed in Annex 1 shall not be made before the verification of eligibility conditions, to be carried out by the Member State pursuant to Article 20, has been finalised.
4. By way of derogation from paragraph 2 of this Article and in accordance with the procedure referred to in Article 14(2), the Commission may:
 - (a) provide for advances;
 - (b) authorise the Member States, subject to the budgetary situation, to pay prior to 1 December advances in regions where, due to exceptional conditions, farmers face severe financial difficulties:
 - (i) of up to 50 % of the payments;
 - or
 - (ii) of up to 80 % of the payments where advances have already been provided for.

Article 30

Circumvention clause

Without prejudice to any specific provisions in individual support schemes, no payment shall be made to beneficiaries for whom it is established that they artificially created the conditions required for obtaining such payments with a view to obtaining an advantage contrary to the objectives of that support scheme.

Article 31

Force majeure and exceptional circumstances

For the purposes of this Regulation, *force majeure* or exceptional circumstances shall be recognised by the competent authority in cases such as:

- (a) the death of the farmer;
- (b) long-term professional incapacity of the farmer;
- (c) a severe natural disaster gravely affecting the holding's agricultural land;
- (d) the accidental destruction of livestock buildings on the holding;
- (e) an epizootic affecting part or all of the farmer's livestock.

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Article 32

Review

Support schemes listed in Annex I shall apply without prejudice to a possible review at any time in the light of economic developments and the budgetary situation.

TITLE III

SINGLE PAYMENT SCHEME

CHAPTER I

General implementation

Article 33

Payment entitlements

1. Support under the single payment scheme shall be available to farmers if they:
 - (a) hold payment entitlements which they have obtained in accordance with Regulation (EC) No 1782/2003;
 - (b) obtain payment entitlements under this Regulation:
 - (i) by transfer;
 - (ii) from the national reserve;
 - (iii) pursuant to Annex IX;
 - (iv) pursuant to Article 47(2), Article 59, the third subparagraph of Article 64(2), Article 65 and Article 68(4)(c).
2. For the purpose of Article 47(2), Article 57(6), Article 64(2) and Article 65, a farmer is considered to be holding payment entitlements where payment entitlements have been allocated or definitively transferred to him.
3. Set-aside entitlements established in accordance with Article 53(2), Article 63(2) and Article 71(3) of Regulation (EC) No 1782/2003 shall not be subject to previous set aside obligations.

Article 34

Activation of payment entitlements per eligible hectare

1. Support under the single payment scheme shall be granted to farmers upon activation of a payment entitlement per eligible hectare. Activated payment entitlements shall give a right to the payment of the amounts fixed therein.
2. For the purposes of this Title, 'eligible hectares' shall mean:
 - (a) any agricultural area of the holding, and any area planted with short rotation coppice (CN code ex 0602 90 41) that is used for an agricultural activity or, where the area is used as well for non-agricultural activities, predominantly used for agricultural activities; and
 - (b) any area which gave a right to payments under the single payment scheme or the single area payment scheme in 2008 and which:
 - (i) no longer complies with the definition of 'eligible' as a result of the implementation of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds ⁽¹⁾; Council Directive 92/43/EEC of 21 May 1992 on the conservation of

⁽¹⁾ OJ L 103, 25.4.1979, p. 1.

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natural habitats and of wild fauna and flora ⁽¹⁾ and Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy ⁽²⁾; or

- (ii) for the duration of the relevant commitment of the individual farmer, is afforded pursuant to Article 31 of Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) ⁽³⁾ or to Article 43 of Regulation (EC) No 1698/2005 or under a national scheme the conditions of which comply with Article 43(1), (2) and (3) of that Regulation; or
- (iii) for the duration of the relevant commitment of the individual farmer, is set aside pursuant to Articles 22, 23 and 24 of Regulation (EC) No 1257/1999 or to Article 39 of Regulation (EC) No 1698/2005.

The Commission, in accordance with the procedure referred to in Article 141(2), shall lay down detailed rules on the use of eligible hectares for non-agricultural activities.

Except in the case of *force majeure* or exceptional circumstances, hectares shall comply with the eligibility condition throughout the calendar year.

Article 35

Declaration of eligible hectares

1. The farmer shall declare the parcels corresponding to the eligible hectares accompanying any payment entitlement. Except in the case of *force majeure* or exceptional circumstances, these parcels shall be at the farmer's disposal on a date fixed by the Member State which shall be no later than the date fixed in that Member State for amending the aid application.
2. Member States may, in duly justified circumstances, authorise the farmer to modify his declaration on condition that he adheres to the number of hectares corresponding to his payment entitlements and the conditions for granting the single payment for the area concerned.

Article 36

Modification of payment entitlements

The payment entitlements per hectare shall not be modified, save as otherwise provided for in this Regulation.

The Commission, in accordance with the procedure referred to in Article 141(2), shall lay down detailed rules for the modification, from 2010, of payment entitlements, in particular in the case of fractions of entitlements.

Article 37

Multiple claims

The area corresponding to the number of eligible hectares in respect of which an application for a single payment has been submitted may be the subject of an application for any other direct payment as well as for any other aid not covered by this Regulation, save as otherwise provided for in this Regulation.

⁽¹⁾ OJ L 206, 22.7.1992, p. 7.

⁽²⁾ OJ L 327, 22.12.2000, p. 1.

⁽³⁾ OJ L 160, 26.6.1999, p. 80.

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Article 38

Use of land in the event of the deferred integration of the fruit and vegetables sector

Where a Member State has decided to make use of the option provided for in the second subparagraph of Article 51 of Regulation (EC) No 1782/2003 (hereinafter referred to as 'deferred integration'), the parcels in the regions concerned by the decision, up to a date no later than 31 December 2010, shall not be eligible if used for:

- (a) the production of fruit and vegetables;
- (b) the production of ware potatoes; or
- (c) nurseries.

In the event of deferred integration, Member States may decide to allow secondary crops to be cultivated on the eligible hectares during a maximum period of three months starting each year on 15 August. However, at the request of a Member State, this date may be modified in accordance with the procedure referred to in Article 141 (2) for regions where cereals are normally harvested earlier for climatic reasons.

Article 39

Use of land for the production of hemp

1. Areas used for the production of hemp shall only be eligible if the varieties used have a tetrahydrocannabinol content not exceeding 0.2 %. Member States shall establish a system for verifying the tetrahydrocannabinol content of the crops grown on at least 30 % of the areas under hemp. However, if a Member State introduces a system of prior approval for such cultivation, the minimum shall be 20 %.

2. In accordance with the procedure referred to in Article 141(2), the granting of payments shall be made subject to the use of certified seeds of certain varieties.

Article 40

National ceilings

1. For each Member State and each year, the total value of all allocated payment entitlements and of the ceilings fixed in accordance with Articles 51(2) and 69(3) of this Regulation, or, for 2009, in accordance with Article 64(2) of Regulation (EC) No 1782/2003 shall not be higher than the respective national ceiling determined in Annex VIII to this Regulation.

Where payment entitlements are allocated to wine growers, the Commission shall, taking account of the latest data made available to it by the Member States in accordance with Articles 9 and 102(6) of Council Regulation (EC) No 479/2008 of 29 April 2008 on the common organisation of the market in wine ⁽¹⁾ and in accordance with the procedure referred to in Article 141(2) of this Regulation, adapt the national ceilings determined in Annex VIII to this Regulation. By 1 December of the year preceding the adaptation of the national ceilings, Member States shall communicate to the Commission the regional average of the value of the entitlements referred to in point B of Annex IX to this Regulation.

2. Where necessary, a Member State shall make a linear reduction in the value of the payment entitlements in order to ensure compliance with the ceiling determined in Annex VIII.

⁽¹⁾ OJ L 148, 6.6.2008, p. 1.

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Article 41

National reserve

1. Each Member State shall operate a national reserve that incorporates the difference between:

(a) the national ceilings determined in Annex VIII to this Regulation; and

(b) the total value of all allocated payment entitlements and the ceilings fixed in accordance with Article 51(2) and Article 69(3) of this Regulation, or, for 2009, the ceilings fixed in accordance with Article 64(2) of Regulation (EC) No 1782/2003.

2. Member States may use the national reserve to allocate, as a matter of priority, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, payment entitlements to farmers who commence their agricultural activity.

3. Member States not applying Article 68(1)(c) may use the national reserve for the purpose of establishing, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, payment entitlements for farmers in areas subject to restructuring and/or development programmes relating to one or other form of public intervention in order to ensure against land being abandoned and/or to compensate farmers for specific disadvantages in those areas.

4. Member States shall use the national reserve for the purpose of allocating, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, payment entitlements to farmers placed in a special situation, to be defined by the Commission in accordance with the procedure referred to in Article 141(2).

5. When applying this Article, Member States may increase the unit value and/or the number of payment entitlements allocated to farmers.

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6. Where a Member State applies Articles 59 or 63, it may, on the basis of objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, provide that, in cases of sale or grant or expiry of all or part of a lease of a holding or of premium rights, some or all of the payment entitlements or of the increases in the value of payment entitlements that would be allocated to the farmer in question shall revert to the national reserve where the allocation or increase would lead to a windfall profit for the farmer in question. The criteria shall include at least:

- (a) a minimum duration for the lease;
- (b) the period in which the sale or grant or expiry of the lease can be deemed to lead to a windfall profit. That period shall start no earlier than the start date of the relevant reference period for decoupling and shall end no later than the date when the farmer concerned was made aware of the decoupling and of the relevant conditions;
- (c) the proportion of the payment received which shall revert to the national reserve.

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Article 42

Unused payment entitlements

Any payment entitlement which has not been activated in accordance with Article 34 for a period of two years shall be added to the national reserve, except in the case of *force majeure* or exceptional circumstances. However, for 2009, payment entitlements not activated for

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the two-year period 2007-2008 shall not be added to the national reserve if they were activated in 2006 and, for 2010, payment entitlements not activated for the two-year period 2008-2009 shall not be added to the national reserve if they were activated in 2007.

Article 43

Transfer of payment entitlements

1. Payment entitlements may be transferred only to a farmer established within the same Member State except in the case of transfer by actual or anticipated inheritance.
- However, even in the case of actual or anticipated inheritance, payment entitlements may be used only in the Member State where the payment entitlements were established.
- A Member State may decide that payment entitlements may be transferred or used only within one and the same region.
2. Payment entitlements may be transferred by sale or any other definitive transfer with or without land. In contrast, lease or similar types of transactions shall be allowed only if the payment entitlements transferred are accompanied by the transfer of an equivalent number of eligible hectares.
3. Where payment entitlements are sold, with or without land, Member States may, acting in compliance with the general principles of Community law, decide that part of the payment entitlements sold revert to the national reserve or that their unit value is reduced in favour of the national reserve, in accordance with criteria to be defined by the Commission in accordance with the procedure referred to in Article 141(2).

Article 44

Conditions for special entitlements

1. Save as otherwise provided for in this Regulation, payment entitlements established under Section 2 of Chapter 3 of Title III and Article 1a of Regulation (EC) No 1782/2003, as well as Article 60 and the fourth subparagraph of Article 65 of this Regulation (hereinafter referred to as 'special entitlements') shall be subject to the conditions laid down in paragraphs 2 and 3 of this Article.
 2. By way of derogation from Article 34(1), a farmer who has special entitlements shall be authorised by the Member State to derogate from the requirement to activate his payment entitlements by an equivalent number of eligible hectares, provided that he maintains at least:
 - (a) 50 % of the agricultural activity carried out in the reference period referred to in Regulation (EC) No 1782/2003, expressed in livestock units (LU); or,
 - (b) in the case of special entitlements established under Article 60, 50 % of the agricultural activity carried out before the transition to the single payment scheme, expressed in LU; or,
 - (c) in the case of Article 65, 50 % of the agricultural activity carried out during the application of Articles 67 and 68 of Regulation (EC) No 1782/2003, expressed in LU.
- However, where a farmer has been allocated special entitlements both under Regulation (EC) No 1782/2003 and under this Regulation, he shall maintain at least 50 % of the highest of the levels of activity referred to in the first subparagraph.
- The condition referred to in the first subparagraph shall not apply to Malta.

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3. In the case of a transfer of the special entitlements in 2009, 2010 and 2011, the transferee may benefit from the derogation provided for in paragraph 2 only if all of the special entitlements are transferred. From 2012, the transferee shall benefit from the derogation only in the case of actual or anticipated inheritance.

The first subparagraph shall not apply to Malta.

Article 45

Revision of payment entitlements

1. In duly justified cases, the Member States having introduced the single payment scheme in accordance with Chapters 1 to 4 of Title III of Regulation (EC) No 1782/2003 may decide, acting in compliance with the general principles of Community law, to move in or after 2010 towards approximating the value of payment entitlements.
- Where that decision applies from 2010, it shall be taken by 1 August 2009. In any other case it shall be taken by 1 August 2010.
2. For the purpose of applying the first subparagraph of paragraph 1, the payment entitlements may be made subject to annual progressive modifications in accordance with objective and non-discriminatory criteria. If the modification results in a reduction in the value of the payment entitlements, it shall be made in at least three pre-established annual steps.
- In none of the annual steps referred to in the first subparagraph shall the reduction in the value of any payment entitlement be more than 50 % of the difference between its initial and final value. Where the reduction in the value is less than 10 % of the initial value, Member States may apply fewer than three steps.

3. Member States may decide to apply this Article:

- (a) at the appropriate geographical level which shall be determined according to objective and non-discriminatory criteria such as their institutional or administrative structure and the agricultural potential; or
- (b) where Article 46(4) is applied, in the region defined in accordance with Article 46(2).

CHAPTER 2

Regional and partial implementation

Section 1

Regional implementation

Article 46

Regional allocation of the national ceilings referred to in Article 40

1. Having introduced the single payment scheme in accordance with Chapters 1 to 4 of Title III of Regulation (EC) No 1782/2003, a Member State may decide to apply the single payment scheme in or after 2010 at regional level under the conditions laid down in this Section.
- Where that decision applies from 2010, it shall be taken by 1 August 2009. In any other case it shall be taken by 1 August 2010.
2. Member States shall define the regions in accordance with objective and non-discriminatory criteria such as their institutional or administrative structure and the regional agricultural potential.

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Member States may consider their whole territory as one single region.

3. Member States shall divide the national ceilings referred to in Article 40 between the regions in accordance with objective and non-discriminatory criteria. Member States may decide that these regional ceilings shall be subject to annual progressive modifications in accordance with no more than three pre-established annual steps and objective and non-discriminatory criteria such as the agricultural potential or environmental criteria.

4. Where a Member State applying paragraphs 1, 2 and 3 of this Article decides not to apply Article 47, it shall, to the extent necessary to respect the applicable regional ceilings, adjust the value of the payment entitlements in each of its regions. To this end, the payment entitlements shall be subject to linear reductions or increases in their value. The total reduction in the value of the payment entitlements under this paragraph shall be limited to 10 % of their initial value.

5. If a Member State decides to apply both Article 45 and this Article, the reductions in the value of the payment entitlements referred to in paragraph 4 of this Article shall be taken into account for the calculation of the limits set in the second subparagraph of Article 45(2).

Article 47

Regionalisation of the single payment scheme

1. In duly justified cases, Member States may decide to divide no more than 50 % of the regional ceiling established under Article 46 between all the farmers whose holdings are located in the region concerned, including those who do not hold payment entitlements.

2. Farmers shall receive payment entitlements the unit value of which shall be calculated by dividing the corresponding part of the regional ceiling established under Article 46 by the number of eligible hectares established at regional level.

The value of these payment entitlements shall be increased in cases where, prior to the application of this Article, a farmer holds payment entitlements. To this end, the regional unit value of each of the farmer's payment entitlements shall be increased by an amount calculated on the basis of the total value of the payment entitlements which the farmer held by a date to be fixed by the Member State concerned. These increases shall be calculated within the limits of the remaining part of the regional ceiling after application of paragraph 1 of this Article.

3. The number of payment entitlements per farmer shall be equal to the number of hectares the farmer declares in the year of application of the single payment scheme at regional level, as referred to in Article 46(1), in accordance with Article 34(2), except in the case of *force majeure* or exceptional circumstances.

4. Payment entitlements held by farmers before the division referred to in paragraphs 1 and 2 shall be cancelled and replaced by the new entitlements referred to in paragraph 3.

Article 48

Revision of payment entitlements

1. In duly justified cases, the Member States applying Article 47 may decide, acting in compliance with the general principles of Community law, to move, in the year following the application of the single payment scheme at regional level as referred to in Article 46(1), towards approximating the value of the payment entitlements established under this Section.

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Where that decision applies from 2010, it shall be taken by 1 August 2009. In any other case it shall be taken by 1 August 2010.

For the purpose of applying the first subparagraph, the payment entitlements may be made subject to annual progressive modifications in accordance with objective and non-discriminatory criteria. If the modification results in a reduction in the value of the payment entitlements, it shall be made in at least two pre-established annual steps.

2. In duly justified cases, the Member States having introduced the single payment scheme in accordance with Section 1 of Chapter 5 or Chapter 6 of Title III of Regulation (EC) No 1782/2003 may decide, acting in compliance with the general principles of Community law, to move, in or after 2010, towards approximating the value of the payment entitlements.

Where that decision applies from 2010, it shall be taken by 1 August 2009. In any other case it shall be taken by 1 August 2010.

For the purpose of applying the first subparagraph, the payment entitlements shall be subject to annual progressive modifications in accordance with objective and non-discriminatory criteria. If the modification results in a reduction in the value of the payment entitlements, it shall be made in at least three pre-established annual steps.

The first subparagraph shall apply without prejudice to the decisions taken by Member States pursuant to Article 63(3) of Regulation (EC) No 1782/2003. The Member States concerned may derogate from the minimum number of steps provided for in the first subparagraph and the limits established in paragraph 3 of this Article.

3. In none of the annual steps referred to in paragraphs 1 and 2 shall the reduction in the value of any payment entitlement be more than 50 % of the difference between its initial and final value. Where the reduction in the value is less than 10 % of the initial value, Member States may apply fewer than three steps.

4. Member States may decide to apply paragraphs 1, 2 and 3 at the appropriate geographical level which shall be determined in accordance with objective and non-discriminatory criteria such as their institutional or administrative structure and the agricultural potential.

Article 49

Grassland

When applying Article 47, Member States may, in accordance with objective and non-discriminatory criteria, determine, within the regional ceiling established under Article 46 or part of it, different per unit values of the payment entitlements to be allocated to the farmers referred to in Article 47(1):

- (a) for hectares under grassland on the date set for the area aid applications for 2008 and for any other eligible hectare, or
- (b) for hectares under permanent pasture on the date set for the area aid applications for 2008 and for any other eligible hectare.

Article 50

Conditions for the payment entitlements established under this Section

1. Payment entitlements established in accordance with this Section or with Section 1 of Chapter 5 or Chapter 6 of Title III of Regulation (EC) No 1782/2003 may only be transferred or used within the same region or between regions where the value of the payment entitlements per hectare is the same.

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2. Save as otherwise provided for in this Section, the other provisions of this Title shall apply.

Section 2

Partial implementation

Article 51

General provisions

1. The Member States having granted payments in the sheepmeat and goatmeat sector or the beef and veal payments in accordance with Section 2 of Chapter 5 of Title III of Regulation (EC) No 1782/2003 may decide, by 1 August 2009, to continue to grant these payments under the conditions laid down in this Section. They may also decide to set the part of the component of their national ceilings to be used to grant these payments at a lower level than that decided in accordance with Article 64(2) of Regulation (EC) No 1782/2003. Where a Member State does not take that decision, the payments shall be integrated into the single payment scheme from 2010 in accordance with Article 66 of this Regulation.

In the case of the beef and veal payments referred to in Article 53(2) of this Regulation, Member States may also decide, by 1 August 2010, not to grant these payments but to integrate them into the single payment scheme from 2011 in accordance with Article 66 of this Regulation.

Where a Member State excluded all or part of the fruit and vegetable payments from the single payment scheme pursuant to Article 68b of Regulation (EC) No 1782/2003, it may:

- (a) from 2010, grant the fruit and vegetable payments under the conditions laid down in this Section and in accordance with the decision taken on the basis of Article 68b(1) and (2) or 143bc(1) and (2) of Regulation (EC) No 1782/2003; or
- (b) decide, by 1 August 2009, to integrate the fruit and vegetable payments excluded from the single payment scheme pursuant to Article 68b of Regulation (EC) No 1782/2003 into the single payment scheme, in accordance with Article 66 of this Regulation; or
- (c) decide, by 1 August 2009 to grant the transitional fruit and vegetable payment under the conditions laid down in this Section and at a lower level than that decided in accordance with Article 68b of Regulation (EC) No 1782/2003.

The new Member States having applied the single area payment scheme may decide, when introducing the single payment scheme, to grant the payments referred to in the first subparagraph under the conditions laid down in this Section. In the case of the transitional fruit and vegetables payment, the new Member States not having applied Article 143bc of Regulation (EC) No 1782/2003 shall not apply Article 54 of this Regulation. Furthermore, in the case of the transitional fruit and vegetable payment the new Member States shall take into account, where relevant, Article 128(3) of this Regulation.

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Member States having made use of the option provided for in Section 2 of Chapter 5 of Title III of Regulation (EC) No 1782/2003 to apply the single payment scheme at regional level may apply the first and second subparagraph at the same regional level.

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2. On the basis of the choice made by each Member State, the Commission shall determine, in accordance with the procedure referred to in Article 141(2), a ceiling for each of the direct payments referred to in Articles 52, 53 and 54.

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This ceiling shall be equal to the component of each type of direct payment in the national ceilings referred to in Article 40, multiplied by the percentages of reduction applied by Member States in accordance with Articles 52, 53 and 54.

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3. Any Member State applying the possibility provided for in the fifth subparagraph of paragraph 1 shall submit the following information to the Commission, by 1 December 2009:

- (a) the breakdown per region of the amounts foreseen for the measure or measures concerned for the years 2010 to 2012 according to objective criteria;
 - (b) the statistical and other supporting data used to establish the amounts referred to in point (a).
- Member States shall reply to any request from the Commission for further clarifications on the information submitted within one month.

The Commission shall use the amounts referred to in point (a) of the first subparagraph of this paragraph as a basis for fixing the ceiling of the Member States concerned for each of the direct payments referred to in Articles 52 and 53 as provided for in paragraph 2 of this Article.

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Article 54

Transitional fruit and vegetables payments

1. Member States may retain, until 31 December 2011, up to 50 % of the component of the national ceilings referred to in Article 40 corresponding to support for the production of tomatoes.

In this case and within the ceiling determined in accordance with Article 51(2), the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted to farmers producing tomatoes, under the conditions provided for in Section 8 of Chapter 1 of Title IV.

2. Member States may retain:

- (a) until 31 December 2010, up to 100 % of the component of the national ceilings referred to in Article 40 of this Regulation corresponding to support for the production of fruit and vegetable crops other than annual crops listed in the third subparagraph of this paragraph which are supplied for processing and were eligible under the aid schemes set out in Regulations (EC) No 2201/96 and (EC) No 2202/96; and
- (b) from 1 January 2011 until 31 December 2012, up to 75 % of the component of the national ceilings referred to in Article 40 of this Regulation corresponding to support for the production of fruit and vegetable crops other than annual crops listed in the third subparagraph of this paragraph which are supplied for processing and were eligible under the aid schemes set out in Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organization of the markets in processed fruit and vegetable products ⁽¹⁾ and Council Regulation (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruits ⁽²⁾.

In this case and within the ceiling determined in accordance with Article 51(2) of this Regulation, the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted to farmers producing one or more of the following fruit and vegetables, as determined by the Member State concerned under the conditions provided for in Section 8 of Chapter 1 of Title IV:

- (a) fresh figs;
- (b) fresh citrus fruits;
- (c) table grapes;
- (d) pears;
- (e) peaches and nectarines; and
- (f) 'd'Ente' plums.

3. The components of the national ceilings referred to in paragraphs 1 and 2 are those set out in Annex X.

⁽¹⁾ OJ L 297, 21.11.1996, p. 29.

⁽²⁾ OJ L 297, 21.11.1996, p. 49.

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CHAPTER 3

Implementation in the new Member States having applied the single area payment scheme

Article 55

Introduction of the single payment scheme in the Member States having applied the single area payment scheme

1. Save as otherwise provided for in this Chapter, this Title shall apply to the new Member States having applied the single area payment scheme provided for in Chapter 2 of Title V.

Article 41 and Section 1 of Chapter 2 shall not apply.

2. Any new Member State having applied the single area payment scheme shall take the decisions referred to in Article 51(1) and Article 69(1) by 1 August of the year preceding that in respect of which it will apply the single payment scheme for the first time.

3. Except for Bulgaria and Romania, any new Member State having applied the single area payment scheme may provide that, in addition to the eligibility conditions established in Article 34(2), eligible hectare shall mean any agricultural area of the holding which has been maintained in good agricultural condition on 30 June 2003, whether or not in production at that date.

Article 56

Application for support

1. Farmers shall apply for support under the single payment scheme by a date to be determined by the new Member States, but no later than 15 May.

2. Except in the case of *force majeure* or exceptional circumstances, payment entitlements shall be allocated only to those farmers who have applied for the single payment scheme by 15 May of the first year of application of the single payment scheme.

Article 57

National reserve

1. Each new Member State shall make a linear percentage reduction in its national ceiling referred to in Article 40 in order to constitute a national reserve.

2. The new Member States shall use the national reserve for the purpose of allocating, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, payment entitlements to farmers placed in a special situation to be defined by the Commission in accordance with the procedure referred to in Article 141(2).

3. During the first year of application of the single payment scheme, the new Member States may use the national reserve for the purpose of allocating, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, payment entitlements to farmers in specific sectors placed in a special situation as a result of the transition to the single payment scheme.

4. The new Member States may use the national reserve to allocate payment entitlements to farmers who have commenced their agricultural activity after 1 January of the first year of application of the single payment scheme and who have not received any direct payment in that year, in accordance with objective criteria and in such a way as

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to ensure equal treatment between farmers and to avoid market and competition distortions.

5. The new Member States not applying Article 68(1)(c) may use the national reserve for the purpose of allocating, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, payment entitlements to farmers in areas subject to restructuring and/or development programmes relating to one or the other form of public intervention in order to ensure against land being abandoned and to compensate farmers for specific disadvantages in those areas.
6. For the purposes of applying paragraphs 2 to 5, the new Member States may increase the unit value of the payment entitlements held by the farmer concerned, within the limit of EUR 5 000, or may allocate new payment entitlements to the farmer concerned.
7. The new Member States shall make linear reductions in the payment entitlements where their national reserve is not sufficient to cover the cases referred to in paragraphs 2, 3 and 4.

Article 58

Regional allocation of the national ceilings referred to in Article 40

1. The new Member States may apply the single payment scheme at regional level.
2. The new Member States shall define the regions in accordance with objective and non-discriminatory criteria.
3. Where applicable, the new Member State shall divide the national ceiling referred to in Article 40 after any reduction provided for in Article 57 between the regions in accordance with objective and non-discriminatory criteria.

Article 59

Allocation of payment entitlements

1. Farmers shall receive payment entitlements, the unit value of which shall be calculated by dividing the applicable national ceiling referred to in Article 40 after any reduction provided for in Article 57 by the number of payment entitlements established at national level in accordance with paragraph 2 of this Article.
2. Except in the case of *force majeure* or exceptional circumstances, the number of payment entitlements per farmer shall be equal to the number of hectares the farmer declares in accordance with Article 35(1) for the first year of application of the single payment scheme.
3. By way of derogation from paragraph 2, the new Member States may decide that, except in the case of *force majeure* or exceptional circumstances, the number of payment entitlements per farmer shall be equal to the average annual number of all hectares which during one or more years of a representative period to be fixed by the Member State but no later than 2008 conferred a right to the single area payment. However, where a farmer has commenced agricultural activity in the representative period, the average number of hectares shall be based on the payments he was granted in the calendar year or years during which he exercised the agricultural activity.

Article 60

Farmers with no eligible hectares

A farmer acting in the beef and veal sector, dairy sector or sheepmeat and goatmeat sector who is entitled to receive payment entitlements in

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accordance with Article 57(3) and Article 59 for which he does not have eligible hectares in the first year of implementation of the single payment scheme shall be allocated special entitlements, not exceeding EUR 5 000 per entitlement, as referred to in Article 44.

Article 61

Grassland

The new Member States may also, in accordance with objective and non-discriminatory criteria, determine, within the regional ceiling established under Article 58 or part of it, different per unit values of the payment entitlements to be allocated to farmers referred to in Article 59(1):

- (a) for hectares of grassland as identified on 30 June 2008 and for any other eligible hectare; or
- (b) for hectares of permanent pasture as identified on 30 June 2008 and for any other eligible hectare.

Article 62

Conditions for payment entitlements

1. Payment entitlements established in accordance with this Chapter may be transferred only within the same region or between regions where the entitlements per hectare are the same.
2. The new Member States may, acting in compliance with the general principles of Community law, decide to approximate the value of the payment entitlements established in accordance with this Chapter. This decision shall be taken by 1 August of the year preceding the first year of application of the single payment scheme.

For the purposes of applying the first subparagraph, the payment entitlements shall be made subject to annual progressive modifications in accordance with objective and non-discriminatory criteria and in pre-established annual steps.

3. Except in the case of *force majeure* or exceptional circumstances, a farmer may transfer his payment entitlements without land only after he has activated, within the meaning of Article 34, at least 80 % of his payment entitlements during at least one calendar year or after he has surrendered voluntarily to the national reserve all the payment entitlements he has not used in the first year of application of the single payment scheme.

CHAPTER 4

Integration of coupled support into the single payment scheme

Article 63

Integration of coupled support into the single payment scheme

1. As from 2010, Member States shall integrate the support available under the coupled support schemes referred to in Annex XI into the single payment scheme in accordance with the rules laid down in Articles 64, 65, 66 and 67.
2. By way of derogation from paragraph 1:
 - (a) the Member States having introduced the single payment scheme in accordance with Chapters 1 to 4 of Title III of Regulation (EC) No 1782/2003 may decide to use all or part of the support referred to in paragraph 1 to establish payment entitlements or to increase the value of the payment entitlements on the basis of the type of

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agricultural activities exercised by farmers during one or more years in the period 2005 to 2008 and in accordance with objective and non-discriminatory criteria such as the agricultural potential or environmental criteria.

(b) the Member States having introduced the single payment scheme in accordance with Section 1 of Chapter 5 or Chapter 6 of Title III of Regulation (EC) No 1782/2003 or making use of the option provided for in Article 47 of this Regulation may decide to use all or part of the support referred to in paragraph 1 to increase the value of all payment entitlements by a supplementary amount corresponding to the increase of the regional ceiling divided by the total number of payment entitlements.

Member States may also differentiate the increase in value of the payment entitlements by taking into account the criteria referred to in Article 64(1) of this Regulation or on the basis of the type of agricultural activities exercised by farmers during one or more years in the period 2005 to 2008 and in accordance with objective and non-discriminatory criteria such as the agricultural potential or environmental criteria.

3. Where a Member State makes use of the derogation provided for in paragraph 2(a), it shall take adequate measures to ensure that farmers having benefited from the support referred to in paragraph 1 are not excluded from the single payment scheme. In particular, it shall make sure that the overall support the farmer will receive after the integration of the coupled support schemes referred to in paragraph 1 into the single payment scheme does not fall below 75 % of the average annual support the farmer received under all the direct payments during the relevant reference periods referred to in Articles 64, 65 and 66.

Article 64

Integration of coupled support excluded from the single payment scheme

1. The amounts referred to in Annex XII that were available for coupled support under the schemes referred to in points 1 and 2 of Annex XI shall be distributed by the Member States amongst the farmers in the sectors concerned in accordance with objective and non-discriminatory criteria taking account, in particular, of support that those farmers received, directly or indirectly, under the relevant support schemes during one or more years in the period 2005 to 2008. In the case of the potato starch schemes referred to in points 1 and 2 of Annex XI, Member States may distribute the amounts available under those schemes taking into account the quantities of potato covered by cultivation contracts between the potato producer and the starch manufacturer within the limit of the quota allocated to that manufacturer, as referred to in Article 84a of Regulation (EC) No 1734/2007, in a given year.

2. Member States shall increase the value of the payment entitlements held by the farmers concerned on the basis of the amounts resulting from the application of paragraph 1.

The increase in value per payment entitlement per farmer shall be calculated by dividing the amounts referred to in the first subparagraph by the number of payment entitlements of each farmer concerned.

However, where a farmer in a sector concerned does not hold any payment entitlement, he shall be allocated payment entitlements:

(a) the number of which shall be equal to the number of hectares he declares in accordance with Article 35(1) in respect of the year of integration of the coupled support scheme into the single payment scheme;

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(b) the value of which shall be established by dividing the amount resulting from the application of paragraph 1 by the number established in accordance with point (a) of this subparagraph.

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By way of derogation from the third subparagraph, where a farmer of the sector concerned does not hold any payment entitlement but declares a number of leased payment entitlements in the first year of integration of the coupled support, he shall be allocated a number of payment entitlements corresponding to the difference between the number of eligible hectares he declares and the number of leased payment entitlements he declares. The value of the entitlements allocated shall be established by dividing the amount resulting from the application of paragraph 1 by the number of entitlements to be allocated. However, the value of each entitlement allocated shall not exceed EUR 5 000.

In order to ensure the full allocation of the amount resulting from the application of paragraph 1 after application of the fourth subparagraph of this paragraph, the farmer of the sector concerned shall be allocated payment entitlements of a maximum value per entitlement of EUR 5 000. By way of derogation from Article 35, these payment entitlements shall give right to an annual support under the single payment scheme without declaration of the corresponding hectares. However, the number of payment entitlements activated by use of this derogation shall in a given year not exceed the number of payment entitlements activated by the farmer in accordance with Article 35. This derogation shall cease to apply from the first year where, and to the extent to which, the farmer of the sector concerned declares sufficient eligible hectares for activation of the payment entitlements or part thereof in accordance with Article 35. Those payment entitlements shall be activated on the available eligible hectares before any payment entitlements are transferred to the farmer, after the allocation of payment entitlements in accordance with the first sentence of this subparagraph.

In the case of transfer of the payment entitlements resulting from the fifth subparagraph of this paragraph, other than by actual or anticipated inheritance or as a consequence to change in legal status, Article 35 shall apply where the transferee activates those payment entitlements.

3. However, where the amount per aid scheme is lower than EUR 250 000, the Member State concerned may decide not to distribute the amounts and add them to the national reserve.

Article 65

Integration of coupled support partially excluded from the single payment scheme

The amounts that were available for coupled support under the schemes referred to in point 3 of Annex XI shall be distributed by the Member States amongst the farmers in the sectors concerned in proportion to the support that those farmers received under the relevant support schemes during the relevant reference periods referred to in Regulation (EC) No 1782/2003.

Member States may, however, choose a more recent representative period in accordance with objective and non-discriminatory criteria and, where a Member State introduced the single payment scheme in accordance with Section 1 of Chapter 5 or Chapter 6 of Title III of Regulation (EC) No 1782/2003 or where it makes use of the option provided in Article 47 of this Regulation, in accordance with Article 63 (2)(b) of this Regulation.

Member States shall increase the value of the payment entitlements of the farmers concerned or allocate payment entitlements in accordance with Article 64(2) of this Regulation.

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Where a farmer that received payments under Articles 67 and 68 of Regulation (EC) No 1782/2003 would be entitled to receive payment entitlements in accordance with this Article for which he does not have eligible hectares in the year of integration of the coupled support scheme into the single payment scheme or where his payment entitlement per hectare results in an amount higher than EUR 5 000, he shall be allocated special entitlements as referred to in Article 44, not exceeding EUR 5 000 per entitlement.

Article 66

Optional integration of coupled support partially excluded from the single payment scheme

Where a Member State:

- (a) does not take the decision referred to in the first subparagraph of Article 51(1);
- (b) decides not to grant the beef and veal payments referred to in Article 53(2) from 2011, in application of the second subparagraph of Article 51(1); or
- (c) decides not to grant the fruit and vegetable payments in application of the third subparagraph of Article 51(1),

the amounts that were available for coupled support under the schemes referred to in point 4 of Annex XI shall be integrated into the single payment scheme in accordance with Article 65.

Article 67

Advanced integration of coupled support into the single payment scheme

► M3 1. ◀ Member States may decide, by 1 August 2009, to integrate the seed aid referred to in Section 5 of Title IV and the schemes referred to in point 1 of Annex XI, with the exception of the specific quality premium for durum wheat, into the single payment scheme in 2010 or 2011. In this case, the Commission, in accordance with the procedure referred to in Article 141(2), shall adjust the national ceilings referred to in Article 40 by adding the amounts from Annex XII for the aid scheme concerned.

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2. Member States having made use only in some parts of their territory of the option provided for in Section 1 of Chapter 5 of Title III of Regulation (EC) No 1782/2003 to apply the single payment scheme at regional level may apply this Article at the same regional level.

Any Member State applying the possibility provided for in the first subparagraph shall submit the following information to the Commission, by 1 December 2009:

- (a) the breakdown per region of the amounts foreseen for the measures or measures concerned for the years 2010 to 2012 according to objective criteria;
- (b) the statistical and other supporting data used to establish the amounts referred to in point (a).

Member States shall reply to any request from the Commission for further clarifications on the information submitted within one month.

The Commission shall use the amounts referred to in point (a) of the second subparagraph of this paragraph as a basis for adjusting the national ceilings referred to in Article 40 for the Member States concerned as provided for in this Article.

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CHAPTER 5

Specific support

Article 68

General rules

1. Member States may grant specific support to farmers under the conditions laid down in this Chapter:

(a) for:

- (i) specific types of farming which are important for the protection or enhancement of the environment;
- (ii) improving the quality of agricultural products;
- (iii) improving the marketing of agricultural products;
- (iv) practising enhanced animal welfare standards;
- (v) specific agricultural activities entailing additional agri-environment benefits;
- (b) to address specific disadvantages affecting farmers in the dairy, beef and veal, sheepmeat and goatmeat and rice sectors in economically vulnerable or environmentally sensitive areas, or, in the same sectors, for economically vulnerable types of farming;
- (c) in areas subject to restructuring and/or development programmes in order to ensure against land being abandoned and/or to address specific disadvantages for farmers in those areas;
- (d) in the form of contributions to crop, animal and plant insurance premiums in accordance with the conditions set out in Article 70;
- (e) by way of mutual funds for animal and plant diseases and environmental incidents in accordance with the conditions set out in Article 71.

2. The support referred to in paragraph 1(a) may only be granted if:

- (a) as regards the specific agricultural activities referred to in paragraph 1(a)(v):
 - (i) it respects the requirements set out in the first subparagraph of Article 59(3) of Regulation (EC) No 1698/2005, and only for the coverage of the additional costs actually incurred and income foregone in order to fulfil the objective concerned; and
 - (ii) it has been approved by the Commission;
- (b) as regards improving the quality of agricultural products referred to in paragraph 1(a)(ii), it is consistent with Council Regulation (EC) No 509/2006 of 20 March 2006 on agricultural products and foodstuffs as traditional specialties guaranteed ⁽¹⁾, Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽²⁾, Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products ⁽³⁾ and Chapter 1 of Title II of Part II of Regulation (EC) No 1234/2007;

(c) as regards improving the marketing of agricultural products referred to in paragraph 1(a)(iii), it satisfies the criteria laid down in Articles 2 to 5 of Council Regulation (EC) No 3/2008 of 17 December 2007

⁽¹⁾ OJ L 93, 31.3.2006, p. 1.

⁽²⁾ OJ L 93, 31.3.2006, p. 12.

⁽³⁾ OJ L 189, 20.7.2007, p. 1.

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on information provision and promotion measures for agricultural products on the internal market and in third countries ⁽¹⁾.

3. The support referred to in paragraph 1(b) of this Article may only be granted to the extent necessary to create an incentive to maintain current levels of production.

For the sheepmeat and goatmeat and beef and veal sectors, if that support is applied together with the support granted under Articles 52 and 53, the total shall not exceed, respectively, the financial envelope of support obtained after applying the maximum percentage of retention set out in Articles 67 and 68 of Regulation (EC) No 1782/2003.

For the rice sector, the support referred to in paragraph 1(b) of this Article may be granted only from the calendar year where the Member State integrates the crop-specific payment for rice provided for in Section I of Chapter I of Title IV into the single payment scheme.

4. The support referred to:

(a) in paragraph 1(a) and (d) of this Article shall take the form of annual additional payments;

(b) in paragraph 1(b) of this Article shall take the form of annual additional payments such as headage payments or grassland premiums;

(c) in paragraph 1(c) of this Article shall take the form of an increase in the unit value and/or the number of the farmer's payment entitlements;

(d) in paragraph 1(c) of this Article shall take the form of compensation payments as specified in Article 71.

5. The transfer of payment entitlements with increased unit values and of additional payment entitlements referred to in paragraph 4(c) may only be allowed if the transferred entitlements are accompanied by the transfer of an equivalent number of hectares.

6. Any support granted under paragraph 1 shall be consistent with other Community measures and policies.

7. The Commission, in accordance with the procedure referred to in Article 141(2), shall define the conditions for the Commission approval referred in paragraph 2(a)(ii) of this Article and the conditions for granting of the support referred to in this Section, in particular with a view to ensuring consistency with other Community measures and policies and to avoid cumulation of support.

8. By 1 August 2011, the Member States that took the decision referred to in Article 69(1) may review it and decide, from 2012, to:

(a) modify the amounts for the funding of the support referred to in this Chapter, within the limits of Article 69; or

(b) put an end to the application of specific support under this Chapter.

According to the decision taken by each Member State pursuant to the first subparagraph of this paragraph, the Commission shall fix, in accordance with the procedure referred to in Article 141(2), the corresponding ceiling for that support.

Where a Member State decides to put an end to the application of this Chapter or where it reduces the amounts used for its funding, Article 72(2) shall apply.

⁽¹⁾ OJ L 3, 5.1.2008, p. 1.

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Article 69

Financial provisions for specific support

1. Member States may decide, by 1 August 2009, 1 August 2010 or 1 August 2011, to use from the year following that decision up to 10 % of their national ceiling referred to in Article 40, or, in the case of Malta, the amount of EUR 2 000 000 for the specific support provided for in Article 68(1).

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The deadline of 1 August 2009 referred to in the previous subparagraph shall be replaced by 1 January 2010 in the case of Member States which decide to grant, from 2010, the support provided for in Article 68(1)(c) of this Regulation in favour of farmers in the dairy sector provided that, by way of derogation from Article 69(6) of this Regulation, the support is financed only by using the amounts of the national reserve.

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2. Member States may apply the 10 % retention on a sectoral basis by retaining up to 10 % of the component of their national ceiling referred to in Article 41 of Regulation (EC) No 1782/2003 corresponding to any sector referred to in Annex VI of that Regulation. The funds retained may only be used for the application of the support referred to in Article 68(1) of this Regulation in the sectors concerned by the retention.

3. According to the decision made by each Member State pursuant to paragraph 1 on the amount of national ceiling to be used, the Commission shall fix, in accordance with the procedure referred to in Article 141(2), the corresponding ceiling for that support.

For the sole purpose of ensuring compliance with the national ceilings as provided for in Article 40(2), the amounts used to grant the support referred to in point (c) of Article 68(1) shall be deducted from the national ceiling referred to in Article 40(1). They shall be counted as allocated payment entitlements.

4. Support provided for in points (i), (ii), (iii) and (iv) of paragraph 1 (a) and paragraphs 1(b) and (c) of Article 68 shall be limited to 3.5 % of the national ceilings referred to in Article 40 or, in the case of Malta, to the amount of EUR 2 000 000, referred to in Article 69(1) of this Regulation, to be used in particular for the funding of the measures referred to in Article 68(1)(b) in the dairy sector.

Member States may set sub-limits per measure.

5. ►M3 By way of derogation from paragraph 4, during calendar years 2010 to 2013, where a Member State 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, and in that connection used more than 50 % of the amounts established in accordance with Article 69 of that Regulation for the beef and veal sector, the limit set out in paragraph 4 of this Article shall be set at 6 % of that Member State's national ceiling referred to in Article 40 of this Regulation. Furthermore, where more than 60 % of a Member State's milk production takes place north of the 62nd parallel, that limit shall be set at 10 % of that Member State's national ceiling referred to in Article 40 of this Regulation. ◄4

However, any support exceeding 3.5 % of the national ceiling referred to in Article 40 shall be used exclusively for the funding of measures referred to in Article 68(1)(b) of this Regulation in the dairy and beef and veal sectors.

The Commission shall present to the Council a report on the application of this paragraph by 31 December 2013.

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6. Member States shall raise the funds needed to cover the support provided:

- (a) in Article 68(1) by using an amount to be calculated by the Commission in accordance with paragraph 7 of this Article and fixed in accordance with the procedure referred to in Article 141(2); and/or
- (b) in Article 68(1)(a), (b), (c) and (d) by making a linear reduction in the value of the payment entitlements allocated to farmers and/or in the direct payments referred to in Articles 52 and 53 and/or in the national reserve;
- (c) in Article 68(1)(e) by making, if necessary, a linear reduction in one or more of the payments to be made to the beneficiaries of the relevant payments in accordance with this Title and within the limits set out in paragraphs 1 and 4 of this Article.

For the sole purpose of ensuring compliance with the national ceilings provided for in Article 40(2), where a Member State makes use of the option provided for in point (a) of the first subparagraph of this paragraph, the amount concerned shall not be counted as part of the ceilings fixed under paragraph 3 of this Article.

7. The amounts referred to in paragraph 6(a) of this Article shall be equal to the difference between:

- (a) the national ceilings determined in Annex VIII or Annex VIIa of Regulation (EC) No 1782/2003 for 2007 after application of Article 10(1) of that Regulation and Article 4(1) of Regulation (EC) No 378/2007 and after reduction by 0,5 %, and
- (b) the budget execution for financial year 2008 of the single payment scheme and the payments referred to in Sections 2 and 3 of Chapter 5 of Title III of Regulation (EC) No 1782/2003 with regard to payments in respect of the 2007 reduced ceiling referred to in point (a) of this subparagraph.

In no case shall this amount be higher than 4 % of the ceiling referred to in point (a) of the first subparagraph of this paragraph.

For the new Member States having applied the single payment scheme in 2007, this amount shall be multiplied by 1,75 in 2010, 2 in 2011, 2,25 in 2012 and 2,5 from 2013 onwards.

Upon request from a Member State, the Commission shall revise the established amounts in accordance with the procedure referred to in Article 141(2) of this Regulation and on the basis of detailed rules to be laid down in accordance with the same procedure.

The use by Member States of such amounts shall be without prejudice to the application of Article 8 of this Regulation.

8. The decision referred to in paragraph 1 of this Article, in Article 68(8) and in Article 131(1) shall determine the measures to be applied and cover all further implementing arrangements relevant to the application of this Chapter, including the description of the eligibility conditions for the measures to be applied, the amount concerned and the financial resources to be raised.

9. The new Member States may decide to apply paragraphs 1, 2, 4, 5 and 6 of this Article and Article 131(1) on the basis of their national ceilings:

- (a) specified for the year 2016 in the case of Bulgaria and Romania;
- (b) specified for the year 2013 for the other new Member States.

In that case, Article 132 shall not apply to the measures taken in accordance with this Article.

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Article 70

Crop, animal, and plant insurance

1. Member States may grant financial contributions to premiums for crop, animal and plant insurance against economic losses caused by adverse climatic events and animal or plant diseases or pest infestation.

For the purpose of this Article:

- (a) 'adverse climatic event' shall mean weather conditions which can be assimilated to a natural disaster, such as frost, hail, ice, rain or drought;
 - (b) 'animal diseases' shall mean diseases mentioned in the list of animal diseases established by the World Organisation for Animal Health and/or in the Annex to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾;
 - (c) 'economic losses' shall mean any additional cost incurred by a farmer as a result of exceptional measures taken by the farmer with the objective of reducing supply on the market concerned or any substantial loss of production.
2. A financial contribution may only be granted for loss caused by an adverse climatic event or by an animal or plant disease or a pest infestation which destroys more than 30 % of the average annual production of the farmer in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and lowest entry.
3. The financial contribution granted per farmer shall not exceed 65 % of the insurance premium due.

Member States may limit the amount of the premium that is eligible for a financial contribution by applying appropriate ceilings.

4. Coverage by crop and/or animal and/or plant insurance shall only be available where the occurrence of an adverse climatic event or the outbreak of an animal or plant disease or pest infestation has been formally recognised as such by the competent authority of the Member State concerned.

Member States may, where appropriate, establish in advance criteria on the basis of which such formal recognition shall be deemed to be granted.

5. Insurance payments shall compensate for not more than the total cost of replacing the losses referred to in paragraph 1 and shall not require or specify the type or quantity of future production.

6. Any financial contribution shall be paid directly to the farmer concerned.

7. Member States' expenditure on the granting of financial contributions shall be co-financed by the Community from the funds referred to in Article 69(1) at a rate of 75 % of the financial contribution.

The first subparagraph shall not prejudice any powers of Member States to cover their participation in the financing of the financial contributions and the part of the insurance premium to be borne by farmers in full or in part through compulsory collective liability schemes in the sectors concerned. This shall be possible notwithstanding Articles 1251 and 125n of Regulation (EC) No 1234/2007.

8. Member States shall ensure that economic losses for which compensation is granted in accordance with other Community provisions, including Article 44 of Regulation (EC) No 1234/2007 and any other health and veterinary or plant health measures, shall

⁽¹⁾ OJ L 224, 18.8.1990, p. 19.

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not be further compensated in accordance with the first subparagraph of paragraph 1.

9. The financial contribution shall not constitute a barrier to the operation of the internal market in insurance services. The financial contribution shall not be limited to insurance provided by a single insurance company or group of companies, or be made subject to the condition that the insurance contract be taken out with a company established in the Member State concerned.

Article 71

Mutual funds for animal and plant diseases and environmental incidents

1. Member States may provide for financial compensation to be paid to farmers for economic losses caused by the outbreak of an animal or plant disease or an environmental incident by way of financial contributions to mutual funds.

2. For the purpose of this Article:

(a) 'mutual fund' shall mean a scheme accredited by the Member State in accordance with its national law for affiliated farmers to insure themselves, whereby compensation payments are made to such farmers affected by economic losses caused by the outbreak of an animal or plant disease or an environmental incident;

(b) 'economic losses' shall mean any additional cost incurred by a farmer as a result of exceptional measures taken by the farmer with the objective of reducing supply on the market concerned or any substantial loss of production;

(c) 'an environmental incident' shall mean a specific occurrence of pollution, contamination or degradation in the quality of the environment related to a specific event and of limited geographical scope. It shall not cover general environmental risks not connected with a specific event, such as climate change or acid rain.

3. As regards animal diseases, financial compensation may only be granted in respect of diseases mentioned in the list of animal diseases established by the World Organisation for Animal Health and/or in the Annex to Decision 90/424/EEC.

4. Member States shall ensure that economic losses for which financial compensation is granted in accordance with other Community provisions, including Article 44 of Regulation (EC) No 1234/2007 and any other health and veterinary or plant health measures, shall not be further compensated in accordance with paragraph 1.

5. The mutual funds shall pay the financial compensation directly to affiliated farmers who are affected by economic losses.

The source of the financial compensation paid by the mutual funds shall come from:

(a) capital stock contributed to the funds by affiliated and non-affiliated farmers or by other operators in the agricultural chain; or

(b) loans taken out by the funds on commercial terms; and

(c) any amounts recovered in accordance with paragraph 11.

Any initial capital stock shall not be contributed by public funds.

6. The financial contributions referred to in paragraph 1 may relate to:

(a) the administrative costs of setting up the mutual fund, spread over a maximum of three years;

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(b) the repayment of the capital and interest on commercial loans taken out by the mutual fund for the purpose of paying financial compensation to farmers;

(c) the amounts paid by the mutual fund from its capital stock as financial compensation to farmers.

The minimum and maximum duration of the commercial loans eligible for a financial contribution shall be determined by the Commission in accordance with the procedure referred to in Article 141(2).

Where financial compensation is paid by the fund in accordance with point (c) of the first subparagraph, the public financial contribution shall follow the same rhythm as that for a commercial loan of minimum duration.

7. Any financial contribution shall not exceed 65 % of the cost referred to in paragraph 6. Any cost not covered by financial contributions shall be borne by the affiliated farmers.

Member States may limit the costs that are eligible for a financial contribution by applying:

(a) ceilings per fund;

(b) appropriate per unit ceilings.

8. Member States' expenditure on the financial contributions shall be co-financed by the Community from the funds referred to in Article 69 (1) at a rate of 75 %.

The first subparagraph shall not prejudice any powers of Member States to cover their participation and/or the participation of affiliated farmers in the financing of the financial contributions in full or in part through compulsory collective liability schemes in the sectors concerned. This shall be possible notwithstanding Articles 1251 and 125n of Regulation (EC) No 1234/2007.

9. Member States shall define the rules for the constitution and management of the mutual funds, in particular for the granting of compensation payments to farmers in the event of crisis and for the administration and monitoring of compliance with these rules.

10. Member States shall submit to the Commission an annual report on the implementation of this Article. The form, content, timing and deadlines of the report shall be laid down by the Commission in accordance with the procedure referred to in Article 141(2).

11. Where a farmer is granted financial compensation by a mutual fund under this Article any legal right for the recovery of damages for the compensated economic losses which the farmer may have under any provisions of Community or national law against any third party shall be transferred to the mutual fund in accordance with rules to be established by the Member State concerned.

Article 72

Transitional provisions

1. Where a Member State applied Article 69 of Regulation (EC) No 1782/2003, the amounts retained under that Article shall be integrated into the single payment scheme in accordance with Article 65 of this Regulation.

2. By way of derogation from the first paragraph, where a Member State having applied Article 69 of Regulation (EC) No 1782/2003 decides to apply the specific support provided for in this Chapter, it may use the amounts retained under Article 69 of Regulation (EC) No 1782/2003 to cover the funding needs referred to in Article 69(6) of this Regulation. Should the funding needs referred to in Article 69(6) be lower than the amounts retained under Article 69 of Regulation (EC)

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No 1782/2003, the difference shall be integrated into the single payment scheme in accordance with Article 65 of this Regulation.

3. Where a Member State having applied under Article 69 of Regulation (EC) No 1782/2003 measures not compatible with this Chapter decides to apply the specific support provided for in this Chapter, it may decide, by 1 August 2009, to apply under Article 68 of this Regulation the measures communicated to the Commission under Article 69 of Regulation (EC) No 1782/2003 and its implementing rules during 2010, 2011 and 2012. By way of derogation from Article 69(4), the total support under the measures referred to in Article 68(1)(a), (b) and (e) may be limited to the ceiling fixed for the relevant Member State in the application of Article 69 of Regulation (EC) No 1782/2003.

In this case, Member States may also decide, by 1 August 2009, to adjust such measures annually towards making them compatible with this Chapter. Where a Member State decides not to make the measures compatible, the amounts concerned shall be integrated into the single payment scheme in accordance with Article 65 of this Regulation.

4. Member States may grant the support provided for in this Chapter from 2009 provided that, by way of derogation from Article 69(6) of this Regulation, they finance the support referred to in Article 68(1) only by using the amounts of the national reserve and that national provisions are in place by the deadline fixed by the Member State for the lodging of the aid application.

TITLE IV

OTHER AID SCHEMES

CHAPTER I

Community aid schemes

Section 1

Crop specific payment for rice

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Section 2

Aid for starch potato growers

Article 77

Scope and amount of the aid

For the marketing years 2009/2010, 2010/2011 and 2011/2012, aid shall be granted for farmers producing potatoes intended for the manufacture of potato starch under the conditions laid down in this Section ('aid for starch potato growers').

The aid shall be EUR 66,32 for the quantity of potatoes needed for making one tonne of starch.

The amount shall be adjusted according to the starch content of the potatoes.

Article 78

Conditions

The aid for starch potato growers shall be paid only in respect of the quantity of potatoes covered by a cultivation contract between the potato producer and the potato starch manufacturer within the limit of the quota allocated to that potato starch manufacturer in accordance with Article 84a(2) of Regulation (EC) No 1234/2007.

Section 3

Protein crop premium

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Section 4
Area payment for nuts

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Section 5
Seed aid

Section 6
Crop specific payment for cotton

VB

Section 7

Aid for sugar beet and cane producers

Section 8

Transitional fruit and vegetables payments

Section 9

Transitional soft fruit payment

Article 98

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Section 10
Premiums in the sheep meat and goat meat sector

Section 11
Beef and veal payments

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TITLE V
IMPLEMENTATION OF DIRECT PAYMENTS IN THE NEW MEMBER STATES

CHAPTER I
General provisions

Article 121

Introduction of direct payments

In the new Member States other than Bulgaria and Romania, direct payments shall be introduced in accordance with the following schedule of increments expressed as a percentage of the then applicable level of such payments in the Member States other than the new Member States:

- 60 % in 2009,
- 70 % in 2010,
- 80 % in 2011,
- 90 % in 2012,
- 100 % as from 2013.

In Bulgaria and Romania, direct payments shall be introduced in accordance with the following schedule of increments expressed as a percentage of the then applicable level of such payments in the Member States other than the new Member States:

- 35 % in 2009,
- 40 % in 2010,
- 50 % in 2011,
- 60 % in 2012,
- 70 % in 2013,
- 80 % in 2014,
- 90 % in 2015,
- 100 % as from 2016.

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CHAPTER 2
Single area payment scheme

Article 122

Single area payment scheme

1. The new Member States having decided to replace the direct payments, with the exception, for 2009, 2010 and 2011, of the transitional soft fruit payment established in Section 9 of Chapter 1 of Title IV of this Regulation, and, for 2009, of the energy crops payment referred to in Chapter 5 of Title IV of Regulation (EC) No 1782/2003, with a single area payment scheme shall grant aid to farmers in accordance with this Article.
2. The single area payment shall be granted on an annual basis. It shall be calculated by dividing the annual financial envelope established in accordance with Article 123 by the agricultural area of each new Member State established in accordance with Article 124.
3. The single area payment scheme shall be available until 31 December 2013. The new Member States shall notify the Commission of their intention to terminate the application of the scheme by 1 August of the last year of application.
4. After the end of the period of application of the single area payment scheme, the direct payments shall be applied in accordance with the relevant Community rules and on the basis of the quantitative parameters, such as base area, premium ceilings and maximum guaranteed quantities, specified in the 2003 and 2005 Acts of Accession and subsequent Community legislation for each direct payment. The percentage rates set out in Article 121 of this Regulation for the relevant years shall subsequently apply.

Article 123

Annual financial envelope

1. For any new Member State, the Commission shall establish an annual financial envelope as the sum of the funds that would be available in respect of the calendar year concerned for granting direct payments in the new Member State.

The annual financial envelope shall be established according to the relevant Community rules and on the basis of the quantitative parameters, such as base areas, premium ceilings and maximum guaranteed quantities, specified in the 2003 and 2005 Acts of Accession and subsequent Community legislation for each direct payment.

The annual financial envelope shall be adjusted using the relevant percentage specified in Article 121 for the gradual introduction of direct payments, except for the amounts available in accordance with Annex XV or in accordance with the differential between these amounts or the amounts corresponding to the fruit and vegetable sector and those actually applied as referred to in Article 130(1).

2. Where in a given year the single area payments in a new Member State would exceed its annual financial envelope, the national amount per hectare applicable in that new Member State shall be reduced proportionately by applying a reduction coefficient.

Article 124

Area under the single area payment scheme

1. The agricultural area of a new Member State other than Bulgaria and Romania under the single area payment scheme shall be the part of

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its unused agricultural area which was maintained in good agricultural condition on 30 June 2003, whether or not in production at that date, and, where appropriate, adjusted in accordance with the objective and non-discriminatory criteria to be set by that new Member State after approval by the Commission.

For the purposes of this Title, 'unused agricultural area' shall mean the total area taken up by arable land, permanent grassland, permanent crops and kitchen gardens as established by the Commission for its statistical purposes.

For Bulgaria and Romania, the agricultural area under the single area payment scheme shall be the part of its unused agricultural area which is maintained in good agricultural condition, whether or not in production, where appropriate adjusted in accordance with the objective and non-discriminatory criteria to be set by Bulgaria or Romania after approval by the Commission.

2. For the purpose of granting payments under the single area payment scheme, all agricultural parcels corresponding to the criteria provided for in paragraph 1, as well as agricultural parcels planned with short rotation coppice (CN code ex 0602 90 41) which were maintained in good agricultural condition on 30 June 2003, shall be eligible. However, for Bulgaria and Romania, all agricultural parcels corresponding to the criteria provided for in paragraph 1, as well as agricultural parcels planted with short rotation coppice (CN code ex 0602 90 41), shall be eligible.

Except in the case of *force majeure* or exceptional circumstances, the parcels referred to in the first subparagraph shall be at the farmer's disposal on the date fixed by the Member State which shall be no later than the date fixed in that Member State for amendment of the aid application.

The minimum size of eligible area per holding for which payments may be requested shall be 0.3 ha. However, any new Member State may decide, on the basis of objective criteria and after approval by the Commission, to set the minimum size at a higher level not exceeding 1 ha.

3. There shall be no obligation to produce or to employ the factors of production. However, farmers may use the land referred to in paragraph 4 of this Article for any agricultural purpose. In the case of the production of hemp, Article 39 shall apply.

4. Any land benefiting from payments under the single area payment scheme shall be maintained in good agricultural and environmental condition in accordance with Article 6.

5. Any farmer receiving support under the single area payment scheme shall respect the statutory management requirements referred to in Annex II in accordance with the following timetable:

(a) requirements referred to in Point A of Annex II shall apply from 1 January 2009;

(b) requirements referred to in Point B of Annex II shall apply from 1 January 2011;

(c) requirements referred to in Point C of Annex II shall apply from 1 January 2013.

6. For Bulgaria and Romania, the application of Articles 4, 5, 23, 24 and 25 shall be optional until 31 December 2011 insofar as those provisions relate to statutory management requirements. As from 1 January 2012 a farmer receiving payments under the single area payment scheme in those Member States shall fulfil the statutory management requirements referred to in Annex II in accordance with the following timetable:

(a) requirements referred to in Point A of Annex II shall apply from 1 January 2012;

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(b) requirements referred to in Point B of Annex II shall apply from 1 January 2014;

(c) requirements referred to in Point C of Annex II shall apply from 1 January 2016.

7. The new Member States may also apply the options provided for in paragraphs 5 and 6 where they decide to terminate the application of the single area payment scheme before the end of the period of application provided for in Article 122(3).

8. The application of the single area payment scheme shall in no way affect the obligation of any new Member State with regard to the implementation of Community rules on the identification and registration of animals as provided for by Regulation (EC) No 1760/2000 and Regulation (EC) No 21/2004.

Article 125

Communication

The new Member States shall inform the Commission in detail of the measures taken to implement this Chapter, and in particular the measures taken pursuant to Article 123(2).

CHAPTER 3

Separate payments and specific support

Article 126

Separate sugar payment

1. Where a new Member State has made use of the option provided for by Article 143ba of Regulation (EC) No 1782/2003, it shall grant a separate sugar payment to farmers eligible under the single area payment scheme. This payment shall be granted on the basis of the criteria adopted by the relevant Member States in 2006 and 2007.

2. The separate sugar payment shall be granted within the limits of the ceilings set out in Annex XV.

3. By way of derogation from paragraph 2, each new Member State concerned may decide, by 31 March of the year in respect of which the separate sugar payment is granted and on the basis of objective criteria, to apply for the separate sugar payment a ceiling lower than that listed in Annex XV. Where the sum of the amounts determined in accordance with paragraph 1 exceeds the ceiling decided by the new Member State concerned, the annual amount to be granted to the farmers shall be reduced proportionally.

Article 127

Separate fruit and vegetables payment

1. Where a new Member State has made use of the option provided for in Article 143bb of Regulation (EC) No 1782/2003, it shall grant a separate fruit and vegetables payment to farmers eligible under the single area payment scheme. This payment shall be granted in accordance with the criteria adopted by the Member State in 2007.

2. The separate fruit and vegetables payment shall be granted within the limits of the component of the national ceiling referred to in Article 40 of this Regulation corresponding to fruit and vegetables or, where a new Member State made use of the option provided for in Article 143bb(3) of Regulation (EC) No 1782/2003, at a lower ceiling.

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Article 128

Separate transitional fruit and vegetables payment

1. Where a new Member State has made use of the option provided for in Article 143b(1) of Regulation (EC) No 1782/2003, it may retain, up to 31 December 2011, up to 50 % of the component of national ceilings referred to in Article 40 of this Regulation corresponding to tomatoes falling within CN code 0702 00 80 in accordance with its decision of 2007.

In this case and within the limit of the ceiling fixed in accordance with the procedure referred to in Article 141(2) of this Regulation, the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted to farmers producing tomatoes under the conditions provided for in Section 8 of Chapter 1 of Title IV of this Regulation.

2. Where a new Member State has made use of the option provided for in Article 143b(2) of Regulation (EC) No 1782/2003, it may retain, in accordance with its decision of 2007:

- (a) up to 31 December 2010, up to 100 % of the component of national ceilings referred to in Article 40 of this Regulation corresponding to the fruit and vegetable crops other than annual crops listed in the third subparagraph of Article 54(2) of this Regulation;

- (b) from 1 January 2011 up to 31 December 2012, up to 75 % of the component of national ceilings referred to in Article 40 of this Regulation corresponding to fruit and vegetable crops other than annual crops listed in the third subparagraph of Article 54(2) of this Regulation.

In this case and within the limit of the ceiling fixed in accordance with the procedure referred to in Article 141(2) of this Regulation, the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted to farmers producing one or more of the fruit and vegetables products, as determined by the Member State concerned, listed in the third subparagraph of Article 54(2) of this Regulation.

3. The new Member States having made use of the options provided for in Article 143b of Regulation (EC) No 1782/2003 may decide, by 1 August 2009, to review the decision taken in 2007 with a view either:

- (a) to integrate all or part of those payments into the single area payment scheme. In this case, by way of derogation from Article 130 of this Regulation, the amounts concerned shall be included in the annual financial envelope referred to in Article 123(1) of this Regulation; or

- (b) to integrate all or part of those payments into the separate fruit and vegetable payment referred to in Article 127 of this Regulation. In this case, the new payment shall be granted on the basis of objective and non-discriminatory criteria such as those set out in paragraph 2 of point A of Annex IX to this Regulation and in respect of a representative period ending in 2008.

Article 129

Separate soft fruit payment

1. By way of derogation from Article 122, the new Member States applying the single area payment scheme may decide, by 1 August 2011, to grant from 2012 a separate soft fruit payment. It shall be granted on the basis of objective and non-discriminatory criteria such as the payments received under the transitional soft fruit payment

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provided for in Article 98 and in respect of a representative period to be fixed by that Member State but no later than 2008.

2. The separate soft fruit payment shall be granted within the limits of the amounts referred to in Annex XII corresponding to the soft fruit payment.

3. In 2012, Member States applying this Article may grant national aid in addition to the separate soft fruit payment. The total amount of Community and national aid shall not exceed the following ceilings:

- Bulgaria: EUR 960 000,
- Latvia: EUR 160 000,
- Lithuania: EUR 240 000,
- Hungary: EUR 680 000,
- Poland: EUR 19 200 000.

Article 130

Common provisions for the separate payments

1. The funds made available for granting the payment referred to in Articles 126, 127, 128 and 129 shall not be included in the annual financial envelope referred to in Article 123(1). However, where Article 126(3) is applied, the differential between the ceiling listed in Annex XV and that actually applied shall be included in the annual financial envelope referred to in Article 123(1).

2. Article 132 shall not apply to the separate payments referred to in Articles 127, 128 and 129. Except in the case of Bulgaria and Romania, Article 132 shall not apply to the separate payments referred to in Article 126.

3. In the event of actual or anticipated inheritance, the separate sugar payment referred to in Article 126, the separate fruit and vegetables payment referred to in Article 127 and the separate soft fruit payment referred to in Article 129 shall be granted to the farmer who inherited the holding, on condition that this farmer is eligible under the single area payment scheme.

Article 131

Specific support

1. The new Member States applying the single area payment scheme may decide, by 1 August 2009, 1 August 2010 or 1 August 2011, to use, from the year following that decision, up to 10 % of their national ceilings referred to in Article 40 to grant support to farmers as set out in Article 68(1) and in accordance with Chapter 5 of Title III, as applicable to them.

The deadline of 1 August 2009 referred to in the first subparagraph shall be replaced by 1 January 2010 in the case of the new Member States applying the single area payment scheme which decide to grant, from 2010, the support provided for in Article 68(1)(b) in favour of farmers in the dairy sector, provided that the support is financed in accordance with paragraph 3(a) of this Article.

2. By way of derogation from Article 68(4)(c), support for measures referred to in Article 68(1)(c) shall take the form of an increase in the per hectare amounts granted under the single area payment scheme.

The second subparagraph of Article 68(3) shall not apply to the new Member States applying the single area payment scheme.

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3. By way of derogation from Article 69(6), new Member States applying the single area payment scheme referred to in Article 122 shall raise the funds needed to cover the support referred to in paragraph 1 of this Article by:
 - (a) reducing their annual financial envelope referred to in Article 123; and/or
 - (b) making a linear reduction in the direct payments other than the single area payment scheme.
 4. The amounts referred to in paragraph 1 of this Article shall be set by the Commission in accordance with the procedure referred to in Article 141(2).
- These amounts shall be deducted from the annual financial envelopes referred to in Article 123(1) of the new Member States concerned.

CHAPTER 4

Complementary national direct payments and direct payments

Article 132

Complementary national direct payments and direct payments

1. For the purposes of this Article, 'CAP-like national scheme' shall mean any national direct payment scheme applicable prior to the date of accession of the new Member States under which the support was granted to farmers in respect of production covered by one of the direct payments.
 2. The new Member States shall have the possibility, subject to authorisation by the Commission, to complement any direct payments:
 - (a) with regard to all direct payments, up to 30 percentage points above the applicable level referred to in Article 121 in the relevant year. As far as Bulgaria and Romania are concerned, the following shall apply: 65 % of the level of direct payments in the Community as constituted on 30 April 2004 in 2009 and from 2010 up to 50 percentage points above the applicable level referred to in the second paragraph of Article 121 in the relevant year. However, the Czech Republic may complement direct payments in the potato starch sector up to 100 % of the level applicable in the new Member States other than the new Member States. For the direct payments referred to in Chapter 7 of Title IV of Regulation (EC) No 1782/2003, the new Member States may complement the direct payments up to 100 %. As far as Bulgaria and Romania are concerned, the following maximum rates shall apply: 95 % in 2009 and 100 % as from 2010;
- or
- (b) (i) with regard to direct payments other than the single payment scheme, up to the total level of direct support the farmer would have been entitled to receive, on a product by product basis, in the new Member State in the calendar year 2003 under a CAP-like national scheme increased by 10 percentage points. However, for Lithuania, the reference year shall be the calendar year 2002. For Bulgaria and Romania, the reference year shall be the calendar year 2006. For Slovenia, the increase shall be 25 percentage points;
 - (ii) with regard to the single payment scheme, up to the total amount of complementary national direct aid which may be granted by a new Member State in respect of a given year shall be limited by a specific financial envelope. This envelope shall be equal to the difference between:

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- the total amount of CAP-like national direct support that would be available in the relevant new Member State in respect of the calendar year 2003 or, in the case of Lithuania, of the calendar year 2002, each time increased by 10 percentage points. However, for Bulgaria and Romania, the reference year shall be the calendar year 2006. For Slovenia, the increase shall be 25 percentage points; and
- the national ceiling of that new Member State listed in Annex VIII adjusted, where appropriate, in accordance with Article 51(2).

For the purpose of calculating the total amount referred to in the first indent of this subpoint, the national direct payments or their components corresponding to the Community direct payments or their components which were taken into account for calculating the effective ceiling of the new Member State concerned in accordance with Article 40 and Article 51(2) shall be included.

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For each direct payment concerned, a new Member State may choose to apply either point (a) or (b) of the first subparagraph.

The total direct support which a farmer may be granted in the new Member States after accession under the relevant direct payment, including all complementary national direct payments, shall not exceed the level of direct support a farmer would be entitled to receive under the corresponding direct payment then applicable to the Member States in the Member States other than the new Member States, *pro cl* taking into account, from 2012 *et seq*, the application of Article 7 in conjunction with Article 10.

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3. Cyprus may complement the direct aid paid to a farmer under any direct payments for the support schemes listed in Annex I up to the total level of support the farmer would have been entitled to receive in Cyprus in 2001.

The Cypriot authorities shall ensure that the total direct support a farmer is granted after accession in Cyprus under the relevant direct payment, including all complementary national direct payments, in no event exceeds the level of direct support a farmer would be entitled to receive under that direct payment in the relevant year in the Member States other than the new Member States.

The total amounts of complementary national aid to be granted shall be those indicated in Annex XVI.

The complementary national aid to be granted shall be subject to any adjustments which may be rendered necessary by developments in the CAP.

Paragraphs 2 and 5 shall not apply to Cyprus.

4. If a new Member State decides to apply the single area payment scheme, that new Member State may grant complementary national direct aid under the conditions referred to in paragraphs 5 and 8.
5. The total amount of complementary national aid granted in that year when applying the single area payment scheme may be limited by a specific financial envelope per (sub)sector provided that such a (sub) sector specific financial envelope may only relate to:
 - (a) the combined direct payments to the single payment scheme; and/or
 - (b) for 2009, one or more of the direct payments that are excluded or may be excluded from the single payment scheme in accordance with Article 70(2) of Regulation (EC) No 1782/2003 or may be subject to partial implementation as referred to in Article 64(2) of that Regulation;

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- (c) from 2010, one or more of the direct payments that may be subject to partial implementation or specific support as provided for in Article 51(2) and Article 68 of this Regulation.

This envelope shall be equal to the difference between:

- (a) the total amount of support per (sub)sector resulting from the application of point (a) or (b) of the first subparagraph of paragraph 2, as appropriate; and
 - (b) the total amount of direct support that would be available in the relevant new Member State for the same (sub)sector in the year concerned under the single area payment scheme.
6. The new Member State may decide, on the basis of objective criteria and after authorisation by the Commission, on the amounts of complementary national aid to be granted.

7. The authorisation by the Commission shall:

- (a) where point (b) of the first subparagraph of paragraph 2 applies, specify the relevant CAP-like national direct payment schemes;
 - (b) define the level up to which the complementary national aid may be paid, the rate of the complementary national aid and, where appropriate, the conditions for the granting thereof;
 - (c) be granted subject to any adjustments which may be rendered necessary by developments in the CAP.
8. No complementary national payments or aid shall be granted for agricultural activities in respect of which direct payments are not provided for in the Member States other than the new Member States.

Article 133

State aid in Cyprus

Cyprus may, in addition to the complementary national direct payments, grant transitional and digestive national aid until the end of 2012. This State aid shall be granted in a form similar to Community aid, such as decoupled payments.

Taking into account the nature and amount of national support granted in 2001, Cyprus may grant State aid to the (sub)sectors listed in Annex XVII and up to the amounts specified in that Annex.

The State aid to be granted shall be subject to any adjustments which may be rendered necessary by developments in the CAP. Should such adjustments prove necessary, the amount of the aid or the conditions for the granting thereof shall be amended on the basis of a decision by the Commission.

Cyprus shall submit an annual report to the Commission on the implementation of the State aid measures, indicating the forms of aid and amounts per (sub)sector.

TITLE VI

FINANCIAL TRANSFERS

Article 134

Financial transfer for restructuring in the cotton regions

VB

Article 135

Financial transfer for restructuring in the tobacco regions

Article 136

Transfer to EAFRD

Member States may decide, by 1 August 2009, to make an amount to be calculated in accordance with Article 69(7) available from the financial year 2011 for Community support under rural development programming and financing under the EAFRD instead of having recourse to Article 69(6)(a).

TITLE VII

IMPLEMENTING, TRANSITIONAL AND FINAL PROVISIONS

VB

Article 149

Entry into force and application

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

It shall apply from 1 January 2009.

However:

- (a) Article 138 shall apply from 1 January 2010;
- (b) the standards on establishment/and or retention of habitats, compliance with authorisation procedures in case of use of water for irrigation and the specification of landscape features, as provided for in Annex III, shall apply from 1 January 2010;
- (c) the standard on establishment of buffer strips along water courses, as provided for in Annex III, shall apply from 1 January 2010 at the earliest and by 1 January 2012 at the latest.

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

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ANNEX I

VB

Statutory management requirements referred to in Articles 4 and 5

Point A.

Environment

1. Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (OJ L 103, 25.4.1979, p. 1)
Article 3(1), Article 3(2)(b), Article 4 (1), (2) and (4) and Article 5(a), (b) and (d)
2. Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances (OJ L 20, 26.1.1980, p. 43)
Articles 4 and 5
3. Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture (OJ L 181, 4.7.1986, p. 6)
Article 3
4. Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1)
Articles 4 and 5
5. Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna (OJ L 206, 22.7.1992, p. 7)
Article 6 and Article 13(1)(a)

Public and animal health

Identification and registration of animals

6. Council Directive 2008/71/EC of 15 July 2008 on identification and registration of pigs (OJ L 213, 8.8.2008, p. 31)
Articles 3, 4 and 5
7. Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products (OJ L 204, 11.8.2000, p. 1)
Articles 4 and 7
8. Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals (OJ L 5, 9.1.2004, p. 8)
Articles 3, 4 and 5

Point B.

Public, animal and plant health

9. Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L 230, 19.8.1991, p. 1)
Article 3
10. Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of beta-agonists (OJ L 125, 23.5.1996, p. 3)
Article 3(a), (b), (c) and (e) and Articles 4, 5 and 7
11. Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1)
Articles 14 and 15, Article 17(1) (*) and Articles 18, 19 and 20
12. Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ L 147, 31.5.2001, p. 1)
Articles 7, 11, 12, 13 and 15

Notification of diseases

13. Council Directive 85/511/EEC of 18 November 1985 introducing Community measures for the control of foot-and-mouth disease (OJ L 315, 26.11.1985, p. 11)
Article 3
14. Council Directive 92/119/EEC of 17 December 1992 introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease (OJ L 62, 15.3.1993, p. 69)
Article 3
15. Council Directive 2000/75/EC of 20 November 2000 laying down specific provisions for the control and eradication of bluetongue (OJ L 327, 22.12.2000, p. 74)
Article 3

Point C.

Animal welfare

16. Council Directive 91/629/EEC of 19 November 1991 laying down minimum standards for the protection of calves (OJ L 340, 11.12.1991, p. 28)
Articles 3 and 4
17. Council Directive 91/630/EEC of 19 November 1991 laying down minimum standards for the protection of pigs (OJ L 340, 11.12.1991, p. 33)
Article 3 and Article 4(1)
18. Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes (OJ L 221, 8.8.1998, p. 23)
Article 4

(*) As implemented in particular by:

- Regulation (EEC) No 2377/90: Articles 2, 4 and 5,
- Regulation (EC) No 853/2004: Article 4(1) and Annex I part A (II 4 (a, b, c), 5 (c, d), 6 (a, b, d, e), 7 (a, c)),
- Regulation (EC) No 853/2004: Article 3(1) and Annex III Section IX Chapter 1 (1-1 b, c, d, e; 1-2 a (i, ii), b (i, ii), c; 1-3; 1-4; 1-5; 1-6; 1-7; 1-8; 1-9; 1-10; 1-11; 1-12; 1-13; 1-14; 1-15; 1-16; 1-17; 1-18; 1-19; 1-20; 1-21; 1-22; 1-23; 1-24; 1-25; 1-26; 1-27; 1-28; 1-29; 1-30; 1-31; 1-32; 1-33; 1-34; 1-35; 1-36; 1-37; 1-38; 1-39; 1-40; 1-41; 1-42; 1-43; 1-44; 1-45; 1-46; 1-47; 1-48; 1-49; 1-50; 1-51; 1-52; 1-53; 1-54; 1-55; 1-56; 1-57; 1-58; 1-59; 1-60; 1-61; 1-62; 1-63; 1-64; 1-65; 1-66; 1-67; 1-68; 1-69; 1-70; 1-71; 1-72; 1-73; 1-74; 1-75; 1-76; 1-77; 1-78; 1-79; 1-80; 1-81; 1-82; 1-83; 1-84; 1-85; 1-86; 1-87; 1-88; 1-89; 1-90; 1-91; 1-92; 1-93; 1-94; 1-95; 1-96; 1-97; 1-98; 1-99; 1-100; 1-101; 1-102; 1-103; 1-104; 1-105; 1-106; 1-107; 1-108; 1-109; 1-110; 1-111; 1-112; 1-113; 1-114; 1-115; 1-116; 1-117; 1-118; 1-119; 1-120; 1-121; 1-122; 1-123; 1-124; 1-125; 1-126; 1-127; 1-128; 1-129; 1-130; 1-131; 1-132; 1-133; 1-134; 1-135; 1-136; 1-137; 1-138; 1-139; 1-140; 1-141; 1-142; 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1-1126; 1-1127; 1-1128; 1-1129; 1-1130; 1-1131; 1-1132; 1-1133; 1-1134; 1-1135; 1-1136; 1-1137; 1-1138; 1-1139; 1-1140; 1-1141; 1-1142; 1-1143; 1-1144; 1-1145; 1-1146; 1-1147; 1-1148; 1-1149; 1-1150; 1-1151; 1-1152; 1-1153; 1-1154; 1-1155; 1-1156; 1-1157; 1-1158; 1-1159; 1-1160; 1-1161; 1-1162; 1-1163; 1-1164; 1-1165; 1-1166; 1-1167; 1-1168; 1-1169; 1-1170; 1-1171; 1-1172; 1-1173; 1-1174; 1-1175; 1-1176; 1-1177; 1-1178; 1-1179; 1-1180; 1-1181; 1-1182; 1-1183; 1-1184; 1-1185; 1-1186; 1-1187; 1-1188; 1-1189; 1-1190; 1-1191; 1-1192; 1-1193; 1-1194; 1-1195; 1-1196; 1-1197; 1-1198; 1-1199; 1-1200; 1-1201; 1-1202; 1-1203; 1-1204; 1-1205; 1-1206; 1-1207; 1-1208; 1-1209; 1-1210; 1-1211; 1-1212; 1-1213; 1-1214; 1-1215; 1-1216; 1-1217; 1-1218; 1-1219; 1-1220; 1-1221; 1-1222; 1-1223; 1-1224; 1-1225; 1-1226; 1-1227; 1-1228; 1-1229; 1-1230; 1-1231; 1-1232; 1-1233; 1-1234; 1-1235; 1-1236; 1-1237; 1-1238; 1-1239; 1-1240; 1-1241; 1-1242; 1-1243; 1-1244; 1-1245; 1-1246; 1-1247; 1-1248; 1-1249; 1-1250; 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1-1376; 1-1377; 1-1378; 1-1379; 1-1380; 1-1381; 1-1382; 1-1383; 1-1384; 1-138

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ANNEX III

Good agricultural and environmental condition referred to in Article 6

Issue	Compulsory standards	Optional standards
Soil erosion: Protect soil through appropriate measures	— Minimum soil cover — Minimum land management reflecting site-specific conditions — Arable stubble management	— Retain terraces — Standards for crop rotations
Soil organic matter: Maintain soil organic matter levels through appropriate practices		— Appropriate machinery use
Soil structure: Maintain soil structure through appropriate measures	— Retention of landscape features, including, where appropriate, hedges, ponds, ditches trees in line, in group or isolated and field margins — Ensuring a minimum level of maintenance and avoid the deterioration of habitats	— Minimum livestock stocking rates or/and appropriate regimes — Establishment and/or retention of habitats — Prohibition of the grubbing up of olive trees
Protection and management of water: Protect water against pollution and run-off, and manage the use of water	— Avoiding the encroachment of unwanted vegetation on agricultural land Protection of permanent pasture Establishment of buffer strips along water courses ⁽¹⁾ Where use of water for irrigation is subject to authorisation, compliance with authorisation procedures	Maintenance of olive groves and vines in good vegetative condition

⁽¹⁾ Note: The GAEC buffer strips must respect, both within and outside vulnerable zones designated pursuant to Article 3(2) of Directive 91/676/EEC, at least the requirements relating to the conditions for land application of fertiliser near water courses, referred to in point 4.4 of Annex II to Directive 91/676/EEC to be applied in accordance with the action programmes of Member States established under Article 3(2) of Directive 91/676/EEC.

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ANNEX XI

9c Integration of coupled support into the single payment scheme as referred to in Article 63

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1.

- (a) From 2010, the specific quality premium for durum wheat provided for in Chapter 1 of Title IV of Regulation (EC) No 1782/2003;
- (b) from 2012 at the latest, the protein crop premium provided for in Section 3 of Chapter 1 of Title IV of this Regulation;
- (c) from 2012 at the latest, the crop specific payment for rice provided for in Section 1 of Chapter 1 of Title IV of this Regulation;
- (d) from 2012 at the latest, the area payment for nuts provided for in Section 4 of Chapter 1 of Title IV of this Regulation;
- (e) from 2012 at the latest, the production aid for starch potato growers provided for in Section 2 of Chapter 1 of Title IV of this Regulation.

2.

- (a) From 2012, the aid for processing dried fodder provided for in Subsection I of Section 1 of Chapter 4 of Title I of Part II of Regulation (EC) No 1234/2007;
- (b) from 2012, the aid for processing flax and hemp grown for fibre provided for in Subsection II of Section 1 of Chapter 4 of Title I of Part II of Regulation (EC) No 1234/2007;
- (c) from 2012, the potato starch premium provided for in Article 95a of Regulation (EC) No 1234/2007;
- (d) from 2012, the transitional soft fruit payment provided for in Section 9 of Chapter 1 of Title IV of this Regulation.

3.

From 2010, where a Member State granted the:

- (a) arable crops area payment provided for in Chapter 10 of Title IV of Regulation (EC) No 1782/2003;
- (b) aid for olive groves provided for in Chapter 10b of Title IV of Regulation (EC) No 1782/2003;
- (c) hops area aid provided for in Chapter 10d of Title IV of Regulation (EC) No 1782/2003.

From 2012 at the latest, where a Member State granted the:

- (a) seed aid provided for in Section 5 of Chapter 1 of Title IV of this Regulation;
- (b) the beef and veal payments, except the suckler cow premium provided for in Article 53 of this Regulation.

4.

As from 2010, where a Member State in application of Article 51(1) of this Regulation no longer grants the following payments or where it decides to grant them at a lower level:

- (a) the sheep and goat payments referred to in Article 67 of Regulation (EC) No 1782/2003;
- (b) the beef and veal payments referred to in Article 68 of Regulation (EC) No 1782/2003 or in Article 53(2) of this Regulation, in case of application of the second subparagraph of Article 51(1) of this Regulation;
- (c) the transitional fruit and vegetable payments referred to in Article 68b of Regulation (EC) No 1782/2003.

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ANNEX XII

Integration of coupled support into the single payment scheme as referred to in Article 64

Dried fodder (Regulation (EC) No 1234/2007)

Potato starch premium (Article 95a of Regulation (EC) No 1234/2007)

Member State	2012	2013	2014	2015	2016 and subsequent years	(EUR / 000)
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Denmark	3 743	3 743	3 743	3 743	3 743	3 743
Germany	16 279	16 279	16 279	16 279	16 279	16 279
Spain	43	43	43	43	43	43
France	5 904	5 904	5 904	5 904	5 904	5 904
Netherlands	9 614	9 614	9 614	9 614	9 614	9 614
Austria	1 061	1 061	1 061	1 061	1 061	1 061
Finland	1 183	1 183	1 183	1 183	1 183	1 183
Sweden	1 381	1 381	1 381	1 381	1 381	1 381
Czech Republic	749	749	749	749	749	749
Estonia	6	6	6	6	6	6
Latvia	129	129	129	129	129	129
Lithuania	27	27	27	27	27	27
Poland	3 226	3 226	3 226	3 226	3 226	3 226
Slovakia	16	16	16	16	16	16

Aid for starch potato growers

Member State	2010	2011	2012	2013	2014	2015	2016 and subsequent years	(EUR / 000)
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Denmark	11 156	11 156	11 156	11 156	11 156	11 156	11 156	11 156
Germany	48 521	48 521	48 521	48 521	48 521	48 521	48 521	48 521
Spain	129	129	129	129	129	129	129	129
France	17 598	17 598	17 598	17 598	17 598	17 598	17 598	17 598
Netherlands	28 655	28 655	28 655	28 655	28 655	28 655	28 655	28 655
Austria	3 163	3 163	3 163	3 163	3 163	3 163	3 163	3 163
Finland	3 527	3 527	3 527	3 527	3 527	3 527	3 527	3 527
Sweden	4 116	4 116	4 116	4 116	4 116	4 116	4 116	4 116
Czech Republic	1 563	1 786	2 009	2 232	2 232	2 232	2 232	2 232
Estonia	12	13	15	17	17	17	17	17
Latvia	268	307	345	383	383	383	383	383
Lithuania	56	64	72	80	80	80	80	80
Poland	6 731	7 692	8 654	9 615	9 615	9 615	9 615	9 615
Slovakia	34	39	44	48	48	48	48	48

附件十一： 第 1307/2013 号条例

信息来源:

<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1471141178595&uri=CELEX:32013R1307>

第 1307/2013 号条例翻译节选

引言

22. 因为将单一支付计划引入各个部门并且经过几年的补贴调整, 已经很难依据历史数据对农民的每公顷面积收到的补贴差异进行调整。因此, 直接补贴应当在各成员国之间更加公平进行分配, 以削弱历史参考与欧盟全面补贴的关联性。为了保证这一目标的实现, 在考虑工资水平和投入成本的差异的情况下, 每公顷的直接支付应当进行调整。如一成员国当前的直接支付低于成员国平均水平的 90%, 在 2020 年之前, 这一差异应当被缩小 30%。

第 4 节 配套措施

第一章 自愿配套措施

第 52 条 总则

- 1、各成员国有权对本章节项下规定的农民实施扶持措施。
- 2、扶持措施适用于以下部门和生产: 谷物、油菜籽、蛋白作物、谷物豆类、亚麻、大麻、大米、坚果、淀粉马铃薯、牛奶和奶制品、种子、绵羊肉和山羊肉、牛肉、橄榄油、蚕、干饲料、啤酒花、糖甜菜、甘蔗和菊苣根、水果和蔬菜以及短轮伐期矮林。
- 3、扶持措施应给予那些对成员国在农业方面具有非常重要经济、社会和环境效益的特殊部门或领域。
- 4、.....
- 5、扶持措施应在必要程度上创造激励机制以维持上述提及部门或领域的现有生产水平。
- 6、扶持措施采取按年支付的形式, 并且应当根据所规定的数量配额、固定区域和产量以及所确定的动物数量进行支付。
- 7、.....
- 8、任何扶持措施都应当符合欧盟其他扶持措施和政策的规定。
- 9、为了确保欧盟财政预算的有效使用并避免重复补贴, 依据第 70 条的规定欧盟委员会有权制定相应的实施条例:
 - (1) 扶持措施的条件;
 - (2) 符合欧盟措施和重复支持的规则。

第 53 条 财务规则

- 1、基于扶持措施的目的, 在之前一年的 8 月 1 日之前, 各成员国可以决定使用不超过每年国家财政补贴预算的 8%。
.....
- 7、在本条第 1-6 段各成员国决定的基础上, 欧盟委员会应当制定相应的执行条例以确定每年扶持措施的补贴上限。实施条例应当依据第 71 (2) 条的规定制定。

第 54 条 通知

- 1、各成员国应当依据第 53 条规定的日期之前将其决定通知欧盟委员会。除非第 53 (6) 条 C 款规定的情形，通知应当包括实施区域的信息，被选择的农业种类或部门以及扶持措施的水平。
- 2、……

第 55 条 欧盟委员会的审批

- 1、委员会应当制定实施条例以批准第 53 (6) 条的决定，或者，如果合适，批准第 53 (6) 条 a 款的决定，如果如下其中一个条件被满足：
 - (a) 由于没有其他替代或者为了减小因社会和环境问题而放弃生产的风险，有必要维持特殊生产水平；
 - (b) 有必要保持当地加工产业的原料供应稳定，以避免对社会和经济产生负面影响；
 - (c) 有必要补偿因相关市场波动而给农民造成的不利后果；
 - (d) 有必要干预市场，因为本条例项下的其他扶持措施或者被批准的国家援助计划不足以满足第 (a)、(b) 和 (c) 款的条件。
- 2、委员会应当制定实施条例，通过相关程序条款来规范各成员国采取决定的评估和批准。这些实施条例应当根据第 71(2) 条的规定制定。

REGULATION (EU) No 1307/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 17 december 2013

establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 42 and Article 43(2) thereof,

Having regard to the 1979 Act of Accession, and in particular paragraph 6 of Protocol No 4 on cotton attached thereto,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the Court of Auditors ⁽¹⁾,

Having regard to the opinions of the European Economic and Social Committee ⁽²⁾,

Having regard to the opinion of the Committee of the Regions ⁽³⁾,

Acting in accordance with the ordinary legislative procedure ⁽⁴⁾,

Whereas:

- (1) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled "The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future" set out potential challenges, objectives and orientations for the Common Agricultural Policy ("the CAP") after 2013. In the light of the debate on that Communication, the CAP should be reformed with effect from 1 January 2014. That reform should cover all the main instruments of the CAP, including Council Regulation (EC) No 73/2009 ⁽⁵⁾. In view of the scope of the reform, it is appropriate to repeal Regulation (EC)

No 73/2009 and to replace it with a new text. The reform should also streamline and simplify the relevant provisions.

- (2) One of the core objectives, and one of the key requirements, of the CAP reform is the reduction of the administrative burden. This should be taken firmly into account when shaping the relevant provisions for the direct support scheme.
- (3) All the basic elements pertaining to the payment of Union support to farmers should be included in this Regulation, which should also fix the conditions of access to payments which are inextricably linked to those basic elements.
- (4) It is necessary to clarify that Regulation (EU) No 1306/2013 of the European Parliament and of Council ⁽⁶⁾ and the provisions adopted pursuant to it are to apply in relation to the measures set out in this Regulation. For the sake of consistency with other legal instruments relating to the CAP, some rules currently provided for in Regulation (EC) No 73/2009 are now laid down in Regulation (EU) No 1306/2013, in particular the rules to guarantee compliance with the obligations laid down by direct payment provisions, including checks and the application of administrative measures and administrative penalties in the case of non-compliance, the rules related to cross-compliance such as the statutory management requirements, the good agricultural and environmental condition, the monitoring and evaluation of relevant measures and the rules related to the payment of advances and the recovery of undue payments.
- (5) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

⁽¹⁾ Opinion of 8 March 2012 (not yet published in the Official Journal).

⁽²⁾ OJ C 191, 29.6.2012, p. 116 and OJ C 44, 15.2.2013, p. 159.

⁽³⁾ OJ C 225, 27.7.2012, p. 174.

⁽⁴⁾ Position of the European Parliament of 20 November 2013 (not yet published in the Official Journal).

⁽⁵⁾ Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ L 30, 31.1.2009, p. 16).

⁽⁶⁾ Regulation (EU) No 1306/2013 of the European Parliament and of Council of 17 december 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (See page 549 of this Official Journal).

- (6) This Regulation should contain a list of the direct payment support schemes covered by it. In order to take into account new legislation on support schemes which may be adopted after the entry into force of this Regulation, the power to adopt certain acts should be delegated to the Commission in respect of the amendment of that list.
- (7) In order to ensure legal certainty, the power to adopt certain acts should be delegated to the Commission in respect of establishing the framework within which Member States are to define the criteria to be met by farmers in order to fulfil the obligation to maintain the agricultural area in a state suitable for grazing or cultivation, and the minimum activities to be carried out on areas naturally kept in a state suitable for grazing or cultivation, as well as the criteria to determine the predominance of grasses and other herbaceous forage and to determine the established local practices as regards permanent grassland and permanent pasture ('permanent grassland').
- (8) With a view to ensuring that the amounts for the financing of the CAP comply with the annual ceilings referred to in Article 16(1) of Regulation (EU) No 1306/2013, an adjustment of the level of direct support in any calendar year should be made as provided for under Article 25 of that Regulation. In order to ensure that it contributes to achieving the objective of a more balanced distribution of payments between small and large beneficiaries, the adjustment of the direct payments should only be applied to payments to be granted to farmers in excess of EUR 2 000 in the corresponding calendar year. Taking into account the levels of direct payments to farmers in Bulgaria, Croatia and Romania in the framework of the application of the phasing-in mechanism to all direct payments granted in those Member States, this instrument of financial discipline should only apply in Bulgaria and Romania from 1 January 2016, and in Croatia from 1 January 2022. Specific rules should be laid down in respect of that instrument of financial discipline and of certain other provisions in the case of a legal person, or a group of natural or legal persons, where national law provides for individual members' rights and obligations comparable to those of individual farmers who have the status of a head of holding, in order to strengthen the agricultural structures and promote the establishment of the legal persons or groups concerned.
- (9) In order to ensure the correct application of the adjustment of direct payments with respect to financial discipline, the power to adopt certain acts should be delegated to the Commission in respect of rules on the basis for calculation of reductions to be applied by Member States to farmers pursuant to the application of the financial discipline.
- (10) Experience acquired in the application of the various support schemes for farmers has shown that support was in a number of cases granted to natural or legal persons whose business purpose was not, or was only marginally targeted at an agricultural activity. To ensure that support is better targeted, Member States should refrain from granting direct payments to certain natural and legal persons unless such persons can demonstrate that their agricultural activity is not marginal. Member States should also have the possibility of not granting direct payments to other natural or legal persons whose agricultural activity is marginal. However, Member States should be allowed to grant direct payments to smaller part-time farmers, since those farmers contribute directly to the vitality of rural areas. Member States should also refrain from granting direct payments to natural or legal persons whose agricultural areas are mainly areas naturally kept in a state suitable for grazing or cultivation and who do not carry out a certain minimum activity.
- (11) In order to guarantee the protection of the rights of farmers, the power to adopt certain acts should be delegated to the Commission in respect of laying down criteria for determining the cases where a farmer's agricultural area is to be considered to be mainly an area naturally kept in a state suitable for grazing or cultivation, criteria to establish the distinction between receipts resulting from agricultural and from non-agricultural activities and the amount of direct payments relevant for applying the marginality test, and criteria to be met by farmers in order to prove that their agricultural activity is not marginal.
- (12) To avoid the excessive administrative burden caused by managing payments of small amounts, Member States should in general refrain from granting direct payments where the amount would be lower than EUR 100, or where the eligible area of the holding for which support is claimed would be less than one hectare. However, as Member States' farming structures vary considerably and may differ significantly from the average farming structure in the Union, Member States should be allowed to apply minimum thresholds that reflect their particular situation. Due to the very specific farming structure in the outermost regions and the smaller Aegean Islands, Member States should be able to decide whether any minimum threshold should apply in those regions. Moreover, Member States should opt for the implementation of one of the two types of minimum threshold, taking account of the particularities of the structures of their farming sectors. Since payment could be granted to farmers with so-called 'landless' holdings, the application of the hectare-based threshold would be ineffective. The support-related minimum amount should therefore apply to such farmers. To ensure the equal treatment of farmers in Bulgaria, Croatia and Romania

whose direct payments are subject to phasing-in, the minimum threshold should, in those Member States, be based on the final amounts to be granted at the end of the phasing-in process.

the power to adopt certain acts should be delegated to the Commission in respect of adapting the national and net ceilings set out in this Regulation.

- (13) The distribution of direct income support among farmers is characterised by the allocation of disproportionate amounts of payments to a rather small number of large beneficiaries. Larger beneficiaries, due to their ability to exploit economies of size, do not require the same level of unitary support in order for the objective of income support to be efficiently achieved. Moreover, the potential to adapt makes it easier for larger beneficiaries to operate with lower levels of unitary support. Member States should therefore reduce by at least 5 % the part of the basic payment to be granted to farmers which exceeds EUR 150 000. To avoid disproportionate effects on large farms with high employment numbers, Member States may decide to take into account salaried labour intensity when applying the mechanism. In order to make such reduction of the support level effective, no advantage should be granted to farmers who artificially create the conditions to avoid its effects. The proceeds of the reduction of payments to large beneficiaries should remain in the Member States where they were generated and should be made available as Union support for measures financed under the European Agricultural Fund for Rural Development (EAFRD).
- (14) Net ceilings should be determined for each Member State in order to limit the payments to be made to farmers following the application of the reduction of payments. To take into account the specific characteristics of CAP support granted in accordance with Regulation (EU) No 228/2013 of the European Parliament and of the Council⁽¹⁾ and Regulation (EU) No 229/2013 of the European Parliament and of the Council⁽²⁾, and the fact that these direct payments are not subject to reduction of payments, the net ceiling for the Member States concerned should not include those direct payments.
- (15) In order to take account of the developments relating to the total maximum amounts of direct payments that may be granted, including those resulting from the decisions to be taken by the Member States regarding transfers between the first and second pillars and the application of the reduction and, where applicable, capping of payments, as well as those resulting from the notifications to be made by Croatia regarding the de-mined land that has returned to use for agricultural activities,

- (16) It should be specified that those provisions of this Regulation which could give rise to behaviour of a Member State capable of constituting State aid are excluded from the application of the State aid rules, given that the provisions concerned include appropriate conditions for the granting of support, or envisage the adoption of such conditions by the Commission, in order to prevent any undue distortion of competition.
- (17) With a view to strengthening their rural development policy, Member States should be given the possibility to transfer funds from their direct payments ceiling to their support assigned for rural development. Member States should also be given the possibility to transfer funds from their support assigned for rural development to their direct payments ceiling. To ensure the effectiveness of this tool, Member States should be given the possibility to review their initial decision once, with effect from claim year 2018, provided that any decision based on such review does not entail any decrease in the amounts assigned for rural development.
- (18) In order to achieve the objectives of the CAP, the support schemes may need to be adapted to changing developments, if necessary within short time-limits. Therefore, it is necessary to provide for a possible review of the support schemes, in particular in the light of economic developments or the budgetary situation, with the result that beneficiaries cannot assume that support conditions remain unchanged.
- (19) Farmers in Member States which acceded to the Union on or after 1 May 2004 received direct payments following a phasing-in mechanism provided for in the respective Acts of Accession. For Bulgaria and Romania, such mechanism will still be in force in 2015, and for Croatia, it will be in force until 2021. Furthermore, those Member States were allowed to grant complementary national direct payments. The possibility for granting such payments should be maintained for Croatia and, as a complement to the basic payment scheme for Bulgaria and Romania, until they are fully phased-in. As regards authorising Croatia to grant complementary national direct payments, the Commission should be empowered to adopt implementing acts without applying Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽³⁾.

⁽¹⁾ Regulation (EU) No 228/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006 (OJ L 78, 20.3.2013, p. 23).

⁽²⁾ Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006 (OJ L 78, 20.3.2013, p. 41).

⁽³⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (20) Regulation (EC) No 73/2009, as amended by the Act of Accession of 2011, provides for a special national demining reserve for Croatia in order to finance, for a period of ten years after its accession to the Union, the allocation of payment entitlements to land which is demined and returned to agricultural use every year. It is appropriate to set the rules for determining the amounts allotted to funding support for that land under the support schemes provided for in this Regulation and the rules for the management of that reserve. In order to take account of the amounts resulting from the notifications to be made by Croatia regarding the demined land that has returned to use for agricultural activities, the power to adopt certain acts should be delegated to the Commission in respect of reviewing certain financial provisions applying to Croatia.

- (21) In order to ensure a better distribution of support across agricultural land in the Union, including in those Member States which applied the single area payment scheme established under Regulation (EC) No 73/2009, a new basic payment scheme should replace the single payment scheme established under Council Regulation (EC) No 1782/2003⁽¹⁾, and continued under Regulation (EC) No 73/2009, which combined previously existing support mechanisms in a single scheme of decoupled direct payments. Such a move should, in principle, result in the expiry of payment entitlements obtained under those Regulations and the allocation of new ones. That allocation of new payment entitlements should be based, as a general rule, on the number of eligible hectares at the disposal of farmers in the first year of implementation of the scheme. However, Member States which currently operate the single payment scheme on a regional or regional hybrid basis should have the possibility of keeping their existing payment entitlements. In order to avoid a situation in a given Member State in which an increase in the eligible area dilutes disproportionately the amount of direct payments per hectare and thus affects the internal convergence process, Member States should be allowed, when carrying out the first allocation of payment entitlements, to apply certain limitations for the purpose of establishing the number of payment entitlements.

- (22) Due to the successive integration of various sectors into the single payment scheme and the subsequent period of adjustment granted to farmers, it has become increasingly difficult to justify the existence of significant individual differences in the level of support per hectare resulting from use of historical references. Therefore, direct income

support should be more equitably distributed between Member States, by reducing the link to historical references and having regard to the overall context of the Union budget. To ensure a more equal distribution of direct support, while taking account of the differences that still exist in wage levels and input costs, the levels of direct support per hectare should be progressively adjusted. Member States that have direct payments below the level of 90 % of the Union average should close one third of the gap between their current level and this level, with all Member States arriving at a minimum level by financial year 2020. This convergence should be financed proportionally by all Member States that have direct payment levels above the Union average level.

- (23) In addition, as a general rule, all payment entitlements activated in 2019 in a Member State or in a region should have a uniform unit value. However, in order to avoid disruptive financial consequences for farmers, Member States should be allowed to take historical factors into account when calculating the value of payment entitlements which farmers should have in 2019, provided that no payment entitlements in 2019 have a value lower than 60 % of the average. Member States should finance this convergence by reducing, on the basis of objective and non-discriminative criteria which they are to establish, the value of payment entitlements that exceeds the 2019 average. In this context and in order to avoid unacceptably disruptive losses for certain farmers, Member States may limit this reduction to 30 % of the initial value of the concerned entitlements, even if such a limitation does not allow for all payment entitlements to reach 60 % of the average value for 2019. Except for those Member States that opt for a uniform unit value from the first year of implementation of the scheme, the convergence should be made in equal steps. The convergence of the payment entitlements with a value above the average should also take account of the estimated resources available for payment entitlements. However, for those Member States which keep their existing payment entitlements and which have already opted for convergence steps in accordance with Article 63(3) of Regulation (EC) No 1782/2003, those convergence steps should be implemented, where applicable, and the value of all payment entitlements should be adjusted to take account of the estimated resources available for payment entitlements.

- (24) The experience gained through applying the single payment scheme has shown that some of its main elements should be kept, including the determination of national ceilings to ensure that the total level of support does not exceed current budgetary constraints. Member States should also continue to operate a national reserve, or should be allowed to establish regional reserves. Such national or regional reserves should be used, as a matter of priority, to facilitate the participation of young farmers and farmers commencing their agricultural activity in the scheme and using them should

⁽¹⁾ Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 (OJ L 270, 21.10.2003, p. 1).

be allowed in order to take account of certain other specific situations. Rules on the transfer and use of payment entitlements should be retained.

- (25) The experience gained through applying Regulation (EC) No 73/2009 has shown that Member States did not use the entire amount of the funds available under the national ceilings laid down in that Regulation. While, compared to the system under that Regulation, this Regulation reduces the risk of unspent funds Member States should nonetheless have the possibility of distributing payment entitlements for a higher value than the amount available for their basic payment scheme, in order to facilitate a more efficient use of the funds. Member States should therefore be allowed, within certain common limits and in respect of the net ceilings for direct payments, to calculate the necessary amount by which their basic payment ceiling may be increased.
- (26) As a general rule, any agricultural area of the holding, including areas that were not in good agricultural condition on 30 June 2003 in Member States acceding to the Union on 1 May 2004 that opted to apply the single area payment scheme, that is used for an agricultural activity is eligible to benefit from the basic payment. Given the potential for non-agricultural activities to contribute to the income diversification of agricultural holdings and to the vitality of rural areas, an agricultural area of a holding that is used also for non-agricultural activities is to be considered eligible on condition that it is used predominantly for agricultural activities. For the purpose of assessing that predominance, common criteria should be set for all Member States. In this context and in order to ensure better targeting of direct payments, it should be possible for Member States to draw up, in the interests of legal certainty and clarity, a list of areas which are predominantly used for non-agricultural activities and are hence ineligible. Furthermore, in order to maintain the eligibility of land that was eligible for the purpose of activating set-aside entitlements prior to the abolition of the set-aside obligation, it should be provided that certain afforested areas, including those afforested under national schemes complying with the relevant rules in Council Regulation (EC) No 1698/2005⁽¹⁾ or Regulation (EU) No 1305/2013 of the European Parliament and of the Council⁽²⁾, or areas subject to certain environmental commitments, are eligible to benefit from the basic payment.
- (27) In order to avoid a situation in which, in a given Member State, an increase in the eligible area dilutes disproportionately the amount of direct payments per hectare and thus affects the internal convergence process, Member States should be allowed to use a reduction coefficient for determining the eligible area of permanent grassland where grasses and other herbaceous forage are traditionally not predominant in grazing areas, but form part of established local practices.
- (28) As regards hemp, specific measures should be kept to ensure that illegal crops cannot be hidden among the crops eligible for the basic payment, thereby adversely affecting the market for hemp. Hence, payments should continue to be granted only for areas sown with varieties of hemp offering certain guarantees with regard to its psychotropic substance content.
- (29) In order to ensure legal certainty, and in order to clarify the specific situations that may arise in the application of the basic payment scheme, the power to adopt certain acts should be delegated to the Commission in respect of rules on eligibility and access in respect of the basic payment scheme of farmers, in the case of inheritance and anticipated inheritance, inheritance under a lease, change of legal status or denomination, transfer of payment entitlements, and in the case of a merger or scission of the holding and in the case of a contract clause regarding the right to receive payment entitlements in the first year of allocation of payment entitlements. Moreover, that delegation of power should also cover rules on the calculation of the value and number or on the change in the value of payment entitlements in relation to the allocation of payment entitlements, including rules on the possibility of a provisional value and number or of a provisional increase of payment entitlements allocated on the basis of the application from the farmer, on the conditions for establishing the provisional and definitive value and number of the payment entitlements and on the cases where a sale or lease contract could affect the allocation of payment entitlements. Furthermore, that delegation of power should also cover rules on the establishment and calculation of the value and number of payment entitlements received from the national reserve or regional reserves; rules on the modification of the unit value of payment entitlements in the case of fractions of payment entitlements and the transfer of payment entitlements without land. In addition, that delegation of power should also cover criteria for the allocation of payment entitlements to farmers who did not receive direct payments in 2013 or pursuant to the use of the national or regional reserve; criteria for applying limitations on the number of payment entitlements to be allocated; and criteria for setting the reduction coefficient for conversion of certain permanent grassland to eligible hectares.

⁽¹⁾ Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 277, 21.10.2005, p. 1).

⁽²⁾ Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (See page 487 of this Official Journal).

- (30) In order to ensure the proper management of payment entitlements, the power to adopt certain acts should be delegated to the Commission in respect of rules on the content of the declaration and the requirements for the activation of payment entitlements.
- (31) In order to preserve public health, the power to adopt certain acts should be delegated to the Commission in respect of laying down rules making the granting of payments conditional upon the use of certified seeds of certain hemp varieties and defining the procedure for the determination of hemp varieties and the verification of their tetrahydrocannabinol content.
- (32) In view of the considerable administrative, technical and logistical difficulties the transition to the basic payment scheme represents for the Member States applying the single area payment scheme under Regulation (EC) No 73/2009, they should be allowed to apply the single area payment scheme for the purpose of granting the basic payment for a further transitional period until the end of 2020 at the latest. If a Member State decides to introduce the basic payment scheme by 2018, it may opt for differentiating the payments under the single area payment scheme according to the level of certain payments granted in 2014 under the regimes for specific support and separate payments provided for in Regulation (EC) No 73/2009, or, in the case of Cyprus, under the sector-specific financial envelopes for transitional national aid.
- (33) In order to guarantee the protection of the rights of beneficiaries and in order to clarify the specific situations that may arise in the application of the single area payment scheme, the power to adopt certain acts should be delegated to the Commission in respect of laying down rules on eligibility and access in respect of the single area payment scheme of farmers.
- (34) In Member States applying the single area payment scheme which were allowed to grant transitional national aid, such aid has played an important role in supporting the income of farmers in specific sectors. For that reason, and in order to avoid a sudden and substantial decrease of support from 2015 in those sectors benefiting, until 2014, from transitional national aid, it is appropriate to provide, in those Member States, for the possibility to grant that aid as a complement to the single area payment scheme. In order to ensure the continuity of the support with the transitional national aid granted so far, it is appropriate to limit the conditions to those applicable in 2013 to that aid, or in the case of Bulgaria and Romania to complementary national direct payments, authorised by the Commission following the requests from Member States. It is also appropriate to limit the maximum amounts of aid by sector, compared to their levels in 2013, to ensure a steady decrease of the aid levels and to ensure their compatibility with the convergence mechanism.
- (35) Specific rules should be provided for the first allocation and for the calculation of the value of payment entitlements when Member States having applied the single area payment scheme pursuant to this Regulation introduce the basic payment scheme. In order to ensure a smooth transition between those schemes, the power to adopt certain acts should be delegated to the Commission in respect of further rules on the introduction of the basic payment scheme in Member States having applied the single area payment scheme.
- (36) Taking into account the need for the unitary support to farmers with smaller holdings to be sufficient in order to achieve the objective of income support effectively, Member States should be allowed to redistribute direct support between farmers by granting them an extra payment for the first hectares.
- (37) One of the objectives of the new CAP is the enhancement of environmental performance through a mandatory "greening" component of direct payments which will support agricultural practices beneficial for the climate and the environment applicable throughout the Union. For that purpose, Member States should use part of their national ceilings for direct payments in order to grant, on top of the basic payment, an annual payment which may take account of internal convergence in the Member State or region, for compulsory practices to be followed by farmers addressing, as a priority, both climate and environment policy goals. Those practices should take the form of simple, generalised, non-contractual and annual actions that go beyond cross-compliance and that are linked to agriculture, such as crop diversification, the maintenance of permanent grassland, including traditional orchards where fruit trees are grown in low density on grassland, and the establishment of ecological focus areas. In order to better achieve the objectives of "greening" and to allow for its efficient administration and control, such practices should apply to the whole eligible area of the holding. The compulsory nature of those practices should also concern farmers whose holdings are fully or partly situated in "Natura 2000" areas covered by Council Directive 92/43/EEC⁽¹⁾ and by Directive 2009/147/EC of the European Parliament and of the Council⁽²⁾, or in areas covered by Directive 2000/60/EC of the European Parliament and of the Council⁽³⁾, as long as those practices are compatible with the objectives of those Directives.

(¹) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

(²) Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

(³) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

- (38) Given the recognised environmental benefits of the organic farming systems, farmers should, for those units of their holding on which they fulfil the conditions laid down in Council Regulation (EC) No 834/2007 ⁽¹⁾, benefit from the "greening" component without needing to fulfil any further obligation.
- (39) Failure to respect the "greening" component should lead to penalties on the basis of Regulation (EU) No 1306/2013.
- (40) In order to accommodate the diversity of agricultural systems and the different environmental situations across the Union, it is justified to recognise, in addition to the three greening practices established in this Regulation, practices covered by agri-environment-climate measures or certification schemes that are similar to greening and that yield an equivalent or higher level of benefit for the climate and the environment. For reasons of legal clarity these practices should be laid down in an Annex to this Regulation. Member States should decide whether to offer to farmers the possibility of using equivalent practices and the greening practices established in this Regulation in order to require the farmer to observe the practices best suited to ensure the objectives of the measure and they should notify the Commission of their decisions. For reasons of legal certainty, the Commission should assess whether the practices covered by the notified equivalent measures are covered by the Annex. If the Commission considers this not to be the case, it should notify Member States accordingly by means of an implementing act adopted without applying Regulation (EU) No 182/2011. In order to allow a simpler implementation of equivalence and for reasons of controllability, rules should be laid down as regards the area coverage of equivalent measures, taking into account the specific characteristics of agri-environment-climate measures and certification schemes. In order to ensure that equivalent practices are properly applied and that double funding is avoided, the power to adopt certain acts should be delegated to the Commission for the purpose of adding practices to the list of equivalent practices, establishing requirements for the national or regional certification schemes and, where necessary, establishing detailed rules for the calculation of related amounts.
- (41) The obligations relating to crop diversification should be applied in a way that takes into account the difficulty for smaller farms to diversify, while continuing to make progress towards enhanced environmental benefit, and in particular the improvement of soil quality. Exceptions should be provided for farms that already fulfil the objectives of crop diversification as a result of being covered to a significant extent by grassland or fallowland, for specialised farms rotating their parcels each year or for farms that because of their geographical localisation would have excessive difficulties in introducing a third crop. In order to ensure that the obligations referred to in the crop diversification measure are applied in a proportionate and non-discriminatory way and lead to an enhanced environmental protection, the power to adopt certain acts should be delegated to the Commission in respect of recognising further genera and species and laying down rules concerning the application of the precise calculation of shares of different crops.
- (42) For the sake of the environmental benefits of permanent grassland and in particular carbon sequestration, provision should be made for the maintenance of permanent grassland. This protection should consist of a ban on ploughing and conversion on the environmentally most sensitive areas in "Natura 2000" areas covered by Directives 92/43/EEC and 2009/147/EC, and of a more general safeguard, based on a ratio of permanent grassland, against conversion to other uses. Member States should be empowered to delineate further environmentally sensitive areas not covered by those Directives. In addition, they should choose at which territorial level the ratio should apply. In order to assure an efficient protection of permanent grassland, the power to adopt certain acts should be delegated to the Commission for the purpose of defining the framework for the designation, by Member States, of permanent grasslands not covered by Directives 92/43/EEC or 2009/147/EC.
- (43) In order to ensure that the ratio of permanent grassland to the total agricultural area is correctly determined and maintained, the power to adopt certain acts should be delegated to the Commission in respect of the establishment of detailed methods for the determination of that ratio, detailed rules on maintenance of permanent grassland and the relevant time frame for an obligation upon individual farmers to reconvert land.
- (44) Ecological focus areas should be established, in particular, in order to safeguard and improve biodiversity on farms. The ecological focus area should therefore consist of areas directly affecting biodiversity such as land lying fallow, landscape features, terraces, buffer strips, afforested areas and agro-forestry areas, or indirectly affecting biodiversity through a reduced use of inputs on the farm, such as areas covered by catch crops and winter green cover. The obligations laid down in respect of the ecological focus area should be applied in a way that avoids putting a disproportionate burden on smaller farms in comparison to the additional enhanced environmental benefit. Exceptions should be provided for farms that already fulfil the objectives of ecological focus areas by being covered to a significant extent by grassland or fallowland. Exceptions should also be provided, in the case of predominantly forested Member States, for farms that pursue an agricultural activity in areas

⁽¹⁾ Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).

facing natural constraints in certain predominantly forested areas where there is a significant risk of land abandonment. In addition, provision should be made for the possibility for Member States and farmers to implement at a regional or collective level the obligation in order to obtain adjacent ecological focus areas that are more beneficial for the environment. For the sake of simplification, Member States should have the option to standardise the measurement of the ecological focus areas.

- (45) In order to ensure that ecological focus areas are established in an efficient and coherent way, while taking into account Member States' specific characteristics, the power to adopt certain acts should be delegated to the Commission in respect of laying down further criteria for the qualification of areas as ecological focus areas; recognising other types of ecological focus areas; establishing conversion and weighting factors for certain types of ecological focus area; establishing rules for the implementation, by Member States, of a part of the ecological focus area at regional level; laying down rules for collective implementation of the obligation to keep ecological focus areas by holdings in close proximity; establishing the framework for the criteria, to be defined by Member States, for identifying such close proximity; and establishing the methods of determination of the ratio of forest to agricultural land. When adding other types of ecological focus area, the Commission should ensure that they aim to improve the general environmental performance of the holding, in particular as regards biodiversity, the improvement of soil and water quality, the preservation of landscape and meeting the climate change mitigation and adaptation objectives.

- (46) In order to promote the sustainable development of agriculture in areas with specific natural constraints, Member States should be able to use part of their direct payments ceilings to grant an annual area-based payment, on top of the basic payment, to all farmers operating in those areas or in some of those areas, where decided by the Member State. That payment should not replace the support given under rural development programmes and should not be granted to farmers in areas which were designated in accordance with Regulation (EC) No 1698/2005 but have not been designated in accordance with Regulation (EU) No 1305/2013.

- (47) The creation and development of new economic activity in the agricultural sector by young farmers is financially challenging and constitutes an element that should be considered in the allocation and targeting of direct payments. This development is essential for the competitiveness of the agricultural sector in the Union and, for that reason, an income support to young farmers

commencing their agricultural activities should be established in order to facilitate the initial establishment of young farmers and the structural adjustment of their holdings after the initial setting up. For that purpose, Member States should use part of their national ceilings for direct payments to grant to young farmers an annual payment, on top of the basic payment. Member States should be able to decide on a calculation method for that payment and, if that method implies an obligation to set a limit on the payment per farmer, such a limit is to be set in respect of the general principles of Union law. Since it should only cover the initial period of the life of the business and should not become an operating aid, that payment should only be granted during a maximum period of five years. It should be available to young farmers commencing their agricultural activity who are no more than 40 years of age in the year of the first submission of the application under the basic payment scheme or under the single area payment scheme.

- (48) In order to guarantee the protection of the rights of beneficiaries and to avoid discrimination between them, the power to adopt certain acts should be delegated to the Commission in respect of defining the conditions under which a legal person may be considered eligible for receiving the payment for young farmers.

- (49) Member States should be allowed to use part of their national ceilings for direct payments for coupled support in certain sectors or regions in clearly defined cases. The resources that may be used for any coupled support should be limited to an appropriate level, while allowing such support to be granted in Member States in their specific sectors or regions facing particular situations where specific types of farming or specific agricultural sectors are particularly important for economic, environmental and/or social reasons. Member States should be allowed to use up to 8 % of their national ceilings for this support, or 13 % where their level of coupled support exceeds 5 % in at least one of the years of the period 2010-2014 or where they apply the single area payment scheme until 31 December 2014. Furthermore, in order to maintain the protein-based autonomy of the breeding sector, Member States which decide to use at least 2 % of their national ceilings to support the production of protein crops should be allowed to increase those percentages by up to two percentage points. In duly justified cases where certain sensitive needs in a sector or a region are demonstrated, and upon approval by the Commission, Member States should be allowed to use more than 13 % of their national ceiling. As an alternative to those percentages, Member States may choose to use up to EUR 3 million per year for financing the coupled support. Coupled support should only be granted to the extent necessary to create an incentive to maintain current levels of production in the sectors or regions concerned. That support should also be available to farmers holding, on

31 December 2013, special payment entitlements allocated under Regulation (EC) No 1782/2003 and Regulation (EC) No 73/2009, and who do not have eligible hectares for the activation of payment entitlements. As regards the approval of voluntary coupled support exceeding 13 % of the annual national ceiling fixed per Member State, the Commission should be further empowered to adopt implementing acts without applying Regulation (EU) No 182/2011.

- (50) In order to ensure efficient and targeted use of Union funds and to avoid double funding under other similar support instruments, the power to adopt certain acts should be delegated to the Commission in respect of establishing the conditions for granting voluntary coupled support, as well as rules on its consistency with other Union measures and on the cumulation of support.
- (51) In order to ensure against any risk of disruption to production in the cotton producing regions, a part of support to the cotton sector under Regulation (EC) No 73/2009 continued to be linked to the cultivation of cotton through a crop-specific payment per eligible hectare, taking into account all relevant factors. This situation should be maintained in accordance with the objectives set out in Protocol No 4 on cotton attached to the 1979 Act of Accession.
- (52) In order to ensure the efficient application and management of the crop-specific payment for cotton, the power to adopt certain acts should be delegated to the Commission in respect of establishing rules and conditions for the authorisation of land and varieties for the purposes of the crop-specific payment for cotton; rules on the conditions for the granting of that payment, on the eligibility requirements and the agronomic practices; criteria for the approval of inter-branch organisations; obligations for producers; and rules governing the situation where the approved inter-branch organisation does not satisfy those criteria.
- (53) Chapter 2 of Council Regulation (EC) No 637/2008 ⁽¹⁾ required each cotton producing Member State to submit to the Commission either every four years and for the first time by 1 January 2009 a draft four-year restructuring programme, or by 31 December 2009 a single draft modified eight-year restructuring programme.

⁽¹⁾ Council Regulation (EC) No 637/2008 of 23 June 2008 amending Regulation (EC) No 1782/2003 and establishing national restructuring programmes for the cotton sector (OJ L 178, 5.7.2008, p. 1).

Experience has shown that the restructuring of the cotton sector would be better served through other measures, including those under rural development programming financed under Regulation (EU) No 1305/2013. Such measures would also allow for a greater co-ordination with measures in other sectors. The acquired rights and legitimate expectations of undertakings already involved in restructuring programmes should, however, be respected. Therefore, the ongoing programmes of four or eight years should be allowed to run their course, with no possibility of extension. Funds available from the four-year programmes could then be integrated into the available Union funds for measures under rural development from 2014. Given the programming period, funds available after the end of the eight-year programmes would not be useful in rural development programmes in 2018, and could therefore be more usefully transferred to support schemes under this Regulation, as already provided for in Regulation (EC) No 637/2008. Regulation (EC) No 637/2008 will therefore become obsolete from 1 January 2014 or 1 January 2018 as regards Member States which have, respectively, four or eight-year programmes and should therefore be repealed.

- (54) Member States should be allowed to establish a simple and specific scheme for small farmers in order to reduce the administrative costs linked to the management and control of direct support. For that purpose, Member States should be allowed to establish either a lump-sum payment that replaces all direct payments, or a payment based on the amount due to the farmers each year. Rules simplifying formalities should be introduced by reducing, *inter alia*, the obligations imposed on small farmers, such as those related to the application for support, to agricultural practices beneficial for the climate and the environment, to cross-compliance and to controls as laid down in Regulation (EU) No 1306/2013 without jeopardising the achievement of the overall objectives of the reform, it being understood that Union legislation as referred to in Annex II to Regulation (EU) No 1306/2013 applies to small farmers. The objective of that scheme should be to support the existing agricultural structure of small farms in the Union without countering the development towards more competitive structures. For that reason, access to the scheme should, in principle, be limited to existing holdings. Participation of farmers in the scheme should be optional. However, in order to further increase the impact of the scheme in terms of simplification, Member States should be allowed to include certain farmers in the scheme automatically, subject to the possibility for them to opt-out.
- (55) In order to ensure legal certainty, the power to adopt certain acts should be delegated to the Commission in respect of establishing conditions for participation in the small farmers scheme if the situation of the participating farmer changes.

- (56) In the interest of simplification and in order to take into account the specific situation of the outermost regions, direct payments in those regions should be managed within the support programmes established by Regulation (EU) No 228/2013. As a consequence, provisions in this Regulation relating to the basic payment and related payments, to coupled support and to the small farmers scheme should not apply to those regions.
- (57) Notifications are needed from Member States for the purpose of applying this Regulation, and for the purpose of monitoring, analysing and managing direct payments. In order to ensure the correct application of the rules set out in this Regulation and to make such notifications fast, efficient, accurate, cost-effective and compatible with the protection of personal data, the power to adopt certain acts should be delegated to the Commission in respect of establishing the necessary measures regarding notifications to be made by Member States to the Commission or for the purpose of checking, controlling, monitoring, evaluating and auditing direct payments and for complying with requirements laid down in international agreements, including notification requirements under those agreements and in respect of further rules on the nature and type of the information to be notified, the categories of data to be processed and maximum period of retention, the access rights to the information or information systems and the conditions of publication of the information.
- (58) Personal data collected for the purposes of the application of direct payments should be processed in a way that is compatible with those purposes. It should also be made anonymous, be aggregated when processed for monitoring or evaluation purposes, and be protected in accordance with Union law concerning the protection of individuals with regard to the processing of personal data and on the free movement of such data, in particular Directive 95/46/EC of the European Parliament and of the Council⁽¹⁾ and Regulation (EC) No 45/2001 of the European Parliament and of the Council⁽²⁾. Data subjects should be informed of such processing and of their data protection rights.
- (59) The European Data Protection Supervisor was consulted and delivered an opinion on 14 December 2011⁽³⁾.
- (60) In order to ensure a smooth transition from the arrangements provided for in Regulation (EC) No 73/2009 to those laid down in this Regulation, the power to adopt certain acts should be delegated to the Commission in respect of establishing the necessary measures to protect any acquired rights and legitimate expectations of farmers.
- (61) In order to ensure uniform conditions for the implementation of this Regulation and to avoid unfair competition or discrimination between farmers, implementing powers should be conferred on the Commission in respect of: setting the amount to be included in the special national de-mining reserve for Croatia; fixing the annual national ceiling for the basic payment scheme; adopting rules on applications for allocation of payment entitlements; adopting measures regarding the reversion of non-activated payment entitlements to the national reserve; adopting modalities of the notification of transfer of payment entitlements to the national authorities and the deadlines within which such notifications are to take place; fixing the annual national ceiling for the single area payment scheme; adopting rules on applications for allocation of payment entitlements submitted in the year of allocation of payment entitlements where Member States change to the basic payment scheme; fixing annual ceilings for the redistributive payment. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.
- (62) In order to ensure uniform conditions for the implementation of this Regulation and to avoid unfair competition or discrimination between farmers, implementing powers should also be conferred on the Commission in respect of: adopting rules on the procedure, including on the timetables for their submission, for the Member States' notifications and the Commission assessment as regards equivalent practices; adopting certain limits within which the obligation to maintain permanent grassland is considered to be being complied with; setting out the annual ceiling for the payment for agricultural practices beneficial for the climate and the environment; setting out the annual ceiling for the payment for areas with natural constraints; setting out the annual ceiling for the payment for young farmers. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.
- (63) In order to ensure uniform conditions for the implementation of this Regulation and to avoid unfair competition or discrimination between farmers, implementing powers should also be conferred on the Commission in respect of: setting out the annual ceilings for the voluntary coupled support; adopting rules on the procedure for the assessment and approval of decisions in the framework of the voluntary coupled support; adopting rules on the authorisation procedure and on the notifications to the producers related to the authorisation of land and varieties for the purposes of the crop-specific payment for cotton; adopting rules on the calculation of the reduction of the amount of the crop-specific payment for cotton; adopting rules concerning general notification requirements and methods; and adopting necessary and

(1) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

(2) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

(3) OJ C 35, 9.2.2012, p. 1.

justifiable measures to resolve specific problems in an emergency. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

- (64) In order to solve urgent problems occurring in one or more Member States while ensuring the continuity of the direct payments system, the Commission should adopt immediately applicable implementing acts where, in duly justified cases, extraordinary circumstances affect the granting of support and jeopardise the effective implementation of the payments under the support schemes listed in this Regulation.
- (65) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of the links between this Regulation and the other instruments of the CAP, the disparities between the various rural areas and the limited financial resources of the Member States in an enlarged Union, be better achieved at Union level through the multiannual guarantee of Union financing and by concentrating on clearly identified priorities, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (66) Given that Regulation (EC) No 73/2009 is to continue to apply in 2014, this Regulation should apply in general from 1 January 2015. However, the provisions of this Regulation on flexibility between pillars provide for the possibility for Member States to take decisions and notify them to the Commission by 31 December 2013. In addition, some other provisions of this Regulation require action to be taken in 2014. Those provisions should, therefore, apply from the entry into force of this Regulation.
- (67) Due to the urgency of preparing the smooth implementation of the measures envisaged, this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

TITLE I

SCOPE AND DEFINITIONS

Article 1

Scope

This Regulation establishes:

- (a) common rules on payments granted directly to farmers under the support schemes listed in Annex I ("direct payments");

(b) specific rules concerning:

- (i) a basic payment for farmers ("the basic payment scheme" and a transitional simplified scheme, "the single area payment scheme");
- (ii) a voluntary transitional national aid for farmers;
- (iii) a voluntary redistributive payment;
- (iv) a payment for farmers observing agricultural practices beneficial for the climate and the environment;
- (v) a voluntary payment for farmers in areas with natural constraints;
- (vi) a payment for young farmers commencing their agricultural activity;
- (vii) a voluntary coupled support scheme;
- (viii) a crop-specific payment for cotton;
- (ix) a voluntary simplified scheme for small farmers;
- (x) a framework within which Bulgaria, Croatia and Romania may complement direct payments.

Article 2

Amendment of Annex I

In order to ensure legal certainty, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 amending the list of support schemes set out in Annex I to the extent necessary to take account of any new legislative acts on support schemes which may be adopted after the adoption of this Regulation.

Article 3

Application to the outermost regions and the smaller Aegean islands

Article 11 shall not apply to the regions of the Union referred to in Article 349 TFEU ("the outermost regions") and to the direct payments granted in the smaller Aegean islands in accordance with Regulation (EU) No 229/2013.

Titles III, IV and V of this Regulation shall not apply to the outermost regions.

Article 4

Definitions and related provisions

1. For the purposes of this Regulation, the following definitions shall apply:

- (a) "farmer" means a natural or legal person, or a group of natural or legal persons, regardless of the legal status granted to such group and its members by national law, whose holding is situated within the territorial scope of the Treaties, as defined in Article 52 TEU in conjunction with Articles 349 and 355 TFEU, and who exercises an agricultural activity;
- (b) "holding" means all the units used for agricultural activities and managed by a farmer situated within the territory of the same Member State;
- (c) "agricultural activity" means:
 - (i) production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes,
 - (ii) maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries, based on criteria established by Member States on the basis of a framework established by the Commission, or
 - (iii) carrying out a minimum activity, defined by Member States, on agricultural areas naturally kept in a state suitable for grazing or cultivation;
- (d) "agricultural products" means the products, with the exception of fishery products, listed in Annex I to the Treaties as well as cotton;
- (e) "agricultural area" means any area taken up by arable land, permanent grassland and permanent pasture, or permanent crops;
- (f) "arable land" means land cultivated for crop production or areas available for crop production but lying fallow, including areas set aside in accordance with Articles 22, 23 and 24 of Regulation (EC) No 1257/1999, with Article 39 of Regulation (EC) No 1698/2005 and with Article 28 of Regulation (EU) No 1305/2013, irrespective of whether or not that land is under greenhouses or under fixed or mobile cover;
- (g) "permanent crops" means non-rotational crops other than permanent grassland and permanent pasture that occupy the land for five years or more and yield repeated harvests, including nurseries and short rotation coppice;
- (h) "permanent grassland and permanent pasture" (together referred to as "permanent grassland") means land used to grow grasses or other herbaceous forage naturally (self-seeded) or through cultivation (sown) and that has not been included in the crop rotation of the holding for five years or more; it may include other species such as shrubs and/or trees which can be grazed provided that the grasses and other herbaceous forage remain predominant as well as, where Member States so decide, land which can be grazed and which forms part of established local practices where grasses and other herbaceous forage are traditionally not predominant in grazing areas;
- (i) "grasses or other herbaceous forage" means all herbaceous plants traditionally found in natural pastures or normally included in mixtures of seeds for pastures or meadows in the Member State, whether or not used for grazing animals;
- (j) "nurseries" means the following areas of young ligneous (woody) plants grown in the open air for subsequent transplantation:
 - vine and root-stock nurseries,
 - fruit tree and berries nurseries,
 - ornamental nurseries,
 - commercial nurseries of forest trees excluding those for the holding's own requirements grown within woodland,
 - nurseries of trees and bushes for planting in gardens, parks, at the roadside and on embankments (e.g. hedgerow plants, rose trees and other ornamental bushes, ornamental conifers), including in all cases their stocks and young seedlings;
- (k) "short rotation coppice" means areas planted with tree species of CN code 0602 90 41 to be defined by Member States that consist of woody, perennial crops, the rootstock or stools of which remain in the ground after harvesting, with new shoots emerging in the following season and with a maximum harvest cycle to be determined by the Member States;
- (l) "sale" means the sale or any other definitive transfer of ownership of land or payment entitlements; it does not include the sale of land where land is transferred to public authorities or for use in the public interest and where the transfer is carried out for non-agricultural purposes;
- (m) "lease" means a rental agreement or similar temporary transaction;

- (n) "transfer" means the lease or sale or actual inheritance or anticipated inheritance of land or payment entitlements or any other definitive transfer thereof; it does not cover the reversion of entitlements upon expiry of a lease.

2. Member States shall:

- (a) establish criteria to be met by farmers in order to fulfil the obligation to maintain an agricultural area in a state suitable for grazing or cultivation, as referred to in point (c)(ii) of paragraph 1;
- (b) where applicable in a Member State, define the minimum activity to be carried out on agricultural areas naturally kept in a state suitable for grazing or cultivation, as referred to in point (c)(iii) of paragraph 1;
- (c) define the tree species qualifying for short rotation coppice and determine the maximum harvest cycle in respect of those tree species, as referred to in point (k) of paragraph 1.

Member States may decide that land which can be grazed and which forms part of established local practices where grasses and other herbaceous forage are traditionally not predominant in grazing areas is to be considered to be permanent grassland, as referred to in point (h) of paragraph 1.

3. In order to ensure legal certainty, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 establishing:

- (a) the framework within which Member States are to establish the criteria to be met by farmers in order to fulfil the obligation to maintain an agricultural area in a state suitable for grazing or cultivation, as referred to in point (c)(ii) of paragraph 1;
- (b) the framework within which Member States shall define the minimum activity to be carried out on agricultural areas naturally kept in a state suitable for grazing or cultivation, as referred to in point (c)(iii) of paragraph 1;
- (c) the criteria to determine the predominance of grasses and other herbaceous forage and the criteria to determine the established local practices referred to in point (h) of paragraph 1.

TITLE II

GENERAL PROVISIONS ON DIRECT PAYMENTS

CHAPTER 1

Common rules on direct payments

Article 5

General common agricultural policy provisions

Regulation (EU) No 1306/2013 and the provisions adopted pursuant thereto shall apply to the schemes provided for in this Regulation.

Article 6

National ceilings

1. For each Member State and for each year, the national ceiling comprising the total value of all allocated payment entitlements, of the national reserve or the regional reserves and of the ceilings fixed in accordance with Articles 42, 47, 49, 51 and 53 shall be as set out in Annex II.

Where a Member State makes use of the option provided for in Article 22(2), the national ceiling set out in Annex II for that Member State for the respective year may be exceeded by the amount calculated in accordance with that paragraph.

2. By way of derogation from paragraph 1, for each Member State applying the single area payment scheme and for each year, the national ceiling, comprising the ceilings fixed in accordance with Articles 36, 42, 47, 49, 51 and 53, shall be as set out in Annex II.

3. In order to take account of the developments relating to the total maximum amounts of direct payments that may be granted, including those resulting from the decisions to be taken by Member States in accordance with Article 14 and those resulting from the application of Article 20(2), the Commission shall be empowered to adopt delegated acts in accordance with Article 70 adapting the national ceilings set out in Annex II.

Article 7

Net ceilings

1. Without prejudice to Article 8, the total amount of direct payments which may be granted in a Member State pursuant to Titles III, IV and V in respect of a calendar year, after application of Article 11, shall not be higher than the corresponding ceiling set out in Annex III.

Where the total amount of direct payments to be granted in a Member State would be higher than the ceiling set out in Annex III, that Member State shall make a linear reduction in the amounts of all direct payments with the exception of direct payments granted under Regulation (EU) No 228/2013 and Regulation (EU) No 229/2013.

2. For each Member State and for each calendar year, the estimated product of the reduction of payments referred to in Article 11 (which is reflected by the difference between the national ceiling set out in Annex II, to which is added the amount available in accordance with Article 58, and the net ceiling set out in Annex III) shall be made available as Union support for measures under rural development programming financed under the European Agricultural Fund for Rural Development (EAFRD) as specified in Regulation (EU) No 1305/2013.

3. In order to take account of the developments relating to the total maximum amounts of direct payments that may be granted, including those resulting from the decisions taken by Member States pursuant to Article 14, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 adapting the ceilings set out in Annex III.

Article 8

Financial discipline

1. The adjustment rate determined in accordance with Article 26 of Regulation (EU) No 1306/2013 shall only apply to direct payments in excess of EUR 2 000 to be granted to farmers in the corresponding calendar year.

2. As a result of the gradual introduction of direct payments provided for in Article 16, paragraph 1 of this Article shall apply to Bulgaria and Romania from 1 January 2016.

As a result of the gradual introduction of direct payments provided for in Article 17, paragraph 1 of this Article shall apply to Croatia from 1 January 2022.

3. In order to ensure the correct application of the adjustments of direct payments with respect to financial discipline, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down rules on the basis for calculation of reductions to be applied by Member States to farmers pursuant to paragraph 1 of this Article.

4. In the case of a legal person, or a group of natural or legal persons, Member States may apply the adjustment rate referred to in paragraph 1 at the level of the members of those legal persons or groups where national law provides for the individual members to assume rights and obligations comparable to those of individual farmers who have the status of a head of holding, in particular as regards their economic, social and tax status, provided that they have contributed to strengthening the agricultural structures of the legal persons or groups concerned.

Article 9

Active farmer

1. No direct payments shall be granted to natural or legal persons, or to groups of natural or legal persons, whose agricultural areas are mainly areas naturally kept in a state suitable for grazing or cultivation and who do not carry out on those areas the minimum activity defined by Member States in accordance with point (b) of Article 4(2).

2. No direct payments shall be granted to natural or legal persons, or to groups of natural or legal persons, who operate airports, railway services, waterworks, real estate services, permanent sport and recreational grounds.

Where appropriate, Member States may, on the basis of objective and non-discriminatory criteria, decide to add to the list in the first subparagraph any other similar non-agricultural businesses or activities, and may subsequently decide to withdraw any such additions.

A person or group of persons falling within the scope of the first or second subparagraph shall, however, be regarded as an active farmer if it provides verifiable evidence, in the form that is required by Member States, which demonstrates any of the following:

(a) that the annual amount of direct payments is at least 5 % of the total receipts that it obtained from non-agricultural activities in the most recent fiscal year for which such evidence is available;

(b) that its agricultural activities are not insignificant;

(c) that its principal business or company objects consist of exercising an agricultural activity.

3. In addition to paragraphs 1 and 2, Member States may decide, on the basis of objective and non-discriminatory criteria, that no direct payments are to be granted to natural or legal persons, or to groups of natural or legal persons:

(a) whose agricultural activities form only an insignificant part of their overall economic activities; and/or

(b) whose principal activity or company objects do not consist of exercising an agricultural activity.

4. Paragraphs 2 and 3 shall not apply to farmers who only received direct payments not exceeding a certain amount for the previous year. Such amount shall be decided by Member States on the basis of objective criteria such as their national or regional characteristics, and shall not be higher than EUR 5 000.

5. In order to guarantee the protection of the rights of farmers, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down:

(a) criteria for determining the cases where a farmer's agricultural area is to be considered to be mainly an area naturally kept in a state suitable for grazing or cultivation;

(b) criteria for establishing the distinction between receipts resulting from agricultural and non-agricultural activities;

(c) criteria for establishing the amounts of direct payments referred to in paragraphs 2 and 4, especially concerning direct payments in the first year of allocation of payment entitlements where the value of the payment entitlements is not yet definitively established, as well as concerning direct payments for new farmers;

(d) criteria that farmers are to meet in order to prove for the purposes of paragraphs 2 and 3 that their agricultural activities are not insignificant and that their principal business or company objects consist of exercising an agricultural activity.

6. Member States shall notify the Commission by 1 August 2014 of any decision referred to in paragraphs 2, 3 or 4 and, in the case of amendments thereto, within two weeks of the date on which any decision to amend was taken.

Article 10

Minimum requirements for receiving direct payments

1. Member States shall decide in which one of the following cases not to grant direct payments to a farmer:

(a) where the total amount of direct payments claimed or due to be granted before the application of Article 63 of Regulation (EU) No 1306/2013 in a given calendar year is less than EUR 100;

(b) where the eligible area of the holding for which direct payments are claimed or due to be granted before the application of Article 63 of Regulation (EU) No 1306/2013 is less than one hectare.

2. In order to take account of the structure of their agricultural economies, Member States may adjust the thresholds set out in points (a) and (b) of paragraph 1 within the limits set out in Annex IV.

3. Where a Member State has decided to apply an area threshold pursuant to point (b) of paragraph 1, it shall nevertheless apply point (a) of that paragraph to those farmers receiving the animal-related coupled support referred to in Title IV who hold fewer hectares than the area threshold.

4. The Member States concerned may decide not to apply paragraph 1 to the outermost regions and to the smaller Aegean Islands.

5. In Bulgaria and Romania, for the year 2015, the amount claimed or due to be granted as referred to in point (a) of paragraph 1 shall be calculated on the basis of the relevant amount set out in point A of Annex V.

In Croatia, for the years 2015-2021, the amount claimed or due to be granted as referred to in point (a) of paragraph 1 shall be calculated on the basis of the amount set out in point A of Annex VI.

Article 11

Reduction of payments

1. Member States shall reduce the amount of direct payments to be granted to a farmer pursuant to Chapter 1 of Title III for a given calendar year by at least 5 % for the part of the amount exceeding EUR 150 000.

2. Before applying paragraph 1, Member States may subtract the salaries linked to an agricultural activity actually paid and declared by the farmer in the previous calendar year, including taxes and social contributions related to employment, from the amount of direct payments to be granted to a farmer pursuant to Chapter 1 of Title III in a given calendar year. Where no data is available on the salaries actually paid and declared by the farmer in the previous calendar year, the most recent data available shall be used.

3. Where a Member State decides to grant a redistributive payment to farmers pursuant to Chapter 2 of Title III and to use more than 5 % of the annual national ceiling set out in Annex II for that purpose, it may decide not to apply this Article.

Where a Member State decides to grant a redistributive payment to farmers pursuant to Chapter 2 of Title III and the application of the maximum limits set out in Article 41(4) prevents it from using more than 5 % of the annual national ceiling set out in Annex II for that purpose, that Member State may decide not to apply this Article.

4. No advantage by means of avoiding reductions of the payment shall be granted in favour of farmers in respect of whom it is established that they artificially created, after 18 October 2011, the conditions to avoid the effects of this Article.

5. In the case of a legal person, or a group of natural or legal persons, Member States may apply the reduction referred to in paragraph 1 at the level of the members of those legal persons or groups where national law provides for the individual members to assume rights and obligations comparable to those of individual farmers who have the status of a head of holding, in particular as regards their economic, social and tax status, provided that they have contributed to strengthening the agricultural structures of the legal persons or groups concerned.

6. Member States shall notify the Commission by 1 August 2014 of the decisions taken in accordance with this Article and of any estimated product of reductions for the years 2015 to 2019.

Article 12

Multiple claims

The area corresponding to the number of eligible hectares in respect of which an application for a basic payment has been submitted by a farmer pursuant to Chapter 1 of Title III may be the subject of an application for any other direct payment, as well as for any other aid not covered by this Regulation, save as explicitly provided otherwise in this Regulation.

Article 13

State aid

By way of derogation from Article 211(1) of Regulation (EU) No 1308/2013 of the European Parliament and of the Council⁽¹⁾, Articles 107, 108 and 109 TFEU shall not apply to payments made by Member States in conformity with this Regulation.

Article 14

Flexibility between pillars

1. By 31 December 2013, Member States may decide to make available, as additional support for measures under rural development programming financed under the EAFRD as specified under Regulation (EU) No 1305/2013, up to 15 % of their annual national ceilings for calendar year 2014 set out in Annex VIII to Regulation (EC) No 73/2009 and of their annual national ceilings for calendar years 2015 to 2019 set out in Annex II to this Regulation. As a result, the corresponding amount shall no longer be available for granting direct payments.

The decision referred to in the first subparagraph shall be notified to the Commission by 31 December 2013. That decision shall set out the percentage referred to in that subparagraph, which may vary by calendar year.

Member States which do not take the decision referred to in the first subparagraph in respect of calendar year 2014 may, by 1 August 2014, take that decision in respect of calendar years 2015 to 2019. They shall notify the Commission of any such decision by that date.

Member States may decide to review the decisions referred to in this paragraph with effect from calendar year 2018. Any decisions based on such review shall not result in a decrease of the percentage notified to the Commission in accordance with the first, second and third subparagraphs. Member States shall notify the Commission of any decision based on such review by 1 August 2017.

2. By 31 December 2013, Member States which do not take the decision referred to in paragraph 1 may decide to make available as direct payments up to 15 % or, in the case of Bulgaria, Estonia, Spain, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Finland, Sweden and the United Kingdom, up to 25 % of the amount allocated to support for measures under rural development programming financed under the EAFRD in the period 2015-2020, as specified in Regulation (EU) No 1305/2013. As a result, the corresponding amount shall no longer be available for support measures under rural development programming.

⁽¹⁾ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1601/96, (EC) No 1037/2001 and (EC) No 1234/2007 (See page 671 of this Official Journal).

The decision referred to in the first subparagraph shall be notified to the Commission by 31 December 2013. That decision shall set out the percentage referred to in that subparagraph, which may vary by calendar year.

Member States which do not take the decision referred to in the first subparagraph in respect of financial year 2015 may, by 1 August 2014, take that decision in respect of financial years 2016 to 2020. They shall notify the Commission of any such decision by that date.

Member States may decide to review the decisions referred to in this paragraph with effect for financial years 2019 and 2020. Any decisions based on such review shall not result in an increase of the percentage notified to the Commission in accordance with the first, second and third subparagraphs. Member States shall notify the Commission of any decision based on such review by 1 August 2017.

Article 15

Review

Support schemes listed in Annex I shall apply without prejudice to a possible review at any time in the light of economic developments and the budgetary situation. That review may lead to the adoption of legislative acts, delegated acts under Article 290 TFEU or implementing acts under Article 291 TFEU.

CHAPTER 2

Provisions applying to Bulgaria, Croatia and Romania

Article 16

Gradual introduction of direct payments in Bulgaria and Romania

For Bulgaria and Romania, the ceilings fixed in accordance with Articles 42, 47, 49, 51, 53 and 65 shall, for 2015, be established on the basis of the amount set out in point A of Annex V.

Article 17

Gradual introduction of direct payments in Croatia

In Croatia, direct payments shall be introduced in accordance with the following schedule of increments expressed as a percentage of the corresponding level of the direct payments as applied from 2022:

25 % in 2013,

30 % in 2014,

35 % in 2015,

40 % in 2016,

50 % in 2017,

60 % in 2018,

70 % in 2019,

- 80 % in 2020,
- 90 % in 2021,
- 100 % from 2022.

Article 18

Complementary national direct payments and direct payments in Bulgaria and Romania

1. In 2015, Bulgaria and Romania may use national direct payments in order to complement payments granted under the basic payment scheme referred to in Sections 1, 2 and 3 of Chapter 1 of Title III. The total amount of those payments shall not exceed the relevant amount set out in point B of Annex V.
2. In 2015, Bulgaria may use national direct payments in order to complement payments granted under the crop-specific payment for cotton referred to in Chapter 2 of Title IV. The total amount of those payments shall not exceed the amount set out in point C of Annex V.
3. Complementary national direct payments shall be granted in accordance with objective criteria and in such a way as to ensure the equal treatment of farmers and to avoid distortions of the market and of competition.

Article 19

Complementary national direct payments for Croatia

1. Subject to authorisation by the Commission, Croatia may complement any of the support schemes listed in Annex I, where relevant.
2. The amount of complementary national direct payments which may be granted in a given year and for a given support scheme shall be limited by a specific financial envelope. This envelope shall be established as the difference between:
 - (a) the amount of direct support available per support scheme concerned after the full introduction of direct payments in accordance with Article 17 for the calendar year 2022, and
 - (b) the amount of direct support available per support scheme concerned after the application of the schedule of increments in accordance with Article 17 for the calendar year concerned.
3. The total amount of complementary national direct payments granted shall not be higher than the ceiling set out in point B of Annex VI for a corresponding calendar year.
4. Croatia may decide, on the basis of objective criteria and after authorisation by the Commission, on the amounts of complementary national direct payments to be granted.
5. The Commission shall adopt implementing acts authorising the payments under this Article, specifying the

relevant support schemes and defining the level up to which the complementary national direct payments may be paid.

As regards complementary national direct payments intended to complement the voluntary coupled support referred to in Chapter 1 of Title IV, the implementing acts shall also specify the specific types of farming or the specific agricultural sectors referred to in Article 52(3) to which the complementary national direct payments may relate.

Those implementing acts shall be adopted without applying the procedure referred to in Article 71(2) or (3).

6. The eligibility conditions for complementary national direct payments for Croatia shall be identical to those for support under corresponding support schemes as laid down in this Regulation.
7. Complementary national direct payments for Croatia shall be subject to any adjustments which may be rendered necessary by developments in the CAP. They shall be granted in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid distortions of the market and of competition.
8. Croatia shall submit a report providing information on the measures for the implementation of the complementary national direct payments by 30 June of the year following their implementation. The report shall cover at least the following:
 - (a) any changes in the situation affecting the complementary national direct payments;
 - (b) for each complementary national direct payment, the numbers of beneficiaries and the total amount of complementary national direct payment granted, as well as the hectares and the number of animals or other units for which that complementary national direct payment has been granted;
 - (c) a report on control measures applied in relation to the complementary national direct payments granted.

Article 20

Special national de-mining reserve for Croatia

1. From 2015 onwards, Croatia shall notify the Commission by 31 January of each year of the areas which have been identified in accordance with Article 57a(10) of Regulation (EC) No 73/2009 and which were returned to use for agricultural activities in the previous calendar year.

Croatia shall also notify the Commission of the number of payment entitlements available to farmers on 31 December of the previous calendar year, as well as the amount remained unspent in the special national de-mining reserve on that same date.

Where applicable, the notifications provided in the first and second subparagraphs shall be made per region as defined in accordance with Article 23(1) of this Regulation.

2. When adapting Annex II pursuant to Article 6(3), the Commission shall calculate on a yearly basis the amount to be added to the amounts set for Croatia in that Annex in order to finance the support to be granted under the schemes listed in Annex I for the areas referred to in paragraph 1 of this Article. This amount shall be calculated on the basis of the data notified by Croatia in accordance with paragraph 1 of this Article and the estimated average direct payments per hectare in Croatia for the year concerned.

The maximum amount to be added in accordance with the first subparagraph, on the basis of all the areas notified by Croatia in accordance with paragraph 1 of this Article until 2022, shall be EUR 9 600 000 and shall be subject to the schedule of introduction of direct payments in accordance with Article 17. The resulting maximum annual amounts are set out in Annex VII.

3. The Commission shall adopt implementing acts setting the share of the amount to be added in accordance with paragraph 2 which Croatia shall include in the special national de-mining reserve in order to allocate payment entitlements for the areas referred to in paragraph 1. That share shall be calculated on the basis of the ratio between the ceiling for the basic payment scheme and the national ceiling set out in Annex II before the national ceiling's increase in accordance with paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

4. For the years 2015 to 2022, Croatia shall use the special national de-mining reserve to allocate payment entitlements to farmers on the basis of de-mined land declared by the farmers in the year in question where:

- (a) such land consists of eligible hectares within the meaning of Article 32(2) to (5);
- (b) the land in question was returned to use for agricultural activities during the previous calendar year; and
- (c) the land has been notified to the Commission in accordance with paragraph 1 of this Article.

5. The value of the payment entitlements established under this Article shall be the national or regional average value of payment entitlements in the year of allocation within the limits of the amount available in the special national de-mining reserve.

6. In order to take account of the consequences of the return of de-mined land to use for agricultural activities as notified by Croatia in accordance with this Article, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 adapting the amounts set out in Annex VI.

TITLE III

BASIC PAYMENT SCHEME, SINGLE AREA PAYMENT SCHEME AND RELATED PAYMENTS

CHAPTER 1

Basic payment scheme and single area payment scheme

Section 1

Setting up of the basic payment scheme

Article 21

Payment entitlements

1. Support under the basic payment scheme shall be available to farmers:

- (a) who obtain payment entitlements under this Regulation through allocation pursuant to Article 20(4), through first allocation pursuant to Article 24 or Article 39, through allocation from the national reserve or regional reserves pursuant to Article 30 or through transfer pursuant to Article 34; or
- (b) who comply with Article 9 and hold owned or leased-in payment entitlements in a Member State which has decided, in accordance with paragraph 3, to keep its existing payment entitlements.

2. Payment entitlements obtained under the single payment scheme in accordance with Regulation (EC) No 1782/2003 and with Regulation (EC) No 73/2009 shall expire on 31 December 2014.

3. By way of derogation from paragraph 2, Member States which established the single payment scheme in accordance with Section I of Chapter 5 of Title III or Chapter 6 of Title III of Regulation (EC) No 1782/2003 or Chapter 3 of Title III of Regulation (EC) No 73/2009 may, by 1 August 2014, decide to keep the existing payment entitlements. They shall notify any such decision to the Commission by that date.

4. As regards Member States which take the decision referred to in paragraph 3, when the number of owned or leased-in payment entitlements established in accordance with Regulation (EC) No 1782/2003 and with Regulation (EC) No 73/2009 which a farmer holds on the final date for submission of applications to be set in accordance with point (b) of the first subparagraph of Article 78 of Regulation (EU) No 1306/2013 exceeds the number of eligible hectares which the farmer declares in his aid application in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 for 2015, and which are at his disposal on a date fixed by the Member State, which shall be no later than the date fixed in that Member State for amending such an aid application, the number of payment entitlements exceeding the number of eligible hectares shall expire on the latter date.

Article 22

Basic payment scheme ceiling

1. The Commission shall adopt implementing acts setting, for each Member State, the annual national ceiling for the basic payment scheme by deducting from the annual national ceiling set out in Annex II the ceilings fixed in accordance with Articles 42, 47, 49, 51 and 53. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

2. For each Member State, the amount calculated in accordance with the paragraph 1 of this Article may be increased by a maximum of 3 % of the relevant annual national ceiling set out in Annex II after deduction of the amount resulting from the application of Article 47(1) for the relevant year. When a Member State applies such an increase, that increase shall be taken into account by the Commission when setting the annual national ceiling for the basic payment scheme pursuant to paragraph 1 of this Article. For that purpose, Member States shall notify the Commission by 1 August 2014 of the annual percentages by which the amount calculated pursuant to paragraph 1 of this Article is to be increased.

3. Member States may review their decision referred to in paragraph 2 on an annual basis and shall notify the Commission of any decision based on such review by 1 August of the year preceding its application.

4. For each Member State and each year, the total value of all payment entitlements and the national reserve or the regional reserves shall equal the respective annual national ceiling set by the Commission pursuant to paragraph 1.

5. If the ceiling for a Member State set by the Commission pursuant to paragraph 1 is different from that of the previous year as a result of any decision taken by that Member State in accordance with paragraph 3 of this Article, the third and fourth subparagraphs of Article 14(1), the third and fourth subparagraphs of Article 14(2), Article 42(1), the second subparagraph of Article 49(1), the second subparagraph of Article 51(1), or Article 53, that Member State shall linearly reduce or increase the value of all payment entitlements in order to ensure compliance with paragraph 4 of this Article.

Article 23

Regional allocation of the national ceilings

1. Member States may decide, by 1 August 2014, to apply the basic payment scheme at regional level. In such cases, they shall define the regions in accordance with objective and non-discriminatory criteria such as their agronomic and socio-economic characteristics, their regional agricultural potential, or their institutional or administrative structure.

Member States applying Article 36 may take the decision referred to in the first subparagraph by 1 August of the year preceding the first year of implementation of the basic payment scheme.

2. Member States shall divide the annual national ceiling for the basic payment scheme referred to in Article 22(1) between the regions in accordance with objective and non-discriminatory criteria.

Member States not applying Article 30(2) shall make that division after applying the linear reduction provided for in Article 30(1).

3. Member States may decide that the regional ceilings shall be subject to annual progressive modifications in accordance with pre-established annual steps and objective and non-discriminatory criteria such as agricultural potential or environmental criteria.

4. To the extent necessary to respect the applicable regional ceilings determined in accordance with paragraph 2 or 3, Member States shall make a linear reduction or increase in the value of the payment entitlements in each of the relevant regions.

5. Member States applying paragraph 1 may decide to cease the application of the basic payment scheme at regional level from a date to be set by them.

6. Member States applying the first subparagraph of paragraph 1 shall notify the Commission of the decision referred to in that subparagraph and of the measures taken for the application of paragraphs 2 and 3 by 1 August 2014.

Member States applying the second subparagraph of paragraph 1 shall notify the Commission of any decision referred to in that subparagraph and of the measures taken for the application of paragraphs 2 and 3 by 1 August of the relevant year.

Member States applying paragraph 1 shall notify the Commission of any decision referred to in paragraph 5 by 1 August of the year preceding the first year of implementation of that decision.

Article 24

First allocation of payment entitlements

1. Payment entitlements shall be allocated to farmers who are entitled to be granted direct payments in accordance with Article 9 of this Regulation provided that:

- (a) they apply for allocation of payment entitlements under the basic payment scheme by the final date for submission of applications in 2015 to be set in accordance with point (b) of the first subparagraph of Article 78 of Regulation (EU) No 1306/2013, except in case of force majeure or exceptional circumstances; and

- (b) they were entitled to receive payments, before any reduction or exclusion provided for in Chapter 4 of Title II of Regulation (EC) No 73/2009, in respect of an aid application for direct payments, for transitional national aid or for complementary national direct payments in accordance with Regulation (EC) No 73/2009 for 2013.

The first subparagraph shall not apply in Member States applying Article 21(3) of this Regulation.

Member States may allocate payment entitlements to farmers who are entitled to be granted direct payments in accordance with Article 9 of this Regulation, who fulfil the condition provided for in point (a) of the first subparagraph and who:

- (a) did not receive payments for 2013 in respect of an aid application as referred to in the first subparagraph of this paragraph and who, on the date fixed by the Member State concerned in accordance with Article 11(2) of Commission Regulation (EC) No 1122/2009⁽¹⁾ for the claim year 2013:

- (i) in Member States applying the single payment scheme:

— were producing fruits, vegetables, ware potatoes, seed potatoes or ornamental plants, and did so on a minimum area expressed in hectares if the Member State concerned decides to adopt such a requirement, or

— were cultivating vineyards; or

- (ii) in Member States applying the single area payment scheme, had only agricultural land that was not in good agricultural condition on 30 June 2003 as provided for in Article 124(1) of Regulation (EC) No 73/2009;

- (b) in 2014, are allocated payment entitlements from the national reserve under the single payment scheme pursuant to Article 41 or 57 of Regulation (EC) No 73/2009; or

- (c) never held owned or leased-in payment entitlements established under Regulation (EC) No 73/2009 or Regulation (EC) No 1782/2003 and who submit verifiable evidence

⁽¹⁾ Commission Regulation (EC) No 1122/2009 of 30 November 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector (OJ L 316, 2.12.2009, p. 65).

that, on the date fixed by the Member State in accordance with Article 11(2) of Regulation (EC) No 1122/2009 for the claim year 2013, they produced, reared or grew agricultural products, including through harvesting, milking, breeding animals and keeping animals for farming purposes. Member States may establish their own additional objective and non-discriminatory eligibility criteria for this category of farmers as regards appropriate skills, experience or education.

2. Except in the case of force majeure or exceptional circumstances, the number of payment entitlements allocated per farmer in 2015 shall be equal to the number of eligible hectares, which the farmer declares in his aid application in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 for 2015 and which are at his disposal on a date fixed by the Member State. That date shall be no later than the date fixed in that Member State for amending such an aid application.

3. Member States may apply one or more of the limitations, as set out in paragraphs 4 to 7, on the number of payment entitlements to be allocated under paragraph 2.

4. Member States may decide that the number of payment entitlements to be allocated shall be equal to either the number of eligible hectares which the farmer declared in accordance with Article 34(2) of Regulation (EC) No 73/2009 in 2013, or the number of eligible hectares referred to in paragraph 2 of this Article, whichever is the lowest. For Croatia, the use of this option shall be without prejudice to the allocation of payment entitlements for de-mined hectares in accordance with Article 20(4) of this Regulation.

5. Where the total number of eligible hectares referred to in paragraph 2 of this Article declared in a Member State would result in an increase of more than 35 % of the total number of eligible hectares declared in accordance with Article 35 of Regulation (EC) No 73/2009 in 2009, or in the case of Croatia in 2013, Member States may limit the number of payment entitlements to be allocated in 2015 to a minimum of either 135 % or 145 % of the total number of eligible hectares declared in 2009, or, in the case of Croatia, of the total number of eligible hectares declared in 2013, in accordance with Article 35 of Regulation (EC) No 73/2009.

When using this option, Member States shall allocate a reduced number of payment entitlements to farmers. That number shall be calculated by applying a proportional reduction to the additional number of eligible hectares declared by each farmer in 2015 compared to the number of eligible hectares within the meaning of Article 34(2) of Regulation (EC) No 73/2009 that that farmer declared in his aid application in 2011 or, in the case of Croatia, in 2013, without prejudice to the de-mined hectares for which payment entitlements are to be allocated in accordance with Article 20(4) of this Regulation.

6. Member States may decide to apply, for the purposes of establishing the number of payment entitlements to be allocated to a farmer, a reduction coefficient to those eligible hectares referred to in paragraph 2 which consist of permanent grassland located in areas with difficult climate conditions, especially due to their altitude and other natural constraints such as poor soil quality, steepness and water supply.

7. Member States may decide that the number of payment entitlements to be allocated to a farmer shall be equal to the number of eligible hectares referred to in paragraph 2 of this Article which were not hectares of vineyards on the date fixed by the Member State in accordance with Article 11(2) of Regulation (EC) No 1122/2009 for the claim year 2013 or hectares of arable land under permanent greenhouses.

8. In the case of the sale or lease of their holding or part of it, natural or legal persons complying with paragraph 1 of this Article may, by contract signed before the final date for submitting applications in 2015 to be set in accordance with point (b) of the first subparagraph of Article 78 of Regulation (EU) No 1306/2013, transfer the right to receive payment entitlements in accordance with paragraph 1 of this Article to one or more farmers provided that the latter comply with the conditions laid down in Article 9 of this Regulation.

9. A Member State may decide to fix a minimum size per holding, expressed in eligible hectares, in respect of which the farmer may apply for an allocation of payment entitlements. That minimum size shall not exceed the threshold set out in point (b) of Article 10(1) in conjunction with paragraph 2 of that Article.

10. Member States shall, where relevant, notify the Commission of the decisions referred to in this Article by 1 August 2014.

11. The Commission shall adopt implementing acts laying down rules on applications for the allocation of payment entitlements submitted in the year of allocation of payment entitlements where those payment entitlements may not yet be definitively established and where that allocation is affected by specific circumstances. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

Article 25

Value of payment entitlements and convergence

1. In 2015, Member States shall calculate the unit value of payment entitlements by dividing a fixed percentage of the national ceiling set out in Annex II for each relevant year by the number of payment entitlements in 2015 at national or regional level, excluding those allocated from the national reserve or regional reserves in 2015.

The fixed percentage referred to in the first subparagraph shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30, by the national ceiling for 2015 set out in Annex II. The payment entitlements shall be expressed in a number that corresponds to a number of hectares.

2. By way of derogation from the calculation method referred to in paragraph 1, Member States may decide to differentiate the value of payment entitlements in 2015, excluding those allocated from the national reserve or regional reserves in 2015, for each relevant year on the basis of their initial unit value as calculated in accordance with Article 26.

3. From claim year 2019 at the latest, all payment entitlements in a Member State or, where Article 23 is applied, in a region shall have a uniform unit value.

4. By way of derogation from paragraph 3, a Member State may decide that payment entitlements with an initial unit value as calculated in accordance with Article 26 that is lower than 90 % of the national or regional unit value in 2019 shall, for claim year 2019 at the latest, have their unit value increased by at least one third of the difference between their initial unit value and 90 % of the national or regional unit value in 2019.

Member States may decide to set the percentage referred to in the first subparagraph at a level higher than 90 % but not above 100 %.

In addition, Member States shall provide that, at the latest for claim year 2019, no payment entitlement shall have a unit value lower than 60 % of the national or regional unit value in 2019, unless this would, in Member States applying the threshold referred to in paragraph 7, result in a maximum decrease exceeding that threshold. In such cases, the minimum unit value shall be set at a level necessary to respect that threshold.

5. The national or regional unit value in 2019 referred to in the paragraph 4 shall be calculated by dividing a fixed percentage of the national ceiling set out in Annex II, or of the regional ceiling, for calendar year 2019 by the number of payment entitlements in 2015 in the Member State or region concerned, excluding those allocated from the national reserve or regional reserves in 2015. That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30, by the national ceiling set out in Annex II, or the regional ceiling, for 2015.

6. The regional ceilings referred to in the paragraph 5 shall be calculated by applying a fixed percentage to the national ceiling set out in Annex II for the year 2019. That fixed percentage shall be calculated by dividing the respective regional ceilings established in accordance with Article 23(2) for the year 2015 by the national ceiling to be set in accordance with Article 22(1) for the year 2015, after applying the linear reduction provided for in Article 30(1) where the second subparagraph of Article 23(2) applies.

7. In order to finance the increases in the value of payment entitlements referred to in paragraph 4, where payment entitlements have an initial unit value higher than the national or regional unit value in 2019, the difference between their initial unit value and the national or regional unit value in 2019 shall be decreased on the basis of objective and non-discriminative criteria to be determined by Member States. Such criteria may include the fixing of a maximum decrease of the initial unit value of 30 %.

8. When applying paragraph 2 of this Article, the transition from the initial unit value of payment entitlements as calculated in accordance with Article 26 to their final unit value in 2019 as established in accordance with paragraph 3 or paragraphs 4 to 7 of this Article shall be made in equal steps starting from 2015.

In order to ensure compliance with the fixed percentage referred to in paragraph 1 of this Article for each year, the value of the payment entitlements with an initial unit value that is higher than the national or regional unit value in 2019 shall be adjusted.

9. By way of derogation from paragraph 8 of this Article, where Member States which, in accordance with Article 21(3), decide to keep their existing entitlements apply paragraph 2 of this Article, the transition from the initial unit value of payment entitlements as established in accordance with Article 26(5) to their final unit value in 2019 as established in accordance with paragraph 3 or paragraphs 4 to 7 of this Article shall, where applicable, be made by applying the steps decided nationally in accordance with Article 63(3) of Regulation (EC) No 1782/2003.

In order to ensure compliance with the fixed percentage referred to in paragraph 1 of this Article for each year, the value of all payment entitlements shall be linearly adjusted.

10. In 2015, Member States shall inform farmers of the value of their payment entitlements as calculated in accordance with this Article and Articles 26 and 27 for each year of the period covered by this Regulation.

Article 26

Calculation of the initial unit value

1. The initial unit value of payment entitlements referred to in Article 25(2) in Member States which apply the single payment scheme in calendar year 2014 and which have not decided to keep their existing payment entitlements in

accordance with Article 21(3) shall be set in accordance with either of the methods set out in paragraphs 2 or 3.

2. A fixed percentage of the payments the farmer received for 2014 under the single payment scheme, in accordance with Regulation (EC) No 73/2009, before reductions and exclusions provided for in Chapter 4 of Title II of that Regulation, shall be divided by the number of payment entitlements he is allocated in 2015, excluding those allocated from the national reserve or regional reserves in 2015.

That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30 of this Regulation, by the amount of the payments for 2014 under the single payment scheme in the Member State or region concerned, before reductions and exclusions provided for in Chapter 4 of Title II of Regulation (EC) No 73/2009.

3. A fixed percentage of the value of the entitlements, including special entitlements, which the farmer held on the date of submission of his application for 2014 under the single payment scheme, in accordance with Regulation (EC) No 73/2009, shall be divided by the number of payment entitlements he is allocated in 2015, excluding those allocated from the national reserve or regional reserves in 2015.

That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30 of this Regulation, by the total value of all entitlements, including special entitlements, in the Member State or region concerned for 2014, under the single payment scheme.

For the purpose of this paragraph, a farmer shall be considered to hold payment entitlements on the date of submission of his application for 2014 where payment entitlements were allocated or definitively transferred to him by that date.

4. Member States which apply the single area payment scheme in calendar year 2014 shall calculate the initial unit value of payment entitlements referred to in Article 25(2) of this Regulation by dividing a fixed percentage of the total value of aid the farmer received for 2014 under the single area payment scheme in accordance with Regulation (EC) No 73/2009 and under Articles 132 and 133a of that Regulation, before reductions and exclusions provided for in Chapter 4 of Title II of that Regulation, by the number of payment entitlements he is allocated in 2015, excluding those allocated from the national reserve or regional reserves in 2015.

That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30 of this Regulation, by the total value of aid granted under the single area payment scheme in accordance with Regulation (EC) No 73/2009 and under Articles 132 and 133a of that Regulation for 2014 in the Member State or region concerned, before reductions and exclusions provided for in Chapter 4 of Title II of that Regulation.

5. Member States which apply the single payment scheme in calendar year 2014 and which, in accordance with Article 21(3) of this Regulation, decide to keep their existing payment entitlements shall calculate the initial unit value of payment entitlements referred to in Article 25(2) of this Regulation by multiplying the unit value of the entitlements by a fixed percentage. That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30 of this Regulation, by the amount of the payments for 2014 under the single payment scheme in the Member State or region concerned, before reductions and exclusions provided for in Chapter 4 of Title II of Regulation (EC) No 73/2009.

6. For the purposes of calculation methods provided for in this Article, provided that the relevant sectors do not receive any voluntary coupled support pursuant to Title IV of this Regulation, Member States may also take into account the support granted for calendar year 2014 under one or more of the schemes pursuant to Article 52, Article 53(1) and points (a) and (b) of Article 68(1) of Regulation (EC) No 73/2009 and, as regards Member States which applied the single area payment scheme in accordance with Regulation (EC) No 73/2009, pursuant to point (c) of Article 68(1) and Articles 126, 127 and 129 of that Regulation.

Member States which decide to apply the voluntary coupled support pursuant to Title IV of this Regulation may take into account the differences between the level of support granted in calendar year 2014 and the level of support to be granted in accordance with Title IV of this Regulation when applying a calculation method provided for in this Article, provided that:

- (a) the voluntary coupled support pursuant to Title IV of this Regulation is granted to a sector which was granted support in calendar year 2014 pursuant to Article 52, Article 53(1) and points (a) and (b) of Article 68(1) and, for Member States which applied the single area payment scheme, pursuant to point (c) of Article 68(1) and Articles 126, 127 and 129 of Regulation (EC) No 73/2009; and
- (b) the amount per unit of the voluntary coupled support is lower than the amount per unit of the support in 2014.

Article 27

Inclusion of the special national de-mining reserve

For Croatia, any reference in Articles 25 and 26 to the national reserve shall be read as including the special national de-mining reserve referred to in Article 20.

In addition, the amount arising from the special national de-mining reserve shall be deducted from the ceilings of the basic payment scheme referred to in the second subparagraph of Article 25(1), in paragraphs 5 and 6 of that Article and in Article 26.

Article 28

Windfall profit

For the purposes of Article 25(4) to (7) and Article 26, a Member State may, on the basis of objective criteria, provide that, in cases of sale or grant or expiry of all or part of a lease of agricultural areas after the date fixed pursuant to Article 35 or Article 124(2) of Regulation (EC) No 73/2009 and before the date fixed pursuant to Article 33(1) of this Regulation, the increase, or part of the increase, in the value of payment entitlements that would be allocated to the farmer concerned is to revert to the national reserve or regional reserves where the increase would lead to a windfall profit for the farmer concerned.

Those objective criteria shall be established in such a way as to ensure the equal treatment of farmers and to avoid distortions of the market and of competition and shall include, at least, the following:

- (a) a minimum duration for the lease; and
- (b) the proportion of the payment received which shall revert to the national reserve or regional reserves.

Article 29

Notifications concerning the value of payment entitlements and convergence

Member States shall notify the Commission of any decision referred to in Articles 25, 26 and 28 by 1 August 2014.

Section 2

National reserve and regional reserves

Article 30

Establishment and use of the national reserve or regional reserves

1. Each Member State shall establish a national reserve. In order to do so, Member States shall proceed, in the first year of implementation of the basic payment scheme, to a linear percentage reduction of the basic payment scheme ceiling at national level.

2. By way of derogation from paragraph 1, Member States exercising the option in Article 23(1) may establish regional reserves. In order to do so, Member States shall proceed, in the first year of implementation of the basic payment scheme, to a linear percentage reduction of the relevant basic payment scheme ceiling at regional level referred to in the first subparagraph of Article 23(2).

3. The reduction referred to in paragraphs 1 and 2 shall not be higher than 3 %, unless a higher percentage is required to cover any allocation needs pursuant to paragraph 6 or to points (a) and (b) of paragraph 7 for the year 2015 or, for Member States applying Article 36, for the first year of implementation of the basic payment scheme.

4. Member States shall allocate payment entitlements from their national or regional reserves in accordance with objective criteria and in such a way as to ensure the equal treatment of farmers and to avoid distortions of the market and of competition.

5. Payment entitlements referred to in paragraph 4 shall only be allocated to farmers entitled to be granted direct payments in accordance with Article 9.

6. Member States shall use their national or regional reserves to allocate payment entitlements, as a matter of priority, to young farmers and to farmers commencing their agricultural activity.

7. Member States may use their national or regional reserves to:

(a) allocate payment entitlements to farmers in order to prevent land from being abandoned, including in areas subject to restructuring or development programmes relating to a form of public intervention;

(b) allocate payment entitlements to farmers in order to compensate them for specific disadvantages;

(c) allocate payment entitlements to farmers who were prevented from being allocated payment entitlements under this Chapter as a result of force majeure or exceptional circumstances;

(d) allocate, in cases where they apply Article 21(3) of this Regulation, payment entitlements to farmers whose number of eligible hectares that they declared in 2015 in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 and that are at their disposal on a date fixed by the Member State, which shall be no later than the date fixed in that Member State for amending such an aid application, is higher than the number of owned or leased-in payment entitlements established in accordance with Regulation

(EC) No 1782/2003 and with Regulation (EC) No 73/2009 that they hold on the final date for submission of applications to be set in accordance with point (b) of the first subparagraph of Article 78 of Regulation (EU) No 1306/2013;

(e) linearly increase, on a permanent basis, the value of all payment entitlements under the basic payment scheme at national or regional level if the relevant national or regional reserve exceeds 0,5 % of the annual national or regional ceiling for the basic payment scheme, provided that sufficient amounts remain available for allocations under paragraph 6, under points (a) and (b) of this paragraph and under paragraph 9 of this Article;

(f) cover the yearly needs for payments to be granted in accordance with Article 51(2) and Article 65(1), (2) and (3) of this Regulation.

For the purpose of this paragraph, Member States shall decide on the priorities between the different uses referred to herein.

8. When applying paragraph 6 and points (a), (b) and (d) of paragraph 7, Member States shall fix the value of payment entitlements allocated to farmers at the national or regional average value of payment entitlements in the year of allocation.

The national or regional average value shall be calculated by dividing the national or regional ceiling for the basic payment scheme set in accordance with, respectively, Article 22(1) or Article 23(2) for the year of allocation, excluding the amount of the national reserve or regional reserves and, in the case of Croatia, the special de-mining reserve, by the number of allocated payment entitlements.

Member States shall fix the steps for annual progressive modifications of the value of payment entitlements allocated from the national reserve or regional reserves, taking account of the modifications of the national or regional ceiling for the basic payment scheme set in accordance with, respectively, Article 22(1) and Article 23(2) that result from the variations in the level of the national ceilings set out in Annex II.

9. Where a farmer is entitled to receive payment entitlements or to increase the value of the existing ones by virtue of a definitive court ruling or by virtue of a definitive administrative act of the competent authority of a Member State, the farmer shall receive the number and value of payment entitlements established in that ruling or act at a date to be fixed by the Member State. However, that date shall not be later than the latest date for lodging an application under the basic payment scheme following the date of the court ruling or the administrative act, taking into account the application of Articles 32 and 33.

10. When applying paragraph 6, points (a) and (b) of paragraph 7 and paragraph 9, Member States may either allocate new entitlements or increase the unit value of all of the existing entitlements of a farmer up to the national or regional average value.

11. For the purposes of this Article, the following definitions shall apply:

- (a) 'young farmers' means farmers fulfilling the conditions laid down in Article 50(2) and, where relevant, the conditions referred to in Article 50(3) and (11);
- (b) 'farmers commencing their agricultural activity' means natural or legal persons who, in the five years preceding the start of the agricultural activity, did not have any agricultural activity in their own name and at their own risk or did not have the control of a legal person exercising an agricultural activity. In the case of a legal person, the natural person or persons in control of the legal person must not have had any agricultural activity in their own name and at their own risk or must not have had the control of a legal person exercising an agricultural activity in the five years preceding the start of the agricultural activity by the legal person; Member States may establish their own additional objective and non-discriminative eligibility criteria for this category of farmers as regards appropriate skills, experience or education.

Article 31

Replenishment of the national reserve or regional reserves

1. The national reserve or regional reserves shall be replenished by amounts resulting from:

- (a) payment entitlements not giving right to payments during two consecutive years due to the application of:
 - (i) Article 9,
 - (ii) Article 10(1), or
 - (iii) Article 11(4) of this Regulation;
- (b) a number of payment entitlements equivalent to the total number of payment entitlements which have not been activated by farmers in accordance with Article 32 of this Regulation for a period of two consecutive years, except where their activation has been prevented by force majeure or exceptional circumstances; when establishing the owned or leased-in payment entitlements held by a farmer that shall revert to the national reserve or regional reserves, priority shall be given to those entitlements which have the lowest value;

(c) payment entitlements voluntarily returned by farmers;

(d) the application of Article 28 of this Regulation;

(e) unduly allocated payment entitlements in accordance with Article 63 of Regulation (EU) No 1306/2013;

(f) a linear reduction of the value of payment entitlements under the basic payment scheme at national or regional level where the national reserve or regional reserves are not sufficient to cover the cases referred to in Article 30(9) of this Regulation;

(g) where Member States consider it necessary, a linear reduction of the value of payment entitlements under the basic payment scheme at national or regional level to cover cases referred to in Article 30(6) of this Regulation;

(h) the application of Article 34(4) of this Regulation.

2. The Commission shall adopt implementing acts laying down necessary measures regarding the reversion of non-activated payment entitlements to the national reserve or regional reserves. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

Section 3

Implementation of the basic payment scheme

Article 32

Activation of payment entitlements

1. Support under the basic payment scheme shall be granted to farmers, by means of declaration in accordance with Article 33(1), upon activation of a payment entitlement per eligible hectare in the Member State where it has been allocated. Activated payment entitlements shall give a right to the annual payment of the amounts fixed therein, without prejudice to the application of financial discipline, of reduction of payments in accordance with Article 11 and of linear reductions in accordance with Article 7, Article 51(2) and point (c) of Article 65(2) of this Regulation, and to the application of Article 63 of Regulation (EU) No 1306/2013.

2. For the purposes of this Title, 'eligible hectare' means:

- (a) any agricultural area of the holding, including areas that were not in good agricultural condition on 30 June 2003 in Member States acceding to the Union on 1 May 2004 that opted upon accession to apply the single area payment scheme, that is used for an agricultural activity or, where the area is also used for non-agricultural activities, is predominantly used for agricultural activities; or

(b) any area which gave a right to payments in 2008 under the single payment scheme or the single area payment scheme laid down, respectively, in Titles III and IVA of Regulation (EC) No 1782/2003, and which:

(i) no longer complies with the definition of 'eligible hectare' under point (a) as a result of the implementation of Directive 92/43/EEC, Directive 2000/60/EC and Directive 2009/147/EC;

(ii) for the duration of the relevant commitment by the individual farmer, is afforested pursuant to Article 31 of Regulation (EC) No 1257/1999 or to Article 43 of Regulation (EC) No 1698/2005 or to Article 22 of Regulation (EU) No 1305/2013 or under a national scheme the conditions of which comply with Article 43(1), (2) and (3) of Regulation (EC) No 1698/2005 or Article 22 of Regulation (EU) No 1305/2013; or

(iii) for the duration of the relevant commitment of the individual farmer, is set aside pursuant to Articles 22, 23 and 24 of Regulation (EC) No 1257/1999, to Article 39 of Regulation (EC) No 1698/2005 or to Article 28 of Regulation (EU) No 1305/2013.

3. For the purposes of point (a) of paragraph 2:

(a) where an agricultural area of a holding is also used for non-agricultural activities, that area shall be considered to be used predominantly for agricultural activities provided that those agricultural activities can be exercised without being significantly hampered by the intensity, nature, duration and timing of the non-agricultural activities;

(b) Member States may draw up a list of areas which are predominantly used for non-agricultural activities.

Member States shall establish criteria for the implementation of this paragraph on their territory.

4. Areas shall be considered to be eligible hectares only if they comply with the definition of eligible hectare throughout the calendar year, except in the case of force majeure or exceptional circumstances.

5. For the purposes of determining 'eligible hectare', Member States having taken the decision referred to in the second subparagraph of Article 4(2) may apply a reduction coefficient to convert the hectares concerned into 'eligible hectares'.

6. Areas used for the production of hemp shall only be eligible hectares if the varieties used have a tetrahydrocannabinol content not exceeding 0,2 %.

Article 33

Declaration of eligible hectares

1. For the purposes of the activation of payment entitlements provided for in Article 32(1), the farmer shall declare the parcels corresponding to the eligible hectares accompanying any payment entitlement. Except in the case of force majeure or exceptional circumstances, the parcels declared shall be at the farmer's disposal on a date fixed by the Member State, which shall be no later than the date fixed in that Member State for amending the aid application as referred to in Article 72(1) of Regulation (EU) No 1306/2013.

2. Member States may, in duly justified circumstances, authorise the farmer to modify his declaration provided that he maintains at least the number of hectares corresponding to his payment entitlements and respects the conditions for granting the payment under the basic payment scheme for the area concerned.

Article 34

Transfer of payment entitlements

1. Payment entitlements may be transferred only to a farmer entitled to be granted direct payments in accordance with Article 9 established in the same Member State, except in the case of transfer by actual or anticipated inheritance.

Payment entitlements, including in the case of actual or anticipated inheritance, may be activated only in the Member State where they were allocated.

2. Where Member States exercise the option in Article 23(1), payment entitlements may be transferred or activated only within the same region, except in the case of actual or anticipated inheritance.

Payment entitlements, including in the case of actual or anticipated inheritance, may be activated only in the region where they were allocated.

3. Member States not exercising the option in Article 23(1) may decide that payment entitlements may be transferred or activated only within the same region, except in the case of actual or anticipated inheritance.

Such regions shall be defined at the appropriate territorial level in accordance with objective criteria and in a way that ensures the equal treatment of farmers and avoids distortions of the market and of competition.

4. Where payment entitlements are transferred without land, Member States may, acting in compliance with the general principles of Union law, decide that a part of the payment entitlements transferred are to revert to the national reserve or regional reserves or that their unit value is to be reduced in favour of the national reserve or regional reserves. Such reduction may be applied to one or more types of transfer.

5. The Commission shall adopt implementing acts laying down detailed rules governing the notification by farmers of transfer of payment entitlements to the national authorities and the deadlines within which such notification is to take place. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

Article 35

Delegated powers

1. In order to ensure legal certainty and to clarify the specific situations that may arise in the application of the basic payment scheme, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 concerning:

- (a) rules on eligibility and access in respect of the basic payment scheme of farmers in the case of inheritance and anticipated inheritance, inheritance under a lease, change of legal status or denomination, transfer of payment entitlements, merger or scission of the holding, and the application of the contract clause referred to in Article 24(8);
- (b) rules on the calculation of the value and number or on the increase or reduction in the value of payment entitlements in relation to the allocation of payment entitlements under any provision of this Title, including rules:
 - (i) on the possibility of a provisional value and number or of a provisional increase of payment entitlements allocated on the basis of the application from the farmer,
 - (ii) on the conditions for establishing the provisional and definitive value and number of the payment entitlements,
 - (iii) on the cases where a sale or lease contract may affect the allocation of payment entitlements;
- (c) rules on the establishment and calculation of the value and number of payment entitlements received from the national reserve or regional reserves;
- (d) rules on the modification of the unit value of payment entitlements in the case of fractions of payment entitlements and in the case of transfer of payment entitlements referred to in Article 34(4);
- (e) criteria for applying options under points (a), (b) and (c) of the third subparagraph of Article 24(1);
- (f) criteria for applying limitations on the number of payment entitlements to be allocated in accordance with Article 24(4) to (7);
- (g) criteria for the allocation of payment entitlements pursuant to Article 30(6) and (7);

(h) criteria for setting the reduction coefficient referred to in Article 31(5).

2. In order to ensure the proper management of payment entitlements, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down rules on the content of the declaration and the requirements for the activation of payment entitlements.

3. In order to preserve public health, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down rules making the granting of payments conditional upon the use of certified seeds of certain hemp varieties and the procedure for the determination of hemp varieties and the verification of their tetrahydrocannabinol content referred to in Article 32(6).

Section 4

Single area payment scheme

Article 36

Single area payment scheme

1. Member States applying in 2014 the single area payment scheme laid down in Chapter 2 of Title V of Regulation (EC) No 73/2009 may, under the conditions set out in this Regulation, decide to continue to apply that scheme until 31 December 2020 at the latest. They shall notify the Commission of their decision and of the end date of the application of that scheme by 1 August 2014.

During the period of application of the single area payment scheme, Sections 1, 2 and 3 of this Chapter shall not apply to those Member States, with the exception of the second subparagraph of Article 23(1), Article 23(6) as well as Article 32(2) to (6).

2. The single area payment shall be granted on an annual basis for each eligible hectare declared by the farmer in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013. It shall be calculated each year by dividing the annual financial envelope established in accordance with paragraph 4 of this Article by the total number of eligible hectares declared in the Member State concerned in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013.

3. By way of derogation from paragraph 2 of this Article, Member States that decide to apply Article 38 of this Regulation from 1 January 2018 at the latest may use, for the period during which they apply this Article, up to 20 % of the annual financial envelope referred to in paragraph 2 of this Article to differentiate the single area payment per hectare.

When doing so, they shall take into account the support granted for calendar year 2014 under one or more of the schemes pursuant to points (a), (b) and (c) of Article 68(1) and Articles 126, 127 and 129 of Regulation (EC) No 73/2009.

Cyprus may differentiate the aid taking into account the sector-specific financial envelopes set out in Annex XVIIa of Regulation (EC) No 73/2009, reduced by any aid granted to the same sector pursuant to Article 37 of this Regulation.

4. The Commission shall adopt implementing acts setting, for each Member State, the annual national ceiling for the single area payment scheme by deducting from the annual national ceiling set out in Annex II the ceilings fixed in accordance with Articles 42, 47, 49, 51 and 53. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

5. Except in the case of force majeure or exceptional circumstances, the hectares referred to in paragraph 2 shall be at the farmer's disposal on a date fixed by the Member State, which shall be no later than the date fixed in that Member State for amendment of the aid application referred to in Article 72(1) of Regulation (EU) No 1306/2013.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 70 concerning rules on eligibility and the access of farmers to the single area payment scheme.

Article 37

Transitional national aid

1. Member States applying the single area payment scheme in accordance with Article 36 may decide to grant transitional national aid in the period 2015-2020.

2. Transitional national aid may be granted to farmers in sectors in respect of which this aid or, in the case of Bulgaria and Romania, complementary national direct payments were granted in 2013.

3. The conditions for granting transitional national aid shall be identical to those authorised for the granting of payments pursuant to Article 132(7) or Article 133a of Regulation (EC) No 73/2009 in respect of 2013, with the exception of the reduction of the payments resulting from the application of Article 132(2) in conjunction with Articles 7 and 10 of that Regulation.

4. The total amount of transitional national aid that may be granted to farmers in any of the sectors referred to in paragraph 2 shall be limited to the following percentage of the sector-specific financial envelopes authorised by the Commission in accordance with Article 132(7) or Article 133a(5) of Regulation (EC) No 73/2009 in 2013:

— 75 % in 2015,

— 70 % in 2016,

— 65 % in 2017,

— 60 % in 2018,

— 55 % in 2019,

— 50 % in 2020.

For Cyprus, the percentage shall be calculated on the basis of the sector-specific financial envelopes set out in Annex XVIIa to Regulation (EC) No 73/2009.

5. Paragraphs 2 and 3 shall not apply to Cyprus.

6. Member States shall notify any decision referred to in paragraph 1 to the Commission by 31 March of each year. The notification shall include the following information:

(a) the sector-specific financial envelope;

(b) the maximum rate of transitional national aid, where appropriate.

7. Member States may decide, on the basis of objective criteria and within the limits set out in paragraph 4, on the amounts of transitional national aid to be granted.

Section 5

Implementation of the basic payment scheme in the member states having applied the single area payment scheme

Article 38

Introduction of the basic payment scheme in the Member States having applied the single area payment scheme

Save as otherwise provided for in this Section, this Title shall apply to the Member States having applied the single area payment scheme provided for in Section 4 of this Chapter.

Articles 24 to 29 shall not apply to those Member States.

Article 39

First allocation of payment entitlements

1. Payment entitlements shall be allocated to farmers who are entitled to be granted direct payments in accordance with Article 9 of this Regulation provided that:

(a) they apply for allocation of payment entitlements under the basic payment scheme by a final date for submission of applications to be set in accordance with point (b) of the first subparagraph of Article 78 of Regulation (EU) No 1306/2013 in the first year of implementation of the basic payment scheme, except in case of force majeure or exceptional circumstances; and

- (b) they were entitled to receive payments, before any reduction or exclusion provided for in Chapter 4 of Title II of Regulation (EC) No 73/2009, in respect of an aid application for direct payments, for transitional national aid or for complementary national direct payments in accordance with Regulation (EC) No 73/2009 for 2013.

Member States may allocate payment entitlements to farmers who are entitled to be granted direct payments in accordance with Article 9 of this Regulation, who fulfil the condition provided for in point (a) of the first subparagraph, who did not receive payments for 2013 in respect of an aid application referred to in point (b) of the first subparagraph of this paragraph and who, on the date fixed by the Member State concerned in accordance with Article 11(2) of Regulation (EC) No 1122/2009 for the claim year 2013, had only agricultural land that was not in good agricultural condition on the 30 June 2003, as provided for in Article 124(1) of Regulation (EC) No 73/2009.

2. Except in the case of force majeure or exceptional circumstances, the number of payment entitlements allocated per farmer in the first year of implementation of the basic payment scheme shall be equal to the number of eligible hectares which the farmer declares in his aid application in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 for the first year of implementation of the basic payment scheme and which are at his disposal on a date fixed by the Member State. That date shall be no later than the date fixed in that Member State for amending such aid application.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down further rules on the introduction of the basic payment scheme in Member States having applied the single area payment scheme.

4. The Commission shall adopt implementing acts laying down rules on applications for the allocation of payment entitlements submitted in the year of allocation of payment entitlements where those payment entitlements may not yet be definitively established and where that allocation is affected by specific circumstances.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

Article 40

Value of payment entitlements

1. In the first year of implementation of the basic payment scheme, Member States shall calculate the unit value of payment entitlements by dividing a fixed percentage of the national ceiling set out in Annex II for each relevant year by the

number of payment entitlements in the first year of implementation of the basic payment scheme, excluding those allocated from the national reserve or regional reserves.

The fixed percentage referred to in the first subparagraph shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for the first year of implementation of the basic payment scheme, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30 by the national ceiling set out in Annex II for the first year of implementation of the basic payment scheme. The payment entitlements shall be expressed in a number that corresponds to a number of hectares.

2. By way of derogation from the calculation method referred to in paragraph 1, Member States may decide to differentiate the value of payment entitlements in the first year of implementation of the basic payment scheme, excluding those allocated from the national reserve or regional reserves for each relevant year, on the basis of their initial unit value.

3. The initial unit value of payment entitlements referred to in paragraph 2 shall be set by dividing a fixed percentage of the total value of aid, excluding aid pursuant to Articles 41, 43, 48 and 50 and Title IV of this Regulation, received by a farmer in accordance with this Regulation for the calendar year preceding the implementation of the basic payment scheme, before the application of Article 63 of Regulation (EU) No 1306/2013, by the number of payment entitlements allocated to that farmer in the first year of implementation of the basic payment scheme, excluding those allocated from the national reserve or regional reserves.

That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for the first year of implementation of the basic payment scheme, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30, by the total value of aid, excluding aid pursuant to Articles 41, 43, 48 and 50 and Title IV of this Regulation, granted for the calendar year preceding the implementation of the basic payment scheme within the Member State or region concerned, before the application of Article 63 of Regulation (EU) No 1306/2013.

4. When applying paragraph 2, Member States, acting in compliance with the general principles of Union law, shall move towards approximating the value of the payment entitlements at national or regional level. To this end, Member States shall fix the steps to be taken and the method of calculation to be used and shall notify them to the Commission by 1 August of the year preceding the implementation of the basic payment scheme. Those steps shall include annual progressive modifications of the initial value of payment entitlements referred to in paragraph 3 in accordance with objective and non-discriminatory criteria, starting from the first year of implementation of the basic payment scheme.

In the first year of implementation of the basic payment scheme, Member States shall inform the farmers of the value of their entitlements, calculated in accordance with this Article, for each year of the period covered by this Regulation.

5. For the purposes of paragraph 3, a Member State may, on the basis of objective criteria, provide that, in cases of sale or grant or expiry of all or part of a lease of agricultural areas after the date fixed pursuant to Article 36(5) and before the date fixed pursuant to Article 33(1), the increase, or a part thereof, in the value of payment entitlements that would be allocated to the farmer concerned is to revert to the national reserve or regional reserves where the increase would lead to a windfall profit for the farmer concerned.

Those objective criteria shall be established in such a way as to ensure the equal treatment of farmers and to avoid distortions of the market and of competition and shall include, at least, the following:

- (a) a minimum duration for the lease;
- (b) the proportion of the payment received which is to revert to the national reserve or regional reserves.

CHAPTER 2

Redistributive payment

Article 41

General rules

1. Member States may decide by 1 August of any given year to grant, from the following year, an annual payment to farmers who are entitled to a payment under the basic payment scheme referred to in Sections 1, 2, 3 and 5 of Chapter 1 or under the single area payment scheme referred to in Section 4 of Chapter 1 ("the redistributive payment").

Member States shall notify the Commission of any such decision by the date referred to in the first subparagraph.

2. Member States which have decided to apply the basic payment scheme at regional level in accordance with Article 23 may apply the redistributive payment at regional level.

3. Without prejudice to the application of financial discipline, of reduction of payments in accordance with Article 11, of linear reductions as referred in Article 7 of this Regulation, and to the application of Article 63 of Regulation (EU) No 1306/2013, the redistributive payment shall be granted annually upon activation of payment entitlements by the farmer, or, in Member States applying Article 36 of this Regulation, upon declaration of eligible hectares by the farmer.

4. The redistributive payment shall be calculated each year by Member States by multiplying a figure to be set by the Member State, which shall not be higher than 65 % of the national or regional average payment per hectare, by the number of payment entitlements activated by the farmer in accordance with Article 33(1) or by the number of eligible hectares declared by the farmer in accordance with Article 36(2). The number of such payment entitlements or hectares shall not exceed a maximum to be set by Member States which shall not be higher than 30 hectares or the average size of agricultural holdings set out in Annex VIII if that average size exceeds 30 hectares in the Member State concerned.

5. Provided that the maximum limits set out in paragraph 4 are respected, Member States may, at national level, establish a graduation in the number of hectares set in accordance with that paragraph, which shall apply identically to all farmers.

6. The national average payment per hectare referred to in paragraph 4 of this Article shall be established by the Member States on the basis of the national ceiling set out in Annex II for calendar year 2019 and the number of eligible hectares declared in accordance with Article 33(1) or Article 36(2) in 2015.

The regional average payment per hectare referred to in paragraph 4 of this Article shall be established by the Member States by using a share of the national ceiling set out in Annex II for calendar year 2019 and the number of eligible hectares declared in the region concerned in accordance with Article 33(1) in 2015. For each region, this share shall be calculated by dividing the respective regional ceiling set in accordance with Article 23(2) by the national ceiling set in accordance with Article 22(1), after applying the linear reduction provided for in paragraph 1 of Article 30 where paragraph 2 of that Article is not applied.

7. Member States shall ensure that no advantage provided for under this Chapter is granted to farmers in respect of whom it is established that, after 18 October 2011, they divided their holding with the sole purpose of benefiting from the redistributive payment. This shall also apply to farmers whose holdings result from that division.

8. In the case of a legal person, or a group of natural or legal persons, Member States may apply the maximum number of payment entitlements or hectares referred to in paragraph 4 at the level of the members of those legal persons or groups where national law provides for the individual members to assume rights and obligations comparable to those of individual farmers who have the status of a head of holding, in particular as regards their economic, social and tax status, provided that they have contributed to strengthening the agricultural structures of the legal persons or groups concerned.

Article 42

Financial provisions

1. In order to finance the redistributive payment, Member States may decide, by the date referred to in Article 41(1), to use up to 30 % of the annual national ceiling set out in Annex II. They shall notify the Commission of any such decision by that date.

2. On the basis of the percentage of the national ceiling to be used by Member States pursuant to paragraph 1 of this Article, the Commission shall adopt implementing acts fixing the corresponding ceilings for the redistributive payment on a yearly basis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

CHAPTER 3

Payment for agricultural practices beneficial for the climate and the environment

Article 43

General rules

1. Farmers entitled to a payment under the basic payment scheme or the single area payment scheme shall observe, on all their eligible hectares within the meaning of Article 32(2) to (5), the agricultural practices beneficial for the climate and the environment referred to in paragraph 2 of this Article or the equivalent practices referred to in paragraph 3 of this Article.

2. The agricultural practices beneficial for the climate and the environment shall be the following:

- (a) crop diversification;
- (b) maintaining existing permanent grassland; and
- (c) having ecological focus area on the agricultural area.

3. The equivalent practices shall be those which include similar practices that yield an equivalent or higher level of benefit for the climate and the environment compared to one or several of the practices referred to in paragraph 2. Those equivalent practices and the practice or practices referred to in paragraph 2 to which they are equivalent are listed in Annex IX and shall be covered by any of the following:

- (a) commitments undertaken in accordance with either Article 39(2) of Regulation (EC) No 1698/2005 or Article 28(2) of Regulation (EU) No 1305/2013;
- (b) national or regional environmental certification schemes, including those for the certification of compliance with national environmental legislation, going beyond the relevant mandatory standards established pursuant to

Chapter I of Title VI of Regulation (EU) No 1306/2013, which aim to meet objectives relating to soil and water quality, biodiversity, landscape preservation, and climate change mitigation and adaptation. Those certification schemes may include the practices listed in Annex IX to this Regulation, the practices referred to in paragraph 2 of this Article, or a combination of those practices.

4. The equivalent practices referred to in paragraph 3 shall not be the subject of double funding.

5. Member States may decide, including, where appropriate, at regional level, to restrict the choice of the farmers to use the options referred to in points (a) and (b) of paragraph 3.

6. Member States may decide, including, where appropriate, at regional level, that farmers shall carry out all of their relevant obligations under paragraph 1 in accordance with national or regional environmental certification schemes referred to in point (b) of paragraph 3.

7. Subject to the decisions of Member States referred to in paragraphs 5 and 6, a farmer may observe one or more of the practices referred to in point (a) of paragraph 3 only if these fully replace the related practice or practices referred to in paragraph 2. A farmer may use certification schemes referred to in point (b) of paragraph 3 only if these cover the entire obligation referred to in paragraph 1.

8. Member States shall notify the Commission of their decisions referred to in paragraphs 5 and 6 and of the specific commitments or certification schemes which they intend to apply as equivalent practices within the meaning of paragraph 3.

The Commission shall assess whether the practices included in the specific commitments or certification schemes are covered by the list in Annex IX, and if it considers this not to be the case, notify Member States accordingly by means of implementing acts adopted without applying the procedure referred to in Article 71(2) or (3). Where the Commission notifies a Member State that those practices are not covered by the list in Annex IX, that Member State shall not recognise as equivalent practices within the meaning of paragraph 3 of this Article the specific commitments or certification schemes covered by the Commission notification.

9. Without prejudice to paragraphs 10 and 11 of this Article, to the application of financial discipline and of linear reductions in accordance with Article 7 of this Regulation and to the application of Article 63 of Regulation (EU) No 1306/2013, Member States shall grant the payment referred to in this Chapter to farmers who observe the practices referred to in paragraph 1 of this Article that are relevant for them, and to the extent that those farmers comply with Articles 44, 45 and 46 of this Regulation.

This payment shall take the form of an annual payment per eligible hectare declared in accordance with Article 33(1) or Article 36(2), the amount of which shall be calculated annually by dividing the amount resulting from the application of Article 47 by the total number of eligible hectares declared in accordance with Article 33(1) or Article 36(2) in the Member State or the region concerned.

By way of derogation from the second subparagraph, Member States deciding to apply Article 25(2) may decide to grant the payment referred to in this paragraph as a percentage of the total value of the payment entitlements that the farmer has activated in accordance with Article 33(1) for each relevant year.

For each year and each Member State or region, that percentage shall be calculated by dividing the amount resulting from the application of Article 47 by the total value of all payment entitlements activated in accordance with Article 33(1) in that Member State or region.

10. Farmers whose holdings are fully or partly situated in areas covered by Directives 92/43/EEC, 2000/60/EC, or 2009/147/EC shall be entitled to the payment referred to in this Chapter provided that they observe the practices referred to in this Chapter to the extent that those practices are compatible in the holding concerned with the objectives of those Directives.

11. Farmers complying with the requirements laid down in Article 29(1) of Regulation (EC) No 834/2007 as regards organic farming shall be entitled ipso facto to the payment referred to in this Chapter.

The first subparagraph shall apply only to the units of a holding that are used for organic production in accordance with Article 11 of Regulation (EC) No 834/2007.

12. The Commission shall be empowered to adopt delegated acts in accordance with Article 70:

- (a) adding equivalent practices to the list set out in Annex IX;
- (b) establishing appropriate requirements applicable to the national or regional certification schemes referred to in point (b) of paragraph 3 of this Article, including the level of assurance to be provided by those schemes;
- (c) establishing detailed rules for the calculation of the amount referred to in Article 28(6) of Regulation (EU) No 1305/2013 for the practices referred to in points 3 and 4 of Section I and point 7 of Section III of Annex IX to this Regulation, and any further equivalent practices added to that Annex pursuant to point (a) of this paragraph for which a specific calculation is needed in order to avoid double funding.

13. The Commission shall adopt implementing acts establishing rules on the procedure for the notifications, including on timetables for their submission, and the Commission assessment referred to in paragraph 8. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

Article 44

Crop diversification

1. Where the arable land of the farmer covers between 10 and 30 hectares and is not entirely cultivated with crops under water for a significant part of the year or for a significant part of the crop cycle, there shall be at least two different crops on that arable land. The main crop shall not cover more than 75 % of that arable land.

Where the arable land of the farmer covers more than 30 hectares and is not entirely cultivated with crops under water for a significant part of the year or for a significant part of the crop cycle, there shall be at least three different crops on that arable land. The main crop shall not cover more than 75 % of that arable land and the two main crops together shall not cover more than 95 % of that arable land.

2. Without prejudice to the number of crops required pursuant to paragraph 1, the maximum thresholds set out therein shall not apply to holdings where grasses or other herbaceous forage or land lying fallow cover more than 75 % of the arable land. In such cases, the main crop on the remaining arable area shall not cover more than 75 % of that remaining arable land, except where this remaining area is covered by grasses or other herbaceous forage or land lying fallow.

3. Paragraphs 1 and 2 shall not apply to holdings:

- (a) where more than 75 % of the arable land is used for the production of grasses or other herbaceous forage, is land lying fallow, or is subject to a combination of these uses, provided that the arable area not covered by these uses does not exceed 30 hectares;
- (b) where more than 75 % of the eligible agricultural area is permanent grassland, is used for the production of grasses or other herbaceous forage or for the cultivation of crops under water for a significant part of the year or for a significant part of the crop cycle, or is subject to a combination of these uses, provided that the arable area not covered by these uses does not exceed 30 hectares;
- (c) where more than 50 % of the areas of arable land declared were not declared by the farmer in his aid application of the previous year and, where based on a comparison of the geo-spatial aid applications, all arable land is being cultivated with a different crop compared to that of the previous calendar year;

(d) that are situated in areas north of 62nd parallel or certain adjacent areas. Where the arable land of such holdings covers more than 10 hectares, there shall be at least two crops on the arable land, and none of these crops shall cover more than 75 % of the arable land, unless the main crop is grasses or other herbaceous forage, or land lying fallow.

4. For the purposes of this Article, a "crop" means any of the following:

- (a) a culture of any of the different genera defined in the botanical classification of crops;
- (b) a culture of any of the species in the case of *Brassicaceae*, *Solanaceae*, and *Cucurbitaceae*;
- (c) land lying fallow;
- (d) grasses or other herbaceous forage.

Winter crop and spring crop shall be considered to be distinct crops even if they belong to the same genus.

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 70:

- (a) recognising other types of genera and species than those referred to in paragraph 4 of this Article; and
- (b) laying down the rules concerning the application of the precise calculation of shares of different crops.

Article 45

Permanent grassland

1. Member States shall designate permanent grasslands which are environmentally sensitive in areas covered by Directives 92/43/EEC or 2009/147/EC, including in peat and wetlands situated in these areas, and which need strict protection in order to meet the objectives of those Directives.

Member States may, in order to ensure the protection of environmentally valuable permanent grasslands, decide to designate further sensitive areas situated outside areas covered by Directives 92/43/EEC or 2009/147/EC, including permanent grasslands on carbon-rich soils.

Farmers shall not convert or plough permanent grassland situated in areas designated by Member States under the first subparagraph and, where applicable, the second subparagraph.

2. Member States shall ensure that the ratio of areas of permanent grassland to the total agricultural area declared by the farmers in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 does not decrease by more than 5 % compared to a reference ratio to be established by Member States in 2015 by dividing areas of permanent grassland

referred to in point (a) of the second subparagraph of this paragraph by the total agricultural area referred to in point (b) of that subparagraph.

For the purposes of establishing the reference ratio referred to in the first subparagraph:

- (a) "areas of permanent grassland" means the land under permanent pasture declared in 2012, or 2013 in the case of Croatia, in accordance with Regulation (EC) No 73/2009 by the farmers subject to the obligations under this Chapter, as well as the areas of permanent grassland declared in 2015 in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 by the farmers subject to the obligations under this Chapter that have not been declared as land under permanent pasture in 2012 or, in the case of Croatia, 2013;
- (b) "total agricultural area" means the agricultural area declared in 2015 in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 by farmers subject to the obligations under this Chapter.

The reference ratio of permanent grassland shall be recalculated in cases where farmers subject to the obligations under this Chapter have an obligation to reconvert an area into permanent grassland in 2015 or in 2016 in accordance with Article 93 of Regulation (EU) No 1306/2013. In such cases, these areas shall be added to the areas of permanent grassland referred to in point (a) of the second subparagraph of this paragraph.

The ratio of permanent grassland shall be established each year on the basis of the areas declared by the farmers subject to the obligations under this Chapter for that year in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013.

The obligation under this paragraph shall apply at national, regional or the appropriate sub-regional level. Member States may decide to apply an obligation to maintain permanent grassland at holding level in order to ensure that the ratio of permanent grassland does not decrease by more than 5 %. Member States shall notify the Commission of any such decision by 1 August 2014.

Member States shall notify the reference ratio and the ratio referred to in this paragraph to the Commission.

3. Where it is established that the ratio referred to in paragraph 2 has decreased by more than 5 % at regional or sub-regional level or, where applicable, at national level, the Member State concerned shall impose obligations at holding level to reconvert land into permanent grassland for those farmers who have land at their disposal which was converted from land under permanent pasture or from permanent grassland into land for other uses during a period in the past.

However, where the amount of areas of permanent grassland in absolute terms established in accordance with point (a) of the second subparagraph of paragraph 2 is maintained within certain limits, the obligation set out in the first subparagraph of paragraph 2 shall be considered to have been complied with.

4. Paragraph 3 shall not apply where the decrease below the threshold is the result of afforestation that is compatible with the environment and does not include plantations of short rotation coppice, Christmas trees or fast growing trees for energy production.

5. In order to ensure that the ratio of permanent grassland is maintained, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down detailed rules on maintenance of permanent grassland, including rules on reconversion in the case of non-respect of the obligation in paragraph 1 of this Article, rules applying to Member States for setting up obligations at holding level for maintaining permanent grassland as referred to in paragraphs 2 and 3 and any adjustment of the reference ratio referred to in paragraph 2 that may become necessary.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 70:

- (a) laying down the framework for the designation of further sensitive areas referred to in the second subparagraph of paragraph 1 of this Article;
- (b) establishing detailed methods for the determination of the ratio of permanent grassland and of the total agricultural area that has to be maintained pursuant to paragraph 2 of this Article;
- (c) defining the period in the past referred to in the first subparagraph of paragraph 3 of this Article.

7. The Commission shall adopt implementing acts fixing the limits referred to in the second subparagraph of paragraph 3 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

Article 46

Ecological focus area

1. Where the arable land of a holding covers more than 15 hectares, the farmer shall ensure that, from 1 January 2015, an area corresponding to at least 5 % of the arable land of the holding that the farmer declared in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 and, if they are considered to be ecological focus area by the Member State in accordance with paragraph 2 of this Article, including the areas mentioned in points (c), (d), (g) and (h) of that paragraph is ecological focus area.

The percentage referred to in the first subparagraph of this paragraph shall be increased from 5 % to 7 % subject to a legislative act of the European Parliament and of the Council in accordance with Article 43(2) TFEU.

By 31 March 2017, the Commission shall present an evaluation report on the implementation of the first subparagraph of this paragraph accompanied, where appropriate, by a proposal for a legislative act as referred to in the second subparagraph.

2. By 1 August 2014, Member States shall decide that one or more of the following are to be considered to be ecological focus area:

- (a) land lying fallow;
- (b) terraces;
- (c) landscape features, including such features adjacent to the arable land of the holding which, by way of derogation from Article 43(1) of this Regulation, may include landscape features that are not included in the eligible area in accordance with point (c) of Article 76(2) of Regulation (EU) No 1306/2013;
- (d) buffer strips, including buffer strips covered by permanent grassland, provided that these are distinct from adjacent eligible agricultural area;
- (e) hectares of agro-forestry that receive, or have received, support under Article 44 of Regulation (EC) No 1698/2005 and/or Article 23 of Regulation (EU) No 1305/2013;
- (f) strips of eligible hectares along forest edges;
- (g) areas with short rotation coppice with no use of mineral fertiliser and/or plant protection products;
- (h) afforested areas referred to in point (b)(ii) of Article 32(2) of this Regulation;
- (i) areas with catch crops, or green cover established by the planting and germination of seeds, subject to the application of weighting factors referred to in paragraph 3 of this Article;
- (j) areas with nitrogen-fixing crops.

With the exception of the areas of the holding referred to in points (g) and (h) of the first subparagraph of this paragraph, the ecological focus area shall be located on the arable land of the holding. In the case of areas mentioned in points (c) and (d) of the first subparagraph of this paragraph, the ecological focus area may also be adjacent to the arable land of the holding the farmer declared in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013.

3. In order to simplify administration and to take account of the characteristics of the types of ecological focus area listed in the first subparagraph of paragraph 2, as well as to facilitate their measurement, Member States may, when calculating the total hectares represented by the ecological focus area of the holding, make use of the conversion and/or weighting factors set out in Annex X. If a Member State decides to consider to be ecological focus area the area under point (i) of the first subparagraph of paragraph 2 or any other area that is subject to a weighting of less than 1, the use of the weighting factors set out in Annex X shall be mandatory.

4. Paragraph 1 shall not apply to holdings:

(a) where more than 75 % of the arable land is used for the production of grasses or other herbaceous forage, is land lying fallow, is used for cultivation of leguminous crops, or is subject to a combination of those uses, provided that the arable area not covered by those uses does not exceed 30 hectares;

(b) where more than 75 % of the eligible agricultural area is permanent grassland, is used for the production of grasses or other herbaceous forage or for the cultivation of crops under water either for a significant part of the year or for a significant part of the crop cycle, or is subject to a combination of those uses, provided that the arable area not covered by these uses does not exceed 30 hectares.

5. Member States may decide to implement up to half of the percentage points of the ecological focus area referred to in paragraph 1 at regional level in order to obtain adjacent ecological focus areas. Member States shall designate the areas and the obligations of participating farmers or groups of farmers. The aim of the designation of areas and obligations shall be to underpin the implementation of Union policies on the environment, climate and biodiversity.

6. Member States may decide to allow farmers whose holdings are in close proximity to fulfil the obligation referred to in paragraph 1 collectively ("collective implementation"), provided that the ecological focus areas concerned are contiguous. In order to underpin the implementation of Union policies on the environment, climate and biodiversity, Member States may designate the areas on which collective implementation is possible and may impose further obligations upon farmers or groups of farmers participating in such collective implementation.

Each farmer participating in collective implementation shall ensure that at least 50 % of the area subject to the obligation in paragraph 1 is located on the land of his holding and is in accordance with the second subparagraph of paragraph 2. The number of farmers participating in such collective implementation shall not exceed ten.

7. Member States with more than 50 % of their total land surface area covered by forest may decide that paragraph 1 of this Article shall not apply to holdings situated in areas

designated by those Member States as areas facing natural constraints in accordance with point (a) or (b) of Article 32(1) of Regulation (EU) No 1305/2013, provided that more than 50 % of the land surface area of the unit referred to in the second subparagraph of this paragraph is covered by forest and the ratio of forest land to agricultural land is higher than 3:1.

The area covered by forest and the ratio of forest land to agricultural land shall be assessed on an area level equivalent to the LAU2 level or on the level of another clearly delineated unit which covers a single clear contiguous geographical area having similar agricultural conditions.

8. Member States shall notify the Commission of the decisions referred to in paragraph 2 by 1 August 2014, and of any decisions referred to in paragraphs 3, 5, 6 or 7 by 1 August of the year preceding their application.

9. The Commission shall be empowered to adopt delegated acts in accordance with Article 70:

(a) laying down further criteria for the types of areas referred to in paragraph 2 of this Article to qualify as ecological focus area;

(b) adding other types of areas than those referred to in paragraph 2 that can be taken into account for the purpose of respecting the percentage referred to in paragraph 1;

(c) adapting Annex X in order to establish the conversion and weighting factors referred to in paragraph 3 and in order to take into account the criteria and/or types of areas to be defined by the Commission under points (a) and (b) of this paragraph;

(d) setting rules for the implementation referred to in paragraphs 5 and 6, including the minimum requirements on such implementation;

(e) establishing the framework within which Member States are to define the criteria to be met by holdings in order to be considered to be in close proximity for the purposes of paragraph 6;

(f) establishing the methods for determination of the percentage of total land surface area covered by forest and the ratio of forest land to agricultural land referred to in paragraph 7.

Article 47

Financial provisions

1. In order to finance the payment referred to in this Chapter, Member States shall use 30 % of the annual national ceiling set out in Annex II.

2. Member States shall apply the payment referred to in this Chapter at national level.

Member States applying Article 23 may decide to apply the payment at regional level. In such cases, they shall use in each region a share of the ceiling set pursuant to paragraph 3 of this Article. For each region, this share shall be calculated by dividing the respective regional ceiling set in accordance with Article 23(2) by the national ceiling set in accordance with Article 22(1), after applying the linear reduction provided for in paragraph 1 of Article 30 where paragraph 2 of that Article is not applied.

3. The Commission shall adopt implementing acts fixing the corresponding ceilings for the payment referred to in this Chapter on a yearly basis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

CHAPTER 4

Payment for areas with natural constraints

Article 48

General rules

1. Member States may grant a payment to farmers who are entitled to a payment under the basic payment scheme or the single area payment scheme referred to in Chapter 1 and whose holdings are fully or partly situated in areas with natural constraints designated by Member States in accordance with Article 32(1) of Regulation (EU) No 1305/2013 ("payment for areas with natural constraints").

2. Member States may decide to grant the payment for areas with natural constraints to all areas falling within the scope of paragraph 1, or to restrict the payment to some of those areas on the basis of objective and non-discriminatory criteria.

3. Without prejudice to paragraph 2 of this Article, to the application of financial discipline, of reduction of payments in accordance with Article 11 and of linear reduction in accordance with Article 7 of this Regulation, and to the application of Article 63 of Regulation (EU) No 1306/2013, the payment for areas with natural constraints shall be granted annually per eligible hectare situated in the areas for which a Member State has decided to grant a payment in accordance with paragraph 2 of this Article. It shall be paid upon activation of payment entitlements in respect of those hectares held by the farmer concerned or, in Member States applying Article 36 of this Regulation, upon declaration of those eligible hectares by the farmer concerned.

4. The payment for areas with natural constraints, per hectare, shall be calculated by dividing the amount resulting from the application of Article 49 by the number of eligible hectares declared in accordance with Article 33(1) or Article 36(2) which are situated in the areas for which a Member State has decided to grant a payment in accordance with paragraph 2 of this Article.

Member States may, on the basis of objective and non-discriminatory criteria, also set a maximum number of hectares per holding for which support under this Chapter can be granted.

5. Member States may apply the payment for areas with natural constraints at regional level under the conditions laid down in this paragraph provided that they identified the regions concerned in accordance with objective and non-discriminatory criteria and, in particular, their natural constraint characteristics, including the severity of the constraints, and their agronomic conditions.

Member States shall divide the national ceiling referred to in Article 49(1) between the regions in accordance with objective and non-discriminatory criteria.

The payment for areas with natural constraints at regional level shall be calculated by dividing the regional ceiling calculated in accordance with the second subparagraph of this paragraph by the number of eligible hectares declared in the respective region in accordance with Article 33(1) or Article 36(2) which are situated in the areas for which a Member State has decided to grant a payment in accordance with paragraph 2 of this Article.

Article 49

Financial provisions

1. In order to finance the payment for areas with natural constraints, Member States may decide, by 1 August 2014, to use up to 5 % of their annual national ceiling set out in Annex II. They shall notify the Commission of any such decision by that date.

Member States may, by 1 August 2016, review their decision and amend it with effect from 1 January 2017. They shall notify the Commission of any such decision by 1 August 2016.

2. On the basis of the percentage of the national ceiling to be used by Member States pursuant to paragraph 1, the Commission shall adopt implementing acts fixing the corresponding ceilings for the payment for areas with natural constraints on a yearly basis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

CHAPTER 5

Payment for young farmers

Article 50

General rules

1. Member States shall grant an annual payment to young farmers who are entitled to a payment under the basic payment scheme or the single area payment scheme referred to in Chapter 1 ("payment for young farmers").

2. For the purposes of this Chapter, 'young farmers', means natural persons:

- (a) who are setting up for the first time an agricultural holding as head of the holding, or who have already set up such a holding during the five years preceding the first submission of an application under the basic payment scheme or the single area payment scheme referred to in Article 72(1) of Regulation (EU) No 1306/2013; and
- (b) who are no more than 40 years of age in the year of submission of the application referred to in point (a).

3. Member States may define further objective and non-discriminatory eligibility criteria for young farmers applying for the payment for young farmers as regards appropriate skills and/or training requirements.

4. Without prejudice to the application of financial discipline, of reduction of payments in accordance with Article 11 and of linear reductions in accordance with Article 7 of this Regulation, and to the application of Article 63 of Regulation (EU) No 1306/2013, the payment for young farmers shall be granted annually upon activation of payment entitlements by the farmer or, in Member States applying Article 36 of this Regulation, upon declaration of eligible hectares by the farmer.

5. The payment for young farmers shall be granted per farmer for a maximum period of five years. That period shall be reduced by the number of years elapsed between the setting up referred to in point (a) of paragraph 2 and the first submission of the application for the payment for young farmers.

6. Each year, Member States not applying Article 36 shall calculate the amount of the payment for young farmers by multiplying the number of entitlements the farmer has activated in accordance with Article 32(1) by a figure corresponding to:

- (a) 25 % of the average value of the owned or leased-in payment entitlements held by the farmer; or
- (b) 25 % of an amount calculated by dividing a fixed percentage of the national ceiling for the calendar year 2019 set out in Annex II by the number of all eligible hectares declared in 2015 in accordance with Article 33(1). That fixed percentage shall be equal to the share of the national ceiling remaining for the basic payment scheme in accordance with Article 22(1) for 2015.

7. Member States applying Article 36 shall each year calculate the amount of the payment for young farmers by multiplying a figure corresponding to 25 % of the single area

payment calculated in accordance with Article 36 by the number of eligible hectares that the farmer has declared in accordance with Article 36(2).

8. By way of derogation from the paragraphs 6 and 7, Member States may calculate each year the amount of the payment for young farmers by multiplying a figure corresponding to 25 % of the national average payment per hectare by the number of entitlements that the farmer has activated in accordance with Article 32(1), or by the number of eligible hectares that the farmer has declared in accordance with Article 36(2).

The national average payment per hectare shall be calculated by dividing the national ceiling for the calendar year 2019 set out in Annex II by the number of eligible hectares declared in 2015 in accordance with Article 33(1) or Article 36(2).

9. Member States shall set a single maximum limit applicable to the number of payment entitlements activated by the farmer or to the number of eligible hectares declared by the farmer. That limit shall not be below 25 or above 90. Member States shall respect that limit when applying paragraphs 6, 7 and 8.

10. Instead of applying paragraphs 6 to 9, Member States may allocate an annual lump sum amount per farmer calculated by multiplying a fixed number of hectares by a figure corresponding to 25 % of the national average payment per hectare, as established in accordance with paragraph 8.

The fixed number of hectares referred to in the first subparagraph of this paragraph shall be calculated by dividing the total number of eligible hectares declared pursuant to Article 33(1) or Article 36(2) by the young farmers applying for the payment for young farmers in 2015 by the total number of young farmers applying for that payment in 2015.

A Member State may recalculate the fixed number of hectares in any year after 2015 in the case of significant changes in the number of young farmers applying for the payment or in the size of the holdings of young farmers, or both.

The annual lump sum amount that a farmer may be granted shall not exceed the total amount of his basic payment before application of Article 63 of Regulation (EU) No 1306/2013 in the given year.

11. In order to guarantee the protection of the rights of beneficiaries and to avoid discrimination among them, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 concerning the conditions under which a legal person may be considered to be eligible to receive the payment for young farmers.

Article 51

Financial provisions

1. In order to finance the payment for young farmers, Member States shall use a percentage, which shall not be higher than 2 %, of the annual national ceiling set out in Annex II. The Member States shall notify the Commission, by 1 August 2014, of the estimated percentage necessary to finance that payment.

Member States may, by 1 August of each year, revise their estimated percentage with effect from the subsequent year. They shall notify the Commission of the revised percentage by 1 August of the year preceding its application.

2. Without prejudice to the maximum of 2 % laid down in paragraph 1 of this Article, where the total amount of the payment for young farmers applied for in a Member State in a particular year exceeds the ceiling set pursuant to paragraph 4 of this Article, and where that ceiling is lower than that maximum, that Member State shall finance the difference by applying point (f) of the first subparagraph of Article 30(7) in the relevant year, by applying a linear reduction to all payments to be granted to all farmers in accordance with Article 32 or Article 36(2), or by both means.

3. Where the total amount of the payment for young farmers applied for in a Member State in a particular year exceeds the ceiling set pursuant to paragraph 4 of this Article, and where that ceiling amount to 2 % of the annual national ceiling set out in Annex II, Member States shall apply a linear reduction to the amounts to be paid pursuant to Article 50 in order to comply with that ceiling.

4. On the basis of the percentage notified by Member States pursuant to paragraph 1 of this Article, the Commission shall adopt implementing acts fixing the corresponding ceilings for the payment for young farmers on a yearly basis.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

TITLE IV

COUPLED SUPPORT

CHAPTER 1

Voluntary coupled support

Article 52

General rules

1. Member States may grant coupled support to farmers under the conditions laid down in this Chapter (in this Chapter referred to as "coupled support").

2. Coupled support may be granted to the following sectors and productions: cereals, oilseeds, protein crops, grain legumes, flax, hemp, rice, nuts, starch potato, milk and milk products, seeds, sheepmeat and goatmeat, beef and veal, olive oil, silk-worms, dried fodder, hops, sugar beet, cane and chicory, fruit and vegetables and short rotation coppice.

3. Coupled support may only be granted to those sectors or to those regions of a Member State where specific types of farming or specific agricultural sectors that are particularly important for economic, social or environmental reasons undergo certain difficulties.

4. By way of derogation from paragraph 3, coupled support may also be granted to farmers who:

(a) on 31 December 2014, have payment entitlements granted in accordance with Section 2 of Chapter 3 of Title III and Article 71m of Regulation (EC) No 1782/2003 and in accordance with Article 60 and the fourth paragraph of Article 65 of Regulation (EC) No 73/2009; and

(b) have at their disposal no eligible hectares for the activation of payment entitlements under the basic payment scheme as referred to in Chapter 1 of Title III of this Regulation.

5. Coupled support may only be granted to the extent necessary to create an incentive to maintain current levels of production in the sectors or regions concerned.

6. Coupled support shall take the [△]form of an annual payment and shall be granted within defined quantitative limits and be based on fixed areas and yields or on a fixed number of animals.

7. In the case of a legal person, or a group of natural or legal persons, Member States may apply the limits referred to in paragraph 6 at the level of the members of those legal persons or groups where national law provides for the individual members to assume rights and obligations comparable to those of individual farmers who have the status of a head of holding, in particular as regards their economic, social and tax status, provided that they have contributed to strengthening the agricultural structures of the legal persons or groups concerned.

8. Any coupled support granted under this Article shall be consistent with other Union measures and policies.

9. In order to ensure efficient and targeted use of Union funds and to avoid double funding under other similar support instruments, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down:

(a) the conditions for granting coupled support;

- (b) rules on consistency with other Union measures and on the cumulation of support.

Article 53

Financial provisions

1. In order to finance the coupled support, Member States may, ~~by 1 August of the year preceding the first year of implementation of such support, decide to use up to 8 % of their annual national ceiling set out in Annex II.~~

2. By way of derogation from paragraph 1, Member States may decide to use up to 13 % of the annual national ceiling set out in Annex II, provided that:

(a) until 31 December 2014:

(i) they apply the single area payment scheme laid down in Title V of Regulation (EC) No 73/2009,

(ii) they finance measures under Article 111 of that Regulation, or

(iii) they are covered by the derogation provided for in Article 69(5) or, in the case of Malta, in Article 69(1) of that Regulation; and/or

(b) they allocate, in total, during at least one year in the period 2010-2014, more than 5 % of their amount available for granting the direct payments provided for in Title III, Title IV, with the exception of Section 6 of Chapter 1 thereof, and Title V of Regulation (EC) No 73/2009 for financing:

(i) the measures laid down in Section 2 of Chapter 2 of Title III of Regulation (EC) No 73/2009,

(ii) the support provided for in subpoints (i) to (iv) of point (a) and in points (b) and (c) of Article 68(1) of that Regulation, or

(iii) the measures under Chapter 1, with the exception of Section 6 of Title IV of that Regulation.

3. The percentages of the annual national ceiling referred to in paragraphs 1 and 2 may be increased by up to two percentage points for those Member States which decide to use at least 2 % of their annual national ceiling set out in Annex II to support the production of protein crops under this Chapter.

4. By way of derogation from paragraphs 1 and 2, Member States allocating, in total, during at least one year in the period 2010-2014, more than 10 % of their amount available for granting the direct payments provided for in Title III, Title IV, with the exception of Section 6 of Chapter 1 thereof, and Title V of Regulation (EC) No 73/2009 for financing:

(a) the measures laid down in Section 2 of Chapter 2 of Title III of Regulation (EC) No 73/2009;

(b) the support provided for in subpoints (i) to (iv) of point (a) and in points (b) and (c) of Article 68(1) of that Regulation; or

(c) the measures under Chapter 1, with the exception of Section 6, of Title IV of that Regulation

may decide to use more than 13 % of the annual national ceiling set out in Annex II to this Regulation, upon approval by the Commission in accordance with Article 55 of this Regulation.

5. By way of derogation from the percentages set out in paragraphs 1 to 4, Member States may choose to use up to EUR 3 million per year for financing coupled support.

6. Member States may, by 1 August 2016, review their decision pursuant to paragraphs 1 to 4 and decide, with effect from 2017:

(a) to leave unchanged, increase or decrease the percentage fixed pursuant to paragraphs 1, 2 and 3, within the limits laid down therein where applicable, or to leave unchanged or decrease the percentage fixed pursuant to paragraph 4;

(b) to modify the conditions for granting the support;

(c) to cease granting the support under this Chapter.

7. On the basis of the decision taken by each Member State pursuant to paragraphs 1 to 6 of this Article, the Commission shall adopt implementing acts fixing the corresponding ceilings for coupled support on a yearly basis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

Article 54

Notification

1. Member States shall notify the Commission of the decisions referred to in Article 53 by the dates referred to in that Article. Except for the decision referred to in point (c) of Article 53(6), the notification shall include information on the regions targeted, the selected types of farming or sectors, and the level of support to be granted.

2. The decisions referred to in Article 53(2) and (4), or, where appropriate, in point (a) of Article 53(6), shall include a detailed description of the particular situation in the region targeted and of the particular characteristics of the types of farming or specific agricultural sectors, which make the percentage referred to in Article 53(1) insufficient to address the difficulties referred to in Article 52(3) and which justify an increased level of support.

Article 55

Approval by the Commission

1. The Commission shall adopt implementing acts, without applying the procedure referred to in Article 71(2) or (3), approving the decision referred to in Article 53(4), or, where appropriate, in point (a) of Article 53(6), where one of the following needs in the sector or region concerned is demonstrated:

- (a) the need to sustain a certain level of specific production due to the lack of alternatives, and to reduce the risk of production abandonment with the resulting social and/or environmental problems;
- (b) the need to provide stable supply to the local processing industry, thereby avoiding the negative social and economic consequence of any ensuing restructuring;
- (c) the need to compensate disadvantages affecting farmers in a particular sector which are the consequence of continuing disturbances on the related market;
- (d) the need to intervene where the existence of any other support available under this Regulation, Regulation (EU) No 1305/2013 or any approved State aid scheme is deemed to be insufficient to meet the needs referred to in points (a), (b) and (c) of this paragraph.

2. The Commission shall adopt implementing acts laying down rules on the procedure for the assessment and approval of the decisions referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

CHAPTER 2

Crop-specific payment for cotton

Article 56

Scope

Aid shall be granted to farmers producing cotton falling within CN code 5201 00 under the conditions laid down in this Chapter ("crop-specific payment for cotton").

Article 57

Eligibility

1. The crop-specific payment for cotton shall be granted per hectare of eligible area of cotton. The area shall be eligible only if it is located on agricultural land authorised by the Member State for cotton production, sown with varieties authorised by the Member State and actually harvested under normal growing conditions.

The crop-specific payment for cotton shall be paid for cotton of sound, fair and marketable quality.

2. Member States shall authorise the land and the varieties referred to in paragraph 1 in accordance with the rules and conditions to be adopted pursuant to paragraph 3.

3. In order to ensure an efficient management of the crop-specific payment for cotton, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 concerning rules and conditions for the authorisation of land and varieties for the purposes of the crop-specific payment for cotton.

4. The Commission shall adopt implementing acts laying down rules on the procedure for the authorisation of land and varieties for the purposes of the crop-specific payment for cotton and on the notifications to the producers related to this authorisation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

Article 58

Base areas, fixed yields and reference amounts

1. The following national base areas are established:

- Bulgaria: 3 342 ha,
- Greece: 250 000 ha,
- Spain: 48 000 ha,
- Portugal: 360 ha.

2. The following fixed yields in the reference period are established:

- Bulgaria: 1,2 tonne/ha,
- Greece: 3,2 tonne/ha,
- Spain: 3,5 tonne/ha,
- Portugal: 2,2 tonne/ha.

3. The amount of the crop-specific payment per hectare of eligible area shall be calculated by multiplying the yields established in paragraph 2 with the following reference amounts:

- Bulgaria: EUR 584,88 in 2015; and EUR 649,45 for 2016 and onwards,
- Greece: EUR 234,18,
- Spain: EUR 362,15,
- Portugal: EUR 228,00.

4. If the eligible area of cotton in a given Member State and in a given year exceeds the base area established in paragraph 1, the amount referred to in paragraph 3 for that Member State shall be reduced proportionately to the overrun of the base area.

5. In order to make it possible to apply the crop-specific payment for cotton, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 concerning rules on the conditions for the granting of that payment, on the eligibility requirements and on agronomic practices.

6. The Commission may adopt implementing acts laying down rules on the calculation of the reduction provided for in paragraph 4. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

Article 59

Approved interbranch organisations

1. For the purpose of this Chapter, an 'approved interbranch organisation' means a legal entity made up of farmers producing cotton and at least one ginner, carrying out activities such as:

- (a) helping to better coordinate the way cotton is placed on the market, particularly through research studies and market surveys;
- (b) drawing up standard forms of contract compatible with Union rules;
- (c) orienting production towards products that are better adapted to market needs and consumer demand, particularly in terms of quality and consumer protection;
- (d) updating methods and means to improve product quality;
- (e) developing marketing strategies to promote cotton via quality certification schemes.

2. The Member State where the ginneries are established shall approve interbranch organisations that satisfy the criteria to be laid down pursuant to paragraph 3.

3. In order to ensure the efficient application of the crop-specific payment for cotton, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down:

- (a) criteria for the approval of interbranch organisations;
- (b) obligations for producers;
- (c) rules governing the situation where the approved interbranch organisation does not satisfy the criteria referred to in point (a).

Article 60

Granting of the payment

1. Farmers shall be granted the crop-specific payment for cotton per eligible hectare as established in Article 58.

2. In the case of farmers who are members of an approved interbranch organisation, the crop-specific payment for cotton per eligible hectare within the base area laid down in Article 58(1) shall be increased by an amount of EUR 2.

TITLE V

SMALL FARMERS SCHEME

Article 61

General rules

1. Member States may establish a scheme for small farmers in accordance with the conditions laid down in this Title ("small farmers scheme").

Farmers who, in 2015, hold owned or leased-in payment entitlements or, in Member States applying Article 36, claim for the single area payment scheme, and fulfil the minimum requirements provided for in Article 10(1) may opt to participate in the small farmers scheme.

2. Payments under the small farmers scheme shall replace the payments to be granted pursuant to Titles III and IV.

The first subparagraph shall not apply where a Member State opts for the payment method laid down in point (a) of the first subparagraph of Article 63(2). In that case, the payment shall be subject to the respective conditions laid down in Titles III and IV, without prejudice to paragraph 3 of this Article.

3. Farmers participating in the small farmers scheme shall be exempted from the agricultural practices provided for in Chapter 3 of Title III.

4. No advantage provided for under this Title shall be granted in favour of farmers in respect of whom it is established that they artificially created, after 18 October 2011, the conditions to benefit from the small farmers scheme.

Article 62

Participation

1. Farmers wishing to participate in the small farmers scheme shall submit an application by a date to be fixed by Member States which shall not be later than 15 October 2015. The date fixed by Member States cannot, however, be earlier than the last day for submitting an application under the basic payment scheme or the single area payment scheme.

Farmers who have not applied to participate in the small farmers scheme on the date fixed by the Member State, who decide to withdraw from it after that date or who have been selected for support under point (c) of Article 19(1) of Regulation (EU) No 1305/2013 shall no longer be entitled to participate in that scheme.

2. By way of derogation from paragraph 1, Member States may provide that farmers whose amount of direct payments under Titles III and IV is lower than the maximum amount fixed by the Member State in accordance with Article 63 are to be included in the small farmers scheme automatically, unless they expressly withdraw from it by the date fixed by the Member State in accordance with paragraph 1 or in any subsequent year. Member States making use of this possibility shall inform the relevant farmers in due time about their right to withdraw from the scheme.

3. Each Member State shall ensure that an estimate of the amount of the payment referred to in Article 63 is made known to farmers in due time before the date for submitting applications or for withdrawal fixed by that Member State.

Article 63

Amount of the payment

1. Member States shall set the amount of the annual payment for each farmer participating in the small farmers scheme at one of the following levels:

- (a) an amount not exceeding 25 % of the national average payment per beneficiary, which shall be established by the Member States on the basis of the national ceiling set out in Annex II for calendar year 2019 and the number of farmers who have declared eligible hectares, pursuant to Article 33(1) or Article 36(2), in 2015;
- (b) an amount corresponding to the national average payment per hectare multiplied by a figure corresponding to a number of hectares not exceeding five, to be set by the Member States. The national average payment per hectare shall be established by the Member States on the basis of the national ceiling set out in Annex II for calendar year 2019 and the number of eligible hectares declared in accordance with Article 33(1) or Article 36(2) in 2015.

The amount referred to in points (a) or (b) of the first subparagraph shall not be lower than EUR 500 and shall not be higher than EUR 1 250.

Where the application of points (a) and (b) of the first subparagraph results in an amount lower than EUR 500 or higher than EUR 1 250, the amount shall be rounded up or down, respectively, to that minimum or maximum amount.

2. By way of derogation from paragraph 1, a Member State may decide to grant participating farmers:

- (a) an amount equal to the total value of the payments to be allocated to the farmer each year under Titles III and IV; or
- (b) an amount equal to the total value of the payments to be allocated to the farmer in 2015 under Titles III and IV, that the Member State may adjust in subsequent years to proportionately take into account the changes in the national ceiling set out in Annex II.

The amount referred to in point (a) or (b) of the first subparagraph shall not be higher than an amount fixed by that Member State which shall be between EUR 500 and EUR 1 250.

Where the application of point (a) or (b) of the first subparagraph results in an amount lower than EUR 500, the Member State concerned may decide to round up this amount to EUR 500.

3. By way of derogation from paragraphs 1 and 2, in Cyprus, Croatia, Malta and Slovenia, the amount referred to in those paragraphs may be set at a value lower than EUR 500, but not less than EUR 200 or, in the case of Malta, not less than EUR 50.

Article 64

Special conditions

1. During the participation in the small farmers scheme, farmers shall:

- (a) keep at least a number of eligible hectares corresponding to the number of owned or leased-in payment entitlements held, or to the number of eligible hectares declared in 2015 in accordance with Article 36(2);
- (b) fulfil the minimum requirement provided for in point (b) of Article 10(1).

2. Payment entitlements activated in 2015 pursuant to Articles 32 and 33 by a farmer participating in the small farmers scheme shall be considered to be activated entitlements for the duration of the farmer's participation in that scheme.

The owned or leased-in payment entitlements held by the farmer during the participation in that scheme shall not be considered to be unused payment entitlements which are to revert to the national reserve or regional reserves in accordance with point (b) of Article 31(1).

In Member States applying Article 36, the eligible hectares declared in 2015 in accordance with Article 36(2) by a farmer participating in the small farmers scheme shall be considered to be declared for the duration of the participation of the farmer in that scheme.

3. By way of derogation from Article 34, payment entitlements held by farmers participating in the small farmers scheme shall not be transferable, except in the case of inheritance or anticipated inheritance.

Farmers who, by way of inheritance or anticipated inheritance, receive payment entitlements from a farmer participating in the small farmers scheme shall be eligible to participate in that scheme provided that they meet the requirements to benefit from the basic payment scheme and that they inherit all the payment entitlements held by the farmer from whom they receive the payment entitlements.

4. Where a Member State opts for the payment method laid down in point (a) of the first subparagraph of Article 63(2) without applying the third subparagraph of Article 63(2), paragraphs 1 and 2 as well as the first subparagraph of paragraph 3 of this Article shall not apply.

5. In order to ensure legal certainty, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 setting out the conditions for participation in the scheme where the situation of the participating farmer has changed.

Article 65

Financial provisions

1. In order to finance the payment referred to in this Title, Member States shall deduct from the total amounts available for the respective payments the amounts to which the small farmers would be entitled:

- (a) under the basic payment scheme or the single area payment scheme referred to in Chapter 1 of Title III;
- (b) as a redistributive payment referred to in Chapter 2 of Title III;
- (c) as a payment for agricultural practices beneficial for the climate and the environment referred to in Chapter 3 of Title III;
- (d) as a payment for areas with natural constraints referred to in Chapter 4 of Title III;
- (e) as a payment for young farmers referred to in Chapter 5 of Title III; and
- (f) as coupled support referred to in Title IV.

In the case of Member States having opted to calculate the amount of the payment pursuant to point (a) of the first subparagraph of Article 63(2), where the sum of those amounts for an individual farmer exceeds the maximum amount that they have fixed, each amount shall be proportionately reduced.

2. The difference between the sum of all payments due under the small farmers scheme and the total amount financed in accordance with paragraph 1 shall be financed in one or more of the following ways:

- (a) by applying Article 30(7) in the relevant year;
- (b) by using the funds for financing the payment for young farmers laid down in Chapter 5 of Title III which are left unused in the relevant year;
- (c) by applying a linear reduction to all payments to be granted in accordance with Articles 32 or 36.

3. Except where a Member State has opted to set the amount of the annual payment pursuant to point (a) of the first subparagraph of Article 63(2), the elements on the basis of which the amounts referred to in paragraph 1 of this Article are established shall remain the same for the entire duration of the participation of the farmer in the small farmers scheme.

4. If the total amount of payments due under the small farmers scheme exceeds 10 % of the annual national ceiling set out in Annex II, Member States shall apply a linear reduction to the amounts to be paid in accordance with this Title in order to respect that percentage, unless they have set the amount of the payment in accordance with point (a) of the first subparagraph of Article 63(2) without applying the third subparagraph of Article 63(2).

The same exception applies for Member States which have set the amount of the payment in accordance with point (b) of the first subparagraph of Article 63(2) without applying the third subparagraph of Article 63(2), whose national ceiling set out in Annex II for year 2019 is higher than for year 2015 and which apply the calculation method set out in Article 25(1) or in Article 36(2).

TITLE VI

NATIONAL RESTRUCTURING PROGRAMMES FOR THE COTTON SECTOR

Article 66

Use of the annual budget for the restructuring programmes

1. For Member States which have applied the first subparagraph of Article 4(1) of Regulation (EC) No 637/2008, the relevant annual budget available pursuant to Article 5(1) of that Regulation shall be transferred with effect from 1 January 2014 and shall constitute additional Union funds for measures under rural development programming financed under Regulation (EU) No 1305/2013.

2. For Member States which have applied the second subparagraph of Article 4(1) of Regulation (EC) No 637/2008, the relevant annual budget available pursuant to Article 5(1) of that Regulation shall be included with effect from 1 January 2017 in their national ceilings as set out in Annex II to this Regulation.

TITLE VII

FINAL PROVISIONS

CHAPTER 1

Notifications and emergency

Article 67

Notification requirements

1. In order to ensure the correct application of the rules set out in this Regulation, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 on the necessary measures regarding notifications to be made by Member States to the Commission for the purposes of this Regulation, for the purpose of checking, controlling, monitoring, evaluating and auditing direct payments or for the purpose of complying with requirements laid down in international agreements which have been concluded by a Council decision, including notification requirements under those agreements. In so doing, the Commission shall take into account the data needs and synergies between potential data sources.

Where appropriate, the information obtained may be transmitted or be made available to international organisations and the competent authorities of third countries and may be made public, subject to the protection of personal data and the legitimate interest of undertakings in the protection of their business secrets.

2. In order to make notifications referred to in paragraph 1 fast, efficient, accurate and cost-effective, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down further rules on:

- (a) the nature and type of the information to be notified;
- (b) the categories of data to be processed and maximum retention periods;
- (c) access rights to the information or information systems made available;
- (d) the conditions of publication of the information.

3. The Commission shall adopt implementing acts laying down:

- (a) the methods of notification;
- (b) rules on providing the information necessary for the application of this Article;
- (c) arrangements for the management of the information to be notified, as well as rules on content, form, timing, frequency and deadlines of the notifications;
- (d) arrangements for transmitting, or making information and documents available, to the Member States, international organisations, the competent authorities in third countries, or the public, subject to the protection of personal data and the legitimate interest of farmers and undertakings in the protection of their business secrets.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

Article 68

Processing and protection of personal data

1. Member States and the Commission shall collect personal data for the purposes set out in Article 67(1). They shall not process this data in a way that is incompatible with those purposes.

2. Where personal data are processed for monitoring and evaluation purposes as referred to in Article 67(1), they shall be made anonymous and processed in aggregated form only.

3. Personal data shall be processed in accordance with Directive 95/46/EC and Regulation (EC) No 45/2001. In particular, such data shall not be stored in a form which permits identification of data subjects for longer than is necessary for the purposes for which they were collected or for which they are further processed, taking into account the minimum retention periods laid down in the applicable national and Union law.

4. Member States shall inform the data subjects that their personal data may be processed by national and Union bodies in accordance with paragraph 1, and that in this respect they enjoy the rights set out in Directive 95/46/EC and Regulation (EC) No 45/2001, respectively.

5. This Article shall be subject to Articles 111 to 114 of Regulation (EU) No 1306/2013.

Article 69

Measures to resolve specific problems

1. In order to resolve specific problems, the Commission shall adopt implementing acts which are both necessary and justifiable in an emergency. Such implementing acts may derogate from provisions of this Regulation, to the extent and for such a period as is strictly necessary. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

2. Where duly justified imperative grounds of urgency so require, and in order to resolve such specific problems while ensuring the continuity of the direct payments system in the case of extraordinary circumstances, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 71(3).

3. Measures adopted under paragraph 1 or 2 shall remain in force for a period not exceeding twelve months. If after this period the specific problems referred to in those paragraphs persist, the Commission may, in order to establish a permanent solution, submit an appropriate legislative proposal.

4. The Commission shall inform the European Parliament and the Council of any measure adopted under paragraph 1 or 2 within two working days of its adoption.

CHAPTER 2

Delegations of powers and implementing provisions

Article 70

Exercise of the delegation

1. The power to adopt the delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 2, Article 4(3), Article 6(3), Article 7(3), Article 8(3), Article 9(5), Article 20(6), Article 35, Article 36(6), Article 39(3), Article 43(12), Article 44(5), Article 45(5) and (6), Article 46(9), Article 50(11), Article 52(9), Article 57(3), Article 58(5), Article 59(3), Article 64(5), Article 67(1) and (2) and Article 73 shall be conferred on the Commission for a period of seven years from 1 January 2014. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 2, Article 4(3), Article 6(3), Article 7(3), Article 8(3), Article 9(5), Article 20(6), Article 35, Article 36(6), Article 39(3), Article 43(12), Article 44(5), Article 45(5) and (6), Article 46(9), Article 50(11), Article 52(9), Article 57(3), Article 58(5), Article 59(3), Article 64(5), Article 67(1) and (2) and Article 73 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 2, Article 4(3), Article 6(3), Article 7(3), Article 8(3), Article 9(5), Article 20(6), Article 35, Article 36(6), Article 39(3), Article 43(12), Article 44(5), Article 45(5) and (6), Article 46(9), Article 50(11), Article 52(9), Article 57(3), Article 58(5), Article 59(3), Article 64(5), Article 67(1) and (2) and Article 73 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 71

Committee procedure

1. The Commission shall be assisted by a Committee called the "Committee for Direct Payments". That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

In the case of acts referred to in Article 24(11), Article 31(2) and Article 67(3), where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

CHAPTER 3

Transitional and final provisions

Article 72

Repeals

1. Regulation (EC) No 637/2008 is repealed with effect from 1 January 2014.

However, it shall continue to apply until 31 December 2017 in respect of Member States which have exercised the option laid down in the second subparagraph of Article 4(1) of that Regulation.

2. Regulation (EC) No 73/2009 is repealed.

Without prejudice to paragraph 3, references to the repealed Regulation shall be construed as references to this Regulation or Regulation (EU) No 1306/2013 and shall be read in accordance with the correlation table set out in Annex XI to this Regulation.

3. The references made in this Regulation to Regulations (EC) No 73/2009 and (EC) No 1782/2003 shall be understood as being made to those Regulations such as they were in force before their repeal.

Article 73

Transitional rules

In order to ensure a smooth transition from the arrangements provided for in Regulation (EC) No 73/2009 to those laid down in this Regulation, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 concerning the necessary measures to protect any acquired rights and legitimate expectations of farmers.

Article 74

Entry into force and application

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

It shall apply from 1 January 2015.

However, Article 8, Article 9(6), Article 11(6), Article 14, Article 16, Article 21(2) and (3), Article 22(2), the first subparagraph of Article 23(1), Article 23(6), Article 24(10), Article 29, the first subparagraph of Article 36(1), Article 41(1), Article 42(1), Article 43(8) and (13), the fifth subparagraph of Article 45(2), Article 46(2) and (8), Article 49(1), Article 51(1), Article 53, Article 54, Article 66(1), Articles 67 and 70 and Article 72(1) shall apply from the date of entry into force of this Regulation.

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

Done at Brussels, 17 December 2013.

For the European Parliament

The President

M. SCHULZ

For the Council

The President

V. JUKNA

ANNEX I

List of support schemes

Sector	Legal base	Notes
Basic payment scheme	Title III, Chapter 1, Sections 1, 2, 3 and 5 of this Regulation	Decoupled payment
Single area payment scheme	Article 36 of this Regulation	Decoupled payment
Redistributive payment	Title III, Chapter 2 of this Regulation	Decoupled payment
Payment for agricultural practices beneficial for the climate and the environment	Title III, Chapter 3 of this Regulation	Decoupled payment
Payment for areas with natural constraints	Title III, Chapter 4 of this Regulation	Decoupled payment
Payment for young farmers	Title III, Chapter 5 of this Regulation	Decoupled payment
Voluntary coupled support	Title IV, Chapter 1 of this Regulation	
Crop-specific payment for cotton	Title IV, Chapter 2 of this Regulation	Area payment
Small farmers scheme	Title V of this Regulation	Decoupled payment
Posei	Chapter IV of Regulation (EU) No 228/2013	Direct payments under measures established in the programmes
Aegean islands	Chapter IV of Regulation (EU) No 229/2013	Direct payments under measures established in the programmes

ANNEX II

National ceilings referred to in Article 6

(in thousands EUR)

Calendar year		2015	2016	2017	2018	2019 and the subsequent year
Belgium		536 076	528 124	520 170	512 718	505 266
Bulgaria		721 251	792 449	793 226	794 759	796 292
Czech Republic		874 484	873 671	872 830	872 819	872 809
Denmark		916 580	907 108	897 625	889 004	880 384
Germany		5 144 264	5 110 446	5 076 522	5 047 458	5 018 395
Estonia		121 870	133 701	145 504	157 435	169 366
Ireland		1 215 003	1 213 470	1 211 899	1 211 482	1 211 066
Greece		2 039 122	2 015 116	1 991 083	1 969 129	1 947 177
Spain		4 842 658	4 851 682	4 866 665	4 880 049	4 893 433
France		7 553 677	7 521 123	7 488 380	7 462 790	7 437 200
Croatia (*)		130 550	149 200	186 500	223 800	261 100
Italy		3 902 039	3 850 805	3 799 540	3 751 937	3 704 337
Cyprus		50 784	50 225	49 666	49 155	48 643
Latvia		195 649	222 363	249 020	275 887	302 754
Lithuania		417 890	442 510	467 070	492 049	517 028
Luxembourg		33 603	33 545	33 486	33 459	33 431
Hungary		1 271 593	1 270 410	1 269 187	1 269 172	1 269 158
Malta		5 127	5 015	4 904	4 797	4 689
Netherlands		780 815	768 340	755 862	744 116	732 370
Austria		693 065	692 421	691 754	691 746	691 738
Poland		2 987 267	3 004 501	3 021 602	3 041 560	3 061 518
Portugal		565 816	573 954	582 057	590 706	599 355
Romania		1 629 889	1 813 795	1 842 446	1 872 821	1 903 195
Slovenia		137 987	136 997	136 003	135 141	134 278
Slovakia		380 680	383 938	387 177	390 781	394 385
Finland		523 333	523 422	523 493	524 062	524 631
Sweden		696 890	697 295	697 678	698 723	699 768
United Kingdom		3 555 915	3 563 262	3 570 477	3 581 080	3 591 683

(*) For Croatia, the national ceiling for calendar year 2020 shall be EUR 298 400 000, for 2021 shall be EUR 335 700 000 and for 2022 shall be EUR 373 000 000.

ANNEX III

Net ceilings referred to in Article 7

(in million EUR)

Calendar year		2015	2016	2017	2018	2019 and the subsequent year
Belgium		536,1	528,1	520,2	512,7	505,3
Bulgaria		723,6	795,1	795,8	797,4	798,9
Czech Republic		874,5	873,7	872,8	872,8	872,8
Denmark		916,6	907,1	897,6	889,0	880,4
Germany		5 144,3	5 110,4	5 076,5	5 047,5	5 018,4
Estonia		121,9	133,7	145,5	157,4	169,4
Ireland		1 215,0	1 213,5	1 211,9	1 211,5	1 211,1
Greece		2 227,0	2 203,0	2 178,9	2 157,0	2 135,0
Spain		4 903,6	4 912,6	4 927,6	4 941,0	4 954,4
France		7 553,7	7 521,1	7 488,4	7 462,8	7 437,2
Croatia (*)		130,6	149,2	186,5	223,8	261,1
Italy		3 902,0	3 850,8	3 799,5	3 751,9	3 704,3
Cyprus		50,8	50,2	49,7	49,2	48,6
Latvia		195,6	222,4	249,0	275,9	302,8
Lithuania		417,9	442,5	467,1	492,0	517,0
Luxembourg		33,6	33,5	33,5	33,5	33,4
Hungary		1 271,6	1 270,4	1 269,2	1 269,2	1 269,2
Malta		5,1	5,0	4,9	4,8	4,7
Netherlands		780,8	768,3	755,9	744,1	732,4
Austria		693,1	692,4	691,8	691,7	691,7
Poland		2 987,3	3 004,5	3 021,6	3 041,6	3 061,5
Portugal		566,0	574,1	582,2	590,9	599,5
Romania		1 629,9	1 813,8	1 842,4	1 872,8	1 903,2
Slovenia		138,0	137,0	136,0	135,1	134,3
Slovakia		380,7	383,9	387,2	390,8	394,4
Finland		523,3	523,4	523,5	524,1	524,6
Sweden		696,9	697,3	697,7	698,7	699,8
United Kingdom		3 555,9	3 563,3	3 570,5	3 581,1	3 591,7

(*) For Croatia, the net ceiling for calendar year 2020 shall be EUR 298 400 000, for 2021 shall be EUR 335 700 000 and for 2022 shall be EUR 373 000 000.

ANNEX IV

Limits for the adjustment for the thresholds, referred to in Article 10(2)

Member State	Limit for the EUR threshold (Article 10(1)(a))	Limit for the hectare threshold (Article 10(1)(b))
Belgium	400	2
Bulgaria	200	0,5
Czech Republic	200	5
Denmark	300	5
Germany	300	4
Estonia	100	3
Ireland	200	3
Greece	400	0,4
Spain	300	2
France	300	4
Croatia	100	1
Italy	400	0,5
Cyprus	300	0,3
Latvia	100	1
Lithuania	100	1
Luxembourg	300	4
Hungary	200	0,3
Malta	500	0,1
Netherlands	500	2
Austria	200	2
Poland	200	0,5
Portugal	200	0,3
Romania	200	0,3
Slovenia	300	0,3
Slovakia	200	2
Finland	200	3
Sweden	200	4
United Kingdom	200	5

ANNEX V

Financial provisions applying to Bulgaria and Romania referred to in Articles 10, 16 and 18

- A. Amounts for applying point (a) of Article 10(1) and for calculating the national ceilings for payments referred to in Article 16 in 2015:

Bulgaria: EUR 790 909 000

Romania: EUR 1 783 426 000

- B. Total amount of complementary national direct payments to the basic payment scheme referred to in Article 18(1) in 2015:

Bulgaria: EUR 69 657 000

Romania: EUR 153 536 000

- C. Total amount of complementary national direct payments to the crop-specific payment for cotton referred to in Article 18(2) in 2015:

Bulgaria: EUR 258 952

ANNEX VI

Financial provisions applying to Croatia referred to in Articles 10 and 19

A. Amount for applying point (a) of Article 10(1):

EUR 373 000 000

B. Total amounts of complementary national direct payments referred to in Article 19(3):

(in thousands EUR)						
2015	2016	2017	2018	2019	2020	2021
242 450	223 800	186 500	149 200	111 900	74 600	37 300

ANNEX VII

Maximum amounts to be added to the amounts set out in Annex I in accordance with Article 20(2)

(in thousands EUR)

2015	2016	2017	2018	2019	2020	2021	2022
3 360	3 840	4 800	5 760	6 720	7 680	8 640	9 600

ANNEX VIII

Average size of agricultural holding referred to in Article 41(4)

Member State	Average size of agricultural holding (in hectares)
Belgium	29
Bulgaria	6
Czech Republic	89
Denmark	60
Germany	46
Estonia	39
Ireland	32
Greece	5
Spain	24
France	52
Croatia	5,9
Italy	8
Cyprus	4
Latvia	16
Lithuania	12
Luxemburg	57
Hungary	7
Malta	1
Netherlands	25
Austria	19
Poland	6
Portugal	13
Romania	3
Slovenia	6
Slovakia	28
Finland	34
Sweden	43
United Kingdom	54

ANNEX IX

List of equivalent practices referred to in Article 43(3)

I. Practices equivalent to crop diversification:

(1) Crop diversification

Requirement: at least three crops, the main crop covering a maximum of 75 %, and any one or more of the following applying:

- there are at least four crops,
- lower maximum thresholds apply,
- there is a more appropriate selection of crops, such as, for example, leguminous, protein crops, crops not requiring irrigation or pesticide treatments, as appropriate,
- regional varieties of old, traditional or endangered crop types are included on at least 5 % of the rotated area.

(2) Crop rotation

Requirement: at least three crops, the main crop covering a maximum of 75 %, and any one or both of the following applying:

- a more environmentally beneficial multiannual sequence of crops and/or fallow is followed,
- there are at least four crops.

(3) Winter soil cover (*)

(4) Catch crops (*)

II. Practices equivalent to maintenance of permanent grassland:

(1) Management of meadows or pastures

Requirement: maintenance of permanent grassland and any one or more of the following:

- Cutting regime or appropriate mowing (dates, methods, limits)
- Maintenance of landscape features on permanent grassland and control of scrub
- Specified grass varieties and/or seeding regime for renewal depending on the grassland type, with no destruction of high nature value
- Evacuation of forage or hay
- Appropriate management for steep slopes
- Fertiliser regime
- Pesticide restrictions

(2) Extensive grazing systems

Requirement: maintenance of permanent grassland and any one or more of the following:

- Extensive grazing (timing, maximum stocking density)

(*) Practices subject to the calculation referred to in point (c) of Article 43(12)

- Shepherding or mountain pastoralism
- Using local or traditional breeds for grazing the permanent grassland

III. Practices equivalent with ecological focus area:

Requirement: application of any of the following practices on at least the percentage of the arable land set pursuant to Article 46(1):

- (1) Ecological set-aside
 - (2) Creation of "buffer zones" for high nature value areas, Natura 2000 or other biodiversity protection sites, including along hedgerows and water courses
 - (3) Management of uncultivated buffer strips and field margins (cutting regime, local or specified grass varieties and/or seeding regime, re-seeding with regional varieties, no use of pesticides, no disposal of manure and/or mineral fertilisers, no irrigation, no soil sealing)
 - (4) Borders, in-field strips and patches managed for wildlife or specific fauna (herbaceous border, protection of nests, wildflower strips, local seed mix, unharvested crops)
 - (5) Management (pruning, trimming, dates, methods, restoration) of landscape features (trees, hedgerows, riparian woody vegetation, stone walls (terraces), ditches, ponds)
 - (6) Keeping arable peaty or wet soils under grass (with no use of fertilisers and no use of plant protection products)
 - (7) Production on arable land with no use of fertiliser (mineral fertiliser and manure) and/or plant protection products, and not irrigated, not sown with the same crop two years in a row and on a fixed place (*)
 - (8) Conversion of arable land into permanent grassland extensively used
-

ANNEX X

Conversion and weighting factors referred to in Article 46(3)

Features	Conversion factor	Weighting factor	Ecological focus area
Land lying fallow			
Terraces			
Landscape features			
Buffer strips			
Hectares of agro-forestry			
Strips of eligible hectares along forest edges			
Areas with short rotation coppice			
Afforested areas referred to in Article 32(2)(b)(ii)			
Areas with catch crops or green cover			
Areas with nitrogen-fixing crops			

ANNEX XI

Correlation table
referred to in Article 72(2)

Regulation (EC) No 73/2009	This Regulation	Regulation (EU) No 1306/2013
Article 1	Article 1	—
Article 2	Article 4	—
Article 3	Article 5	—
Article 4(1)	—	Article 91
Article 4(2)	—	Article 95
Article 5	—	Article 93
Article 6(1)	—	Article 94
Article 6(2)	—	—
Article 7	—	—
Article 8	Article 7	—
Article 9	—	—
Article 10	—	—
Article 10a	—	—
Article 10b	—	—
Article 10c	—	—
Article 10d	—	—
Article 11	Article 8	Article 26(1) and (2)
Article 11(3)	Article 8(2)	—
Article 11a	Article 8(3)	—
Article 12(1) and (2)	—	Article 12
Article 12(3)	—	Article 14
Article 12(4)	—	—
Article 13	—	Article 13(2)
Article 14	—	Article 67
Article 15	—	Article 68(1) and (2)
Article 16	—	Article 69
Article 17	—	Article 70
Article 18	—	Article 71
Article 19	—	Article 72

Regulation (EC) No 73/2009	This Regulation	Regulation (EU) No 1306/2013
Article 20	—	Article 74(1), (2) and (3)
Article 21	—	Article 74(4)
Article 22	—	Article 96
Article 23	—	Article 97
Article 24	—	Article 99
Article 25	—	Article 100
Article 26	—	Article 61
Article 27(1)	—	Article 102(3)
Article 27(2)	—	Article 47
Article 27(3)	—	Article 68(3)
Article 28(1)	Article 10	—
Article 28(2)	Article 9(3)	—
Article 28(3)	Article 31(1)(a) (i) and (ii)	—
Article 29	—	Article 75
Article 30	—	Article 60
Article 31	—	Article 2(2)
Article 32	Article 15	—
Article 33	—	—
Article 34 (2)	Article 32(2) and (4)	—
Article 35	Article 33	—
Article 36	—	—
Article 37	Article 12	—
Article 38	—	—
Article 39(1)	Article 32(6)	—
Article 39(2)	Article 35(3)	—
Article 40(1)	Article 6(1)	—
Article 41(1)	Article 30(1)	—
Article 41(2)	Article 30(3) and (6)	—
Article 41(3)	Article 30(3) and (7)(a)	—
Article 41(4)	—	—
Article 41(5)	Article 30(10)	—
Article 41(6)	—	—
Article 42	Article 31(1)(b)	—
Article 43(1)	Article 34(1), (2) and (3)	—

Regulation (EC) No 73/2009	This Regulation	Regulation (EU) No 1306/2013
Article 43(2)	—	—
Article 43(3)	Article 34(4)	—
Article 44	—	—
Article 45	—	—
Article 46	—	—
Article 47	—	—
Article 48	—	—
Article 49	—	—
Article 50	—	—
Article 51	—	—
Article 52	—	—
Article 53	—	—
Article 54	—	—
Article 55	—	—
Article 56	—	—
Article 57	—	—
Article 57a	Article 20 and Annex VII	—
Article 58	—	—
Article 59	—	—
Article 60	—	—
Article 61	—	—
Article 62	—	—
Article 63	—	—
Article 64	—	—
Article 65	—	—
Article 66	—	—
Article 67	—	—
Article 68	—	—
Article 69	—	—
Article 70	—	—
Article 71	—	—
Article 72	—	—
Article 73	—	—
Article 74	—	—

Regulation (EC) No 73/2009	This Regulation	Regulation (EU) No 1306/2013
Article 75	—	—
Article 76	—	—
Article 77	—	—
Article 78	—	—
Article 79	—	—
Article 80	—	—
Article 81	—	—
Article 82	—	—
Article 83	—	—
Article 84	—	—
Article 85	—	—
Article 86	—	—
Article 87	—	—
Article 88	Article 56	—
Article 89	Article 57	—
Article 90	Article 58	—
Article 91	Article 59	—
Article 92	Article 60	—
Article 93	—	—
Article 94	—	—
Article 95	—	—
Article 96	—	—
Article 97	—	—
Article 98	—	—
Article 99	—	—
Article 100	—	—
Article 101	—	—
Article 102	—	—
Article 103	—	—
Article 104	—	—
Article 105	—	—
Article 106	—	—
Article 107	—	—
Article 108	—	—

Regulation (EC) No 73/2009	This Regulation	Regulation (EU) No 1306/2013
Article 109	—	—
Article 110	—	—
Article 111	—	—
Article 112	—	—
Article 113	—	—
Article 114	—	—
Article 115	—	—
Article 116	—	—
Article 117	—	—
Article 118	—	—
Article 119	—	—
Article 120	—	—
Article 121	Articles 16 and 17	—
Article 121a	—	Article 98, second subparagraph
Article 122	—	—
Article 123	—	—
Article 124(1) to (5), (7) and (8)	—	—
Article 124(6)	—	Article 98, first subparagraph
Article 125	—	—
Article 126	—	—
Article 127	—	—
Article 128	—	—
Article 129	—	—
Article 130	—	—
Article 131	—	—
Article 132	Articles 18 and 19	—
Article 133	—	—
Article 133a	Article 37	—
Article 134 (deleted)	—	—
Article 135 (deleted)	—	—
Article 136	—	—
Article 137	—	—
Article 138	Article 3	—
Article 139	Article 13	—
Article 140	Article 67	—

Regulation (EC) No 73/2009	This Regulation	Regulation (EU) No 1306/2013
Article 141	Article 71	—
Article 142(a) to (q) and (s)	Article 70	—
Article 142(r)	Article 69	—
Article 143	—	—
Article 144	—	—
Article 145	—	—
Article 146	Article 72	—
Article 146a	—	—
Article 147	Article 73	—
Article 148	—	—
Article 149	Article 74	—
Annex I	Annex I	—
Annex II	—	Annex II
Annex III	—	Annex II
Annex IV	Annex III	—
Annex V	—	—
Annex VI	—	—
Annex VII	Annex IV	—
Annex VIII	Annex II	—
Annex IX	—	—
Annex X	—	—
Annex XI	—	—
Annex XII	—	—
Annex XIII	—	—
Annex XIV	—	—
Annex XV	—	—
Annex XVI	—	—
Annex XVII	—	—
Annex XVIIa	—	—

附件十二： 欧盟相关马铃薯淀粉生产企业的农民股东介绍

翻译

丹麦 AKV:

AKV 公司是一家丹麦马铃薯淀粉厂，位于丹麦北部日德兰半岛奥尔堡市北朗格霍特。

AKV 是由 173 位马铃薯农民所有的合作社，每位农民都有各自的 AKV 土豆生产配额。

丹麦 KMC:

KMC 公司 100%由丹麦马铃薯种植者所有。这种独特的种植者所有结构使我们能够全部控制整个供应链，保证有质量控制的严格记录来源的原料供应。

<http://www.kmc.dk/about-kmc/kmc-characteristics/dependable-supply>

KMC - taking food for...



Your product KMC ingredients + News & Events + About KMC + Contact +



Dependable supply

KMC is 100%-owned by Danish potato growers. Therefore, this unique grower-owned structure gives us full control over the entire supply chain, with a guaranteed supply of quality-controlled raw materials with rigorous documented provenance.

Secure supplies

KMC is 100%-owned by certain growers in Denmark, and operates under the close eye of the world's most stringent environmental legislation. Being grower-owned means we have much more control over the entire supply chain. We have a guaranteed supply of quality-controlled raw materials with rigorous documentation on where our potatoes also receive the quality of our highest standards.

<http://www.akv-langholt.dk/english/>

English : AKV-Langholt

AKV Langholt A.m.b.A (Afdelskareff/malestebjæken Venderesøl A.m.b.A) is a Danish potato starch factory situated in Langholt, north of Ålborg in the Northern Jutland region of Denmark.

AKV is a co-operative owned by 173 potato farmers, who each have their own individual AKV potato production quota.

AKV's first plant for processing potatoes to potato starch was built in Dybvad in the foundation year 1988. The present plant in Langholt was built in 1976 and extended in 1989, and today during the potato campaign from late August to December AKV Langholt A.m.b.A in this plant processes about 180.000 tons potatoes grown on approximately 4.000 ha of field. The output is about 40.000-45.000 tons potato starch. Furthermore, AKV has a production of about 1.500 tons of potato protein based on the juice from the potatoes. This product is a.o. sold to producers of mixed feed for milk and piglets. In addition to the above there is a by-production of 20.000 tons potato pulp, which is sold to local farmers as cattle feed.

The main part of AKV's potato starch is modified in a close co-operation with the American company Cargill, with whom AKV has the 50/50 joint venture Cargill-AKV A/S. This joint venture produces various modified potato starches for the paper industry in a separate plant in Langholt. AKV is responsible for the production and Cargill for the sales and marketing.

The modified starch as well as AKV's native potato starch and other starches are sold by the international sales organization of Cargill (see address below). AKV's potato protein concentrate, potato fibres, and potato juice are sold directly by AKV Langholt.

A major part of the modified starch is sold as binder to paper factories, primarily within the EU. The native starch is sold to a.o. the food industry in Denmark as well as abroad. More than 98% of the total production is exported.

The products are delivered in powder transport trucks, containers, bigbags (typically 1 ton), and 5, 20 and 25 kg plastic bags.

Download Sales information:
brochure

Tel.: +45 96 38 94 20

Fax: +45 98 38 66 03

E-mail: akv@akv-langholt.dk

Gravshøjvej 92

DK-9310 Vodskov

Denmark

附件十三： 荷兰艾维贝公司审计年报节选

信息来源: www.avebe.com

艾维贝审计报告节选 (翻译)

第 31 页

固定资产

固定资产在购入时按照采购价格加上辅助成本进行记账, 或者根据生产价格扣减折旧进行记账。土地无法进行摊销。因投资而获得的政府补贴从采购价格中进行扣减……

第 35 页

政府补贴

因固定资产投资而获得的政府补贴从该资产价值中扣减, 并在借贷科目中作相应折旧。

2014/2015

ANNUAL REPORT



AFFILIATED PARTIES

Affiliated parties are defined as all legal entities over which predominant control, joint control or significant control can be exerted. Legal entities that are able to exert dominant control are also deemed to be affiliated parties.

VALUATION POLICIES AND RESULT RECOGNITION**COMPARISON WITH THE PREVIOUS YEAR**

The principles used to determine the results remain unchanged compared to last year.

GENERAL

The (consolidated) financial statements have been compiled in compliance with the statutory provisions of Title 9, Book 2 of the Netherlands Civil Code and the firm requirements of the Directives Governing Annual Reports and Financial Statements as issued by the Annual Reporting Council. Assets and liabilities are generally valued at the acquisition or manufacturing price or the current value. If no specific valuation principle is stated, valuation takes place at the acquisition price. References are given in the balance sheet, the profit and loss account and the cash flow statement. These references are made to the explanatory notes.

ESTIMATES

To apply the principles and rules for drawing up the financial statements, the management of Avebe U.A. has to form a judgement on various matters and to make estimates that could be of paramount importance to the amounts shown in the financial statements. If necessary to providing the insight required by Article 2:362, paragraph 1, of the Netherlands Civil Code, the nature of these judgements and estimates, including the underlying assumptions, is given in the note to the relevant financial statement items.

INTANGIBLE FIXED ASSETS

Intangible fixed assets are valued at their acquisition price, less depreciation. Account is taken of impairments, which are entered if the book value of the asset (or the cash-flow generating unit to which the asset belongs) is higher than its realisable value. To establish whether there is any impairment on intangible fixed assets, reference is made to the section on impairments.

Research and Development expenditure
Expenditure on research into new products and new production techniques is accounted for as costs. Development expenditure is only capitalised if it is incontrovertibly demonstrated that an identifiable asset has been created that will yield a future economic benefit for Avebe U.A..

Goodwill

Goodwill resulting from acquisitions is capitalised at the acquisition price and depreciated over the anticipated useful economic life up to a maximum of twenty years.

Goodwill is calculated as the difference between the acquisition price and the share in the value of the capital and reserves according to the valuation principles operated by Avebe U.A., taking into account market value, reorganisation costs and corresponding taxation. Internally created goodwill is not valued by Avebe U.A..

Software

Software is valued at the acquisition price less depreciation based on the anticipated useful economic life. Software is depreciated over a period of five years.

TANGIBLE FIXED ASSETS

Tangible fixed assets are valued at the acquisition price, plus accompanying costs or the price of manufacture less depreciation. No amortization is applied to land. Governmental subsidies granted for investments are deducted from the acquisition price. Annual straight-line depreciation is based on the

Interest income and expense

Interest income and expenses are shown in proportion to time, taking account of the interest rate and the relevant assets and liabilities. The transaction expenses on borrowings are taken into account for the incorporation of interest expenses.

Dividends

Receivable dividends on participating interests and securities not valued at net asset value are shown as soon as Avebe U.A. has obtained the rights to them.

TAX ENTITY

Avebe U.A. forms a tax entity for corporation tax with its 100% Dutch participating interests. Under the standard conditions the company and its affiliated subsidiaries are jointly and severally liable for the tax payable by the consortium and its incorporation within the tax entity. The parent company settles on the basis of the subsidiaries taxable results with due observance of the assignment of the benefits of the tax entity to the various group companies forming part of it.

TAXATION

Taxation on the operating result for each country is calculated over the result before taxation in the profit and loss account, taking account the losses from previous financial years that can be offset against tax (if not included in the deferred tax receivables) and exempted profit components, and following the addition of non-deductible costs. Changes in tax rates are also taken into account when determining deferred tax assets and deferred tax liabilities. Tax adjustments are processed within the tax entity in Avebe U.A..

RESULT ON PARTICIPATING INTERESTS

This item shows the profit on the other participating interests.

GOVERNMENT SUBSIDIES

Subsidies on investments in tangible fixed assets are deducted from the relevant asset and included

as part of the depreciation in the profit and loss account.

FINANCIAL INSTRUMENTS

The treasury activities, including currency and interest management and the financing of the group and its operating companies, are centrally coordinated from the Netherlands. The policy approved by the Board of Directors is aimed at hedging currency positions related to buying and selling in foreign currency. Currency call options and currency futures contracts are predominantly used as hedging instruments. It is not permitted to adopt speculative positions. Derivative financial instruments (such as futures transactions, currency call options and interest swaps) are taken out exclusively from financial institutions that issue credit to Avebe U.A..

When shown for the first time in the balance sheet derivatives are shown at their fair value; the subsequent valuation of derivatives depends on whether what underlies the derivative is listed. If what underlies the derivative is listed, the derivative is shown at its fair value. If what underlies the derivative is not listed, the derivative is shown at its cost price or lower market value. The method used to show changes to the value of derivatives depends on whether hedge accounting is applied with the derivative.

Avebe U.A. applies hedge-accounting. Records are kept as soon as a hedge relationship is entered into. Avebe U.A. periodically establishes the effectiveness of the hedge relationship by carrying out a test.

This can be done by comparing the critical features of the hedge instrument with those of the hedged position, or by comparing the change in the hedge instrument's fair value and the hedged position.

Conversion hedging

Avebe U.A. hedges the exchange risks on net investments in foreign group companies and issued loans by means of forward exchange contracts.

附件十四： 奥地利 Agrana 公司审计年报节选

信息来源:

http://www.agrana.com/fileadmin/inhalte/agrana_group/annual_reports/2015_16/AGRANA_GB_2015_16_E_WEB.pdf

AGRANA 审计报告节选 (翻译)

第 112 页

6.2 政府支持

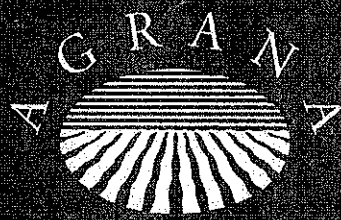
- ④ 政府对集团的成本补偿支持, 该补贴计入当期其他营业收入; 除非该援助上还没有足够的可能满足条件的;
- ④ 政府对投资费用的补贴, 补贴计入递延收益并用于抵扣有形资产、厂房和设备的投资成本。按照直线法在固定资产的使用年限内进行损益折旧。有关详细补贴请参见第 128 页。

第 128 页

根据表格, 2015/2016 年的固定资产投资补贴为 24.1 万欧元, 2014/2015 年为 238.7 万欧元。

第 130 页

根据表格, 公司收到的其他政府补贴金额 2014/2015 年为 295.7 万欧元, 2015/2016 年为 19.9 万欧元。



Acting together.

Integrated Annual Report 2015|16

■ Where rental agreements or leases transfer all material risks and rewards of ownership to the AGRANA Group (finance leases), the assets rented or leased are recorded as an asset. The asset is initially measured at the lower of (i) its fair value at the inception of the rental period or lease and (ii) the present value of the future minimum rental or lease payments. This amount is simultaneously recorded as a liability under borrowings.

■ Depreciation of property, plant and equipment is generally based on the following useful lives:

Buildings	15 to 50 years
Plant and machinery	10 to 15 years
Office furniture and equipment	3 to 10 years

6.2. Government assistance

■ ~~Government assistance to reimburse the Group for costs is recognised as other operating income in the period in which the related costs are incurred, unless the assistance is contingent on conditions that are not yet sufficiently likely to be met.~~

■ ~~Government assistance to support capital expenditure is recognised as deferred income from the time of the binding award and deducted from the cost of the intangible assets and property, plant and equipment on a straight-line basis over the useful life of the allocated asset through profit and loss. Details are provided from page 128.~~

6.3. Financial instruments

■ The AGRANA Group distinguishes the following classes of financial instruments:

Financial assets

- Securities, and investments in non-consolidated subsidiaries and outside companies
- Trade receivables
- Other financial assets
- Cash and cash equivalents

Financial liabilities

- Bank loans and overdrafts, and other loans from non-Group entities
- Borrowings from affiliated companies in the Südzucker group
- Finance lease obligations
- Trade payables
- Financial other payables

Derivative financial instruments

- Interest-rate derivatives
- Currency derivatives
- Commodity derivatives

■ Investments in non-consolidated subsidiaries and outside companies, as well as securities, are classified to the available-for-sale category and are initially measured at fair value in the case of securities, and at cost in the case of investments in non-consolidated subsidiaries and outside companies, including any transaction costs. Subsequent measurement is at fair value. Changes in value are recognised outside profit or loss (after income tax) in a separate reserve item in equity. Only after the cumulative changes in fair value are realised by selling the asset are they recognised in the income statement. Available-for-sale non-material investments in non-consolidated subsidiaries and outside companies are measured at cost.

■ Financial assets are recognised at the settlement date.

■ Cash and cash equivalents include cash on hand and bank deposits having a remaining term to maturity of up to three months at the time of investment. Cash and cash equivalents in foreign currency are measured at the exchange rates at the balance sheet date.

At the balance sheet date, other intangible assets with an indefinite useful life that were not significant for the AGRANA Group were included.

Note (18)

9.2. Property, plant and equipment

€000	Land, leasehold rights and buildings	Technical plant and machinery	Other plant, furniture and equipment	Assets under con- struction	Total
2015/16					
Cost					
At 1 March 2015	539,181	1,118,396	184,044	33,572	1,875,193
Currency translation differences	(7,630)	(11,547)	(2,425)	(1,348)	(22,950)
Changes in scope of consolidation/ other changes	13	1,918	3,762	49	5,742
Additions	18,209	36,749	8,328	46,015	109,301
Reclassifications	17,633	31,037	4,495	(54,508)	(1,343)
Disposals	(12,371)	(22,148)	(5,944)	(193)	(40,656)
Government grants	(114)	(127)	0	0	(241)
At 29 February 2016	554,921	1,154,278	192,260	23,587	1,925,046
Accumulated depreciation and impairment					
At 1 March 2015	291,420	778,629	143,134	473	1,213,656
Currency translation differences	(2,897)	(7,762)	(1,842)	1	(12,500)
Changes in scope of consolidation/ other changes	(54)	1,387	1,608	0	2,941
Depreciation for the period	15,866	50,118	11,517	0	77,501
Impairment	0	910	0	510	1,420
Reclassifications	1,128	(2,220)	1,006	0	(86)
Disposals	(10,193)	(20,853)	(5,611)	0	(36,657)
Reversal of impairment losses	(326)	(495)	0	0	(821)
At 29 February 2016	294,944	799,714	149,812	984	1,245,454
Carrying amount at 29 February 2016	259,977	354,564	42,448	22,603	679,592
2014/15					
Cost					
At 1 March 2014	497,931	1,075,621	186,938	35,005	1,795,495
Currency translation differences	2,919	11,494	(416)	1,070	15,067
Changes in scope of consolidation/ other changes	15	36	(129)	1,418	1,340
Additions	7,936	27,382	9,503	44,114	88,935
Reclassifications	33,007	18,875	(7,274)	(46,192)	(1,584)
Disposals	(2,253)	(14,709)	(4,578)	(133)	(21,673)
Government grants	(374)	(303)	0	(1,710)	(2,387)
At 28 February 2015	539,181	1,118,396	184,044	33,572	1,875,193
Accumulated depreciation and impairment					
At 1 March 2014	265,913	742,904	142,491	574	1,151,882
Currency translation differences	2,093	6,031	(452)	0	7,672
Changes in scope of consolidation/ other changes	0	518	(298)	0	220
Depreciation for the period	15,325	48,633	10,382	0	74,340
Impairment	0	28	148	0	176
Reclassifications	9,936	(4,775)	(4,923)	9	247
Disposals	(1,697)	(14,196)	(4,180)	(110)	(20,183)
Reversal of impairment losses	(150)	(514)	(34)	0	(698)
At 28 February 2015	291,420	778,629	143,134	473	1,213,656
Carrying amount at 28 February 2015	247,761	339,767	40,910	33,099	661,537

Note (19)

9.3. Equity-accounted joint ventures, securities, and investments in non-consolidated subsidiaries and outside companies

€000	Equity-accounted joint ventures	Securities (non-current)	Investments in non-consolidated subsidiaries and outside companies	Total
2015/16				
At 1 March 2015	84,384	104,879	1,114	190,377
Currency translation differences	(2,104)	33	0	(2,071)
Additions	0	308	10	318
Share of results of equity-accounted joint ventures	24,523	0	0	24,523
Impairment	0	0	(8)	(8)
Disposals, and dividends of equity-accounted joint ventures	(45,900)	(85,069)	(25)	(130,994)
Other comprehensive income	3	(1,529)	0	(1,526)
At 29 February 2016	60,906	18,622	1,091	80,619
2014/15				
At 1 March 2014	57,057	104,584	1,120	162,761
Currency translation differences	2,127	171	0	2,298
Changes in scope of consolidation/other changes	0	0	(10)	(10)
Additions	0	36	4	40
Share of results of equity-accounted joint ventures	25,372	0	0	25,372
Disposals, and dividends of equity-accounted joint ventures	0	(198)	0	(198)
Other comprehensive income	(172)	286	0	114
At 28 February 2015	84,384	104,879	1,114	190,377

■ The disposals of securities related mainly to the redemption of participation capital by RAIFFEISEN-HOLDING NIEDERÖSTERREICH-WIEN regGenmbH in the amount of € 85,000 thousand that had been held by AGRANA Beteiligungs-AG.

■ The securities were predominantly securities of Austrian issuers.

Note (20)

9.4. Receivables and other assets

€000	29 Feb 2016	28 Feb 2015
Trade receivables	296,566	313,762
Amounts due from affiliated companies and joint ventures	28,059	28,839
Amounts due from associates in the Südzucker group	3,215	1,338
Positive fair value of derivatives	3,186	2,690
Receivable for legacy soil reclamation	208	426
Receivable under government grants	199	2,957
Other financial assets	25,504	38,813
Financial instruments	356,937	388,825
VAT credits and other tax credits	73,079	54,905
Accrued income	15,262	12,535
Prepaid expenses	4,845	4,598
Total	450,123	460,863
Of which due after more than 1 year	10,602	21,070

Amounts due from affiliated companies represent open accounts with non-consolidated subsidiaries, with the Group's parent company Südzucker AG and Südzucker's subsidiaries, and with joint ventures.

附件十五： 中国人民银行公布美元兑人民币汇率表

汇率
Exchange Rate

项目 Item	2012. 01	2012. 02	2012. 03	2012. 04	2012. 05	2012. 06	2012. 07	2012. 08	2012. 09	2012. 10	2012. 11	2012. 12
特别提款权单位折合人民币元 (期末数) Yuan per SDR (End of Period)	9.7896	9.8291	9.7504	9.7354	9.5683	9.5984	9.5507	9.6570	9.7790	9.7059	9.6527	9.6603
美元折合人民币 (期末数) Yuan per US Dollar (End of Period)	6.3115	6.2919	6.2943	6.2787	6.3355	6.3249	6.3320	6.3449	6.3410	6.3002	6.2892	6.2855
一美元折合人民币 (平均数) Yuan per US Dollar (Period Average)	6.3168	6.3000	6.3081	6.2966	6.3062	6.3178	6.3235	6.3404	6.3395	6.3144	6.2953	6.2900

汇率
Exchange Rate

项目 Item	2013. 01	2013. 02	2013. 03	2013. 04	2013. 05	2013. 06	2013. 07	2013. 08	2013. 09	2013. 10	2013. 11	2013. 12
---特别提款权单位折合人民币元 (期末数) Yuan per SDR (End of Period)	9.7106	9.5100	9.3983	9.3872	9.2618	9.2925	9.3501	9.3506	9.4315	9.4474	9.4146	9.3892
---美元折合人民币 (期末数) Yuan per US Dollar (End of Period)	6.3002	6.2779	6.2689	6.2208	6.1796	6.1787	6.1788	6.1709	6.1480	6.1425	6.1325	6.0969
---美元折合人民币 (平均数) Yuan per US Dollar (Period Average)	6.2787	6.2842	6.2743	6.2471	6.1970	6.1718	6.1725	6.1708	6.1588	6.1393	6.1372	6.1160

汇率
Exchange Rate

项目 Item	2014. 01	2014. 02	2014. 03	2014. 04	2014. 05	2014. 06	2014. 07	2014. 08	2014. 09	2014. 10	2014. 11	2014. 12
--特别提款权单位折合人民币元 (期末数) Yuan per SDR (End of Period)	9.3663	9.4723	9.5089	9.5430	9.5039	9.5116	9.4444	9.3604	9.1216	9.0860	8.9824	8.8653
·美元折合人民币 (期末数) Yuan per US Dollar (End of Period)	6.1050	6.1214	6.1521	6.1580	6.1695	6.1528	6.1675	6.1647	6.1525	6.1461	6.1345	6.1190
一美元折合人民币 (平均数) Yuan per US Dollar (Period Average)	6.1043	6.1128	6.1358	6.1553	6.1636	6.1636	6.1569	6.1606	6.1528	6.1441	6.1432	6.1238

汇率
Exchange Rate

项目 Item	2015. 01	2015. 02	2015. 03	2015. 04	2015. 05	2015. 06	2015. 07	2015. 08	2015. 09	2015. 10	2015. 11	2015. 12
特别提款权单位折合人民币元 (期末数) Yuan per SDR (End of Period)	8.6519	8.6519	8.4731	8.5984	8.5093	8.5982	8.5317	8.9693	8.9296	8.8694	8.7767	8.9984
一美元折合人民币 (期末数) Yuan per US Dollar (End of Period)	6.1370	6.1475	6.1422	6.1137	6.1196	6.1136	6.1172	6.3893	6.3613	6.3495	6.3962	6.4936
美元折合人民币 (平均数) Yuan per US Dollar (Period Average)	6.1272	6.1339	6.1507	6.1302	6.1143	6.1161	6.1167	6.3056	6.3691	6.3486	6.3666	6.4476

Exchange Rate

[illegible]

附件十六： 申请人会员单位财务数据和报表

附件十六：非保密概要说明

本附件提供了申请人二十四家会员单位 2012 年、2013 年、2014 年、2015 年、2014 年 1 季度和 2016 年 1 季度的生产经营和财务数据，包括同类产品的生产能力、产量、开工率、销量、库存、销售收入、销售价格、税前利润、投资收益率、现金流量、工资及就业等数据。同时，本附件还提供了申请人二十四家会员单位在上述期间各自的财务报表。

鉴于申请人各会员单位的上述数据和报表属于各会员单位的商业秘密，其披露将对申请人会员单位的生产经营产生严重不利影响，故申请保密处理，不再列出。此处仅提供申请人二十四家会员单位的合计或加权平均数据。同时，申请人二十四家会员单位的合计或加权平均数据，还在申请书公开文本正文部分以绝对数值、变化幅度以及图表的形式进行了披露。

马铃薯淀粉反补贴措施期终复审案

申请人 24 家会员单位相关经济、财务指标数据汇总表

1、在下列每一期间马铃薯淀粉的产能、产量和开工率数据

数量单位：吨

期 间	产能	产量	开工率
2012 年	439,600	160,584.71	36.53%
2013 年	567,900	122,040.75	21.49%
2014 年	617,800	179,684.38	29.08%
2015 年	659,400	220,809.43	33.49%
2015 年 1 季度	37,250	12,626.07	33.90%
2016 年 1 季度	23,500	7,416.92	31.56%

2、在以下每一期间马铃薯淀粉的销售数量数据

单位：吨

期 间	国内销售量	出口量	总销售量
2012 年	146,241.64	249.00	146,490.64
2013 年	154,361.21	136.00	154,497.21
2014 年	163,804.39	251.00	164,055.39
2015 年	208,167.00	170.00	208,337.00
2015 年 1 季度	38,676.34	-	38,676.34
2016 年 1 季度	44,724.82	-	44,724.82

注：总销售量 = 国内销售量 + 出口量。

3、在以下每一期间马铃薯淀粉的期末库存和自用量数据

单位：吨

期 间	期末库存	自用量
2012 年	102,975.61	179.10
2013 年	82,477.32	49.95
2014 年	108,078.09	590.81
2015 年	115,619.99	1,780.43
2015 年 1 季度	79,390.07	229.09
2016 年 1 季度	85,716.25	3.06

4、在以下每一期间马铃薯淀粉的销售收入净额数据（不含税）

单位：元

期间	国内销售收入净额	出口销售收入净额	总销售收入净额
2012 年	940,302,961.03	1,702,728.44	942,005,689.47
2013 年	1,018,692,055.99	1,164,851.13	1,019,856,907.12
2014 年	1,059,944,013.21	1,677,276.52	1,061,621,289.73
2015 年	1,266,303,468.06	1,039,137.19	1,267,342,605.25
2015 年 1 季度	239,729,581.43	-	239,729,581.43
2016 年 1 季度	271,896,563.45	-	271,896,563.45

注:总销售收入净额 = 国内销售收入净额 + 出口销售收入净额。

5、在下列每一期间马铃薯淀粉的税前利润数据

单位：元

期间	马铃薯淀粉税前利润
2012 年	74,784,956.21
2013 年	-2,694,085.27
2014 年	33,755,970.17
2015 年	649,966.21
2015 年 1 季度	3,415,933.39
2016 年 1 季度	-1,325,176.49

6、在下列每一期间马铃薯淀粉的投资收益率数据

金额单位：元

期间	马铃薯淀粉产品平均投资额	税前利润	投资收益率 (%)
2012 年	1,471,841,302.67	74,784,956.21	5.08%
2013 年	1,873,634,536.42	-2,694,085.27	-0.14%
2014 年	1,894,511,120.07	33,755,970.17	1.78%
2015 年	2,497,089,364.45	649,966.21	0.03%
2015 年 1 季度	2,248,731,368.97	3,415,933.39	0.15%
2016 年 1 季度	2,889,668,947.99	-1,325,176.49	-0.05%

注：投资收益率=税前利润/ 平均投资额；

7、在下列每一期间与马铃薯淀粉生产运营有关的工资、就业及劳动生产率情况

单位：元；人；元/人；吨/人

期间	工资总额	就业人数	人均工资	劳动生产率
2012 年	36,211,891.94	1,395.00	25,958.35	115.11
2013 年	41,321,734.24	1,879.00	21,991.34	64.95
2014 年	44,802,551.77	1,887.00	23,742.74	95.22
2015 年	50,296,366.31	2,087.00	24,099.84	105.80
2015 年 1 季度	6,934,694.85	842.00	8,235.98	15.00
2016 年 1 季度	7,511,843.45	883.00	8,507.18	8.40

注：人均工资=工资总额/就业人数；劳动生产率=产量/就业人数。

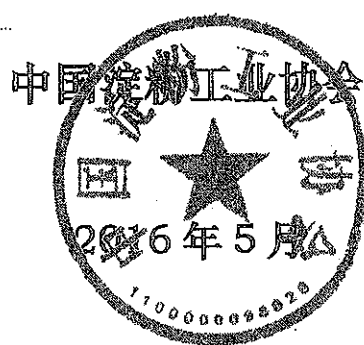
8、在下列每一期间与马铃薯淀粉生产运营有关的现金净流量情况

金额单位：元

期间	马铃薯淀粉分摊的经营活动现金净流量
2012 年	117,440,032.85
2013 年	116,305,803.73
2014 年	18,399,281.56
2015 年	79,608,626.42
2015 年 1 季度	48,249,343.32
2016 年 1 季度	111,938,692.72

附件十七： 马铃薯淀粉市场信息调研报告

马铃薯淀粉市场信息调研报告



我会接受北京市博恒律师事务所的委托,对欧盟马铃薯淀粉相关市场情况进行了调研。根据我会的数据库以及对相关信息的进一步收集,经整理分析,现就欧盟马铃薯淀粉相关市场信息情况提供如下报告,供参考。

一、 欧盟马铃薯淀粉的生产企业情况

欧盟是全球最大的马铃薯淀粉生产地区。欧盟马铃薯淀粉生产分布在荷兰、德国、法国、丹麦、波兰、芬兰、奥地利等国,主要生产企业包括:

(1) AVEBE GROUP (荷兰艾维贝公司)

地址: P.O. Box 15, 9640 AA Veendam, The Netherlands

电话: 31 598 66 91 11

传真: 31 598 66 43 68

网址: <http://www.avebe.com>

注:艾维贝公司在德国拥有马铃薯淀粉的生产厂家,即:德国艾维贝马铃薯淀粉工厂(Avebe Kartoffelstarkefabrik Prignitz/Wendland GmbH)。

(2) KMC Kartoffel Melcentralen (丹麦KMC公司)

地址: KMC, Herningvej 60, DK-7330 Brande, Denmark

电话: +45 9642 5555

传真: +45 9642 5500

网址: <http://www.kmc.dk>

(3) Roquette Freres (法国罗盖特公司)

地址 : Roquette Frères , DRH / Recrutement cadres ,
62136 Lestrem, France

电话 : 33 03 21 63 36 00

传真 : 33 03 21 63 38 50

网址: <http://www.roquette.fr>

(4) Emsland-Stärke GmbH (德国埃姆斯兰公司)

地 址 : Emslandstraße 58 ,D-49824 Emlichheim ,
Germany

电话 : +49(0)5943/81-0

传真 : +49(0)5943/81-205

网址: <http://www.emsland-group.de>

(5) Feculerie Haussimont (法国 Haussimont 公司)

地址 : 23 route de Montepreux , 51320 Haussimont ,
France

电话 : 03 26 67 46 46

传真 : 03 26 68 04 47

网址: <http://www.feculerie-haussimont.eu>

(6) Chemigate (芬兰 Chemigate 公司)

地 址 : Chemigate Oy , Simpsiontie 682 , FI-62100
LAPUA , Finland

电话 : +358 20 721 5555

传真 : +358 20 721 5995

网址: <http://chemigate.fi/en/home-pages/>

(7) Agrana Group (奥地利 Agrana 公司)

地 址 : Friedrich-Wilhelm-Raiffeisen-Platz 1,1020 Wien,
Austria

电话 : +43 1 21137-0

传真 : +43 1 21137-12998

网址: <http://www.agrana.com>

(8) AKV Langholt (丹麦 AKV Langholt 公司)

地址 : Gravsholtvej 92 , DK-9310 Vodskov , Denmark

电话 : +45 96 38 94 20

传真 : +45 98 28 65 03

网址: <http://www.akv-langholt.dk>

(9) PEPEES Group (波兰 PEPEES 公司)

地址 : Przedsiębiorstwo Przemysłu Spożywczego PEPEES S.A.,

Poznańska Street 121, Postal code 18-402 Łomża

电话 : 086-21-55-801

传真 : 086-21-83-242

网址: <http://www.pepees.pl>

二、 欧盟马铃薯淀粉的供需状况

根据我会的调研和分析，2012 年以来欧盟马铃薯淀粉的供需数据统计如下：

单位：万吨

期 间	产 量	进口量	出口量	需求量
2012 年	144.15	0.11	43.80	100.47
2013 年	134.86	0.35	36.26	98.95
2014 年	139.65	0.05	35.31	104.38
2015 年	144.47	0.02	46.87	97.62
2016 年预计	144.58	0.01	47.94	96.69

注：欧盟马铃薯淀粉需求量数据根据相关数据推算的欧盟地区马铃薯淀粉的表观消费量，具体的推算方法为：需求量=产量+进口量-出口量。

附件十八： 欧盟马铃薯淀粉对外出口统计数据

欧盟马铃薯淀粉对外出口统计数据

项目/期间	2012	2013	2014	2015
欧盟对所有出口数量	437,966,000	362,617,000	353,109,000	468,722,000
欧盟对所有出口金额	258,716,949	221,336,282	235,288,776	268,986,602
欧盟对中国出口数量	30,643,000	20,944,000	11,578,000	25,956,000
欧盟对中国出口金额	17,182,583	11,426,869	7,618,481	13,232,678

注：数据来源于欧盟委员会数据库，具体参见后附材料。

Reporter(s) / Partner(s):

Product(s): 110813

2015

Partners

Albania

Andorra

Argentin
Program

ATMELLA
Acraby

Arthropod

Bahrain

Belarus

Bolivia

Brazil

Cambodia

Canada

Certa

$\frac{1}{2}$

Congo

Costa R

[illegible]

	71				
Cuba					
Dominica					
Dominican Republic					
East Timor					
Ecuador					174,000
Egypt	9,802	34,581	50,000		
El Salvador					
Equatorial Guinea					
Eritrea					
Ethiopia					
Gabon					
Gambia					
Georgia					
Ghana					
Gibraltar					
Guatemala					
Guinea					
Guinea-Bissau					
Honduras	47,337	52,664	25,000	40,000	21,000
Hong Kong					
Iceland	75,829	25,185			
India					
Indonesia	94				
Iran, Islamic Republic of					
Iraq					
Israel	5,631	28,986	3,000	101,000	3,000
Ivory Coast					
Japan	54,872	70,050	8,000	7,000	32,000
Jordan					
Kazakhstan					
Kenya					
Korea, Democratic People's Rep					
Korea, Republic of	3,550	3,308			
Kosovo					
Kuwait					
Kyrgyzstan					
Lao People's Democratic Republ					
Lebanon					
Liberia					
Libyan Arab Jamahiriya					
Liechtenstein					
Macedonia, Former Yugoslav Rep					

Madagascar						
Malawi						
Malaysia	62				309	
Mauritius						
Mexico						
Moldova, Republic of						
Mongolia						
Montenegro						
Morocco						
Mozambique						
Myanmar						
Namibia						
New Zealand		1,290				
Nicaragua						
Nigeria				55		
Norway				33		
Oman					1,000	1,000
Pakistan						
Palestinian Territory Occupied						
Panama						
Papua New Guinea						
Paraguay					1,896	
Peru	2,667			2,258	1,000	1,000
Philippines						
Qatar						
Russian Federation	1,354			30	556	3,000
Saint Barthelemy						
São Tomé and Príncipe						
Saudi Arabia	311,605	642,919			989,000	2,423,000
Senegal						
Serbia						
Sierra Leone						
Singapore	11			9,929		20,000
Sint Maarten (Dutch part)				45		
Somalia						
South Africa						
Sri Lanka						
Sudan						
Suriname	19,911	20,688		22,161	2,000	5,000
Switzerland						
Syrian Arab Republic						
Taiwan	2,818	1,501		6,514	1,000	4,000
						5,000

Tajikistan						
Tanzania, United Republic of	1	335	511	3,787		2,000
Thailand						
Trinidad and Tobago						
Tunisia	2,469	2,896	1,437	2,126		
Turkey						
Turkmenistan						
Ukraine			47,267	52,162	105,000	106,000
United Arab Emirates			27			
United States	141,975	109,333	54,428	23,453	58,000	45,000
Uruguay						6,000
Uzbekistan						
Venezuela						
Vietnam			102	24		
Yemen						
Zambia						
Zimbabwe		177,741		2,146	871,000	
Countries and territories not Countries and territories not Stores and provisions within t						
Total EXTRA-EU28	718,363	1,230,365	405,082	389,294	1,127,000	455,000
						222,000

Trade Statistics (Imports -

Exports)

Reporter(s) / Partner(s):

EU28 / All partners

Product(s): 110813

Year(s): 2012, 2013, 2014,

2015

Indicators

EU Member State(s) Years	Export Value from the EU/MS (EURO)		Export Value from the EU/MS (EURO)		Export Value from the EU/MS (EURO)		Export Qty from the EU/MS (Kg)		Export Qty from the EU/MS (Kg)		Export Qty from the EU/MS (Kg)	
	EU28 2012	EU28 2013	EU28 2014	EU28 2015	EU28 2012	EU28 2013	EU28 2014	EU28 2015	EU28 2012	EU28 2013	EU28 2014	EU28 2015
Partners												
Afghanistan		15,872		4,550						6,000	2,000	
Albania	74,804	139,912		156,069					133,000	237,000	269,000	225,000
Algeria	665,223	93,506		296,909					1,242,000	174,000	529,000	476,000
Andorra	26	59										
Angola	66,188	34,503		74,057					74,000	41,000	89,000	89,000
Argentina	1,150,437	2,279,973		2,195,874					2,083,000	3,507,000	2,923,000	3,325,000
Armenia	62,456	146,924		240,570					144,000	315,000	434,000	288,000
Aruba	70	18										
Australia	3,490,525	3,159,227		2,937,197					5,246,000	4,762,000	4,459,000	4,138,000
Azerbaijan	561,832	425,218		249,267					1,180,000	856,000	461,000	993,000
Bahrain	116,001								140,000			492,000
Bangladesh	303,869	324,835		436,983					502,000	483,000	561,000	1,305,000
Belarus	1,077,220	1,181,395		2,234,163					2,092,000	2,059,000	3,757,000	2,466,000
Benin	29	1,462		900					1,000	1,000		2,000
Bolivia	737	785							73,000	87,000	61,000	63,000
Bosnia and Herzegovina	53,800	69,910		47,395					950,000	797,000	633,000	1,275,000
Brazil	674,279	581,245		457,299								
Burundi	26			467						42		
Cambodia	50,218	20,758		36,627					104,000	42,000	63,000	63,000
Cameroon				178								
Canada	815,672	876,908		642,745					1,317,000	1,375,000	997,000	1,592,000
Cape Verde	6,402	5,627		11,112					4,000	2,000	8,000	7,000
Ceuta												
Chile	518,190	388,966		611,952					856,000	699,000	868,000	761,000
China, People's Republic of	17,182,583	11,426,869		7,618,481					30,643,000	20,944,000	11,578,000	25,956,000
Colombia	335,336	388,643		493,679					580,000	697,000	820,000	1,016,000
Congo	414			326								
Congo, Democratic Republic of	1,210	342		809								1,000
Costa Rica	671,962	556,019		828,072					998,000	918,000	1,180,000	1,175,000
Cuba	409,550	348,641		407,716					355,000	384,000	335,000	689,000
Dominica		9,933		12,391						21,000	21,000	
Dominican Republic	63,469	14,130		291,520					115,000	41,000	447,000	116,000
East Timor				18								
Ecuador	187,958	269,613		233,274					313,000	470,000	343,000	860,000
Egypt	242,708	281,942		679,070					378,000	479,000	1,148,000	1,153,000

El Salvador	316,419	211,043	285,386	287,586	435,000	234,000	259,000	347,000
Equatorial Guinea	44							
Eritrea			93	39				
Ethiopia		74						
Gabon			128					
Gambia		236,160	266,929	175,124	120,000	300,000	434,000	356,000
Georgia	56,693	31,438		28	22,000	63,000		
Ghana	9,936	25	77	231				
Gibraltar		63,838	133,047	279,280	21,000	101,000	201,000	503,000
Guatemala	10,214	19						
Guinea		402	1,805	1,593				
Guinea-Bissau	1,598		327,794	324,020	165,000	443,000	501,000	601,000
Honduras	93,531	277,609	5,458,218	4,170,360	14,637,000	10,812,000	8,320,000	9,175,000
Hong Kong	7,779,685	6,057,317	22,438	14,219	19,000	20,000	33,000	21,000
Iceland	16,150	15,743	1,373,432	888,335	554,000	267,000	2,039,000	1,664,000
Ireland	334,400	159,091	1,603,007	2,367,221	4,281,000	2,081,000	2,349,000	4,491,000
India	2,261,906	1,163,558	583	14,766			1,000	23,000
Indonesia	15				15,000			
Iran, Islamic Republic of	6,675				3,791,000	3,055,000	3,019,000	2,746,000
Iraq	2,201,091	1,658,676	1,833,675	1,487,477		18,000		
Israel		8,651						
Ivory Coast		6,495,902	3,734,491	4,452,883	16,771,000	8,488,000	4,589,000	7,297,000
Japan	14,380,432	1,717,857	1,271,955	754,036	3,008,000	2,525,000	1,977,000	1,405,000
Jordan	1,761,549	1,683,673	1,802,270	1,342,624	3,147,000	3,262,000	3,376,000	2,816,000
Kazakhstan	1,486,673	7,750	797	200	20,000	7,000	1,000	
Kenya	10,712			20,850				40,000
Korea, Democratic People's Rep	630			34,215,929	47,810,000	52,266,000	48,262,000	59,144,000
Korea, Republic of	28,153,112	32,542,748	32,804,416					
Kosovo	99	166	132	54				
Kuwait	4,950	31	6,760	46,650	9,000		7,000	78,000
Kyrgyzstan	21,223	129,128	24,885	19,623	84,000	245,000	43,000	44,000
Laos			10					
Laos People's Democratic Rep	1,104,055	1,982,289	2,233,040	2,564,770	1,834,000	3,542,000	3,393,000	4,609,000
Lebanon	140	32						
Liberia	1,651	10,375	39			20,000		
Libyan Arab Jamahiriya	60	148						
Liechtenstein	104,047	95,035	149,597	176,246	151,000	162,000	268,000	366,000
Macedonia, Former Yugoslav Rep			90	78				
Madagascar				2				
Malawi								
Malaysia	1,834,431	952,716	1,109,739	1,518,529	3,470,000	1,677,000	1,718,000	2,752,000
Mauritius	138,664	176	140	2,902	240,000			5,000
Mexico	7,193,815	6,434,477	7,199,195	8,092,107	11,682,000	10,377,000	10,196,000	14,475,000
Moldova, Republic of	281,105	237,855	303,688	254,551	570,000	437,000	480,000	480,000
Mongolia		265	29,564	123,652			46,000	223,000
Montenegro				1,073				2,000
Morocco	1,390,529	405,623	30,370	908,429	2,545,000	755,000	44,000	1,835,000
Mozambique	765	655	164	1,170				
Myanmar	10,000			11,440	5,000			10,000
Namibia	220	631		549				

New Zealand	1,034,366	822,472	997,315	991,052	1,454,000	1,188,000	1,433,000	1,626,000
Nicaragua	11,896	14,379	21,756	8,745	20,000	20,000	42,000	21,000
Nigeria	61,965	301,944	93,501	278	95,000	438,000	97,000	
Norway	16,221	26,433	13,215	5,295	20,000	11,000	8,000	1,000
Oman		116						
Pakistan	460,876	394,693	853,296	484,545	808,000	599,000	1,225,000	864,000
Palestinian Territory Occupied	428,558	282,152	537,564	268,392	696,000	405,000	701,000	443,000
Panama	59,446	198,830	183,800	227,826	124,000	398,000	292,000	460,000
Papua New Guinea	10,083				20,000			
Paraguay	187,118	220,075	314,615	253,428	278,000	299,000	361,000	322,000
Peru	10,379,298	7,393,047	6,485,995	9,911,579	16,324,000	11,325,000	9,160,000	17,521,000
Philippines	2,855,406	3,188,061	3,523,190	3,641,453	4,660,000	5,441,000	5,469,000	6,033,000
Qatar	31	87	71					
Russian Federation	3,300,548	2,332,545	2,652,791	2,682,260	6,925,000	5,073,000	5,377,000	5,005,000
Saint Barthelemy				24				
São Tomé and Príncipe	355	13	99	30				
Saudi Arabia	86,828	57,872	194,628	331,242	139,000	90,000	324,000	631,000
Senegal	20,519	14,843	49,527	56,201	44,000	24,000	81,000	105,000
Serbia	320,150	329,708	404,328	377,674	608,000	616,000	708,000	743,000
Sierra Leone				101				
Singapore	976,774	575,979	548,553	560,381	1,552,000	956,000	811,000	1,042,000
Sint Maarten (Dutch part)								
Somalia	336,888	479,870	560,864	1,151,113	635,000	851,000	895,000	1,917,000
South Africa	132	127	796	622			1,000	
Sri Lanka		5,750	2,160	1,860		10,000	3,000	3,000
Sudan		8,332				6,000		
Suriname								
Switzerland	4,094,153	4,132,550	2,244,923	1,799,941	7,108,000	7,298,000	3,386,000	2,785,000
Syrian Arab Republic	670,220	199,500	160,464	232,050	1,073,000	263,000	249,000	485,000
Taiwan	11,719,523	4,453,555	3,543,827	7,938,359	22,546,000	7,953,000	5,896,000	16,225,000
Tajikistan	179,592	88,348	385,061	162,474	440,000	173,000	671,000	314,000
Tanzania, United Republic of			91					
Thailand	7,498,771	5,886,334	7,535,791	6,749,086	11,646,000	9,316,000	11,943,000	11,319,000
Trinidad and Tobago	39,400	22,279		19,942	82,000	40,000		40,000
Tunisia	11,633	57,825	89,799	78,531	18,000	100,000	111,000	111,000
Turkey	1,309,904	1,020,090	1,939,903	2,222,133	2,830,000	2,001,000	2,827,000	4,007,000
Turkmenistan		14,015	100,708	411,239		23,000	130,000	462,000
Ukraine	2,704,698	2,201,934	606,887	220,718	5,954,000	4,155,000	1,032,000	341,000
United Arab Emirates	415,982	963,316	1,013,688	811,711	832,000	1,528,000	1,294,000	1,026,000
United States	29,423,713	24,723,624	30,779,063	36,221,647	42,693,000	35,613,000	39,263,000	51,266,000
Uruguay	213,046	245,029	666,844	397,367	379,000	398,000	979,000	757,000
Uzbekistan	1,317,281	1,826,514	2,118,769	2,009,433	3,256,000	4,463,000	5,740,000	5,196,000
Venezuela	502,196	408,948	671,380	123,940	898,000	674,000	891,000	179,000
Vietnam	5,922,943	9,261,139	17,693,724	16,660,078	10,178,000	16,028,000	27,973,000	34,672,000
Yemen	130,763	234,215	416,337	130,529	220,000	350,000	527,000	227,000
Zambia			70,070	50			154,000	
Zimbabwe			64,605,116	69			99,512,000	138,538,000
Countries and territories not :	72,261,791	63,324,683	80,606,516		128,482,000	103,936,000		

Countries and territories not :	63	447	1,561	1,224	437,966,000	362,617,000	353,109,000	1,000	1,000
Stores and provisions within tl	406	198	235,288,776	268,986,602					
Total EXTRA-EU28	259,716,949	221,336,282							468,722,000