



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 15 June 2007

10771/07

**Interinstitutional File:
2007/0012 (CNS)**

**AGRIORG 66
AGRIFIN 63**

NOTE

from : Presidency
to : Delegations

No. Cion prop.: doc. 5572/07 - COM(2007) 17 final

Subject : Proposal for a Council Regulation laying down specific rules as regards the fruit
 and vegetable sector and amending certain Regulations
 – Presidency compromise, in agreement with the Commission

Delegations will find attached the **final Presidency compromise text** (in agreement with the Commission) on which a **political agreement** was reached by the Council on 12 June 2007.

PRESIDENCY COMPROMISE
in agreement with the Commission

The Commission proposal is agreed as contained in 5572/07 - COM(2007) 17 final, amended by doc 10333/07 and subject to the following modifications¹:

1. CRISIS PREVENTION AND MANAGEMENT

In order to provide further flexibility for producer organisations (POs) to deal with crisis prevention and management, the following provision is added:

POs to be permitted to exceed the limit of 4.1% of the value of the marketed production (VMP), up to a limit of 4.6%, provided that the excess above 4.1% is used only for crisis prevention and management measures.

2. TRANSITIONAL PAYMENT FOR FRUITS AND VEGETABLES FOR PROCESSING

With a view to ensuring an orderly transition to complete decoupling of support in the framework of the single payment scheme (SPS) and of the single area payment scheme (SAPS), the Member States will be allowed to apply transitional payments for products for processing as follows:

- for tomatoes, during a maximum four year transitional period until at the latest 31 December 2011 provided that the coupled proportion of the payment does not exceed 50 % of the corresponding component of the national ceiling;

¹ It is assumed that at this stage all delegations have a **linguistic reservation** on the text.

- for crops other than annual crops, during a maximum five year transitional period until at the latest 31 December 2012, provided that after 31 December 2010, the coupled proportion of the payment does not exceed 75 % of the corresponding component of the national ceiling in 2011 and 2012 respectively.

The transitional payment will be based on the following criteria:

- Member States will decide by 1 November 2007 which sectors or products will benefit from the transitional payment and the percentage of the corresponding component of the national ceiling to be retained;
- the payment for fruits and vegetables for processing will be an area payment to be paid on hectares used in the framework of a contract for processing; Member States will be able to establish additional conditions, for instance that the transitional payment will be made only to members of POs;
- Member States will decide the amount per hectare and will have to adjust the payments in order to respect the budgetary ceiling;
- Where Member States make use of this transitional arrangement, the minimum quality requirements for finished products as currently provided for under the processing aid scheme shall be maintained during the transitional period.

3. COUNCIL DECLARATION ON SCHOOL FRUIT SCHEME

"In light of the dramatic increase in obesity amongst schoolchildren, which has been highlighted in the recently published Commission White Paper "A Strategy for Europe on Nutrition, Overweight and Obesity related health issues", the Council invites the Commission to come forward with a proposal for a school fruit scheme as soon as possible based on an impact assessment of the benefits, practicability and administrative costs involved."

4. POTATOES

a) State aids

Member States presently applying state aids in the potato sector will be allowed to continue these during a four year transitional period ending on 31 December 2011.

b) Marketing standards

Potatoes (of CN codes 0701 90 50 and 0701 90 90) are deleted from Article 2(1) and (2).

5. ORGANIC FARMING AND EXTENSION OF RULES (ART 13)

The text in doc 10333/07 regarding Article 13 is changed as follows:

Paragraph 3:

"A producer organisation shall be deemed representative within the meaning of paragraph 1 where its members account for at least 50% of the producers in the economic area in which it operates and it covers at least 60% of the volume of production of that area. Without prejudice to paragraph 5, in calculating these percentages account shall not be taken of producers or production of organic products covered by Regulation (EC) No 2092/91."

Paragraph 4 (ba) is deleted.

Paragraph 5:

"Rules may not be made binding on producers of organic products covered by Regulation (EC) No 2092/91 unless such a measure has been agreed to by at least 50% of such producers in the economic area in which the producer organisation operates and that organisation covers at least 60% of such production of that area."

6. SPS: NON ACTIVATION OF ENTITLEMENTS IN 2007

Fruit and vegetables and potato growers should not lose entitlements under the SPS in 2007 as a result of the rules governing the eligibility of land. Articles 42 and 45 of Regulation (EC) No 1782/2003 on direct support schemes will be amended in order to address this specific problem.

7. SPS: NATIONAL RESERVE

The amounts that remain in the national reserve prior to the implementation of the reform can be allocated to individual farmers producing fruit and vegetables and ware potatoes based on the current Council provisions. Where a Member State applies the scheme at regional level, the same may be applied for each region's element of the national reserve.²

8. SPS: FRUIT TREES

Member States may decide to allocate payments entitlements in relation to the historical areas under fruit trees. Since data on these areas under fruit trees might not be available yet, the Commission will provide in implementing rules that Member States will be permitted to use data to be submitted by the farmers in the framework of the 2008 single application.

9. SPS: NURSERIES

Nurseries will become eligible under the SPS.

² See [Annex I](#) for an explanation of the procedure to be followed.

10. SPS: INTEGRATION AT REGIONAL LEVEL

The current Council provisions governing the SPS provide that Member States applying the SPS at regional level will be able to fix the rules for the integration of fruit and vegetables in the SPS, including the application of Article 41 of Regulation (EC) No 1782/2003 at regional level and within the regional ceilings.

11. SAPS: SEPARATE FRUIT AND VEGETABLES PAYMENT

New Member States applying the SAPS will be able to introduce a decoupled separate fruit and vegetable payment to historical producers of fruit and vegetables based on the same principles as the separate sugar payment. They will have to decide by 1 November 2007 the budgetary amount to be deducted from the SAPS envelope and the objective and non discriminatory criteria used for the allocation of the separate payment to the historical producers of fruit and vegetables.

12. ONE-OFF STATE AID FOR THE PROCESSED TOMATO SECTOR

Spain and Italy are authorised in the marketing year 2007/2008 to grant a one-off national aid of 15 M. € each in order to support the adaptation of the tomato processing sector to the new regulation.

13. ENVIRONMENTAL ACTIONS

In Article 8 (3), first subparagraph, point (b) the figure of "20%" is replaced by "10%".

In Article 8(3), second subparagraph, the reference to "all the producer members of a producer organisation" is replaced by "at least 80% of the producer members of a producer organisation".

Article 8(3) shall only apply in the Member States which acceded to the Community on 1 January 2007 after the end of a transitional period ending on 31 December 2010.

Commission declaration:

"Environmental actions provided for in Article 8(3) are intended to address environmental concerns associated not only with the production of fruit and vegetables but also with the transport and marketing of fruit and vegetables, and in particular with a view to addressing issues such as the emission of greenhouse gases, air quality, soil and water pollution and the reduction of packaging waste."

14. TRADE WITH THIRD COUNTRIES

Consistency and coherence of parts of the legislative text on trade with third countries resulting from this political agreement with the equivalent legislative text resulting from the expected political agreement on the Single CMO will be ensured by the Council preparatory bodies.

15. COMMISSION DECLARATIONS ON MARKETING STANDARDS

a) Fresh products

"In cooperation with the Member States, the Commission will consider the definition of what constitutes sound, fair and marketable quality for the products referred to in Article 2(1) and a possible reduction of the list of products covered by marketing standards under Article 2(2) and will consider rationalisation of checking operations".

b) Processed products

"On a case by case basis, the Commission may consider setting marketing standards for processed products, on request from the industry and/or Member States."

16. COMMISSION DECLARATION ON RURAL DEVELOPMENT AND OPERATIONAL PROGRAMMES

The Commission intends to include, among the implementing rules related to the reform of the fruit and vegetable sector, specific provisions in relation to the coexistence of actions implemented under the operational programmes and measures implemented under rural development programmes.

Those provisions will be similar to the provisions of Article 5(6) of Council Regulation (EC) No 1698/2005 and of Article 2(2) of Commission Regulation (EC) No 1974/2006, which read as follows:

"6. No support under this Regulation shall be granted to schemes eligible for support under common market organisations, subject to any exceptions yet to be defined, in accordance with the procedure referred to in Article 90(2)."

"2. Where support under Regulation (EC) No 1698/2005 may exceptionally be granted in accordance with Article 5(6) of that Regulation, for measures falling within the scope of the support schemes listed in Annex I to this Regulation, Member States shall ensure that a beneficiary may receive support for a given operation only under one scheme.

To that end, Member States, when including measures containing such exceptions in their rural development programmes, shall describe in those programmes the criteria and administrative rules they will apply for the support schemes concerned."

17. NATIONAL FINANCIAL ASSISTANCE

In Article 10 (1), first subparagraph, the references to "50% of the financial contributions" is replaced by "up to 80% of the financial contributions".

18. SPS: OPTIONAL TRANSITIONAL PERIOD FOR POSTPONING THE INTEGRATION OF FRUIT AND VEGETABLES AND WARE POTATOES

Member States will be able to decide, by 1 November 2007, at product level and where applicable at regional level, to maintain the current SPS rules for eligibility to activate payment entitlements and/or non-distribution of such entitlements for fruits and vegetables and ware potatoes during a transitional three year period ending on 31 December 2010.

19. SPS: Greece's national CEILING

In order to exclude the 2004 peaches harvest, which was exceptionally low due to bad weather, the year 2004 is taken out in the calculation of the reference amount. This results in an increase from 186.467 to 189.567 Mio € (+ 3.1 M €) in the fruit and vegetables component of Annex VIII to Regulation (EC) No 1782/2003 on direct support schemes.

20. STATE AID: CRISIS MANAGEMENT OUTSIDE POs

A State aid is allowed under the following conditions:

- Extension of crisis management measures to the benefit of non members, who enter into a contract with a PO.
- Financed by way of a state aid, where the compensation for non PO members will be no more than 75% of the Community support received by PO members. The Member State will have the possibility to establish its own criteria to limit the budget.
- Limited to 3 years. Before the end of the period, Member States making use of this provision will present a report on the effectiveness and the efficiency of the measure, in particular analysing how much it has supported the organisation of the sector. Then, the Commission will consider whether to make any appropriate proposals.

21. SOFT FRUIT PAYMENT

A transitional direct payment financed by the Community budget for a period of 5 years ending on 31 December 2012 will be established for raspberries and strawberries intended for processing.

The payment financed by the Community budget shall not exceed 230 €/ha. Member States may pay a national top up. In this case, the total amount shall not exceed 400 €/ ha.

The payment shall be limited to a maximum guaranteed area of 52 700 ha in the Community broken down as follows:³

Member State	Area (hectares)
Bulgaria	2 400
Hungary	1 700
Poland	48 000
Lithuania	600
Total	52 700

22. COMMISSION DECLARATION CONCERNING DELEGATION OF ACTIVITIES FROM POs TO APOs

"In the implementing rules, the Commission will clarify the drafting of Article 5 by specifying that, where the Council regulation indicates that APOs may carry out any of the activities of a producer organisation, this covers also the case where the marketing of products continues to be carried out by the member POs".

³ The Commission indicated its willingness to examine the possible eligibility of Latvia on the basis of objective data.

23. REMOVAL OF THE LIMIT OF 20% OF THE OPERATIONAL PROGRAMMES FOR CRISIS MANAGEMENT LOANS

The limit of 20% of the expenditure under the operational programme applied to loans for crisis prevention and management will be removed. Such loans will be treated as all other expenditure for crisis prevention and management, and so fall within the limit of one-third of the expenditure of the operational programme.

24. COMMISSION DECLARATION ON PHYTOSANITARY ISSUES

The Commission will continue to adopt the necessary measures to enforce the phytosanitary requirements laid down in EC Directive 2000/29/CE with regard to imports from third countries when appropriate. The Commission will also continue to ensure that those requirements and controls will guarantee an adequate level of phytosanitary protection for EC fruit and vegetables production by way of the application of phytosanitary measures which are based on international phytosanitary standards and used in international trade in order to assure the absence of harmful organisms in international shipments.

In addition, the Commission will continue to pay attention to carry out Community inspections to those third countries whose exports pose significant phytosanitary risks to crops grown in the Community.

25. COMMISSION DECLARATION REGARDING SPANISH PROPOSAL ON "CRISIS MANAGEMENT AND PREVENTION INSURANCE"

"The Commission declares that the Spanish proposal concerning crisis management and prevention insurance merits a closer examination. However, the proposal raises questions of horizontal nature which require a more fundamental analysis. Consequently, the Commission intends to deal with this in the context of the upcoming Health Check."

26. SAFFRON

Saffron (CN code ex 0910) is included in the Fruit and vegetables CMO.

27. PROMOTION OF FRUIT AND VEGETABLES

The modification to Article 5(3) of Regulation (EC) No 2826/2000 will read as follows:

"As regards the promotion of fresh fruit and vegetables, a special focus shall be given to promotion targeted at children in educational establishments".

28. FIRST OPERATIONAL PROGRAMME FOR MERGERS OF POs OR ASSOCIATIONS OF POs

The provisions of Article 9(3) (e) and (f) can also cover operational programmes submitted in 2007 but not yet approved.

29. PRODUCERS GROUPS - START UP AID: ARTICLE 6(5)

The Commission declares that, in the implementing rules, the Community will continue the current rate of co-financing as set out in Article 8 of Regulation (EC) No 1943/2003.

NON PAPER
prepared by the Commission Services
on the use of the amounts remaining in the national reserve
prior to the integration of the fruit and vegetable sector in the SPS

- **Step 1:** Member States fix the objective and non discriminatory criteria provided for in point M of Annex VII.

- **Step 2:** Member States establish the amounts to be allocated to individual farmers on the basis of the criteria fixed in step 1.

- **Step 3:** Member States apply Article 41:
 - 3a:** Member States sum up the value of all the entitlements allocated to farmers prior to the F & V reform and the value of all the amounts established in step 2;
 - 3b:** Member States compare the sum in 3a with the national ceiling in Annex VIII or VIIIa as modified in the framework of the F & V reform;
 - 3c: 2 cases:**
 - if the sum in 3a is lower than the national ceiling, Member States continue the process with step 4;
 - if the sum in 3a is higher than the national ceiling, Member States apply Article 41(2): all the amounts (new ones to be allocated as well as old ones already allocated) are proportionally reduced before going to step 4.

- **Step 4: new national reserve:** In accordance with Article 42(1), the new reference amounts in relation to fruits and vegetables are reduced by the same reduction rate than the one used during the first year of implementation of the SPS for the initial constitution of the national reserve. The amounts corresponding to this reduction and, in the first case of step 3c, the amounts that were in the national reserve prior to the reform and that have not been allocated in the framework of the above procedure constitute the new national reserve.

As a consequence of this procedure, the amounts remaining in the national reserve prior to the reform may be used to allocate payment entitlements to historical producers of fruits and vegetables, including in the specific case of Members States using a regional or hybrid model of decoupling and that are willing to allocate payment entitlements in relation to historical areas under orchards. The payment entitlements allocated under the above procedure are normal entitlements, i.e. they come from the national ceiling; consequently the specific constraints that apply to entitlements allocated from the national reserve do not apply.

Statement by the Austrian delegation, supported by the Belgian delegation

Austria continues to oppose the introduction of payment entitlements for fruit and vegetables and potatoes for human consumption. Above all, the possibility of activating payment entitlements for fruit, vegetables and potatoes for human consumption runs counter to the decisions taken under the 2003 CAP reform and leads to distortions of competition.

On the strength of the proposed compromise for the reform of the market organisation in fruit and vegetables and on the basis of the budgetary ceilings and the limited provision in the national reserve, the intention is to activate payment entitlements for fruit, vegetables and potatoes for human consumption as from 2010 at the earliest. The European Commission is therefore urged, in the context of the "Health Check", to devise an appropriate solution which takes into account above all the necessary financial aspects.
