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REPORT FROM THE COMMISSION TO THE COUNCIL

on the review of the energy crops scheme

(under Article 92 of Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers)

{SEC(2006) 1167}

Proposal for a

COUNCIL REGULATION

amending and correcting Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)

(presented by the Commission)

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(under Article 92 of Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers)

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1. INTRODUCTION

In the preparation of the CAP Reform 2003 the Commission proposed to replace the existing arrangements for the non-food set-aside scheme (NFSA) with a "carbon credit", a non-crop specific financial aid for energy crops with the objective of achieving carbon-dioxide substitution while the set-aside scheme would have been turned into a compulsory long-term non-rotational set aside.

The result of the CAP Reform 2003, i.e. the Council Regulation (EC) No 1782/2003, maintains the existing set-aside scheme (and the NFSA) and introduces in Chapter 5 of this Regulation a new aid supporting the production of energy crops. The amount of this aid is €45 per hectare for a maximum guaranteed area (MGA) of 1 500 000 hectares, not divided among the Member States

The two regimes (*non food on set-aside land* and *energy crops*) are run in parallel and they both contribute to support the development of energy crops. Farmers may opt for one or the other regime depending on their specific situation. The aid for energy crops, however cannot be granted on areas subject to set aside, but farmers producing raw materials for energy purposes on set-aside land in the framework of the NFSA scheme are entitled to receive the set-aside payment or the value of the set-aside entitlement.

According to Article 92 of the Council Regulation, the Commission shall submit a report to the Council by 31 December 2006 on the implementation of the scheme and, where appropriate, accompanied by proposals taking into account the implementation of the EU biofuels initiative.

2. SCOPE OF THE REPORT

The present report takes into account the experience gained during the first two years of implementation of the scheme and the most recent developments of the EU biofuels initiative, including the Biomass Action Plan¹ and the Communication of the Commission on biofuels², the conclusions of the 2708th Council Meeting of 20 February 2006, in which the delegations “*invite the Commission when reviewing the energy crop scheme to ensure that it is consistent with the EU’s overall biofuel policy and that adequate incentives are provided to the development of energy crops in all Member States and to address simplification of the energy crops regime in this review*” and the conclusions of the Energy Council of 8 June 2006, which invited the Commission to “*simplify administrative procedures for the production and use of bio-energies in the context of the CAP and assess the extension of the application of the energy crops scheme to all Member States*”.

On these bases the report is examining how the efficiency of the scheme could be further improved from the year 2007. Consequently and because of the timing, the report may not cover the relations between the energy crops scheme and the on going review of the Biofuels Directive. This report may not either take into account the Conclusions of the 2006 Spring Council, where Heads of State and Government agreed that a new target of 8 % for biofuels for 2015 could be added. The possible impact of the result of these developments on the

¹ COM(2005) 628 of 7.12.2005.

² COM(2006) 34 of 8.2.2006.

energy crops scheme and other CAP measures related to biofuels and biomass will have to be examined at a later stage.

Because of this time constraint this report will not cover issues that would require a further in-depth analysis (e.g. the relationship between the NFSA and the energy crop schemes or the contribution of the scheme to the revenue of farmers). These issues would be dealt with during the overall review of the CAP in 2008, which would also take into account the outcome of the review of the Biofuels Directive, for example in relation to:

- the need for further measures to promote the use of biofuels;
- the degree to which supply side measures are needed alongside demand side measures;
- and the need to further encourage farmers to shift to the cultivation of multiannual crops.

3. CURRENT SITUATION AND RECENT DEVELOPMENTS IN THE EU-15

3.1 *Utilisation of the scheme*

The aid for energy crops was applied for the first time in 2004. The areas for which the direct payment for energy crop was claimed in the first two years of the implementation of the scheme were well below the maximum guaranteed area of 1.5 million hectares: the total area was around 300 000 hectares in 2004 (about 20 %) and 570 000 hectares in 2005 (38 %). The most important countries which used this scheme in 2005 are Germany, France and the UK. The preliminary data available for 2006 suggest that the tendency of strong growth continues. Precise data for 2006 will be available from the Member States in the middle of September 2006.

There is however a certain production of energy crops that does neither benefit from set aside nor from the energy crop support. According to internal DG AGRI estimates, around 24 % of the rapeseed area used for biodiesel production in 2004/05 marketing year and 38 % in 2005/06 did not request support.

The possible reasons for this situation can be summarised as follows:

- a. The aid for energy crops and the NFSA scheme are two complementary schemes. While in the NFSA scheme there is no opportunity cost for the raw materials, in the energy crops scheme the raw materials compete with food and feed crops on the market. Therefore the energy crop scheme does not replace the production of crops for energy purposes on set-aside land, but represents an additional option for the farmer to obtain specific support.
- b. The management rules of the regime can be felt as complex, which might limit its development. The possibility for the collector to participate in the management of the scheme, introduced together with the sugar reform, will probably alleviate some of the difficulties.
- c. The obligation for the farmers to conclude a contract with a collector/processor by the date they send their single application implies that the farmers lose flexibility and freedom in the decision of marketing of crops (food or non food, depending on the

market price). A likely result is that some farmers produce energy crops outside the energy crop and NFSA schemes, without specific support, as they consider that the disadvantages of the contracting obligation are not fully compensated by the financial benefits provided by the scheme. However, the contracting obligation is a key component of these two schemes, both in terms of controllability and management of the activities of the processors.

3.2 *Crops and areas benefiting from the energy crops scheme*

The areas under energy crops in 2004 and 2005 per MS not applying the SAPS³ (EU-15 plus Malta and Slovenia) are in Annex I and the crops grown in the frame of this scheme per MS in 2004 are in Annex II to this report.

3.3 *Short term development perspectives for energy crops in EU-15*

The data on the development of bioethanol and biodiesel production as well as recently constructed capacities show a dramatic increase in the demand for energy crops within the next few years (see details in Annex III and IV to this report⁴).

For example in case of bioethanol, production capacities between 2005 and 2008 are likely to increase four times with major production capacities in France, Germany and Spain. In total there may be around 42 bioethanol plants in 2008 while in 2005 only 13 plants were operating. Likewise, the biodiesel production capacity might almost double between 2005 and 2007 with major investments in Germany, France and Spain.

3.4 *Preliminary findings from the evaluation report*

A study on implementing the energy crops measures of the Common Agricultural Policy (CAP) and on the bio-energy market is being carried out by *DEI Agra – Università degli studi di Bologna* under contract with DG AGRI at the time of drafting this report. The preliminary findings are mainly based on work at regional level for a limited number of types of bio-energy production, deemed the more representative. The validity of the results is therefore limited to the regions and the types of bio-energy production studied⁵.

The Aid for Energy Crops may represent a relevant percentage of the market margin⁶ a farmer can obtain from the same crop under the condition the market margin is tight or negative. There is an indication of this in particular for: maize for biogas in Niedersachsen, sunflower for biodiesel, and barley for bioethanol in Castilla y Leon, reed canary grass for direct burning in power plants Oulu (Finland). When the market margin is higher, the aid for energy crops represents a lower percentage of the market margin, although it is not negligible⁷ as found in

³ SAPS: Single Area Payment Scheme – see more details under point 4.1.

⁴ For instance the figures of the European Biodiesel Board show that the overall biodiesel production in the EU-25 has increased by 65 % from 2004 and 2006. The estimates regarding the biodiesel capacity show an increase of 43,5 % from 2005 to 2006.

⁵ Kärnten (maize-biogas), Niedersachsen (rapeseed-biodiesel, maize-biogas), Castilla y Leon (sunflower-biodiesel, dry or irrigated, barley-bioethanol, dry or irrigated), Oulu (Finland) (reed canary grass-direct burning in power plants), Champagne-Ardenne (wheat-bioethanol), Haute-Normandie (rapeseed-biodiesel).

⁶ Market margin: margin resulting from the combined action of market forces and natural variability in crop productivity, in €/ha.

⁷ Not negligible: AEC represents more than 10% of the market margin from the same crop.

the following cases studied: maize for biogas in Kärnten, rapeseed for biodiesel in Niedersachsen, wheat for bioethanol in Champagne-Ardenne, rapeseed for biodiesel in Haute-Normandie. This implies that the aid for energy crops is an incentive for the farmers with low market margins of crops suitable for energy production to destine the crop for energy purpose rather than for other outlets. The areas under aid for energy crops show favourable dynamics: at least three-digit growth rates were observed from 2004 to 2005 in nearly all the EU-15 Member States. However, the maximum guaranteed area has not been reached in the first two years of implementation.

The NFSA regime, allowing farmers to produce non-food products on compulsory set-aside areas, has been in practice a significant measure in favour of the development of energy crops: more than 95 % of the NFSA areas were indeed dedicated to energy crops.

However, growing energy crops is not only driven by specific support such as the aid for energy crops and the NFSA. In particular, the aid for energy crops is associated with a high administrative burden and certain inflexibility with respect to the final outlet chosen. When applying for the aid for energy crops, the farmers lose the possibility to decide freely among the different possible uses of the crops (food; feed; non food uses including energy) at the moment of harvest. As it implies a potential profit loss, this could limit the uptake of the aid for energy crops. Furthermore, the areas where energy crops are grown without the aid for energy crops and outside the NFSA regime have been substantial in recent years⁸. The market margins of energy crops are indeed high in some cases. Moreover, until the introduction of the single payment scheme, most crops grown for energy purposes have been eligible for the support granted through arable crops payments.

4. SITUATION IN THE NEW MEMBER STATES AND ADAPTATION OF THE SCHEME

4.1. Legal status of the aid for energy crops

Under the CAP reform (Article 143b of Council Regulation (EC) No 1782/2003), the new Member States may opt to use the Single Area Payment Scheme (SAPS), which involves the payment of uniform amounts per hectare of agricultural land, up to a national ceiling, set up on the basis of the sum of direct payments to which the given new Member State would be entitled in the year in question.

The current rules for SAPS exclude the application of the energy crops scheme in the Member States applying the SAPS. In the lack of a set-aside obligation, these Member States also do not have the possibility to grow energy crops on set-aside land.

However, in accordance with Article 143c of Council Regulation (EC) No 1782/2003, a new Member State using SAPS may decide to grant farmers a complementary national direct payment (CNDP or “top-up”) for energy crops after authorisation by the Commission. The maximum amount of such national top-ups should take into account the actual “phasing in” level, in accordance with Article 143a of Council Regulation (EC) No 1782/2003.

The new Member States choosing not to apply the SAPS (Slovenia, Malta) are subject to the same general conditions as the EU-15 Member States, except that the “phasing-in” established under Article 143a of Council Regulation (EC) No 1782/2003 applies. The energy

⁸ See point 3.1

crop scheme and its maximum guaranteed area and mandatory set aside (including the possibility of cultivating energy crops on those areas) therefore apply.

4.2. Implementation of the Biofuel Initiative

The data available on biofuel consumption and national indicative targets for the EU-25 show that many new Member States have fixed their objectives in accordance with or beyond the ones of the EU-15 Member States in the implementation of the EU's Biofuel Initiative. All new Member States have as well already adopted national measures (e.g. exemptions from excise duty) for supporting the production and use of biofuels.

Some of the new Member States provide already national support under CNDP for the production⁹ of energy crops which shows a considerable interest for these crops in those countries.

These data show that new Member States make significant efforts to comply with the Biofuels Initiative. They are under the same obligation and have the same commitments as other Member States.

There is a limited availability of data on the areas under crops for energy production in new Member States. Data on the production capacities for biodiesel (see Annex III to this report) show, however, that while the proportion of arable land in the new Member States is about 30 % of the total arable area in the EU-25, the biodiesel production capacities correspond only to 8–10 % of the total EU-25 capacity. Also while the production capacities have increased by nearly 50 % from 2005 to 2006, this increase was 20 % only in the new Member States.

4.3 Short term development perspectives for energy crops in new Member States

Annex III and IV provide data and analysis on the trends in areas for energy crops, the processing capacities and the production of biofuels, including data on current and future production capacities in new Member States.

New capacities for bioethanol production are being constructed in new Member States. While in 2005 only Poland (2 plants) and Hungary (2 plants) had a capacity of total 135 000 tonnes, in 2008 the capacity may likely reach 1 128 000 tonnes in six new Member States with about 20 units operating. Especially Hungary, Poland and the Czech Republic could emerge as new major bioethanol producers. Likewise, the biodiesel production capacity may double between 2005 and 2007 with a share of about 10 % in new Member States, mainly Poland and the Czech Republic.

5. THE FUTURE: WHAT COULD BE THE IMPROVEMENTS OF THE SCHEME

5.1. Extension of the aid for energy crops to all new Member States

Based on the strategic objectives fixed in the EU Biofuels Strategy, the experience of the two years of implementation of the scheme, the development of the energy crop sector EU-wide and following the conclusions of the 2708th Council Meeting on 20 February 2006, the

⁹ Poland: 7 500 ha for short rotation coppice (SRC); Hungary: Arable crops: 30 000 ha, Energy grass (Miscanthus): 11 000 ha, SRC: 2 500 ha.

Commission proposes to extend the energy crop regime from the year 2007 to all Member States, including the new Member States applying the SAPS. The Commission considers that the same kind of incentive for the production of energy crops should be provided in the new Member States as in the EU-15 Member States. Therefore the regime should be introduced under the same conditions as applies currently for the EU-15, including the full payment of the aid for energy crops.

5.2 *Adaptation of the maximum guaranteed area (MGA)*

The new Member States possess around 30 million hectares of arable land which is around 30 % of the EU-25 total arable land (104.3 million hectares). Based on the assumptions introduced in this report there is no reason to think that the potential for the production in the new Member States is lower than in the EU-15. If we consider the fact, that new Member States applying the SAPS are not concerned by the NFSA scheme and that in the landlocked countries¹⁰ (Hungary, Czech and Slovak Republic) a higher rate of area could be used for the production of energy crops, this proportion could become significantly higher, if the support scheme for energy crops was extended.

Taking into account the tendencies in the development of the area under energy crops between 2004–2006 in the EU-15, and the fact that the revision of the CAP is scheduled to take place in 2008, one question is whether the present MGA would be enough to cover the demand in the years 2007–2008 without an overshoot of this MGA, which would result in a reduction of the per hectare payment for energy crops. With the conclusion of the sugar reform, sugar beet has become eligible for the aid for energy crops. This would mean a potential increase in the area under energy crops.

The Commission considers that the extension of the energy crops scheme to the new Member States as from 2007 would require an increase in the MGA for energy crops, at least pro-rata to their arable land.

5.3 *Introduction of a national aid for the establishment of multiannual crops*

Article 56(4) of Council Regulation (EC) No 1782/2003 provides for the possibility for Member States to grant national aid covering up to 50 % of the costs associated with establishing multiannual crops intended for biomass production on set-aside land. The extension of this possibility for the areas under energy crops would make it possible to increase the level of support without additional CAP spending. Given the present low proportion of multiannual crops in the area under energy crops, such a measure could also improve the present imbalance which is in favour of oilseeds. This support could also be an encouragement for an alternative and less intensive use of lower quality arable land or areas with high risk of erosion, giving further environmental benefits to the application of the scheme.

5.4 *Possibilities for the simplification of the aid scheme for energy crops*

The scheme for energy crops is intended to give an incentive for the growing of crops to be supplied essentially for the production of certain energy products, i.e. biofuels or energy produced from biomass (see Article 88 of Regulation (EC) No 1782/2003).

¹⁰ Member States without direct access to a sea port.

During the two years of implementation of the scheme there have been several complaints from the sector about the complex nature of the regime, which could also have a negative impact on participation of farmers and processors/collectors in the scheme. Therefore it would be appropriate to examine further the possibilities of simplification of the implementing rules without jeopardising the effectiveness of the scheme.

Following the conclusions of the 2708th Council Meeting (see section 2), the Commission aims at making proposals for the simplification of the implementation of the energy crops scheme to the Management Committee for Direct Payments before the end of 2006. The possible areas where a simplification in the implementing rules of the energy crops regime could take place are:

- review of the guarantee system at processor level: Instead of the system whereby collectors and/or processors are obliged to pay a guarantee for each contract and each type of raw material, a system where farmers are to supply the raw materials to authorised collectors/processors in order to be entitled to the energy crop aid could be considered;
- simplifications at farmer level: review of the existing control measures in case cereals and oilseeds are used on the farm for energy purposes.

6. CONCLUSIONS

- a. It would be appropriate to make the energy crops scheme available in all Member States – including the new Member States – in order to support appropriately their contribution to the EU biofuels initiative. This will require notably an adaptation of the maximum guaranteed area. The additional cost to Community budget is at maximum €4.5 million per each 100 000 hectare increase in the MGA. The Commission intends to adopt in due time the corresponding proposal to the Council. The adaptation of the maximum guaranteed area will have to take into account the potential use of the scheme in the years 2007 and 2008 and will be reviewed in the framework of the overall review of the CAP in 2008.
- b. A significant simplification of the implementing rules would increase the attractiveness of the scheme for both the farmers and the processors and increase its impact in terms of support to the development of energy crops. The Commission will examine carefully how the implementation rules of the scheme might be simplified while ensuring that the risks of abuse of the aid remain under control.

EXPLANATORY MEMORANDUM

Three years ago the Council reached a political agreement on the 2003 CAP reform, paving the way for an in-depth reshuffling of the way the EU is granting income support to its farmers and introducing a new support for the cultivation of energy crops, in view of a more sustainable development of EU agriculture and rural areas.

It is now too early to assess comprehensively the impact of this reform. However, from the experience already available, it appears that even if, broadly speaking, the reform had been implemented successfully, some possible specific improvements have been identified in terms of efficiency and/or simplification.

The aim of this proposal is to apply from the year 2007 the specific improvements that have been identified and which concern:

- the conclusions of the report from the Commission to the Council regarding the implementation of the energy crops scheme, i.e. making the scheme applicable in the new Member States under the same conditions as in the other Member States and authorising national aid for supporting the establishment of multiannual crops intended for bio-mass production on land benefiting from the energy crops scheme;
- the possibility for the new Member States using the single area payment scheme to continue to use this simple way of granting income support to the farmers until the end of the year 2010; the exemption for the introduction of the statutory management requirements into cross-compliance currently foreseen for Member States applying the single area payment scheme will nevertheless not be extended beyond 2008; to ensure coherence of the baseline (subject to possible sanctions) for axis-2 measures under Rural Development with this non-extension, Article 51 of Council Regulation (EC) No 1698/2005 should be amended accordingly;
- the simplification of the eligibility rules under the single payment scheme for the land with olive trees;
- the introduction of some needed rules regarding the direct payments linked to the sugar sector.

Proposal for a

COUNCIL REGULATION

amending and correcting Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 36 and the third subparagraph of Article 37(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament¹¹,

Whereas:

- (1) Council Regulation (EC) No 1782/2003¹² established common rules for direct support schemes under the common agricultural policy and certain support schemes for farmers.
- (2) Article 42(8) of Regulation (EC) No 1782/2003 prohibits the transfer of entitlements established using the national reserve except in cases of inheritance. In cases of mergers and scissions it is also appropriate to allow farmers to bring payment entitlements allocated from the national reserve in the resulting new holding or holdings.
- (3) The experience shows that for a decoupled income support the rules governing the eligibility of agricultural areas may be simple. Notably, it is appropriate to simplify the eligibility rules applicable to the single payment scheme for agricultural areas planted with olive trees.
- (4) Currently, Member States among the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (“the new Member States”) applying the single area payment scheme are excluded from the Community aid for energy crops. The review of the energy crops scheme pursuant to Article 92 of Regulation (EC) No 1782/2003 has shown that it is appropriate to extend the aid for

¹¹ OJ C ..., ..., p.

¹² OJ L 270, 21.10.2003, p. 1. Regulation as last amended by Regulation (EC) No 953/2006 (OJ L 175, 29.6.2006, p. 1).

energy crops to all Member States as from 2007 and under the same conditions. Therefore the maximum guaranteed area should be increased proportionally, the schedule of increments provided for the introduction of support schemes in the new Member States should not apply to the energy crops scheme and the rules governing the single area payment scheme should be amended.

- (5) In order to strengthen the role of multiannual energy crops and to provide an incentive to increase the production of these crops, the Member States should be entitled to grant national aid up to 50 % of the costs associated with establishing multiannual crops for the areas which have been subject to an application for the aid for energy crops.
- (6) Sugar beet and cane producers in the new Member States have benefited since accession from price support in the framework of Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector¹³. Therefore, the Community aid for sugar beet and cane producers established in Chapter 10f of Regulation (EC) No 1782/2003 should not be subject to the application of the schedule of increments provided for in Article 143a of that Regulation, with effect from the day of application of the aid for sugar beet and cane producers.
- (7) The experience shows that the single area payment scheme is an efficient and simple system of granting decoupled income support to the farmers. For the sake of simplification it is appropriate to allow the new Member States to continue applying it until the end of the year 2010. Nevertheless, it is not deemed appropriate to extend beyond 2008 the exemption for the obligation of introduction into cross-compliance of the statutory management requirements granted to Member States applying the single area payment scheme. To ensure coherence of certain rural development measures with this non-extension, Article 51 of Council Regulation (EC) No 1698/2005¹⁴ should take account thereof.
- (8) Under normal circumstances, farmers may agree between themselves the conditions under which the holding (or part of the holding) having benefited from the separate sugar payment is transferred. However, in case of inheritance, it is appropriate to provide that the inheritor should be granted the separate sugar payment.
- (9) Regulations (EC) No 1782/2003 and (EC) No 1698/2005 should be amended accordingly.
- (10) Council Regulation (EC) No 247/2006 of 30 January 2006 laying down specific measures for agriculture in the outermost regions of the Union¹⁵ has amended Annex I to Regulation (EC) No 1782/2003. Due to an error, the entries for olive oil and hops did not take into account the amendments to that Annex introduced by Commission Regulation (EC) No 2183/2005 of 22 December 2005 establishing common rules for direct support schemes under the common agricultural policy and establishing certain

¹³ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

¹⁴ OJ L 277, 21.10.2005, p. 1. Regulation as last amended by Regulation (EC) No .../2006 (OJ L ..., ...,2006, p. ...).

¹⁵ OJ L 42, 14.2.2006, p. 1.

support schemes for farmers and amending Regulation (EC) No 795/2004 laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No 1782/2003¹⁶. Annex I to Regulation (EC) No 1782/2003 should therefore be corrected accordingly, with effect from the date of application of Regulation (EC) No 2183/2005,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1782/2003 is amended as follows:

- (1) In Article 42(8), the first subparagraph is replaced by the following:

“Except in case of transfer by actual or anticipated inheritance and of mergers and scissions, and by way of derogation from Article 46, the entitlements established using the national reserve shall not be transferred for a period of five years starting from their allocation. In case of a merger or scission the farmer(s) managing the new holding(s) shall keep the entitlements which were originally allocated from the national reserve until the remaining part of the five years period.”
- (2) In Article 44(2), the second subparagraph is replaced by the following:

““Eligible hectare” shall also mean areas planted with hops or being under a temporary resting obligation, or areas under olive trees.”
- (3) In Article 51, point (a) is replaced by the following:

“(a) permanent crops, apart from olive trees or hops;”
- (4) In Article 60, paragraph 1 is replaced by the following:

“1. Where a Member State makes use of the option provided for in Article 59, farmers may, by way of derogation from Article 51(b) and (c) and in accordance with this Article, also use the parcels declared in accordance with Article 44(3) for the production of products referred to in Article 1(2) of Regulation (EC) No 2200/96 or in Article 1(2) of Regulation (EC) No 2201/96 and of potatoes other than those intended for the manufacture of potato starch for which aid is granted under Article 93 of this Regulation, except crops referred to in Article 51(a).”
- (5) In Article 71g, paragraph 1 is replaced by the following:

“1. Farmers may, by way of derogation from Article 51(b) and (c) and in accordance with this Article, also use the parcels declared in accordance with Article 44(3) for the production of products referred to in Article 1(2) of Regulation (EC) No 2200/96 or in Article 1(2) of Regulation (EC) No 2201/96 and of potatoes other than those intended for the manufacture of potato starch for which aid is granted under Article 93 of this Regulation, except crops referred to in Article 51(a).”

¹⁶ OJ L 347, 30.12.2005, p. 56.

- (6) In Article 88, the following paragraph is added:
“Articles 143a and 143c shall not apply to the aid for energy crops.”
- (7) In Article 89, paragraph 1 is replaced by the following:
“1. A maximum guaranteed area of 2 000 000 ha for which the aid may be granted is hereby established.”
- (8) The following Article 90a is inserted:

*“Article 90a
National aid*

Member States shall be authorised to pay national aid up to 50 % of the costs associated with establishing multiannual crops for the areas which have been subject to an application for the aid for energy crops.”

- (9) In Article 110s, the following paragraph is added:
“Articles 143a and 143c shall not apply to the aid for sugar beet and cane producers.”
- (10) Article 143b is amended as follows:
- (a) paragraph 1 is replaced by the following:
“1. The new Member States may decide not later than the date of accession to replace the direct payments, with the exception of the aid for energy crops established in Chapter 5 of Title IV, during the period of application referred to in paragraph 9, with a single area payment which shall be calculated in accordance with paragraph 2.”
 - (b) in paragraph 6, the third subparagraph is replaced by the following:
“As from 1 January 2005 and until 31 December 2008 the application of Articles 3, 4, 6, 7 and 9 shall be optional for the new Member States insofar as those provisions relate to statutory management requirements.”
 - (c) paragraph 9 is replaced by the following:
“9. Subject to the provisions of paragraph 11, for any new Member State the single area payment scheme shall be available for a period of application until the end of 2010. 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.”
 - (d) in paragraph 11, the third subparagraph is replaced by the following:
“Until the end of the period of application of the single area payment scheme as referred to in paragraph 9, the percentage rate set out in Article 143a shall apply. If the application of the single area payment scheme is extended beyond the end of 2010 pursuant to a decision taken under point (b) of the first subparagraph of this paragraph, the percentage rate set out in Article 143a for the year 2010 shall apply until the end of the last year of application of the single area payment scheme.”

- (11) Article 143ba is amended as follows:
- (a) in the first subparagraph paragraph 1, the first sentence is replaced by the following:
“By way of derogation from Article 143b the new Member States applying the single area payment scheme may decide by 30 April 2006 to grant in respect of the years 2006 to 2010 a separate sugar payment to farmers eligible under the single area payment scheme.”
 - (b) the following paragraph 6 is added:
“6. In case of actual or anticipated inheritance, the separate sugar payment shall be granted to the farmer who inherited the holding, under the condition that this farmer is eligible under the single area payment scheme.”
- (12) Annex I is amended in accordance with the Annex to this Regulation.

Article 2

In Article 51(3) of Regulation (EC) No 1698/2005, the following subparagraph is added:

“The derogation provided for in the first subparagraph shall apply until 31 December 2008.”

Article 3

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

It shall apply as from 1 January 2007. However, Articles 1(9), (11) and (12) shall apply from 1 January 2006.

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

Done at Brussels,

For the Council
The President

ANNEX

Annex I to Regulation (EC) No 1782/2003 is amended as follows:

(1) The entry for “olive oil” is replaced by the following:

“

Olive oil	Title IV, Chapter 10b of this Regulation Article 48a(11) of Commission Regulation (EC) No 795/2004 ¹	Area aid For Malta and Slovenia in 2006
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¹ OJ L 141, 30.4.2004, p. 1.

”

(2) The entry for “hops” is replaced by the following:

“

Hops	Title IV, Chapter 10d of this Regulation (***) (*****) Article 48a(12) of Regulation (EC) No 795/2004	Area aid For Slovenia in 2006
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”

FINANCIAL STATEMENT				
1. BUDGET HEADING: 05 03 02 27			APPROPRIATIONS (PDB 2007): EUR 34,6 million	
2. TITLE: Council Regulation amending and correcting Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)				
3. LEGAL BASIS: Article 36 and the third subparagraph of Article 37(2) of the Treaty				
4. AIMS: To provide for a possibility for new Member States applying SAPS to benefit from the energy crop scheme and at the same time to increase the MGA for the whole Community from 1,5 million ha to 2,0 million ha. In the sugar sector a rule of non-application of the phasing-in for the transitory coupled payment is added according to the principle adopted with the sugar reform. New Member States are allowed to continue with SAPS until the end of 2010 and the SPS rules for olive oil are clarified.				
5. FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR 2006 (EUR million)	FOLLOWING FINANCIAL YEAR 2007 (EUR million)	
5.0 EXPENDITURE – CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS) – NATIONAL AUTHORITIES – OTHER	22,5	–	–	
5.1 REVENUE – OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES) – NATIONAL	–	–	–	
	2008	2009	2010	2011+
5.0.1 ESTIMATED EXPENDITURE	22,5	22,5	22,5	22,5
5.1.1 ESTIMATED REVENUE	–	–	–	–
5.2 METHOD OF CALCULATION: –				
6.0 CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?			YES NO	
6.1 CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?			YES NO	
6.2 WILL A SUPPLEMENTARY BUDGET BE NECESSARY?			YES NO	
6.3 WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?			YES NO	
OBSERVATIONS:				
1) It is estimated currently that the MGA will not be fully used in 2007 and 2008 because of rather slow uptake of the energy crop scheme in the old Member States, which could lead to savings in the Community budget of up to €20 mio in 2008 and up to €10 mio in 2009.				
2) The fact that new MS would apply compulsory set-aside rules only after 2010 may have certain indirect effect in cereals market, possibly leading to non-quantifiable costs in the Community budget in 2010 and 2011.				