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EUROPEAN COMMISSION

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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

To align The Commission implementing powers in Council Regulation (EC) No 73/2009<sup>1</sup> to the differentiation between delegated and implementing powers of the Commission introduced by Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFUE).

- **General context**

Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFUE) distinguish two different types of Commission acts:

- Article 290 of the TFUE allows the legislator to delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act. Legal acts adopted by the Commission in this way are referred to in the terminology used by the Treaty as "delegated acts" (Article 290(3)).
- Article 291 of the TFUE allows Member States to adopt all measures of national law necessary to implement legally binding Union acts. Those acts can confer implementing powers on the Commission where uniform conditions for implementing them are needed. Legal acts adopted by the Commission in this way are referred to in the terminology used by the Treaty as "implementing acts" (Article 291(4))

- **Existing provisions in the area of the proposal**

Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFUE).

- **Consistency with the other policies and objectives of the Union**

Not applicable.

### 2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

- **Collection and use of expertise**

There was no need for consultation of interested parties or for external expertise since the proposal to align Council Regulation (EC) No 73/2009 to the Lisbon Treaty is an inter-institutional matter that will concern all Council Regulations. The

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<sup>1</sup> OJ L 30, 31.1.2009, p. 16.

amendments aiming at simplification are of limited scope and purely technical nature.

- **Impact assessment**

No need of impact assessment since the proposal to align Council Regulation (EC) No 73/2009 to the Lisbon Treaty is an inter-institutional matter that will concern all Council Regulations. The amendments aiming at simplification are of limited scope and purely technical nature.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

- **Summary of the proposed action**

Identify the delegated and implementing powers of the Commission in Council Regulation (EC) No 73/2009 and establish the corresponding procedure for adoption of these acts.

Additionally, some elements of simplification in the area of cross-compliance are introduced. Moreover, the possibility for the Member States not to require the declaration of all the agricultural areas of their holding for farmers with a total area of the holding lower than 1 hectare is foreseen.

- **Legal basis**

Article 43 of the Treaty on the Functioning of the European Union.

- **Subsidiarity principle**

Agricultural policy is of shared competence between the EU and the Member States. This means that as long as the EU does not legislate in the sector Member States maintain their competence. As regards direct payments a community approach already exists, and it is justified to simplify the current rules.

- **Proportionality principle**

The proposal complies with the proportionality principle.

- **Choice of instruments**

Proposed instrument: Regulation of the European Parliament and of the Council.

Other means would not be adequate for the following reason: a Regulation must be amended by a Regulation.

### **4. BUDGETARY IMPLICATIONS**

This measure does not involve any additional Community expenditure.

## **5. ADDITIONAL INFORMATION**

- **Simplification**

The amendments concerning cross compliance represent an important simplification and contribute to ease the administrative burden for Member States.

It can be assumed that the proposed possibility for Member States to exempt farmers not applying for area-related payments and declaring only small areas (less than 1 hectare) from the requirement of an area declaration will mainly concern livestock producers without any eligible land to apply for area-related payments. The number of farmers which could be affected is difficult to foresee, but it can be assumed that it will be limited, keeping in mind the continued decoupling of livestock payments and transfer to area related payments. The amendment however represents a cut of the administrative burden for certain Member States.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers**

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 the first subparagraph of Article 42 and Article 43(2) thereof,

Having regard to the proposal from the European Commission<sup>2</sup>,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>3</sup>,

Acting in accordance with the ordinary legislative procedure<sup>4</sup>,

Whereas:

- (1) Council Regulation (EC) No 73/2009<sup>5</sup> confers powers on the Commission in order to implement some of the provisions of that Regulation.
- (2) As a consequence of the entry into force of the Lisbon Treaty, the powers conferred under Regulation (EC) No 73/2009 upon the Commission need to be aligned to Articles 290 and 291 of the Treaty on the Functioning of the European Union (the Treaty).
- (3) The Commission should have the power to adopt delegated acts in accordance with Article 290 of the Treaty in order to supplement or amend certain non-essential elements of Regulation (EC) No 73/2009. The elements for which that power may be exercised should be defined, as well as the conditions to which that delegation is to be subject.
- (4) In order to guarantee a uniform application of Regulation (EC) No 73/2009 in all Member States, the Commission should be empowered to adopt implementing acts in accordance with Article 291 of the Treaty. Save where explicitly provided otherwise, the Commission should adopt those implementing acts in accordance with the

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<sup>2</sup> OJ C [...], [...], p. [...].

<sup>3</sup> OJ C [...], [...], p. [...].

<sup>4</sup> OJ C [...], [...], p. [...].

<sup>5</sup> OJ L 30, 31.1.2009, p. 16.

provisions of Regulation (EU) No XX/XXXX of the European Parliament and the Council on...

- (5) Some of the provisions on direct support schemes that have so far been adopted by the Commission under the powers conferred on it by Regulation (EC) No 73/2009 are considered of such importance that they should be incorporated in that Regulation. Those elements concern some of the detailed rules laid down in Commission Regulations No (EU) 1120/2009<sup>6</sup>, No (EU) 1121/2009<sup>7</sup> and No (EU) 1122/2009<sup>8</sup>.
- (6) In the light of the experience gained with the application of Regulation (EC) No 73/2009 some of the provisions of that Regulation should be simplified, particularly regarding cross compliance requirements.
- (7) For reasons of legal certainty and clarity it is appropriate to provide for the definitions of 'arable land', 'permanent crops', 'permanent pasture' and 'grassland'.
- (8) Since permanent pasture has a positive environmental effect, measures are to be adopted to encourage the maintenance of existing permanent pasture to avoid a massive conversion into arable land. In order to ensure that Member States determine the ratio of permanent pasture and agricultural land that has to be maintained in a coherent way, the Commission should adopt implementing acts on the determination of the data necessary to establish this ratio.
- (9) In order to ensure an effective implementation of the farm advisory system provided for in Article 12 of Regulation (EC) No 73/2009, so as to render such system fully operational, the Commission may adopt rules by means of implementing acts.
- (10) In order to ensure that the respect of cross compliance requirements can be verified, farmers are required to declare all agricultural areas of their holding. This also applies when the farmers do not apply for any area-based direct payment and only have small areas at their disposal. In those cases, for the sake of simplification, it should be made possible for the Member States not to require the declaration of those areas, provided the total area of the holding concerned does not exceed one hectare and provided that a reference to those areas is made in the aid application.
- (11) An effective implementation of cross compliance needs verification of respect of obligations at farmers' level. The Commission should, by way of implementing acts, adopt rules on the controls to be performed by the Member States, to ensure a uniform and sufficiently high level of performance of these verifications in particular with regard to selection of farms, execution of checks and reporting. Where a Member State decides to make use of the option to consider a non-compliance as minor or not to apply a reduction or exclusion where the amount concerned is less than EUR 100, the competent control authority should, in the following year, verify that the farmer remedies the findings of the non-compliance concerned. However, in order to ease the administrative burden, consideration should be given to simplifying the follow-up checks system.

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<sup>6</sup> OJ L 316, 2.12.2009, p. 1.

<sup>7</sup> OJ L 316, 2.12.2009, p. 27.

<sup>8</sup> OJ L 316, 2.12.2009, p. 65.

- (12) The Member States have to implement an integrated administration and control system as provided for in Article 14 of Regulation (EC) No 73/2009. To ensure a uniform and sufficiently high level of performance of the different elements of that system with regard to the technical aspects, the Commission should adopt implementing acts on basic features, definitions and quality requirements on the system and its different elements.
- (13) In order to ensure a coherent and efficient administration of aid applications the Commission should adopt implementing acts pertaining to the aid application and to the application for payment entitlements. Those acts should ensure that sufficient time and all the necessary information is provided to allow the verification of the eligibility conditions. When duly justified certain flexibility should be given to the farmer. Furthermore, the eligibility rules such as retention periods of animals should not hinder the farmers from transferring their entire holding after the application is submitted but during this period. The conditions for such transfers should therefore be defined.
- (14) Verification of eligibility conditions should be carried out with a view to the protection of the Union Funds. To enable such verification of the fulfilment of the obligations linked to the payment by the farmers as well as to ensure a correct distribution of the funds to the entitled farmers the Commission should adopt implementing acts on the controls to be performed by the Member States. When appropriate, those acts should also lay down rules for the situation when other services, bodies or organisations than the competent authority are engaged in the administration of the payments.
- (15) Article 28 of Regulation (EC) No 73/2009 provides for minimum requirements to be respected, but the application of point (b) of the first subparagraph of Article 28(1) is not appropriate for farmers who are still receiving direct payments under certain coupled schemes but do not hold any hectares. Those farmers are in the same situation as farmers holding special entitlements and in order to ensure the full effectiveness of the coupled schemes in question they should therefore be treated in the same way for the purposes of Article 28(1) of that Regulation. Also, when a Member State has selected a threshold in hectares as foreseen in Article 28(1)(b), farmers receiving specific support referred to in Title III, Chapter V who hold fewer hectares than the threshold selected by a Member State should be subject to the threshold in Euro selected by the Member State as foreseen in Article 28(1)(a).
- (16) Rules regarding the minimum size per holding for which the establishment of payment entitlements can be requested should be fixed.
- (17) In order to ensure the continuity of the direct payments system in case of extraordinary circumstances, the Commission should be allowed to adopt necessary and justified measures in order to overcome such eventualities.
- (18) In order to ensure the efficient administration of the single payment scheme provided for in Title III of Regulation (EC) No 73/2009, the use of agricultural areas for non agricultural activities should be defined.



- (19) To take into account the internal organisation of Member States, they should be allowed to administer the national reserve at regional level. Rules for such administration should be established.
- (20) Specific rules for the reversion by Member States to the national reserve of the unused payment entitlements should be fixed.
- (21) The rules regarding the limitation to the transfer of payment entitlements should be adapted in order to take into account particular transfer situations.
- (22) In order to ensure that the conditions for special entitlements continue to be met rules should be adopted on the calculation of livestock units.
- (23) To ensure equal treatment between operators the Commission should adopt implementing acts for the initial allocation of payment entitlements in the context of the implementation of the single payment scheme in the new Member States as provided for in Article 55 of Regulation (EC) No 73/2009.
- (24) To ensure equal treatment between operators the Commission should adopt implementing acts for the calculation of livestock units for special entitlements as provided for in Article 44(2) of Regulation (EC) No 73/2009.
- (25) To ensure equal treatment between operators the Commission should adopt implementing acts for the specific support measures concerning specific agricultural activities entailing additional agri-environment benefits, areas subject to restructuring and/or development programs, crop, animal and plant insurance measures as provided for in Article 68 of Regulation (EC) No 73/2009. In the case of mutual funds for animal plants diseases and environment incidents, these rules should in particular include the minimum and maximum duration of the commercial loans eligible for a financial contribution and the obligation by member States to submit to the Commission an annual report on the implementation of Article 71 of Regulation (EC) No 73/2009.
- (26) In order to ensure the efficient administration of the aid schemes provided for in Title IV of Regulation (EC) No 73/2009, rules on the precise functioning of those regimes need to be established.
- (27) Rules concerning the limitations to the transfer of premium rights in the case of premiums in the sheepmeat and goatmeat sector should be established.
- (28) Rules concerning the minimum number of animals to be declared as regards the special premium and as regards the suckler cow premium should be established.
- (29) Rules concerning the limits to the transfer of suckler cow premium rights should be established.
- (30) To ensure a sound administration of the choices made by Member States concerning the coupled payments, the Commission should fix the ceilings corresponding to the single payment scheme, to the coupled measures within the specific support, the separate sugar payment, the separate fruit and vegetables payment, the separate soft fruit payment and the funds notified by the Member States in accordance with Article 69(6)(a).

- (31) Article 132 of Regulation (EC) No 73/2009 provides for the possibility in the new Member States of complementing direct aid paid to a farmer, subject to authorisation by the Commission. Complementary national direct payments paid not in conformity with the authorisation by the Commission should be qualified as unlawful aid.
- (32) Exchange of information between the Commission and the Member States is essential for a proper management of the funds. The Commission should by means of implementing acts adopt uniform rules on the exchange of information. These should in particular include rules on notifications of decisions by Member States and on statistics and reports to be sent by Member States.
- (33) Regulation (EC) No 73/2009 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 73/2009 is amended as follows:

- (1) In Article 2, the following points are added :

"(i) 'arable land' means land cultivated for crop production or maintained in good agricultural and environmental condition in accordance with Article 6, irrespective of whether or not that land is under greenhouses or under fixed or mobile cover;

(j) 'permanent crops' means non-rotational crops other than permanent pasture that occupy the land for five years or longer and yield repeated harvests, including nurseries, and short rotation coppice;

(k) 'permanent pasture' 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 longer, excluding areas set aside in accordance with Council Regulation (EEC) No 2078/92\*, areas set aside in accordance with Articles 22, 23 and 24 of Council Regulation (EC) No 1257/1999\*\* and areas set aside in accordance with Article 39 of Regulation (EC) No 1698/2005; and to this end, '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). Member States may include arable crops as defined by the Commission;

(l) 'grassland' means arable land used for grass production (sown or natural); grassland shall include permanent pasture.

\* OJ L 215, 30.7.1992, p. 85.

\*\* OJ L 160, 26.6.1999, p. 80."

- (2) The following Article 2a is inserted:

**Amendment of Annex I**

In order to take into account new legislation that may become necessary, the Commission shall, by means of a delegated act, amend Annex I."

- (3) In Article 6, the following paragraphs are added:

"3. In order to ensure that measures are taken to maintain the land under permanent pasture at the level of farmers, the Commission shall, by means of delegated acts, adopt provisions including individual obligations at the level of farmers to be respected where it is established that the share of land under permanent pasture is decreasing."

4. The Commission shall, by means of implementing acts, adopt the methods for the determination of the ratio of permanent pasture and agricultural land that has to be maintained."

- (4) In Article 8, paragraph 2 is replaced by the following:

"2. The Commission shall, by means of implementing acts, review the ceilings set out in Annex IV 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 European Agricultural Fund for Rural Development (EAFRD) in accordance with Article 136 of this Regulation."

- (5) Article 9 is amended as follows:

- (a) In the first subparagraph of paragraph 2, the introductory part is replaced by the following:

"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 by the Commission by means of an implementing act on the basis of the following criteria: "

- (b) In paragraph 3, the following subparagraph is inserted:

"In order to take into account new legislation that may become necessary, the Commission shall, by means of a delegated act, amend Annex V."

- (c) Paragraph 4 is replaced by the following:

"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 by the Commission by means of implementing acts. They shall be used in accordance with Article 69(5a) of Regulation (EC) No 1698/2005."

(6) In Article 10, paragraph 3 is replaced by the following:

"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, by the Commission by means of implementing acts. Those amounts shall be used in accordance with Article 69(5a) of Regulation (EC) No 1698/2005."

(7) In Chapter 2 of Title II, the following Article is added:

"Article 11a

### **Delegation of powers to the Commission**

1. In order to ensure a harmonised implementation of modulation and financial discipline the Commission may, by means of delegated acts, adopt detailed rules on the basis for calculation of reductions to be applied to the farmers by the Member States due to modulation and financial discipline as foreseen in Articles 9, 10, 11.

2. In order to ensure the allocation referred to in Article 9(2), the Commission shall, by means of delegated acts, lay down the criteria for the allocation of amounts made available by the application of modulation."

(8) In Article 12, the following paragraphs are added:

"5. In order to guarantee the proper functioning of the farm advisory system, the Commission may adopt, by means of delegated acts, provisions aiming at rendering such system fully operational. These provisions may relate, amongst others, to the scope of the farm advisory system and the accessibility criteria for farmers.

6. The Commission may, by means of implementing acts, adopt rules for the uniform implementation of the farm advisory system."

(9) In Article 19(1), the following subparagraphs are added:

"Each Member State shall determine the minimum size of agricultural parcels in respect of which an application may be made. However, the minimum size may not exceed 0,3 ha.

By way of derogation from point (a) of the first subparagraph, the Member States may decide that a farmer who does not apply for any area-based direct payment does not have to declare all his agricultural parcels in the case where the total area of those parcels does not exceed one hectare. The farmer shall however indicate in his application that he disposes of agricultural parcels and

shall at the request of the competent authorities indicate the location of the parcels concerned."

(10) In Article 21, paragraph 1 is replaced by the following:

"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 reductions and exclusions."

(11) In Article 22, the following paragraph is added:

"3. The Commission shall, by means of implementing acts, adopt rules for the carrying out of controls and checks in order to verify compliance with the obligations referred to in Chapter 1."

(12) In Article 23, paragraph 2 is replaced by the following:

"2. Notwithstanding paragraph 1 and in accordance with the conditions laid down in the rules referred to in Article 27a(5), 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 verify 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."

(13) Article 24 is amended as follows:

(a) Paragraph 1 is replaced by the following:

"1. For the calculation of reductions and exclusions, account shall be taken 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."

(b) In paragraph 2, the third subparagraph is replaced by the following:

"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 verify 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."

(14) In Chapter 4 of Title II, the following Articles are added:

"Article 27a

## **Delegation of powers to the Commission**

1. In order to ensure a correct distribution of the funds to the entitled farmers and to ensure that the integrated administration and control system provided for in this Chapter is implemented in an efficient, coherent and non-discriminatory way which protects the financial interests of the Union, the Commission may, by means of delegated acts, adopt the following:

- (a) specific definitions needed to ensure a harmonised implementation of the integrated system;
- (b) provisions required for a harmonised definition of the basis for calculation of aid, including rules on how to deal with certain cases where eligible areas contain landscape features or trees;
- (c) rules in order to safeguard the farmers' rights in the cases of force majeure and exceptional circumstances within the meaning of Article 31;
- (d) rules in order to ensure a harmonised basis for calculation of reductions due to cross compliance taking also into account reductions due to modulation and financial discipline;
- (e) rules on any further measures to be taken by the Member States for the proper application of this Chapter as well as arrangements for any mutual assistance needed between Member States.

2. In order to ensure a correct distribution of the funds to the entitled farmers as regards the aid applications provided for in Article 19 and to enable the verification of the fulfilment of the obligations related thereto by the farmers, the Commission shall, by means of delegated acts, lay down the following:

- (a) rules concerning the minimum size of agricultural parcels to be declared, in order to reduce the administrative burden for the farmers and authorities;
- (b) a derogation from Council Regulation (EEC, Euratom) No 1182/71\* in order to safeguard the farmers' rights to payments where the final date for submission of applications or amendments is a public holiday, Saturday or Sunday;
- (c) in case of late application for payment or for allocation of entitlements, the maximum delay and reductions in case of such delay.

3. In order to ensure that the verification of the eligibility conditions provided for in Article 20 is carried out in an efficient, coherent and non-discriminatory way which protects the financial interests of the Union, the Commission shall, by means of delegated acts, adopt provisions, in particular for the event that the farmer prevents a control to take place.

4. In order to ensure that the calculation and application of reductions and exclusions are carried out in accordance with the principle laid down in Article

21 and in an efficient, coherent and non-discriminatory way which protects the financial interests of the Union, the Commission shall, by means of delegated acts, adopt the following:

- (a) provisions on reductions and exclusions in relation to the correctness and completeness of the information in the application such as over-declarations of areas or animals or lacking declaration of areas as well as provisions to ensure a harmonised and proportionate treatment of intentional irregularities, situations of minor errors, accumulation of reductions and simultaneous application of different reductions, as well as specific provisions for the purpose of the measures implemented under Article 68;
- (b) rules providing for the non-application of reductions in certain cases, ensuring proportionality when applying reductions.

5. In order to ensure that cross compliance is carried out in an efficient, coherent and non-discriminatory way, the Commission may, by means of delegated acts, adopt rules for the calculation and applications of reductions in accordance with the principles laid down in Articles 23 and 24, including rules for the non-application of reductions in certain cases.

#### Article 27b

#### **Implementing rules**

For the purposes of the uniform implementation of this Chapter, the Commission shall, by means of implementing acts, lay down the following:

- (a) the basic features, definitions and quality requirements for the integrated system to record the identity of each farmer who submits an aid application provided for in Article 15;
- (b) the basic features, definitions and quality requirements for the computerised database provided for in Article 16;
- (c) the basic features, definitions and quality requirements for the identification system for agricultural parcels provided for in Article 17;
- (d) the basic features, definitions and quality requirements for the system for the identification and registration of payment entitlements provided for in Article 18;
- (e) rules concerning the aid application and the application for payment entitlements provided for in Article 19, including the final date for submission of applications, the requirements to the minimum amount of information to be included in the application, provisions for amendments or the withdrawal of aid applications, exemption from the requirement to submit an aid application and provisions which allow Member States to apply simplified procedures or to adjust obvious errors;

- (f) rules for the carrying out of checks in order to verify compliance with obligations, and correctness and completeness of the information provided in the aid application. With regard to hemp, this shall in particular include detailed rules relating to the specific control measures and methods for determining tetrahydrocannabinol levels and with regard to cotton a system for control of the approved interbranch organisations;
- (g) with regard to hemp, rules relating to the specific control measures and methods for determining tetrahydrocannabinol levels;
- (h) with regard to cotton, a system for control of the approved interbranch organisations
- (i) rules on the recovery of unduly paid amounts of aid and unduly allocated payment entitlements;
- (j) technical definitions needed for the purpose of the uniform implementation of this Chapter;
- (k) provisions in relation to situations of transfer of holdings when also transferring any obligation concerning the eligibility to the aid in question still to be fulfilled;

\* OJ L 124, 8.6.1971, p. 1."

(15) In Article 28(1), the third subparagraph is replaced by the following:

"Farmers holding special entitlements referred to in Article 44(1) or farmers receiving the premiums for sheep and goat referred to in Section 10 of Chapter 1 of Title IV or the beef and veal payment referred to in Section 11 of Chapter 1 of Title IV or farmers receiving specific support referred to in Chapter 5 of Title III who hold fewer hectares than the threshold selected by a Member State when point (b) of the first subparagraph is applied, shall be subject to the condition referred to in point (a) of the first subparagraph of this paragraph."

(16) In Article 29, paragraph 4 is replaced by the following:

"4. By way of derogation from paragraph 2, the Commission may, by means of implementing acts:

- (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.



The Commission may, by means of implementing acts, adopt rules relating to the payment of those advances."

- (17) The following Article 31a is inserted:

"Article 31a

### **Implementing rules**

The Commission may adopt, by means of implementing acts, measures which are both necessary and duly justified to resolve, in an emergency, practical and specific problems; such measures may derogate from certain parts of this Regulation, but only to the extent, and for such a period, as is strictly necessary."

- (18) In Article 33, the following paragraphs are added:

"4. A Member State may decide to fix a minimum size per holding in terms of agricultural area for which the establishment of payment entitlements may be requested. However, the minimum size shall not be higher than the limits set under point (b) of the first subparagraph in conjunction with the second subparagraph of Article 28(1). No minimum size shall be fixed for the establishment of the special entitlements referred to in Articles 60 and 65.

5. In order to take into account new legislation that may become necessary, the Commission shall, by means of a delegated act, amend Annex IX.

6. The Commission shall, by means of implementing acts, adopt rules relating to the application for support in the year of allocation of entitlements where the entitlements may not be definitively established yet and where the allocation is affected by specific circumstances, as well as a ceiling for the single payment scheme referred to in this Title."

- (19) In Article 34(2), the second subparagraph is replaced by the following:

"Where an agricultural area of a holding is also used for non-agricultural activities as referred to in point (a) of the first subparagraph that area shall be considered as being used predominantly for agricultural activities, if the agricultural activity can be exercised without being significantly hampered by the intensity, nature, duration and timing of the non-agricultural activity. Member States shall establish criteria for the implementation of this subparagraph on their territory."

- (20) In Article 36, the second paragraph is deleted.

- (21) In Article 38, the second paragraph is replaced by the following:

"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 by means of

implementing acts for regions where cereals are normally harvested earlier for climatic reasons."

(22) In Article 39, paragraph 2 is deleted.

(23) In Article 40(1), the second subparagraph is replaced by the following:

"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 103o and the second subparagraph of Article 188a(3) of Regulation (EC) No 1234/2007, by means of implementing acts, 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."

(24) Article 41 is amended as follows:

(a) In paragraph 1, the following subparagraphs are added:

"Member States may administer the national reserve at regional level. In that case, Member States shall allocate, in full or in part, the amounts available at national level to the regional level in accordance with objective and non-discriminatory criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions.

The amounts allocated to each regional level may be considered available for allocation within the region concerned only, except where paragraph 4 or, according to the Member State's choice, paragraph 2 is applied."

(b) Paragraph 4 is replaced by the following:

"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."

(c) The following paragraph is added:

"7. The Commission shall, by means of implementing acts, adopt rules on the allocation of payment entitlements in case the farmer is entitled to receive entitlements by virtue of a definitive court ruling or by virtue of a definitive administrative act of the competent authority of a Member State."

(25) In Article 42, the following paragraphs are added:

"Farmers may give up payment entitlements to the national reserve voluntarily.

The Commission shall, by means of implementing acts, adopt measures regarding the reversion of unused payment entitlements to the national reserve."

(26) Article 43 is amended as follows:

(a) In paragraph 1, the following subparagraph is added:

"The limitation to the transfer of payment entitlements referred to in the third subparagraph shall not apply in case of actual or anticipated inheritance of payment entitlements without an equivalent number of eligible hectares."

(b) Paragraph 3 is replaced by the following:

"3. Where payment entitlements are sold, with or without land, Member States may, acting in compliance with the general principles of Union 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 by means of implementing acts.

In case of sale of payment entitlements with or without land to a farmer who commences his agricultural activity and in case of actual or anticipated inheritance of payment entitlements, no retention shall apply."

(c) The following paragraph is added:

"4. The Commission shall, by means of implementing acts, adopt rules on specific conditions concerning the transfer of payment entitlements, as well as the procedure to be followed by Member States in such case and, for the purposes of Article 62(3), rules on the calculation of the percentage of the payment entitlements the farmer has used and the use of such entitlements. Those rules may also cover transfers of entitlements where Member States use the option provided for in the third subparagraph of paragraph 1 and the retention of the value of payment entitlements in case of the sale of the entitlement referred to in the second subparagraph of paragraph 3."

(27) In Article 44, the following paragraph is added:

"4. The Commission shall, by means of implementing acts, adopt rules on the calculation of LU for the purposes of special entitlements and the activation of special entitlements."

(28) In Chapter 1 of Title III, the following Article is added:

"Article 45a

#### **Delegation of powers to the Commission**

1. In order to guarantee the protection of the rights of beneficiaries, the Commission shall, by means of delegated acts, lay down the following:

(a) rules on the eligibility and the access to the single payment scheme of farmers, including in case of inheritance and anticipated inheritance, inheritance under a lease, change of legal status or denomination and in case of merger or scission of the holding;

- (b) rules on the calculation of the unit value of payment entitlements and for the modification of payment entitlements, in particular in the case of fractions of entitlements;
- (c) specific definitions, for the purposes of Article 41(2) for farmers who commence their agricultural activity;
- (d) rules on the establishment and calculation of the value and number of payment entitlements or increase of value of entitlements received from the national reserve;
- (e) rules on the allocation of payment entitlements from the national reserve to farmers who declare fewer hectares than the number corresponding to payment entitlements they had been allocated in accordance with Articles 43 and 59 of Regulation (EC) No 1782/2003 in case the Member State uses the option provided for in Article 41(3);
- (f) rules defining the special situations referred to in Article 41(4) and rules on the access of farmers in such special situations to payment entitlements from the national reserve.

2. In order to ensure the proper management of payment entitlements, the Commission shall, by means of delegated act, adopt rules on the declaration and use of payment entitlements.

3. In order to clarify specific situations that may occur in the application of the single payment scheme, the Commission shall, by means of delegated acts, adopt the following:

- (a) rules on the definition in the national legislation for 'inheritance' and 'anticipated inheritance';
- (b) rules on the calculation of value and number or increase of entitlements in relation to the allocation of entitlements under any provision of this Title, including the possibility of a provisional value and number or increase of payment entitlements allocated on the basis of the application from the farmer, the conditions for establishing the provisional and definitive value and number of the entitlements and provisions for the cases where a sale or lease contract could affect the allocation of entitlements.

4. In order to facilitate the deferred integration of fruits and vegetables into the single payment scheme, the Commission shall, by means of delegated acts, adopt rules providing for the possibility to allow secondary crops to be cultivated on the eligible hectares for Member States having used one of the options as set out in the third subparagraph of Article 51(1);

5. In order to establish a list of hemp varieties eligible for direct payments and to preserve public health, the Commission shall, by means of delegated acts, adopt rules making the granting of payments subject to the use of certified seeds of certain varieties and providing for the procedure for the determination of hemp varieties referred to in Article 39."

(29) In Article 51(2), the first subparagraph is replaced by the following:

"On the basis of the choice made by each Member State, the Commission shall, by means of implementing acts, determine a ceiling for each of the direct payments referred to in Articles 52, 53 and 54."

(30) In Chapter 2 of Title III, the following Article is added:

"Article 54a

#### **Delegation of powers to the Commission**

In order to take account of specificities of the sectors concerned, the Commission shall, by means of delegated acts, adopt rules on the establishment and calculation of payment entitlements and the options provided for in this Chapter."

(31) In Article 57, paragraph 2 is replaced by the following:

"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."

(32) In Article 59, the following paragraph is added:

"4. The Commission shall, by means of implementing acts, adopt necessary measures regarding conditions for the identification of the eligible farmers, the provisional establishment of the number of hectares and the preliminary verification of the conditions for the application."

(33) In Article 60, the following paragraph is added:

"The Commission shall, by means of implementing acts, adopt rules on the calculation of the agricultural activity expressed in LU referred to in Article 44(2)(a) and the checking/verification of the minimum agricultural activity in new Member States referred to in Article 44(2)(b)."

(34) In Article 62(3), the following subparagraph is added:

"The Commission shall, by means of implementing acts, adopt necessary measures regarding the calculation of the percentage of the payment entitlements used by the farmer."

(35) In Chapter 3 of Title III, the following Article is added:

"Article 62a

#### **Delegation of powers to the Commission**

1. In order to have an efficient administration of the entitlements by Member States, the Commission shall, by means of delegated acts, adopt rules on the initial allocation of payment entitlements in the case of the

implementation of the single payment scheme in the new Member States having applied the single area payment scheme.

2. In order to adapt to the changing situation of the agricultural sector, the Commission shall, by means of delegated acts, adopt rules on a representative period for the purpose of Article 57(3) and Article 59(3).

3. In order to ensure an efficient administration of payment entitlements, the Commission shall, by means of delegated acts, adopt rules on the establishment and calculation of the value and number of payment entitlements or increase of value of entitlements received from the national reserve under this Chapter and the options provided therein.

4. In order to guarantee the protection of the rights of beneficiaries, the Commission shall, by means of delegated acts, adopt the following:

- (a) rules on the allocation of payment entitlements from the national reserve to farmers who declare fewer hectares than the number corresponding to payment entitlements they had been allocated in accordance with Articles 43 and 59 of Regulation (EC) No 1782/2003 in case the Member State having applied the single area payment scheme uses the option provided for in Article 57(5) of this Regulation;
- (b) rules defining special situations referred to in Article 57(2) and rules on the access of farmers in such special situations to payment entitlements from the national reserve under this Chapter."

(36) In Article 67, paragraph 1 is replaced by the following:

"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 that case, the Commission shall, by means of implementing acts, adjust the national ceilings referred to in Article 40 by adding the amounts from Annex XII for the aid scheme concerned."

(37) In Chapter 4 of Title III, the following Article is added:

"Article 67a

#### **Delegation of powers to the Commission**

In order to enable the integration of coupled payments listed in Annex XI, and the transfer from the wine support programmes referred to in Annex IX into the single payment scheme, the Commission may, by means of delegated acts, adopt rules on access to payments, on the establishment of the amount and on the number or increase of the value of the entitlements to be allocated."

(38) Article 68 is amended as follows:

- (a) Paragraph 2(a)(ii) is replaced by the following:

"(ii) it has been approved by the Commission by means of an implementing act without the assistance of the Committee referred to in Article 141c"

(b) Paragraph 7 is replaced by the following:

"7. In order to ensure an efficient and targeted use of Union Funds and to avoid double funding under other similar support instruments, the Commission shall, by means of delegated acts, adopt the conditions for the Commission approval referred to in paragraph 2(a)(ii) and the conditions for granting the support referred to in this Chapter, rules on the consistency with other Union measures and on the cumulation of support as well as rules on the definition of the individual support measures referred to in paragraph 1."

(c) In Paragraph 8, the second subparagraph is deleted.

(d) The following paragraphs are added:

"9. The Commission shall, by means of implementing acts, adopt the following:

(a) rules on the calculation of the value of each payment entitlement received by a farmer who does not own any payment entitlement and is applying for the support referred to in paragraph 1(c), including rules on the calculation of the increase of the per hectare amount under the single area payment scheme referred to in Article 131(2);

(b) rules on the calculation of the destruction of the average annual production of a farmer in accordance with Article 70(2) for the support referred to in paragraph 1(d) of his Article, including rules on the obligation for farmers to inform the Member State of their insurance policy;

(c) the procedure for the assessment and approval of measures taken pursuant to paragraph (1)(a)(v).

10. According to the decision taken by each Member State pursuant to the first subparagraph of paragraph 8, the Commission shall, by means of an implementing act, fix the corresponding ceiling for that support."

(39) Article 69 is amended as follows:

(a) In paragraph 3, the first subparagraph is replaced by the following:

"According to the decision taken by each Member State pursuant to paragraph 1 on the amount of national ceiling to be used, the Commission shall, by means of implementing acts, fix, the corresponding ceiling for that support."

(b) In paragraph 4, the following subparagraph is added:

"On the basis of the choice made by each Member State, the Commission shall, by means of implementing acts, fix the corresponding global ceiling for the support referred to in this paragraph."

(c) Paragraph 6 is amended as follows:

(i) point (a) is replaced by the following:

"(a) in Article 68(1) by using an amount to be calculated in accordance with paragraph 7 of this Article and fixed by the Commission by means of an implementing act ; and/or"

(ii) the following subparagraph is added:

"On the basis of the choice made by each Member State, the Commission shall fix, by means of implementing acts, the corresponding amount for the funds referred to in point(a) of the first subparagraph."

(d) In Paragraph 7, the fourth subparagraph is replaced by the following:

"Upon request from a Member State, the Commission shall, by means of an implementing act, revise the established amounts on the basis of rules established by the Commission by means of the same type of act."

(40) Article 71 is amended as follows:

(a) In paragraph 6, the second subparagraph is replaced by the following:

"The minimum and maximum duration of the commercial loans eligible for a financial contribution as well as its source shall be determined by the Commission by means of implementing acts. Those acts may include rules on the information of farming communities."

(b) Paragraph 10 is replaced by the following:

"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 by means of implementing acts."

(41) In Article 76, the following paragraph is added:

"3. The Commission shall, by means of implementing acts, adopt rules regarding the coefficients of reduction, including the method of calculation and the date for fixing those coefficients."

(42) In Section 1 of Chapter 1 of Title IV, the following article is added:

"Article 76a

### **Delegation of powers to the Commission**

In order to ensure an efficient and targeted use of the Union Funds and the efficient administration of the crop-specific schemes, the Commission may, by means of delegated acts, adopt rules on the minimum areas and specific rules relating to the sowing and cultivation of crops referred to in this Section."

(43) In Article 77, the following paragraphs are added:



"In order to enable the application of the crop-specific aid schemes, the Commission shall, by means of delegated acts, adopt rules on the conditions for the granting of the aid for starch potato growers, including rules on eligibility, minimum price level and payment.

The Commission shall, by means of implementing acts, adopt necessary measures regarding the payment of the aid."

(44) In Article 80, the following paragraph is added:

"The Commission shall, by means of implementing acts, adopt necessary measures regarding the calculation of the bitter content of sweet lupins."

(45) In Article 81, paragraphs 2 and 3 are replaced by the following:

"2. Where the area for which the protein crop premium is claimed exceeds the maximum guaranteed area, the area per farmer for which the protein crop premium is claimed shall be reduced proportionately in that year by the Commission, by means of implementing acts.

The Commission shall, by means of implementing acts, adopt necessary measures regarding the coefficients of reduction, including the method of calculation and the date for fixing those coefficients.

3. Where, in accordance with Article 67, a Member State decides to integrate the protein crop premium provided for in this Section into the single payment scheme, the Commission shall, by means of implementing acts, reduce the maximum guaranteed area referred to in paragraph 1 of this Article in proportion to the protein crops amount corresponding to that Member State in Annex XII.

In order to ensure an efficient and targeted use of the Union Funds and the efficient administration of the crop-specific schemes, the Commission shall, by means of delegated acts, adopt the following:

- (a) rules on the minimum areas and specific rules relating to the sowing and cultivation of crops referred to in this Section;
- (b) rules on the conditions for the granting of the aid for protein crops, including rules on the definition for sweet lupins and the eligibility of the mixture of cereals and protein crops."

(46) In Article 84, the following paragraph is added:

"The Commission shall, by means of implementing acts, adopt necessary measures regarding the coefficients of reduction, including the method of calculation and the date for fixing those coefficients."

(47) In Article 85, the following paragraphs are added:

"4. In order to ensure an efficient and targeted use of Union Funds and in order to ensure the efficient administration of the crop-specific schemes, the

Commission shall, by means of delegated acts, adopt rules on the minimum areas and specific rules relating to the sowing and cultivation of crops referred to in this Section.

5. To ensure an efficient management of crop-specific schemes, the Commission shall, by means of delegated acts, adopt rules setting eligibility conditions for agricultural parcels planted with nut trees, rules defining the minimum plot size and a minimum tree density and rules on the eligibility for national aid for nuts provided for in Articles 86 and 120."

(48) Article 87 is amended as follows:

(a) In paragraph 3, the first subparagraph is replaced by the following:

"The amount of seed aid claimed shall not exceed a ceiling fixed by the Commission by means of implementing acts and corresponding to the component of seed aid for the species concerned in the national ceiling referred to in Article 40 of this Regulation, as fixed in accordance with Article 64(2) of Regulation (EC) No 1782/2003 ("seed aid ceiling"). However, for the new Member States, this seed aid ceiling shall correspond to the amounts set out in Annex XIV to this Regulation."

(b) Paragraph 4 is replaced by the following:

"4. In order to preserve public health, the Commission shall, by means of delegated acts, determine the varieties of hemp (*Cannabis sativa L.*) for which the seed aid provided for in this Article is payable."

(c) The following paragraphs are added:

"5. In order to enable the application of the crop-specific aid schemes, the Commission shall, by means of delegated acts, lay down the definition of basic and officially certified seed.

6. In order to ensure an efficient and targeted use of the Union Funds for seed aid, the Commission shall, by means of delegated acts, lay down the conditions for the production, territorial eligibility and marketing of seeds.

7. In order to ensure an efficient and targeted use of the Union Funds and in order to ensure the efficient administration of the crop-specific schemes, the Commission may, by means of delegated acts, adopt rules on the minimum areas and specific rules relating to the sowing and cultivation of crops referred to in this Section.

8. In order to establish a list of hemp varieties eligible for direct payments and to preserve public health, the Commission shall, by means of delegated acts, adopt rules making the granting of payments subject to the use of certified seeds of certain varieties and providing for the procedure for the determination of hemp varieties referred to in Article 87(4).

9. The Commission shall adopt, by means of implementing acts, necessary measures regarding the information to be submitted by seed establishments or breeders for checking the entitlements to the aid."

(49) Article 89 is amended as follows:

(a) Paragraph 2 is replaced by the following:

"2. Member States shall authorize the land and the varieties referred to in paragraph 1 in accordance with the rules and conditions referred to in paragraph 3.

(b) The following paragraphs are added:

"3. To ensure an efficient management of crop-specific schemes, the Commission shall, by means of delegated acts, adopt rules and conditions for the authorisation of land and varieties for the purposes of the crop specific payment for cotton.

4. The Commission shall, by means of implementing acts, adopt rules on the procedure of the authorisation and the communications to the producers related to this authorisation."

(50) In Article 90, paragraph 5 is replaced by the following:

"5. In order to enable the application of the crop-specific aid schemes, the Commission shall, by means of delegated acts, adopt rules on the conditions for the granting of the aid for cotton, on the eligibility requirements and the agronomic practices.

The Commission may, by way means of implementing acts, provide for rules on the calculation of the reduction provided for in paragraph 4."

(51) Article 91 is amended as follows:

(a) Paragraph 2 is replaced by the following:

"2. The Member State where the ginners are established shall approve inter-branch organisations that satisfy the criteria referred to in paragraph 3."

(b) The following paragraph 3 is added:

"3. In order to enable the efficient application of the crop-specific aid schemes, the Commission shall, by means of delegated acts, adopt the criteria for the approval of inter-branch organisations and obligations for producers. Furthermore, the Commission shall establish rules for the situation where the approved inter-branch organisation does not respect those criteria."

(52) In Article 97, the following paragraphs are added:

"5. In order to ensure the protection of the rights of farmers, the Commission may, by means of delegated acts, adopt specific definitions for the purposes of this Section.

6. In order to ensure an efficient and targeted use of the Union Funds for transitional fruit and vegetables payments, the Commission may, by means of delegated acts, adopt the following:

- (a) the requirements for the contract for processing referred to in paragraph 3;
- (b) rules on penalties in case it is found that an approved first processor or collector fails to comply with the obligations laid down in this Chapter or with the national provisions adopted on its basis, or where an approved first processor or collector does not accept or facilitate the checks to be performed by the competent authorities.

7. In order to ensure an efficient administration of the crop-specific schemes, the Commission may adopt, by means of delegated acts, rules on the minimum areas and specific rules relating to the sowing and cultivation of crops referred to in this Section.

8. The Commission shall, by means of implementing acts, adopt necessary measures regarding the approval and control by Member States of first processors and collectors and the publication by Member States of the list of approved first processors and collectors, the indicative aid amount to be set by Member States and the basis of the aid amount."

(53) In Article 98, the following paragraphs are added:

"7. In order to ensure the protection of the rights of farmers, the Commission may, by means of delegated acts, adopt specific definitions for the purposes of this Section.

8. In order to ensure an efficient and targeted use of the Union Funds for transitional soft fruit payments, the Commission may, by means of delegated acts, adopt the following:

- (a) the requirements for the contract for processing referred to in paragraph 2;
- (b) rules on penalties in case it is found that an approved first processor or collector fails to comply with the obligations laid down in this Chapter or with the national provisions adopted on its basis, or where an approved first processor or collector does not accept or facilitate the checks to be performed by the competent authorities;
- (c) rules on the minimum areas and specific rules relating to the sowing and cultivation of crops referred to in this Section.

9. The Commission shall, by means of implementing acts, adopt necessary measures regarding the approval and control by Member States of first processors and collectors and the publication by Member States of the list of approved first processors and collectors, the indicative aid amount to be set by Member States and the basis of the aid amount."

(54) In Article 101(2), the second subparagraph is replaced by the following:

"A list of such areas shall be established by the Commission by means of implementing acts.

The Commission shall, by means of implementing acts, adopt rules on the verification and notification of areas meeting the criteria referred to in the first subparagraph."

(55) Article 103 is amended as follows:

(a) Paragraph 1 is replaced by the following:

"1. Premiums shall be paid to recipient farmers on the basis of the number of ewes and/or she-goats kept on their holding over a minimum period to be determined by the Commission by means of implementing acts.

The Commission shall, by means of implementing acts, adopt rules on applications and declarations and further documents to be submitted by farmers, conditions animals have to meet to receive payments and the obligation to draw up an inventory of farmers marketing sheep milk or sheep milk products."

(b) The following paragraph is added:

"3. In order to ensure the proper management of the national reserve and to guarantee the protection of the rights of beneficiaries, the Commission shall, by means of delegated acts, adopt the following:

(a) rules on the use, transfer and temporary leasing of rights for payments in the sheepmeat and goatmeat sector as referred to in Article 52;

(b) rules on the access to the payments in the sheepmeat and goatmeat sector as referred to in Article 52 in case of farmers not owning the land they farm."

(56) In Article 104, the following paragraph is added:

"5. The Commission shall, by means of implementing acts, adopt necessary measures regarding the calculation of individual limits and the rounding of rights."

(57) Article 105 is amended as follows:

(a) In paragraph 2, the following subparagraph is added:

"Except in duly justified exceptional circumstances, where a farmer has obtained premium rights free of charge from the national reserve, he shall not be authorised to transfer his rights or to lease them temporarily for a period of three years from the date he obtained those rights."

(b) The following paragraphs are added:

"5. The Commission shall, by means of implementing acts, adopt necessary measures regarding notifications on the transfer and/or lease by the farmer to the competent authority, the setting of the individual ceiling, notification of farmers in case of transfers or the temporary leasing of premium rights and the transfer and temporary leasing via the national reserve.

6. The Commission may, by means of implementing acts, adopt necessary measures regarding the withdrawal and reallocation of unused premium rights established under this Section."

(58) Article 110 is amended as follows:

(a) In paragraph 1, the following subparagraph is added:

"Member States may, for administrative reasons, provide that aid applications for direct payments referred to in Article 19, as regards the special premium, shall be for a minimum number of animals, provided that that number does not exceed three."

(b) In paragraph 3, point (a) is replaced by the following:

"(a) any animal covered by an application shall be held by the farmer for fattening for a period to be determined by the Commission by means of implementing acts;"

(c) In paragraph 4, the following subparagraph is added:

"The Commission shall, by means of implementing acts, adopt necessary measures regarding the amount of the premium to be granted in case the application of the proportional reduction referred to in the first subparagraph gives a number of eligible animals which is not a whole number."

(d) In paragraph 5, the following subparagraph is added:

"The Commission shall, by means of implementing acts, adopt rules on the notification by Member States to the Commission of the measures taken pursuant to the first subparagraph."

(e) In paragraph 6, the following subparagraph is added:

"The Commission shall, by means of implementing acts, adopt the following necessary measures regarding the granting of the premium at the time of slaughter, including provisions on the age brackets, aid applications and documents accompanying it, the required retention period in such case and establishment of the carcass weight."

(f) The following paragraph is added:

"9. The Commission shall, by means of implementing acts, adopt necessary measures on the applications, the grant of the premium for animals which have not qualified on account of the application of the proportional reduction provided for in paragraph 4, passports as referred to in Article 6 of Regulation

(EC) No 1760/2000 and national administrative documents as referred to in point(b) of paragraph 3 of this Article, and on notification of the Commission in case the Member States decide to introduce different regions within the meaning of Article 109(a) of this Regulation or to modify existing regions."

(59) Article 111 is amended as follows:

(a) In paragraph 1, the following subparagraphs are added:

"Member States may, for administrative reasons, provide that aid applications for direct payments referred to in Article 19, as regards the suckler cow premium, shall be for a minimum number of animals, provided that that number does not exceed three.

The Commission shall, by means of implementing acts, adopt necessary measures regarding the applications for aid."

(b) Paragraph 2 is amended as follows:

(i) The following subparagraph is inserted after the second subparagraph:

"The Commission shall, by means of implementing acts, adopt the following:

(a) necessary measures regarding the 6-month retention period referred to in the second subparagraph and the obligation for Member States to notify the Commission of the change or waive of the quantitative limit;

(b) rules on the date to be taken into account to determine the individual quota of milk available to qualify for the suckler cow premium."

(ii) The following subparagraph is added:

"The Commission shall, by means of implementing acts, adopt necessary measures regarding the calculation of the average milk yield."

(c) Paragraph 5 is amended as follows:

(i) The following subparagraph is inserted after the first subparagraph:

"The Commission shall, by means of implementing acts, necessary measures regarding the notification of the Commission of additional conditions for the grant."

(ii) The following subparagraph is added:

"The Commission shall, by means of implementing acts, adopt necessary measures regarding:

(a) the notification by Member States on additional conditions for the grant of the additional national suckler cow premium, and

(b) the decision of the Commission to be taken by means of an implementing act without the assistance of the Committee referred to in Article

141c on the Member States that fulfil the conditions laid down in the fourth subparagraph."

(d) The following paragraphs are added:

"7. In order to guarantee the sound management of the scheme and the protection of the rights of beneficiaries, the Commission shall, by means of delegated acts, adopt the following:

(a) rules on the eligibility of cows belonging to a meat breed for the suckler cow premium referred to in Article 53(1);

(b) rules on the use, transfer and temporary leasing of rights for the suckler cow premium referred to in Article 53(1);

(c) rules on the access to the suckler cow premium referred to in Article 53(1) in case of farmers not owning the land they farm;

(d) rules on the eligibility for the additional national suckler cow premium as provided for in paragraph 5 of this Article.

8. In order to ensure the fulfilment of the obligations of the beneficiaries, the Commission shall, by means of delegated acts, adopt rules on the access to premium rights for the suckler cow premium referred to in Article 53(1) that partial rights shall confer."

(60) Article 112 is amended as follows:

(a) In paragraph 1, the following subparagraph is added:

"The Commission shall, by means of implementing acts, adopt necessary measures regarding the determination of the individual ceiling per farmer."

(b) The following paragraph is added:

"6. The Commission shall, by means of implementing acts, adopt all necessary measures regarding the rounding of partial rights."

(61) Article 113 is amended as follows:

(a) In paragraph 2, the following subparagraph is added:

"Except in duly justified exceptional cases, where a farmer has obtained premium rights free of charge from the national reserve he shall not be authorised to transfer and/or temporarily lease his rights during the three following calendar years."

(b) The following paragraph is added:

"5. The Commission shall, by means of implementing acts, adopt rules on:



- (a) the notification by the farmer transferring and/or leasing the rights and by the farmer receiving the rights to the competent authorities of the Member State of the transfers and/or temporary leasing of premium rights,
- (b) the setting by the Member State and the notification to the farmer of the new individual ceiling in the case of transfers or temporary leasing of premium rights,
- (c) the transfer and/or temporary leasing of rights through the national reserve."

(62) In Article 115, the following paragraphs are added:

"3. In order to guarantee the protection of the rights of beneficiaries, the Commission shall, by means of delegated acts, adopt rules on the access to the special scheme for heifers referred to in paragraph 1 for farmers whose herd of heifers is intended to restock cow herds.

4. The Commission shall, by means of implementing acts, adopt rules regarding:

- (a) the notification of the Commission by Member States that they made use of the possibility provided for in paragraph 1, of data allowing the establishment that the conditions laid down in that paragraph are met, of the specific ceiling they have determined, the modification of this ceiling and the criteria adopted to ensure that the premium is paid to farmers whose herd of heifers is intended to restock cow herds;
- (b) the decision of the Commission on the Member States that fulfil the conditions laid down in paragraph 1;
- (c) the amount of the premium to be granted in case the application of the proportional reduction referred to in paragraph 1 gives a number of eligible animals which is not a whole number;
- (d) the minimum number of animals to be held;
- (e) the rounding off of animal numbers in case the calculation of the maximum number of heifers as a percentage as laid down in the second subparagraph of Article 111(2) produces a result which is not a whole number;"

(63) Article 116 is amended as follows:

(a) Paragraph 1 is amended as follows:

(i) The first subparagraph is replaced by the following:

"A farmer keeping bovine animals on his holding may qualify, on application, for a slaughter premium. It shall be granted on the slaughter of eligible animals or their export to a third country and within national ceilings to be determined by the Commission by means of implementing acts."

(ii) The third subparagraph is replaced by the following:

"The animals listed in points (a) and (b) of the second subparagraph shall be eligible for the slaughter premium provided they have been held by the farmer for a period to be determined by the Commission by means of implementing acts."

(b) In paragraph 3 the first subparagraph is replaced by the following:

"The Commission shall, by means of implementing acts, adopt the national ceilings referred to in paragraph 1. Those ceilings shall be established per Member State and separately for both groups of animals as specified in (a) and (b) of the second subparagraph of that paragraph. Each ceiling shall be equal to the number of animals in each of these two groups which, in 1995, were slaughtered in the Member State concerned. The number of animals exported to third countries, according to Eurostat data or any other published official statistical information for that year accepted by the Commission, shall be added to each ceiling."

(c) The following paragraphs are added:

5. In order to ensure an efficient and targeted use of Union Funds, the Commission shall, by means of delegated acts, adopt rules on the obligation for a statement of participation to access the slaughter premium provided for in this Article.

6. In order to enable the application of the slaughter premium provided for in this Article, the Commission shall, by means of delegated acts, adopt rules on the eligibility of carcasses.

7. In order to guarantee the protection of the rights of beneficiaries, the Commission shall, by means of delegated acts, adopt rules on the amount of slaughter premium provided for in this Article that a number of eligible animals which is less than a whole number shall confer."

(64) Article 117 is amended as follows:

(a) The second paragraph is replaced by the following:

"Nevertheless, an animal shall also be deemed eligible for the payments where the information laid down in the second indent of Article 7(1) of Regulation (EC) No 1760/2000 has been reported to the competent authority on the first day of the retention period of the animal as determined by the Commission, by means of implementing acts."

(b) The following paragraphs are added:

"The Commission shall, by means of implementing acts, adopt rules regarding:

- the applications for premiums and the documents to be submitted by the farmers, the determination of retention periods and the

applicable procedure for the identification and registration of animals.

- the operative event for determining the year to which animals are allocated for the purpose of determining the amount of premium applicable and applying the rate of aid and calculating the proportional reduction
- the withdrawal and reallocation of unused premium rights established under this Section."

(65) In Article 119(1), the following subparagraph is added:

"The Commission shall, by means of implementing acts, adopt rules on the length of the exclusion."

(66) In Article 124, the following paragraphs are added:

"9. In order to enable the application of the single area payment scheme referred to in this Title, the Commission shall, by means of delegated acts, determine the agricultural areas under the single area payment scheme, as provided for in paragraph 1, and the minimum size of eligible area per holding for which payments may be requested at a level higher than 0,3 ha, as provided for in the third subparagraph of paragraph 2.

10. In order to establish a list of hemp varieties eligible for direct payments and to preserve public health, the Commission shall, by means of delegated acts, adopt rules making the granting of payments subject to the use of certified seeds of certain varieties and providing for the procedure for the determination of hemp varieties referred to in Article 39."

(67) In Article 126, the following paragraph is added:

"4. On the basis of the choice made by each Member State, the Commission shall, by means of implementing acts, fix the corresponding ceiling for the support referred to in this Article."

(68) In Article 127, the following paragraph is added:

"3. On the basis of the choice made by each Member State, the Commission shall, by means of an implementing act, fix the corresponding ceiling for the support referred to in this Article."

(69) Article 128 is amended as follows:

(a) In paragraph 1, the second subparagraph is replaced by the following:

"In this case and within the limit of the ceiling fixed in by the Commission by means of implementing acts, the Member State concerned shall make, on a yearly basis, an additional payment to farmers."

(b) In paragraph 2, the second subparagraph is replaced by the following:

"In this case and within the limit of the ceiling fixed by the Commission by means of implementing acts, the Member State concerned shall make, on a yearly basis, an additional payment to farmers."

(70) In Article 129, the following paragraph is added:

"4. On the basis of the choice made by each Member State, the Commission shall, by means of an implementing act, fix the corresponding ceiling for the support referred to in this Article."

(71) In Article 131(4), the first subparagraph is replaced by the following:

"The amounts referred to in paragraph 1 shall be set by the Commission by means of implementing acts."

(72) Article 132 is amended as follows:

(a) In paragraph 2, the introductory phrase is replaced by the following:

"The new Member States shall have the possibility, subject to authorisation by the Commission by means of an implementing act without the assistance of the Committee referred to in Article 141c, to complement any direct payments"

(b) The following paragraphs are added:

"9. In order to enable the application of the complementary national direct payments, the Commission shall, by means of delegated acts, adopt rules for the purposes of point (b) of paragraph 7 on the conditions for granting that aid.

10. The Commission shall, by means of implementing acts, adopt necessary measures:

- for cases in which the complementary national direct payments would exceed the maximum level authorised by the Commission.
- regarding controls"

(73) In Article 139, the following paragraph is added:

"However, complementary national direct payments provided for in Article 132 which are not paid not in conformity with the authorisation by the Commission shall be considered as unlawful State aid within the meaning of Council Regulation (EC) No 659/1999.\*

\* OJ L 83, 27.3.1999, p. 1."

(74) In Article 140, the following paragraph is added:

"The Commission shall, by means of implementing acts, adopt rules on the notification to the Commission by Member States of information, documents, statistics and reports, as well as the deadlines and methods for their notification."

(75) Articles 141 and 142 are deleted.

(76) In Chapter 1 of Title VII, the following Articles are added::

"Article 141a

### **Commission powers**

Where powers are conferred upon the Commission, it shall act in accordance with the procedure referred to in Article 141b in the case of delegated acts and in accordance with the procedure referred to in Article 141c in the case of implementing acts, save where explicitly provided otherwise in this Regulation.

Article 141b

### **Delegated acts**

1. The powers to adopt the delegated acts referred to in this Regulation shall be conferred on the Commission for an indeterminate period of time.

As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

2. The delegation of power referred to in paragraph 1 may be revoked by the European Parliament or by the Council.

The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.

The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the Official Journal of the European Union.

3. The European Parliament and the Council may object to the delegated act within a period of two months from the date of notification. At the initiative of the European Parliament or the Council this period shall be extended by one month.

If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the Official Journal of the European Union and shall enter into force at the date stated therein.

The delegated act may be published in the Official Journal of the European Union and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

If the European Parliament or the Council objects to a delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.

Article 141c

### **Implementing acts - Committee**

[To be completed following the adoption of the Regulation laying down the rules and general principles concerning mechanisms for control envisaged in Article 291(2) TFEU, which is currently under discussion before the PE and the Council.]

### *Article 2*

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

It shall apply from [the 1<sup>st</sup> of January 2012.]

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

Done at [...],

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

# FINANCIAL STATEMENT

AGRI/I.1-D/440787\_rev 1(MB/tm)  
6.15.2010.1

DATE: 27/07/2010

1.	BUDGET HEADING:  05 03 Direct Aids	APPROPRIATIONS			
2.	TITLE:  Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 73/2009 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.				
3.	LEGAL BASIS: Article 43 of the Treaty on the Functioning of the European Union (TFUE)				
4.	AIMS: To align the Commission implementing powers in Council Regulation (EC) No 73/2009 to the differentiation between delegated and implementing powers introduced by Article 290 and 291 of the Treaty on the Functioning of the European Union (TFUE).				
5.	FINANCIAL IMPLICATIONS	12 MONTH PERIOD	CURRENT FINANCIAL YEAR 2010	FOLLOWING FINANCIAL YEAR 2011	
		(EUR million)	(EUR million)	(EUR million)	
5.0	EXPENDITURE	-	-	-	
	- CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS)				
	- NATIONAL AUTHORITIES				
	- OTHER				
5.1	REVENUE	-	-	-	
	- OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES)				
	- NATIONAL				
		2010	2011	2012	2013
5.0.1	ESTIMATED EXPENDITURE	-	-	-	-
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:					
<p>The proposal aims at aligning the Commission powers given in the Council Regulation (EC) No 73/2009 to the differentiation between delegated and implementing powers introduced by Article 290 and 291 of the Treaty on the Functioning of the European Union (TFUE). This does not entail any additional expenditure to the community budget.</p> <p>This proposal also introduces a simplification in the area of cross compliance giving the possibility to the Member States not to require the declaration of all agricultural parcels to farmers with a total area of the holding lower than one hectare. The financial implications of this proposal are not quantifiable.</p>					