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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 2328/91

of 15 July 1991

on improving the efficiency of agricultural structures

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Council Regulation (EEC) No 797/85 of 12 March 1985 on improving the efficiency of agricultural structures ⁽⁴⁾, as last amended by Regulation (EEC) No 3577/90 ⁽⁵⁾, has been substantially amended on a number of occasions; whereas it is appropriate, for reasons of clarity and rationality, to consolidate the said Regulation;

Whereas, pursuant to Article 1 of Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽⁶⁾, Community action through the Structural Funds, in particular, is to support the achievement of the general objectives set out in Articles 130a and 130c of the Treaty by contributing to the attainment of five priority objectives; whereas it is for the Guidance Section of the European Guidance and Guarantee Fund (EAGGF) to contribute towards speeding up the adjustment of agricultural structures with a view to reform of the common agricultural policy;

Whereas intervention by the EAGGF for the attainment of Objective 5 (a) is governed by Council Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions

for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽⁷⁾, and by Council Regulation (EEC) No 4256/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the EAGGF Guidance Section ⁽⁸⁾;

Whereas this common measure must fit in with other horizontal measures decided on for the attainment of Objective 5 (a); whereas it also reflects certain principles of Community policy and agricultural structures that are generally applicable to any intervention by the Funds;

Whereas it is not possible to achieve the objectives of the common agricultural policy set out in Article 39 (1) (a) and (b) of the Treaty without aiding the improvement of the efficiency of agricultural structures, especially in regions experiencing particularly acute problems;

Whereas this improvement of the efficiency of agricultural structures is an indispensable element in the development of the common agricultural policy; whereas it is therefore necessary that such improvement be based on Community concepts and criteria;

Whereas, because of the diversity of their causes, nature and gravity, structural problems in agriculture may require solutions which vary according to region and are capable of adjustment over a period of time; whereas such solutions must contribute to the overall economic and social development of each region concerned;

Whereas the situation of agricultural markets has changed, and will change further, as a result of the new direction imposed on the common agricultural policy by the need to secure a gradual drop in output in those sectors where there is a surplus;

Whereas, in this context, structural policy must be used to help farmers adapt to this new situation and to cushion the

⁽¹⁾ OJ No C 82, 27. 3. 1991, p. 7.

⁽²⁾ OJ No C 158, 17. 6. 1991.

⁽³⁾ OJ No C 159, 17. 6. 1991, p. 31.

⁽⁴⁾ OJ No L 93, 30. 3. 1985, p. 1.

⁽⁵⁾ OJ No L 353, 17. 12. 1990, p. 23.

⁽⁶⁾ OJ No L 185, 15. 7. 1988, p. 9.

⁽⁷⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽⁸⁾ OJ No L 374, 31. 12. 1988, p. 25.

effects that the new markets and prices policy is likely to have on agricultural incomes in particular;

Whereas, if European agriculture is to maintain a presence on world markets, the common agricultural policy must continue to aim at increasing the efficiency and competitiveness of agricultural holdings; whereas, while the majority of the adjustments necessary to ensure the long-term competitiveness of Community agriculture must be made through the markets policy, the structural policy, too, must make its contribution by strengthening production and marketing structures as far as possible but without in any way worsening the imbalance between the productive resources allocated to agriculture and the foreseeable outlets;

Whereas, as part of this common measure, the implementation of certain measures is essential if the objective of improving the efficiency of agricultural structures is to be attained; whereas such measures must therefore necessarily be carried out by the Member States; whereas, on the other hand, as regards other measures, the choice should be left open to Member States as to whether, depending on the specific situations of their farmers, provision should or should not be made for such measures;

Whereas arrangements for the set-aside of arable land may assist the various sectors, and in particular those with surplus production, to adjust to market requirements;

Whereas the set-aside arrangements should cover all arable land, since from one year to another the use made of such land varies with the rotation of crops; whereas, however, land used for crops not subject to a common organization of the market should be excluded from the scheme; whereas, to achieve tangible results in terms of the stabilization of supply, it should be stipulated that at least 20 % of a farmer's arable land must be set aside for a period of at least five years with provision for him to terminate his commitment after three years;

Whereas, given the greater need to protect the environment and to maintain the countryside, Member States should take the necessary measures, if need be at the expense of the beneficiary, to keep set-aside land in good agricultural condition;

Whereas in the interests of making efficient use of the Community's farming resources, Member State should be allowed for an experimental period, to authorize land which has been set aside to be used for grazing for extensive live-stock farming or for growing lentils, chick-peas or vetches; whereas, in both cases, the amount of the aid should allow for the reduction in the loss of income;

Whereas it should be left to Member States to set the amount of the aid per hectare of land set aside, in the light of the income losses actually sustained and in accordance with criteria to be laid down within the framework of the detailed rules for applying these arrangements; whereas, on the one

hand, the level of aid must be fixed so that it is sufficiently high to provide farmers with a real incentive to set aside some of their land; whereas, on the other hand, the aid should not exceed the level necessary to offset the loss of income resulting from the set-aside of the land; whereas to this end, a framework should be laid down for setting minimum and maximum amounts;

Whereas, to provide an additional incentive to those farmers who set aside large areas, that is, at least 30 % of their arable land, such farmers should be exempted, in respect of a quantity of 20 tonnes, from the co-responsibility levy provided for in Article 4 and the additional co-responsibility levy provided for in Article 4 b (2) of Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EEC) 3577/90 ⁽²⁾;

Whereas the European Council has requested the Commission to explore all possibilities of stepping up the use of agricultural raw materials for non-food ends;

Whereas possibilities for non-food use are sufficiently advanced, technically and economically, in the case of cereals;

Whereas the realization of such possibilities enables farmers to turn towards new outlets; whereas, in order to encourage them in this direction, cereals must be made available at attractive prices;

Whereas, however, such new uses must not lead to an increase in production of cereals, thereby leading to further surpluses;

Whereas the existing aid scheme to encourage the set-aside of arable land should accordingly be adjusted by providing for specific aid for the use of arable land for non-food ends;

Whereas an aid scheme, designed to encourage farmers to embark upon conversion and extensification of production, may contribute towards adjusting the various production sectors to market requirements, in particular those in which there is surplus;

Whereas provision should be made for compensation, on the basis of the actual reduction in production due to extensification or conversion, allowing for the maintenance of the incomes of farmers who have undertaken to reduce production;

Whereas agricultural structure in the Community is typified by the existence of a large number of holdings which lack the structural conditions which would ensure a fair income and living conditions;

Whereas, in the future, the only holdings capable of adjusting to economic conditions will be those on which the farmer has

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 23

adequate vocational skill and competence, and on which profitability is verified by accounts and by a physical improvement plan;

Whereas the aim of Community investment aid is to modernize agricultural holdings and thus improve their competitiveness in the context of the rational development of agricultural production; whereas this aspect of the structural policy must be adjusted so as to permit the modernization and diversification of agriculture while remaining consistent with the measures taken to limit surplus production;

Whereas, in order to qualify for Community investment aid, a farmer must normally practise farming as his main occupation, that is, he must devote at least half of his working time to his holding and derive at least half of his income therefrom; whereas investment aid should, however, be extended to persons who do not practise farming as their main occupation, provided that on their holding they engage in forestry, tourism or craft activities or activities designed to safeguard the environment and maintain the countryside;

Whereas, in the present economic situation, investment aid should be concentrated on holdings where the labour income is less than comparable incomes, and which therefore are in greatest need of such aid;

Whereas the adjustment of farm structures by an improvement in productivity resulting in an increase in production is confronted by insurmountable limits because of the existing state of the market for many agricultural products; whereas investment aid is intended not only to increase production capacity but also to improve the quality of production facilities; whereas it appears necessary to concentrate such aid on those investments which allow for a reduction in production costs and for the improvement in living and working conditions or which aim at conversion of production; whereas such aid may also be granted for investments aimed at finding new sources of income, such as tourism or craft activities or the farm-based manufacture and sale of farm products, and to investments aimed at improving conditions for the hygiene and welfare of animals and at safeguarding and improving the environment;

Whereas, in addition, the objective of market balance in the Community requires that specific conditions be attached to the granting of investment aid in the pig, milk and beef and veal production sectors; whereas it is indispensable in accordance with this objective to prohibit investment aid in the poultrymeat and egg sectors;

Whereas the grant of specific benefits to young farmers may facilitate not only their installation but also the structural adjustment of their holding after their first installation;

Whereas the keeping of accounts is essential to the correct assessment of the financial and economic situation of holdings, and in particular of those undergoing modernization; whereas a financial incentive may encourage the keeping of accounts;

Whereas, in the interests of rational production and of improvement in living conditions, encouragement should also be given to the formation of groups having as their purpose mutual aid between holdings, including the use of new technologies and practices for safeguarding and improving the environment and preserving the countryside and to the formation of groups which would introduce alternative farming practices such as organic techniques, integrated crop-protection techniques, extensive techniques or a more rational joint use of agricultural means of production, or group farming operations;

Whereas in the same context it is also necessary to encourage the creation of agricultural associations whose objective is the establishment of replacement and management services;

Whereas, on the basis of Directive 75/268/EEC of 28 April 1975 on mountain and hill farming and farming in certain less-favoured areas ⁽¹⁾, as last amended by Regulation (EEC) No 797/85, the Council has adopted the Community lists of mountain and certain less-favoured areas, for which special measures adapted to their situation should be enacted at Community level, in particular in order to take account of the natural conditions of production and to ensure reasonable incomes for farmers in these regions;

Whereas it may be essential, if the objectives assigned to farming in less-favoured regions are to be attained, that farmers permanently engaged in agriculture in such areas be paid annual allowances aimed at compensation for the permanent natural handicaps referred to in Directive 75/268/EEC; whereas it should be left to Member States to fix the amount of such allowances according to the severity of the handicaps involved and taking account of the economic situation and farmers' incomes within the limits and conditions fixed for the different types of areas, both as to the amounts which may be paid and the types of production which may be covered;

Whereas, in order to reduce the drawbacks both in terms of markets and the environment, the allowance should be granted for only 1.4 livestock units (LU) per hectare of the total forage area of the holding; whereas, in addition, as regards the maximum amount of Community aid per holding, the administrative difficulties should be overcome by replacing the existing scheme by a simpler one designed to concentrate the Community's efforts on those holdings

⁽¹⁾ OJ No L 128, 19. 5. 1975, p. 1.

which are in greatest need, that is, the Community contribution would be restricted to the equivalent of 120 units, be they livestock units or area units;

Whereas the rationalization of holdings and the need to preserve the countryside necessitate the granting of aid for joint investment schemes in the areas covered by the compensatory allowance in particular for fodder production and for land improvement and capital equipment for pasture and hill grazing;

Whereas farmers in areas that are sensitive from the point of view of protection of the environment or preservation of the landscape are in a position to perform a valuable service to society as a whole; whereas the introduction of specific measures may encourage farmers to introduce or retain agricultural production practices that are compatible with the increased need to protect or preserve the countryside and at the same time help, by means of reorientation of their holdings, towards realization of the agricultural policy objective of restoring balance on the market in certain products;

Whereas the market situation for agricultural products, and the limitations for the adjustment of farm structures resulting therefrom, require that the agricultural measures be complemented by special forestry measures to assist these holdings, such as the afforestation of farm land and improving the exploitation of wooded areas;

Whereas an annual premium per hectare afforested, to compensate for the loss of income due to the afforestation of agricultural land, may encourage farmers to afforest such land;

Whereas it should be for the Member States to lay down the conditions governing the afforestation of agricultural land;

Whereas the forestry measures are normally linked and can contribute

- to the conservation and improvement of the soil, the fauna and flora and to the surface and underground water systems,
- to the productivity of agricultural land by an improvement of the natural conditions of agricultural production and to better use of farm labour;

Whereas the evolution and the specialization of agriculture require a substantial improvement in the standard of the general, technical and economic training for the existing farm population, especially as regards new orientations of management, of production, or of marketing, as well as for young people about to be installed or recently installed on a holding;

Whereas the insufficient financial means available for vocational training and further training, and, in particular,

that of the leaders and managers of cooperatives and agricultural groups, impedes the structural adjustment of agriculture in many regions;

Whereas, in accordance with the principles of the reform of the Structural Funds, and in particular with Article 5 and 11 of Regulation (EEC) No 2052/88, the EAGGF cofinances national aid schemes by reimbursing expenditure incurred by Member States; whereas the rate of Community part-financing may be differentiated on the basis of the criteria and within the limits laid down in Article 13 of the said Regulation; whereas these rates are to be determined by the Commission;

Whereas, although the scheme for set-aside falls within the common measure for improving the efficiency of agricultural structures its main aim is nonetheless to help in re-establishing the balance between output and the market's capacity to absorb it; whereas the scheme is thus intended to supplement measures adopted by the Council under the various market organizations in order to stabilize those markets; whereas it should therefore be laid down that the scheme for set-aside is to be financed in equal parts from the Guarantee and Guidance Sections of the EAGGF; whereas, however, in order to facilitate the administrative and financial management of the scheme and by way of exception, the financial methods applying to the Guarantee Section should be applied for expenditure financed by the Guidance Section;

Whereas, for the purposes of administrative management, Member States should be authorized to lay down additional conditions for the execution of the Member States provided for in this Regulation;

Whereas to facilitate structural change in the agricultural sector in the territory of the former German Democratic Republic, involving both the creation of family farms and the reorganization of cooperative farms, provision must be made for some temporary adjustments to the rules on the acceleration of structural adjustment in the context of the reform of the common agricultural policy,

HAS ADOPTED THIS REGULATION:

Article 1

1. With a view to expediting the adjustment of agricultural structures in the Community pursuant to Objective 5 (a) as set out in Article 1 of Regulation (EEC) No 2052/88, a common measure within the meaning of Article 2 (1) of Regulation (EEC) No 4256/88, to be implemented by the Member States, is hereby introduced with the following objectives:

- (i) to help restore the balance between production and market capacity;
- (ii) to help improve the efficiency of farms by developing and reorganizing their structures and by promoting supplementary activities;

(iii) to maintain a viable agricultural community and thus help develop the social fabric of rural areas by ensuring a fair standard of living for farmers and by offsetting the effects of natural handicaps in mountain areas and less-favoured areas;

(iv) to contribute to the safeguarding of the environment and the preservation of the countryside, including the long-term conservation of natural farming resources.

2. In accordance with Articles 5 (2) (b) and 11 (4) of Regulation (EEC) No 2052/88, the EAGGF, hereinafter called 'the Fund', Guidance Section, shall, acting under the common measure referred to in paragraph 1, provide part-financing for national aid schemes by reimbursing, on the terms laid down in Title X expenditure incurred by the Member States on:

- (a) schemes designated to encourage the conversion and extensification of production;
- (b) measures relating to investments in agricultural holdings, in particular to reduce production costs, to improve the living and working conditions of farmers, to promote the diversification of their activities, including the marketing of products on the farm, and to preserve and improve the natural environment;
- (c) measures to encourage the setting-up of young farmers;
- (d) back-up measures to assist agricultural holdings, involving the introduction of accounts and the launching of groups, services and facilities for the benefit of several holdings;
- (e) measures to support farm incomes and to maintain viable agricultural communities in mountain or less-favoured areas by means of agricultural aid for offsetting natural handicaps;
- (f) measures to protect the environment and safeguard the countryside by encouraging appropriate farming methods;
- (g) forestry measures to assist agricultural holdings;
- (h) vocational training projects connected with the measures referred to in paragraphs (a) to (d).

In accordance with Title X the Guarantee and Guidance Sections of the EAGGF shall contribute equally, under the common measure referred to in paragraph 1, towards measures linked with the scheme to encourage the set-aside of arable land. In the case of the share of expenditure financed by the Guidance Section, the financial rules for the application of the common measure shall, by way of exception, be those which apply to the Guarantee Section.

TITLE I

Set-aside of arable land

Article 2

1. Member States shall introduce an aid scheme designed to encourage the set-aside of arable land.

2. Aid for set-aside may be granted for all arable land, irrespective of the crops grown, provided that the land has in fact been cultivated for a reference period to be determined. Land growing crops not covered by a common market organization is excluded from the said scheme.

3. The arable land withdrawn from production must represent at least 20% of the arable land referred to in paragraph 2 on the farm concerned. For a period of at least five years, with the possibility of termination after three years, such land must be withdrawn from cultivation, that is:

- left fallow with rotation possibilities,
- wooded, or
- used for non-agricultural purposes.

Member States shall take the necessary measures to keep the land in good agricultural condition. These measures may include an obligation on the farmer to ensure that the agricultural land withdrawn from production is maintained with a view to protecting the environment and natural resources.

Member States may, within all or some of their territory, authorize the use of set-aside arable land for:

- (a) grazing for extensive livestock farming,
- (b) growing lentils, chick-peas and vetches.

Authorization by the Member States as provided for in the third subparagraph shall be limited to three years from 30 April 1988. By then the Commission shall have reported to the Council on the results of such authorization.

4. Member States may provide for a specific aid scheme for the use of arable land for non-food purposes, these being the manufacture, within the Community, of products not intended for human or for animal consumption.

The following shall be eligible under the aid scheme:

- recipients under the aid scheme provided for in paragraph 1 on condition that the arable land set aside represents at least 30% of the arable land of the holding in question,
- arable land on the holding which is the subject of a set-aside undertaking, extending to at most 50% of the

area set aside and on condition that it is sown to cereals, and that the whole cereal production of such areas is intended for non-food purposes.

Producers may not qualify for the specific aid unless they submit a contract concluded with a processing enterprise guaranteeing the non-food use of the products in question within the Community.

Should a group of farmers arrange to supply a single processing enterprise on a contract basis, and on condition that the arable land withdrawn from production represents at least 40% of the total arable land and jointly fulfils the requirement provided for in the second indent of the second subparagraph, this additional 20% or more, as compared with the minimum percentage provided for in the first subparagraph of paragraph 3, may be respected by the group as a whole rather than by the individual farms.

Contracts relating to consignments which qualify for the production refund provided for in Article 11a of Regulation (EEC) No 2727/75 or the aid provided for in Article 11b thereof shall not be eligible for the specific aid.

The specific aid shall be paid for the duration of the contract up to a maximum period of five years from the first supply of products to the processor in accordance with the delivery contract.

One year after the effective implementation of the scheme by the Member States, the Commission will forward a report to the European Parliament and the Council. At this time, if it is deemed necessary, the Commission will make a proposal to modify the scheme in order to increase its efficiency, taking into account the response of farmers and processing enterprises, the economic viability and environmental impact of the scheme, possible control problems, in particular, with regard to by-products, and any other relevant aspect. At the same time the Commission, in the light of the results of the demonstration projects, will examine the possibility of extending the scheme to products other than cereals.

5. Member States shall determine:

- (a) the amount of the aid to be paid per hectare of land set aside, on the basis of the loss of income resulting from the land being set aside, whilst ensuring that the amount of the aid is sufficient to make it effective, on the one hand, and that it does not provide excessive compensation, on the other. They shall also determine the way in which that aid is to be paid. The maximum amount of aid to be paid shall be set at ECU 606 per hectare, per annum, and the minimum amount shall be set at ECU 100 per hectare, per annum. The Commission may, in accordance with the procedure laid down in Article 30, set the maximum amount at ECU 700 per hectare per annum in exceptional cases.

In the case of authorization, as provided for in the third subparagraph of paragraph 3, the amount of the aid shall be adjusted to take account of the reduction in the loss of income.

The specific aid provided for in paragraph 4 to be paid per hectare shall be determined in accordance with the criteria laid down in the first subparagraph. The maximum amount shall be fixed at 70% of the aid provided for in the first subparagraph. For the areas in question, the specific aid shall replace aid for set-aside;

- (b) the reference period referred to in paragraph 2;
- (c) the undertaking to be given by the beneficiary for the purposes in particular of verifying that, throughout the entire farm, the area farmed has in fact been reduced.

6. Producers who, for the land set aside, receive aid within the meaning of this Title may not receive aid within the meaning of Titles II or III for such land.

7. Producers who set aside at least 30% of their arable land shall be exempted, in respect of a quantity of 20 tonnes, from the co-responsibility levy referred to in Article 4 of Regulation (EEC) No 2727/75 and from the additional co-responsibility levy provided for in Article 4 b (2) of Regulation (EEC) No 2727/75.

As individual farmer, as well as a group of farmers, qualifying for the specific aid provided for in paragraph 4, withdrawing at least 40% of arable land from production for set-aside purposes, shall benefit from exemption from the co-responsibility levies for the entire volume of cereals supplied to the processing enterprises. This exemption does not preclude the possible exemption referred to in the first subparagraph.

Detailed rules for applying this exemption shall be adopted in accordance with the procedure laid down in Articles 4 and 4b of Regulation (EEC) No 2727/75.

8. The Commission, acting in accordance with the procedure laid down in Article 30, shall adopt detailed rules for applying this Title, specifying in particular:

- the minimum area to be set aside,
- in the case of authorization so provided for in the third subparagraph of paragraph 3, the maximum stocking rate per hectare of grazing and the rate by which the aid is to be reduced in accordance with the second subparagraph of paragraph 5 (a),
- the criteria to be complied with by the Member States when fixing the aid,
- the criteria for defining the beneficiary and for determining the reference period referred to in paragraph 2,
- the special detailed rules on the granting of the specific aid provided for in paragraph 4, and in particular those on the exclusion of certain uses, the limitations to be imposed with regard to by-products, the determination of the ceiling and the minimum areas which may qualify for the aid, delivery contracts, controls including, where appropriate, checks on the processing undertaking, and penalties to be laid down where obligations are not complied with.

9. Member States shall take the necessary measures to ensure that adequate publicity is given to the opportunities afforded by the aid scheme.

TITLE II

Extensification of production

Article 3

1. Member States shall introduce an aid scheme to promote extensification for surplus products. Surplus products shall be defined as products for which there are consistently, at Community level, no normal unsubsidized outlets.

2. Extensification shall be defined as a reduction of at least 20 %, for a period of at least five years, in the output on the product concerned without any increase in other surplus production capacity. However, such an increase shall be permitted in proportion to any increase in the utilized agricultural area of the farm.

3. Member States shall determine:

- (a) the conditions for granting the aid, including those for reducing output of the various products. In the case of beef and veal, it may be stipulated that, in order to achieve the reduction in output referred to in paragraph 2, the number of livestock units must be reduced by at least 20 %. In the case of wine, it may be stipulated that the yield per hectare must be reduced by at least 20 %;
- (b) the amount of the aid, on the basis of the undertaking given by the beneficiary and the loss of income incurred, and the way in which it is to be paid;
- (c) the reference period for the product concerned, for the purposes of calculating the reduction;
- (d) the undertaking to be given by the beneficiary for the purposes of, in particular, verifying that production has in fact been reduced.

4. Where the scheme is applied in the milk sector, the reduction in output shall be calculated on the basis of the reference quantity allocated under Council Regulation (EEC) No 804/68 of 27 June 1986 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EEC) No 3641/90 ⁽²⁾. Reference quantities suspended pursuant to this paragraph may not be reused or reallocated for the duration of the suspension.

The eligible amount of the compensation paid under Council Regulation (EEC) No 775/87 of 16 March 1987 temporarily withdrawing a proportion of the reference quantities mentioned in Article 5c (1) of Regulation (EEC) No 804/68 ⁽³⁾, shall be deducted from the eligible amount of the aid.

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 362, 27. 12. 1990, p. 5.

⁽³⁾ OJ No L 78, 20. 3. 1987, p. 5.

5. Producers who receive aid within the meaning of this Title may not receive aid within the meaning of Titles I or III for the land affected by extensification.

6. The Commission, acting in accordance with the procedure laid down in Article 30, shall lay down detailed rules for applying this Title, specifying in particular the maximum amounts of yearly aid eligible under the Fund.

TITLE III

Conversion of production

Article 4

1. Member States shall introduce an aid scheme designed to encourage the conversion of production towards non-surplus products.

2. The Council, acting by a qualified majority, on a proposal from the Commission, shall adopt a list of products towards which production may be converted and shall lay down the conditions and procedures for the granting of the aid.

3. Procedures who receive aid within the meaning of this Title may not receive aid within the meaning of Titles I or II for the land in question.

4. The Commission, acting in accordance with the procedure laid down in Article 30, shall adopt detailed rules for applying this Title.

TITLE IV

System of aid for investments in agricultural holdings

Article 5

1. In order to contribute to the improvement of agricultural incomes and of living, working and production conditions on agricultural holdings, Member States shall pursuant to the common measure referred to in Article 1, introduce a system of investment aid to agricultural holdings where the farmer:

- (a) practises farming as his main occupation.

Member States may, however, apply the aid scheme referred to in Articles 5 to 9 to farmers who, while they do not practise farming as their main occupation, derive at least 50 % of their total income from farming, forestry, tourism or craft activities of activities for maintaining the countryside which qualify for public aid, carried out on the holding, provided that the proportion of income deriving directly from farming on

the holding is not less than 25 % of the farmer's total income and that off-farm activities do not account for more than half the farmer's total working time;

- (b) possesses adequate occupational skill and competence;
- (c) submits a plan for materially improving his holding. This plan must show by means of specific calculations that the investments are justified from the point of view of the situation of the holding and its economy and that implementation of the plan will bring about a lasting improvement of that situation, and in particular of the labour income per man-work unit (MWU) employed on the holding or is necessary for maintaining the present level of labour income per MWU.
- (d) undertakes to keep simplified accounts entailing at least:
 - the recording of the revenue and expenditure of the holding, with supporting documents,
 - the drawing up of an annual balance sheet of the assets and liabilities of the holding.

However, in the less-favoured areas determined in accordance with Articles 2 and 3 of Directive 72/268/EEC, Spain, Greece and Italy, as regards the Mezzogiorno including the islands, and Portugal, as regards its entire territory, shall be authorized to accept improvement plans submitted until 31 December 1991 by holdings which do not satisfy the condition laid down in this point, provided that the volume of work on the holding does not require more than the equivalent of one MWU, and that projected investments do not exceed ECU 25 000.

- 2. The aid system referred to in paragraph 1 shall be limited to agricultural holdings:
 - where labour income per MWU is less than the reference income referred to in paragraph 3,
 - where improvement plans, as referred to in paragraph 1 (c), do not provide for a labour income in excess of 120 % of such reference income.

Member States may restrict the aid system referred to in paragraph 1 to agricultural holdings which have a family character.

- 3. Member States shall fix the reference income referred to in paragraph 2 at a level not exceeding the average gross wage of non-agricultural workers in the region.
- 4. The improvement plan referred to in paragraph 1 shall contain at least:
 - a description of the initial situation,
 - a description of the situation upon completion of the plan, drawn up on the basis of an estimative budget,
 - an indication of the measures and in particular the investments planned.

5. Member States shall, for the purposes of this Regulation, define what is meant by the expression 'farmer practising farming as his main occupation'.

This definition shall, in the case of a natural person, include at least the condition that the proportion of income derived from the agricultural holding must be 50 % or more of the farmer's total income and that the working time devoted to work unconnected with the holding must be less than half of the farmer's total working time.

On the basis of the criteria referred to in the foregoing subparagraph, the Member States shall define what is meant by this same expression in the case of persons other than natural persons.

6. In addition, Member States shall lay down the criteria for assessing the occupational skill and competence of the farmer, by reference to the standard of agricultural training received and/or to a minimum period of farming experience.

Article 6

1. The aid scheme referred to in Article (5) may be applicable to investments relating to:

- the qualitative improvement and conversion of production in line with market requirements,
- the diversification of activities on the holding, in particular by the introduction of tourism and craft activities or the manufacture and sale of farm produce on the farm,
- the adaptation of the holding for the purposes of reducing production costs and saving energy,
- the improvement of living and working conditions,
- the improvement of the hygiene conditions of livestock enterprises and compliance with Community animal welfare standards, or, failing these, national standards until Community standards are adopted,
- the protection and improvement of the environment.

2. The investment aid referred to in paragraph 1 may be refused or limited where the effect of the investments concerned is to increase the holding's production of products for which no normal market outlets can be found.

The Council, acting by a qualified majority on a proposal from the Commission, shall adopt the necessary measures and shall define the products falling within the meaning of the preceding subparagraph.

3. Except where decisions subsequently taken pursuant to paragraph 2 provide otherwise, the aid provided for in paragraph 1 shall not be granted in respect of investments relating to milk production the effect of which is to exceed the reference quantity determined in accordance with rules on the additional levy for milk and milk products, unless an

additional reference quantity has been granted beforehand as provided for in Article 4 (1) (c) of Council Regulation (EEC) No 857/84 of 31 March 1984 adopting general rules for the application of the levy referred to in Article 5c of Regulation (EEC) No 804/68 in the milk and milk products sector ⁽¹⁾, as last amended by Regulation (EEC) No 1630/91 ⁽²⁾, or obtained by means of a transfer in accordance with Article 7 (1) of that Regulation.

In such cases, the granting of aid shall be subject to the condition that the investment does not serve to raise the number of dairy cows to more than 40 per MWU and more than 60 per holding or, where the holding has more than 1.5 MWU, does not serve to raise the number of dairy cows by more than 15 %.

On a proposal from the Commission, the Council shall adopt, at the latest six months after the expiry of Regulation (EEC) No 857/84, the conditions to which the granting of aid to investments entailing an increase in milk production shall be subject after the said Regulation expires.

4. Except where decisions subsequently taken pursuant to paragraph 2 provide otherwise, the aid provided for in paragraph 1 granted for investments relating to the pig production sector the effect of which is to increase production capacity shall be restricted, as regards requests submitted before 1 January 1987, to investments serving to reach 500 places for fattening pigs per holding, and as regards requests submitted between 1 January 1987 and 31 March 1988, to investments serving to reach 400 places.

As regards applications submitted after 31 March 1988 and before 1 January 1991, the number of pig places that may be achieved and be eligible for the aid referred to in paragraph 1 shall be 300 places per holding. In addition, the granting of aid shall be subject to the condition that the total number of pig places after realization of the investment does not exceed 800 places per holding.

The place required by one breeding sow shall be deemed to correspond to 6.5 fattening pig places.

The Council, acting on a proposal from the Commission by a qualified majority, shall not later than 31 December 1990 adopt the arrangements applicable to requests made as from 1 January 1991.

If the Council has not taken a decision by that date, the granting of investment aid having the effect of increasing pig production capacity shall be suspended.

Furthermore, where an improvement plan provides for investment in the pig production sector, the granting of aid in respect of such an investment shall be subject to the condition that, upon completion of the plan, at least the equivalent of 35 % of the quantity of feed consumed by pigs can be produced on the holding.

⁽¹⁾ OJ No L 90, 1. 4. 1984, p. 13.

⁽²⁾ OJ No L 150, 15. 6. 1991, p. 19.

5. Save where decisions subsequently taken pursuant to paragraph 2 provide otherwise, aid as provided for in paragraph 1 and granted for investments relating to the beef sector, other than aid for safeguarding the environment, shall be restricted to livestock enterprises where the beef-cattle stocking rate does not, at the end of the plan, exceed three livestock units (LU) per hectare of total forage area used for feeding the cattle; the LU conversion table is given in Annex I.

However, until 31 December 1991, this limit of 3 LUs shall not be applied when evidence is adduced that there is no proposal to increase production capacity. Before 31 December 1991, the Commission shall examine the application of this provision and submit a report to the Council.

6. The investment aid referred to in paragraph 1 may not be granted in the egg and poultry sector.

Article 7

1. The system of aid for investments referred to in Article 6 (1) shall cover aid in the form of capital grants or the equivalent thereof in interest rate subsidies or deferred repayments, or a combination of these, in respect of the investments necessary to carry out the improvement plan but with the exception of expenditure incurred in buying;

— land,

— livestock in the form of pigs, poultry and calves for slaughter.

With regard to the purchase of livestock, only the first purchase for which provision is made in the improvement plan may be covered.

The system of aid may also cover guarantee for loans contracted and the interest thereon, where the security or personal guarantee provided is insufficient.

2. Capital grants as provided for in paragraph 1 may apply to a total investment of ECU 60 743 per MWU or ECU 121 486 per holding. Member States may set these limits at lower levels.

The value of the aid provided for in paragraph 1 expressed as a percentage of the amount of the investment, shall not exceed:

(a) In the case of the areas referred to in Article 2 and 3 of Directive 75/268/EEC:

— 45 % for fixed assets,

— 30 % for other types of investments;

(b) in the case of other areas:

— 35 % for fixed assets,

— 20 % for other types of investment.

Where the aid is not granted in the form of a capital grant, Member States shall draw up each year a table showing the

value of the aid, expressed as a percentage of the amount of the investment, taking into consideration the average annual rate of interests on non-subsidized loans, the value of the interest subsidy, the term of the loans, deferred interest subsidies and repayments and any other factor used for expressing the aid in grant equivalent terms.

The Council, acting by a qualified majority on a proposal from the Commission, may authorize a Member State, for a specified period, to grant aid exceeding the level specified in the preceding subparagraph, if such action is warranted by the situation on the capital market in that Member State.

However, until 31 December 1991, the value of the maximum aid referred to in the second subparagraph shall be increased by 10 % of the amount of the investments in Spain, Greece, Ireland, Italy and Portugal for investments shown in the improvement plans submitted by that date.

Article 8

Member States may grant the aid referred to in Article 7 to farmers who, after completing an improvement plan, continue to fulfil the conditions laid down in Article 5 (1), provided that the conditions laid down in Article 6 are met. However, the number of plans per beneficiary which may be accepted during a six-year period shall be limited to two and the total investment which may be considered in connection with the reimbursement of aid pursuant to Article 33 shall be limited to ECU 60 743 per MWU and ECU 121 486 per holding for that period.

Article 9

1. An improvement plan within the meaning of Article 5 (1) (c) may relate to an individual holding or to a number of holdings grouped together with a view to the merger of all or part of these holdings.

2. In the case of group-operated holdings, the improvement plan shall concern the group-operated holding and any parts of holdings which continue to be run by the group members.

3. Member States may grant the aid referred to in Article 78 to group-operated holdings if all the members of such holdings satisfy the conditions laid down in Article 5 (1).

4. Except for aquaculture, the ceilings laid down in Articles 7 (2) and 8 may be multiplied by the number of holdings belonging to the group. The ceilings laid down in Article 6 (3) and (4) may only be multiplied by the number of such holdings in the case of a holding resulting from a complete merger.

However, these ceilings may not exceed:

- 120 cows,
- three times the number of pig places resulting from the applications of Article 6 (4),
- ECU 364 458 of investment,

per group-operated holding, including any parts of holdings which continue to be run by the group members.

5. In accordance with the procedure laid down in Article 30, the Commission may authorize a Member State to grant the aid referred to in Article 7, under the conditions stipulated in paragraph 4 above, to agricultural cooperatives whose sole objective is to manage an agricultural holding. At the same time, the Commission shall lay down specific conditions for the granting of aid to such cooperatives, as well as the conditions under which and the limits within which the volume of investment provided for in paragraph 4 may be exceeded.

6. Member States shall lay down the conditions to be met by group-operated holdings, in particular:

- their legal form,
- their minimum duration, which must not be less than six years,
- the formation of their capital,
- the participation of members in management.

Article 10

1. Member States may grant setting-up aid to young farmers under 40 years of age on condition that:

- the young farmer sets up as head of the holding, which means that he assumes civil and tax liability or joint liability for the management of the holding and the social status accorded in the Member State concerned to self-employed heads of holding,
- the young farmer sets up as a farmer practising farming as his main occupation or begins, after having set up as a part-time farmer, to practise farming as his main occupation,
- the occupational qualifications of the young farmer are at a satisfactory level at the time of his setting up or at the latest two years thereafter, and
- the holding requires a volume of work equivalent to at least one MWU, which must be achieved at the latest two years after the setting up.

2. The setting-up aid may comprise:

- (a) a single premium of a maximum eligible amount of ECU 10 000. The premium may be paid over a period not exceeding five years. Member States may replace the premium by an equivalent interest subsidy;
- (b) an interest subsidy on loans taken out with a view to covering the costs arising from setting up.

The rate of interest subsidy shall be not more than 5 % for a period of 15 years; the capitalized value of the interest subsidy may not exceed ECU 10 000.

Member States may pay, in the form of a grant, the equivalent of the interest subsidy resulting from the volume and duration of the loans taken out.

3. Member States shall define:

- the conditions governing setting up,
- specific conditions in a situation where a young farmer does not set up as sole head of the holding, in particular where he sets up as a member of an association or cooperative whose principal object is the management of an agricultural holding; these conditions must be equivalent to those required for setting up as a sole head of a holding,
- the agricultural training which a young farmer must have had at the time of his setting up, or must achieve within two years thereafter, in order for the premium to be eligible under the Fund,
- the conditions under which it will be recognized that the volume of work equivalent to at least one MWU has been achieved within the maximum time of two years after setting up,
- the amount of the setting-up aid.

Article 11

Member States may grant young farmers under 40 years of age additional aid for investments to be made under a material improvement plan within the meaning of Article 5 (1) (c), amounting to a maximum of 25 % of the aid granted pursuant to Article 7 (2), provided that the young farmer submits the improvement plan within five years of setting up and provided that he possesses the occupational qualifications referred to in Article 10 (1).

Article 12

1. Aid for investments in agricultural holdings satisfying the conditions laid down in Articles 5 and 9 which exceeds the amounts laid down in Article 7 (2) increased, where appropriate, by the aid referred to in Article 11, are hereby prohibited, with the exception of aid:

- for the construction of farm buildings,
- for the relocation of farm buildings where this is done in the public interest,
- for land improvement operations,
- for investments for the purposes of environmental protection and improvement,

provided that the granting of these higher amounts does not infringe the provisions of Article 5 of this Regulation and Articles 92 to 94 of the Treaty.

2. Where Member States grant aid for investments in holdings which do not satisfy the conditions laid down in Article 5, such aid must be at least one-quarter less than the aid granted pursuant to Article 7, with the exception of aid for:

- energy saving,
- land improvement,

which may reach the amount laid down in Article 7 (2).

Such aid may be granted for a total investment of ECU 60 743 per MWU and ECU 121 486 per holding for a period of six years.

3. Notwithstanding paragraph 2, Member States may grant temporary aid for investments in small agricultural holdings which do not satisfy the conditions laid down in Article 5 (1).

This temporary aid may be granted for investments up to ECU 25 252 only and may not be granted on terms more favourable than those provided for in Article 7, plus, where appropriate, the aid provided for in Article 11.

4. Aid for investments in holdings shall be prohibited where such investments do not satisfy the conditions laid down in Article 5 and where Article 7 does not permit the granting of such aid.

However, the aid referred to in paragraph 2 and 3 may be granted:

- for investments in the sector of geese and ducks for the production of foie gras,
- for the purchase of cattle which may be encouraged under Article 7 (1) even where it is not the first purchase.

Moreover, as regards the holdings referred to in paragraphs 2 and 3, the number of dairy cows referred to in Article 6 (3) shall be 40 per MWU and per holding.

5. The prohibitions and limitations provided for in this Article shall not apply to:

- aid for land purchase,
- subsidized operating loans the term of which does not exceed one marketing year,
- aid for the purchase of male breeding stock,

- securities for loans contracted, including interest,
- aid for investment in the protection and improvement of the environment, provided that it does not entail an increase in production,
- measures in respect of investments for the purpose of improving hygienic conditions or of compliance with Community animal welfare standards where these are stricter from Community standards, provided that these investments do not give rise to an increase in production,

provided that they are granted in accordance with Articles 92 to 94 of the Treaty.

TITLE V

Back-up measures to assist agricultural holdings

Article 13

1. Member States may introduce a scheme to encourage the introduction of accounting on agricultural holdings.

The scheme shall involve granting to farmers whose main occupation is farming, and who apply therefore, an aid spread over at least the first four years during which management accounts are kept on their holdings, on the understanding that accounts will be kept for at least four years.

Member States will determine the amount of such aid within a range of ECU 700 to 1 050.

2. The keeping of accounts referred to in paragraph 1 shall:

- (a) comprise:
- the preparation of annual opening and closing valuations,
 - the systematic and regular recording over the accounting year of the various transactions in cash or in kind concerning the holding;
- (b) conclude with the presentation each year of:
- a description of the general characteristics of the holding, and in particular of the inputs,
 - a detailed balance sheet (assets and liabilities) and trading account (expenditure and income),
 - the necessary data, including in particular the earned income per MWU and the farmer's income, for assessing the efficiency of the management of the holding as a whole and the profitability of the main enterprises of the holding.

3. Where a holding is chosen by bodies appointed by Member States for the collection of accountancy data for the purposes of information and scientific study, in particular within the framework of the Community accountancy data network, and the farmer is in receipt of aid as provided for in paragraph 1, he must undertake to make available to those bodies, under conditions of anonymity, the accountancy data relating to his holding.

Article 14

Member States may, on request, grant to recognized groups which have as their object:

- mutual aid between holdings, including the use of new technologies and practices for safeguarding and improving the environment and preserving the countryside,
- the introduction of alternative farming practices,
- the more rational joint use of agricultural means of production,
- the operation of a group holding,

and which are formed on or after 1 April 1985, launching aid as a contribution to their operating costs during not more than the first five years after their formation.

Member States shall fix the amount of such aid by reference to the number of members and to the activity performed jointly, with the maximum amount being ECU 15 044 per recognized group.

In addition, Member States shall determine the legal form of such groups and the provisions governing cooperation between members.

Article 15

1. Member States may, on request, grant launching aid to contribute to covering the management costs of agricultural associations having as their object the provision of farm relief services.

2. In order to be eligible for the aid referred to in paragraph 1, the relief service must be approved by the Member States and employ at least one full-time worker who is fully qualified for the work he is called upon to perform.

3. Member States shall lay down the conditions for the approval of services as referred to in paragraph 1, and in particular:

- their legal form,
- the provisions governing their management and accounting practices,

- the type of replacement which may comprise the replacement of the farmer, his spouse or an adult worker,
- their minimum duration, which must not be less than 10 years,
- the minimum number of affiliated farmers.

4. Member States shall fix the amount of the launching aid referred to in paragraph 1, which shall not exceed ECU 12 035 per relief worker employed on a full-time basis in the work referred to in paragraph 2. This amount shall be spread over the first five years of each worker's employment; it may be spread degressively over that period.

Article 16

1. Member States may, on request grant launching aid to contribute to covering the management costs of agricultural associations having as their object the provision of farm management services.

2. The aid referred to in paragraph 1 shall be granted in respect of the work of staff responsible for analyzing accounting results and other data for the farmers.

3. To be eligible for the aid referred to in paragraph 1, farm management services must be approved by the Member State and must employ on a full-time basis at least one member of staff qualified for the work specified in paragraph 2.

4. Member States shall lay down the conditions for the approval of services as referred to in paragraph 1, and in particular:

- their legal form,
- the provisions governing their management and accounting practices,
- their minimum duration, which must not be less than 10 years,
- the minimum number of affiliated farmers.

5. Member States shall fix the amount of the launching aid referred to in paragraph 1, which shall not exceed ECU 36 105 per member of staff employed on a full-time basis in the work specified in paragraph 2. This amount shall be spread over the first five years of each member of staff's employment; it may be spread degressively over this period.

6. Member States may replace the system of launching aid provided for in paragraph 5 with a system of farm management aid for farmers practising farming as their main occupation who make use of the farm management services referred to in paragraph 1.

In this event, Member States shall set the aid up to a maximum of ECU 501.4 per holding, to be spread over at least two years.

TITLE VI

Specific measures to assist mountain and hill farming and farming in certain less-favoured areas

Article 17

1. In regions which appear on the Community list of less-favoured farming areas within the meaning of Directive 75/268/EEC, Member States may grant an annual compensatory allowance to assist farming activities, such allowance to be fixed according to the permanent natural handicaps described in Article 3 of that Directive within the limits and subject to the conditions laid down in Articles 18 and 19 of this Regulation.

2. The granting of such a compensatory allowance which exceeds those limits or which fails to satisfy the conditions laid down in Articles 18 and 19 shall be prohibited in the areas appearing on the list referred to in paragraph 1.

Article 18

1. Where Member States grant a compensatory allowance, farmers with at least three hectares of usable agricultural area who undertake to pursue a farming activity in accordance with the aims of Article 1 of Directive 75/268/EEC for at least five years from the first payment of a compensatory allowance shall be eligible for such an allowance; where a farmer gives up farming and the area concerned continues to be worked, he may be released from such undertaking; he shall be released from such undertaking in cases of *force majeure*, for example where his property is compulsorily purchased or purchased in the public interest; in addition, farmers in receipt of a retirement pension shall be released from such undertaking.

However, in the Mezzogiorno, including the islands, in the regions in the French overseas departments and in the Greek, Portuguese and Spanish regions, the minimum utilized agricultural area per holding shall be two hectares.

2. Expenditure in respect of the compensatory allowances shall not be eligible for reimbursement by the Fund under Article 31 where the farmer is in receipt of a retirement pension.

3. Member States may lay down additional or limiting conditions for the grant of the compensatory allowance, including conditions which encourage the use of practices compatible with the need to safeguard the environment and preserve the countryside.

Article 19

1. Member States shall fix the amounts of the compensatory allowance according to the severity of the

permanent natural handicaps affecting farming activities and having regard to the limits set out below, although no allowance may be less than ECU 20.3 per LU or, where appropriate, per hectare in the areas referred to in Article 3 of Directive 75/268/EEC:

- (a) in the case of farms keeping cattle, sheep, goats or equines the allowance shall be calculated in relation to livestock numbers. The allowance may not exceed ECU 102 per LU. The total amount of the allowance granted may not exceed ECU 102 per hectare of total forage area of the holding. A conversion table for expressing cattle, equines, sheep and goats as LUs is given in Annex 1.

However, in less-favoured agricultural areas where the permanent natural handicaps are serious enough to justify it, the local allowance granted may be increased to ECU 121.5 per LU and per hectare.

The allowance shall be granted in respect of not more than 1.4 LU per hectare of the total forage area of the holding.

Cows whose milk is intended for marketing may be taken into consideration for the calculation of the compensatory allowance only in the areas defined in Article 3 (3) of Directive 75/268/EEC, and in the areas defined in Article 3 (4) and (5) of that Directive where dairying forms an important part of farming activity.

When Member States exercise this right in the areas defined in Article 3 (4) and (5) of the abovementioned Directive, the number of dairy cows per eligible farmer to be taken into consideration for the calculation of the compensatory allowance may not exceed 20;

- (b) In the case of production other than of cattle, equines, sheep and goats, the allowance shall be proportional to the area farmed, less that devoted to the feeding of livestock and:

- (i) in all less favoured agricultural areas, less that given over to wheat growing:

— except areas given over to the growing of durum wheat, in areas not being areas referred to in Council Regulation (EEC) No 3103/76 of 16 December 1976 on aid for durum wheat ⁽¹⁾, as last amended by Regulation (EEC) No 1216/89 ⁽²⁾,

— except areas given over to the growing of common wheat, in areas the average yield from which does not exceed 2.5 tonnes per hectare used for this product;

- (ii) in all less-favoured agricultural areas, less any areas which are full plantations of apple, pear or peach trees exceeding 0.5 hectares per holding;

- (iii) in the less-favoured agricultural areas referred to in Article 3 (4) and (5) of Directive 75/268/EEC, less any areas assigned to the production of wine, apart from vineyards the yield from which does not exceed 20 hectolitres per hectare, or the production of sugarbeet or intensive crops.

The allowance may not exceed ECU 102 per hectare. However in less-favoured agricultural areas in which the severity of the permanent natural handicaps is great enough so to justify, the total amount granted may be increased to ECU 121.5 per hectare;

- (c) Member States may vary the compensatory allowance on the basis of the economic situation of the holding and of the income of the farmer qualifying for the compensatory allowance. The amount of the allowance may also be adjusted in the light of the use of agricultural practices compatible with the requirement for safeguarding the environment and preserving the countryside; the benefit of any increases may not, however, be combined with the aid referred to in Article 21.

2. Member States may refrain from granting the compensatory allowance for some or all of the types of production which may qualify under paragraph 1 (b).

3. The maximum amount eligible under the fund shall be limited to the equivalents of 120 units per holding, whether livestock units (LU) or area units (ha); moreover, beyond the equivalent of the first 60 units, the maximum amount eligible per LU or hectare shall be reduced to half the maximum amount of the allowance referred to in paragraph 1.

Article 20

1. In the areas referred to in Article 17 (1), Member States may grant aid to joint investment schemes for fodder production, including the storage and distribution of fodder, and for the improvement and equipping of pastures which are farmed jointly and, in mountain areas, to joint or individual investment in water points, in minor roads for immediate access to pastures, including mountain pastures, and in shelters for herds.

However, where stock-breeding constitutes a peripheral activity in these areas, the aid provided for in the first subparagraph shall be extended to agricultural activities other than stock-breeding.

2. Where economically justified, the work referred to in paragraph 1 may include small-scale farm water supply measures compatible with protection of the environment, including small-scale irrigation works, and the construction or repair of shelters necessary for transhumance.

⁽¹⁾ OJ No L 351, 21. 12. 1976, p. 1.

⁽²⁾ OJ No L 128, 11. 5. 1989, p. 5.

3. The amount of aid as referred to in paragraph 1 which is eligible for financing by the Fund may not exceed ECU 100 293 per joint investment project, ECU 500 per hectare of pasture improved or equipped and ECU 501.4 per hectare irrigated.

TITLE VII

Aid in areas sensitive as regards protection of the environment and natural resources and as regards safeguarding the landscape and the countryside

Article 21

In order to contribute towards the introduction or the maintenance of farming practices compatible with the requirements of the protection of the environment and of natural resources or with the requirements of the maintenance of the landscape and the countryside, and thus to contribute to the adaptation and the guidance of agricultural production according to market needs, and having regard to agricultural income losses resulting from this, Member States may introduce a specific aid scheme for areas which are particularly sensitive from these points of view.

Article 22

The aid scheme referred to in Article 21 shall consist of an annual premium per hectare granted to farmers in the areas referred to in Article 21 who undertake, under a specific programme for the area concerned, to introduce or maintain, for at least five years, farming practices compatible with the requirements of the protection of the environment and of natural resources or with the requirements of the maintenance of the landscape and of the countryside.

Article 23

Member States shall determine the areas referred to in Article 21. In the light of the objective to be achieved, they shall define those production practices compatible with the requirements of the protection of the environment and of natural resources or with the requirements of the maintenance of the landscape and of the countryside. They shall also lay down rules and criteria to be complied with as regards production practices referred to in Article 22, in particular with regard to the maintenance or the reduction of the intensity of farming and/or the required density of livestock. They shall fix the amount and duration of the premium, which must depend on the undertaking entered into by the farmer under the programme.

Article 24

The maximum amount of the annual premium per hectare specified in Article 22 eligible under the Fund shall be ECU 150.4 per hectare covered by the undertaking referred to in Article 22.

TITLE VIII

Forestry measures on agricultural holdings

Article 25

1. Member States may grant aid for the afforestation of agricultural land to farmers, including those receiving the aid provided for in Title I of this Regulation or the aid provided for in Article 4 of Council Regulation (EEC) No 1096/88 of 25 April 1988 establishing a Community scheme to encourage the cessation of farming⁽¹⁾, as amended by Regulation (EEC) No 3808/89⁽²⁾.

Aid for afforestation may also be granted to any other individual and to forestry associations or cooperatives or other bodies which afforest agricultural land.

2. Member States may grant aid to farmers fulfilling the conditions of Article 5 (1) (a) for investments in woodland improvements such as the provision of shelterbelts, firebreaks, waterpoints and forest roads.

3. The cost of adapting agricultural machinery for forestry work shall form part of the investments referred to in paragraphs 1 and 2.

4. The actual expenditure incurred by Member States pursuant to paragraphs 1 and 2 shall be eligible for financing from the Fund up to the maximum eligible amounts of:

- ECU 1 824 per hectare for afforestation,
- ECU 702 per hectare for woodland improvements and the provision of shelterbelts,
- ECU 1 404 per hectare for the renewal and improvement of woodland under cork oaks,
- ECU 18 053 per kilometre for forest roads,
- ECU 150.4 per hectare provided with firebreaks and waterpoints.

Upon reasoned request by a Member State and subject to budget availabilities, the Commission may, in accordance with the procedure referred to in Article 30, decide to increase the maximum amounts for afforestation, for woodland improvements and for the renewal and improvement of woodland under cork oaks up to maximum amounts of ECU 3 000, ECU 1 200 and ECU 3 000 respectively.

⁽¹⁾ OJ No L 110, 29. 4. 1988, p. 1.

⁽²⁾ OJ No L 371, 20. 12. 1989, p. 1.

Article 26

1. Member States may grant an annual premium per hectare afforested to farmers who afforest agricultural land and who do not receive the premium provided for in Article 6 of Regulation (EEC) No 1096/88.

2. The maximum eligible amount of the annual premium referred to in paragraph 1 shall be ECU 150.4 per hectare afforested per year.

The above amount shall be reduced to ECU 50.2 per hectare if, and for as long as, aid under Title I is granted for the same land.

The premium shall be payable for a maximum period of 20 years from the initial afforestation.

3. Member States shall fix the amount and duration of the annual premium in the light of the income lost and the species or types of trees with which the land is afforested.

Article 27

1. Member States shall lay down the conditions for the afforestation of agricultural areas, which may in particular include conditions relating to the location and grouping of areas which may be afforested.

2. The communication of provisions implementing this Title under Article 29 shall include:

- measures taken to determine afforestation conditions,
- measures taken to assess and control environmental impact,
- the accompanying measures taken or planned,
- the forestry plans or programmes with which afforestation is to comply.

TITLE IX

Adjustment of vocational training to the requirements of modern agriculture*Article 28*

1. In so far as no provision is made for their financing in Council Regulation (EEC) No 4255/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Social Fund ⁽¹⁾, Member States may, in regions where the need is apparent and with a view to the smooth implementation of the relevant

measures, introduce a system of special aid for the improvement of the agricultural skills of persons covered by the measures referred to in Articles 3 and 5 to 16 and young farmers under 40 years of age.

This system may comprise:

- courses of basic and advanced vocational instruction or training for farmers, family helpers and agricultural workers who have passed the minimum school-leaving age and courses of additional training for such persons, intended to prepare them for qualitative reorientation of production; the application of production practices compatible with protection of the landscape and acquisition of skills needed to enable them to manage their woodlands,
- courses of instruction or training for leaders and managers of producer groups and cooperatives, where this is necessary to improve the economic organization of producers and the processing and marketing of agricultural products from the region concerned.
- the courses of further training needed to achieve the level of vocational training referred to in Article 10 which must be of a minimum length of 150 hours.

2. The system referred to in paragraph 1 shall comprise aid:

- (a) for attendance at courses of instruction or training;
- (b) for the organization and provision of courses of instruction and training.

3. The expenditure incurred by Member States in granting the aid referred to in paragraph 2 (a) and (b) shall be eligible for assistance from the Fund up to a maximum amount of ECU 7 020 per person completing a course of instruction or training. Of this amount, ECU 2 507 must have been given for further courses on reorientation of production, with regard to production practices compatible with landscape protection and management of woodlands.

The measures covered by this Article shall not include courses of instruction or training which form part of normal programmes or systems of agricultural education at secondary or higher level.

TITLE X

General and financial provisions*Article 29*

1. Member States shall forward to the Commission:

⁽¹⁾ OJ No L 374, 31. 12. 1988, p. 21.

- drafts of all laws, regulations or administrative provisions which they propose to adopt pursuant to this Regulation, including those relating to Article 12,
- the texts of any existing provisions which may make it possible to implement this Regulation.

2. When submitting, pursuant to paragraph 1, drafts of laws, regulations or administrative provisions or the texts of existing provisions, Member States shall also submit an explanatory memorandum showing the relationship at regional level between the measure in question and economic and structural conditions in the agricultural sector.

3. The Commission shall examine drafts forwarded in accordance with the first indent of paragraph 1 for the purpose of determining whether, having regard to the objectives of this Regulation and to the need for a proper connection between the various measures, such drafts comply with the Regulation and thus satisfy the conditions for a financial contribution by the Community to the measure referred to in Article 1. Within two months of the receipt of any draft, the Commission shall, after consulting the Committee on Agricultural Structures and Rural Development, issue an opinion thereon.

4. Member States shall, on enactment of any law, regulation or administrative provision as referred to in paragraph 3, forward the text thereof to the Commission.

Article 30

With regard to provisions forwarded pursuant to the second indent of Article 29 (1) or to Article 29 (4), the Commission shall decide within two months of their being forwarded, in accordance with the procedure laid down in Article 29 of Regulation (EEC) No 4253/88, whether, in the light of their compliance with this Regulation and having regard to the objectives of this Regulation and to the need to ensure that the various measures are properly related, such provisions satisfy the conditions for a financial contribution by the Community to the common measure referred to in Article 1.

Article 31

1. Expenditure incurred by Member States in connection with the measures provided for in Articles 3, 4, 6 to 11, 13 to 21, 25, 26 and 28 shall be eligible for aid from the Fund. Expenditure incurred by the Member States in connection with the measures provided for in Article 2 shall be eligible for aid from the Guarantee and Guidance Sections of the EAGGF.

2. For the regions covered by Objective 1 as defined in Article 1 of Regulation (EEC) No 2052/88, the Commission shall determine the rates of Community part-financing for the different measures in accordance with the criteria and within the limits laid down in Article 13 of the said Regulation under the procedure provided for in Article 29 of Regulation (EEC) No 4253/88. If a Member State so

requests, these rates shall be applied to expenditure incurred with effect from 1 January 1989.

For those regions not covered by Objective 1, the rates shall be fixed by the Commission under the same conditions; however, the Commission shall submit, before 31 December 1992, a report to the Council, together with proposals concerning the fixing of the said rates for subsequent years.

Article 32

1. Measures taken by Member States shall not be eligible for a financial contribution from the Community unless a favourable decision under Article 30 has been given in respect of the provisions relating thereto.

2. The financial contribution from the Community shall be provided only in respect of eligible expenditure arising in connection with aid granted pursuant to decisions taken after 31 March 1985.

Article 33

1. Applications for reimbursement shall relate to expenditure incurred by Member States in the course of a given calendar year and shall be submitted to the Commission before 1 June of the following year.

2. Payments on account may be authorized by the Commission.

3. The Commission shall adopt detailed rules for the application of this Article.

Article 34

Member States may lay down additional conditions as regards the implementation of the aid measures provided for in this Regulation.

Article 35

1. This Regulation shall be without prejudice to the right of Member States to adopt additional aid measures in the areas covered by this Regulation, with the exception of those covered by Articles 2, 6 to 9, 11, 12 (2), (3) and (4) and 17 on terms differing from, or in amounts exceeding, the ceilings laid down in this Regulation, provided that Articles 92, 93 and 94 of the Treaty are not infringed.

2. The provisions of Articles 92, 93 and 94 of the Treaty, with the exception of Article 92 (2), shall not apply to the aid measures governed by Articles 2, 6 to 9, 11, 12 (2), (3) and (4) and 17.

Article 36

Pursuant to Article 23 of Regulation (EEC) No 4253/88, Member States shall make provision for effective monitoring

which shall include at least verification of the essential aspects of the beneficiary's undertaking and of the supporting documents, and on-the-spot checks to verify that the information contained in the application corresponds to the true situation.

Where appropriate, detailed rules for the application of this Article shall be laid down by the Commission, in accordance with the procedure provided for in Article 29 of Regulation (EEC) No 4253/88.

Article 37

1. On receipt of a reasoned application, the Commission, acting in accordance with the procedure laid down in Article 30, may authorize a Member State not to apply the aid schemes provided for in Titles I, II and III in those regions or areas where, because of natural conditions or the threat of depopulation, production should not be reduced. In the case of Spain, the Commission may also take account of the particular socio-economic situations of certain regions or areas.

The Commission, acting in accordance with the procedure laid down in Article 30, shall adopt the criteria for defining the regions or areas referred to in the first subparagraph.

2. Portugal is hereby authorized not to apply the schemes referred to in paragraph 1 until 31 December 1994.

Article 38

1. The following special provisions shall apply to the territory of the former German Democratic Republic:

- (a) The arrangements provided for in Titles I and II shall be applied from the 1991/92 marketing year onwards.
- (b) Land planted with potatoes may qualify for set-aside assistance notwithstanding Article 2 (2).
- (c) Where the area of arable land of a holding, including, as appropriate, land planted with potatoes, as referred to in Article 2 (2), exceeds 750 hectares, the conditions that not less than 20 % of the land shall be set aside as laid down in Article 2 (3) is replaced by a condition that not less than 150 hectares shall be set aside.
- (d) When family holdings are being set up:
 - the condition in the first indent of Article 5 (2) shall not apply,
 - Germany may grant the aid referred to in Articles 10 and 11 to farmers below the age of 55 years. However, aid granted to farmers over the age of 40 years is not eligible under the Fund.
- (e) The conditions in the second subparagraph of Article 6 (3) and the first indent of Article 9 (4) shall not apply to

aid granted in the context of the creation of new family holdings or the restructuring of cooperative holdings if the number of dairy cows on all the new or restructured holdings does not exceed the number of dairy cows held previously on the old holdings.

If the Council has not adopted, by 31 December 1990, the arrangements for applications submitted from 1 January 1991 for investment aid in the pig production sector, the conditions in Article 6 (4) and the second indent of the second subparagraph of Article 9 (4) referring to the number of pig places shall not apply to aid granted in the context of the creation of new family holdings or the restructuring of cooperative holdings if the number of pig places on all the new or restructured holdings does not exceed the number of pig places previously held on the old holdings.

- (f) The volume of investment referred to in the first subparagraph of Article 7 (2) shall be ECU 140 000 per MWU and ECU 280 000 per holding.
- (g) In the context of the restructuring of cooperative holdings, Article 9 (5) shall also apply to associations which do not adopt the legal form of a cooperative.
- (h) A special system of aid for holdings in less-favoured areas defined according to criteria to be laid down by Germany may be applied during 1991. During this period, Title VI shall not apply to the territory of the former German Democratic Republic.

Expenditure under this special system shall not be eligible under the Fund.

2. The provisions in points (b) to (g) of paragraph 1 shall apply until 31 December 1993.

Before the end of 1992, the Commission shall submit to the European Parliament and the Council a report on the implementation and development of the structural action and measures. Taking account of the results achieved and of the way the situation develops, the Commission may, if necessary, submit proposals designed to make these measures more effective.

Article 39

The measures referred to in Titles II and VII shall apply until 30 June 1990.

Before that date, the Commission shall place before the Council a report on the application of the measures, including trends in expenditure.

Acting on a proposal from the Commission by a qualified majority, the Council shall decide before that date whether the measures are to be extended.

In the absence of a decision by that date, the period of application of the measures shall be extended by two years.

2. References to the Regulations repealed shall be construed as references to this Regulation and should be read in accordance with the correlation table in Annex II.

Article 40

1. Regulations (EEC) No 797/85 and (EEC) No 1760/87 are hereby repealed.

Article 41

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

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

Done at Brussels, 15 July 1991.

For the Council
The President
P. BUKMAN

ANNEX I

Table for converting cattle, equines, sheep and goats into livestock units (LU) (referred to in Articles 6 (5) and 19 (1) (a))

Bulls, cows and other bovine animals over two years, equines over six months	1.0 LU
Bovine animals from six months to two years	0.6 LU
Sheep	0.15 LU
Goats	0.15 LU

The coefficients relating to sheep and goats apply to the maximum and minimum amounts per livestock unit as defined in Articles 6 (5) and 19 (1) (a).

ANNEX II

CORRELATION TABLE

Regulation (EEC) No 797/85	Regulation (EEC) No 1760/87	This Regulation
Article 1		Article 1
Title 01: Article 1a (1)		Title I: Article 2 (1)
Article 1a (2)		Article 2 (2)
Article 1a (3)		Article 2 (3)
Article 1a (3) (a)		Article 2 (4)
Article 1a (4)		Article 2 (5)
Article 1a (5)		Article 2 (6)
Article 1a (6)		Article 2 (7)
Article 1a (7)		Article 2 (8)
Article 1a (8)		Article 2 (9)
Title 02: Article 1b		Title II: Article 3
Title 03: Article 1c		Title III: Article 4
Title I: Article 2		Title IV: Article 5
Article 3 (1)		Article 6 (1)
Article 3 (2)		Article 6 (2)
Article 3 (3)		Article 6 (3)
Article 3 (4)		Article 6 (4)
Article 3 (4) (a)		Article 3 (5)
Article 3 (5)		Article 6 (6)
Article 4		Article 7
Article 5		Article 8
Article 6		Article 9
Article 7		Article 10
Article 7a		Article 11
Article 8		Article 12
Title II: Article 9		Title V: Article 13
Article 10		Article 14
Article 11		Article 15
Article 12		Article 16
Title III: Article 13		Title VI: Article 17
Article 14		Article 18
Article 15		Article 19
Article 17		Article 20
Title V: Article 19		Title VII: Article 21
Article 19a		Article 22
Article 19b		Article 23
Article 19c		Article 24
Title VI: Article 20		Title VIII: Article 25
Article 20a		Article 26
Article 20b		Article 27
Title VII: Article 21		Title IX: Article 28

Regulation (EEC) No 797/85	Regulation (EEC) No 1760/87	This Regulation
Title VIII: Article 24 Article 25 Article 26 Article 27 Article 28 (1) Article 28 (3) Article 28 (4) Article 30 Article 31 Article 31a Article 32a Article 32b		Title X: Article 29 Article 30 Article 31 Article 32 Article 33 (1) Article 33 (2) Article 33 (3) Article 34 Article 35 Article 36 Article 37 Article 38 Article 39
Title IX: Article 33 Article 34 — Article 35	Article 6	Title XI: — — Article 40 Article 41
Annex		Annex I