



COMMISSION OF THE EUROPEAN COMMUNITIES

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98/0027 (CNS)

Proposal for a
COUNCIL REGULATION (EC)
amending Regulation (EEC) No 2075/92 on the common organization
of the market in raw tobacco

(presented by the Commission)

EXPLANATORY MEMORANDUM

At the beginning of 1997 the Commission presented a report on the common organization of the market in tobacco, which was the subject of a wide-ranging debate. The report, which was well received by the Council and European Parliament, came to the following conclusions:

- support for Community raw tobacco production should continue due to the large number of jobs provided by the sector, its social and economic significance, and its impact in terms of spatial development.
- there should be an in-depth reform of the COM for tobacco to encourage the production of higher quality tobacco, take greater account of public health and environmental concerns, enable producers to convert to other activities, increase supervision, make the quota system more flexible, and simplify the administration of the sector.

The purpose of this proposal for a Council Regulation is to implement the reform proposed in the report.

1. ENCOURAGEMENT OF THE PRODUCTION OF HIGHER QUALITY TOBACCO

First, it is proposed to encourage the production of higher quality tobacco by varying a proportion of the premium granted to each producer depending on the quality of his produce determined by its purchase price. This system, which provides a comparison of the value of the tobacco produced by all producers within one and the same group, is a powerful tool in the interests of quality. A transitional period of three years is provided for to set up this system.

2. INCREASING AWARENESS OF PUBLIC HEALTH AND ENVIRONMENTAL CONCERNS

Secondly, the draft proposes to improve awareness of public health and environmental requirements by doubling the size of the deduction from the premium for financing the research fund and information on tobacco. Measures to improve environmental protection will also be funded by the producer groups by means of the specific aid paid out to them.

In the Agenda 2000 document, the Commission already announced its intention to submit a proposal on improved integration of environmental policy in the COMs, and in particular its intention to table a proposal providing for the possibility of making payment of direct aid conditional upon meeting certain environmental requirements.

The horizontal Regulation to be submitted by the Commission in this area will also cover the tobacco sector.

3. ENABLING PRODUCERS TO CONVERT TO OTHER ACTIVITIES

It is also proposed to set up a quota buy-back system for the benefit of producers who decide to leave the sector. This mechanism will involve the reallocation of resources within the overall budget allocated to the sector, thus helping to achieve the objective of increasing the proportion of expenditure going into measures designed to facilitate structural adjustment.

In addition, it is already possible for tobacco producers so wishing to benefit from Regulation (EEC) No 2079/92 on early retirement from farming, provided they meet the conditions laid down in the national implementing regulations.

As part of the review of the Structural Funds provided for in Agenda 2000, these measures will be incorporated into rural development programmes. This will enable better adjustment to local and regional requirements, thus making it easier to take account of the situation of tobacco producers.

4. STRENGTHENING SUPERVISION

The proposal is also aimed at strengthening supervision in the sector. To this end, it is proposed to set up a processor approval system to enable the Member States to impose more appropriate penalties for non-compliance with Community law. Provision is made for a number of compulsory checks, such as on individual areas planted.

5. MAKING THE QUOTA SYSTEM MORE FLEXIBLE

It is proposed to make it easier to transfer production quotas between groups of varieties provided the principle of budgetary neutrality is complied with. The text also proposes to facilitate the transfer of production quotas between producers. It is also proposed to introduce an auction system for cultivation contracts, so that contract prices better reflect market trends.

6. SIMPLIFYING THE ADMINISTRATION OF THE SECTOR

By replacing the present allocation of quotas to individual producers by a system whereby quotas are distributed to producer groups every three years, the text also proposes to considerably reduce the number of operations that must be carried out by the national authorities.

Proposal for a
COUNCIL REGULATION (EC)
amending Regulation (EEC) No 2075/92 on the common organization
of the market in raw tobacco

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Having regard to the opinion of the Economic and Social Committee³,

Whereas Article 26 of Regulation (EEC) No 2075/92⁴, as last amended by Regulation (EC) No 2595/97⁵, requires the Commission to submit proposals on the premium and quota arrangements to be used in the organization of this market;

Whereas the present market situation is one of mismatch of supply and demand, largely due to the poor quality of Community production; whereas this situation calls for a fundamental reform of the sector to improve its economic position; whereas such reform must entail a variation of aid in line with product quality, greater flexibility and simplicity in the setting of quotas, stricter control procedures and improved observance of public health and environmental protection requirements;

Whereas, in order to encourage improvement of the quality and value of Community production, and at the same time to provide income support to producers, the payment of part of the premium should be linked to the value of the tobacco produced; whereas the extent of this differentiation may vary by variety and tobacco-growing Member State; whereas, if it is to be effective, differentiation should operate within a certain range; whereas, given the importance of this change, a transitional period should be set; whereas this system should be established within the producer groups, while permitting a comparison of the market prices obtained by individual producers;

Whereas it is essential to reinforce control procedures; whereas the definitions of “producer”, “first processor” and “first processing” should be made more precise and control agencies should be allowed access to all information relevant to their task;

¹ OJ C ...

² OJ C ...

³ OJ C ...

⁴ OJ L 215, 30.7.1992, p. 70.

⁵ OJ L 351, 23.12.1997, p. 11.

Whereas an auction system for cultivation contracts should be established so that contract prices for tobacco truly reflect market conditions;

Whereas by participating in determination of the purchase price of the tobacco delivered the first processor plays a central role in determination of the premium to be paid to the individual producer; whereas first processors benefit indirectly from Community aid by acquiring a subsidized product; whereas national authorities should be allowed to take appropriate action against any first processors not complying with Community rules; whereas to this end only approved first processors should be able to sign cultivation contracts, approval being withdrawn for non-compliance;

Whereas to simplify management of the sector, producer groups should be made responsible for paying the variable part of the premium to producers and for allocating production quotas between their members;

Whereas transfer of production quotas between producers should be permitted for improvement of the structure of production; whereas quota buy-back arrangements should be introduced to help producers who wish to leave the sector but find no purchaser for their quota;

Whereas due account should be taken of the imperatives of public health and respect for the environment; whereas to this end the premium deduction financing the Community fund for tobacco research and information should be doubled and the specific aid used not only to help producer groups discharge their new management functions but also to finance action aimed at enhancing respect for the environment,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2075/92 is amended as follows:

1. Article 3(1) and (2) are replaced by the following:

"1. From the 1999 harvest onwards, a premium scheme shall apply to tobacco, its amount being set for all the tobacco varieties shown in each of the different groups.

2. A supplementary amount shall, however, be granted on flue-cured, light air-cured and dark air-cured tobaccos grown in Austria, Belgium, France or Germany. That amount shall be equal to that applicable to the 1997 harvest."

2. The following Article 4a is inserted:

"Article 4a

1. The premium shall comprise a fixed part, a variable part and a specific aid.

2. *The variable part of the premium shall account for 35% to 45% of the total premium. It shall be introduced in stages up to the 2001 harvest. It may be adjusted within that specified range, according to variety group and Member State.*
 3. *The fixed part of the premium shall be paid either to producer groups for distribution to the members of the group or to individual producers who are not members of a group.*
 4. *The variable part shall be paid to producer groups for distribution to each member in proportion to the purchase price paid by the first processor for his crop.*
 5. *Specific aid, not exceeding 2% of the total premium, shall be paid to producer groups.”*
3. Articles 6 and 7 are replaced by the following:

“Article 6

1. *Cultivation contracts shall be concluded between first processors of tobacco and producer groups or individual producers who are not members of a group.*
2. *For the purposes of this Regulation:*
 - *the term “producer” shall mean individual producers who are not members of a group, individual producers who are members of a group, or producer groups, all of whom deliver their crop of raw tobacco to a first processor under a cultivation contract,*
 - *a “first processor” shall mean any approved natural or legal person who carries out first processing of raw tobacco by operation, in his own name and on his own account, of one or more establishments suitably equipped for that purpose,*
 - *“first processing” shall mean the processing of raw tobacco delivered by a producer into a stable, storable product put up in uniform bales of a quality meeting final user (manufacturer) requirements.*
3. *The cultivation contract shall include:*
 - *a commitment by the first processor to pay the producer the purchase price according to quality grade,*
 - *an undertaking by the producer to deliver to the first processor the raw tobacco meeting the quality requirements specified in the contract.*

4. *The Member State's competent body shall, on submission of proof of delivery of the tobacco and of payment of the price as referred to in the first indent of paragraph 3, pay:*
 - *the fixed part of the premium to the producer group or to the individual producer not a member of a group,*
 - *the variable part of the premium and the specific aid to the producer group.*
5. *A cultivation contract auction scheme shall be introduced, covering all contracts referred to in paragraph 1 which have been concluded before the date on which delivery of the tobacco commences.*

Article 7

Rules for the application of this Title shall be adopted in accordance with the procedure laid down in Article 23.

Their scope shall include:

- *delimitation of production zones for each variety,*
- *quality requirements for tobacco delivered,*
- *other details of the cultivation contract and the closing date for its conclusion,*
- *any requirement of a security to be lodged by producers applying for an advance, and the terms of its provision and release,*
- *determination of the variable part of the premium,*
- *specific premium terms for cultivation contracts concluded with producer groups,*
- *action to be taken if the producer or first processor fails to meet his obligations,*
- *the cultivation contract auction scheme."*

4. *Articles 8 to 11 are replaced by the following:*

"Article 8

A maximum overall guarantee threshold is set for the Community of 350 600 tonnes of raw leaf tobacco per harvest.

Within that quantity the Council shall set for three consecutive harvests, and in accordance with the procedure laid down in Article 43(2) of the Treaty, individual guarantee thresholds for each variety group.

Article 9

- 1. To ensure observance of the guarantee thresholds production quotas shall be imposed.*
- 2. The Council, acting in accordance with the procedure laid down in Article 43(2) of the Treaty, shall allocate for three consecutive harvests the quantity available for each variety group between producer Member States.*
- 3. On the basis of the quantities set pursuant to paragraph 2 and without prejudice to paragraphs 4 and 5, Member States shall assign production quotas to individual producers who are not members of a producer group and to producer groups, in proportion to the average quantity of tobacco of the particular variety group delivered for processing by each individual producer over the three years preceding that of the most recent harvest.*
- 4. Member States may be authorized, before the final date for conclusion of cultivation contracts, to transfer parts of their guarantee threshold allocations, in accordance with paragraph 3, to another variety group.*

Subject to the third subparagraph a one-tonne reduction in the allocation for one variety group shall give rise to an increase of at most one tonne in the allocation for the other variety group.

Transfer of parts of guarantee threshold allocations from one variety group to another may not give rise to additional costs to the EAGGF.

The quantities authorized for transfer shall be determined in accordance with the procedure laid down in Article 23.

- 5. National quota reserves shall be set up. Their operating rules shall be adopted in accordance with the procedure laid down in Article 23.*

Article 10

- 1. No premium may be granted on any quantity in excess of a producer's quota.*
- 2. Notwithstanding paragraph 1, a producer may deliver excess production of up to 10% of his quota for each variety group, this surplus being eligible for the premium granted on the following harvest, provided that he reduces his production for that harvest accordingly so that the combined quota for the two harvests is observed.*

3. *Member States shall keep accurate data on the production of all individual producers so that, where appropriate, production quotas can be assigned to them.*
4. *Production quotas may be transferred between individual producers in the same Member State.*

Article 11

Rules for the application of this Title shall be adopted in accordance with the procedure laid down in Article 23.”

5. Articles 12, 13 and 14 are replaced by the following:

“Article 12

1. *The specific aid referred to in Article 4a shall be paid to producer groups for the purposes of improving respect for the environment, boosting production quality, strengthening management and ensuring compliance with Community rules within the group.*
2. *The Commission shall determine rules for the application of this Article in accordance with the procedure laid down in Article 23. These rules shall cover:*
 - *fixing of the specific aid amount,*
 - *definition of producer groups eligible for the aid,*
 - *terms of recognition of groups,*
 - *use of the specific aid, and in particular its allocation between the purposes specified in paragraph 1.*

Article 13

1. *A Community Tobacco Fund financed by a deduction of 2% of the premium shall be set up.*
2. *It shall finance action in the following areas:*
 - *combating tobacco-smoking, in particular informing the public of the dangers of tobacco consumption,*
 - *research to develop new varieties and cultivation methods that result in less harm to human health and that are more environment-friendly.*
3. *Rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 23.*

Article 14

1. *In order to facilitate the voluntary departure from the sector by individual producers, a quota buy-back programme with corresponding reduction of the guarantee thresholds referred to in Article 8 shall be set up in accordance with the procedure laid down in Article 23.*
 2. *Rural development programmes for the conversion of tobacco-growing regions in difficulty to other activities may be implemented under Community structural policies."*
6. The heading of Title V is replaced by the following:

"Title V

Control measures"

7. Article 17 is replaced by the following:

"Article 17

1. *Member States shall take all necessary action to ensure and verify compliance with Community provisions concerning raw tobacco.*
2. *Member States shall make arrangements for granting entitlement to first processors to sign cultivation contracts.*
3. *Entitlement shall be withdrawn by the Member State if the processor deliberately or through serious negligence fails to comply with the Community provisions concerning raw tobacco.*
4. *Member States shall take the action necessary so that their control bodies can verify compliance with Community provisions, and in particular:*
 - *have access to production and processing facilities,*
 - *can acquaint themselves with first processors' accounts and stock records and with other relevant documents and take copies or extracts,*
 - *can obtain all relevant information, particularly in order to check that tobacco delivered has actually been processed,*
 - *have exact figures for the volume and purchase price of the production of all individual producers,*
 - *check the quality of the tobacco and payment by the processor of a purchase price to the individual producer,*
 - *check each year the areas planted by individual producers.*

5. *Rules for the application of this Title shall be adopted in accordance with the procedure laid down in Article 23.*"

8. The following heading is inserted after Article 17:

"Title VI

General and transitional provisions"

9. Article 20 is replaced by the following:

"Article 20

To deal with unforeseen circumstances, exceptional market support measures may be adopted in accordance with the procedure laid down in Article 23. Their scope and duration shall be strictly limited to what is necessary to support the market."

10. Article 26 is replaced by the following:

"Article 26

Before 1 April 2002, the Commission shall submit a report to the Council on the functioning of the common organization of the market in raw tobacco".

11. In Article 27, the following paragraph is added:

"Where transitional measures prove necessary to facilitate the application of the amendments to this Regulation, introduced by Regulation (EC) No/98, such measures shall be adopted in accordance with the procedure laid down in Article 23."

Article 2

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

It shall apply from the 1999 harvest.

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

Done at Brussels,

For the Council
The President

FINANCIAL STATEMENT		Date: 16 January 1998		
1.	BUDGET HEADING: Chapter 17	APPROPRIATIONS: ECU 995 million		
2.	TITLE: Council Regulation amending Regulation (EEC) No 2075/92 on the common organization of the market in raw tobacco			
3.	LEGAL BASIS: Articles 42 and 43 of the Treaty			
4.	AIMS: To reform the COM for tobacco, in particular to bring supply closer into line with demand by means of increased premium flexibility			
5.	FINANCIAL IMPLICATIONS	PERIOD OF 12 MONTHS (ECU million)	CURRENT FINANCIAL YEAR (98) (ECU million)	FOLLOWING FINANCIAL YEAR (99) (ECU million)
5.0	EXPENDITURE - CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTION) - NATIONAL AUTHORITIES - OTHER	1 harvest: 1 021	-	98
5.1.	REVENUE - OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES) - NATIONAL			
5.0.1	ESTIMATED EXPENDITURE	2000	2001	2002
5.1.1	ESTIMATED REVENUE	994	1 007	1 016
5.2	METHOD OF CALCULATION: See Annex			
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 FUTURE BUDGET APPROPRIATIONS BE NECESSARY?			YES/NO
OBSERVATIONS: The expenditure has been calculated on the basis of full premiums (i.e. including the specific aid and additional amounts currently in force) and on the assumption that the quotas are filled. The measure has no effect on the budget as compared with the present situation. The quota buy-back programme provided for in the new Article 14 will run within the overall budget for the premiums and eventually should lead to a reduction in quotas and, consequently, a reduction in expenditure borne by the EAGGF.				

ANNEX

CALCULATION OF EXPENDITURE RESULTING FROM THE REFORM OF THE COM FOR TOBACCO

Standard harvest:	(914.4 + 91.4) = 1 005.8 x 1 015 =	ECU 1 020.9m B
of which: Research Fund	(premium deduction maximum 2%)	ECU 20.4m B
	remainder for premiums	ECU 1 000.5m B
of which: Specific aid for groups	(not more than 2%)	ECU 20.0m B
Direct aid to producers, including buy-back of quotas		ECU 980.5m B

Probable schedule for payments for the first harvest (1999)

1999	10% of premiums	98.0		
			98	
2000	90% of premiums	882.4		
	40% of specific aid	8.0		
	25% of Fund	5.1		
			896	
2001	40% of specific aid	8.0		
	25% of Fund	5.1		
			13	
2002	20% of specific aid	4.0		
	25% of Fund	5.1		
			9	
2003	25% of Fund	5.1		
			5	
	Total		1 021	

Expenditure by budget

		Total	B 1999	B 2000	B 2001	B 2002	B 2003
1999	harvest	1 021	98	896	13	9	5
2000	harvest	1 021		98	896	13	9
2001	harvest	1 021			98	896	13
2002	harvest	1 021				98	896
2003	harvest	1 021					98
Total per budget			98	994	1 007	1 016	1 021

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