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**REPORT FROM THE COMMISSION
TO THE COUNCIL AND THE EUROPEAN PARLIAMENT**

on the simplification of the common market organisation in fruit and vegetables

Foreword

The present document aims to describe how the Commission managed to follow, in the years 2002, 2003 and 2004, the Council requests to act on certain areas of shortcomings identified in the functioning of the fruit and vegetables common market organisation (CMO).

It is also intended to stimulate a debate in the Council, in the European Parliament and within the sector¹. Depending on the outcome of this debate, the report could be followed by legislative proposals in due course.

This document will be followed by a working document of the Commission services presenting:

- an analysis of the principal figures of the sector (trends on world and EU supply and demand, on world and EU trade as well as on production structure and income situation in EU);
- an analysis of the implementation of one of the CMO's pillars, the producer organisations (POs) and the related Operational Funds;
- an analysis of budgetary issues in the recent years.

1. BACKGROUND

1.1. 1994–1996

In July 1994 the European Commission presented to the Council and Parliament its communication on the development and future of Community policy in the fruit and vegetable sector (COM(94) 360 final – 27 July 1994). The Commission proposed reinforcing the positive features of the market organisation – market orientation, decentralisation of management and grouping of supply – while simplifying and redirecting budgetary expenditure towards measures that would contribute to a sound future and respond to the environmental demands of European society.

The Commission presented its proposals for Council regulations on October 1995 (COM(95) 434 final). Regulations (EC) No 2200/96, No 2201/96 and No 2202/96, respectively for fresh fruit and vegetables, processed fruit and vegetables and citrus were finally adopted in October 1996.

1.2. 2000–2002

On 12 July 2000 the European Commission adopted a proposal to amend again the CMO for fruit and vegetables. This proposal was aimed at providing solutions to shortcomings that had to be addressed urgently, with a view to amendments to the market organisation being implemented from the 2001/02 marketing year.

¹ This document is available on the Commission's website at the following address http://europa.eu.int/comm/agriculture/publi/reports/fruitvegsimpl/index_en.htm. Stakeholders may participate in the debate sending their comments on the report to the following e-mail address: AGRI-C4-REFSIMPL@cec.eu.int.

The amendments foresaw the abandonment of the classical minimum price system. After a discussion, the Council adopted in December 2000 Regulation (EC) No 2699/2000 amending the three above mentioned regulations.

The main modifications consisted in:

- Fresh sector: the introduction of a unique ceiling for the EU contribution to Operational Funds. The ceiling finally retained was 4,1% of the Value of the Marketed Production (VMP) of each Producer Organisation (PO)².
- Processed products (tomato, pears and peaches): a change on the aid, previously paid to the processors in function of the final produce and conditional to a minimum-price system, and now paid to producers, through POs, for the raw material. The scheme is based on contracts between recognised POs and processors approved by the Member States. The aid is given to POs according the quantity of raw material delivered to processors under the contracts. Community and national processing thresholds are established and whenever a Community processing threshold is overrun, the aid fixed for the product in question is reduced in all the Member States in which the corresponding threshold has been overrun.
- Citrus: an increase in thresholds for lemons, oranges and small citrus, as well as the establishment of national processing thresholds.

In January 2001, a report on the application of the fresh fruit and vegetables CMO and of the citrus scheme, was presented to the Council (COM(2001) 36 final). No concrete proposals of amendments were contained in this document, conceived with the aim to describe the state of implementation of the 1996 reform.

In July 2001, the European Parliament adopted a resolution on the Commission report, where some weaknesses of the sector still existing after the 1996 reform were stigmatised, and in particular an insufficient supply organisation, combined with multilateral or bilateral agreements with third countries facing the EU fruit and vegetables sector to an increasingly open and competitive environment.

To this end, the Parliament called on the Commission to present changes to the current regulatory framework with the aim to improve the concentration of supply, make more efficient the use of the operational programmes and establish a specific permanent aid scheme for nuts.

In February 2002, the Spanish Presidency drafted a memorandum identifying certain points calling for further examination with a view to their consideration by the Commission. This document was examined first by the Working Party on Fruit and Vegetables, after by the Special Committee on Agriculture and then forwarded as draft conclusions to the Council at the close of proceedings. That document was discussed by the Council on 27 June 2002 in view of Council conclusions. They called on the Commission to:

² In the original text of the '96 reform, the amount granted to producer organisations was capped by a double ceiling of 4,5% of the value of the marketed production of each producer organisation, provided that the total amount of financial support represents less than 2,5% of the production marketed by all producer organisations.

1. propose amendments to the rules concerning the establishment and functioning of the operational funds, giving greater independence to POs, within clear margins of flexibility, on condition that POs are transparent and democratic, and comply with the competition rules;
2. simplify the administrative life for POs, provided that the correct use of the resources is monitored and ensured;
3. promote POs in those Member States which have yet to achieve a balanced level of organisation and in regions with large-scale production of fruit and vegetables and weak economic organisation, by means of initiatives such as cross-border POs, the merging of existing organisations and the setting up of associations of POs, whilst avoiding the creation of dominant positions.
4. propose clear rules allowing Member States more room for manoeuvre as regards the recognition of POs;
5. encourage a policy of promoting high-quality products obtained under environment-friendly conditions, and give incentives, within the existing financial framework, for traceability and for organic or integrated production or production obtained under certified schemes; regarding the introduction of organoleptic parameters, first ensure that objective evaluation criteria exist;
6. amend the existing provisions so that the investments of producer organisations can be financed by the operational funds or in the rural development context, as long as double funding is avoided;
7. carry out the appropriate analyses and submit a report on the matter, together, if necessary, with suitable proposals on:
 - the question of the marketing of wild berries, and mushrooms and sour cherries in certain areas of the European Union;
 - encouraging farmers to adopt measures likely to improve risk management in this sector. For instance, including the cost of the insurance policies among the expenses eligible to the operational fund;
 - nuts and locust beans;
 - promoting the grouping of supply in regions with insufficient development

During the debate in the Council, the Commission replied that:

1. simplification were also a Commission's priority;
2. the relationship between the CMO and Rural Development rules had to be improved as well as the efficient use of both instruments;
3. shared the Council's views on the support of POs, in particular in regions with a low degree of organisation;
4. the idea of harvest insurance being eligible to the operational Fund would be examined;
5. on organoleptic criteria, consumer concerns must be taken into account and such criteria must be included in commercial standards;

6. Finally, on the Council request to submit a report on certain areas, the Commission reaffirmed that:
 - certain measures (on nuts for instance) were already under examination for a submission to the Council at a later stage,
 - certain requests, in particular on simplification, fell under the Commission's competence and would be treated under the comitology procedure,
 - the remaining points would be examined by the Commission, who will present a report if necessary.

2. FOLLOW-UP OF THE PRESIDENCY CONCLUSIONS AND SIMPLIFICATION OF THE EXISTING LEGISLATION

2.1. Other motivations for simplifying and improving the existing legislation

Besides the follow-up of the Presidency conclusions, other motivations for the simplification process were:

- to follow the 2000 Court of Auditors annual report, which call on the Commission to pursue in a more effective way the objective of improving the concentration of supply, in particular in regions where the level of organisation is particularly low;
- to follow-up the adoption by the Commission in February 2003 of a Communication on "Updating and simplifying the *acquis*".

2.2. Changes in the regulatory framework

2.2.1. Simplification in the fresh fruit and vegetables

In December 2002, as a first step in the direction of simplification requested by the Council Presidency conclusions of June 2002, the Commission presented a Discussion Document to the Fruit and Vegetables Management Committee. This document examined the questions raised during the six-year experience of implementing the 1996 reform, focusing on POs, Producer Groups (PGs) and their related instruments, the Operational Funds (OFs) and the Operational Programmes (OPs).

The major ideas behind this exercise were:

- to simplify existing rules, in particular in order that New Member States could benefit from the experience acquired by the existing Member States;
- to increase legal security for both POs and national administrations, by the means of an additional clarification of existing provisions;
- to increase subsidiarity and flexibility, when needed.

After a constructive discussion in the framework of the Management committee, a broad consensus was established and the Committee voted positively³ in July and October a set of three regulations recasting completely the existing rules. A set of more than 130 interpretative notes drafted since the '96 reform have been superseded, with the aim to increase transparency and legal security, in particular for the new Member States.

The points hereafter relate the main elements retained in the simplification package.

2.2.1.1. Regulation (EC) No 1432/2003 on POs recognition

- More room for subsidiarity has been given to the Member States to adapt the minimum criteria on recognition to their peculiarities. A clarification has been made on the faculty given to the Member States to allow Non Producer Members to become members of POs.
- The use of product withdrawn for free distribution has been stimulated.
- Dynamic POs are encouraged to work together and more room for collaboration is allowed.
- Transnational POs: clarification of rules and responsibilities between different Member States.

2.2.1.2. Regulation (EC) No 1433/2003 on Operational Funds and Operational programmes

- Simplification on financial contributions of members to the OF. MSs may allow POs to contribute to the OF using their own funds generated by the sell of fruit and vegetable products of their members and setting levies at different levels for their members.
- Increased legal security and simplification on eligible expenditure: introduction of promotion of individual PO trademarks; facilities for Associations of POs; introduction of a lump sum system for certain types of costs.

2.2.2. *Simplification in the processed fruit and vegetables (tomatoes, peaches and pears)*

In the processed fruit and vegetable sector, the same simplification process as described above was launched in March 2003. Improvements, simplifications and developments were discussed and approved⁴ by the Management Committee on 23 July, and then published on 29 August 2003 as Regulation (EC) No 1535/2003. The main modifications introduced are the following:

- Clarification of the definitions and concepts used in the aid scheme.

³ Regulation (EC) No 1432/2003 was approved with a favourable opinion (70 votes in favour, 17 abstentions, EL, E and S being against the possibility for the MS to allow POs membership to non producer). Regulation (EC) No 1433/2003 failed to reach an opinion (60 in favour, 27 abstentions). D, E and S were against the wider room for subsidiarity existing in the new proposal, and EL protested for certain Greek demands not being taken into account. Regulation (EC) No 1943/2003 reached unanimity.

⁴ All the MS in favour but Portugal who abstained, claiming for not penalising the underdeclaration of surfaces in the case of tomatoes.

- Improved mechanisms, procedures and deadlines for applying the regime.
- Simpler and clearer mechanisms for checks under the aid regime, while ensuring the effectiveness and an increased compatibility with the Integrated Administration and Control System (IACS).

2.2.3. *Simplification in the citrus sector*

The same simplification process started for the citrus sector in March 2003. The Management Committee approved unanimously a final text, which was published on 2 December 2003 as Regulation (EC) No 2111/2003. A series of significant simplifications were introduced in the aid scheme, summarised as follows:

- Periods and quantities under contracts. A new short-term contract (of at least five months) is provided, while multiannual contracts are maintained. More flexibility is provided to short-term and multiannual contracts, in particular as regards additional national measures to be taken by Member States.
- In those Member States that have a national threshold, contracts shall be concluded only with approved processors.
- Clarification of the definitions and concepts used in the aid scheme. Improved mechanisms, procedures and deadlines for applying the regime.
- Simpler and clearer mechanisms for checks under the aid regime, while ensuring the effectiveness of the control system.

2.2.4. *Simplification in the intervention scheme*

A simplification process was launched equally for the intervention scheme in autumn 2002 and has allowed the adoption of Regulation (EC) No 103/2004. Main directions of the amendments agreed are:

- facilitation of free distribution of withdrawn fresh fruit and vegetables through NGOs within the Community (but not to third countries as food aid),
- reinforcement of checks *ex-ante* given the risks due to the main destination of withdrawn products (destruction),
- more responsibilities of MS on several issues such as delays for notifications and payments, concrete contents of checks, attribution of withdrawn products to recipients, environmental conditions of withdrawals, etc.

2.2.5. *Simplification in the management of export refunds and reduction of expenses*

In November 2001, following the changes in the Council regulation made in the year 2000, a new tendering system (A3) was introduced in the management of export refunds for fresh fruits and vegetables. Since March 2002, the means of the export refund rates of the licenses awarded under A3 system have been used as indicative rates for the following export period, leading to a routine way to fix the export refund rates and to a general decrease of these rates.

2.2.6. *The specific case of nuts*

The Council introduced since 1989 specific measures for the nut sector. The principal measure was the financing of 10-year quality and marketing improvement plans, presented by producer organisations. The Council approved twice a one-year extension for plans expiring in 2000 and 2001: in 20015 and in 20026. During the discussion on the second extension, the Council and the Commission made a joint declaration⁷ according to which no more extensions of improvement plans will be given for the coming years.

In 2002, the Commission staff presented to the Council a working paper⁸ with an analysis of the nut sector, which came to the conclusion that, despite the positive effects of the improvement plans, nut production in the EU remains chronically non-competitive overall. However, nut production still plays a fundamental multifunctional role in protecting and maintaining the environmental, social and rural balance in many regions.

Starting from these conclusions, in the more general framework of the CAP reform, the Commission proposed in 2003 a shift towards a complete new system: a direct payment based on area. The main characteristics of the new scheme, adopted in the framework of Council Regulation (EC) No 1782/2003 and in force since 2004, are the following:

- A Maximum Guaranteed Area (MGA), divided into National Guaranteed Areas (NGA), combined with an average Community aid for nuts (almonds, hazelnuts, walnuts, pistachios and locust beans) of EUR 120,75 per hectare per year, paid directly to producers. Member States may differentiate the aid in function of products by increasing or decreasing the national guaranteed area (NGA), within the limit of a ceiling calculated by multiplying the NGA by the average Community aid.
- Member States can add to the Community aid a national aid up to a maximum of EUR 120,75 per hectare per year.
- Eligibility conditions have been adopted in the management committee⁹ concerning, in particular, minimum plot size and tree density.

3. SIMPLIFYING THE CMO: A LISTENING COMMISSION. CONCLUSIONS AND QUESTIONS FOR THE FUTURE

The previous chapters of this report showed how the Commission in 2003 and 2004 simplified the existing legal framework ensuring a follow-up of the Council presidency conclusions of 2002.

⁵ Council Regulation (EC) No 558/2001 of 19.3.2001 (OJ L 84, 23.3.2001, p. 1).

⁶ Council Regulation (EC) No 545/2002 of 18.3.2002 (OJ L 84, 28.3.2002, p. 1).

⁷ SN 1838/02, 20.3.2002.

⁸ SEC(2002) 797.

⁹ Commission Regulation (EC) No 2237/2003 of 23.12.2003 (OJ L 339, 24.12.2003, p. 52).

In order to stimulate and focus the debate on possible improvements that could be introduced in due time into the basic regulation to make it operate more effectively, this reports aims also to raise some strategic questions:

- Is there a need to reform the basics of the CMO as established by the 1996 reform?
- What can be done in order to simplify the implementation of the CMO for POs and make POs services more attractive for producers?
- What can be done to improve the grouping of supply in regions where the organisation is weak, in particular in the new Member States?
- Should the specific cross-compliance for fruit and vegetables be maintained or integrated in the new cross compliance framework developed in the CAP reform?
- What can be done to improve the supply of quality products and/or products obtained under environmentally friendly conditions?
- What can be done to ensure a better crisis management?
- Is there a need to introduce radical changes in the specific aid schemes for processed products and citrus?
- How can the coherence of the fruit and vegetables regime and the Rural Development regulation be improved?
- How can a better use of the current budget be ensured?