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**Commission Report to the Council**

**on the application of Article 7(2) of Regulation (EEC) No 1765/92**

*Counting the areas set aside under Regulation (EEC) No 2078/92 (agri-environment) and land afforested under Regulation (EEC) No 2080/92 for the purposes of the set-aside requirement provided for as part of the general compensatory payment scheme for certain arable crops*



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#### 1. INTRODUCTION

This report satisfies the requirement imposed on the Commission by the basic regulation on arable crops to analyse the opportunities offered to producers to fulfil their set-aside requirement by counting the areas set aside for agri-environmental measures or afforested under the afforestation programme after June 1995.

#### 2. BACKGROUND AND PURPOSE OF THE SCHEME

In December 1993, the Council asked the Commission to look at the relationship between compliance with the set-aside obligation and the areas withdrawn from production with a view to afforestation or for environmental purposes. The report, notified to the Council in December 1994<sup>1</sup>, concluded that environmental set-aside and afforestation carried out under Regulation (EEC) Nos 2078/92<sup>2</sup> and 2080/92<sup>3</sup> should be counted as part of the obligation to set-aside introduced by Council Regulation (EEC) No 1765/92<sup>4</sup>. This solution facilitates in practice the long term withdrawal of the most marginal arable land by offering producers of arable crops a new option for the management of set aside and by making the link between the CAP reform of 1992 and the protection of environment more visible.

Council Regulation (EEC) No 1460/95<sup>5</sup>, amending Regulation (EEC) No 1765/92, introduces these conclusions into Community legislation.

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<sup>1</sup> Doc. SEC (94) 2062 final, 9.12.1994. Report from the Commission: the relationship between compliance with the non-rotational set-aside obligation, environmental set-aside and the use of set aside land for afforestation purposes.

<sup>2</sup> OJ L 215, 30.7.1992, p. 85, as last amended by Commission Regulation (EC) No 2772/95 (OJ L 288, 1.12.1995, p. 35)

<sup>3</sup> OJ L 215, 30.7.1992, p. 96, as last amended by Commission Regulation (EC) No 231/96 (OJ L 30, 8.2.1996, p. 33)

<sup>4</sup> OJ L 181, 1.7.1992, p. 12, as last amended by Regulation (EC) No 1422/97 (OJ L 196, 24.7.1997, p. 18).

<sup>5</sup> OJ L 144, 28.6.1995, p. 1.

### **3. LEGISLATIVE PROVISIONS**

Article 7(2) of Council Regulation (EEC) No 1765/92 (as amended by Regulation (EEC) No 1460/95) provides that areas set aside under Regulation (EEC) No 2078/92 or afforested under Regulation (EEC) No 2080/92 as a result of an application made under either of those regulations on or after the date of publication of Regulation (EC) No 1460/95 may, up to a limit per holding which may be set by the Member State concerned, be counted as being set aside for the purposes of the set-aside requirement provided for in Regulation (EEC) No 1765/92 as part of the general compensatory scheme for certain arable crops.

The Member States can decide whether to apply this scheme to a new applicant in any region where there is a continuing risk of significantly exceeding the regional base area.

The fifth subparagraph of Article 7(2) of Regulation (EEC) No 1765/92 stipulates that the Member States should send a report to the Commission by 31 December 1997 at the latest on the way in which they have applied the scheme, together with the relevant statistics. Based on these reports, the Commission is to review the operation of the scheme and publish a report on its implementation and effects on or before 30 June 1998 accompanied, if necessary, by a proposal.

#### **3.1. Commission implementing measures**

The areas committed under this measure are subject to the same rules as those for obligatory set aside, except for compensation.

In the context of this counting exercise, areas falling within the arable crops scheme but which were withdrawn from production under the accompanying measures do not qualify for the compensatory payment granted for set-aside under Regulation (EEC) No 1765/92 although they do qualify for the premiums provided for in the environmental or afforestation programme of which they are part, to compensate the loss of income. This compensation cannot be greater than the compensatory payment provided for the set aside of land under Regulation (EEC) No 1765/92.

### **4. IMPLEMENTATION BY THE MEMBER STATES**

This scheme was first implemented in the 1996/97 marketing year, i.e. for aid applications for the 1996 harvest. In view of the final date fixed in Regulation (EEC) No 1765/92 by which the Member States had to send data (31.12.1997) and by which the Commission had to report (30.6.1998), this report can thus cover only two marketing years of application (1996/97 and 1997/98)

Nine Member States applied the scheme. In general most of the Member States concerned restricted themselves to applying the scheme as laid down in Council Regulation (EEC) No 1765/92, without introducing specific detailed rules of application.

As regards counting the areas set aside under Regulation (EEC) No 2078/92, the land involved was set aside as part of long term (twenty year) set-aside programmes

with a view to using farmland for purposes connected with the environment, in particular for the establishment of biotope reserves or natural parks or for the protection of hydrological systems. Such land must not be used for farming nor be used for money-making purposes other than those permitted for the other land set aside under Regulation (EEC) No 1765/92.

In the case of land afforested under Regulation (EEC) No 2080/92, the farmland in question was afforested under an afforestation programme funded by the Regulation.

In the case of the specific measures, Germany, in accordance with the fourth subparagraph of Article 7(2) of Regulation (EEC) No 1765/92, decided not to apply the scheme in regions in which there is a continuing risk of a significant overshoot of the regional base area (Brandenburg and Saxony-Anhalt).

## 5. STATISTICS

*(hectares)*

Member State	1996			1997		
	Reg. 2078/92	Reg. 2080/92	Total	Reg. 2078/92	Reg. 2080/92	Total
Belgium	8.89	---	8.89	3.16	2.78	5.94
Denmark	---	7.50	7.50	65.80	38.10	103.90
Germany	191.04	60.78	251.82	123.53	145.80	269.33
Greece	---	---	0.00	---	---	0.00
Spain	*	*	955.00	*	*	623.00
France	---	---	0.00	---	---	0.00
Ireland	---	---	0.00	---	---	0.00
Italy	6 500.00	8 418.00	14 918.00	13 667.00	12 354.00	26 021.00
Luxembourg	---	---	0.00	---	---	0.00
The Netherlands	---	---	0.00	---	34.00	34.00
Austria	---	---	0.00	1.40	---	1.40
Portugal	---	---	0.00	---	---	0.00
Finland	8.00	30.00	38.00	29.00	17.00	46.00
Sweden	---	---	0.00	---	---	0.00
United Kingdom	334.00	1 272.42	1 606.42	465.00	2 069.00	2 534.00
Total	7041.93*	9788.70*	17785.63	14354.89*	14660.68*	29638.57
Total 1996-1997	47 424.20					

(\*) Only the total is available for Spain

## 6. CONCLUSIONS

As part of the reform envisaged in Agenda 2000<sup>6</sup>, the Commission has proposed, with a view to simplification and consistency, reconsidering this counting of certain areas for the purposes of satisfying the set-aside requirement laid down in the arable crop scheme.

In the first place, with a basic rate for compulsory set aside fixed in principle at zero, such a provision would lose much of its importance and economic interest for the producer.

Secondly, the Commission intends to restore to the set aside scheme its role as a factor for achieving cyclical balance in production, by ensuring that it is not confused with instruments to encourage lasting renewal and upgrading of the environment.

Furthermore, the use made of the scheme by the Member States (about 47 000 hectares for the two marketing years of application) accounted for less than 1% of the areas compared to the areas under compulsory set aside in the two reference years.

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<sup>6</sup> COM (1998) 158 final, 98/0108 (CNS)



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