COUNCIL REGULATION (EC) No 952/97

of 20 May 1997

on producer groups and associations thereof

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 Commission [1],

Having regard to the opinion of the European Parliament [2],

Having regard to the opinion of the Economic and Social Committee [3],

(1) Whereas Council Regulation (EEC) No 1360/78 of 19 June 1978 on producer groups and associations thereof [4] has been substantially amended several times; whereas in the event of new amendments being made to the said Regulation, in order to clarify and rationalize matters, the provisions in question should be recast;

(2) Whereas a feature of the Community is the variation in the situation regarding the supply and marketing of agricultural products in the different regions;

(3) Whereas the persistence of the above deficiencies is an obstacle to the fulfilment of the objectives of Article 39 (1) of the Treaty; where this persisting situation makes it difficult to increase agricultural productivity, to promote technical progress, to ensure rational development of agricultural production and optimum use of the factors of production, to ensure a fair standard of living for the agricultural community and to stabilize markets; whereas, furthermore, this situation is likely to affect the level of prices to consumers;

(4) Whereas this situation can be remedied by grouping farmers so that the economic process can be influenced by common measures designed to centralize supply and adapt production to market requirements; whereas such grouping should therefore be encouraged henceforth in the regions concerned without, however, preventing the arrangements envisaged being extended to other regions which could give proof of similar requirements;

(5) Whereas, however, steps should be taken to ensure, by means of a system of recognition, that the grouping of holdings takes place within bodies with the appropriate production and marketing discipline, which offer sufficient guarantees as to the stability and effectiveness of their action and do not, by virtue of their position and their economic activity, conflict with the operation of the common market and the general objectives of the Treaty;

(6) Whereas, in order to promote greater centralization of supply than can be achieved by one group, encouragement should be given not only to the grouping of farmers within producer groups but also to the formation of associations of such groups;

(7) Whereas the granting of aid to cover part of the formation and administrative operating expenses would be an appropriate incentive for the creation of groups and associations thereof and for the adaptation of existing producer organizations to the conditions laid down;

(8) Whereas the aid granted to the associations should, however, be limited to an overall maximum sum so as to take account of the fact that each of the groups which belongs to such associations has already received or is still receiving aid for formation and administrative operation;

(9) Whereas in order to guarantee that the proposed system is implemented in all those regions of the Community where it appears necessary, the granting of aid to groups and associations thereof should be made obligatory; whereas maximum amounts should be laid down for such aid although it should be made possible to exceed these limits in the case of certain aid for regions or sectors encountering special difficulties;

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[1] OJ No C 115, 19.4.1996, p. 60.
[2] Opinion delivered on 13 May 1997 (not yet published in the Official Journal).
[3] OJ No C 204, 15.7.1996, p. 38.
[4] OJ No L 166, 23.6.1978, p.1. Regulation as last amended by the 1994 Act of Accession.

(10) Whereas the particular delay noted in Portugal in the formation of producer groups makes it appropriate that measures in that Member State be stepped up, as approved by Regulation (EEC) No 746/93 [1]; whereas this Regulation takes over, with regard to producer groups and associations thereof, the provisions of Regulation (EEC) No 746/93; whereas Regulation (EEC) No 746/93 should therefore be repealed as regards this point;

(11) Whereas it is appropriate to stipulate that, for the information of the Member States and of all those concerned, a list of those groups and associations which were granted recognition or from which recognition was withdrawn during the preceding year should be published at the beginning of each year;

(12) Whereas all the proposed measures are in the Community interest and are designed to achieve the objectives outlined in Article 39(1)(a) of the Treaty, including the structural changes necessary for the proper functioning of the common market; whereas they therefore constitute a common measure within the meaning of Article 2 (1) of 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 [2];

(13) Whereas the Commission must be able to ensure that provisions introduced by the Member States to apply this common measure fulfil the relevant conditions; whereas it should also be able to assess each year the practical results of the implementation of the common measure;

(14) Whereas aid from the European Agricultural Guidance and Guarantee Fund can help to improve the supply structure for agricultural produce in regions where such an improvement is essential, and whereas the measures envisaged by this Regulation are covered by the estimates of annual expenditure referred to in Article 31 (1) of Council Regulation (EC) No 950/97 of 20 May 1997 on improving the efficiency of agricultural structures [3] ;

(15) Whereas, to facilitate the future implementation of certain proposed measures, a procedure establishing close cooperation between the Member States and the Commission should be introduced; whereas the appropriate body for ensuring such cooperation is the Committee on Agricultural Structures and Rural Development,

HAS ADOPTED THIS REGULATION:

Article 1

In order to remedy the structural deficiencies affecting the supply and marketing of agricultural products in certain regions, resulting from insufficient producer organization, this Regulation hereby introduces a system to encourage the formation of producer groups and associations thereof for those regions.

TITLE I

Scope

Article 2

This Regulation shall apply:

— in Italy,

— in France, in the regions of Languedoc-Roussillon, Provence-Alpes-Côte d'Azur, Midi-Pyrénées, Corsica, the departments of Drôme and Ardèche and in the overseas departments,

— in Belgium,

— in Greece,

— in Spain,

— in Portugal,

— in Ireland,

— in Austria,

— in Finland.

Article 3

1. In the case of Italy, Greece, Spain, Portugal, Austria and Finland, this Regulation shall apply to the following products:

(a) the products of the soil and the livestock products listed in Annex II to the Treaty, excluding:

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[1] OJ No L 77, 31.3.1993, p. 14.
[2] OJ No L 374, 31.12.1988, p. 25. Regulation as last amended by Regulation (EEC) No 2085/93 (OJ No L 193, 31.7.1993, p. 44).
[3] See p. 1 of this Official Journal.

— products referred to in Article 1 (2) of Council Regulation (EEC) No 2200/96 of 28 October 1996 on the common organization of the market in fruit and vegetables [1],

— hops (CN code 1210),

— silkworms (CN code 0106 00 99),

(b) the processed agricultural products listed in Annex I hereto.

2. In the case of France, this Regulation shall apply to:

(a) wine of fresh grapes and grape must in fermentation of with fermentation arrested, including mistelles (CN codes 2204 10, 2204 21, 2204 29 and 2204 30 10), in Languedoc-Roussillon, Provence-Alpes-Côte d'Azur, Midi-Pyrénées and Corsica;

(b) plants used in perfumery and lavender (CN code ex 1211) in Provence-Alpes-Côte d'Azur and the departments of Drôme and Ardèche;

(c) table olives (CN code 0710 80 10) in Languedoc-Roussillon, Provence-Alpes-Côte d'Azur, Corsica and the department of Drôme;

(d) live bovine animals (CN code 0102); beef and veal carcases or quarters (CN codes ex 0201 and ex 0202); live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage (Chapter 6 of the combined nomenclature); fresh fruit and vegetables (Chapters 7 and 8 of the combined nomenclature and not covered by Regulation (EEC) No 2200/96); vanilla (CN code 0905 00 00); and plants (CN code 1211), in the overseas departments;

(e) olive oil (CN code 1509) in the metropolitan areas listed in the second indent of Article 2.

3. In the case of Belgium, this Regulation shall apply to:

(a) cereals (CN codes 1001 to 1005, 0709 90 60 and 0712 90 19);

(b) live bovine animals (CN code 0102, with the exception of CN code 0102 90 90);

(c) piglets (CN code ex 0103);

(d) lucerne (CN code ex 1214).

4. In the case of Ireland, this Regulation shall apply to:

(a) cereals (CN codes 1001, 1003 and 1004);

(b) potatoes (CN code 0701 90);

(c) live bovine animals (CN code 0102, with the exception of CN code 0102 90 90) and beef and veal carcases and quarters (CN codes ex and ex 0202);

(d) live sheep and goats (CN code 0104) and sheep and goat carcases (CN code ex 0204).

TITLE II

Recognition of producer groups and associations thereof

Article 4

The Member States shall recognize producer groups and associations thereof, including those in existence when this Regulation comes into force:

(a) which apply for recognition;

(b) which fulfil the conditions listed in Articles 5 and 6;

(c) provided that, in the case of groups:

— at least two-thirds of the members operate undertakings in the regions referred to in Article 2,

— at least half of the produce marketed in accordance with Article 6 (1) (c) comes from the regions referred to in Article 2.

Recognition shall cover the activities relating to the production and marketing of the products referred to in Article 3 for each of the regions to which this Regulation applies.

Article 5

1. Producer groups shall:

(a) be set up for the purpose of jointly adapting the production and output of the producers who are members of such groups to market requirements;

[1] OJ No L 297, 21.11.1996, p. 1.

(b) consist of:

— individual producers, or

— individual producers and organizations for producing or increasing returns from agricultural products, consisting solely of agricultural producers.

'Producer' shall mean any person working an agricultural holding situated within Community territory:

— who produces the products of the soil and livestock products listed in Article 3, or

— who, while being a primary producer, produces the processed products listed in Article 3.

2. The Member States may, when their national provisions so provide, recognize producer groups which also include persons other than those covered by paragraph 1. In such cases, the groups' statutes must ensure that the members covered by paragraph 1 retain control over the groups and any decisions the latter may take.

3. Associations shall consist of recognized producer groups and shall pursue the same objectives as those groups, but on a larger scale.

Article 6

1. All producer groups or associations thereof shall, within the limits of the sector of the product or products in respect of which they are recognized, fulfil the following general conditions:

(a) they shall, through the activities in respect of which they request recognition, contribute to the achievement of the objectives of Article 39 of the Treaty;

(b) they shall decide on and apply, in respect of persons covered by Article 5 (1):

— common rules on production, in particular on product quality or use of organic practices;

— common rules for placing goods on the market;

— rules on production information, with particular regard to harvesting and availability;

(c) the articles of association shall at least require producers who are members of groups and recognized producer groups that are members of the association to place on the market all of the production for marketing of the products in respect of which they belong to the group or association, in accordance with the rules on supply and placing on the market drawn up and supervised by the group or by the association.

Member States may authorize this obligation to be replaced by an obligation to have all the production for marketing by the group or by the association of the products in respect of which they are recognized placed on the market either in the name of the members of the group or of the association and on their behalf, or on their behalf but in the name of the group or the association, or in the name and on behalf of the group or the association. The group or association may however authorize its members to place part of their production on the market in the manner specified in the first subparagraph.

As far as producer groups are concerned, these obligations shall not apply to that part of their production for which producers have included sales contracts or granted options before they join the group, provided that the group was informed before they joined of the scope and the duration of the obligations contracted;

(d) the articles of association shall include provisions to ensure that the members of a group or of an association who wish to withdraw from membership may do so:

— after they have been members of the group or of the association for a minimum of three years following recognition thereof, and

— on condition that they inform the group or the association in writing of their intention to withdraw not less that twelve months before so doing.

These provisions shall apply without prejudice to national laws or provisions designed to protect the group or association or their creditors, in specified cases, against any financial consequences which might result from the withdrawal of a member or to preclude withdrawal of a member in the course of the financial year;

(e) they shall give proof of adequate economic activity;

(f) without prejudice to (c) of the first subparagraph of Article 4, they shall exclude, as regards their constitution and the whole range of their activities, any discrimination which runs counter to the operation of the common market and the achievement of the general objectives of the Treaty and, in particular, any discrimination connected with the nationality or place of establishment:

— of producers or groups which may become members, or

— of their economic partners;

(g) they shall have legal personality or sufficient legal capacity to exercise rights and be subject to obligations in accordance with national laws;

(h) they shall keep separate accounts for activities in respect of which they are recognized. These separate accounts and those relating to any other activities of the group or association may be inspected with a view to ascertaining whether the condition laid down in (e) is still fulfilled, calculating the amount of aid and ascertaining the use which has been made of it;

(i) they shall not hold a dominant position in the common market, unless this is necessary for the pursuit of the objectives laid down in Article 39 of the Treaty;

(j) producer groups to which organizations referred to in Article 5 (1) (b) also belong shall also make it compulsory in their statutes for such organizations to ensure that their members comply with the conditions in (b) and (c) at the latest as from the date:

— on which recognition takes effect, or

— on which they join if this is later than the date of recognition.

2. The placing of goods on the market for the purposes of paragraph 1 (b) and (c) shall cover the following operations:

(a) centralization of supply;

(b) preparation for sale;

(c) supply to bulk buyers.

3. Detailed rules of application shall be adopted, in accordance with the procedure laid down in subparagraphs two to five of Article 29 (1) of Regulation (EEC) No 4253/88 [1], concerning:

(a) the criteria which the common rules provided for in paragraph 1 (b) shall meet, where necessary;

(b) the minimum cultivated area, turnover or volume of production for the product or product group in question coming from the members whom, under the terms of paragraph 1 (e), the groups are to represent, and if necessary the minimum number of members they must have;

(c) the area covered, including the minimum crop area, turnover and proportion of the national volume of production for the product or product group in question coming from the groups which the associations are to represent, and, if necessary, the minimum number of producer groups which are members of the association.

Article 7

The Member States:

— shall take a decision on recognition within three months of the date on which recognition is requested,

— shall make their decision known to the Commission within two months.

Article 8

Recognition of a producer group or of an association shall be withdrawn:

(a) if the conditions for recognition laid down in this Regulation were not, or are no longer, fulfilled;

(b) if such recognition is based on erroneous information;

(c) if the group or association obtained recognition by irregular means;

(d) if the Commission decides that Article 85 (1) of the Treaty applies to the agreements, decisions and concerted practices referred to in Article 17 of this Regulation.

In the case of provided for in (c), withdrawal of recognition shall have retroactive effect and aid granted pursuant to Article 10 shall be recovered.

Article 9

At the beginning of each year, the Commission shall ensure that the list of producer groups and associations

[1] 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 (OJ No L 374, 31.12.1988, p. 1). Regulation as last amended by Regulation (EC) No 3193/94 (OJ No L 337, 24. 12. 1994, p. 11).

recognized during the previous year, divided according to products or groups of products, is published in the *Official Journal of the European Communities*.

It shall also ensure that withdrawals of recognition decided on during the previous year are published.

TITLE III

Aid to producer groups and associations thereof

Article 10

1. The Member States concerned shall grant aid to recognized groups and associations, during the three years following the date of their recognition, to encourage their formation and to facilitate their administrative operation. The amount of such aid may be paid over five years.

2. The aid granted to producer groups recognized after 1 July 1985 for the first five years following the date on which they are recognized:

(a) shall, for the first, second, third, fourth and fifth years be respectively a maximum of 5 %, 5 %, 4 %, 3 % and 2 % of the value of the products coming from the members, as defined in Article 5 (1) (b), in respect of which they are recognized and which are marketed;

(b) may not exceed the actual cost of the formation and administrative operation of the group;

(c) shall be paid in annual instalments over at the most seven years following the date of recognition.

3. The amount of aid granted to associations:

(a) shall be equal to a maximum of 60 %, 40 % and 20 % of the actual formation and administrative operation expenditure for the first, second and third year respectively;

(b) may not, however, exceed a total of ECU 120 000.

4. Larger amounts than those provided for in paragraphs 2 and 3 may be fixed for a specified period by the Council, acting by a qualified majority on a proposal from the Commission, in respect of certain regions and certain products encountering special difficulties in adapting to the conditions and economic implications of the common agricultural policy.

5. For Portugal the percentages set out in paragraph 2 (a) shall be doubled and those set out in paragraph 3 (a) shall be 100 %, 80 % and 40 %.

Article 11

1. Aid shall be granted only:

(a) insofar as a group or an association has not already received aid under national provisions;

(b) in proportion to the actual additional expenditure on formation and operation incurred in complying with the requirements of Article 6, in the case of producer groups or associations already in existence or set up by producers who are members of existing organizations.

2. The value of the products referred to in Article 10 (2) (a) shall be calculated for each year as a flat rate on the basis of:

(a) the annual volume placed on the market in accordance with Article 6 (1) (c);

(b) the average producer prices obtained.

3. The necessary definitions of actual formation and administrative operating expenditure within the meaning of Article 10 (2) (b) and of Article 10 (3) (a) shall be adopted in accordance with the procedure laid down in subparagraphs two to five of Article 29 (1) of Regulation (EEC) No 4253/88.

TITLE IV

Financial and general provisions

Article 12

1. The set of measures provided for in this Regulation shall constitute a common measure within meaning of Article 2 (1) of Regulation (EEC) No 4256/88.

2. Article 3 of Regulation (EC) No 950/97 shall apply.

Article 13

Before 1 January 1997 the Commission shall submit to the Council, on the basis of information supplied by the Member States, a report on the results of the implementation of the common measure provided for by this Regulation.

Article 14

The measures provided for in Article 10 and the aid resulting from the application of Council Regulation (EEC) No 389/82 of 15 February 1982 on producer groups and associations thereof in the cotton sector [1] shall be covered by the annual expenditures forecasts referred to in Article 31 (1) of Regulation (EC) No 950/97.

Article 15

1. Assistance shall be paid in accordance with Article 21 of Regulation (EEC) No 4253/88. However, in addition to the conditions listed in paragraph 4 of the said Article, payment of the balance or refund shall be based on:

— a declaration of the expenditure effected by Member States during a calendar year,

and

— a report on the application of the measures during the calendar year in question, prepared in accordance with Article 25 (4) of the said Regulation,

which shall be submitted to the Commission before 1 July of the following year.

Article 16

The Commission shall adopt detailed rules for the application of Article 15 after consulting the Committee referred to in subparagraphs two to five of Article 29 (1) of Regulation (EEC) No 4253/88.

Article 17

Should the Commission decide, pursuant to Article 2 of Regulation No 26 applying certain rules of competition to production of and trade in agricultural products [2], that Article 85(1) of the Treaty is applicable to agreements, decisions or concerted practices:

— by which persons referred to in Article 5 (1) (b) join together in a group fulfilling the conditions laid down in this Regulation, or groups form an association fulfilling the conditions of this Regulation, or

— by which the common rules referred to in Article 6 (1) (b) are adopted or executed,

a decision relating thereto shall apply only from the date on which the Commission so decided.

Article 18

This Regulation shall not prejudice the right of the Member States to adopt, in the field covered by this Regulation, additional aid measures, the conditions or procedures for the granting of which differ from those laid down in this Regulation or the amounts of which exceed the upper limits laid down herein, provided that these measures are taken in accordance with Articles 92, 93 and 94 of the Treaty.

Article 19

The Member States shall notify to the Commission:

(a) the laws, regulations and administrative provisions concerning the application of this Regulation not later than one month after they have been adopted;

(b) a report on the results of the application of this Regulation each year before 31 March.

Article 20

1. Regulation (EEC) No 1360/78 is hereby repealed.

2. Regulation (EEC) No 746/93 is hereby repealed with regard to the producer groups and associations thereof for which provision is made by this Regulation.

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

Article 21

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

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[1] OJ No L 51, 23.2.1982, p. 1. Regulation as last amended by Regulation (EEC) No 3808/89 (OJ No L 371, 20.12.1989, p. 1).

[2] OJ No 30, 20.4.1962, p. 993/62.

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

Done at Brussels, 20 May 1997.

For the Council

The President

J. VAN AARTSEN

ANNEX I

LIST OF PROCESSED PRODUCTS REFERRED TO IN ARTICLE 3 (1) (b)

CN code	Description
	Meat:
ex 0201 ex 0202	— of bovine animals, in quarters
ex 0203	— of swine, in half-carcases
ex 0204	— of sheep, in whole carcases
ex 0205 00 00	— of horses
ex 0206	Edible offal of bovine animals, swine and sheep
ex 0207 with the exception of 0207 31 00 0207 39 90 e 0207 50	Meat and edible offal (with the exception of livers) of the poultry of CN code 0105, fresh, chilled or frozen
0207 31 00 0207 39 0207 50 0210 90 71 0210 90 79	Poultry livers, fresh, chilled, frozen, salted or in brine
0208 10 10	Meat of domestic rabbits
0406	Cheese and curd
ex 1214 10 00 ex 1214 90 90	Dehydrated fodder
1509 1510 00	Olive oil
2204 30 10	Grape must, in fermentation or wiht fermentation arrested otherwise than by addition of alcohol
2204 10 2204 21 2204 29	Wine of fresh grapes; grape must with fermentation arrested by the addition of alcohol (including mistelles)

ANNEX II

CORRELATION TABLE

Regulation (EEC) No 1360/78	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3
Article 4	Article 4
Article 5	Article 5
Article 6	Article 6
Article 7	Article 7
Article 8	Article 8
Article 9	Article 9
Article 10	Article 10
Article 11	Article 11
Article 12	Article 12
Article 13	Article 13
Article 14	Article 14
Article 15 (1)	Article 15
Article 15 (2)	Article 16
Article 17	Article 17
Article 18	Article 18
Article 19	Article 19
—	Article 20
Article 20	Article 21
Annex	Annex I
—	Annex II

Regulation (EEC) No 746/93	This Regulation
Article 1 (a) (with regard to the producer groups and associations thereof for which provision is made by the consolidating Regulation)	Article 10 (5)
Article 1 (b)	Article 10 (5)
Article 1 (c)	Article 10 (3) (b)