

WORKING DOCUMENT**DELEGATED ACT FOR DIRECT PAYMENTS**

Legal draft of the Articles related to the **voluntary coupled support**

DISCLAIMER

This working document has been prepared by DG AGRI staff in order to facilitate the discussion in the Expert group for direct payments. It has not yet been subject of an inter-service consultation nor revised by the Legal Service

Whereas:

- 1) Chapter 1 of Title IV of Regulation (EU) No [DPR] provides for voluntary coupled support to be granted to farmers. The conditions for granting the support referred to in that Chapter should be laid down by the Commission.
- 2) Article 38(1) of Regulation (EU) No [DPR] lays down a list of sectors and productions that may benefit from voluntary coupled support. Furthermore, Article 39(2a) of Regulation (EU) No [DPR] allows for a certain increase of the amount available for support in case support is granted for protein crops. In order to ensure the efficient and targeted use of Union funds and for reasons of legal certainty, it is appropriate to clarify the meaning of these terms.
- 3) Pursuant to Article 38(2) of Regulation (EU) No [DPR], voluntary coupled support may only be granted to those sectors or to those regions of a Member State where specific types of farming or specific agricultural sectors undergo certain difficulties and are particularly important for economic and/or social and/or environmental reasons. Furthermore, pursuant to Article 38(4) and (5) of Regulation (EU) No [DPR], voluntary coupled support may only be granted to the extent necessary to create an incentive to maintain current levels of production in the regions concerned. It shall take the form of an annual payment and shall be granted within defined quantitative limits and based on fixed areas and yields or on a fixed number of animals. In order to ensure that measures under voluntary coupled support are well-targeted and managed whilst allowing Member States to design voluntary couple support according to their needs, provision should be made to assign Member States the responsibility of defining the regions (~~areas?~~) and/or types of farming eligible for support and fixing quantitative limits, as well as the appropriate level of support. In order to avoid market distortions, the payments should not however be based on fluctuations of market prices or be equivalent to a deficiency payments system whereby agricultural domestic support is paid by Member States to farmers based on the difference between a target price and a domestic market price.
- 4) Pursuant to the Memorandum of Understanding between the European Economic Community and the United States of America on oil seeds under GATT¹, a separate base area for producers benefiting from oil seeds payments should be introduced. Given that oilseeds are included in the list of sectors and productions eligible for the voluntary coupled support, it is appropriate to introduce a maximum area for oils seeds

¹ OJ L147, 18.06.1993, p. 26

at Union level for the purpose of ensuring compliance with the international requirement resulting from the abovementioned Memorandum of Understanding. In case of overshoot of this maximum area, the Member States shall adjust the area notified by applying a reduction coefficient calculated and communicated to them by the Commission.

- 5) In accordance with Article 38(6) of Regulation (EC) No [DPR], consistency between voluntary coupled support granted under that Article and other Union support measures or measures financed by State aids is required. For orderly management of the schemes and in order to avoid any double funding, similar measures should not be financed twice under both voluntary coupled support and other Union support schemes. Due to the diversity of choices available to Member States when implementing the voluntary coupled support, they should be responsible for ensuring such consistency within the framework laid down by Regulation (EU) No [DPR] and in conformity with the conditions laid down in this Regulation
- 6) In accordance with Article 53(1) and (2) of Regulation (EU) No [DPR], it is necessary to further specify the content of the information to be notified by the Member States for the sake of ensuring the correct application of the rules on voluntary coupled support and in order to make such notifications efficient.

Article 1 *Definitions*

1. For the purposes of this Chapter, the following definitions shall apply:
 - (a) "coupled support measures" means measures implementing the voluntary coupled support referred to in Article 38(1) of Regulation (EU) No [DPR];
 - (b) "sectors" means the sectors and productions listed in the second subparagraph of Article 38(1) of Regulation (EU) No [DPR] and specified in Annex I to this Regulation.

Article 2 *General principles*

1. ~~Member States shall define the~~ The regions referred to in Article 38(2) of Regulation (EU) No [DPR] shall be defined by the Member States in accordance with objective and non-discriminatory criteria such as their agronomic and socio-economic characteristics and their regional agricultural potential, or their institutional or administrative structure. Such regions may differ from regions established under other support schemes in Regulation (EU) No [DPR].
2. When defining the specific types of farming or specific agricultural sectors referred to in Article 38(2) of Regulation (EU) No [DPR], Member States shall take into account in particular the relevant production structures and conditions of the region or sector concerned.
- ~~1.3.~~ 1.3. For the purposes of Article 38(2) of Regulation (EU) No [DPR], certain types of farming or specific agricultural sectors shall be considered as being in "difficulties" if there is a risk of abandonment or of severe decline of production due to inter ~~alia~~ alia the weak profitability of the activity carried out which negatively affects the economic, social or environmental balance in the region or sector concerned.

- 3.4. Member States shall ensure that the support measures they implement are verifiable and controllable.

Article 3

Conditions for granting the support

1. Member States shall lay down eligibility criteria for coupled support measures in compliance with the framework set out in Regulation (EU) No [DPR] and the conditions laid down in this Regulation.
2. Areas and yields and number of animals referred to in Article 38(5) of Regulation (EU) No [DPR] shall be fixed by the Member States at regional or sector level. They shall reflect the maximum yields, area cultivated or number of animals reached in the targeted region or sector in at least one year in the year period of three years preceding the year of the decision referred to in Article 39(1) of ~~the~~that Regulation. Areas and number of animals referred to above constitute the quantitative limits applicable to the annual payment.

The annual payment shall be expressed as the per unit amount of support. It shall result from the ratio between the amount fixed for the financing of the measure as notified according to Annex II (3) (h) and either the area or the number of animals eligible for the support in the year in question, or the area or the number of animals fixed according to the first sub-paragraph.

3. Where the support concerns ~~oil seeds~~oilseeds, the total of the maximum areas to be supported as notified by the Member States shall not exceed the maximum area of [4.933] million hectares for the whole European Union.

In case of overshoot of the maximum area foreseen in the first sub-paragraph, the concerned Member States shall adjust the ~~maximum~~-area notified by applying a reduction coefficient resulting from the ratio between the maximum area and the total of the areas notified for the support of oilseeds. This coefficient shall be calculated and communicated to them by the Commission on the basis of the areas notified by means of implementing acts adopted without applying the procedure referred to in Article 56(2) or (3) of Regulation (EU) No [DPR] .

- 2.4. Where the support concerns bovine animals and/or sheep and goats, Member States shall define the requirements to identify and register animals according to respectively Regulation (EC) No 1760/2000 or Regulation (EC) No 21/2004 as eligibility condition for the support.

- 3.5. Where Member States implement support for hemp, the condition referred to in Article 25(3) of Regulation (EU) No [DPR] shall apply.

Article 4

Consistency and cumulation of support

1. Measures provided for in Regulation (EU) No [RDR] and Regulation (EU) No [sCMO] shall be considered as "other Union measures and policies" referred to in Article 38(6) of Regulation (EU) No [DPR].
2. Member States shall ensure consistency between:
 - (a) coupled support measures and measures implemented under other Union support instruments;

- (b) different coupled support measures;
- (c) coupled support measures and measures funded by state aids.

Member States shall ensure that coupled support measures are consistent with each other and do not interfere with the proper functioning of other measures mentioned in this paragraph.

3. Where support under a coupled support measure may also be granted under a measure implemented under other Union measures and policies, or under another coupled support measure, Member States shall ensure that a farmer may receive support ~~for a given operation~~ aiming at the objective referred to in Article 38(4) of Regulation (EU) No [DPR] under only one such measure.

Article 5 Notifications

1. In order to ensure the correct application of the rules on the voluntary coupled support and to allow the Commission to verify that Member States respect both the requirements referred to in paragraphs 1 and 2 of Article 4 as well as the maximum percentages of the national ceilings referred to in Article 39 of Regulation (EU) No [DPR] and related total amounts when designing the support measures, the Member States shall notify the items listed in Annex (II) according to Article 40(1) of Regulation (EU) No [PDR].
2. Member States shall inform the Commission each year of the total number of beneficiaries and the amount of the payments which have been granted per measure and for each of the specific type of farming or specific agricultural sector concerned. Such notifications shall be made by 15 September of the year following the year in respect of which the payments are granted.

Article 6 Criteria for approval by the Commission

1. For the purposes of Article 41(1)(a) of Regulation (EU) No [DPR], a lack of alternatives shall exist if:
 - no other production than the production subject to coupled support can be carried out in the targeted region or sector or the continuation of such production requires significant changes in the production structures; or
 - conversion towards another production is severely limited due to the unavailability of land or infrastructures adapted to that production, the consecutive significant reduction in the number of holdings, the level of investments needed resulting from the conversion or due to similar reasons.
2. For the purposes of Article 41(1)(b) of Regulation (EU) No [DPR], it shall be necessary to provide stable supply to the local processing industry where a suspension or reduction of the production in the targeted region or sector is expected to negatively impact the activity and the related economic viability or employment in downstream enterprises which significantly depend on such production, such as processors of raw material, slaughterhouses or food industries. Such downstream enterprises need to be located in the respective region or need to be significantly reliant on the sector for the continuation of their activity.

3. For the purposes of Article 41(1)(c) of Regulation (EU) No [DPR], continuing disturbances on the related market shall exist where farmers in the targeted region or sector are affected by economic losses resulting in particular from occurrence of pollution, contamination or degradation in the quality of the environment related to a specific event of limited geographical scope.
4. When assessing the level of coupled support resulting from the measures to be approved as notified by the Member State, the Commission shall take into account the level of coupled direct payments granted during at least one year in the reference period according to Article 39(3) of Regulation (EU) No [PDR].

ANNEX I

Specification of sectors and productions listed in Article 38(1) of Regulation (EU) No [DPR]

1. Cereals

CN code	Description
Cereals	
1001 10 0019	Durum wheat
1001 9091	Other wheat and meslin other than durum wheat
1002 00 0090	Rye
1003 0090	Barley
1004 00 0090	Oats
1005 90	Maize
1007 00 90	Grain sorghum
1008	Buckwheat, millet and canary seed; other cereals
0709 9099 60	Sweet corn

2. Oilseeds

CN code	Description
Oilseeds	
1201 0090	Soya beans
ex 1205 00 10 90	Rape seed <u>Low erucic acid rape or colza seeds</u>
ex 1206 00 1091 and 1206 0099	Sunflower seed

3. Protein crops

CN code	Description
Protein crops	
0713 10 90	Peas
0713 50 00	Field beans (<u>broad beans and horse beans</u>)
ex 1209 29 50	Sweet lupins
ex 1214 90 90	Lucerne, sainfoin, clover, vetches, <u>honey lotus, chickling pea and birdsfoot</u>

4. Grain legumes

CN code	Description
---------	-------------

Grain legumes	
Ex 0713 40 00	Lentils other than for sowing
ex 0713 20 00	Chick peas other than for sowing
ex 0713 90 9900	Vetches of the species <i>Vicia sativa</i> L. and <i>Vicia ervilla</i> Willd.

5. Flax

CN code	Description
Flax	
ex 1204 00 90	Linseed (<i>Linum usitatissimum</i> L.)
ex 5301 10 00	Flax, raw or retted, grown for fibre (<i>Linum usitatissimum</i> L.)

6. Hemp

CN code	Description
Hemp	
ex 5302 10 00	Hemp, raw or retted, grown for fibre (<i>Cannabis sativa</i> L.)

7. Rice

CN code	Description
Rice	
10 06 10	Rice in the husk (paddy or rough)

8. Nuts

CN code	Description
Nuts	
0802 11 and 0802 12	Almonds
0802 21 and 0802 22	Hazelnuts
0802 31 and 0802 32	Walnuts
0802 5051 and 0802 52	Pistachios

9. Starch potato

CN code	Description
0701 90 10	Potatoes to be used for the manufacture of potato starch

10. Milk and milk products

CN code	Description
0401	Milk

11. Seeds

CN code	Description
	1. Ceres
1001 9091 10	<i>Triticum spelta</i> L.
1006 10 10	<i>Oryza sativa</i> L. (†)
	- long-grain varieties the grains of which are of a length exceeding 6,0 millimetres and of a length/width ratio of more than or equal to 3
	- other varieties the grains of which are of a length exceeding, not exceeding or equal to 6,0 millimetres and of a length/width ratio of less than 3
	2. Oleagineae
ex 1204 00 10	<i>Linum usitatissimum</i> L. (fibre flax)
ex 1204 00 10	<i>Linum usitatissimum</i> L. (linseed)
ex 1207 99 4091	<i>Cannabis sativa</i> L. (†) (varieties with a tetrahydrocannabinol content not exceeding 0,2 %)
	3. Gramineae
ex 1209 29 4045	<i>Agrostis canina</i> L.
ex 1209 29 4045	<i>Agrostis gigantea</i> Roth.
ex 1209 29 4045	<i>Agrostis stolonifera</i> L.
ex 1209 29 4045	<i>Agrostis capillaris</i> L.
ex 1209 29 80	<i>Arrhenatherum elatius</i> (L.) P. Beauv. ex J.S. and K.B. Prest.
ex 1209 29 4045	<i>Dactylis glomerata</i> L.
ex 1209 23 80	<i>Festuca arundinacea</i> Schreb.
ex 1209 23 80	<i>Festuca ovina</i> L.
1209 23 11	<i>Festuca pratensis</i> Huds.
1209 23 15	<i>Festuca rubra</i> L.
ex 1209 29 80	<i>Festulolium</i>
1209 25 10	<i>Lolium multiflorum</i> Lam.
1209 25 90	<i>Lolium perenne</i> L.
ex 1209 29 80	<i>Lolium x boucheanum</i> Kunth
ex 1209 29 80	<i>Phleum Bertolinii</i> (DC)
ex 1209 26-0029 80	<i>Phleum pratense</i> L.
ex 1209 29 80	<i>Poa nemoralis</i> L.
1209 24 00	<i>Poa pratensis</i> L.
ex 1209 29 4045	<i>Poa palustris</i> and <i>Poa trivialis</i> L.

	4.	Leguminosae
ex	1209 29 80	<i>Hedysarum coronarium</i> L.
ex	1209 29 80	<i>Medicago lupulina</i> L.
ex	1209 21 00	<i>Medicago sativa</i> L. (ecotypes)
ex	1209 21 00	<i>Medicago sativa</i> L. (varieties)

CN code	Description
ex 1209 29 80	<i>Onobrichis viciifolia</i> Scop.
ex 0713 10 10	<i>Pisum sativum</i> L. (partim) (field peas)
ex 1209 22 80	<i>Trifolium alexandrinum</i> L.
ex 1209 22 80	<i>Trifolium hybridum</i> L.
ex 1209 22 80	<i>Trifolium incarnatum</i> L.
1209 22 10	<i>Trifolium pratense</i> L.
ex 1209 22 80	<i>Trifolium repens</i> L.
ex 1209 22 80	<i>Trifolium repens</i> L. var. <i>giganteum</i>
ex 1209 22 80	<i>Trifolium resupinatum</i> L.
ex 0713 50 4000	<i>Vicia faba</i> L. (partim) (field beans)
ex 1209 29 4045	<i>Vicia sativa</i> L.
ex 1209 29 4045	<i>Vicia villosa</i> Roth.

12. Sheepmeat and goatmeat

	Description
0104 10 80, 0104 10 10	Female of the ovine species
0104 20 90, 0104 20 10	Female of the caprine species

13. Beef and veal

	Description
0102 90 05 to 90 79 0102 10	Live animals of the domestic bovine species

14. Olive oil

	Description
1509	Olive oil

15. Silk worms

CN code	Description
<u>ex</u> 0106 9000	Silkworms reared within the Community

16. Dried fodder

CN code	Description
<u>Exex</u> 12 14 9090	Lucerne, sainfoin, clover, lupins, vetches, <u>honey lotus, chickling pea and birdsfoot</u> to be used for the production of dried fodder

17. Hops

CN code	Description
1210	Hops

18. Sugar beet, cane and chicory

CN code	Description
1212 91 <u>80</u>	Sugar beet
1212 <u>99-209300</u>	Sugar cane
0601 20 10	Chicory

19. Fruit and vegetables

CN code	Description
0702 00 00	Tomatoes, fresh or chilled
0703	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled
0704	Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled
0705	Lettuce (<i>Lactuca sativa</i>) and chicory (<i>Cichorium</i> spp.), fresh or chilled
0706	Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots, fresh or chilled
0707 00	Cucumbers and gherkins, fresh or chilled

CN code	Description
0708	Leguminous vegetables, shelled or unshelled, fresh or chilled
ex 0709	Other vegetables, fresh or chilled, excluding vegetables of subheadings 0709 60 91, 0709 60 95, 0709 60 99, 0709 90349210 , 0709 929039 and, 0709 9099 60
ex 0802	Other nuts, fresh or dried, whether or not shelled or peeled, excluding areca (or betel) and cola nuts falling within subheading 0802 90207000 and 0802 80 00
0803 00141010	Fresh plantains
ex 0803 0010 90	Dried plantains
0804 20 10	Figs, fresh
0804 30 00	Pineapples
0804 40 00	Avocados
0804 50 00	Guavas, mangos and mangosteens
0805	Citrus fruit, fresh or dried
0806 10 10	Fresh table grapes
0807	Melons (including watermelons) and pawpaws (papayas), fresh
0808	Apples, pears and quinces, fresh
0809	Apricots, cherries, peaches (including nectarines), plums and sloes, fresh
0810	Other fruit, fresh
0813 50 31	Mixtures exclusively of dried nuts of headings 0801 and 0802
0813 50 39	
0910 20	Saffron
ex 0910 99	Thyme, fresh or chilled
ex 1211 90 8586	Basil, melissa, mint, <i>origanum vulgare</i> (oregano/wild marjoram), rosemary, sage, fresh or chilled
ex 1212 99 30	Locust (or carob) beans

20. Short rotation coppice

As defined in Article 4(1)(k) of Regulation (EU) No [DPR]

ANNEX II

Content of the information to be submitted to the Commission pursuant to Article 5(1)

The information shall include:

- (1) the total amount fixed for the coupled support and the related percentage of the national ceiling referred to in Article 39 of Regulation (EU) No [DPR] for each year until 2020;
- (2) the title of each support measure;
- (3) a description of each support measure, including at least:
 - (a) the region or sector targeted
 - (b) the specific types of farming and/or the specific agricultural sectors selected as well as a description of the difficulties encountered,
 - (c) the related economic, social or environmental importance,
 - (d) any implementation of the derogation laid down in Article 38(3) of Regulation (EU) No [DPR],
 - (e) its duration,
 - (f) the applicable eligibility conditions;
 - ~~(g) the maximum level of support;~~
 - (g) the estimated per unit amount of support calculated according to the second sub-paragraph of Article 3(2);
 - (h) the amount fixed for the financing;
 - (i) the applicable quantitative limit, i.e. the fixed areas and yields or the fixed number of animals in accordance with in Article 38(5) of Regulation (EU) No [DPR], ~~including~~;
 - (j) where applicable appropriate, the maximum area fixed for the purpose of implementing the support for oil seeds referred to in Article 3(3);
 - (k) any existing measures applied under other Union support schemes or under measures financed by state aids in the same region or sector as the coupled support measure and, where applicable, the criteria and administrative rules for ensuring that operations are support aiming at the objective referred to in Article 38(4) of Regulation (EU) No [DPR] is not also supported by granted under other Union support schemes in accordance with Article 38(67) of that Regulation (EU) No [DPR].
- (4) where appropriate, the detailed description of the particular situation in the region or sector targeted and the characteristics of the types of farming or specific agricultural sectors, which make the percentage referred to in Article 39(1) insufficient to address the difficulties identified and which justify an increased level of support according to Article 40(2) of Regulation (EU) No [DPR],
- (5) where appropriate, the demonstration of the existence of one of the needs referred to in Article 41(1)(a),(b),(c) or (d) of Regulation (EU) No [DPR].