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COUNCIL REGULATION (EEC) No 2075/92

of 30 June 1992

on the common organization of the market in raw tobacco

(OJ L 215, 30.7.1992, p. 70)

Amended by:

		Official Journal		
		No	page	date
►M1	Council Regulation (EC) No 3290/94 of 22 December 1994	L 349	105	31.12.1994
►M2	Council Regulation (EC) No 711/95 of 27 March 1995	L 73	13	1.4.1995
►M3	Council Regulation (EC) No 415/96 of 4 March 1996	L 59	3	8.3.1996
►M4	Council Regulation (EC) No 2444/96 of 17 December 1996	L 333	4	21.12.1996
►M5	Council Regulation (EC) No 2595/97 of 18 December 1997	L 351	11	23.12.1997
►M6	Council Regulation (EC) No 1636/98 of 20 July 1998	L 210	23	28.7.1998
►M7	Council Regulation (EC) No 660/1999 of 22 March 1999	L 83	10	27.3.1999
►M8	Council Regulation (EC) No 1336/2000 of 19 June 2000	L 154	2	27.6.2000
►M9	Council Regulation (EC) No 546/2002 of 25 March 2002	L 84	4	28.3.2002
►M10	Council Regulation (EC) No 806/2003 of 14 April 2003	L 122	1	16.5.2003
►M11	Council Regulation (EC) No 2319/2003 of 17 December 2003	L 345	17	31.12.2003
►M12	Council Regulation (EC) No 1679/2005 of 6 October 2005	L 271	1	15.10.2005
►M13	Council Regulation (EC) No 1782/2003 of 29 September 2003	L 270	1	21.10.2003
►M14	amended by the Council Regulation (EC) No 864/2004 of 29 April 2004	L 206	20	9.6.2004

Amended by:

►A1	Act of Accession of Austria, Sweden and Finland	C 241	21	29.8.1994
	(adapted by Council Decision 95/1/EC, Euratom, ECSC)	L 1	1	1.1.1995
►A2	Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded	L 236	33	23.9.2003
►A3	Act of accession of Bulgaria and Romania	L 157	203	21.6.2005

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COUNCIL REGULATION (EEC) No 2075/92

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic 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]),

Whereas the operation and development of the common market for agricultural products must be accompanied by the establishment of a common agricultural policy to include in particular a common organization of markets which may take various forms depending on the product;

Whereas it is the purpose of the common agricultural policy to achieve the objectives of Article 39 of the Treaty, and, in particular in the raw tobacco sector, the stabilization of markets and a fair standard of living for the agricultural population concerned; whereas these objectives may be achieved by adapting resources to requirements, in particular by means of a quality policy;

Whereas the present situation on the tobacco market, on which supply does not correspond to demand, calls for a substantial overhaul of the Community arrangements which have governed the market hitherto, while ensuring the continuation of tobacco growing by the traditional producers; whereas such an overhaul requires simplification of the market management mechanisms, limitation of production in line with the requirements of the market and the demands of the budget, and stronger means of control to ensure that the management mechanisms fully achieve the objectives of the common market organization;

Whereas tobacco varieties can be classified in groups according to cultivation technique and production costs, taking account of the descriptions used in international trade;

Whereas competition on the tobacco market calls for some support of traditional tobacco producers; whereas such support should be based on a premium system allowing the disposal of tobacco in the Community;

Whereas the premium system can be managed efficiently by means of cultivation contracts between growers and first processors which guarantee stable outlets to the growers and regular supplies to the processor; whereas payment of a sum equivalent to the premium by the processor to the producer at the time of delivery of the tobacco covered by the contract, subject to compliance with the quality requirements, provides support for the growers while facilitating management of the premium system;

Whereas, in order to limit Community tobacco production and to discourage the production of varieties which are not readily disposed of, a maximum global guarantee threshold should be laid down for the Community and divided annually into specific guarantee thresholds for the respective groups of varieties;

([1]) OJ No C 295, 14. 11. 1991, p. 10.
([2]) OJ No C 94, 13. 4. 1992.
([3]) OJ No C 98, 21. 4. 1992, p. 18.

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Whereas, to ensure that the guarantee thresholds are observed, a processing quota system must be instituted for a limited period; whereas for a transitional period the Member States must allocate, within the guarantee thresholds, processing quotas to the firms concerned, the Community rules laid down for the purpose being applied to ensure fair allocation on the basis of quantities processed in the past, but disregarding any abnormal production levels; whereas the necessary measures will be taken to permit the quotas to be allocated to the producers subsequently, under satisfactory conditions; whereas Member States possessing the necessary data to allocate quotas to producers on the basis of past performance, should be authorized to do so;

Whereas first processors must not conclude cultivation contracts for quantities exceeding the quotas allocated; whereas reimbursement of the premium must be limited to an amount corresponding to the quota;

Whereas provision should be made initially for the premium and production limitation systems to run until 1997 so that they can be reviewed in the light of experience and possibly adapted for the subsequent period;

Whereas measures to orientate production can help to stabilize the tobacco market and improve the quality of production; whereas specific aid will enable producer groups to contribute towards the improvement of the organization and orientation of production; whereas a research programe financed with the proceeds of a deduction from the premium will enable tobacco growing to be brought more closely into line with Community requirements as regards public health; whereas, lastly, a conversion programme for growers of Mavra, Tsebelia, Forchheimer Havanna IIc and hybrids of Geudertheimer tobacco is necessary because of the importance of these varieties for the economy of certain Community regions;

Whereas the establishment of a single market requires a single system of trade at the external frontiers;

Whereas quantitative restrictions at the Community's external frontiers can be dispensed with; whereas, however, should exceptional circumstances arise, in order not to leave the Community market without protection against any disturbance, the Community should be able to take all the necessary measures without delay;

Whereas unforeseen market circumstances may necessitate the adoption by the Commission of exceptional market support measures;

Whereas the achievement of a single market would be jeopardized by the grant of certain aids; whereas the Treaty provisions governing the appraisal of aids granted by Member States and the prohibition of aids incompatible with the common market should be applied to the tobacco sector;

Whereas, in accordance with Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy [1], the Community should bear financial responsibility for expenditure incurred by Member States pursuant to this Regulation;

Whereas experience shows that more stringent controls in the tobacco sector are essential, whereas in appropriate cases certain powers of control could be assigned to an independent supervisory agency to deal with the specific requirements of the tobacco market;

Whereas the common organization of the tobacco market must take account, simultaneously and appropriately, of the objectives laid down in Article 39 and 110 of the Treaty;

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[1] OJ No L 94, 28. 4. 1970, p. 13. Regulation as last amended by Regulation (EEC) No 2048/88 (OJ No L 185, 15. 7. 1988, p. 1).

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Whereas the transition from the arrangements instituted by Council Regulation (EEC) No 727/70 of 21 April 1970 on the common organization of the market in raw tobacco [1], to the arrangements provided for herein must take place in the best possible conditions; whereas transitional measures may prove necessary to ensure this; whereas the new arrangements should not become fully applicable until the 1993 harvest,

HAS ADOPTED THIS REGULATION:

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Article 1

The common organisation of the market in raw tobacco shall cover raw or non-manufactured tobacco and tobacco refuse falling within CN heading 2401.

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TITLE I

Premium system

Article 3

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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.

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2. A supplementary amount shall, however, be granted on flue-cured, light air-cured and dark air-cured tobaccos grown in Austria, Belgium, France and Germany. That amount shall be equal to 65 % of the difference between the premium applicable to the 1998 harvest and the premium applicable to the 1992 harvest for those tobaccos.

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3. The purpose of the premium shall be to supplement the incomes of producers whose products correspond to market requirements and to facilitate the disposal of tobacco produced in the Community.

Article 4

1. In accordance with the procedure laid down in Article 43 (2) of the Treaty, the Council shall fix the amount of the premium and the supplementary amounts for each tobacco harvest, taking particular account of past and foreseeable possibilities for the disposal of the various types of tobacco, under normal conditions of competition, on the Community and world markets.

2. The amount of the premium shall be fixed:

(a) per kilogram of leaf tobacco not having undergone first processing and market preparation;

(b) for each group of raw tobacco.

[1] OJ No L 94, 28. 4. 1970, p. 1. Regulation as last amended by Regulation (EEC) No 860/92 (OJ No L 91, 7. 4. 1992, p. 1).

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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 30 % 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.

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Article 5

Granting of the premium shall be subject in particular to the following conditions:

(a) the tobacco must come from a production area specified for the variety concerned;

(b) quality requirements must be fulfilled;

(c) the leaf tobacco must be delivered by the producer to the premises of the first processor under a cultivation contract.

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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 first tobacco-processing 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,

— a commitment 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:

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— 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.

However, on a transitional basis and for a period not exceeding two harvests, the premium may be paid through the intermediary of the first processor.

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5. The Member State may, if its structures makes it appropriate, apply to the producer groups which wish to participate in it a cultivation contract auction scheme as referred to in paragraph 1 for a particular variety group where it is concluded before the date on which delivery of the tobacco commences.

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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, including the option for the first purchaser to match any offers.

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TITLE II

System of production limitation

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Article 8

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A maximum overall guarantee threshold of 402 953 tonnes of raw leaf tobacco per harvest shall be set for the Community.

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

Article 9

1. To ensure observance of the guarantee thresholds, production quotas shall be imposed.

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2. The Council, acting in accordance with the procedure laid down in Article 43(2) of the Treaty, shall allocate the quantity available for each variety group between producer Member States for three consecutive harvests.

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. ►M8 Before the final date for the conclusion of cultivation contracts, Member States may be authorised to transfer parts of their guarantee threshold allocations to other variety groups. ◄

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.

No transfer of parts of guarantee threshold allocations from one variety group to another may give rise to additional costs to the EAGGF.

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

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5. Producer Member States shall be entitled to create a national quota reserve, the rules of operation of which shall be adopted in accordance with the procedure laid down in Article 23.

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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.

TITLE III

Measures to convert production

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Article 13

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1. A Community Tobacco Fund (hereafter 'the Fund') shall be set up, financed by a deduction of:

— 2 % from the premium for the 2002 harvest,

— 3 % from the premium for the 2003 and 2004 harvests, and

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— 3 % of the premium for the harvest 2005.

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2. The Fund shall finance action in the following areas:

(a) improving public awareness of the harmful effects of all forms of tobacco consumption, in particular through information and education, support for the collection of data to establish tobacco consumption patterns and to conduct epidemiological studies on nicotinism in the Community, and a study on preventing nicotinism;

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(b) specific measures to help tobacco growers to switch to other crops or other economic activities that create employment and studies of the possibilities for tobacco growers to do so.

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Article 14a

Detailed rules for the application of Article 13 shall be adopted in accordance with the procedure referred to in Article 23.

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TITLE IV

Trade with third countries

Article 15

Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1.

Article 16

1. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the classification of products covered by this Regulation.

2. Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:

(a) the levying of any charge having equivalent effect to a customs duty;

(b) the application of any quantitative restriction or measure having equivalent effect.

Article 16a

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the

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objective set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance of threat of disturbance has ceased.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt the general rules for the application of this paragraph and shall define in what cases and within what limits Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.

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TITLE V

Control measures

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Article 17

1. Member States shall take all the necessary action to ensure and verify compliance with Community provisions concerning raw tobacco.

2. Detailed rules for the application of this Title shall be adopted in accordance with the procedure referred to in Article 23.

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TITLE VI

General and transitional provisions

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Article 18

Except where this Regulation provides otherwise, Articles 92, 93 and 94 of the Treaty shall apply to production of and trade in the products referred to in Article 1.

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Article 20

To deal with unforeseen circumstances, exceptional market support measures may be taken 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.

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Article 21

Member States and the Commission shall send each other any information necessary for the application of this Regulation. Detailed rules

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for the sending and dissemination of such information shall be adopted in accordance with the procedure laid down in Article 23.

Article 22

A Management Committee for Tobacco (hereinafter called 'the Committee') shall be established, consisting of representatives of Member States and presided over by a representative of the Commission.

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Article 23

1. The Commission shall be assisted by the Management Committee for Tobacco.

2. Where reference is made to this Article, Articles 4 and 7 of Decision 1999/468/EC [1] shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Commission shall adopt its Rules of Procedure.

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Article 24

The Committee may consider any other matter raised by its chairman, either on his initiative or at the request of the representative of a Member State.

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Article 28

Regulation (EEC) No 727/70 is repealed with effect from the 1993 harvest.

Article 29

This Regulation shall apply from the 1993 harvest.

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

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[1] OJ L 184, 17.7.1999, p. 23.