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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels,
COM(2006) XXX

Proposal for a
COUNCIL REGULATION
on marketing standards for eggs

(presented by the Commission)

EXPLANATORY MEMORANDUM

Council Regulation (EEC) No 1907/90 on certain marketing standards for eggs lays down several rules for marketing of eggs, including a considerable number of very technical rules.

Since its adoption in 1990, the Regulation has been amended six times. A number of amendments were made, either to introduce new requirements, as in the case of the marking of eggs with the producer's distinguishing number, or for adapting certain technical standards to new market needs. These modifications have made the Regulation difficult to read.

The simplification of Community legislation is central to agricultural policy and law making. This was highlighted by the recent Communication from the Commission on Simplification and Better Regulation for the Common Agricultural Policy (COM[2005] 509 final of 19.10.2005). Replacing Council Regulation (EC) No 1907/90 by simplified and streamlined provisions, and the transfer of technical elements to a Commission implementing regulation should be seen in this context.

Proposal for a

COUNCIL REGULATION

on marketing standards for eggs

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs¹, and in particular Article 2(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Marketing standards for eggs can contribute to the improvement in the quality of eggs and, consequently, facilitate their sale. It is therefore in the interest of producers, traders and consumers that marketing standards should be applied in respect of eggs.
- (2) The experience gained from the application of Council Regulation (EEC) No 1907/90 of 26 June 1990 on certain marketing standards for eggs² has made apparent the need for further amendments and simplification. Regulation (EEC) No 1907/90 should therefore be repealed and replaced by a new Regulation.
- (3) The standards should in principle be applicable to all eggs of hens of the species *Gallus gallus* marketed in the Community. Nevertheless, it appears advisable to exempt from the application of those standards certain forms of direct sale from the producer to the final consumer where small quantities are involved.
- (4) A clear distinction should be drawn between eggs suitable for direct human consumption and eggs not suitable for direct human consumption, in particular broken or incubated eggs, which are for use in the food and non-food industry. Two quality classes of eggs, Class A and Class B, should therefore be distinguished.
- (5) The consumer should be able to distinguish between eggs of different quality and weight grades and should be able to identify the farming method used in accordance with Commission Directive 2002/4/EC of 30 January 2002 on the registration of establishments keeping laying hens, covered by Council Directive 1999/74/EC³. This requirement should be met by marking eggs and stamping packs.

¹ OJ L 282, 1.11.1975, p. 49. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

² OJ L 173, 6.7.1990, p. 5. Regulation as last amended by Regulation (EC) No 1039/2005 (OJ L 172, 5.7.2005, p. 1).

³ OJ L 30, 31.1.2002, p. 44. Directive as amended by the 2003 Act of Accession.

- (6) Eggs should be marked with the distinguishing number of the producer as provided for in Directive 2002/4/EC in order to be able to trace eggs placed on the market for human consumption.
- (7) In order to prevent fraudulent practices, Class A eggs should be marked as early as possible after laying.
- (8) Packing centres that are approved in accordance with Regulation (EC) No 853/2004 of the European Parliament and the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin⁴ should grade eggs by quality and weight.
- (9) In order to make sure that packing centres are adequately equipped to grade eggs and pack Class A eggs, they should also be authorised by the competent authorities and receive a packing centre code that facilitates the tracing of eggs placed on the market.
- (10) It is essential, in the interest of both producers and consumers, that eggs imported from third countries comply with Community standards. However, special provisions in force in certain third countries may justify derogations from those standards if the equivalence of legislation is guaranteed.
- (11) The Member States should designate the agency or agencies responsible for supervision of this Regulation. The procedures for such supervision should be uniform.
- (12) The Member State should lay down rules on penalties applicable to infringements of the provisions of this Regulation.
- (13) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/CE of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁵,

HAS ADOPTED THIS REGULATION:

Article 1 – Subject matter and scope

1. This Regulation lays down the conditions of marketing within the Community of the eggs produced in the Community or imported from third countries.

Those conditions of marketing shall also apply to eggs intended for export outside the Community.
2. This Regulation shall not apply to eggs sold directly to the final consumer by the producer:
 - (a) on his own farm,
 - (b) in a local public market in the region of production of the Member State concerned with the exception of auction markets, or

⁴ OJ L 139, 30.4.2004, p. 55. Corrected version in OJ L 226, 25.6.2004, p. 22.

⁵ OJ L 184, 17.7.1999, p. 23.

- (c) by door-to-door selling.

Article 2 – Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) “eggs” means eggs in shell from hens of the species *Gallus gallus*, fit for human consumption or for use in the food industry, except for broken eggs, incubated eggs and cooked eggs;
- (2) “broken eggs” means eggs showing breaks of both the shell and the membranes, resulting in the exposure of their contents;
- (3) “incubated eggs” means eggs from the time of insertion in the incubator;
- (4) “marketing” means holding or displaying for sale, offering for sale, selling, delivery or any other form of placing on the market;
- (5) “production site” means an establishment keeping laying hens approved in accordance with Directive 2002/4/EC;
- (6) “packing centre” means an establishment approved in accordance with Regulation (EC) No 853/2004, where eggs are graded by quality and weight;
- (7) “final consumer” means the ultimate consumer of a foodstuff who will not use the food as part of any food business operation or activity.

Article 3 – Quality and weight classes

1. Eggs shall be graded by quality as follows:
 - Class A or “fresh”,
 - Class B or “second quality”.
2. Class A eggs shall also be graded by weight.
3. Class B eggs shall only be delivered to the food and non-food industry.

Article 4 – Marking of eggs

1. Class A eggs shall be marked with the distinguishing number of the production site as provided for in point 2 of the Annex to Directive 2002/4/EC, in order to permit *inter alia* the farming method to be identified.
2. The marking of eggs in accordance with paragraph 1 shall take place at the production site or at the first packing centre to which eggs are delivered.
3. By way of derogation from Article 1(2), eggs sold by the producer to the final consumer on a local public market in the region of production of the Member State concerned shall be marked in accordance with paragraph 1 of this Article.

However, Member States may exempt from this requirement producers whose holding does not exceed 50 laying hens, provided that the name and address of the holding are indicated at the place of sale.

Article 5 – Packing centres

1. Eggs shall be graded by quality and weight in packing centres.
2. The competent authority shall authorise packing centres to grade eggs and shall allot a packing centre code to any undertaking or producer whose premises and technical equipment are suitable for grading eggs by quality and weight. Such authorisation may be withdrawn whenever the required conditions laid down in the implementing rules adopted pursuant to Article 11 are no longer fulfilled.

Article 6 – Import of eggs

1. The Commission shall evaluate the marketing standards for eggs applicable in exporting third countries on request of the country concerned. This evaluation shall extend to the rules on marking and labelling, farming methods and controls, as well as implementation. If it finds that the rules applied offer sufficient guarantees as to equivalence with Community legislation, eggs imported from the countries concerned shall be marked with a distinguishing number equivalent to the one referred to in Article 4(1).
2. The Commission shall, where necessary, conduct negotiations with third countries aiming at finding appropriate ways of offering guarantees as referred to in paragraph 1 and concluding agreements on such guarantees.
3. If sufficient guarantees as to equivalence of rules are not provided, imported eggs from the third country concerned shall bear a code permitting the identification of the country of origin and the indication that the farming method is “unspecified”.

Article 7 – Controls

1. The Member States shall appoint agencies to check compliance with this Regulation.
2. The agencies referred to in paragraph 1 shall check the products covered by this Regulation at all stages of marketing, including loading, unloading and transport. Apart from random sampling, checks shall be carried out on the basis of a risk analysis, taking into account the type and throughput of the establishment concerned, as well as the operator’s past records as regards compliance with the marketing standards for eggs.
3. For Class A eggs imported from third countries, checks provided for in paragraph 2 shall be made at the time of custom clearance and prior to the release for free circulation.

Class B eggs imported from third countries shall be released for free circulation only provided that their final destination to processing industry is checked at the time of custom clearance.

Article 8 – Penalties

The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

Article 9 – Communications

The Member States and the Commission shall communicate to each other the information necessary for the application of this Regulation.

Article 10 – Committee

1. The Commission shall be assisted by the Management Committee for Poultrymeat and Eggs.
2. Where reference is made to this Article, Articles 4 and 7 of Decision 1999/468/EC shall apply.
The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.
3. The Committee shall adopt its Rules of Procedure.

Article 11 – Implementing rules

Detailed rules for the implementation of this Regulation shall be adopted in accordance with the procedure referred to in Article 10(2), in particular regarding:

- (1) frequency of collection, delivery, preservation and handling of eggs;
- (2) quality criteria and weight grading, as well as exceptions to the grading requirements;
- (3) particulars of indications on eggs and stamping of packs;
- (4) checks and controls;
- (5) trade with third countries;
- (6) communications referred to in Article 9.

Article 12 – Repeal

1. Regulation (EEC) No 1907/90 is repealed from 1 July 2007.
2. References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in the Annex.

Article 13 – Entry into force

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

It shall apply from 1 July 2007.

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

Done at Brussels,

*For the Council
The President*

ANNEX

Correlation table

Regulation (EEC) No 1907/90	This Regulation
Article 1	Article 2
Article 2(1)	Article 1(1)
Article 2(3)	–
Article 2(4)	–
Article 3	–
Article 4	–
Article 5(1) and (3)	Article 5
Article 5(2)	–
Article 6(1) and (2)	Article 3
Article 6(3)	Article 11
Article 6(4) and (5)	–
Article 7(1)(a)	Article 4(1)
Article 7(1)(b) and (c)	Article 6
Article 7(1)(d)	Article 11
Article 7(2)	–
Article 8	–
Article 9	–
Article 10	–
Article 11	–
Article 12	–
Article 13	–
Article 14	–
Article 15	–
Article 16(1) first sentence	Article 1(2)
Article 17	–
Article 18	Article 7(1) and (2)
Article 19	–
Article 20(1)	Article 11
Article 20(2) – (4)	–
Article 21	Article 8
Article 22(1)	Article 9
Article 22a	–
Article 23	Article 12
Article 24	Article 13
Annex I	Annex

FINANCIAL STATEMENT			AGRI/I.1/D41249	
			DATE: 22/12/2005	
1.	BUDGET HEADING: 05 02 15 04	APPROPRIATIONS: Eur 6 Mio		
2.	TITLE: Council Regulation on marketing standards for eggs			
3.	LEGAL BASIS: Council Regulation (EEC) No 2771/75			
4.	AIMS: Fixing marketing standards for eggs			
5.	FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR 2006 (EUR million)	FOLLOWING FINANCIAL YEAR 2007 (EUR million)
5.0	EXPENDITURE - CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS) - NATIONAL AUTHORITIES - OTHER	-	-	-
5.1	REVENUE - OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES) - NATIONAL	[...]	[...]	[...]
		2008	2009	2010
5.0.1	ESTIMATED EXPENDITURE	-	-	-
5.1.1	ESTIMATED REVENUE	[...]	[...]	[...]
5.2	METHOD OF CALCULATION: No budgetary consequences of the proposal			
6.0	CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?			YES
6.1	CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?			YES
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?			NO
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?			NO
OBSERVATIONS: The aim of this proposal is to simplify Community legislation and the changes are technical without budgetary impact.				