

Council Regulation (EC) No 864/2004 of 29 April 2004 amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and adapting it by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union

Article 1

Regulation (EC) No 1782/2003 is hereby amended as follows:

- 1) the third indent of Article 1 shall be replaced by the following:
 - support schemes for farmers producing durum wheat, protein crops, rice, nuts, energy crops, starch potatoes, milk, seeds, arable crops, sheep meat and goat meat, beef and veal, grain legumes, cotton, tobacco, hops, as well as for farmers maintaining olive groves.;
- 2) Article 11(1) shall be replaced by the following:
 1. Starting with the 2007 budget, with a view to ensuring that the amounts for the financing of the common agricultural policy currently under subheading 1a (market measures and direct aids) respect the annual ceilings set out in the Decision of the Representatives of the Governments of the Member States, meeting within the Council on 18 November 2002, concerning the Conclusions of the European Council meeting in Brussels on 24 and 25 October 2002, an adjustment of the direct payments shall be fixed when the forecasts for the financing of the measures under subheading 1a for a given budget year, increased by the amounts given in Articles 143d and 143e and before application of modulation provided for in Article 10(2), indicate that the abovementioned annual ceiling, taking into account a margin of EUR 300 million below that ceiling, will be exceeded. This is without prejudice to the financial perspectives for 2007-2013.;
- 3) the second subparagraph of Article 19(1) shall be replaced by the following:

This data base shall, in particular, allow direct and immediate consultation, through the competent authority of the Member State, of the data relating to the calendar and/or marketing years starting from the year 2000 and, for aid granted under Chapter 10b of Title IV, from 1 May 1998.;
- 4) Article 20 shall be replaced by the following:

Article 20

Identification system for agricultural parcels

- 1 The identification system for agricultural parcels shall be established on the basis of maps or land registry documents or other cartographic references. Use shall be made of computerised geographical information system techniques including preferably aerial or spatial orthoimagery, with a homogenous standard guaranteeing accuracy at least equivalent to cartography at a scale of 1:10000.
- 2 The identification system shall, where appropriate, include a geographical information system for olive cultivation, consisting of a computerised alphanumerical

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database and a computerised graphical reference database for olive trees and areas concerned.;

5) Article 22 shall be amended as follows:

(a) in paragraph 1, the following indent shall be inserted after the first indent:
— the number of olive trees and their positioning in the parcel,;

(b) paragraph 2 shall be replaced by the following:

2. A Member State may decide that the aid application needs to contain only changes with respect to the aid application submitted the previous year. A Member State shall distribute pre-printed forms based on the areas determined in the previous year and supply graphic material indicating the location of those areas and, where appropriate, the positioning of olive trees.;

6) Article 35 shall be replaced by the following:

Article 35

Double claims

1 The area corresponding to the number of eligible hectares as defined in Article 44(2) in respect of which a single payment application is submitted may be the subject of an application for any other direct payment as well as for any other aid not covered by this Regulation, save as otherwise provided.

2 Farmers who have participated in the tobacco quota buy-back scheme according to Regulation (EEC) No 2075/92 shall be entitled to either the single payment or the quota buy-back price. However, where the quota buy-back price is higher than the amount calculated for tobacco to be included in the reference amount, the farmer shall still be entitled, in addition to the single payment, to a part of the buy-back price corresponding to the difference between the price amount and the amount calculated in accordance with point I of Annex VII to this Regulation.;

7) In Article 37(1) the following subparagraph shall be added:

However, for olive oil the reference amount shall be the four-year average of the total amounts of payments which a farmer was granted under the olive oil support scheme referred to in Annex VI, calculated and adjusted according to Annex VII, during the marketing years 1999/2000, 2000/2001, 2001/2002 and 2002/2003.;

8) Article 40(5) shall be replaced by the following:

5. Paragraphs 1, 2 and 3 of this Article shall apply, *mutatis mutandis*, to farmers who, during the reference period, were under agri-environmental commitments in accordance with Regulations (EEC) No 2078/92⁽¹⁾ and (EC) No 1257/1999, to hop farmers who, during the same period, were under a grubbing-up commitment in accordance with Regulation (EC) No 1098/98⁽²⁾, as well as to tobacco farmers who have participated in the quota buy-back programme in accordance with Regulation (EEC) No 2075/92.

In the case where the measures referred to in the first subparagraph covered both the reference period and the period referred to in paragraph 2, Member States shall establish, according to objective criteria and in such a way as to ensure equal treatment

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between farmers and to avoid market and competition distortions, a reference amount in accordance with the detailed rules to be laid down by the Commission in accordance with the procedure referred to in Article 144(2).;

- 9) in Article 42(9) the date of 29 September 2003 shall be replaced by the date of 15 May 2004;
- 10) point (a) of Article 43(2) shall be replaced by the following:
 - (a) in case of potato starch, dried fodder, seed, olive groves and tobacco aids listed in Annex VII, the number of hectares whose production has been granted the aid in the reference period as calculated in points B, D, F, H and I of Annex VII.;
- 11) the following subparagraph shall be added to Article 44(2):

"Eligible hectare" shall also mean areas planted with hops or being under a temporary resting obligation, or areas as calculated in the second subparagraph of point H of Annex VII under olive trees planted before 1 May 1998, except for Cyprus and Malta, for which the date shall be 31 December 2001, or new olive trees replacing existing olive trees or olive trees within approved planting schemes and registered into a geographic information system.;
- 12) Article 51 shall be replaced by the following:

Article 51

Agricultural use of the land

Farmers may use the parcels declared in accordance with Article 44(3) for any agricultural activity except for:

- (a) permanent crops, apart from olive trees planted before 1 May 1998, except for Cyprus and Malta, for which the date shall be 31 December 2001, or new olive trees replacing existing olive trees or olive trees within approved planting schemes and registered into a geographic information system or hops;
- (b) the production of the products referred to in Article 1(2) of Regulation (EC) No 2200/96⁽³⁾ and in Article 1(2) of Regulation (EC) No 2201/96⁽⁴⁾.

However, Member States may decide to allow secondary crops to be cultivated on the eligible hectares during a period of maximum three months starting each year on 15 August; however, at the request of a Member State, this date is modified in accordance with the procedure laid down in Article 144(2) for regions where cereals are normally harvested earlier for climatic reasons;

- (c) potatoes other than those intended for the manufacture of potato starch for which aid is granted under Article 93.;
- 13) Article 60(1) shall be replaced by the following:
 1. Where a Member State makes use of the option provided for in Article 59, farmers may, by way of derogation from Article 51 and in accordance with this Article, also use the parcels declared according to Article 44(3) for the production

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of products referred to in Article 1(2) of Regulation (EC) No 2200/96 or in Article 1(2) of Regulation (EC) No 2201/96 and of potatoes other than those intended for the manufacture of potato starch for which aid is granted under Article 93 of this Regulation, except permanent crops, apart from hops or olive trees planted before 1 May 1998 or new olive trees replacing existing olive trees or olive trees within approved planting schemes and registered into a geographic information system.;

14) Article 64(2) shall be amended as follows:

- (a) in the first subparagraph the terms "Articles 66, 67, 68 and 69" shall be replaced by the terms "Articles 66, 67, 68, 68a and 69";
- (b) in the second subparagraph the terms "Articles 66, 67, 68 and 69" shall be replaced by the terms "Articles 66, 67, 68, 68a and 69";

15) Article 65(1) shall be amended as follows:

The terms "Articles 66, 67, 68 and 69" shall be replaced by the terms "Articles 66, 67, 68, 68a and 69";

16) in section 2 of Chapter 5 of Title III, the following Article shall be inserted:

Article 68a

Hops payments

In the case of hops payments, Member States may retain up to 25% of the component of national ceilings referred to in Article 41 corresponding to the hops area payments and the temporary resting aid referred to in Annex VI.

In this case and within the limit of the ceiling fixed in accordance with Article 64(2), the Member State concerned shall make, on a yearly basis, an additional payment to farmers and/or a payment to producer groups recognised in accordance with Article 7(3) of Regulation (EEC) No 1696/71.

The additional payment shall be granted to farmers producing hops on a per hectare basis, at a maximum level of 25% of the per hectare payments referred to in Annex VI to be granted under the conditions provided for in Chapter 10d of Title IV.

The payment to recognised producer groups shall be granted to finance the activities referred to in Article 7(1)(a) to (d) of Regulation (EEC) No 1696/71.;

17) Article 71 shall be amended as follows:

- (a) the following subparagraph shall be added to paragraph 1:

For hops, the transitional period referred to in the first subparagraph shall expire on 31 December 2005. The transitional period referred to in the first subparagraph shall not apply in respect of cotton, olive oil and table olives and tobacco.

- (b) the first subparagraph of paragraph 2 shall be replaced by the following:

Without prejudice to Article 70(2), in the transitional period the Member State concerned shall apply the direct payments referred to in Annex VI under the conditions established, respectively, in Chapters 3,6 to 10 and 10d to 13 of Title IV of this Regulation, Article 6 of Regulation (EEC)

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No 2019/93, Article 9 of Regulation (EC) No 1452/2001, Articles 13 and 22(2) to (4) of Regulation (EC) No 1453/2001, and Article 5 of Regulation (EC) No 1454/2001, within the limit of budgetary ceilings corresponding to the components of these direct payments in the national ceiling referred to in Article 41, fixed in accordance with the procedure referred to in Article 144(2) of this Regulation, for each of the direct payments.;

- 18) in Article 71g, paragraph 1 shall be replaced by the following:
1. Farmers may, by way of derogation from Article 51 and in accordance with the provisions of this Article, also use the parcels declared according to Article 44(3) for the production referred to in Article 1(2) of Regulation (EC) No 2200/96, in Article 1(2) of Regulation (EC) No 2201/96 and potatoes other than those intended for the manufacture of potato starch for which aid is granted under Article 93 of this Regulation, except permanent crops, apart from hops or olive trees planted before 1 May 1998 and, in Cyprus and Malta, before 31 December 2001, or new olive trees replacing existing olive trees or olive trees within approved planting schemes and registered into a geographic information system.;
- 19) Article 84 shall be amended as follows:
- (a) paragraph 2 shall be replaced by the following:
2. A maximum guaranteed area of 815 600 ha is hereby established.;
- (b) in paragraph 3, for Poland, the national guaranteed area of 1 000 ha shall be replaced by 4 200 ha.;
- 20) the following Chapters shall be inserted in Title IV:

Chapter 10a

Crop specific payment for cotton

Article 110a

Scope

Aid shall be granted to farmers producing cotton, falling within CN code 5201 00 under the conditions laid down in this Chapter.

Article 110b

Eligibility

- 1 The aid shall be granted per hectare of eligible area of cotton. In order to be eligible, the area shall be located on agricultural land authorised by the Member State for cotton production, sown under authorised varieties and maintained at least until the boll opening under normal growing conditions.

However, if the cotton does not attain the stage of boll opening as a result of exceptional weather conditions recognised as such by the Member State, areas fully sown under cotton shall remain eligible for aid provided that the areas in question have

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up to the boll opening not been used for any other purpose than for the production of cotton.

- 2 Member States shall authorise the land and the varieties referred to in paragraph 1 in accordance with detailed rules and conditions to be adopted in accordance with the procedure referred to in Article 144(2).

Article 110c

Base areas and amounts

- 1 A national base area is hereby established for:

— Greece:	370 000 ha
— Spain:	70 000 ha
— Portugal:	360 ha.

- 2 The amount of the aid per eligible hectare shall be in:

— Greece:	EUR 594 for 300 000 hectares and EUR 342.85 for the remaining 70 000 hectares
— Spain:	EUR 1 039
— Portugal:	EUR 556.

- 3 If the eligible area of cotton in a given Member State and in a given year exceeds the base area laid down in paragraph 1, the aid referred to in paragraph 2 for that Member State shall be reduced proportionately to the overrun of the base area.

However, for Greece the proportionate reduction shall be applied in respect of the amount of the aid fixed for the part of the national base area composed of the 70 000 hectares in order to respect the global amount of EUR 202,2 million.

- 4 Detailed rules for the implementation of this Article shall be adopted in accordance with the procedure referred to in Article 144(2).

Article 110d

Approved inter-branch organisations

- 1 For the purpose of this Chapter, an "approved inter-branch organisation" shall mean a legal entity made up of farmers producing cotton and at least one ginner, aiming at, in particular, the supply of qualitatively suitable unginned cotton to the ginner. The Member State in whose territory the ginner is established shall approve the organisation that respects the criteria to be adopted in accordance with the procedure referred to in Article 144(2).

- 2 The approved inter-branch organisation shall be financed by its members.

Article 110e

Differentiation of aid by approved inter-branch organisations

- 1 The approved inter-branch organisation may decide that a maximum of half of the total amount of the aid to which its farmer-members are entitled on the basis of the areas eligible pursuant to Article 110b(1) is differentiated according to a scale fixed by it.
- 2 The scale referred to in paragraph 1 shall be approved by the Member State and shall respect the criteria to be adopted in accordance with the procedure referred to in Article 144(2). These criteria shall concern, in particular, the quality of the unginned cotton to be delivered, adapted to the environmental and economic conditions of the zones concerned.

Article 110f

Payment of aid

- 1 Farmers shall be granted the aid per eligible hectare pursuant to Article 110c.
- 2 Farmers who are members of an approved inter-branch organisation shall be granted an aid per eligible hectare pursuant to Article 110c, increased by an amount of EUR 10. However, in case of differentiation, the aid shall be granted per eligible hectare pursuant to Article 110c adjusted in accordance with Article 110e(1). The adjusted amount shall be increased by an amount of EUR 10.

Chapter 10b

Aid for olive groves

Article 110g

Scope

Aid shall be granted to farmers as a contribution to the maintenance of olive groves of environmental or social value according to the conditions laid down in this Chapter.

Article 110h

Eligibility

Payment of the aid shall be subject to the following conditions:

- (a) the olive grove shall be registered in the geographic information system referred to in Article 20(2);
- (b) only surfaces corresponding either to olive trees planted before 1 May 1998, except for Cyprus and Malta, for which the date shall be 31 December 2001,

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or to replacing trees or surfaces covered by a programme approved by the Commission shall be eligible for the aid;

- (c) the number of olive trees in the olive grove shall not differ by more than 10% from the number registered on 1 January 2005 in the geographic information system referred to in Article 20(2);
- (d) the olive grove shall comply with the features of the olive grove category under which aid is claimed;
- (e) the aid applied for shall amount to at least EUR 50 per application.

Article 110i

Amount

1 The aid for olive groves shall be granted per olive GIS-ha. An olive GIS-ha shall be the area unit used in a common method to be established in accordance with the procedure referred to in Article 144(2) on the basis of data from the geographical information system for olive cultivation referred to in Article 20(2).

2 Within the maximum amounts established in paragraph 3, and after deduction of the amount withheld pursuant to paragraph 4, Member States shall fix an aid per olive GIS-ha of up to a maximum of five categories of olive grove areas.

These categories shall be established in accordance with a common framework of environmental and social criteria, including aspects related to landscape and social tradition, to be adopted in accordance with the procedure referred to in Article 144(2). In this context, particular attention shall be given to the maintenance of olive groves in marginal areas.

3 Where the coefficient of 0.4, resulting from the application of the coefficient of 0.6 laid down in Annex VII (H) is applied, the maximum amount of aid referred to in paragraph 2 shall be as follows:

	EUR million
France	2,11
Greece	208,14
Italy	272,05
Cyprus	2,93
Malta	0,07
Spain	412,45
Portugal	22,66
Slovenia	0,17

Member States shall allocate the maximum amount between the different categories in accordance with objective criteria and in a non-discriminatory manner. For each category, the aid per olive GIS-ha may amount to, but may not exceed, the level of the maintenance costs excluding harvest costs.

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Should Member States decide upon a decrease in the coefficient of 0.4 the maximum amount of the aid referred to in the above table, as well as the Annexes VIII and Villa, shall be adjusted in accordance with the procedure referred to in Article 144(2).

The maximum amounts of aid set for Cyprus and Malta are provisional. They may be revised in 2005 after the introduction of the geographical information system referred to in Article 20(2), in accordance with the procedure provided for in Article 144(2), to adjust the Cypriot and Maltese maximum amount of aid accordingly.

4 Member States may withhold up to 10% of the amounts referred to in paragraph 3 to ensure Community finance of work programmes drawn up by approved operators' organisations pursuant to Article 8 of Regulation (EC) No .../... of ... [on the common organisation of the market in olive oil and table olives].⁽⁵⁾

However, should a Member State decide to apply a higher coefficient than 0.6 as laid down in Annex VII (H), it may withhold a maximum of 10 percent of the olive oil component in the national ceiling referred to in Article 41 to ensure Community financing of the work programmes referred to in the first subparagraph. This maximum amount shall be fixed in accordance with the procedure referred to in Article 144(2).

Chapter 10c

Tobacco Aid

Article 110j

Scope of application

For the harvest years 2006, 2007, 2008 and 2009 aid may be granted to farmers producing raw tobacco, falling within CN code 2401, under the conditions laid down in this Chapter.

Article 110k

Eligibility

The aid shall be granted to farmers who received a tobacco premium payment in accordance with Regulations (EEC) No 2075/92 in the calendar years 2000, 2001 and 2002, and to farmers who acquired tobacco production quotas during the period 1 January 2002 to 31 December 2005. The payment of the aid shall be subject to the following conditions:

- (a) the tobacco must come from a production area referred to in Annex II to Commission Regulation (EC) No 2848/98⁽⁶⁾;
- (b) the quality requirements defined in Regulation (EC) No 2848/98 must be fulfilled;
- (c) the leaf tobacco must be delivered by the farmer to the premises of the first processor under a cultivation contract;

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- (d) it shall be made in such a way as to ensure equal treatment between farmers and/or according to objective criteria such as location of tobacco producers in an Objective 1 region or the production of varieties of a certain quality.

Article 110l

Amount

- 1 Where a coefficient of 0.6, resulting from the application of the coefficient of 0.4 laid down in Annex VII (I) is applied, the maximum amount of the total of the aid, including the amounts to be transferred to the Community Tobacco Fund referred to in Article 110m, shall be as follows:

	2006—2009EUR million	
Belgium	2,374	
Germany	21,287	
Greece	227,331	
Spain	70,599	
France	48,217	
Italy	200,821	
Austria	0,606	
Portugal	10,161	

Should Member States decide upon a decrease in the coefficient of 0.6, the maximum amount of the aid referred to in the above table, as well as Annex VIII, shall be adjusted in accordance with the procedure referred to in Article 144(2).

Article 110m

Transfer to the Community Tobacco Fund

An amount equal to 4% for the calendar year 2006 and 5% for the calendar year 2007 of the aid granted in accordance with this Chapter shall finance actions of information under the Community Tobacco Fund provided for in Article 13 of Regulation (EC) No 2075/92.

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Chapter 10d

Hops area aid

Article 110n

Scope of application

Aid shall be granted to farmers producing hops falling within CN code 1210, under the conditions laid down in this Chapter.

Article 110o

Eligibility

Eligible areas shall be areas that are:

- located in hop production areas as published by the Commission pursuant to Article 6(2) of Council Regulation (EEC) No 1784/77⁽⁷⁾,
- planted with hops, and
- actually harvested.;

- 21) in Title IVa, Article 143c(2) after the first sentence of point (a) the following sentence shall be inserted:

However, for the direct payments referred to in Chapter 7 of Title IV of this Regulation the following maximum rates shall apply: 85% in 2004, 90% in 2005, 95% in 2006 and 100% as from 2007.;

- 22) the following Title IVb shall be inserted:
"TITLE IVBFinancial transfers

Article 143d

Financial transfer for restructuring in the cotton regions

As from budget year 2007, an amount of EUR [22 million], originating from the average expenditure for cotton in the years 2000, 2001 and 2002, shall be available per calendar year as additional Community support for measures in cotton producing regions under rural development programming financed under the EAGGF "Guarantee" Section according to Regulation (EC) No 1257/1999.

Article 143e

Financial transfer for restructuring in the tobacco regions

As from budget year 2011, an amount of EUR 484 million representing 50 percent of the three-year average total aid amount in the years 2000, 2001 and 2002 for the subsidised tobacco shall be available as additional Community support for measures in tobacco producing regions under rural development programming financed under

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the EAGGF "Guarantee" Section according to Regulation (EC) No 1257/1999, for those Member States in which the tobacco producers received aid in accordance with Regulation (EC) No 2075/92 during the years 2000,2001 and 2002.

- 23) the following points shall be added to Article 145:
- (r) with regard to cotton, detailed rules in respect of:
 - the calculation of the reduction of the aid provided for in Article 110c(3),
 - the approved inter-branch organisations, in particular their financing and a control and sanction system;
 - (s) with regard to the single payment scheme, detailed rules for the calculation and/or for the adjustment of payment entitlements, for the purpose of integrating in the scheme production aid to cotton, olive oil, tobacco and hops.;
- 24) the following Articles shall be inserted after Article 151:

Article 151a

Amendments to Regulation (EC) No 546/2002

Regulation (EC) No 546/2002 shall be amended as follows:

- 1) in Articles 1 and 2 and in Annex I, "harvests 2002, 2003 and 2004" shall be replaced by "harvests 2002, 2003, 2004 and 2005";
- 2) The title of the second table set out in Annex II shall be replaced by the following:
The guaranteed thresholds for the harvests 2003, 2004 and 2005.;

Article 151b

Amendment to Regulation (EC) No 2075/92

In Article 13(1) the following indent shall be added:

- 3% of the premium for the harvest 2005";.;

- 25) the following points shall be added to Article 152:
- (d) Titles I and II of Regulation (EEC) No 2075/92. However, they shall continue to apply to applications for direct payments in respect of the 2005 harvest;
 - (e) Articles 12 and 13 of Regulation (EEC) No 1696/71⁽⁸⁾. However, they shall continue to apply to applications for direct payments in respect of the 2004 harvest and of the 2005 harvest if a Member State decides to apply the single payment scheme after the transitional period for hops referred to in the third subparagraph of Article 71(1) of this Regulation.;
- 26) the following paragraphs shall be inserted in Article 153:

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- 4a. Council Regulation (EC) No 1051/2001⁽⁹⁾ is hereby repealed. However, it shall continue to apply in respect of marketing year 2005/2006.
- 4b Regulation (EC) No 1098/98 is hereby repealed. However it shall continue to apply until 31 December 2005 if a Member State decides to apply the single payment scheme after the transitional period for hops referred to in the third subparagraph of Article 71(1) of this Regulation.;
- 27) the following Article shall be inserted:
- Article 155a*
- By 31 December 2009, the Commission shall submit a report to the Council on the implementation of this Regulation with regard to cotton, olive oil, table olives and olive groves, tobacco and hops, accompanied, if necessary, by appropriate proposals.;
- 28) the following points shall be added to Article 156(2):
- (g) Title IV, Chapter 10a, shall apply as from 1 January 2006 for the cotton sown as from that date;
- (h) Title IV, Chapter 10b, shall apply as from marketing year 2005/2006.;
- 29) the Annexes shall be amended in accordance with the Annex to this Regulation.

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- (1) OJ L 215, 30.7.1992, p. 85.
- (2) OJ L 157, 30.5.1998, p. 7.";
- (3) OJ L 297, 21.11.1996, p. 1.
- (4) OJ L 297, 21.11.1996, p. 29.";
- (5) See page ... of this Official Journal.
- (6) OJ L 358, 31.12.1998, p. 17. Regulation as last amended by Commission Regulation (EC) No 1983/2002 (OJ L 306, 8.11.2002, p. 8).
- (7) OJ L 200, 8.8.1977, p. 1. Regulation as last amended by the 2003 Act of Accession.";
- (8) OJ L 175, 4.8.1971, p. 1. Regulation as last amended by Regulation (EC) No 2320/2003 (OJ L 345, 31.12.2003, p. 18).";
- (9) OJ L 148, 1.6.2001, p. 3.";

Changes to legislation:

There are currently no known outstanding effects for the Council Regulation (EC) No 864/2004, Article 1.