

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

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the third subparagraph of Article 37(2) thereof,

Having regard to Protocol No 4 on cotton⁽¹⁾, annexed to the 1979 Act of Accession, and in particular paragraph 6 thereof,

Having regard to the Treaty of Accession concerning the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia⁽²⁾, and in particular Article 2(3) thereof,

Having regard to the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia⁽³⁾, and in particular Article 57(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament⁽⁴⁾,

Having regard to the Opinion of the European Economic and Social Committee⁽⁵⁾,

After consulting the Committee of the Regions,

Whereas:

- (1) The de-coupling of direct producer support and the introduction of the single payment scheme are essential elements in the process of reforming the common agricultural policy aimed at moving away from a policy of price and production support to a policy of farmer income support. Regulation (EC) No 1782/2003⁽⁶⁾ introduced these elements for a variety of agricultural products.
- (2) In order to meet the objectives that lay at the heart of the reform of the common agricultural policy, the support for cotton, olive oil, raw tobacco and hops should be largely de-coupled and integrated into the single payment scheme.

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- (3) The rules on direct support schemes laid down in Council Regulation (EC) No 1782/2003 should be adapted to allow their implementation in the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia.
- (4) In the reference period 2000-2002, no direct producer aid for cotton existed. However, under the arrangements in force during that period, Community support was indirectly received by the producers via an aid to the ginners.
- (5) A complete integration in the single payment scheme of the current support scheme in the cotton sector would bring a significant risk of production disruption to the cotton producer regions of the Community. A part of the support should therefore continue to be linked to the cultivation of cotton through a crop specific payment per eligible hectare. Its amount should be calculated in such a way so as to ensure economic conditions which, in regions which lend themselves to that crop, enable activity in the cotton sector to continue and prevent cotton from being driven out by other crops. In order to achieve that goal, it is justified that the total available aid per hectare per Member State is set at 35% of the national share of the aid that went indirectly to the producers.
- (6) The remaining 65% of the national share of the aid that went indirectly to the producers should be available for the single payment scheme.
- (7) For environmental reasons, a base area per Member State should be established in order to limit the areas sown under cotton. In addition, the eligible areas should be restricted to those authorised by the Member States.
- (8) In order to allow producers and ginners to enhance the quality of the cotton, the establishment of inter-branch organisations, to be approved by the Member States, should be encouraged. These organisations should be financed by their members. The Community should contribute indirectly to the activities of these organisations via an increase of the aid to those farmers who are members of the organisations.
- (9) To foster quality supplies to the industry, the approved organisations should be authorised to differentiate the aid to which their producer-members are entitled in accordance with a scale adopted by them. The scale, approved by the Member States, should take account of criteria to be established.
- (10) A complete integration in the single payment scheme of the current production-linked support scheme in the olive sector could bring problems to certain traditional producer regions of the Community. There is a certain risk of widespread disruption to olive tree maintenance, which could in turn lead to degradation of land cover and landscape or have negative social impacts. A part of the support could therefore be linked to the maintenance of olive groves of environmental or social value.
- (11) Consequently, at least 60% of the average of the production aid payments in the olive sector during the reference period 2000 to 2002 should be converted into entitlements under the single payment scheme; the calculation of the entitlements for each individual farmer should be based on the marketing years 1999/2000, 2000/2001, 2001/2002 and 2002/2003. However, holdings of a size of less than 0,3 olive GIS-ha, established on the

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basis of the geographical information system for olive cultivation, should, for reasons of equity, be fully integrated in the scheme.

- (12) The number of hectares to be included in the calculation of the single payment entitlement should be established on the basis of the geographical information system for olive cultivation, which henceforth is to be part of the integrated administration and control system.
- (13) The remaining part of the production aid payments in the olive sector during the reference period should be retained by the Member States, as national envelopes, for the granting to farmers of an aid to contribute to the maintenance of olive groves of environmental or social value, including aspects of local traditions and culture, in particular in marginal areas. Holdings of less than 0,3 olive GIS-ha should be equally eligible. For reasons of simplification, payments under this scheme should be of an amount of at least EUR 50.
- (14) Member States should be afforded the possibility of withholding the amount necessary to finance activities in the olive oil sector related to product quality, monitoring and information, which are carried out under work programmes drawn up by approved operator's organisations.
- (15) Only areas corresponding either to olives trees planted before 1 May 1998 or to replacing trees or covered by a programme approved by the Commission are eligible for production aid under the current scheme and should therefore be the only ones to be included under the single payment scheme as well as be eligible under the olive grove payment scheme. For Cyprus and Malta, the deadline should be 31 December 2001, in accordance with the derogation provided for in Article 2(1) of Council Regulation (EC) No 1638/98 of 20 July 1998 amending Regulation No 136/66/EEC on the establishment of a common market organisation in oils and fats⁽⁷⁾.
- (16) For Cyprus and Malta, the maximum amounts of aid for olive groves can be definitively established only after the introduction of the geographical information system in these Member States. It is therefore necessary to provide for the possibility of revising the figures of the maximum amounts set for these Member States.
- (17) The current support scheme for producers of raw tobacco should be partly decoupled and integrated into the single payment scheme and partly transferred into the restructuring envelope. However, in order to avoid a disruptive effect on production and local economies, and to allow the market price to adjust to the new conditions, Member States should be allowed during a transitional period to retain up to 60% of the production aid payments in the tobacco sector coupled and to grant the remaining part as decoupled aid.
- (18) Farmers who have left the tobacco sector by participating in the quota buy-back programme set up in accordance with Article 14 of Regulation (EEC) No 2075/92 and who are granted aid under the single payment scheme, should not in addition receive the buy-back price but should be able to choose between the two types of payment. However, to ensure a fair choice, a part of the buy-back price should be paid in so far as this is necessary to compensate for the difference between the amount of tobacco

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aid included in the calculation of the reference amount and the amount of the buy-back price, where the latter amount is higher.

- (19) As regards the premium that will continue to be granted for tobacco production during the years 2006 and 2007, an amount equal to 4% for the first year and 5% for the second year should be transferred to the Community Tobacco Fund, for the purpose of financing actions of information for improving public awareness of the harmful effects of tobacco consumption.
- (20) The full integration of hops in the single payment scheme enables the hops farmer to receive a stable income. If the farmer decides, for example as a result of the conditions of the market or for structural reasons, to abandon the growing and harvesting of hops, he can freely decide to do so without being without income.
- (21) In order to deal with specific market situations or with regional implications, the Member State concerned should be afforded the possibility of retaining a certain percentage of the de-coupled aid. In this case, Member States may allocate the retained component fully or partially to farmers producing hops via an area aid and/or to recognised producer groups to enable them to carry out certain tasks.
- (22) The de-coupling of the aid for cotton and raw tobacco might require actions towards restructuring. Additional Community support for the production regions of the Member States in which Community aid for cotton and raw tobacco was granted during 2000, 2001 and 2002 should be made available by a transfer of funds from Heading I(a) to Heading I(b) of the Financial Perspectives. This additional support should be used as provided for in Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF)⁽⁸⁾.
- (23) In order to ensure the harmonious continuation of the payment of income aid to producers in the cotton-, olive oil- and tobacco sector, the option of postponing the integration of these support schemes in the single payment scheme should not apply.
- (24) On the basis of new data the national guaranteed area for nuts in Poland has to be increased.
- (25) In order to ensure that the modifications made for the new Member States can enter into force by the date of accession, this Regulation has to enter into force by 1 May 2004,

HAS ADOPTED THIS REGULATION:

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:

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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 la (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 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:

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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⁽⁹⁾ 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⁽¹⁰⁾, 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 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

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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⁽¹¹⁾ and in Article 1(2) of Regulation (EC) No 2201/96⁽¹²⁾.

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 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:

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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) 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

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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 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
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— 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 unginning 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 unginning cotton to be delivered, adapted to the environmental and economic conditions of the zones concerned.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 864/2004. (See end of Document for details)

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, 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.

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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.

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

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operators' organisations pursuant to Article 8 of Regulation (EC) No .../... of ... [on the common organisation of the market in olive oil and table olives].⁽¹³⁾

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⁽¹⁴⁾;
- (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;
- (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:

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	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.

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⁽¹⁵⁾,
- planted with hops, and
- actually harvested.;

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 864/2004. (See end of Document for details)

- 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 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:

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 864/2004. (See end of Document for details)

- 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⁽¹⁶⁾. 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:
 - 4a. Council Regulation (EC) No 1051/2001⁽¹⁷⁾ 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.

Article 2

- 1 This Regulation shall enter into force on 1 May 2004.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 864/2004. (See end of Document for details)

- 2 It shall apply as from 1 January 2006 except for the following provisions:
- a Article 1, (7a), (14), (14a), (16) and 18(a) as well as (23) as regards Annexes VIII and VIIIa which shall apply as from the date of entry into force of this Regulation;
 - b Article 1(1) as regards the insertion of hops, (7), (9) as regards hops, (10), (11), (11a), (11b), (12), (13) as regards hops, (15) as regards Chapter 10d, (19) as regards point (e), (20) as regards 4b, (23) as regards annexes I, VI and VII for the parts concerning hops which shall apply as from 1 January 2005.

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

Done at Luxembourg, 29 April 2004.

For the Council
The President
M. McDOWELL

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 864/2004. (See end of Document for details)

ANNEX

The Annexes are hereby amended as follows:

- 1) Annex I shall be replaced by the following:

ANNEX I

List of support schemes fulfilling the criteria set out in Article 1

Sector	Legal base	Notes
Single payment	Title III of this Regulation	Decoupled payment (see Annex VI) ^a
Single area payment	Title IVa, Article 143b of this Regulation	Decoupled payment replacing all the direct payments referred to in this Annex
Durum wheat	Title IV, Chapter 1 of this Regulation	Area aid (quality premium)
Protein crop	Title IV, Chapter 2 of this Regulation	Area aid
Rice	Title IV, Chapter 3 of this Regulation	Area aid
Nuts	Title IV, Chapter 4 of this Regulation	Area aid
Energy crops	Title IV, Chapter 5 of this Regulation	Area aid
Starch potato	Title IV, Chapter 6 of this Regulation	Production aid
Milk and dairy Products	Title IV, Chapter 7 of this Regulation	Dairy premium and additional payment
Arable crop in Finland and in certain regions of Sweden	Title IV, Chapter 8 of this Regulation ^{be}	Specific regional aid for arable crops
Seeds	Title IV, Chapter 9 of this Regulation ^{be}	Production aid

a Starting from 1 January 2005 or later in the case of application of Article 71. For 2004, or later on in case of application of Article 71, the direct payments listed in Annex VI are included in Annex I except dried fodder and cotton.

b Where Article 70 is applied.

c Where Articles 66, 67, 68 or 68a are applied.

d Where Article 69 is applied.

e Where Article 71 is applied.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 864/2004. (See end of Document for details)

Arable crops	Title IV, Chapter 10 of this Regulation ^{ce}	Area aid, including set-aside payments, grass silage payments, supplementary amounts ^b , durum wheat supplement and special aid
Sheep and goats	Title IV, Chapter 11 of this Regulation ^{ce}	Ewe and she-goat premium, supplementary premium and certain additional payments
Beef and veal	Title IV, Chapter 12 of this Regulation ^e	Special premium ^c , deseasonalisation premium, suckler cow premium (including when paid for heifers and including the additional national suckler cow premium when co-financed) ^c , slaughter premium ^c , extensification payment, additional payments
Grain legumes	Title IV, Chapter 13 of this Regulation ^e	Area aid
Specific types of farming and quality production	Article 69 of this Regulation ^d	
Dried fodder	Article 71(2) second subparagraph of this Regulation ^e	
Small farmers' scheme	Article 2a Regulation (EC) No 1259/1999	Transitional area aid for farmers receiving less than EUR 1 250
Olive oil	Title IV, Chapter 10b of this Regulation	Area aid
Silkworms	Article 1 Regulation (EEC) No 845/72	Aid to encourage rearing
Bananas	Article 12 Regulation (EEC) No 404/93	Production aid

a Starting from 1 January 2005 or later in the case of application of Article 71. For 2004, or later on in case of application of Article 71, the direct payments listed in Annex VI are included in Annex I except dried fodder and cotton.

b Where Article 70 is applied.

c Where Articles 66, 67, 68 or 68a are applied.

d Where Article 69 is applied.

e Where Article 71 is applied.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 864/2004. (See end of Document for details)

Spain	56,9	76,5	95,5	95,5	95,5	95,5	95,5	95,5
France	51,4	68,7	85,9	85,9	85,9	85,9	85,9	85,9
Ireland	15,3	20,4	25,5	25,5	25,5	25,5	25,5	25,5
Italy	62,3	83,7	104,6	104,6	104,6	104,6	104,6	104,6
Luxembourg	0,2	0,3	0,4	0,4	0,4	0,4	0,4	0,4
Netherlands	6,8	9,2	11,5	11,5	11,5	11,5	11,5	11,5
Austria	12,4	17,1	21,3	21,3	21,3	21,3	21,3	21,3
Portugal	10,8	14,6	18,2	18,2	18,2	18,2	18,2	18,2
Finland	8,0	10,8	13,6	13,6	13,6	13,6	13,6	13,6
Sweden	6,6	8,8	11,0	11,0	11,0	11,0	11,0	11,0
United Kingdom	17,7	23,6	29,5	29,5	29,5	29,5	29,5	29,5;

2a) Annex IV shall be amended as follows:

The last two indents of the second column shall be replaced by the following:

- Retention of landscape features, including, where appropriate, the prohibition of the grubbing up of olive trees
- Avoiding the encroachment of unwanted vegetation on agricultural land
- Maintenance of olive groves in good vegetative condition.;

3) Annex V shall be replaced by the following:

ANNEX V

Compatible support schemes referred to in Article 26

Sector	Legal base	Notes
Dried grapes	Article 7(1) Regulation (EC) No 2201/96	Area-related aid
Agri-environment	Title II, chapter VI (Articles 22 to 24) and Article 55(3) Regulation (EC) No 1257/1999	Area-related aid
Forestry	Article 31 and Article 55(3) Regulation (EC) No 1257/1999	Area-related aid
Less-favoured areas and areas with environmental restrictions	Title II, chapter V (Articles 13 to 21) and Article 55(3)	Area-related aid

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 864/2004. (See end of Document for details)

	Regulation (EC) No 1257/1999	
Dried fodder	Articles 10 and 11 Regulation (EC) No 603/95	Production aid
Citrus for processing	Article 1 Regulation (EC) No 2202/96	Production aid
Tomatoes for processing	Article 2 Regulation (EC) No 2201/96	Production aid
Wine	Articles 11 to 15 Regulation (EC) No 1493/1999	Restructuring aid;

4) the following rows shall be added to Annex VI:

Cotton	Paragraph 3 of Protocol No 4 on cotton annexed to the Act of Accession of Greece	Support through the payment for unginned cotton
Olive oil	Article 5 Regulation 136/66/EEC	Production aid
Tobacco	Article 3 Regulation (EEC) No 2075/92	Production aid
Hops	Article 12 of Regulation (EEC) No 1696/71	Area aid
	Article 2 of Regulation (EC) No 1098/98	Temporary resting aid;

5) the following shall be added to Annex VII:

"G. Cotton

Where a farmer has declared areas sown under cotton, Member States shall calculate the amount to be included in the reference amount by multiplying the number of hectares, to two decimal places, which produced cotton that was granted aid pursuant to paragraph 3 of Protocol No 4 on cotton⁽¹⁸⁾ in each year of the reference period, by the following amounts per hectare:

- EUR 966 for Greece,
- EUR 1 509 for Spain,
- EUR 1 202 for Portugal.

H. Olive oil

Where a farmer has received olive oil production aid, the amount shall be calculated by multiplying the number of tonnes for which such a payment has been granted in the reference period (i.e. respectively, in each of the marketing years 1999/2000,

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 864/2004. (See end of Document for details)

2000/2001, 2001/2002 and 2002/2003) by the corresponding unit amount of aid, expressed in EUR/tonne, as fixed in Commission Regulations (EC) No 1415/2001⁽¹⁹⁾, (EC) No 1271/2002⁽²⁰⁾, (EC) No 1221/2003⁽²¹⁾ and (EC) No 1794/2003⁽²²⁾, and multiplied by a 0,6 coefficient. However, Member States may decide by 1 August 2005 to increase this coefficient. This coefficient shall not be applied to farmers whose average number of olive GIS-ha during the reference period, excluding the number of olive GIS-ha corresponding to additional trees planted outside any approved planting scheme after 1 May 1998, is less than 0.3. The number of olive GIS-ha shall be calculated by a common method to be established in accordance with the procedure referred to in Article 144(2) and on the basis of data from the geographic information system for olive cultivation.

Where the aid payments during the reference period have been affected by application of the measures laid down in Article 2(3) of Regulation (EEC) No 1638/98⁽²³⁾, the calculation mentioned in the third subparagraph shall be adjusted as follows:

- where the measures were applied to only one marketing year, the number of tonnes to be taken into account for the year concerned shall be equal to the number of tonnes for which aid would have been granted had the measures not been applied,
- where the measures were applied to two consecutive marketing years, the number of tonnes to be taken into account for the first year concerned shall be established in accordance with the first indent, and the number of tonnes to be taken into account for the following year shall be equal to the number of tonnes for which aid was granted in respect of the last marketing year before the reference period which has not been affected by an application of the said measures.

Member States shall calculate the number of hectares to be included in the calculation of the single payment as the number of olive GIS-ha obtained by a common method to be established in accordance with the procedure referred to in Article 144(2) and on the basis of data from the geographic information system for olive cultivation, excluding the number of olive GIS-ha of additional trees planted outside an approved planting scheme after 1 May 1998, except for Cyprus and Malta, for which the date shall be 31 December 2001.

I. Raw tobacco

Where a farmer has received a tobacco premium payment, the amount to be included in the reference amount shall be calculated by multiplying the three-year average number of kilograms from which such a payment was granted, by the weighted three-year average aid amount granted per kilogram, taking into account the total quantity of raw tobacco of all variety groups and multiplied by a 0.4 coefficient. Member States may decide to increase this coefficient.

As from 2010 the coefficient shall be 0.5.

The number of hectares to be included in calculation of the single payment shall correspond to the area indicated in the registered cultivation contracts for which the premium payment has been granted, respectively, in each year of the reference period, and within the limits of a base area to be fixed by the Commission on the basis of the total area as communicated to the Commission in accordance with Annex I, 1.3 of Commission Regulation (EC) No 2636/1999⁽²⁴⁾.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 864/2004. (See end of Document for details)

Where the aid payments during the reference period have been affected by an application of the measures laid down in Article 50 of Regulation (EEC) No 2848/98, the calculation mentioned in the third subparagraph shall be adjusted as follows:

- where the premium has been partly or totally reduced, the amounts of payment to be taken into account for the year concerned shall be equal to the amounts which would have been granted without the reduction,
- where the production quota has been partly or totally reduced, the amounts of payment to be taken into account for the year concerned shall be equal to the premium amounts that would have been granted in the preceding year, without the reduction of the premium, provided that the production area indicated in the last cultivation contract was not used for the cultivation of a crop eligible under any other direct support scheme in the year concerned.

J. Hops

Where a farmer has received hops area aid or temporary resting aid, Member States shall calculate the amounts to be included in the reference amount by multiplying the number of hectares, to two decimal places, for which a payment has been granted, respectively, in each year of the reference period, by an amount of EUR 480 per hectare.;

- 6) Annex VIII shall be replaced by the following:

"ANNEX VIII

National ceilings referred to in Article 41

MIO EUR				
Member State	2005	2006	2007, 2008 and 2009	2010 and subsequent years
Belgium	411	413	530	530
Denmark	838	838	996	996
Germany	4489	4503	5492	5496
Greece	837	1700	1722	1760
Spain	3244	4043	4241	4253
France	7199	7231	8091	8099
Ireland	1 136	1 136	1322	1 322
Italy	2539	3112	3464	3497
Luxembourg	27	27	37	37
Netherlands	386	386	779	779
Austria	613	614	712	712
Portugal	452	493	559	561
Finland	467	467	552	552

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 864/2004. (See end of Document for details)

Sweden	612	612	729	729
United Kingdom	3 351	3 351	3869	3 869

"..

„

- 7) Annex VIIIA shall be replaced by the following:

"ANNEX VIIIA

National ceilings referred to in Article 71c

The ceilings have been calculated taking account of the schedule of increments provided for in Article 143a, and therefore do not require to be reduced.

(millions of euro)										
Calendar year	Czech Republic	Estonia	Cyprus	Latvia	Lithuania	Hungary	Malta	Poland	Slovenia	Slovakia
2005	228,8	23,4	8,9	33,9	92,0	350,8	0,67	724,6	35,8	97,7
2006	266,7	27,3	12,5	39,6	107,3	420,2	0,83	881,7	41,9	115,4
2007	343,6	40,4	16,3	55,6	146,9	508,3	1,64	1 140,8	56,1	146,6
2008	429,2	50,5	20,4	69,5	183,6	634,9	2,05	1 425,9	70,1	183,2
2009	514,9	60,5	24,5	83,4	220,3	761,6	2,46	1 711,0	84,1	219,7
2010	600,5	70,6	28,6	97,3	257,0	888,2	2,87	1 996,1	98,1	256,2
2011	686,2	80,7	32,7	111,2	293,7	1 014,9	3,28	2 281,1	112,1	292,8
2012	771,8	90,8	36,8	125,1	330,4	1 141,5	3,69	2 566,2	126,1	329,3
subsequent years	857,5	100,9	40,9	139,0	367,1	1 268,2	4,10	2 851,3	140,2	365,9

".

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 864/2004. (See end of Document for details)

- (1) [OJ L 291, 19.11.1979, p. 174](#). Protocol as last amended by Regulation (EC) No 1050/2001 ([OJ L 148, 1.6.2001, p. 1](#)).
- (2) [OJ L 236, 23.9.2003, p. 17](#).
- (3) [OJ L 236, 23.9.2003, p. 33](#).
- (4) Opinion delivered on 10 March 2004 (not yet published in the Official Journal).
- (5) Opinion delivered on 26 February 2004 (not yet published in the Official Journal).
- (6) [OJ L 270, 21.10.2003, p. 1](#). Regulation as last amended by Regulation (EC) No 583/2004 ([OJ L 91, 30.3.2004, p. 1](#)).
- (7) [OJ L 210, 28.7.1998, p. 32](#). Regulation as last amended by the 2003 Act of Accession.
- (8) [OJ L 160, 26.6.1999, p. 80](#). Regulation as last amended by Regulation (EC) No 1783/2003 ([OJ L 270, 21.10.2003, p. 70](#)).
- (9) [OJ L 215, 30.7.1992, p. 85](#).
- (10) [OJ L 157, 30.5.1998, p. 7](#).";
- (11) [OJ L 297, 21.11.1996, p. 1](#).
- (12) [OJ L 297, 21.11.1996, p. 29](#).";
- (13) See page ... of this Official Journal.
- (14) [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](#)).
- (15) [OJ L 200, 8.8.1977, p. 1](#). Regulation as last amended by the 2003 Act of Accession.";
- (16) [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](#)).";
- (17) [OJ L 148, 1.6.2001, p. 3](#).";
- (18) [OJ L 291, 19.11.1979, p. 174](#).
- (19) [OJ L, 191, 13.7.2001, p. 10](#).
- (20) [OJ L 184, 13.7.2002, p. 5](#).
- (21) [OJ L 170, 9.7.2003, p. 8](#).
- (22) [OJ L 262, 14.10.2003, p. 11](#).
- (23) [OJ L 210, 28.7.1998, p. 32](#).
- (24) [OJ L 323, 15.12.1999, p. 4](#).";

Changes to legislation:

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