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From: General Secretariat of the Council
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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 1308/2013 and Regulation (EU) No 1306/2013 as regards the aid scheme for the supply of fruit and vegetables, bananas and milk in the educational establishments
Proposal for a COUNCIL REGULATION amending Regulation (EU) No 1370/2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products
- Delegations' comments to the Presidency revised texts

Following the Working Party on Horizontal Agricultural Questions on 16 September 2015, delegations will find in Annex the comments from the Irish delegation.

Comments from the Irish delegation

| Fixing Regulation | | |
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| Article | Revised Text | Ireland obs – quick ref |
| 5(0) Total Amount of Union Aid | The Union aid allocated for the distribution of products, the supporting accompanying educational measures and the related costs referred to in Article 23(1) of Regulation (EU) No 1308/2013, without prejudice to taking into account the transfers referred to in paragraph 4 of this Article, shall not exceed: (a) for products referred to in Article 23(2)(a) of Regulation (EU) No 1308/2013 ("school fruit and vegetables"), including bananas : EUR 150 million per school year; (b) for products referred to in Article 23(2)(b) of Regulation (EU) No 1308/2013 ("school milk") : EUR 80 [100] million per school year. | Ireland has no objections to this amendment as it reflects the current regime (Council Reg1370/2013). |
| 5(0)a first subpara Maximum Union Aid for the financing of accompanying measure | <i>Union aid for the financing of accompanying educational measures as referred to in point (b) of Article 23(1) of Regulation (EU) No 1308/2013 shall not exceed [15%] of Member States' annual definitive allocations referred to in paragraph 6 of this Article. The Commission shall adopt implementing acts fixing the maximum level of Union aid per category of related costs as referred to in point (c) of Article 23(1) of Regulation (EU) No 1308/2013 as a percentage of Member States' annual definitive allocations or as a percentage of the costs of the products. When fixing those maximum levels, the Commission shall ensure that Union aid for such costs in total does not exceed [10 %] of both of Member States' annual definitive allocations referred to in paragraph 6 of this Article.</i> | Ireland supports this amendment and believes implementing acts are the appropriate mechanism for fixing union aid for accompanying measures and other costs. Re. the level of union aid proposed for the financing of accompanying measures i.e. 15% in square brackets, Ireland proposes that this percentage be increased to 30% in line with GREX recommendations (GREX Recommendations on the 2 nd April 2014 on the implementation of the SFVS). |

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| <p>5(0)a second subpara Maximum union aid per portion</p> | <p><i>[A provision will be developed to the effect of setting the level of Union aid that may be paid per child /quantity towards the cost for the supply and distribution of school fruit and vegetables and school milk distributed under the scheme]</i></p> | <p>In relation to the SFVS, Ireland believes that setting the level of Union aid that may be paid toward products on a “per child basis” will be compatible with the Food Dudes Model as operated in Ireland and is preferable to the setting of aid on a “per portion model”.</p> <p>In relation to the SMS, a per portion basis may be more appropriate given its evolution and products typically utilised.</p> |
| <p>5(2) first subpara criteria for allocation of aid</p> | <p>The aid referred to in Article 23(1) paragraph 0 shall be allocated to each Member State <i>in accordance with paragraph 3 and</i> taking into account the following <i>criteria</i>:</p> <ul style="list-style-type: none"> • for fruit and vegetables including bananas: objective criteria based on: the number of six-to ten-year old children in that Member State, • (ii) the degree of development of the regions within a Member State in order to ensure higher aid to less developed regions within the meaning of Article 3(5) of this Regulation, the outermost regions listed in Article 349 of the Treaty and the smaller Aegean Islands within the meaning of Article 1(2) of Regulation (EU) No 229/2013, and • <i>in addition, for school milk, the historical use of Union aid funds under previous schemes for the supply of milk and milk products to children and objective criteria based on the number of six to ten-year old children in that Member State.</i> | <p>In relation to the SFVS, Ireland supports this amendment as it reflects the current regime (Council Regulation 1308/2013- Article 23(5)).</p> <p>In relation to the SMS, it would be helpful to see what the data relays in terms of an outcome from this text. Presentation of the data using various scenarios (50/50 v other) would inform MS as to what a mixing of the criteria (historic and objective) for the SMS would mean in practice for MS. Before Ireland can consider that both criteria should be used it would have to examine the data compiled in detail.</p> |
| <p>5(2) second subpara: Minimum envelope for each Member State</p> | <p><i>However, Member States shall each receive at least EUR 290 000 of Union aid for the distribution of school fruit and vegetables, and at least EUR [155 000]/ [193 000] of Union aid for the distribution of school milk.</i></p> | <p>Ireland supports this amendment as it reflects the current regime (Council Regulation 1370/2013)</p> |

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| <p>5(3)</p> | <p><i>On the basis of the criteria laid down in paragraph 2, the Commission shall adopt implementing acts fixing the indicative allocations to each Member State of the aid referred to, respectively, in points (a) and (b) of paragraph 0.</i></p> <p>The Commission shall assess at least every three years whether those indicative allocations for fruit and vegetables including bananas and for milk remain consistent with the objective criteria referred to in this paragraph 2. <i>Where necessary, the Commission shall adopt implementing acts fixing new indicative allocations.</i></p> <p><i>The implementing acts referred to in this paragraph shall be adopted in accordance with the examination procedure referred to in Article 15(2).</i></p> | <p>Re. SFVS – Ireland has no objections to this amendment as it reflects the current regime (Council Regulation 1370/2013)</p> |
| <p>5(4) Transfers</p> | <p>Without exceeding the global ceiling of EUR 230 [250] million resulting from the amounts referred to under points (a) and (b) of paragraph 1 0, any Member States may transfer annually up to 15% [20%] of their its indicative allocations for school fruit and vegetables including bananas or for school milk to the other sector under the conditions referred to in Article 24(2)(b). <i>In such case, the Member State concerned shall not, in its annual request for aid referred to in Article 23(7a) of Regulation (EU) No 1308/2013, request an amount of aid exceeding the remaining part of its indicative allocation for the sector from which funds have been transferred.</i></p> | <p>Ireland supports this amendment. It welcomes the proposed increase in the ceiling from Eur 230m to Eur 250m reflecting the increase in milk envelope from Eur 80m to Eur 100m. It also welcomes the proposed increase from 15% to 20% in the amount of allocation of aid that can be transferred between the SFVS envelope and the SMS envelope.</p> |

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| <p>5(5) reallocation</p> | <p><i>Member States have not applied for the participation in the school scheme as referred to in Article 23(7a) of Regulation (EU) No 1308/2013 or have, in their requests for the Union aid submitted to the Commission pursuant to that Article, requested only part of their indicative allocation referred to in paragraph 3, the Commission shall reallocate that indicative allocation or the unrequested part thereof to those Member States who have notified it of their willingness to use more than their indicative allocation.</i></p> <p><i>The Commission shall, by means of implementing acts, adopt the measures necessary for carrying out such reallocation, which shall be based on the criterion referred to in point (a)(i) of paragraph 2 and limited according to the level of use of the definitive allocation of Union aid, referred to in paragraph 6, by the Member State concerned for the school year that ended prior to the annual request for the Union aid.</i></p> <p><i>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2) of this Regulation.</i></p> | <p>Ireland supports this amendment and believes implementing acts are an appropriate mechanism for adopting the necessary measures to carry out reallocation of aid.</p> |
| <p>5(6) Fixing of definitive allocations</p> | <p><i>Following the requests of the Member States in accordance with Article 23(7a) of Regulation (EU) No 1308/2013, the Commission shall each year adopt implementing acts fixing the definitive allocation of aid for school fruit and vegetables and for school milk between participating Member States within the limits set out in paragraph 0, taking account of the transfers referred to in paragraph 4 of this Article.</i></p> <p><i>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2) of this Regulation.</i></p> | <p>Ireland has no objections to this amendment as it is in line with current regime (Council Regulation 1370/2013).</p> |

| Single CMO Regulation | | |
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| Article | Revised Text | Ireland obs – quick ref |
| 23 (1) List of eligible product and role of National Health Authorities | <p>Union aid shall be granted in respect of children in the educational establishments referred to in Article 22:</p> <p>(a) for the supply of fruit and vegetables, bananas, and milk products referred to in paragraph 2;</p> <p>(b) for supporting accompanying educational measures; and</p> <p>(c) to cover certain related costs linked to logistics and distribution, equipment, publicity, monitoring and evaluation.</p> | Ireland has no objections to this amendment as it reflects the current regime (Council Reg1308/2013). |
| 23 (2) List of eligible product and role of National Health Authorities | <p>Member States wishing to participate in the aid scheme established in paragraph 1 ("the school scheme") may distribute either <i>or both of the following:</i></p> <p>(a) <i>products of the</i> fruit and vegetables, <i>processed fruit and vegetable products</i> and including <i>bananas sectors ("school fruit and vegetables");</i></p> <p>(b) or <i>milk and certain processed milk products</i> falling within CN codes 0401, 0403, 0404 90, 0406 and 2202 90 (<i>"school milk"</i>). or both.</p> | <p>Re 23 (2)(a) – While Ireland does not propose to distribute processed fruit and vegetables under the Irish SFVS, it has no objections to this amendment as it reflects the current regime (Council Reg1308/2013).</p> <p>Re 23 (2)(b) Ireland's preference would be toward using less processed products. As such it would prefer that the focus were on drinking milk (0401), yoghurt (0403) and cheese (0406).</p> |
| Annex V List of eligible product and role of National Health Authorities | <p><i>Products listed in Annex V shall be excluded from the school scheme. However, for school fruit and vegetables, in duly justified cases, such as where a Member State wants to ensure a broad assortment of products or wants to make its scheme more attractive, its strategy may provide that such products may become eligible if only limited amounts of the substances referred to in that Annex are added. Member States shall ensure that competent health authorities endorse the list of such products that are eligible under their scheme.</i></p> <p>PART I</p> <p><i>As regards point (a) of Article 23(2), products with any of the following:</i></p> <ul style="list-style-type: none"> - added sugar, - added fat, - added salt, - added sweeteners. | Annex V Parts 1 & 2 - Ireland supports this amendment and believes the inclusion of an Annex V will act as a safeguard against the distribution of unsuitable products. It provides a framework for any consultation with National Health Authorities on the selection of products. |

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| | <p>PART II</p> <p>1. As regards point (b) of Article 23(2), products falling within:</p> <p>(a) CN codes 0403 and 0404 90:</p> <p>(i) products containing less than 90 % by weight of milk and containing more than 7 % of added sugar and/or honey;</p> <p>(ii) flavoured and non-flavoured milk products with fruit, fermented or not, containing less than 75 % by weight of milk and containing more than 7 % of added sugar and/or honey;</p> <p>(b) CN code 0406: fresh and processed cheeses, containing more than 10 % of non-lactic ingredients;</p> <p>(c) CN code 2202 90: products containing less than 90 % by weight of milk and containing more than 7 % of added sugar and/or honey.</p> <p>2. For the purpose of this Part, sugar shall mean the items listed under CN codes 1701 and 1702. In the products covered by this Part, sweeteners shall be used in accordance with Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives.</p> | |
| 23(7) | Member States shall, in order to promote healthy eating habits, ensure that their competent health authorities endorse are consulted on the list of all the products supplied under the school scheme and decide on their nutritional aspects. ¹² | Ireland supports this amendment. It believes that as Annex V has now been reinstated, it is no longer necessary for National Health Authorities to endorse the list of products supplied under the school scheme and consultation is sufficient. |
| 23 (3) National Strategy | As a condition for its participation in the school scheme, a Member State shall draw up, prior to its participation in the school scheme, and subsequently every six years, at national or regional level, a strategy for the implementation of the scheme. The strategy may be amended by the Member State, in particular in the light of monitoring and evaluation. The strategy shall at least identify the needs to be met, the ranking of the needs in terms of priorities, the target population, and the results expected and the quantified targets to be attained achieved in relation to the initial situation, and lay down the most appropriate instruments and actions for attaining those objectives | Ireland has in principle no objections to this amendment. It may require further detail on the text of the provision at a later date |

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| 23a (7b) National Schemes | The school scheme shall be without prejudice to any separate national school schemes which are compatible with Union law. Union aid provided for in paragraph 1 may be used to extend the scope or effectiveness of any existing national school schemes or school distribution schemes providing <i>school</i> fruit and vegetables including bananas , and <i>school</i> milk but shall not replace funding for these existing national schemes. If the Member State decides to extend an existing national school scheme or make it more effective by applying for Union funds, it shall indicate in its implementation strategy how this will be achieved. | Ireland has no objections to this amendment as it reflects the current regime (Council Reg1308/2013). Regarding the reference to paragraph 1, presume this is a reference to Article 23 paragraph 1 as paragraph 1 of 23a is deleted. If this is the case would suggest the words “of Article 23” be inserted after the words paragraph 1. |
| 23a (7c) National Schemes | Member States may, in addition to Union aid, grant national aid in accordance with Article 217. | Ireland has no objections to this amendment as it reflects the current regime (Council Reg1308/2013). |
| 23a (7d) National Schemes | The Union may also finance, pursuant to Article 6 of Regulation (EU) No 1306/2013, information, monitoring and evaluation measures relating to the school scheme, including raising public awareness of it, and related networking measures | Ireland has no objections to this amendment as it reflects the current regime (Council Reg1308/2013). |
| 23(4) Accompanying Educational Measures | Member States shall, in order to make the school scheme effective, also provide for supporting <i>accompanying</i> educational measures, which may include measures and activities aimed at connecting children with agriculture and a wider variety of agricultural products, educating about related issues, such as healthy eating habits, local food chains, organic farming or combating food waste. | Ireland would suggest the insertion of the following text at the end of the paragraph “ <i>or any other accompanying measures that support the distribution of products under the school scheme</i> ” |
| 23(5) Accompanying Educational Measures | When drawing up their strategies, Member States shall determine a list of agricultural products, in addition to fruit and vegetables, bananas and milk <i>the products referred to in paragraph 2</i> , that may be included under the supporting <i>accompanying</i> educational measures. | Ireland has no objections to this amendment as it reflects the current regime (Council Reg1308/2013). |

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| <p>23(6) Accompanying Educational Measures</p> | <p>Member States shall choose the products to be featured in the distribution or to be included in supporting accompanying educational measures on the basis of objective criteria which may include the health and environmental considerations, seasonality, variety, or availability of local <i>or regional</i> produce, giving priority to the extent practicable to products originating in the Union, particularly to local <i>or regional</i> purchasing, organic products, short supply chains or environmental benefits.</p> | <p>Ireland has no objections to this amendment as it reflects the current regime (Council Reg1308/2013).</p> |
| <p>23(7a) applications for Union Aid</p> | <p>Member States shall apply every year for the participation in the school scheme by submitting their request for the Union aid, specifying the amount requested for <i>school</i> fruit and vegetables including bananas, and the amount requested for <i>school</i> milk that they wish to distribute. <i>Where appropriate, they shall also specify the amount of the transfers between indicative allocations referred to in Article 5(4) of Regulation (EU) No 1370/2013, and give the reasons therefor.</i></p> | <p>Ireland has no objections to this amendment as it reflects the current regime (Council Reg1308/2013).</p> |
| <p>24 (1) (3) & (4) Delegated Powers</p> | <p>In order to promote the healthy eating habits of children and to ensure that the aid under the school scheme is aimed at children in the target group referred to in Article 22, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning rules on:</p> <ul style="list-style-type: none"> (a) the additional criteria related to the targeting of aid by Member States; (b) the approval and selection of aid applicants by Member States; (c) the drawing-up of the national or regional strategies and on the supporting accompanying educational measures. <p>In order to promote awareness of the school scheme the Commission shall be empowered to adopt delegated acts in accordance with Article 227 requiring Member States with a school scheme to publicise the subsidising role of the Union aid.</p> <p>In order to ensure the added value and the visibility of the Union scheme,</p> | <p>Ireland has no objections to this amendment as it reflects the current regime (Council Reg1308/2013).</p> |

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| | the Commission shall be empowered to adopt delegated acts in accordance with Article 227 in respect of the rules concerning the distribution of products in relation to the provision of other meals in educational establishments. | |
| 24(5) Delegated Powers | Taking into account the need to ensure the Union aid is reflected in the price at which the products are available under the school scheme, the Commission shall be empowered to adopt delegated acts in accordance with Article 227, requiring Member States to explain in their strategy how this will be achieved. | Ireland has no objections to this amendment/provision |
| 25 Implementing Powers | <p>The Commission shall, by means of implementing acts, adopt the measures necessary for the application of this Section including:</p> <p>(a) the definitive allocation of aid for fruit and vegetables including bananas and/or for milk between participating Member States within the limits set out in Article 23a(1), taking account of the transfers referred to in Article 23a(4);</p> <p>(b) the information to be contained in Member States' strategies;</p> <p>(c) the aid applications and payments;</p> <p>(d) the methods of publicising, and networking measures in respect of, the school scheme;</p> <p>(e) the submission, format and content of annual requests for aid transfers between indicative allocations as referred to in Article 23a(4), monitoring and evaluation reports by Member States participating in the school scheme;"</p> <p><i>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).</i></p> | Ireland supports this amendment and notes it reflects the current regime. |