

Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (repealed)

PART I

**INTRODUCTORY PROVISIONS**

*Article 1*

**Scope**

1 This Regulation establishes a common organisation of the markets for the products of the following sectors, as provided further in Annex I:

- a cereals, Part I of Annex I;
- b rice, Part II of Annex I;
- c sugar, Part III of Annex I;
- d dried fodder, Part IV of Annex I;
- e seeds, Part V of Annex I;
- f hops, Part VI of Annex I;
- g olive oil and table olives, Part VII of Annex I;
- h flax and hemp, Part VIII of Annex I;
- i fruit and vegetables, Part IX of Annex I;
- j processed fruit and vegetables, Part X of Annex I;
- k bananas, Part XI of Annex I;
- l wine, Part XII of Annex I;
- m live plants and products of floriculture, Part XIII of Annex I (hereinafter referred to as the live plants sector);
- n raw tobacco, Part XIV of Annex I;
- o beef and veal, Part XV of Annex I;
- p milk and milk products, Part XVI of Annex I;
- q pigmeat, Part XVII of Annex I;
- r sheepmeat and goatmeat, Part XVIII of Annex I;
- s eggs, Part XIX of Annex I;
- t poultrymeat, Part XX of Annex I;
- u other products, Part XXI of Annex I.

[<sup>F12</sup> In respect of the wine sector, only Article 195 of this Regulation shall apply.]

3 This Regulation establishes specific measures for the following sectors as listed and, as the case may be, as further defined in Annex II:

- a ethyl alcohol of agricultural origin, Part I of Annex II (hereinafter referred to as the agricultural ethyl alcohol sector);
- b apiculture products, Part II of Annex II (hereinafter referred to as the apiculture sector);
- c silkworms, Part III of Annex II.

*Status: Point in time view as at 01/10/2008.*

*Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

[<sup>F24</sup> In respect of potatoes, fresh or chilled of CN code 0701, Chapter II of Part IV shall apply.]

#### Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).
- F2** Inserted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

### Article 2

#### Definitions

- 1 For the purposes of application of this Regulation, the definitions concerning certain sectors as set out in Annex III shall apply.
- 2 For the purposes of this Regulation:
- a 'farmer' shall mean a farmer as defined in Regulation (EC) No 1782/2003;
  - b 'paying agency' shall mean the body or the bodies assigned by a Member State in accordance with Regulation (EC) No 1290/2005;
  - c 'intervention price' shall mean the price at which products shall be bought into public intervention.

### Article 3

#### Marketing years

The following marketing years shall be established:

- (a) 1 January to 31 December of a given year for the banana sector;
- (b) 1 April to 31 March of the following year for:
  - (i) the dried fodder sector;
  - (ii) the silkworm sector;
- (c) 1 July to 30 June of the following year for:
  - (i) the cereals sector;
  - (ii) the seeds sector;
  - (iii) the olive oil and table olives sector;
  - (iv) the flax and hemp sector;
  - (v) the milk and milk products sector;
- (d) 1 September to 31 August of the following year for the rice sector;
- (e) 1 October to 30 September of the following year for the sugar sector.

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[<sup>F2</sup>For products of the fruit and vegetables and processed fruit and vegetables sectors, the marketing years shall, if necessary, be fixed by the Commission.]

**Textual Amendments**

- F2** Inserted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

*Article 4*

**Commission powers**

Save as otherwise provided for by this Regulation, where powers are conferred upon the Commission, it shall act in accordance with the procedure referred to in Article 195(2).

*Article 5*

**Implementing rules**

The Commission may adopt the detailed rules for the application of Article 2.

The Commission may amend the definitions concerning rice set out in Part I of Annex III and the definition of ‘ACP/Indian sugar’ set out in point 12 of Part II of that Annex.

The Commission may also fix the conversion rates for rice at various stages of processing, the processing costs and the value of by-products.

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## PART II

### INTERNAL MARKET

#### TITLE I

#### MARKET INTERVENTION

##### CHAPTER I

##### Public intervention and private storage

###### *Section I*

###### **General provisions**

###### *Article 6*

###### **Scope**

1 This Chapter lays down the rules concerning, where applicable, buying-in under public intervention and the granting of aids for private storage with regard to the following sectors:

- a cereals;
- b rice;
- c sugar;
- d olive oil and table olives;
- e beef and veal;
- f milk and milk products;
- g pigmeat;
- h sheepmeat and goatmeat.

2 For the purposes of this Chapter:

- a 'cereals' shall mean cereals harvested in the Community;
- b 'milk' shall mean cow's milk produced in the Community;
- [<sup>F3</sup>c 'skimmed milk' shall mean skimmed milk obtained directly and exclusively from cow's milk produced in the Community;]
- d 'cream' shall mean cream obtained directly and exclusively from milk.

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#### **Textual Amendments**

- F3** Deleted by Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).

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## Article 7

### Community origin

Without prejudice to Article 6(2) only products originating in the Community shall be eligible for buying-in under public intervention or for the granting of aid for the private storage thereof.

## Article 8

### Reference prices

1 For products subject to the intervention measures referred to in Article 6(1) the following reference prices shall be fixed:

a as regards the cereals-sector:

EUR 101,31/tonne, increased monthly as follows:

- November: by EUR 0,46/tonne,
- December: by EUR 0,92/tonne,
- January: by EUR 1,38/tonne,
- February: by EUR 1,84/tonne,
- March: by EUR 2,3/tonne,
- April: by EUR 2,76/tonne,
- May: by EUR 3,22/tonne,
- June: by EUR 3,22/tonne.

The reference price valid for maize and grain sorghum in June shall remain valid in July, August and September of the same year;

b as regards paddy rice, EUR 150/tonne for standard quality as defined in point A of Annex IV;

c as regards sugar:

(i) for white sugar:

- EUR 541,5/tonne for the marketing year 2008/2009,
- EUR 404,4/tonne as from the marketing year 2009/2010;

(ii) for raw sugar:

- EUR 448,8/tonne for the marketing year 2008/2009,
- EUR 335,2/tonne as from the marketing year 2009/2010.

The reference prices laid down in points (i) and (ii) shall apply to unpacked sugar, ex factory of standard quality as defined in point B of Annex IV;

d as regards the beef and veal sector, EUR 2 224/tonne for carcasses of male bovine animals of grade R3 as laid down in the Community scale for the classification of carcasses of adult bovine animals provided for in Article 42(1)(a);

e as regards the milk and milk products sector:

(i) EUR 246,39 per 100 kg for butter;

(ii) [<sup>F1</sup>EUR 169,80 per 100 kg for skimmed milk powder;]

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- f as regards the pigmeat sector, EUR 1 509,39/tonne for pig carcasses of standard quality defined in terms of weight and lean meat content in accordance with the Community scale for the classification of pig carcasses, provided for in Article 42(1)(b) as follows:
- (i) carcasses weighing from 60 to less than 120 kg: grade E as laid down in point B II of Annex V;
  - (ii) carcasses weighing from 120 to 180 kg: grade R as laid down in point B II of Annex V.

2 The reference prices for cereals and rice set out in points (a) and (b) of paragraph 1 respectively, shall relate to the wholesale stage for goods delivered to the warehouse, before unloading. Those reference prices shall be valid for all Community intervention centres designated in accordance with Article 41.

3 The Council, acting in accordance with the procedure laid down in Article 37(2) of the Treaty, may change the reference prices fixed in paragraph 1 of this Article in the light of developments in production and the markets.

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#### **Textual Amendments**

- F1** Substituted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

### *Article 9*

#### **Price reporting in the sugar market**

The Commission shall set up an information system on prices in the sugar market, including a system for the publication of price levels for the sugar market.

The system shall be based on information submitted by undertakings producing white sugar or by other operators involved in the sugar trade. This information shall be treated with confidentiality.

The Commission shall ensure that the information published does not permit the identification of prices of individual undertakings or operators.

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## Section II

### Public intervention

#### Subsection I

### General provisions

#### Article 10

### Products eligible for public intervention

1 Public intervention shall be applicable in respect of the following products subject to the conditions laid down in this Section and further requirements and conditions to be determined by the Commission in accordance with Article 43:

- a common wheat, durum wheat, barley, maize and sorghum;
  - b paddy rice;
  - c white or raw sugar provided that the sugar concerned has been produced under quota and manufactured from beet or cane harvested in the Community;
  - d fresh or chilled meat of the beef and veal sector falling within CN codes 0201 10 00 and 0201 20 20 to 0201 20 50;
  - e butter produced directly and exclusively from pasteurised cream in an approved undertaking of the Community of a minimum butterfat content, by weight, of 82 % and a maximum water content, by weight, of 16 %;
- [<sup>F1</sup>f skimmed milk powder of top quality made from milk in an approved undertaking in the Community by the spray process, with a minimum protein-content of 34,0 % by weight of the fat free dry matter.]

2 Public intervention may be applied in the pigmeat sector, subject to the conditions laid down in this Section and further requirements and conditions to be determined by the Commission in accordance with Article 43, in respect of carcasses or half-carcasses, fresh or chilled, falling within CN code 0203 11 10, bellies (streaky), fresh or chilled, falling within CN code ex 0203 19 15, and unrendered pig fat, fresh or chilled, falling within CN code ex 0209 00 11.

#### Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

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## *Subsection II*

### **Opening and suspension of buying-in**

#### *Article 11*

##### **Cereals**

- 1 For cereals, public intervention shall be open:
  - a from 1 August to 30 April in the case of Greece, Spain, Italy and Portugal;
  - b from 1 December to 30 June in the case of Sweden;
  - c from 1 November to 31 May in the case of the other Member States.

However, buying into public intervention of maize shall only be carried out within the following limits:

- a 700 000 tonnes for the marketing year 2008/2009;
  - b 0 tonnes as from the marketing year 2009/2010.
- 2 In the event of the intervention period in Sweden leading to the diversion of such cereals from other Member States into intervention in Sweden, the Commission shall adopt measures to rectify the position.

#### *Article 12*

##### **Rice**

For paddy rice, public intervention shall be open during the period 1 April to 31 July. However, buying into public intervention shall only be carried out within the limit of 75 000 tonnes per period.

#### *Article 13*

##### **Sugar**

- 1 For sugar, public intervention shall be open throughout the marketing years 2008/2009 and 2009/2010. However, public intervention shall only be carried out within the limits of 600 000 tonnes, expressed in white sugar, per marketing year.
- 2 Sugar stored in accordance with paragraph 1 during a marketing year may not be subject to any other storage measures provided for in Articles 32, 52 or 63.

#### *Article 14*

##### **Beef and veal**

- 1 The Commission, without the assistance of the Committee referred to in Article 195(1), shall open public intervention for beef and veal if, for a period of two consecutive weeks, the average market price in a Member State or in a region of a Member State recorded on the basis of the Community scale for the classification of carcasses provided for in Article 42(1) falls short of EUR 1 560/tonne.



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2 The Commission, without the assistance of the Committee referred to in Article 195(1), shall close the public intervention if, for a period of at least one week, the condition provided for in paragraph 1 is no longer met.

### *[<sup>F1</sup>Article 15*

#### **Butter**

1 For butter, public intervention shall be open during the period 1 March to 31 August.

2 Where the quantities offered for intervention during the period laid down in paragraph 1 exceed 30 000 tonnes, the Commission may suspend buying-in by public intervention. In that case buying-in may be carried out on the basis of a tendering procedure according to specifications to be determined by the Commission.]

#### **Textual Amendments**

- F1** Substituted by Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).

### *Article 16*

#### **Skimmed milk powder**

For skimmed milk powder public intervention shall be open during the period 1 March to 31 August.

However, the Commission may suspend public intervention as soon as the quantities offered for intervention in that period exceed 109 000 tonnes. In that case buying-in may be carried out on the basis of a tendering procedure according to specifications to be determined by the Commission.

### *Article 17*

#### **Pigmeat**

The Commission may decide to open public intervention in the pigmeat sector when the average Community market price for pig carcasses as established by reference to the prices recorded in each Member State on the representative markets of the Community and weighted by means of coefficients reflecting the relative size of the pig herd in each Member State, is, and is likely to remain, at less than 103 % of the reference price.

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### *Subsection III*

## **Intervention Price**

### *Article 18*

#### **Cereals**

The intervention price for cereals shall be equal to the reference price without prejudice to price increases or reductions for quality reasons.

### *Article 19*

#### **Rice**

The intervention price for rice shall be equal to the reference price.

However, if the quality of the products offered to the paying agency differs from the standard quality, defined in point A of Annex IV, the intervention price shall be increased or reduced accordingly.

Moreover, increases and reductions of the intervention price may be fixed by the Commission in order to ensure that production is orientated towards certain varieties.

### *Article 20*

#### **Sugar**

The intervention price for sugar shall be 80 % of the reference price fixed for the marketing year following the marketing year during which the offer is lodged.

However, if the quality of the sugar offered to the paying agency differs from the standard quality defined in point B of Annex IV for which the reference price is fixed, the intervention price shall be increased or reduced accordingly.

### *Article 21*

#### **Beef and veal**

1 The intervention prices for beef and veal and the quantities accepted for intervention shall be determined by the Commission by means of tendering procedures. In special circumstances, they may be fixed per Member State or per region of a Member State on the basis of recorded average market prices.

2 Only offers equal to or less than the average market price recorded in a Member State or a region of a Member State and increased by an amount to be determined by the Commission on the basis of objective criteria may be accepted.

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## [<sup>F1</sup>Article 22

### **Butter**

Without prejudice to the fixing of the intervention price by means of a tendering procedure in the case referred to in Article 15(2), the intervention price for butter shall be 90 % of the reference price.]

#### **Textual Amendments**

- F1** Substituted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

## Article 23

### **Skimmed milk powder**

Without prejudice to the fixing of the intervention price by means of a tendering procedure in the case referred to in the second paragraph of Article 16, the intervention price for skimmed milk powder shall be equal to the reference price.

[<sup>F3</sup> . . . . .]

#### **Textual Amendments**

- F3** Deleted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

## Article 24

### **Pigmeat**

1 The intervention price in the pigmeat sector shall be fixed by the Commission for pig carcasses of standard quality. The intervention price may not be more than 92 % or less than 78 % of the reference price.

2 For products of standard quality other than pig carcasses, the intervention price shall be derived from the intervention price for pig carcasses on the basis of the ratio existing between the commercial value of these products to the commercial value of pig carcasses.

3 For products other than those of standard quality, the intervention price shall be derived from those in force for the relevant standard qualities, by reference to differences in quality in relation to the standard quality. This price shall apply to defined qualities.

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#### *Subsection IV*

### ***Disposal from intervention***

#### *Article 25*

### **General principles**

Disposal of products bought into public intervention shall take place in such a way as to avoid any disturbance of the market, to ensure equal access to the goods and equal treatment of purchasers and in compliance with the commitments resulting from agreements concluded in accordance with Article 300 of the Treaty.

#### *Article 26*

### **Sugar disposal**

As regards sugar bought-in under public intervention, paying agencies may sell it only at a price which is higher than the reference price fixed for the marketing year in which the sale takes place.

However, the Commission may decide that paying agencies:

- (a) may sell the sugar at a price equal to or lower than the reference price referred to in the first paragraph if the sugar is intended:
  - (i) for use as animal feed, or
  - (ii) [<sup>F1</sup>for export, either without further processing or after processing into products listed in Annex I to the Treaty or into goods listed in Part III of Annex XX to this Regulation, or]
  - (iii) [<sup>F2</sup>for industrial use referred to in Article 62.]
- (b) are to make unprocessed sugar held by them available, for human consumption on the internal market of the Community, to charitable organisations — recognised by the Member State concerned or by the Commission in cases where a Member State has not recognised any such organisation — at a price which is lower than the current reference price or free of charge for distribution as part of individual emergency aid operations.

#### **Textual Amendments**

- F1** Substituted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).
- F2** Inserted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

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## Article 27

### **Distribution to the most deprived persons in the Community**

1 Products which are in intervention stocks shall be made available to certain designated organisations to enable food to be distributed to the most deprived persons in the Community in accordance with an annual plan.

The distribution shall be:

- a free of charge, or
- b at a price which is in no case greater than that justified by the costs incurred by the designated organisations in implementing the action.

2 A product may be mobilised on the Community market where:

- a it is temporarily unavailable in Community intervention stocks during implementation of the annual plan referred to in paragraph 1, to the extent necessary to allow implementation of the plan in one or more Member States, and provided that the costs remain within the limits of the costs provided for in the Community budget for that purpose, or
- b implementation of the plan would involve the transfer between Member States of small quantities of products in intervention in a Member State other than that or those in which the product is required.

3 Member States concerned shall designate the organisations referred to in paragraph 1 and shall notify the Commission in due time each year if they wish to apply this scheme.

4 The products referred to in paragraphs 1 and 2 shall be released free of charge to the designated organisations. The accounting value of such products shall be the intervention price, adjusted by coefficients where necessary to take account of quality differences.

5 Without prejudice to Article 190, the products made available under paragraphs 1 and 2 of this Article shall be financed by appropriations in the relevant budgetary heading within the EAGF of the budget of the European Communities. Provision may also be made for this financing to contribute towards the costs of transport of products from intervention centres and for administrative costs for the designated organisations generated by the implementation of the scheme set out in this Article, excluding any costs which may be borne by the beneficiaries within the framework of the application of paragraphs 1 and 2.

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### Section III

#### Private storage

##### Subsection I

#### Mandatory aid

##### Article 28

#### Eligible products

Aid for private storage shall be granted for the following products subject to the conditions set out in this Section and to further requirements and conditions to be adopted by the Commission in accordance with Article 43:

- (a) <sup>[F1]</sup>in respect of:
- (i) unsalted butter produced from cream or milk in an approved undertaking of the Community of a minimum butterfat content, by weight, of 82 %, a maximum milk solids-non-fat content, by weight, of 2 % and a maximum water content, by weight, of 16 %,
  - (ii) salted butter produced from cream or milk in an approved undertaking of the Community of a minimum butterfat content, by weight, of 80 %, a maximum milk solids-non-fat content, by weight, of 2 %, a maximum water content, by weight, of 16 % and a maximum salt content, by weight, of 2 %.]
- (b) in respect of cheese:
- (i) *Grana Padano* cheese at least nine months old,
  - (ii) *Parmigiano Reggiano* cheese at least 15 months old,
  - (iii) *Provolone* cheese at least three months old.

#### Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

#### <sup>[F1]</sup>Article 29

#### Conditions and aid-level for butter

The amount of aid for butter shall be fixed by the Commission in the light of storage costs and the likely trends in prices for fresh butter and butter from stocks.

Where, at the time of removal from storage, an adverse change unforeseeable at the time of entry into storage has occurred on the market, the aid may be increased.]

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### Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

## Article 30

### Conditions and aid-level for cheese

The conditions for, and amount of, aid to be paid for cheese shall be laid down by the Commission. The amount of aid shall be fixed taking account of storage costs and the likely trend of the market price.

The paying agency designated by the Member State in which the cheeses concerned are produced and in which those cheeses qualify to bear the designation of origin shall implement the measures taken by the Commission pursuant to the first paragraph.

## Subsection II

### Optional Aid

## Article 31

### Eligible products

1 Aid for private storage may be granted in respect of the following products subject to the conditions set out in this Section and to further requirements and conditions to be adopted by the Commission in accordance with Article 43:

- a white sugar;
- b olive oil;
- c fresh or chilled meat of adult bovine animals presented in the form of carcasses, half-carcasses, compensated quarters, forequarters or hindquarters, classified in accordance with the Community scale for the classification of carcasses of adult bovine animals provided for in Article 42(1);
- <sup>F3</sup>d skimmed milk powder of top quality, obtained in an approved undertaking of the Community directly and exclusively from skimmed milk;
- e longkeeping cheeses and cheeses which are manufactured from sheep and/or goat's milk and require at least six months maturing;
- f pigmeat;
- g sheepmeat and goatmeat.

The Commission may amend the list of products laid down in point (c) of the first subparagraph if the market situation so requires

<sup>F12</sup> The Commission shall fix the aid for private storage provided for in paragraph 1 in advance or by means of tendering procedures.

*Status: Point in time view as at 01/10/2008.*

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In respect of the cheeses referred to in paragraph 1(e), the aid shall be fixed in the light of storage costs and the balance to be maintained between cheeses for which aid is granted and other cheeses coming on the market.]

#### Textual Amendments

- F1** Substituted by Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).
- F3** Deleted by Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).

#### Article 32

##### Conditions of granting for white sugar

1 If the average Community price recorded for white sugar is below the reference price, during a representative period, and is likely to remain at that level, taking into account the market situation, the Commission may decide to grant aid for private storage of white sugar to undertakings which are allocated a sugar quota.

2 Sugar stored in accordance with paragraph 1 during a marketing year may not be subject to any other storage measures provided for in Articles 13, 52 or 63.

#### Article 33

##### Conditions of granting for olive oil

The Commission may decide to authorise bodies, offering sufficient guarantees and approved by the Member States, to conclude contracts for the storage of olive oil that they market in the event of a serious disturbance on the market in certain regions of the Community, *inter alia*, when the average price recorded on the market during a representative period is less than:

- (a) EUR 1 779/tonne for extra virgin olive oil, or
- (b) EUR 1 710/tonne for virgin olive oil, or
- (c) EUR 1 524/tonne for lampante olive oil having 2 degrees of free acidity, this amount being reduced by EUR 36,7/tonne for each additional degree of acidity.

#### Article 34

##### Conditions of granting for products of the beef and veal sector

When the average Community market price recorded on the basis of the Community scale for the classification of carcasses of adult bovine animals provided for in Article 42(1) is, and is likely to remain, at less than 103 % of the reference price, the Commission may decide to grant aid for private storage.



*Status: Point in time view as at 01/10/2008.*

*Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

### <sup>F3</sup>Article 35

#### [<sup>F3</sup>Conditions of granting for skimmed milk powder]

##### Textual Amendments

- F3** Deleted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

### Article 36

#### Conditions of granting for cheese

1 If price developments and the stock situation for the cheese products referred to in point (e) of Article 31(1) indicate a serious imbalance of the market which may be eliminated or reduced by seasonal storage, the Commission may decide to grant aid for private storage.

2 If at the time the storage contract expires, the level of market prices for cheeses in store is higher than that prevailing when the contract was signed the Commission may decide to adjust the amount of aid accordingly.

### Article 37

#### Conditions of granting for pigmeat

When the average Community market price for pig carcasses as established by reference to the prices recorded in each Member State on the representative markets of the Community and weighted by means of coefficients reflecting the relative size of the pig herd in each Member State is, and is likely to remain, at less than 103 % of the reference price, the Commission may decide to grant aid for private storage.

### Article 38

#### Conditions of granting for sheepmeat and goatmeat

The Commission may decide to grant aid for private storage when there is a particularly difficult market situation for sheepmeat and goatmeat in one or more of the following quotation areas:

- (a) Great Britain;
- (b) Northern Ireland;
- (c) any Member State other than the United Kingdom, taken separately.

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#### *Section IV*

### **Common provisions**

#### *Article 39*

### **Rules concerning storage**

1 Paying agencies may not store, outside the territory of the Member State within whose jurisdiction they fall, products they have bought in unless they have obtained prior authorisation from the Commission.

The territories of Belgium and Luxembourg shall be considered as a single Member State for the purposes of this Article.

2 Authorisation shall be granted if storage is essential and taking into account the following factors:

- a storage possibilities and storage requirements in the Member State within whose jurisdiction the paying agency falls and in other Member States;
- b any additional costs resulting from storage in the Member State within whose jurisdiction the paying agency falls and from transportation.

3 Authorisation for storage in a third country shall be granted only if, on the basis of the criteria set out in paragraph 2, storage in another Member State would create significant difficulties.

4 The information referred to in point (a) of paragraph 2 shall be drawn up after consulting all the Member States.

5 Any customs duties and any other amounts to be granted or levied under the common agricultural policy shall not apply to products:

- a transported following an authorisation granted under paragraphs 1, 2 and 3, or
- b transferred from one paying agency to another.

6 Any paying agency acting in accordance with paragraphs 1, 2 and 3 shall remain responsible for products stored outside the territory of the Member State within whose jurisdiction it falls.

7 If products held by a paying agency outside the territory of the Member State within whose jurisdiction it falls are not brought back into that Member State, they shall be disposed of at the prices and subject to the conditions laid down or to be laid down for the place of storage.

#### *Article 40*

### **Rules for tendering procedures**

Tender procedures shall ensure equality of access of all persons concerned.

In the selection of tenders preference shall be given to those which are most favourable to the Community. In any case, the award of a contract shall not necessarily ensue.

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## Article 41

### Intervention centres

1 The Commission shall designate the intervention centres in the cereals and rice sectors and determine the conditions applying thereto.

In respect of products of the cereals sector, the Commission may designate intervention centres for each cereal.

2 When drawing up the list of intervention centres the Commission shall in particular take account of the following factors:

- a situation of the centres in surplus areas in respect of the products concerned;
- b availability of sufficient premises and technical equipment;
- c favourable situation as regards means of transport.

## Article 42

### Carcass classification

1 Community scales for the classification of carcasses shall apply in accordance with the rules laid down in Annex V in the following sectors:

- a beef and veal as regards carcasses of adult bovine animals;
- b pigmeat as regards carcasses of pigs other than those which have been used for breeding.

In the sheepmeat and goatmeat sector Member States may apply a Community scale for the classification of carcasses as regards sheep carcasses in accordance with the rules laid down in point C of Annex V.

2 On-the-spot inspections in relation to the classification of carcasses of adult bovine animals and sheep shall be carried out on behalf of the Community by a Community inspection committee composed of experts from the Commission and experts appointed by the Member States. This Committee shall report back to the Commission and the Member States on the inspections carried out.

The Community shall bear the costs resulting from the inspections carried out.

## Article 43

### Implementing rules

Without prejudice to any specific powers conferred upon the Commission by the provisions of this Chapter, the Commission shall adopt the detailed rules for its implementation, which may relate in particular to:

- (a) the requirements and conditions to be met by, and, in the case of pigmeat, the list of products to be bought-into public intervention as referred to in Article 10 or for which aid for private storage is granted as referred to in Articles 28 and 31, in particular with respect to quality, quality groups, quality grades, categories, quantities, packaging including labelling, maximum ages, preservation, the stage of the products to which the intervention price relates, the duration of private storage;

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- (b) amendments to Part B of Annex IV;
- (c) where applicable, the scale of applicable price increases and reductions;
- (d) the procedures and conditions for taking over into public intervention by paying agencies and the granting of aid for private storage, in particular:
  - (i) with regard to the conclusion and the content of contracts;
  - (ii) the duration of the period of private storage and the conditions according to which such periods, once specified in the contracts, may be curtailed or extended;
  - (iii) the conditions according to which it may be decided that products covered by private storage contracts may be remarketed or disposed of;
  - (iv) the Member State where a request for private storage may be submitted;
- (e) the adoption of the list of representative markets referred to in Articles 17 and 37;
- (f) the rules as regards the conditions for disposal of products bought-in under public intervention, in particular as regards selling prices, the conditions for release from storage, where appropriate, the subsequent use or destination of products thus released, checks to be carried out and, as the case may be, a system of securities to be applied;
- (g) the setting-up of the annual plan referred to in Article 27(1);
- (h) the condition of mobilisation on the Community market referred to in Article 27(2);
- (i) the rules concerning the authorisations referred to in Article 39 including, as far as strictly necessary, derogations from the rules on trade;
- (j) the rules relating to the procedures to be followed in the case of the making use of tendering procedures;
- (k) the rules concerning the designation of intervention centres referred to in Article 41;
- (l) the conditions to be met by the stores where products may be stored;
- (m) the Community scales for the classification of carcasses provided for in Article 42(1), in particular as regards:
  - (i) definitions;
  - (ii) carcass presentations for the purpose of price reporting in respect of the classification of carcasses of adult bovine animals;
  - (iii) in respect of the measures to be taken by slaughterhouses as provided for in point III of point A of Annex V:
    - any derogations referred to in Article 5 of Directive 88/409/EEC for slaughterhouses wishing to restrict their production to the local market,
    - any derogations which may be granted to Member States which so request for slaughterhouses in which few bovine animals are slaughtered;
  - (iv) authorising the Member States not to apply the grading scale for the classification of pig carcasses and to use assessment criteria in addition to weight and estimated lean-meat content;

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- (v) rules concerning the reporting of prices of certain products by the Member States.

## CHAPTER II

### Special intervention measures

#### Section I

#### *Exceptional market support measures*

#### Article 44

#### **Animal diseases**

1 The Commission may adopt exceptional support measures for the affected market in order to take account of restrictions on intra-Community and third-country trade which may result from the application of measures for combating the spread of diseases in animals.

The measures provided for in the first subparagraph shall apply to the following sectors:

- a beef and veal;
- b milk and milk products;
- c pigmeat;
- d sheepmeat and goatmeat;
- e eggs;
- f poultrymeat.

2 The measures provided for in the first subparagraph of paragraph 1 shall be taken at the request of the Member State(s) concerned.

They may be taken only if the Member State(s) concerned has (have) taken health and veterinary measures quickly to stamp out the disease, and only to the extent and for the duration strictly necessary to support the market concerned.

#### Article 45

#### **Loss in consumer confidence**

With regard to the poultrymeat and eggs sectors, the Commission may adopt exceptional market support measures in order to take account of serious market disturbances directly attributed to a loss in consumer confidence due to public health, or animal health risks.

Those measures shall be taken at the request of the Member State(s) concerned.

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## Article 46

### Financing

1 For exceptional measures referred to in Articles 44 and 45, the Community shall provide part-financing equivalent to 50 % of the expenditure borne by Member States.

However, with regard to the beef and veal, milk and milk products, pigmeat and sheepmeat and goatmeat sectors, the Community shall provide part-financing equivalent to 60 % of such expenditure when combating foot-and-mouth disease.

2 Member States shall ensure that, where producers contribute to the expenditure borne by Member States, this does not result in distortion of competition between producers in different Member States.

3 Articles 87, 88 and 89 of the Treaty shall not apply to Member States' financial contributions towards the exceptional measures referred to in Articles 44 and 45.

## Section II

### Measures in the cereals and rice sectors

## Article 47

### Special market measures in the cereals sector

1 Where the market situation so dictates, the Commission may take special intervention measures in respect of the cereals sector. Such intervention measures may in particular be taken if, in one or more regions of the Community, market prices fall, or threaten to fall, in relation to the intervention price.

2 The nature and application of the special intervention measures and the conditions and procedures for the sale or for any other means of disposal of the products subject to those measures shall be adopted by the Commission.

## Article 48

### Special market measures in the rice sector

- 1 The Commission may take special measures to:
  - a prevent large-scale application of public intervention, as provided for in Section II of Chapter I of this Part, in the rice sector in certain regions of the Community;
  - b make up for paddy rice shortages following natural disasters.
- 2 The Commission shall adopt the detailed rules for the implementation of this Article.

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### *Section III*

#### **Measures in the sugar sector**

##### *Article 49*

#### **Minimum beet price**

- 1 The minimum price for quota beet shall be:
  - a EUR 27,83 per tonne for the marketing year 2008/2009;
  - b EUR 26,29 per tonne as from the marketing year 2009/2010.
- 2 The minimum price referred to in paragraph 1 shall apply to sugar beet of the standard quality defined in Part B of Annex IV.
- 3 Sugar undertakings buying quota beet suitable for processing into sugar and intended for processing into quota sugar shall be required to pay at least the minimum price, adjusted by price increases or reductions to allow for deviations from the standard quality.

Increases and reductions referred to in the first subparagraph shall be applied in accordance with implementing rules to be laid down by the Commission.
- 4 For the quantities of sugar beet corresponding to the quantities of industrial sugar or surplus sugar that are subject to the surplus levy provided for in Article 64, the sugar undertaking concerned shall adjust the purchase price so that it is at least equal to the minimum price for quota beet.

##### *Article 50*

#### **Interprofessional agreements**

- 1 Agreements within the trade and delivery contracts shall conform to paragraph 3 and to purchase terms to be determined by the Commission, in particular as regards the conditions governing the purchase, delivery, taking over and payment of beet.
- 2 The terms for buying sugar beet and sugar cane shall be governed by agreements within the trade concluded between Community growers of these raw materials and Community sugar undertakings.
- 3 In delivery contracts, a distinction shall be made according to whether the quantities of sugar to be manufactured from sugar beet will be:
  - a quota sugar;
  - b out-of-quota sugar.
- 4 Each sugar undertaking shall provide the Member State in which it produces sugar with the following information:
  - a the quantities of beet referred to in point (a) of paragraph 3, for which they have concluded pre-sowing delivery contracts and the sugar content on which those contracts are based;
  - b the corresponding estimated yield.Member States may require additional information.

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[<sup>F15</sup> Sugar undertakings which have not signed pre-sowing delivery contracts at the minimum price for quota beet for a quantity of beet equivalent to the sugar for which they hold a quota, adjusted, as the case may be, by the coefficient for a preventive withdrawal fixed in accordance with the first subparagraph of Article 52(2), shall be required to pay at least the minimum price for quota beet for all the sugar beet they process into sugar.

6 Subject to the approval of the Member State concerned, agreements within the trade may derogate from paragraphs 3, 4 and 5.]

7 If no agreements within the trade exist, the Member State concerned shall take the necessary steps compatible with this Regulation to protect the interests of the parties concerned.

#### Textual Amendments

- F1** Substituted by Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).

### Article 51

#### Production charge

1 A production charge shall be levied on the sugar quota, the isoglucose quota and the inulin syrup quota held by undertakings producing sugar, isoglucose or inulin syrup as referred to in Article 56(2).

2 The production charge shall be set at EUR 12,0 per tonne of the quota sugar and quota inulin syrup. For isoglucose, the production charge shall be set at 50 % of the charge applicable to sugar.

3 The totality of the production charge paid in accordance with paragraph 1 shall be charged by the Member State to the undertakings on its territory according to the quota held during the marketing year concerned.

Payments shall be made by the undertakings by the end of February of the relevant marketing year at the latest.

4 Community sugar and inulin syrup undertakings may require sugar-beet or sugar-cane growers or chicory suppliers to bear up to 50 % of the production charge concerned.

### Article 52

#### Withdrawal of sugar

1 In order to preserve the structural balance of the market at a price level which is close to the reference price, taking into account the commitments of the Community resulting from agreements concluded in accordance with Article 300 of the Treaty, a percentage, common to all Member States, of quota sugar, quota isoglucose and quota inulin syrup may be withdrawn from the market until the beginning of the following marketing year.

In that case, the traditional supply need for refining imported raw sugar provided for in Article 153 shall be reduced by the same percentage for the marketing year concerned.



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2 The withdrawal percentage referred to in paragraph 1 shall be determined by 31 October of the marketing year concerned at the latest on the basis of expected market trends during that marketing year.

3 Each undertaking provided with a quota shall store at its own expense during the period of withdrawal the quantities of sugar corresponding to the application of the percentage referred to in paragraph 1 to its production under quota for the marketing year concerned.

The sugar quantities withdrawn during a marketing year shall be treated as the first quantities produced under quota for the following marketing year. However, taking into account the expected sugar market trends, the Commission may decide to consider, for the current and/or the following marketing year, all or part of the withdrawn sugar, isoglucose or inulin syrup as:

- a surplus sugar, surplus isoglucose or surplus inulin syrup available to become industrial sugar, industrial isoglucose or industrial inulin syrup, or
- b temporary quota production of which a part may be reserved for export respecting commitments of the Community resulting from agreements concluded in accordance with Article 300 of the Treaty.

4 If sugar supply in the Community is inadequate, the Commission may decide that a certain quantity of withdrawn sugar, isoglucose and inulin syrup may be sold on the Community market before the end of the period of withdrawal.

5 Sugar stored in accordance with this Article during a marketing year may not be subject to any other storage measures provided for in Articles 13, 32 or 63.

### *F<sup>2</sup> Article 52a*

#### **Withdrawal of sugar in the 2008/2009 and 2009/2010 marketing years**

1 By way of derogation from Article 52(2) of this Regulation, for Member States for which the national sugar quota has been reduced as a result of renunciations of quota in accordance with Articles 3 and 4a(4) of Regulation (EC) No 320/2006, the coefficient shall be fixed by the Commission for the 2008/2009 and 2009/2010 marketing years by way of application of Annex VIIc to this Regulation.

2 An undertaking which, in accordance with Article 3(1)(a) or (b) of Regulation (EC) No 320/2006, renounces, with effect from the following marketing year, the total quota assigned to it shall, at its request, not be submitted to the application of the coefficients referred to in Article 52(2) of this Regulation. That request shall be submitted before the end of the marketing year to which the withdrawal applies.]

#### **Textual Amendments**

- F2** Inserted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

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### Article 53

#### **Implementing rules**

The Commission may adopt the detailed rules for the implementation of this Section and, in particular:

- (a) the criteria to be applied by the sugar undertakings when allocating among beet sellers the quantities of beet to be covered by pre-sowing delivery contracts as referred to in Article 50(4);
- (b) the percentage of withdrawn quota sugar referred to in Article 52(1);
- (c) the conditions for the payment of the minimum price where the withdrawn sugar is being sold on the Community market under Article 52(4).

### Section IV

#### **Adjustment of supply**

### Article 54

#### **Measures to facilitate the adjustment of supply to market requirements**

In order to encourage action by trade organisations and joint trade organisations to facilitate the adjustment of supply to market requirements, with the exception of action relating to withdrawal from the market, the Commission may take the following measures in respect of the live plants, beef and veal, pigmeat, sheepmeat and goatmeat, eggs and poultrymeat sectors:

- (a) measures to improve quality;
- (b) measures to promote better organisation of production, processing and marketing;
- (c) measures to facilitate the recording of market price trends;
- (d) measures to permit the establishment of short and long-term forecasts on the basis of the means of production used.

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*Status: Point in time view as at 01/10/2008.*

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## CHAPTER III

### Systems of production limitation

#### Section I

#### General provisions

##### Article 55

#### Quota systems

- 1 A quota system shall apply to the following products:
  - a milk and other milk products as defined in points (a) and (b) of Article 65;
  - b sugar, isoglucose and inulin syrup.
- 2 If a producer exceeds the relevant quota and, with regard to sugar, does not make use of the surplus quantities as provided for in Article 61, a surplus levy shall be payable on such quantities subject to the conditions set out in Sections II and III.
- 3 This Regulation shall apply without prejudice to the application of Council Regulation (EC) No 1868/94 establishing a quota system in relation to the production of potato starch<sup>(1)</sup>.

#### Section II

#### Sugar

##### Subsection I

#### Quota allocation and management

##### Article 56

#### Quota allocation

- 1 The quotas for the production of sugar, isoglucose and inulin syrup at national or regional level are fixed in Annex VI.
- 2 Member States shall allocate a quota to each undertaking producing sugar, isoglucose or inulin syrup established in its territory and approved in accordance with Article 57.  
  
For each undertaking, the allocated quota shall be equal to the quota under Regulation (EC) No 318/2006 which was allocated to the undertaking for the marketing year 2007/2008.
- 3 In case of allocation of a quota to a sugar undertaking having more than one production unit, the Member States shall adopt the measures they consider necessary in order to take due account of the interests of sugar beet and cane growers.

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## Article 57

### Approved undertakings

1 On request, Member States shall grant an approval to an undertaking producing sugar, isoglucose or inulin syrup or to an undertaking that processes these products into a product included in the list referred to in Article 62(2) provided that the undertaking:

- a proves its professional production capacities;
- b agrees to provide any information and to be subject to controls related to this Regulation;
- c is not subject to suspension or withdrawal of the approval.

2 The approved undertakings shall provide the Member State in whose territory the harvest of beet, cane or the refining takes place, with the following information:

- a the quantities of beet or cane for which a delivery contract has been concluded, as well as the corresponding estimated yields of beet or cane, and sugar per hectare;
- b data regarding provisional and actual sugar beet, sugar cane and raw sugar deliveries, and regarding sugar production and statements of sugar stocks;
- c quantities of white sugar sold and corresponding prices and conditions.

## Article 58

### Additional and supplementary isoglucose quota

1 In the marketing year 2008/2009 an additional isoglucose quota of 100 000 tonnes shall be added to the quota of the preceding marketing year. This increase shall not concern Bulgaria and Romania.

In the marketing year 2008/2009 an additional isoglucose quota of 11 045 tonnes for Bulgaria and of 1 966 tonnes for Romania shall be added to the quota of the preceding marketing year.

Member States shall allocate the additional quotas to undertakings, proportionately to the isoglucose quotas that have been allocated in accordance with Article 56(2).

2 Italy, Lithuania and Sweden may allocate, upon request by any undertaking established on their respective territories, a supplementary isoglucose quota in the marketing years 2008/2009 and 2009/2010. The maximum supplementary quotas are fixed per Member State in Annex VII.

3 A one-off amount of EUR 730 shall be levied on the quotas that have been allocated to undertakings in accordance with paragraph 2. It shall be collected per tonne of supplementary quota allocated.

## [<sup>F1</sup> Article 59

### Quota management

1 The Commission shall adjust the quotas set out in Annex VI by 30 April 2008 for the 2008/2009 marketing year and by 28 February 2009 and 2010 respectively for the 2009/2010 and 2010/2011 marketing years. The adjustments shall result from the application of paragraph 2

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of this Article and Article 58 of this Regulation, and of Articles 3 and 4a(4) of Regulation (EC) No 320/2006.

2 Taking into account the results of the restructuring scheme provided for in Regulation (EC) No 320/2006, the Commission shall decide by 28 February 2010 the common percentage needed to reduce the existing quotas for sugar and isoglucose per Member State or region with a view to avoiding market imbalances in the marketing years from the 2010/2011 marketing year. The Member States shall adjust the quota of each undertaking accordingly.

By way of derogation from the first subparagraph of this paragraph, for Member States for which the national quota has been reduced as a result of renunciations of quota in accordance with Articles 3 and 4a(4) of Regulation (EC) No 320/2006, the Commission shall fix the percentage by way of application of Annex VIIa to this Regulation. Such Member States shall adjust, for each undertaking in their territory holding a quota, the percentage in accordance with Annex VIIb to this Regulation.

The first and second subparagraphs of this paragraph shall not apply to the outermost regions referred to in Article 299(2) of the Treaty.]

#### Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

### [<sup>F1</sup>Article 60]

#### National quota reallocation and reduction of quotas

[<sup>F1</sup>1 A Member State may reduce the sugar or isoglucose quota allocated to an undertaking established on its territory by up to 10 % for the marketing year 2008/2009 and following, whilst respecting the freedom of undertakings to participate in the mechanisms established by Regulation (EC) No 320/2006. In doing so, the Member States shall apply objective and non discriminatory criteria.]

2 Member States may transfer quotas between undertakings in accordance with the rules laid down in Annex VIII and taking into consideration the interests of each of the parties concerned, particularly sugar beet and cane growers.

3 The quantities reduced pursuant to paragraphs 1 and 2 shall be allocated by the Member State in question to one or more undertakings on its territory, whether or not holding a quota.

[<sup>F2</sup>4 By way of derogation from paragraph 3 of this Article, where Article 4a of Regulation (EC) No 320/2006 is applied, Member States shall adjust the sugar quota allocated to the undertaking concerned by applying the reduction defined under paragraph 4 of that Article, within the limit of the percentage fixed in paragraph 1 of this Article.]

#### Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

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**F2** Inserted by Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).

## Subsection II

### Quota Overrun

#### Article 61

##### Scope

The sugar, isoglucose or inulin syrup produced during a marketing year in excess of the quota referred to in Article 56 may be:

- (a) used for the processing of certain products as referred to in Article 62;
- (b) carried forward to the quota production of the next marketing year, in accordance with Article 63;
- (c) used for the specific supply regime for the outermost regions, in accordance with Title II of Council Regulation (EC) No 247/2006<sup>(2)</sup>; or
- (d) exported within the quantitative limit fixed by the Commission respecting the commitments resulting from agreements concluded in accordance with Article 300 of the Treaty.

Other quantities shall be subject to the surplus levy referred to in Article 64.

#### Article 62

##### Industrial sugar

1 Industrial sugar, industrial isoglucose or industrial inulin syrup shall be reserved for the production of one of the products referred to in paragraph 2 when:

- a it has been subject to a delivery contract concluded before the end of the marketing year between a producer and a user which have both been granted approval in accordance with Article 57; and
- b it has been delivered to the user by 30 November of the following marketing year at the latest.

2 The Commission shall draw up a list of products for the production of which industrial sugar, industrial isoglucose or industrial inulin syrup is used.

The list shall in particular include:

- a bioethanol, alcohol, rum, live yeast and quantities of syrups for spreading and those to be processed into *Rinse appelstroop*;
- b certain industrial products without sugar content but the processing of which uses sugar, isoglucose or inulin syrup;
- c certain products of the chemical or pharmaceutical industry which contain sugar, isoglucose or inulin syrup.

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### Article 63

#### Carry forward of surplus sugar

1 Each undertaking may decide to carry forward all or part of its production in excess of its sugar quota, its isoglucose quota or its inulin syrup quota to be treated as part of the next marketing year's production. Without prejudice to paragraph 3, that decision shall be irrevocable.

- 2 Undertakings which take the decision referred to in paragraph 1 shall:
- a inform the Member State concerned before a date to be determined by that Member State:
    - between 1 February and 30 June of the current marketing year for quantities of cane sugar being carried forward,
    - between 1 February and 15 April of the current marketing year for other quantities of sugar or inulin syrup being carried forward;
  - b undertake to store such quantities at their own expense until the end of the current marketing year.

3 If an undertaking's definitive production in the marketing year concerned was less than the estimate made when the decision in accordance with paragraph 1 was taken, the quantity carried forward may be adjusted retroactively by 31 October of the following marketing year at the latest.

4 The quantities carried forward shall be deemed to be the first quantities produced under the quota of the following marketing year.

5 Sugar stored in accordance with this Article during a marketing year may not be subject to any other storage measures provided for in Articles 13, 32 or 52.

### Article 64

#### Surplus levy

- 1 A surplus levy shall be levied on quantities of:
- a surplus sugar, surplus isoglucose and surplus inulin syrup produced during any marketing year, except for quantities carried forward to the quota production of the following marketing year and stored in accordance with Article 63 or quantities referred to in points (c) and (d) of Article 61;
  - b industrial sugar, industrial isoglucose and industrial inulin syrup for which no proof has been supplied, by a date to be determined by the Commission, that it has been processed into one of the products referred to in Article 62(2);
  - <sup>[F1]</sup>c sugar and isoglucose withdrawn from the market in accordance with Articles 52 and 52a and for which the obligations provided for in Article 52(3) are not met.]

2 The surplus levy shall be fixed by the Commission at a sufficiently high level in order to avoid the accumulation of quantities referred to in paragraph 1.

3 The surplus levy referred to in paragraph 1 shall be charged by the Member State to the undertakings on its territory according to the quantities of production referred to in paragraph 1 that have been established for those undertakings for the marketing year concerned.

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*Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

- F1** Substituted by Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).

## Section III

### Milk

#### Subsection I

#### General provisions

#### Article 65

#### Definitions

For the purposes of this Section:

- (a) 'milk' shall mean the produce of the milking of one or more cows;
- (b) 'other milk products' means any milk product other than milk, in particular skimmed milk, cream, butter, yoghurt and cheese; when relevant, these shall be converted into 'milk equivalents' by applying coefficients to be fixed by the Commission;
- (c) 'producer' means a farmer with a holding located within the geographical territory of a Member State, who produces and markets milk or who is preparing to do so in the very near future;
- (d) 'holding' means a holding as defined in Article 2 of Regulation (EC) No 1782/2003;
- (e) 'purchaser' means undertakings or groups which buy milk from producers:
  - to subject it to collecting, packing, storing, chilling or processing, including under contract,
  - to sell it to one or more undertakings treating or processing milk or other milk products.

However, any group of purchasers in the same geographical area which carries out the administrative and accounting operations necessary for the payment of the surplus levy on behalf of its members shall be regarded as a purchaser. For the purposes of the first sentence of this subparagraph, Greece shall be considered a single geographical area and it may deem an official body to be a group of purchasers;

- (f) 'delivery' means any delivery of milk, not including any other milk products, by a producer to a purchaser, whether the transport is carried out by the producer, a purchaser, an undertaking processing or treating such products or a third party;
- (g) 'direct sale' means any sale or transfer of milk by a producer directly to consumers, as well as any sale or transfer of other milk products by a producer. The Commission may, while respecting the definition of 'delivery' given in point (f), adjust the definition of



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‘direct sale’ in order to ensure, in particular, that no quantity of marketed milk or other milk products is excluded from the quota arrangements;

- (h) ‘marketing’ means deliveries of milk or direct sales of milk or other milk products;
- (i) ‘individual quota’ means a producer's quota at 1 April of any twelve-month period;
- (j) ‘national quota’ means the quota referred to in Article 66, fixed for each Member State;
- (k) ‘available quota’ means the quota available to producers on 31 March of the twelve-month period for which the surplus levy is calculated, taking account of all transfers, sales, conversions and temporary re-allocations provided for in this Regulation which have taken place during that twelve-month period.

### *Subsection II*

## ***Quota allocation and management***

### *Article 66*

#### **National quotas**

1 The national quotas for the production of milk and other milk products marketed during seven consecutive periods of twelve months commencing on 1 April 2008 (hereinafter referred to as ‘twelve-month periods’) are fixed in point 1 of Annex IX.

2 The quotas referred to in paragraph 1 shall be divided between producers in accordance with Article 67, distinguishing between deliveries and direct sales. Any overrun of the national quotas shall be determined nationally in each Member State, in accordance with this Section and making a distinction between deliveries and direct sales.

3 The national quotas set out in point 1 of Annex IX shall be fixed without prejudice to possible review in the light of the general market situation and particular conditions existing in certain Member States.

4 For Bulgaria and Romania a special restructuring reserve shall be established as set out in point 2 of Annex IX. This reserve shall be released as from 1 April 2009 to the extent that the on-farm consumption of milk and milk products in each of these countries has decreased since 2002.

The decision on releasing the reserve and its distribution to the deliveries and direct sales quota shall be taken by the Commission on the basis of a report to be submitted by Bulgaria and Romania to the Commission by 31 December 2008. This report shall detail the results and trends of the actual restructuring process in each country's dairy sector, and in particular the shift from production for on-farm consumption to production for the market.

5 For Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia and Slovakia the national quotas shall include all milk or milk equivalent delivered to a purchaser or sold directly, irrespective of whether it is produced or marketed under a transitional measure applicable in those countries.

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## Article 67

### Individual quotas

1 The producers' individual quota or quotas at 1 April 2008 shall be equal to their individual reference quantity or quantities at 31 March 2008 without prejudice to transfers, sales and conversions of quota that take effect on 1 April 2008.

2 Producers may have either one or two individual quotas, one for deliveries and the other for direct sales. A producer's quantities may be converted from one quota to the other only by the competent authority of the Member State, at the duly justified request of the producer.

3 Where a producer has two quotas, his contribution to any surplus levy due shall be calculated separately for each.

4 The part of the Finnish national quota allocated to the deliveries referred to in Article 66 may be increased by the Commission to compensate Finnish SLOM producers up to 200 000 tonnes. This reserve, to be allocated in accordance with Community legislation, must be used exclusively on behalf of producers whose right to take up production again has been affected as a result of accession.

5 Individual quotas shall be modified, where appropriate, for each of the twelve-month periods concerned, so that, for each Member State, the sum of the individual quotas for the deliveries and that for the direct sales does not exceed the corresponding part of the national quota adapted in accordance with Article 69, taking account of any reductions made for allocation to the national reserve as provided for in Article 71.

## Article 68

### Allocation of quotas from the national reserve

Member States shall adopt rules allowing for allocation to producers of all or part of the quotas from the national reserve provided for in Article 71 on the basis of objective criteria to be notified to the Commission.

## Article 69

### Management of quotas

1 The Commission shall adapt, for each Member State and for each period, before the end of that period, the division between 'deliveries' and 'direct sales' of national quotas, in the light of the conversions requested by producers, between individual quotas for deliveries and for direct sales.

2 Member States shall each year forward to the Commission, by dates and according to rules to be fixed by the Commission in accordance with Article 192(2), the information necessary to:

- a make the adaptation referred to in paragraph 1 of this Article;
- b calculate the surplus levy to be paid by them.

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## Article 70

### Fat content

1 Each producer shall be assigned a reference fat content, to be applied to the individual quota for deliveries allocated to that producer.

2 For the quotas allocated to producers on 31 March 2008 in accordance with Article 67(1), the reference fat content referred to in paragraph 1 shall be the same as the reference fat content applied to that quota at that date.

3 The reference fat content shall be altered during the conversion referred to in Article 67(2) and where quotas are acquired, transferred or temporarily transferred in accordance with rules to be established by the Commission.

4 For new producers having an individual quota for deliveries allocated entirely from the national reserve, the fat content shall be fixed in accordance with rules to be established by the Commission.

5 The individual reference fat content referred to in paragraph 1 shall be adjusted, where appropriate, upon the entry into force of this Regulation and thereafter, at the beginning of each twelve-month period as necessary, so that, for each Member State, the weighted average of the individual representative fat contents does not exceed by more than 0,1 gram per kg the reference fat content set in Annex X.

For Romania the reference fat content set in Annex X shall be reviewed on the basis of the figures for the full year 2004 and, if necessary, adjusted by the Commission.

## Article 71

### National reserve

1 Each Member State shall set up a national reserve as part of the national quotas fixed in Annex IX, in particular with a view to making the allocations provided for in Article 68. The national reserve shall be replenished, as appropriate, by withdrawing some quantities as provided for in Article 72, retaining part of transfers as provided for in Article 76, or by making an across-the-board reduction in all individual quotas. The quotas in question shall retain their original purpose, i.e. deliveries or direct sales.

2 Any additional quota allocated to a Member State shall automatically be placed in the national reserve and divided into deliveries and direct sales according to foreseeable needs.

3 The quotas placed in the national reserve shall not have a reference fat content.

## Article 72

### Cases of inactivity

1 When a natural or legal person holding individual quotas no longer meets the conditions referred to in point (c) of Article 65 during a twelve-month period, the corresponding quantities shall revert to the national reserve no later than 1 April of the following calendar year, unless that person becomes once again a producer within the meaning of point (c) of Article 65 before that date.

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Where that person becomes once again a producer not later than the end of the second twelve-month period following withdrawal, all or part of the individual quota which had been withdrawn shall revert to that person no later than 1 April following the date of application.

2 Where producers do not market a quantity equal to at least 70 % of their individual quota during at least one twelve-month period, Member States may decide whether and on what conditions all or part of the unused quota shall revert to the national reserve.

Member States may determine on what conditions a quota shall be re-allocated to the producer concerned should he resume marketing.

3 Paragraphs 1 and 2 shall not apply in cases of *force majeure* and in duly justified cases temporarily affecting the production capacity of the producers concerned and recognised by the competent authority.

### Article 73

#### Temporary transfers

1 By the end of each twelve-month period, Member States shall authorise, for the period concerned, any temporary transfers of part of individual quotas which the producers who are entitled thereto do not intend to use.

Member States may regulate transfer operations according to the categories of producers or milk production structures concerned, may limit them to the level of the purchaser or within regions, authorise complete transfers in the cases referred to in Article 72(3) and determine to what extent the transferor can repeat transfer operations.

2 Any Member State may decide not to implement paragraph 1 on the basis of one or both of the following criteria:

- a the need to facilitate structural changes and adjustments;
- b overriding administrative needs.

### Article 74

#### Transfers of quotas together with land

1 Individual quotas shall be transferred with the holding to the producers taking it over when it is sold, leased, transferred by actual or anticipated inheritance or any other means involving comparable legal effects for the producers, in accordance with detailed rules to be determined by the Member States, taking account of the areas used for dairy production or other objective criteria and, where applicable, of any agreement between the parties. The part of the quota which, where applicable, has not been transferred with the holding shall be added to the national reserve.

2 Where quotas have been or are transferred in accordance with paragraph 1 by means of rural leases or by other means involving comparable legal effects, Member States may decide, on the basis of objective criteria and with the aim of ensuring that quotas are attributed solely to producers, that the quota shall not be transferred with the holding.

3 Where land is transferred to the public authorities and/or for use in the public interest, or where the transfer is carried out for non-agricultural purposes, Member States shall ensure that the necessary measures are taken to protect the legitimate interests of the parties, and in

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particular, that producers giving up such land are in a position to continue milk production if they so wish.

4 Where there is no agreement between the parties, in the case of tenancies due to expire without any possibility of renewal on similar terms, or in situations involving comparable legal effects, the individual quotas in question shall be transferred in whole or in part to the producer taking them over, in accordance with provisions adopted by the Member States, taking account of the legitimate interests of the parties.

#### Article 75

### Special transfer measures

1 With a view to successfully restructuring milk production or improving the environment, Member States may, in accordance with detailed rules which they shall lay down, taking account of the legitimate interests of the parties concerned:

- a grant compensation in one or more annual instalments to producers who undertake to abandon permanently all or part of their milk production and place the individual quotas thus released in the national reserve;
- b determine on the basis of objective criteria the conditions on which producers may obtain, in return for payment, at the beginning of a twelve-month period, the re-allocation by the competent authority or a body designated by that authority of individual quotas released definitively at the end of the preceding twelve-month period by other producers in return for compensation in one or more annual instalments equal to the abovementioned payment;
- c centralise and supervise transfers of quotas without land;
- d provide, in the case of land transferred with a view to improving the environment, for the individual quota concerned to be allocated to a producer giving up the land but wishing to continue milk production;
- e determine, on the basis of objective criteria, the regions or collection areas within which the permanent transfer of quotas without transfer of the corresponding land is authorised, with the aim of improving the structure of milk production;
- f authorise, upon application by a producer to the competent authority or a body designated by that authority, the definitive transfer of quotas without transfer of the corresponding land, or vice versa, with the aim of improving the structure of milk production at the level of the holding or to allow for extensification of production.

2 Paragraph 1 may be implemented at national level, at the appropriate territorial level or in specified collection areas.

#### Article 76

### Retention of quotas

1 In the case of transfers as referred to in Articles 74 and 75 Member States may, on the basis of objective criteria, retain part of the individual quotas for their national reserve.

2 Where quotas have been or are transferred in accordance with Articles 74 and 75 with or without the corresponding land by means of rural leases or by other means involving comparable legal effects, Member States may decide, on the basis of objective criteria and with the aim of ensuring that quotas are attributed solely to producers, whether and under which conditions all or part of the transferred quota shall revert to the national reserve.

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## Article 77

### **Aid for the acquisition of quotas**

No financial assistance linked directly to the acquisition of quotas may be granted by any public authority for the sale, transfer or allocation of quotas under this Section.

## Subsection III

### **Quota overrun**

## Article 78

### **Surplus levy**

1 A surplus levy shall be payable on milk and other milk products marketed in excess of the national quota as established in accordance with Subsection II.

The levy shall be set, per 100 kilograms of milk, at EUR 27,83.

2 Member States shall be liable to the Community for the surplus levy resulting from overruns of the national quota, determined nationally and separately for deliveries and direct sales, and between 16 October and 30 November following the twelve-month period concerned, shall pay 99 % of the amount due to the EAGF.

3 If the surplus levy provided for in paragraph 1 has not been paid before the due date and after consultation of the Committee of the Agricultural Funds, the Commission shall deduct a sum equivalent to the unpaid surplus levy from the monthly payments within the meaning of Articles 14 and 15(2) of Regulation (EC) No 1290/2005. Before taking its decision, the Commission shall warn the Member State concerned, which shall make its position known within one week. Article 14 of Council Regulation (EC) No 2040/2000<sup>(3)</sup> shall not apply.

4 The Commission shall determine the arrangements for the implementation of this Article.

## Article 79

### **Contribution of producers to the surplus levy due**

The surplus levy shall be entirely allocated, in accordance with Articles 80 and 83, among the producers who have contributed to each of the overruns of the national quotas referred to in Article 66(2).

Without prejudice to Articles 80(3) and 83(1), producers shall be liable vis-à-vis the Member State for payment of their contribution to the surplus levy due, calculated in accordance with Articles 69, 70 and 80, for the mere fact of having overrun their available quotas.

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## Article 80

### Surplus levy on deliveries

1 In order to draw up the definitive surplus levy statement, the quantities delivered by each producer shall be increased or reduced to reflect any difference between the real fat content and the reference fat content, using coefficients and on terms to be laid down by the Commission.

2 Where, at national level, the sum of deliveries adjusted in accordance with paragraph 1 is less than the deliveries actually made, the surplus levy shall be calculated on the basis of the latter. In such cases, each downward adjustment shall be proportionately reduced so as to bring the sum of adjusted deliveries into line with the deliveries actually made.

Where the sum of the deliveries adjusted in accordance with paragraph 1 is greater than the deliveries actually made, the surplus levy shall be calculated on the basis of the former.

3 Each producer's contribution to payment of the surplus levy shall be established by decision of the Member State, after any unused part of the national quota allocated to deliveries has or has not been re-allocated, in proportion to the individual quotas of each producer or according to objective criteria to be set by the Member States:

- a either at national level on the basis of the amount by which each producer's quota has been exceeded;
- b or firstly at the level of the purchaser and thereafter at national level where appropriate.

## Article 81

### Role of purchasers

1 Purchasers shall be responsible for collecting from producers contributions due from the latter by virtue of the surplus levy and shall pay to the competent body of the Member State, before a date and following a procedure to be laid down by the Commission, the amount of these contributions deducted from the price of the milk paid to the producers responsible for the overrun or, failing this, collected by any other appropriate means.

2 Where a purchaser fully or partially replaces one or more other purchasers, the individual quotas available to the producers shall be taken into account for the remainder of the twelve-month period in progress, after deduction of quantities already delivered and account being taken of their fat content. This paragraph shall also apply where a producer transfers from one purchaser to another.

3 Where, during the reference period, quantities delivered by a producer exceed that producer's available quota, the relevant Member State may decide that the purchaser shall deduct part of the price of the milk in any delivery by the producer concerned in excess of the quota, by way of an advance on the producer's contribution, in accordance with detailed rules laid down by the Member State. The Member State may make specific arrangements to enable purchasers to deduct this advance where producers deliver to several purchasers.

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## Article 82

### Approval

Purchaser status shall be subject to prior approval by the Member State in accordance with criteria to be laid by the Commission.

The conditions to be fulfilled and information to be provided by producers in the case of direct sales shall be established by the Commission.

## Article 83

### Surplus levy on direct sales

1 In the case of direct sales, each producer's contribution to payment of the surplus levy shall be established by decision of the Member State, after any unused part of the national quota allocated to direct sales has or has not been re-allocated, at the appropriate territorial level or at national level.

2 Member States shall establish the basis of calculation of the producer's contribution to the surplus levy due on the total quantity of milk sold, transferred or used to manufacture the milk products sold or transferred by applying criteria fixed by the Commission.

3 No correction linked to fat content shall be taken into account for the purpose of drawing up the definitive surplus levy statement.

4 The Commission shall determine how and when the surplus levy must be paid to the Member State's competent body.

## Article 84

### Amounts paid in excess or unpaid

1 Where, in the case of deliveries or direct sales, the surplus levy is found to be payable and the contribution collected from producers is greater than that levy, the Member State may:

- a use partially or totally the excess to finance the measures in point (a) of Article 75(1), and/or
- b redistribute it partially or totally to producers who:
  - fall within priority categories established by the Member State on the basis of objective criteria and within the period to be laid down by the Commission, or
  - are affected by an exceptional situation resulting from a national rule unconnected with the quota system for milk and other milk products set up by this Chapter.

2 Where it is established that no surplus levy is payable, any advances collected by purchasers or the Member State shall be reimbursed no later than the end of the following twelve-month period.

3 Where a purchaser does not meet the obligation to collect the producers' contribution to the surplus levy in accordance with Article 81, the Member State may collect unpaid amounts directly from the producer, without prejudice to any penalties it may impose upon the defaulting purchaser.



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4 Where a producer or a purchaser fails to comply with the time limit for payment, interest on arrears to be fixed by the Commission shall be paid to the Member State.

#### *Section IV*

### ***Procedural provisions***

#### *Article 85*

### **Implementing rules**

The Commission shall adopt the detailed rules for the application of this Chapter which may relate, in particular, to:

- (a) supplementary information to be submitted by approved undertakings referred to in Article 57 as well as the criteria for administrative penalties, suspensions and withdrawal of approval of the undertakings;
- (b) the establishment and the communications of the amounts referred to in Article 58 and the surplus levy referred to in Article 64;
- (c) derogations from the dates laid down in Article 63.

## CHAPTER IV

### **Aid schemes**

#### *Section I*

### ***Aid for processing***

#### *Subsection I*

### ***Dried fodder***

#### *Article 86*

### **Eligible undertakings**

1 Aid for processing in respect of the products of the dried fodder sector shall be granted to undertakings processing products of that sector falling into at least one of the following categories:

- a processors who have concluded contracts with producers of fodder for drying. Where a contract is a special-order contract for processing of fodder delivered by a producer, it shall include a clause containing an obligation for the processing undertakings to pay the producer the aid received for the quantity processed under the contract;
- b undertakings which have processed their own crop or, in the case of a group, that of its members;

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- c undertakings which have obtained their supplies from natural or legal persons having concluded contracts with producers of fodder for drying.
- 2 The aid provided for in paragraph 1 shall be paid in respect of dried fodder that has left the processing plant and meets the following requirements:
- a its maximum moisture content is from 11 % to 14 % which may vary depending on the presentation of the product;
  - b its minimum total crude protein content in the dry matter is not less than:
    - (i) 15 % for the products referred to in point (a) and the second indent of point (b) of Part IV of Annex I;
    - (ii) 45 % for the products referred to in the first indent of point (b) of Part IV of Annex I;
  - c it is of sound and fair merchantable quality.

#### *Article 87*

#### **Advance payment**

1 Processing undertakings shall be entitled to an advance payment of EUR 19,8 per tonne, or EUR 26,4 per tonne if they have lodged a security of EUR 6,6 per tonne.

Member States shall make the necessary checks to verify entitlement to the aid. Once entitlement has been established the advance shall be paid.

However, the advance may be paid before entitlement has been established provided the processor lodges a security equal to the amount of the advance plus 10 %. This security shall also serve as security for the purposes of the first subparagraph. It shall be reduced to the level specified in the first subparagraph as soon as entitlement to aid has been established and shall be released in full when the balance of the aid is paid.

2 Before an advance can be paid the dried fodder must have left the processing undertaking.

3 Where an advance has been paid, the balance amounting to the difference between the amount of the advance and the total aid due to the processing undertaking shall be paid subject to application of Article 88(2).

4 Where the advance exceeds the total to which the processing undertaking is entitled following the application of Article 88(2), the processor shall reimburse the excess to the competent authority of the Member State on request.

#### *Article 88*

#### **Aid rate**

1 The aid provided for in Article 86 shall be set at EUR 33/tonne.

2 By way of derogation from paragraph 1, where during a marketing year the volume of dried fodder for which aid is claimed exceeds the guaranteed maximum quantity set out in Article 89, the aid shall be reduced in each Member State in which production exceeds the guaranteed national quantity by reducing expenditure as a function of the percentage of the sum of the overruns represented by the overrun of that Member State.

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The reduction shall be set by the Commission at a level ensuring that budget expenditure does not exceed that which would have been attained had the maximum guaranteed quantity not been exceeded.

#### *Article 89*

### **Guaranteed quantity**

A maximum guaranteed quantity per marketing year of 4 960 723 tonnes of dehydrated and/or sun-dried fodder for which the aid provided for in Article 86 may be granted is hereby established. That quantity shall be apportioned among the Member States concerned as national guaranteed quantities in accordance with point B of Annex XI.

#### *Article 90*

### **Implementing rules**

The Commission shall adopt the detailed rules for the implementation of this Subsection which may, in particular, include rules concerning:

- (a) declarations to be submitted by undertakings when applying for aid;
- (b) conditions to be complied with for the determination of the eligibility for the aid, in particular as regards the keeping of stock records and other supporting documents;
- (c) the granting of the aid provided for in this Subsection and the advance, as well as the release of the securities, provided for in Article 87(1);
- (d) the conditions and criteria to be fulfilled by the undertakings referred to in Article 86 and, in the case where undertakings obtain their supplies from natural or legal persons, rules concerning the guarantees to be provided by those persons;
- (e) the terms of approvals of buyers of fodder for drying, to be applied by the Member States;
- (f) the criteria for determining the requirements laid down in Article 86(2);
- (g) the criteria to be fulfilled for the conclusion of contracts and information which they shall contain;
- (h) the application of the maximum guaranteed quantity laid down in Article 89;
- (i) further requirements to those laid down in Article 86, in particular as regards carotene and fibre content.

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## [<sup>F4</sup>Subsection II

### **Flax and hemp grown for fibre]**

#### *Article 91*

#### **Eligibility**

[<sup>F41</sup> Aid for processing the straw of long flax grown for fibre shall be granted to authorised primary processors on the basis of the quantity of fibre actually obtained from straw for which a contract of sale has been concluded with a farmer.

During the marketing year 2008/2009 aid shall also be granted under the same conditions for processing the straw of short flax and hemp grown for fibre.]

However, in cases where farmers retain ownership of the straw which they are having processed under contract by an authorised primary processor and prove that they have placed the fibres obtained on the market, the aid shall be granted to the farmers.

In cases where the authorised primary processor and the farmer are one and the same person, the contract of sale shall be replaced by a commitment by the party concerned to carry out the processing itself.

[<sup>F42</sup> For the purposes of this Subsection, ‘authorised primary processor’ shall mean a natural or legal person or a group of natural or legal persons, irrespective of its legal status under national law, or that of its members, that has been authorised by the competent authority of the Member State in the territory of which are located its facilities for producing flax or hemp fibre.]

#### *Article 92*

#### **Aid rate**

[<sup>F41</sup> The amount of processing aid provided for in Article 91 shall be fixed:

- a for long flax fibre:
  - at EUR 160 per tonne for the 2008/2009 marketing year,
  - at EUR 200 per tonne from the 2009/2010 marketing year onwards;
- b during the marketing year 2008/2009, for short flax and hemp fibre containing not more than 7,5 % impurities and shives, at EUR 90 per tonne.

However, the Member State may, with reference to traditional outlets, also decide to grant aid:

- a for short flax fibre containing a percentage of impurities and shives of between 7,5 % and 15 %;
- b for hemp fibre containing a percentage of impurities and shives of between 7,5 % and 25 %.

In the cases provided for in the second subparagraph, the Member State shall grant the aid in respect of a quantity which amounts to not more than the quantity produced, on the basis of 7,5 % of impurities and shives.]

2 The quantities of fibre eligible for aid shall be limited on the basis of the areas which were the subject of one of the contracts or commitments referred to in Article 91.

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*Status: Point in time view as at 01/10/2008.*

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The limits referred to in the first subparagraph shall be fixed by the Member States so as to comply with the national guaranteed quantities referred to in Article 94.

### Article 93

#### Advance payment

At the request of authorised primary processors, an advance shall be paid on the aid referred to in Article 91 on the basis of the quantity of fibre obtained.

### Article 94

#### Guaranteed quantity

[<sup>F4</sup>1 A maximum guaranteed quantity of 80 878 tonnes per marketing year shall be established for long flax fibre in respect of which aid may be granted. That quantity shall be apportioned among certain Member States as national guaranteed quantities in accordance with point A.I. of Annex XI.]

[<sup>F5</sup>1a A maximum guaranteed quantity of 147 265 tonnes for the marketing year 2008/2009 shall be established for short flax fibre and hemp fibre in respect of which aid may be granted. That quantity shall be apportioned as national guaranteed quantities among certain Member States in accordance with point A.II. of Annex XI.]

2 In cases where the fibre obtained in one Member State originates from straw produced in another Member State, the quantities of fibre concerned shall be offset against the national guaranteed quantity of the Member State in which the straw was harvested. The aid shall be paid by the Member State against whose national guaranteed quantity such an offset is made.

[<sup>F5</sup>3 Each Member State may transfer part of its national guaranteed quantity as referred to in paragraph 1 to its national guaranteed quantity as referred to in paragraph 1a and *vice versa*.

Transfers as referred to in the first subparagraph shall be carried out on the basis of an equivalence of one tonne of long flax fibre to 2,2 tonnes of short flax fibre and hemp fibre.

Processing aid shall be granted only in respect of the quantities referred to in paragraphs 1 and 1a, respectively, adjusted in accordance with the first two subparagraphs of this paragraph.]

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#### Textual Amendments

- F5** Inserted by Council Regulation (EC) No 247/2008 of 17 March 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).

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*Status: Point in time view as at 01/10/2008.*

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## *<sup>F5</sup>Article 94a*

### **Additional aid**

During the 2008/2009 marketing year, additional aid shall be granted to the authorised primary processor in respect of areas under flax in zones I and II as described in point A.III. of Annex XI and the straw production of which has been the subject of:

- (a) a sale/purchase contract or a commitment as referred to in Article 91(1); and
- (b) aid for processing into long fibre.

The amount of additional aid shall be EUR 120 per hectare in zone I and EUR 50 per hectare in zone II.]

#### **Textual Amendments**

- F5** Inserted by [Council Regulation \(EC\) No 247/2008 of 17 March 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

## *Article 95*

### **Implementing rules**

The Commission shall adopt the detailed rules for the implementation of this Subsection which may, in particular, include rules concerning:

- (a) the conditions for authorisation of primary processors referred to in Article 91;
- (b) the conditions to be met by approved primary processors as regards the contracts of sale and commitments referred to in Article 91(1);
- (c) the requirements to be complied with by farmers in the case referred to in the second subparagraph of Article 91(1);
- (d) the criteria to be met by long flax fibre;
- (e) the conditions for the grant of aid and the advance payment, and in particular proof of the processing of straw;
- (f) the conditions to be met for fixing the limits referred to in Article 92(2).

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*Status: Point in time view as at 01/10/2008.*

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## Section II

### **Production refund**

#### Article 96

#### **Production refund for starch**

- 1 A production refund may be granted:
  - a for starch obtained from maize, wheat or potatoes and for certain derivatives used in the manufacture of certain products, a list of which shall be drawn up by the Commission;
  - b in the absence of significant domestic production of other cereals for the production of starch, for the following quantities of starch obtained each marketing year in Finland and Sweden from barley and oats, insofar as it does not entail an increase in the level of starch production from those two cereals:
    - (i) 50 000 tonnes in Finland,
    - (ii) 10 000 tonnes in Sweden.
- 2 The refund referred to in paragraph 1 shall be fixed by the Commission periodically.

#### Article 97

#### **Production refund in the sugar sector**

- 1 A production refund may be granted on the products of the sugar-sector listed in points (b) to (e) of Part III of Annex I if surplus sugar or imported sugar, surplus isoglucose or surplus inulin syrup is not available at a price corresponding to the world price for the manufacturing of the products referred to in Article 62(2)(b) and (c).
- 2 The production refund referred to in paragraph 1 shall be fixed taking into account in particular the costs arising from the use of imported sugar which the industry would have to bear in the event of supply on the world market and the price of the surplus sugar available on the Community market or the reference price if there is no surplus sugar.

#### Article 98

#### **Conditions for granting**

The Commission shall adopt the conditions for the granting of the production refunds referred to in this Section, as well as the amount of such refunds and, as regards the production refund for sugar provided for in Article 97, the eligible quantities.

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### *Section III*

#### ***Aids in the milk and milk products sector***

##### *Article 99*

#### **Aid for skimmed milk and skimmed milk powder for use as feedingstuffs**

1 Aid shall be granted for skimmed milk and skimmed-milk powder intended for use as feedingstuffs, according to conditions and product standards to be determined by the Commission.

For the purposes of this Article, buttermilk and buttermilk powder shall be regarded as skimmed milk and skimmed-milk powder.

2 Aid amounts shall be fixed by the Commission taking into account the following factors:

- a the reference price fixed in point (e)(ii) of Article 8(1) for skimmed-milk powder;
- b development of the supply situation as regards skimmed milk and skimmed-milk powder, and developments in the use thereof as feed;
- c trends in calf prices;
- d trends in the market prices for competing proteins as compared with those for skimmed-milk powder.

##### *Article 100*

#### **Aid for skimmed milk processed into casein and caseinates**

1 Aid shall be granted for Community-produced skimmed milk processed into casein and caseinates, according to conditions and product standards of such milk and the casein or caseinates produced from it to be determined by the Commission.

2 Aid shall be fixed by the Commission taking into account the following factors:

- a the reference price for skimmed-milk powder, or the market price for first-quality spray-process skimmed-milk powder, if that price exceeds the reference price;
- b the market prices for casein and caseinates on the Community and world markets.

The aid may vary, according to whether the skimmed milk is processed into casein or caseinates and according to the quality of those products.

##### *Article 101*

#### **Aid for the purchase of cream, butter and concentrated butter at reduced prices**

Under conditions to be determined by the Commission, when surpluses of milk products build up or are likely to occur, the Commission may decide that aid shall be granted to enable cream, butter and concentrated butter to be purchased at reduced prices:

- (a) by non-profit making institutions and organisations;
- (b) [<sup>F1</sup>by manufacturers of pastry products and ice-cream;
- (c) by manufacturers of other foodstuffs to be determined by the Commission;



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(d) for the direct consumption of concentrated butter.]

#### Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

### Article 102

#### Aid for the supply of milk products to pupils

1 Under conditions to be determined by the Commission, Community aid shall be granted for supplying to pupils in educational establishments certain processed milk products to be determined by the Commission falling within CN codes 0401, 0403, 0404 90 and 0406 or CN code 2202 90.

2 By way of derogation from Article 180, Member States may, in addition to Community aid, grant national aid for supplying the products referred to in paragraph 1 to pupils in educational establishments. Member States may finance their national aid by means of a levy on the dairy sector or by any other contribution from the dairy sector.

[<sup>F13</sup> The Community aid shall be EUR 18,15/100 kg for all milk.

The amounts of aid for other eligible milk products shall be determined taking into account the milk components of the product concerned.]

4 The aid referred to in paragraph 1 shall be granted on a maximum quantity of 0,25 litre of milk equivalent per pupil and per day.

#### Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

### Section IV

#### Aids in the olive oil and table olives sector

### Article 103

#### Aids to operator organisations

1 The Community shall finance, by means of the amounts withheld by Member States in accordance with Article 110i (4) of Regulation (EC) No 1782/2003, three-year work programmes to be drawn up by operator organisations referred to in Article 125 in one or more of the following areas:

- a the market follow-up and administrative management in the olive oil and table olives sector;

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- b the improvement of the environmental impacts of olive cultivation;
- c the improvement of the production quality of olive oil and table olives;
- d the traceability system, the certification and protection of the quality of olive oil and table olives, in particular the monitoring of the quality of olive oils sold to final consumers, under the authority of the national administrations;
- e the dissemination of information on the activities carried out by operator organisations with the aim of improving the quality of olive oil.

2 The maximum Community funding for the work programmes referred to in paragraph 1 shall be equal to the part of the amounts withheld by the Member States. This funding shall concern the eligible cost with a maximum of:

- a 100 % for activities in the areas referred to in points (a) and (b) of paragraph 1;
- b 100 % for fixed assets investments and 75 % for other activities in the area referred to in point (c) of paragraph 1;
- c 75 % for the work programmes carried out in at least three third countries or non-producing Member States by approved operator organisations from at least two producer Member States in the areas referred to in points (d) and (e) of paragraph 1, and 50 % for the other activities in these areas.

Complementary financing shall be ensured by the Member State up to 50 % of the costs not covered by the Community funding.

The Commission shall establish the detailed rules for the application of this Article and in particular the procedures for the approval of the work programmes by the Member States and the types of activities eligible under such programmes.

3 Without prejudice to any specific provisions which may be adopted by the Commission in accordance with Article 194, Member States shall verify that the conditions for granting Community funding are met. To that end, they shall carry out an audit of work programmes and a control plan involving a sample determined on the basis of a risk analysis and comprising at least 30 % per year of producer organisations and all the other operators' organisations in receipt of Community funding under this Article.

[<sup>F2</sup>Section IVa

## **AIDS in the fruit and vegetables sector**

Subsection I

### **Producer groups**

*Article 103a*

#### **Aid to producer groups**

1 During the transitional period allowed pursuant to Article 125e, Member States may grant to producer groups in the fruit and vegetables sector which have been formed in view of being recognised as a producer organisation:

- a aid to encourage their formation and facilitate their administrative operation;

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- b aid, provided either directly or through credit institutions, to cover part of the investments required to attain recognition and set out in the recognition plan referred to in the third subparagraph of Article 125e(1).

2 The aid referred to in paragraph 1 shall be reimbursed by the Community in accordance with rules to be adopted by the Commission on the financing of such measures, including the thresholds and ceilings and the degree of Community financing.

3 The aid referred to in paragraph 1(a) shall be determined for each producer group on the basis of its marketed production and shall amount, for the first, second, third, fourth and fifth years, to:

- a 10 %, 10 %, 8 %, 6 % and 4 % respectively of the value of marketed production in the Member States which acceded to the European Union on 1 May 2004 or thereafter; and
- b 5 %, 5 %, 4 %, 3 % and 2 %, respectively of the value of marketed production in the outermost regions of the Community as referred to in Article 299(2) of the Treaty or in the smaller Aegean Islands as referred to in Article 1(2) of Regulation (EC) No 1405/2006 of 18 September 2006 laying down specific measures for agriculture in favour of the smaller Aegean Islands<sup>(4)</sup>.

Those percentage rates may be reduced in relation to the value of marketed production which exceeds a threshold. A ceiling may be applied to the aid payable in any given year to a producer group.

## Subsection II

### Operational funds and operational programmes

#### *Article 103b*

#### **Operational funds**

1 Producer organisations in the fruit and vegetables sector may set up an operational fund. The fund shall be financed by:

- a financial contributions of members or of the producer organisation itself;
- b Community financial assistance which may be granted to producer organisations.

2 Operational funds shall be used only to finance operational programmes approved by Member States in accordance with Article 103g.

#### *Article 103c*

#### **Operational programmes**

1 Operational programmes in the fruit and vegetables sector shall have two or more of the objectives referred to in Article 122(c) or of the following objectives:

- a planning of production;
- b improvement of product quality;
- c boosting products' commercial value;
- d promotion of the products, whether in a fresh or processed form;
- e environmental measures and methods of production respecting the environment, including organic farming;

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f crisis prevention and management.

2 Crisis prevention and management shall be related to avoiding and dealing with crises on the fruit and vegetable markets and shall cover in this context:

- a market withdrawal;
- b green harvesting or non-harvesting of fruit and vegetables;
- c promotion and communication;
- d training measures;
- e harvest insurance;
- f support for the administrative costs of setting up mutual funds.

Crisis prevention and management measures, including any repayment of capital and interest as referred to in the third subparagraph, shall not comprise more than one-third of the expenditure under the operational programme.

In order to finance crisis prevention and management measures, producer organisations may take out loans on commercial terms. In this case, the repayment of the capital and interest on those loans may form part of the operational programme and so may be eligible for Community financial assistance under Article 103d. Any specific action under crisis prevention and management shall be financed either by such loans, or directly, but not both.

3 Member States shall provide that:

- a operational programmes include two or more environmental actions; or
- b at least 10 % of the expenditure under operational programmes covers environmental actions.

Environmental actions shall respect the requirements for agri-environment payments set out in the first subparagraph of Article 39(3) of Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)<sup>(5)</sup>.

Where at least 80 % of the producer members of a producer organisation are subject to one or more identical agri-environment commitments under that provision then each one of those commitments shall count as an environmental action as referred to in point (a) of the first subparagraph.

Support for the environmental actions referred to in the first subparagraph shall cover additional costs and income foregone resulting from the action.

4 Paragraph 3 shall only apply in Bulgaria and Romania from 1 January 2011.

5 Investments which increase environmental pressure shall only be permitted in situations where effective safeguards to protect the environment from these pressures are in place.

#### *Article 103d*

### **Community financial assistance**

1 The Community financial assistance shall be equal to the amount of the financial contributions referred to in Article 103b(1)(a) as actually paid but limited to 50 % of the actual expenditure incurred.

2 The Community financial assistance shall be capped at 4,1 % of the value of the marketed production of each producer organisation.

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However, that percentage may be increased to 4,6 % of the value of the marketed production provided that the amount in excess of 4,1 % of the value of the marketed production is used solely for crisis prevention and management measures.

3 At the request of a producer organisation, the percentage provided for in paragraph 1 shall be 60 % for an operational programme or part of an operational programme where it meets at least one of the following conditions:

- a it is submitted by several Community producer organisations operating in different Member States on transnational schemes;
- b it is submitted by one or more producer organisations engaged in schemes operated on an interbranch basis;
- c it covers solely specific support for the production of organic products covered until 31 December 2008, by Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs<sup>(6)</sup> and, from 1 January 2009, by Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products<sup>(7)</sup>;
- d it is submitted by a producer organisation in one of the Member States which acceded to the European Union on 1 May 2004 or thereafter for measures running no later than the end of 2013;
- e it is the first to be submitted by a recognised producer organisation which has merged with another recognised producer organisation;
- f it is the first to be submitted by a recognised association of producer organisations;
- g it is submitted by producer organisations in Member States where producer organisations market less than 20 % of fruit and vegetables production;
- h it is submitted by a producer organisation in one of the outermost regions of the Community;
- i it covers solely specific support for actions to promote the consumption of fruit and vegetables targeted at children in educational establishments.

4 The percentage provided for in paragraph 1 shall be 100 % in the case of market withdrawals of fruit and vegetables which shall not exceed 5 % of the volume of marketed production of each producer organisation and which are disposed of by way of:

- a free distribution to charitable organisations and foundations, approved to that effect by the Member States, for use in their activities to assist persons whose right to public assistance is recognised in national law, in particular because they lack the necessary means of subsistence;
- b free distribution to penal institutions, schools and public education institutions and to children's holiday camps as well as to hospitals and old people's homes designated by the Member States, which shall take all necessary steps to ensure that the quantities thus distributed are additional to the quantities normally bought in by such establishments.

### *Article 103e*

#### **National financial assistance**

1 In regions of the Member States where the degree of organisation of producers in the fruit and vegetables sector is particularly low, Member States may be authorised by the Commission, on a duly substantiated request, to pay producer organisations national financial assistance equal to a maximum of 80 % of the financial contributions referred to in Article 103b(1)(a). This assistance shall be additional to the operational fund. In regions of

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Member States where producer organisations market less than 15 % of the value of fruit and vegetable production and whose fruit and vegetable production represents at least 15 % of their total agricultural output, the assistance referred to in the first subparagraph may be reimbursed by the Community at the request of the Member State concerned.

2 By way of derogation from Article 180 of this Regulation, Articles 87, 88 and 89 of the Treaty shall not apply to the national financial assistance authorised pursuant to paragraph 1.

### *Article 103f*

#### **National framework and national strategy for operational programmes**

1 Member States shall establish a national framework for drawing up the general conditions relating to the actions referred to in Article 103c(3). This framework shall provide in particular that such actions shall meet the appropriate requirements of Regulation (EC) No 1698/2005 including those in its Article 5 on complementarity, consistency and conformity.

Member States shall submit their proposed framework to the Commission which may require modifications within three months if it finds that the proposal does not enable the attainment of the objectives set out in Article 174 of the Treaty and in the sixth Community environment action programme<sup>(8)</sup>. Investments on individual holdings supported by operational programmes shall also respect those objectives.

2 Member States shall establish a national strategy for sustainable operational programmes in the fruit and vegetable market. Such a strategy shall provide for the following elements:

- a an analysis of the situation in terms of strengths and weaknesses and the potential for development;
- b justification of the priorities chosen;
- c the objectives of operational programmes and instruments, performance indicators;
- d assessment of operational programmes;
- e reporting obligations for producer organisations.

The national strategy shall also integrate the national framework referred to in paragraph 1.

3 Paragraphs 1 and 2 shall not apply to Member States which have no recognised producer organisations.

### *Article 103g*

#### **Approval of operational programmes**

1 Draft operational programmes shall be submitted to the competent national authorities, who shall approve or reject them or request their modification in line with the provisions of this subsection.

2 Producer organisations shall communicate to the Member State the estimated amount of the operational fund for each year and shall submit appropriate reasons therefore based on operational programme estimates, expenditure for the current year and possibly expenditure for previous years and, if necessary, on estimated production quantities for the next year.

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3 The Member State shall notify the producer organisation or association of producer organisations of the estimated amount of Community financial assistance in line with the limits set out in Article 103d.

4 Community financial assistance payments shall be made on the basis of expenditure incurred for the schemes covered by the operational programme. Advances may be made in respect of the same schemes subject to the provision of a guarantee or security.

5 The producer organisation shall notify the Member State of the final amount of expenditure for the previous year, accompanied by the necessary supporting documents, so that it may receive the balance of the Community financial assistance.

6 Operational programmes and their financing by producers and producer organisations on the one hand and by Community funds on the other shall have a minimum duration of three and a maximum duration of five years.

#### *Article 103h*

#### **Implementing rules**

The Commission shall establish the detailed rules for the application of this section, in particular:

- (a) rules on financing of the measures referred to in Article 103a, including the thresholds and ceilings for aid and the degree of Community co-financing of the aid;
- (b) the proportion of and rules on the reimbursement of the measures referred to in Article 103e(1);
- (c) rules on investments on individual holdings;
- (d) the dates for the communications and notifications referred to in Article 103g;
- (e) provision for partial payments of the Community financial assistance referred to in Article 103g.]

#### *Section V*

#### **Community Tobacco Fund**

#### *Article 104*

#### **Tobacco Fund**

1 A Community Tobacco Fund (hereinafter referred to as the Fund) shall be set up to finance measures in the following areas:

- a improving public awareness of the harmful effects of all forms of tobacco consumption, in particular through information and education, support for the collection of data to establish tobacco consumption patterns and to conduct epidemiological studies on nicotine addiction in the Community, and a study on preventing nicotine addiction;
- b specific measures to help tobacco growers to switch to other crops or other economic activities that create employment and studies of the possibilities for tobacco growers to do so.

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- 2 The Fund shall be financed:
  - a for the 2002 harvest by a deduction of 2 % and for the 2003, 2004 and 2005 harvests, of 3 % of the premium provided for in Title I of Regulation (EEC) No 2075/92 as applicable until and including the 2005 harvest for the financing of any kind of measures provided for in paragraph 1;
  - <sup>[F6]</sup>b for the calendar years 2006 to 2009, in accordance with Article 110m of Regulation (EC) No 1782/2003.]
- 3 Detailed rules for the application of this Article shall be adopted by the Commission.

#### Textual Amendments

- F6** Substituted by [Council Regulation \(EC\) No 470/2008 of 26 May 2008 amending Regulation \(EC\) No 1782/2003 as regards the transfer of tobacco aid to the Community Tobacco Fund for the years 2008 and 2009 and Regulation \(EC\) No 1234/2007 with regard to financing of the Community Tobacco Fund.](#)

### Section VI

#### *Special provisions for the apiculture sector*

#### Article 105

##### Scope

- 1 With a view to improving general conditions for the production and marketing of apiculture products, Member States may draw up a national programme for a period of three years (hereinafter referred to as the 'apiculture programme').
- 2 By way of derogation from Article 180, Articles 87, 88 and 89 of the Treaty shall not apply:
  - a to the financial contribution provided by Member States for measures subject to Community support in accordance with this Section;
  - b to specific national aids for the protection of apiaries disadvantaged by structural or natural conditions or under economic development programmes, except for those allocated for production or trade.

Aids referred to in point (b) shall be notified to the Commission by Member States together with the communication of the apiculture programme in accordance with Article 109.

#### Article 106

##### Measures eligible for aid

The measures which may be included in the apiculture programme shall be the following:

- (a) technical assistance to beekeepers and groupings of beekeepers;
- (b) control of varroasis;



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- (c) rationalisation of transhumance;
- (d) measures to support laboratories carrying out analyses of the physico-chemical properties of honey;
- (e) measures to support the restocking of hives in the Community;
- (f) cooperation with specialised bodies for the implementation of applied research programmes in the field of beekeeping and apiculture products.

Measures financed from the EAFRD in accordance with Council Regulation (EC) No 1698/2005<sup>(9)</sup> shall be excluded from the apiculture programme.

#### *Article 107*

### **Study of the production and marketing structure in the beekeeping sector**

To be eligible for the part-financing provided for in Article 108(1), Member States shall carry out a study of the production and marketing structure in the beekeeping sector in their territory.

#### *Article 108*

### **Financing**

1 The Community shall provide part-financing for the apiculture programmes equivalent to 50 % of the expenditure borne by Member States.

2 Expenditure relating to the measures taken under the apiculture programmes shall be made by the Member States by 15 October each year.

#### *Article 109*

### **Consultation**

The apiculture programme shall be drawn up in close collaboration with the representative organisations and beekeeping cooperatives. It shall be submitted to the Commission for approval.

#### *Article 110*

### **Implementing rules**

The Commission shall establish the detailed rules for the application of this Section.

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## *Section VII*

### ***Aids in the silkworm sector***

#### *Article 111*

#### **Aid to be granted to silkworm rearers**

1 Aid shall be granted for silkworms falling within CN-code ex 0106 90 00 and for silkworm eggs falling within CN-code ex 0511 99 85 reared within the Community.

2 The aid shall be granted to silkworm rearers for each box of silkworm eggs used, on condition that the boxes contain a minimum quantity of eggs, to be determined, and that the worms have been successfully reared.

3 The aid per box of silkworm eggs used shall be EUR 133,26.

#### *Article 112*

#### **Implementing rules**

Detailed rules for the application of this Section shall be adopted by the Commission which shall cover, in particular, the minimum quantity of eggs referred to in Article 111(2).

## TITLE II

### **RULES CONCERNING MARKETING AND PRODUCTION**

#### CHAPTER I

#### **Marketing standards and conditions for the production**

##### *Section I*

#### ***Marketing standards***

##### *Article 113*

#### **Marketing standards**

[<sup>F11</sup>] Provision may be made by the Commission for marketing standards for one or more of the products of the following sectors:

- a olive oil and table olives in respect of the products referred to in point (a) of Part VII of Annex I;
- b fruit and vegetables;
- c processed fruit and vegetables;
- d bananas;

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- e live plants.]
- 2 The standards referred to in paragraph 1:
- a shall be established taking into account, in particular:
- (i) the specificities of the products concerned;
  - (ii) the need to ensure the conditions for a smooth disposal of those products on the market;
  - (iii) <sup>[F1]</sup>the interest of consumers to receive adequate and transparent product information including, in particular for products of the fruit and vegetables and processed fruit and vegetables sectors, the country of origin, the class and, where appropriate, the variety (or the commercial type) of the product;]
  - (iv) as concerns the olive oils referred to in point (a) of Part VII of Annex I, changes in the methods used for determining their physical, chemical and organoleptic characteristics;
  - (v) <sup>[F2]</sup>as regards the fruit and vegetables and the processed fruit and vegetables sectors, the Standard recommendations adopted by the UN-Economic Commission for Europe (UN/ECE);]
- <sup>[F1]</sup>b may in particular relate to quality, grading into classes, weight, sizing, packaging, wrapping, storage, transport, presentation, marketing, origin and labelling.]
- 3 Save as otherwise provided for by the Commission in accordance with the criteria referred to in point (a) of paragraph 2, the products for which marketing standards have been laid down may be marketed in the Community only in accordance with such standards.

Without prejudice to any specific provisions which may be adopted by the Commission in accordance with Article 194, Member States shall check whether those products conform to those standards and shall apply penalties as appropriate.

#### Textual Amendments

- F1** Substituted by Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).
- F2** Inserted by Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).

#### <sup>[F2]</sup>Article 113a

##### **Additional requirements for the marketing of the products of the fruit and vegetables sector**

- 1 The products of the fruit and vegetables sector which are intended to be sold fresh to the consumer, may only be marketed if they are sound, fair and of marketable quality and if the country of origin is indicated.
- 2 The marketing standards referred to in paragraph 1 of this Article and in points (b) and (c) of Article 113(1) shall apply at all marketing stages including import and export unless otherwise provided for by the Commission.

*Status: Point in time view as at 01/10/2008.*

*Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

3 The holder of products of the fruit and vegetables and processed fruit and vegetables sector covered by marketing standards may not display such products or offer them for sale or deliver or market them in any manner within the Community other than in conformity with those standards and shall be responsible for ensuring such conformity.

4 Further to the second subparagraph of Article 113(3) and without prejudice to any specific provisions which may be adopted by the Commission in accordance with Article 194, in particular on the consistent application in the Member States of the conformity checks, Member States shall, in respect of the fruit and vegetables and the processed fruit and vegetables sectors, check selectively, based on a risk analysis, whether the products concerned conform to the respective marketing standards. These checks shall be focused on the stage prior to dispatch from the production areas when the products are being packed or loaded. For products from third countries, checks shall be done prior to release for free circulation.

#### Textual Amendments

- F2** Inserted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

### Article 113b

#### Marketing of the meat of bovine animals aged 12 months or less

1 Without prejudice to the provisions laid down in Article 42(1)(a) and (2) and point A of Annex V, the conditions laid down in Annex XIa, in particular the sales descriptions to be used set out in point III thereof, shall apply to the meat of bovine animals aged 12 months or less slaughtered on or after 1 July 2008, whether produced in the Community or imported from third countries.

However, the meat from animals aged 12 months or less and slaughtered before 1 July 2008 may continue to be marketed without meeting the conditions laid down in Annex XIa.

2 The conditions referred to in paragraph 1 shall not apply to the meat of bovine animals for which a protected designation of origin or geographical indication has been registered in accordance with Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs<sup>(10)</sup>, before 29 June 2007.]

#### Textual Amendments

- F2** Inserted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

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#### *Article 114*

### **Marketing standards for milk and milk products**

1 Foodstuffs intended for human consumption may be marketed as milk and milk products only if they comply with the definitions and designations laid down in Annex XII.

2 Without prejudice to exemptions provided for in Community law and to measures for the protection of public health, milk falling within CN code 0401 intended for human consumption may only be marketed within the Community in accordance with Annex XIII and, in particular, with the definitions set out in point I thereof.

#### *Article 115*

### **Marketing standards for fats**

Without prejudice to Article 114(1) or to any provisions adopted in the veterinary and foodstuffs sectors to ensure that products comply with hygiene and health standards and to protect animal and human health, the standards laid down in Annex XV shall apply to the following products having a fat content of at least 10 % but less than 90 % by weight, intended for human consumption:

- (a) milk fats falling within CN codes 0405 and ex 2106;
- (b) fats falling within CN code ex 1517;
- (c) fats composed of plant and/or animal products falling within CN codes ex 1517 and ex 2106.

The fat content excluding salt shall be at least two-thirds of the dry matter.

However, those standards shall only apply to products which remain solid at a temperature of 20 °C, and which are suitable for use as spreads.

#### *Article 116*

### **Marketing standards for products of the eggs and poultrymeat sectors**

Products of the eggs and poultrymeat sectors shall be marketed in accordance with the provisions set out in Annex XIV.

#### *Article 117*

### **Certification for hops**

1 Products of the hops sector, harvested or prepared within the Community, shall be subject to a certification procedure.

2 Certificates may be issued only for products having the minimum quality characteristics appropriate to a specific stage of marketing. In the case of hop powder, hop powder with higher lupulin content, extract of hops and mixed hop products, the certificate may

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only be issued if the alpha acid content of these products is not lower than that of the hops from which they have been prepared.

3 The certificates shall indicate at least:

- a the place(s) of production of the hops;
- b the year(s) of harvesting;
- c the variety or varieties.

4 Products of the hops sector may be marketed or exported only if a certificate as referred to in paragraphs 1, 2 and 3 has been issued.

In the case of imported products of the hops sector, the attestation provided for in Article 158(2) shall be deemed to be equivalent to the certificate.

5 Measures derogating from paragraph 4 may be adopted by the Commission:

- a in order to satisfy the trade requirements of certain third countries; or
- b for products intended for special uses.

The measures referred to in the first subparagraph shall:

- a not prejudice the normal marketing of products for which the certificate has been issued;
- b be accompanied by guarantees intended to avoid any confusion with those products.

#### *Article 118*

### **Marketing standards for olive oils and olive-pomace oils**

1 The use of the descriptions and definitions of olive oils and olive-pomace oils set out in Annex XVI shall be compulsory as regards the marketing of the products concerned within the Community and, insofar as compatible with international compulsory rules, in trade with third countries.

2 Only oils referred to in points 1(a) and (b), 3 and 6 of Annex XVI may be marketed at the retail stage.

#### *Section II*

### ***Conditions for production***

#### *Article 119*

### **Use of casein and caseinates in the manufacture of cheese**

The use of casein and caseinates in the manufacture of cheese shall be subject to prior authorisation which shall be granted only if such use is a necessary condition for the manufacture of the products.

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## Article 120

### Method of production of agricultural ethyl alcohol

The method of production and the characteristics of agricultural ethyl alcohol obtained from a specific agricultural product listed in Annex I to the Treaty may be laid down by the Commission.

## Section III

### Procedural rules

## Article 121

### Adoption of standards, implementing rules and derogations

The Commission shall establish the detailed rules for the application of this Chapter, which may in particular relate to:

- (a) [F<sup>1</sup>marketing standards referred to in Articles 113 and 113a including rules on:
  - (i) derogations or exemptions from the application of the standards;
  - (ii) presentation of particulars required by the standards as well as on marketing and labelling;
  - (iii) the application of the standards to products imported into, or exported from, the Community;
  - (iv) in respect of Article 113a(1), to define what constitutes a product which is sound, fair and of marketable quality.]
- (b) as regards the definitions and designations that may be used in the marketing of milk and milk products in accordance with Article 114(1):
  - (i) drawing up and, where necessary, supplementing the list of the products referred to in the second subparagraph of point III(1) of Annex XII, on the basis of the lists sent to it by the Member States;
  - (ii) making additions, where necessary, to the list of designations given in point (a) of the second subparagraph of point II(2) of Annex XII;
- (c) as regards the standards for spreadable fats referred to in Article 115:
  - (i) a list of the products referred to in point (a) of the third subparagraph of point I(2) of Annex XV, on the basis of the lists sent to the Commission by the Member States;
  - (ii) the methods of analysis needed to check the composition and manufacturing characteristics of the products referred to in Article 115;
  - (iii) detailed rules for the taking of samples;

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- (iv) detailed rules for obtaining statistical information on the markets in the products referred to in Article 115;
- (d) as regards the provisions concerning the marketing of eggs set out in Part A of Annex XIV:
  - (i) definitions;
  - (ii) the frequency of collection, delivery, preservation and handling of eggs;
  - (iii) quality criteria, in particular the appearance of the shell, the consistency of the white and the yolk and the height of the air space;
  - (iv) weight grading, including exceptions;
  - (v) marking of eggs and indications on packs, including exceptions and including the rules to be applied in relation to packing centres;
  - (vi) trade with third countries;
  - (vii) farming methods;
- (e) as regards the provisions concerning the marketing of poultrymeat set out in Part B of Annex XIV:
  - (i) definitions;
  - (ii) the list of poultry carcasses, parts of such carcasses and offals, including *foie gras*, to which Part B of Annex XIV shall apply;
  - (iii) the criteria for classification within the meaning of point III(1) of Part B of Annex XIV;
  - (iv) the rules concerning further indications to be shown on accompanying commercial documents, the labelling, presentation and advertising of poultrymeat intended for the final consumer and the name under which the product is sold within the meaning of point (1) of Article 3(1) of Directive 2000/13/EC;
  - (v) optional indications of the method of the chilling used and of the type of farming;
  - (vi) derogations that may be applied in case of deliveries to cutting or processing establishments;
  - (vii) the rules to be applied as regards the percentages of water absorption during the preparation of fresh, frozen and quick-frozen carcasses and cuts thereof as well as the indications to be made in that respect;
- (f) as regards the provisions concerning the standards for the production and marketing of eggs for hatching and of farmyard poultry chicks set out in Part C of Annex XIV:
  - (i) definitions;
  - (ii) the registration of establishments producing or marketing eggs for hatching or farmyard poultry chicks;



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- (iii) indications to be made on eggs for hatching, including those to be imported from or to be exported to third countries, and on the packings, as well as the rules to be applied in respect of chicks originating in third countries;
- (iv) registers to be kept by hatcheries;
- (v) the use, other than for human consumption, that may be made of incubated eggs withdrawn from the incubator;
- (vi) communications from hatcheries and other establishments to the competent authorities of the Member States;
- (vii) accompanying documents;
- (g) the minimum quality characteristics for products of the hops sector referred to in Article 117;
- (h) the methods of analysis to be used, where applicable;
- (i) as regards the use of casein and caseinates referred to in Article 119:
  - (i) the conditions according to which the Member States shall grant the authorisations and the maximum percentages to be incorporated, on the basis of objective criteria having regard to what is technologically necessary;
  - (ii) the obligations to be respected by the undertakings authorised in accordance with point (i)<sup>[F1]</sup>;
- (j) <sup>[F2]</sup>as regards the conditions that shall be used in the marketing of the meat of bovine animals aged 12 months or less in accordance with Article 113b:
  - (i) the practical methods of indicating the category identification letter as defined in point II of Annex XIa, as regards the location and size of the characters used;
  - (ii) the import of meat from third countries as referred to in point VIII of Annex XIa, as regards the methods of verifying compliance with this Regulation.]

<sup>[F2]</sup>The Commission may amend Part B of the table set up in point III(2) of Annex XIa.]

#### Textual Amendments

- F1** Substituted by Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).
- F2** Inserted by Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).

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## CHAPTER II

### Producer organisations, interbranch organisations, operator organisations

#### Section I

#### General principles

#### Article 122

#### Producer organisations

Member States shall recognise producer organisations, which:

- (a) <sup>[F1]</sup>are constituted by producers of one of the following sectors:
  - (i) hops;
  - (ii) olive oil and table olives;
  - (iii) fruit and vegetables in respect of farmers growing one or more products of that sector and/or of such products solely intended for processing;
  - (iv) silkworm;]
- (b) are formed on the initiative of the producers;
- (c) <sup>[F1]</sup>pursue a specific aim which may in particular, or as regards the fruit and vegetables sector shall, include one or more of the following objectives:
  - (i) ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity;
  - (ii) concentration of supply and the placing on the market of the products produced by its members;
  - (iii) optimising production costs and stabilising producer prices.;

#### Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

#### Article 123

#### Interbranch organisations

- <sup>[F21.]</sup> Member States shall recognise interbranch organisations which:
- a are made up of representatives of economic activities linked to the production of, trade in, and/or processing of products in the following sectors:
    - (i) the olive oil and table olives sector;

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- (ii) the tobacco sector;
- b are formed on the initiative of all or some of the organisations or associations which constitute them;
- c pursue a specific aim, which may, in particular relate to:
  - (i) concentrating and coordinating supply and marketing of the produce of the members;
  - (ii) adapting production and processing jointly to the requirements of the market and improving the product;
  - (iii) promoting the rationalisation and improvement of production and processing;
  - (iv) carrying out research into sustainable production methods and market developments.

[<sup>F3</sup>Where interbranch organisations carry out their activities in the territories of several Member States, recognition shall be granted by the Commission without the assistance of the Committee referred to in Article 195(1).]

[<sup>F2</sup> Where interbranch organisations referred to in paragraph 1 carry out their activities in the territories of several Member States, recognition shall be granted by the Commission without the assistance of the Committee referred to in Article 195(1).]

[<sup>F23</sup> Further to paragraph 1, Member States shall also recognise interbranch organisations which:

- a are made up of representatives of economic activities linked to the production of and/or trade in and/or processing of the products of the fruit and vegetables sector;
- b are formed on the initiative of all or some of the organisations or associations which constitute them;
- c carry out two or more of the following activities in one or more regions of the Community, taking into account the interests of consumers:
  - (i) improving knowledge and the transparency of production and the market;
  - (ii) helping to coordinate better the way fruit and vegetables are placed on the market, in particular by means of research and market studies;
  - (iii) drawing up standard forms of contract compatible with Community rules;
  - (iv) exploiting to a fuller extent the potential of the fruit and vegetables produced;
  - (v) providing the information and carrying out the research necessary to adjust production towards products more suited to market requirements and consumer tastes and expectations, in particular with regard to product quality and protection of the environment;
  - (vi) seeking ways of restricting the use of plant-health products and other inputs and ensuring product quality and soil and water conservation;
  - (vii) developing methods and instruments for improving product quality;
  - (viii) exploiting the potential of and protecting organic farming as well as designations of origin, quality labels and geographical indications;
  - (ix) promoting integrated production or other environmentally sound production methods;

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- (x) laying down rules, as regards the production and marketing rules referred to in points 2 and 3 of Annex XVIa, which are stricter than Community or national rules.]

#### **Textual Amendments**

- F2** Inserted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).
- F3** Deleted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

### *Article 124*

#### **Common provisions concerning producer and interbranch organisations**

1 Article 122 and the first paragraph of Article 123 shall apply without prejudice to the recognition, decided by Member States on the basis of national law and in compliance with Community law, of producer organisations or interbranch organisations respectively, in any sector referred to in Article 1 except for the sectors referred to in Article 122 and the first paragraph of Article 123.

2 Producer organisations recognised or approved in accordance with Regulations (EC) No 865/2004, (EC) No 1952/2005 and (EC) No 1544/2006 shall be considered as recognised producer organisations under Article 122 of this Regulation.

Interbranch organisations recognised or approved in accordance with Regulations (EEC) 2077/92 and (EC) No 865/2004 shall be considered recognised interbranch organisations under Article 123 of this Regulation.

### *Article 125*

#### **Operator organisations**

For the purposes of this Regulation, operator organisations shall comprise recognised producer organisations, recognised interbranch organisations or recognised organisations of other operators in the olive oil and table olives sector or their associations.

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## [F<sup>2</sup>Section IA

### **Rules concerning producer and interbranch organisations and producer groups in the fruit and vegetables sector**

#### Subsection I

#### **Rules of association and recognition of producer organisations**

##### *Article 125a*

#### **Rules of association of producer organisations**

- 1 The rules of association of a producer organisation in the fruit and vegetables sector shall require its producer members, in particular, to:
  - a apply the rules adopted by the producer organisation relating to production reporting, production, marketing and protection of the environment;
  - b belong to only one producer organisation in respect of a given holding's production of any given product referred to in Article 122(a)(iii);
  - c market their entire production concerned through the producer organisation;
  - d provide the information requested by the producer organisation for statistical purposes, in particular on growing areas, quantities cropped, yields and direct sales;
  - e pay the financial contributions provided for in its rules of association for the establishment and replenishment of the operational fund provided for in Article 103b.
- 2 Notwithstanding paragraph 1(c), where the producer organisation so authorises and where this is in compliance with the terms and conditions laid down by the producer organisation, the producer members may:
  - a sell no more than a fixed percentage of their production and/or products directly on their holdings and/or outside their holdings to consumers for their personal needs, such percentages being fixed by Member States at not less than 10 %;
  - b market themselves or through another producer organisation designated by their own organisation, quantities of products which are marginal in relation to the volume of marketable production of their organisation;
  - c market themselves or through another producer organisation designated by their own organisation products which, because of their characteristics, are not normally covered by the commercial activities of the producer organisation concerned.
- 3 The rules of association of a producer organisation shall also provide for:
  - a procedures for determining, adopting and amending the rules referred to in paragraph 1;
  - b the imposition on members of financial contributions needed to finance the producer organisation;
  - c rules enabling the producer members to scrutinise democratically their organisation and its decisions;
  - d penalties for infringement of obligations under the rules of association, particularly non-payment of financial contributions, or of the rules laid down by the producer organisation;
  - e rules on the admission of new members, particularly a minimum membership period;
  - f the accounting and budgetary rules necessary for the operation of the organisation.

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4 Producer organisations in the fruit and vegetables sector shall be deemed as acting in the name of, and on behalf of, their members in economic matters.

#### *Article 125b*

#### **Recognition**

1 Member States shall recognise as producer organisations in the fruit and vegetables sector all legal entities or clearly defined parts of legal entities applying for such recognition, provided that:

- a they have the objective of the use of environmentally sound cultivation practices, production techniques and waste management practices in particular to protect the quality of water, soil and landscape and preserve or encourage biodiversity and meet the requirements laid down in Articles 122 and 125a and provide the relevant evidence therefore;
- b they have a minimum number of members and cover a minimum volume or value of marketable production to be laid down by Member States, and provide the relevant evidence therefore;
- c there is sufficient evidence that they can carry out their activities properly, both over time and in terms of effectiveness and concentration of supply, to which end Member States may decide which of the products, or groups of products referred to in Article 122(a)(iii) should be covered by the producer organisation;
- d they effectively enable their members to obtain technical assistance in using environmentally-sound cultivation practices;
- e they effectively provide their members, where necessary, with the technical means for collecting, storing, packaging and marketing their produce;
- f they ensure proper commercial and accounting management of their activities; and
- g they do not hold a dominant position on a given market unless this is necessary in pursuance of the objectives of Article 33 of the Treaty.

2 Member States shall:

- a decide whether to grant recognition to a producer organisation within three months of the lodging of an application accompanied by all the relevant evidence;
- b carry out checks at regular intervals to ascertain that producer organisations comply with this Chapter, impose the penalties on such organisations in the event of non-compliance or irregularities concerning the provisions of this Regulation and decide, where necessary, to withdraw recognition;
- c notify the Commission, once per year, of every decision to grant, refuse or withdraw recognition.

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## Subsection II

### **Association of producer organisations and producer groups**

#### *Article 125c*

#### **Association of producer organisations in the fruit and vegetables sector**

An association of producer organisations in the fruit and vegetables sector shall be formed on the initiative of recognised producer organisations and may carry out any of the activities of a producer organisation referred to in this Regulation. To this end, Member States may recognise, on request, an association of producer organisations where:

- (a) the Member State considers that the association is capable of effectively carrying out those activities; and
- (b) the association does not hold a dominant position on a given market unless this is necessary in pursuance of the objectives of Article 33 of the Treaty.

Article 125a(4) shall apply *mutatis mutandis*.

#### *Article 125d*

#### **Outsourcing**

Member States may permit a recognised producer organisation in the fruit and vegetables sector or a recognised association of producer organisations in that sector to outsource any of its activities, including to subsidiaries, provided that it provides sufficient evidence to the Member State that doing so is an appropriate way to achieve the objectives of the producer organisation or association of producer organisations concerned.

#### *Article 125e*

#### **Producer groups in the fruit and vegetables sector**

1 In Member States which acceded to the European Union on 1 May 2004 or thereafter, or in the outermost regions of the Community as referred to in Article 299(2) of the Treaty, or in the smaller Aegean Islands as referred to in Article 1(2) of Regulation (EC) No 1405/2006, producer groups may be formed as a legal entity or clearly defined part of a legal entity, on the initiative of farmers who are growers of one or more products of the fruit and vegetables sector and/or of such products solely intended for processing, with a view to being recognised as a producer organisation.

Such producer groups may be allowed a transitional period in which to meet the conditions for recognition as a producer organisation in accordance with Article 122.

In order to qualify, those producer groups shall present a phased recognition plan to the relevant Member State, acceptance of which shall signal the start of the transitional period referred to in the second subparagraph and shall constitute a preliminary recognition. The transitional period shall be no more than five years long.

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2 Before acceptance of the recognition plan, Member States shall inform the Commission of their intentions and the likely financial implications thereof.

### Subsection III

#### Extension of rules to producers in an economic area

##### Article 125f

#### Extension of rules

1 In cases where a producer organisation in the fruit and vegetables sector which operates in a specific economic area is considered, in respect of a specific product, to be representative of production and producers in that area, the Member State concerned may, at the request of the producer organisation, make the following rules binding on producers established in that economic area who do not belong to the producer organisation:

- a the rules referred to in Article 125a(1)(a);
- b the rules required to implement the measures referred to in Article 103c(2)(c).

The first subparagraph shall apply on condition that those rules:

- (a) have been in force for at least one marketing year;
- (b) are included in the exhaustive list in Annex XVIa;
- (c) are made binding for no more than three marketing years.

However, the condition referred to in point (a) of the second subparagraph shall not apply if the rules concerned are those listed in points 1, 3 and 5 of Annex XVIa. In this case, the extension of rules may not apply for more than one marketing year.

2 For the purposes of this subsection, 'economic area' means a geographical zone made up of adjoining or neighbouring production regions in which production and marketing conditions are homogeneous.

Member States shall notify a list of economic areas to the Commission.

Within one month of notification, the Commission shall approve the list or shall, after consultation with the Member State concerned, decide on the amendments which the latter must make to it. The Commission shall make the approved list publicly available by the methods it considers appropriate.

3 A producer organisation shall be deemed representative within the meaning of paragraph 1 where its members account for at least 50 % of the producers in the economic area in which it operates and it covers at least 60 % of the volume of production of that area. Without prejudice to paragraph 5, in calculating these percentages account shall not be taken of producers or production of organic products covered, until 31 December 2008, by Regulation (EEC) No 2092/91 and, from 1 January 2009, by Regulation (EC) No 834/2007.

4 The rules which are made binding on all producers in a specific economic area:

- a shall not cause any damage to other producers in the Member State concerned or in the Community;



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- b shall not apply, unless they expressly cover them, to products delivered for processing under a contract signed before the beginning of the marketing year, with the exception of the rules on production reporting referred to in Article 125a(1)(a);
- c shall not be incompatible with Community and national rules in force.

5 Rules may not be made binding on producers of organic products covered, until 31 December 2008, by Regulation (EEC) No 2092/91 and, from 1 January 2009, by Regulation (EC) No 834/2007 unless such a measure has been agreed to by at least 50 % of such producers in the economic area in which the producer organisation operates and that organisation covers at least 60 % of such production of that area.

#### *Article 125g*

#### **Notification**

Member States shall notify the Commission forthwith of the rules which they have made binding on all producers in a specific economic area pursuant to Article 125f(1). The Commission shall make these rules publicly available by the methods it considers appropriate.

#### *Article 125h*

#### **Repeal of the extension of rules**

The Commission shall decide that a Member State shall repeal an extension of the rules decided on by that Member State pursuant to Article 125f(1):

- (a) where it finds that the extension in question to other producers excludes competition in a substantial part of the internal market or jeopardises free trade, or that the objectives of Article 33 of the Treaty are endangered;
- (b) where it finds that Article 81(1) of the Treaty applies to the rules extended to other producers. The Commission's decision with regard to those rules shall apply only from the date of such a finding;
- (c) where it finds after checks that this subsection has not been complied with.

#### *Article 125i*

#### **Financial contributions of non-member producers**

Where Article 125f(1) is applied, the Member State concerned may decide, on scrutiny of evidence presented, that non-member producers shall be liable to the producer organisation for the part of the financial contributions paid by the producer members, insofar as these are used to cover:

- (a) administrative costs resulting from applying the rules referred to in Article 125f(1);
- (b) the cost of research, market studies and sales promotion undertaken by the organisation or association and benefiting all producers in the area.

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### *Article 125j*

#### **Extension of rules of associations of producer organisations**

For the purposes of this subsection, any reference to producer organisations shall also be construed as a reference to recognised associations of producer organisations.

#### Subsection IV

#### **Interbranch organisations in the fruit and vegetables sector**

### *Article 125k*

#### **Recognition and withdrawal of recognition**

1 If warranted by the Member State's structures, Member States may recognise as interbranch organisations in the fruit and vegetables sector all legal entities established on their territory which make an appropriate application, on condition that:

- a they carry out their activity in one or more regions in the Member State concerned;
- b they represent a significant share of the production of, trade in and/or processing of fruit and vegetables and products processed from fruit and vegetables in the region or regions in question and, where more than one region is involved, they can demonstrate a minimum level of representativeness in each region for each of the branches that they group;
- c they carry out two or more of the activities referred to in Article 123(3)(c);
- d they are not themselves engaged in the production or processing or marketing of fruit and vegetables or products processed from fruit and vegetables;
- e they do not engage in any of the agreements, decisions and concerted practices referred to in Article 176a(4).

2 Before granting recognition Member States shall notify the Commission of the interbranch organisations which have applied for recognition, providing all relevant information about their representativeness and their various activities, together with all other information needed for an assessment.

The Commission may object to recognition within a time limit of two months after notification.

3 Member States shall:

- a decide whether to grant recognition within three months of the lodging of an application with all relevant supporting documents;
- b carry out checks at regular intervals to ascertain that interbranch organisations comply with the terms and conditions for recognition, impose the penalties on such organisations in the event of non-compliance or irregularities concerning the provisions of this Regulation and decide, where necessary, to withdraw recognition;
- c withdraw recognition if:
  - (i) the requirements and conditions for recognition laid down in this subsection are no longer met;

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- (ii) the interbranch organisation engages in any of the agreements, decisions and concerted practices referred to in Article 176a(4), without prejudice to any other penalties to be imposed pursuant to national law;
- (iii) the interbranch organisation fails to comply with the notification obligation referred to in Article 176a(2);
- d notify the Commission, within two months, of any decision to grant, refuse or withdraw recognition.

4 The Commission shall lay down the terms and conditions on which and the frequency with which the Member States are to report to the Commission on the activities of interbranch organisations.

The Commission may, as a result of checks, request a Member State to withdraw recognition.

5 Recognition shall constitute an authorisation to carry out the activities listed in Article 123(3)(c), subject to the terms of this Regulation.

6 The Commission shall make publicly available a list of recognised interbranch organisations, by the methods it considers appropriate, indicating the economic sphere or the area of their activities and the activities carried out within the meaning of Article 1251. Withdrawals of recognition shall also be made publicly available.

#### *Article 1251*

#### **Extension of rules**

1 In cases where an interbranch organisation operating in a specific region or regions of a Member State is considered to be representative of the production of or trade in or processing of a given product, the Member State concerned may, at the request of that interbranch organisation, make binding some of the agreements, decisions or concerted practices agreed on within that organisation for a limited period on other operators operating in the region or regions in question, whether individuals or groups, who do not belong to the organisation.

2 An interbranch organisation shall be deemed representative within the meaning of paragraph 1 where it accounts for at least two thirds of the production or trade in or processing of the product or products concerned in the region or regions concerned of a Member State. Where the application for extension of its rules to other operators covers more than one region, the interbranch organisation must demonstrate a minimum level of representativeness for each of the branches it groups in each of the regions concerned.

3 The rules for which extension to other operators may be requested:

- a shall have one of the following aims:
  - (i) production and market reporting;
  - (ii) stricter production rules than those laid down in Community or national rules;
  - (iii) drawing up of standard contracts which are compatible with Community rules;
  - (iv) rules on marketing;
  - (v) rules on protecting the environment;
  - (vi) measures to promote and exploit the potential of products;

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- (vii) measures to protect organic farming as well as designations of origin, quality labels and geographical indications;
- b shall have been in force for at least one marketing year;
- c may be made binding for no more than three marketing years;
- d shall not cause any damage to other operators in the Member State concerned or the Community.

However, the condition referred to in point (b) of the first subparagraph shall not apply if the rules concerned are those listed in points 1, 3 and 5 of Annex XVIa. In this case, the extension of rules may not apply for more than one marketing year.

4 The rules referred to in points (a)(ii), (iv) and (v) of paragraph 3 shall not be other than those set out in Annex XVIa. The rules referred to in point (a)(ii) of paragraph 3 shall not apply to products which were produced outside the specific region or regions referred to in paragraph 1.

#### *Article 125m*

#### **Notification and repeal of the extension of rules**

1 Member States shall notify the Commission forthwith of the rules which they have made binding on all operators in one or more specific regions pursuant to Article 125l(1). The Commission shall make those rules publicly available by the methods it considers appropriate.

2 Before the rules are made publicly available, the Commission shall inform the Committee set up by Article 195 of any notification of the extension of interbranch agreements.

3 The Commission shall decide that a Member State must repeal an extension of the rules decided on by that Member State in the cases referred to in Article 125h.

#### *Article 125n*

#### **Financial contributions of non-members**

In cases where rules for one or more products are extended and where one or more of the activities referred to in Article 125l(3)(a) are pursued by a recognised interbranch organisation and are in the general economic interest of those persons whose activities relate to one or more of the products concerned, the Member State which has granted recognition may decide that individuals or groups which are not members of the interbranch organisation but which benefit from those activities shall pay the organisation all or part of the financial contributions paid by its members to the extent that such contributions are intended to cover costs directly incurred as a result of pursuing the activities in question.]

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## *Section II*

### ***Rules concerning interbranch organisations in the tobacco sector***

#### *Article 126*

#### **Payment of subscription by non-members**

1 Where one or more of the activities referred to in paragraph 2 is pursued by a recognised interbranch organisation in the tobacco sector and is in the general economic interest of those persons whose activities relate to one or more of the products concerned, the Member State which has granted recognition, or the Commission, without the assistance of the Committee referred to in Article 195(1), where recognition has been granted by the Commission, may decide that individuals or groups which are not members of the organisation but which benefit from those activities shall pay the organisation all or part of the subscriptions paid by its members to the extent that such subscriptions are intended to cover costs, other than administrative costs of any description, directly incurred as a result of pursuing the activities in question.

2 The activities referred to in paragraph 1 shall relate to one of the following objectives:

- a research to add value to the products, in particular through new uses which do not pose a threat to public health;
- b studies to improve the quality of leaf or baled tobacco;
- c research into methods of cultivation permitting reduced use of plant health products and guaranteeing conservation of the soil and the environment.

3 The Member States concerned shall notify the Commission of decisions which they intend to take under paragraph 1. Such decisions may not apply before the expiry of a three month period starting from the date of notification to the Commission. Within that three month period the Commission may call for the rejection of all or part of the draft decision if the general economic interest put forward does not appear to be well founded.

4 Where the activities of an interbranch organisation recognised by the Commission in accordance with this Chapter are in the general economic interest, the Commission shall notify its draft decision to the Member States concerned, who shall then have two months to make their comments.

## *Section III*

### ***Procedural rules***

#### *Article 127*

#### **Implementing rules**

The Commission shall adopt the detailed rules for the application of this Chapter, in particular the conditions and procedures for the recognition of producer, interbranch and operator organisations in individual sectors, including:

- (a) the specific aims to be pursued by such organisations;
- (b) the rules of association of such organisations;

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- (c) the activities of such organisations;
- (d) derogations from the requirements laid down in Articles 122, 123 and 125;
- (da) [<sup>F2</sup>as the case may be, the rules on transnational producer organisations and transnational associations of producer organisations including administrative assistance to be given by the relevant competent authorities in the case of transnational cooperation;]
- (e) as the case may be, any effects deriving from the recognition as an interbranch organisation.

#### Textual Amendments

- F2** Inserted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

## PART III

### TRADE WITH THIRD COUNTRIES

#### CHAPTER I

#### General provisions

##### *Article 128*

#### General principles

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

- (a) the levying of any charge having equivalent effect to a customs duty;
- (b) the application of any quantitative restriction or measure having equivalent effect.

##### *Article 129*

#### Combined nomenclature

The general rules for interpreting the Combined Nomenclature, provided for in Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff<sup>(11)</sup> (hereinafter referred to as ‘Combined Nomenclature’), and the special rules for its application shall apply to the tariff classification of products covered by this Regulation. The tariff nomenclature resulting from the application of this Regulation including, as the case may be, the definitions in Annex III shall be included in the Common Customs Tariff.

*Status: Point in time view as at 01/10/2008.*

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## CHAPTER II

### Imports

#### Section I

#### Import licences

#### Article 130

#### Import licences

1 Without prejudice to cases where import licences are required in accordance with this Regulation, the Commission may make imports of one or more products of the following sectors into the Community subject to presentation of an import licence:

- a cereals;
- b rice;
- c sugar;
- d seeds;
- e olive oil and table olives, with regard to products falling within CN codes 1509, 1510 00, 0709 90 39, 0711 20 90, 2306 90 19, 1522 00 31 and 1522 00 39;
- f flax and hemp, as far as hemp is concerned;
- [<sup>F2</sup>fa fruit and vegetables;
- fb processed fruit and vegetables;]
- g bananas;
- h live plants;
- i beef and veal;
- j milk and milk products;
- k pigmeat;
- l sheepmeat and goatmeat;
- m eggs;
- n poultrymeat;
- o agricultural ethyl alcohol.

2 When applying paragraph 1, the Commission shall take account of the need for import licences for the management of the markets concerned and, in particular, for monitoring the imports of the products in question.

#### Textual Amendments

- F2** Inserted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

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### *Article 131*

#### **Issue of licences**

Import licences shall be issued by Member States to any applicant, irrespective of its place of establishment in the Community, unless a Council Regulation or any other act of the Council provides otherwise, and without prejudice to measures taken for the application of this Chapter.

### *Article 132*

#### **Validity**

Import licences shall be valid throughout the Community.

### *Article 133*

#### **Security**

1 Save as otherwise provided for by the Commission, licences shall be issued subject to the lodging of a security guaranteeing that the products are imported during the term of validity of the licence.

2 Except in cases of *force majeure*, the security shall be forfeited in whole or in part if the import is not carried out, or is carried out only partially, within the period of validity of the licence.

### *Article 134*

#### **Implementing rules**

The Commission shall adopt the detailed rules for the application of this Section, including the terms of validity of the licences and the rate of security.

### *Section II*

#### ***Import duties and levies***

### *Article 135*

#### **Import duties**

Save as otherwise provided for pursuant to this Regulation, the rates of import duty in the Common Customs Tariff shall apply to the products referred to in Article 1.



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### *Article 136*

#### **Calculation of import duties for cereals**

1 Notwithstanding Article 135, the import duty on products covered by CN codes 1001 10 00, 1001 90 91, ex 1001 90 99 (high quality common wheat), 1002 00 00, 1005 10 90, 1005 90 00 and 1007 00 90 other than hybrid for sowing, shall be equal to the intervention price valid for such products on importation increased by 55 %, minus the c.i.f. import price applicable to the consignment in question. However, that duty may not exceed the conventional rate of duty as determined on the basis of the Combined Nomenclature.

2 For the purposes of calculating the import duty referred to in paragraph 1, representative c.i.f. import prices shall be established on a regular basis for the products referred to in that paragraph.

### *Article 137*

#### **Calculation of import duties for husked rice**

1 Notwithstanding Article 135, the import duty on husked rice falling within CN code 1006 20 shall be fixed by the Commission without the assistance of the Committee referred to in Article 195(1) within 10 days of the end of the reference period concerned in accordance with point 1 of Annex XVII.

The Commission, without the assistance of the Committee referred to in Article 195(1), shall fix a new applicable duty if the calculations performed under that Annex indicate a need to change the duty. Until such time as a new applicable duty is fixed, the duty previously fixed shall apply.

2 In order to calculate the imports referred to in point 1 of Annex XVII, account shall be taken of the quantities for which import licences for husked rice falling within CN code 1006 20 were issued in the corresponding reference period, excluding the import licences for Basmati rice referred to in Article 138.

3 The annual reference quantity shall be 449 678 tonnes. The partial reference quantity for each marketing year shall correspond to half the annual reference quantity.

### *Article 138*

#### **Calculation of import duties for husked basmati rice**

Notwithstanding Article 135, the husked Basmati rice varieties falling within CN codes 1006 20 17 and 1006 20 98 listed in Annex XVIII shall qualify for a zero rate of import duty under the conditions fixed by the Commission.

### *Article 139*

#### **Calculation of import duties for milled rice**

1 Notwithstanding Article 135, the import duty for semi-milled or wholly milled rice falling within CN code 1006 30 shall be fixed by the Commission, without the assistance of the

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Committee referred to in Article 195(1), within ten days after the end of the reference period concerned in accordance with point 2 of Annex XVII.

The Commission, without the assistance of the Committee referred to in Article 195(1), shall fix a new applicable duty if the calculations performed under that Annex indicate a need to change the duty. Until such time as a new applicable duty is fixed, the duty previously fixed shall apply.

2 In order to calculate imports referred to in point 2 of Annex XVII, account shall be taken of the quantities for which import licences for semi-milled or wholly milled rice falling within CN code 1006 30 were issued in the corresponding reference period.

#### *Article 140*

#### **Calculation of import duties for broken rice**

Notwithstanding Article 135, the import duty on broken rice falling within CN code 1006 40 00 shall be EUR 65 per tonne.

#### *[<sup>F2</sup> Article 140a*

#### **Entry price system for the fruit and vegetables and the processed fruit and vegetables sectors**

1 Should application of the common customs tariff duty rate depend on the entry price of the imported consignment, the veracity of this price shall be checked using a flat-rate import value calculated by the Commission, by product and by origin, on the basis of the weighted average of prices for the product on Member States' representative import markets or on other markets, where appropriate.

Specific provisions may, however, be adopted by the Commission for verifying the entry price of products imported primarily for processing.

2 Where the declared entry price of the consignment in question is higher than the flat-rate import value, increased by a margin set by the Commission which may not exceed the flat-rate value by more than 10 %, the lodging of a security equal to the import duty determined on the basis of the flat-rate import value shall be required.

3 If the entry price of the consignment in question is not declared at the time of customs clearance, the common customs tariff duty rate to be applied shall depend on the flat-rate import value or be arrived at by application of the relevant customs legislation provisions under conditions to be determined by the Commission.]

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#### **Textual Amendments**

**F2** Inserted by Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).

*Status: Point in time view as at 01/10/2008.*

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## Article 141

### Additional import duties

[<sup>F1</sup> An additional import duty shall apply to imports at the rate of duty laid down in Articles 135 to 140a of one or more products of the cereals, rice, sugar, fruit and vegetables, processed fruit and vegetables, beef and veal, milk and milk products, pig meat, sheep meat and goat meat, eggs, poultry and bananas sectors, in order to prevent or counteract adverse effects on the market of the Community which may result from those imports, if:]

- a the imports are made at a price below the level notified by the Community to the WTO (the trigger price); or
- b the volume of imports in any year exceeds a certain level (the trigger volume).

The trigger volume shall be based on market access opportunities defined, where applicable, as imports as a percentage of the corresponding domestic consumption during the three previous years.

2 Additional import duties shall not be imposed where the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

3 For the purposes of paragraph 1(a), import prices shall be determined on the basis of the c.i.f. import prices of the consignment under consideration.

C.i.f. import prices shall be checked against the representative prices for the product on the world market or on the Community import market for that product.

#### Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

## Article 142

### Suspension of import duties in the sugar sector

The Commission may suspend import duties in whole or in part for certain quantities in respect of the following products to guarantee the supply necessary for the manufacturing of products referred to in Article 62(2):

- (a) sugar falling within CN code 1701;
- (b) isoglucose falling within CN codes 1702 30 10, 1702 40 10, 1702 60 10 and 1702 90 30.

## Article 143

### Implementing rules

The Commission shall adopt the detailed rules for the application of this Section, in particular specifying:

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- (a) as regards Article 136:
- (i) the minimum requirements for high quality common wheat;
  - (ii) the price quotations to be taken into consideration;
  - (iii) the possibility, where appropriate in specific cases, of giving operators the opportunity to know the duty applicable before the arrival of the consignments concerned.
- (b) as regards Article 141, the products to which additional import duties shall be applied and the other criteria necessary to ensure the application of paragraph 1 of that Article.

### *Section III*

#### ***Import quota management***

##### *Article 144*

#### **Tariff quotas**

1 Tariff quotas for imports of products referred to in Article 1 resulting from agreements concluded in accordance with Article 300 of the Treaty or from any other act of the Council shall be opened and administered by the Commission under detailed rules adopted by the Commission.

2 Tariff quotas shall be administered in a manner which avoids any discrimination between the operators concerned, by applying one of the following methods or a combination of them or another appropriate method:

- a a method based on the chronological order of the lodging of applications ('first come, first served' principle);
- b a method of distribution in proportion to the quantities requested when the applications were lodged (using the 'simultaneous examination method');
- c a method based on taking traditional trade patterns into account (using the 'traditional/newcomers method').

3 The method of administration adopted shall, where appropriate, give due weight to the supply requirements of the Community market and the need to safeguard the equilibrium of that market.

##### *Article 145*

#### **Opening of tariff quotas**

The Commission shall provide for the annual tariff quotas, if necessary suitably phased over the year and shall determine the administrative method to be used.

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*Status: Point in time view as at 01/10/2008.*

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## Article 146

### Specific rules

1 With regard to the import quota of 54 703 tonnes of frozen beef and veal meat falling within CN codes 0202 20 30, 0202 30 and 0206 29 91 and intended for processing, the Council, acting in accordance with the procedure laid down in Article 37(2) of the Treaty, may lay down that all or part of the quota shall cover equivalent quantities of quality meat, applying a conversion rate of 4,375.

2 In the case of tariff quota for import into Spain of 2 000 000 tonnes of maize and 300 000 tonnes of sorghum and tariff quota for import into Portugal of 500 000 tonnes of maize, the detailed rules referred to in Article 148 shall also include the provisions necessary for carrying out the tariff quota imports and, where appropriate, the public storage of the quantities imported by the paying agencies of the Member States concerned and their disposal on the markets of those Member States.

## Article 147

### Tariff rates for bananas

This Chapter shall apply without prejudice to Council Regulation (EC) No 1964/2005<sup>(12)</sup>.

## Article 148

### Implementing rules

The Commission shall adopt detailed rules for the implementation of this Section, in particular on:

- (a) guarantees covering the nature, provenance and origin of the product;
- (b) recognition of the document used for verifying the guarantees referred to in point (a);
- (c) the conditions under which import licences shall be issued and their term of validity.

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#### *Section IV*

### ***Special provisions for certain products***

#### *Subsection I*

### ***Special provisions for imports in respect of the cereals and rice sectors***

#### *Article 149*

### **Imports of mixtures of different cereals**

The import duty applicable to mixtures composed of cereals falling within points (a) and (b) of Part I of Annex I shall be established as follows:

- (a) in the case where the mixture is composed of two of such cereals, the import duty shall be that applicable:
  - (i) to the component cereal predominating by weight, when the cereal represents at least 90 % of the weight of the mixture;
  - (ii) to the component cereal liable to the higher import duty, when neither of the two component cereals represents at least 90 % of the weight of the mixture;
- (b) in the case where the mixture is composed of more than two of such cereals, and where several cereals each represent more than 10 % by weight of the mixture, the import duty applicable to the mixture shall be the highest of the import duties applicable to such cereals, even when the amount of the import duty is the same for two or more of the cereals.

Where only one cereal represents more than 10 % of the weight of the mixture, the import duty to be applied shall be that applicable to this cereal.

- (c) in all cases not covered by points (a) and (b), the import duty shall be the highest of the import duties applicable to the cereals composing the mixture concerned, even when the amount of the import duty is the same for two or more of the cereals.

#### *Article 150*

### **Imports of mixtures between cereals and rice**

The import duty applicable to mixtures composed of one or more of the cereals falling within points (a) and (b) of Part I of Annex I, on the one hand, and of one or more of the products falling within points (a) and (b) of Part II of Annex I, on the other, shall be that applicable to the component cereal or product liable to the highest import duty.

#### *Article 151*

### **Imports of mixtures of rice**

The import duty applicable to mixtures composed either of rice classifiable under several different processing groups or stages or of rice classifiable under one or more

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different processing groups or stages on the one hand and of broken rice on the other shall be that applicable:

- (a) to the component predominating by weight, when that component represents at least 90 % of the weight of the mixture;
- (b) the component liable to the highest import duty, when no component represents at least 90 % of the weight of the mixture.

#### *Article 152*

### **Applicability of the tariff classification**

Where the method for fixing the import duty set out in Articles 149 to 151 cannot be applied, the duty to be applied to the mixtures referred to in those Articles shall be that determined by the tariff classification of the mixtures.

#### *Subsection II*

### ***Preferential import arrangements for sugar***

#### *Article 153*

### **Traditional supply need for refining**

[<sup>F11</sup> A traditional supply need of sugar for refining is fixed for the Community at 2 424 735 tonnes per marketing year, expressed in white sugar.]

During the marketing year 2008/2009, the traditional supply need shall be distributed as follows:

- a 198 748 tonnes for Bulgaria;
- b 296 627 tonnes for France;
- c 100 000 tonnes for Italy;
- d 291 633 tonnes for Portugal;
- e 329 636 tonnes for Romania;
- f 19 585 tonnes for Slovenia;
- g 59 925 tonnes for Finland;
- h 1 128 581 tonnes for the United Kingdom.

2 The traditional supply need referred to in the first subparagraph of paragraph 1 shall be increased by 65 000 tonnes. This quantity shall concern raw cane sugar and shall be reserved for the marketing year 2008/2009 for the sole sugar beet processing plant at work in 2005 in Portugal. That processing plant is deemed to be a full time refiner.

3 Import licences for sugar for refining shall be issued only to full-time refiners provided that the quantities concerned do not exceed the quantities that may be imported in the framework of the traditional supply need referred to in paragraph 1. The licences may be transferred only between full-time refiners and their validity expires at the end of the marketing year for which they have been issued.

This paragraph shall apply for the marketing year 2008/2009, and for the first three months of each of the following marketing years.

*Status: Point in time view as at 01/10/2008.*

*Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

4 The application of import duties on cane sugar for refining falling within CN code 1701 11 10 originating in the States referred to in Annex XIX shall be suspended for the complementary quantity which is needed to allow an adequate supply of the full-time refiners for the marketing year 2008/2009.

The complementary quantity shall be fixed by the Commission, based on the balance between the traditional supply need referred to in paragraph 1 and the forecast supply of sugar for refining for the marketing year concerned. This balance may be revised by the Commission during the marketing year and may be based on historic flat-rate estimates of raw sugar intended for consumption.

#### Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

### Article 154

#### Guaranteed price

1 The guaranteed prices fixed for the ACP/Indian sugar shall apply for import of standard quality raw and white sugar from:

- a the least developed countries under the arrangements referred to in Articles 12 and 13 of Council Regulation (EC) No 980/2005<sup>(13)</sup>;
- b the States listed in Annex XIX for the complementary quantity referred to in Article 153(4).

2 Applications for import licences for sugar benefiting from a guaranteed price shall be accompanied by an export licence issued by the authorities of the exporting country certifying the compliance of the sugar with the rules provided for in the agreements concerned.

### Article 155

#### Sugar Protocol commitments

The Commission may adopt measures to ensure that the ACP/Indian sugar is imported into the Community under the conditions set out in Protocol 3 to Annex V to the ACP-EC Partnership Agreement and the Agreement on cane sugar between the European Community and the Republic of India. Those measures may, if necessary, derogate from Article 153 of this Regulation.

### Article 156

#### Implementing rules

Detailed rules for the application of this Subsection shall be adopted by the Commission, in particular to comply with international agreements. They may include amendments to Annex XIX.



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*Status: Point in time view as at 01/10/2008.*

*Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

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### *Subsection III*

#### ***Special provisions for imports of hemp***

##### *Article 157*

#### **Imports of hemp**

1 The following products may be imported into the Community only if the following conditions are met:

- a raw true hemp falling within CN code 5302 10 00 meeting the conditions laid down in Article 52 of Regulation (EC) No 1782/2003;
- b seeds of varieties of hemp falling within CN code ex 1207 99 15 for sowing accompanied by proof that the tetrahydrocannabinol level does not exceed that fixed in accordance with Article 52 of Regulation (EC) No 1782/2003;
- c hemp seeds other than for sowing, falling within CN code 1207 99 91 imported only by importers authorised by the Member State in order to ensure that such seeds are not intended for sowing.

2 Without prejudice to any specific provisions which may be adopted by the Commission in accordance with Article 194, imports into the Community of the products specified in paragraph 1(a) and (b) of this Article shall be subject to checks to determine whether the conditions provided for in paragraph 1 of this Article are met.

3 This Article shall apply without prejudice to more restrictive provisions adopted by Member States in compliance with the Treaty and the obligations arising under the WTO Agreement on Agriculture.

### *Subsection IV*

#### ***Special provisions for imports of hops***

##### *Article 158*

#### **Imports of hops**

1 Products of the hops sector may be imported from third countries only if their quality standards are at least equivalent to those adopted for like products harvested within the Community or made from such products.

2 Products shall be considered as being of the standard referred to in paragraph 1 if they are accompanied by an attestation issued by the authorities of the country of origin and recognised as equivalent to the certificate referred to in Article 117.

In the case of hop powder, hop powder with higher lupulin content, extract of hops and mixed hop products, the attestation may be recognised as being equivalent to the certificate only if the alpha acid content of these products is not lower than that of the hops from which they have been prepared.

The equivalence of those attestations shall be verified in accordance with detailed rules adopted by the Commission.

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## Section V

### **Safeguard and inward processing**

#### Article 159

#### **Safeguard measures**

1 Safeguard measures against imports into the Community shall be taken by the Commission, subject to paragraph 3 of this Article, in accordance with Council Regulations (EC) No 519/94<sup>(14)</sup> and (EC) No 3285/94<sup>(15)</sup>.

2 Save as otherwise provided for pursuant to any other act of the Council, safeguard measures against imports into the Community provided for in international agreements concluded in accordance with Article 300 of the Treaty shall be taken by the Commission in accordance with paragraph 3 of this Article.

3 Measures referred to in paragraphs 1 and 2 may be taken by the Commission, without the assistance of the Committee referred to in Article 195(1), at the request of a Member State or on its own initiative. If the Commission receives a request from a Member State, it shall take a decision thereon within five working days following receipt of the request.

The Member States shall be notified of such measures, which shall be immediately applicable.

Decisions taken by the Commission pursuant to paragraphs 1 and 2 may be referred to the Council by any Member State within five working days of the date on which they were notified. The Council shall meet without delay. It may, acting by qualified majority, amend or repeal the decision in question within one month following the date on which it was referred to the Council.

4 Where the Commission considers that any safeguard measure taken in accordance with paragraphs 1 or 2 should be revoked or amended, it shall proceed as follows:

- a where the measure was enacted by the Council, the Commission shall propose to the Council that it be revoked or amended. The Council shall act by a qualified majority;
- b in all other cases, Community safeguard measures shall be revoked or amended by the Commission without the assistance of the Committee referred to in Article 195(1).

#### Article 160

#### **Suspension of inward processing arrangements**

[<sup>F1</sup>1 Where the Community market is disturbed or is liable to be disturbed by inward processing arrangements, the Commission may suspend at the request of a Member State or on its own initiative fully or partially the use of inward processing arrangements for the products of the cereals, rice, sugar, olive oil and table olives, fruit and vegetables, processed fruit and vegetables, beef and veal, milk and milk products, pigmeat, sheepmeat and goatmeat, eggs, poultrymeat and agricultural ethyl alcohol sectors. If the Commission receives a request from a Member State, it shall take a decision thereon within five working days following receipt of the request.]

2 To the extent necessary for the proper functioning of the CMO, the use of inward processing arrangements for the products referred to in paragraph 1 may be fully or partially

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prohibited by the Council, acting in accordance with the procedure laid down in Article 37(2) of the Treaty.

#### Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

## CHAPTER III

### Exports

#### Section I

#### Export licences

#### Article 161

#### Export licences

1 Without prejudice to cases where export licences are required in accordance with this Regulation, the Commission may make exports of one or more products of the following sectors from the Community subject to presentation of an export licence:

- a cereals;
- b rice;
- c sugar;
- d olive oil and table olives, with regard to olive oil referred to in point (a) of Part VII of Annex I;
- [<sup>F2</sup>da fruit and vegetables;
- db processed fruit and vegetables;]
- e beef and veal;
- f milk and milk products;
- g pigmeat;
- h sheepmeat and goatmeat;
- i eggs;
- j poultrymeat;
- k agricultural ethyl alcohol.

When applying the first subparagraph, the Commission shall take account of the need for export licences for the management of the markets concerned and, in particular, for monitoring the exports of the products in question.

2 Articles 131 to 133 shall apply *mutatis mutandis*.

3 The Commission shall adopt detailed rules for the application of paragraphs 1 and 2, including the terms of validity of the licences and the rate of security.

*Status: Point in time view as at 01/10/2008.*

*Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

- F2** Inserted by Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).

## Section II

### Export refunds

#### Article 162

#### Scope of export refunds

1 To the extent necessary to enable exports on the basis of world market quotations or prices and within the limits resulting from agreements concluded in accordance with Article 300 of the Treaty, the difference between those quotations or prices and prices in the Community may be covered by export refunds for:

- a the products of the following sectors to be exported without further processing:
  - (i) cereals;
  - (ii) rice;
  - (iii) sugar, with regard to the products listed in points (b), (c), (d) and (g) of Part III of Annex I;
  - (iv) beef and veal;
  - (v) milk and milk products;
  - (vi) pigmeat;
  - (vii) eggs;
  - (viii) poultrymeat;
- b the products listed in point (a)(i), (ii), (iii), (v) and (vii) to be exported in the form of goods listed in Annexes XX and XXI.

In the case of the milk and milk products exported in the form of products listed in Part IV of Annex XX, export refunds may only be granted for products listed in points (a) to (e) and (g) of Part XVI of Annex I.

2 Export refunds on products exported in the form of processed goods listed in Annexes XX and XXI may not be higher than those applicable to the same products exported without further processing.

3 Insofar as is necessary to take account of the features of production peculiar to certain spirit drinks obtained from cereals, the criteria for granting export refunds referred to in paragraphs 1 and 2, and the procedure for verification, may be adapted by the Commission to suit this particular situation.

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### Article 163

#### Export refund distribution

The quantities which may be exported with an export refund shall be allocated by the method which:

- (a) is most suited to the nature of the product and the situation on the market in question, allowing the most efficient possible use of the resources available, account being taken of the efficiency and structure of Community exports without creating discrimination between the operators concerned and in particular between large and small operators;
- (b) is least cumbersome administratively for operators, account being taken of administrative requirements;
- (c) avoids any discrimination between the operators concerned.

### Article 164

#### Export refund fixation

1 Export refunds shall be the same for the whole Community. They may vary according to destination, especially where the world market situation, the specific requirements of certain markets, or obligations resulting from agreements concluded in accordance with Article 300 of the Treaty make this necessary.

2 Refunds shall be fixed by the Commission.

Refunds may be fixed:

- a at regular intervals;
- b by invitation to tender for products in respect of which provision was made for that procedure before the date of application of this Regulation in accordance with Article 204(2).

Except where fixed by tender, the list of products on which an export refund is granted and the amount of export refunds shall be fixed at least once every three months. The amount of the refund may, however, remain at the same level for more than three months and may, where necessary, be adjusted in the intervening period by the Commission, without the assistance of the Committee referred to in Article 195(1), either at the request of a Member State or on its own initiative.

3 One or more of the following aspects shall be taken into account when refunds for a certain product are being fixed:

- a the existing situation and the future trend with regard to:
  - prices and availabilities of that product on the Community market,
  - prices for that product on the world market.
- b the aims of the common market organisation which are to ensure equilibrium and the natural development of prices and trade on this market;
- c the need to avoid disturbances likely to cause a prolonged imbalance between supply and demand on the Community market;
- d the economic aspect of the proposed exports;

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- e the limits resulting from agreements concluded in accordance with Article 300 of the Treaty;
  - f the need to establish a balance between the use of Community basic products in the manufacture of processed goods for export to third countries, and the use of third-country products brought in under processing arrangements;
  - g the most favourable marketing costs and transport costs from Community markets to Community ports or other places of export together with forwarding costs to the countries of destination;
  - h demand on the Community market;
  - i in respect of the pigmeat, eggs and poultrymeat sectors, the difference between prices within the Community and prices on the world market for the quantity of feed grain input required for the production in the Community of the products of those sectors.
- 4 A corrective amount applicable to the export refunds may be set by the Commission in respect of the cereals and rice sectors. However, where necessary, the Commission, without the assistance of the Committee referred to in Article 195(1), may amend the corrective amounts.

The first subparagraph may also be applied to products that are exported in the form of goods listed in Annex XX.

#### *Article 165*

#### **Export refund for malt in storage**

For the first three months of the marketing year, the refund applicable to exports of malt in storage at the end of the previous marketing year or made from barley in stock at that time shall be that which would have been applied in respect of the export licence in question to exports during the last month of the preceding marketing year.

#### *Article 166*

#### **Export refund adjustment for cereals**

Unless otherwise provided for by the Commission, the refund on products listed in points (a) and (b) of Part I of Annex I, established in accordance with Article 167(2), shall be adjusted by the Commission in line with the level of the monthly increases applicable to the intervention price and, where appropriate, changes in that price.

The first paragraph may be applied, in whole or in part, to products listed in points (c) and (d) of Part I of Annex I as well as to products referred to in Part I of Annex I and exported in the form of goods referred to in Part I of Annex XX. In that case, the adjustment referred to in the first subparagraph shall be corrected by applying to the monthly increase a coefficient expressing the ratio between the quantity of basic product and the quantity thereof contained in the processed product exported or used in the goods exported.

#### *Article 167*

#### **Granting of export refund**

1 Refunds on products listed in Article 162(1)(a) exported as such without further processing shall only be granted on application and on presentation of an export licence.

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2 The refund applicable to products referred to in paragraph 1 shall be that applicable on the day of application for the licence or, as the case may be, that resulting from the tender procedure concerned and, in the case of a differentiated refund, that applicable on the same day:

- a for the destination indicated on the licence, or
- b where appropriate, for the actual destination if this differs from the destination indicated on the licence, in which case the amount applicable shall not exceed the amount applicable to the destination indicated on the licence.

Appropriate measures may be taken by the Commission to prevent abuse of the flexibility provided for in this paragraph.

3 By way of derogation from paragraph 1, the Commission may decide that in the case of eggs for hatching and of day-old chicks export licences may be granted *ex post*.

4 It may be decided, in accordance with the procedure referred to in Article 16(2) of Council Regulation (EC) No 3448/93<sup>(16)</sup>, to apply paragraphs 1 and 2 to the goods referred to in Article 162(1)(b) of this Regulation.

5 Derogations from paragraph 1 and 2 may be granted by the Commission in the case of products on which export refunds are paid under food-aid operations.

6 The refund shall be paid upon submission of proof that:

- a the products have been exported from the Community;
- b in the case of a differentiated refund, the products have reached the destination indicated on the licence or another destination for which a refund was fixed, without prejudice to point (b) of paragraph 2.

However, exceptions may be allowed by the Commission provided that conditions are laid down which offer equivalent guarantees.

7 Further conditions for the granting of export refunds may be established by the Commission for one or more products. They may include:

- a that refunds are only paid for products of Community origin;
- b that the amount of refunds for imported products shall be limited to the duties collected on importation where those duties are lower than the refund applicable.

#### *Article 168*

### **Export refunds for live animals in the beef and veal sector**

With regard to products of the beef and veal sector, the granting and the payment of the refund for exports of live animals shall be subject to compliance with the provisions established in Community legislation concerning animal welfare and, in particular, the protection of animals during transport.

#### *Article 169*

### **Export limits**

Observance of the volume commitments resulting from the agreements concluded in accordance with Article 300 of the Treaty shall be ensured on the basis of export licences issued for the reference periods which apply to the products concerned. With regard to compliance with the obligations arising under the WTO Agreement on Agriculture, the ending of a reference period shall not affect the validity of export licences.

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*Status: Point in time view as at 01/10/2008.*

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## Article 170

### Implementing rules

Detailed rules for the application of this Section shall be adopted by the Commission, in particular:

- (a) on the redistribution of exportable quantities which have not been allocated or utilised;
- (b) governing the quality and other specific requirements and conditions of the products eligible for an export refund;
- (c) for monitoring whether operations conferring entitlement to the payment of refunds and all other amounts in respect of export transactions have actually been carried out and executed correctly, including physical checks and document scrutiny.

Any necessary amendments to Annex XX shall be made by the Commission taking into account the criteria referred to in the first subparagraph of Article 8(2) of Regulation (EC) No 3448/93.

However, the detailed rules for the application of Article 167 for products referred to in Article 162(1)(b) shall be adopted in accordance with the procedure referred to in Article 16(2) of Regulation (EC) No 3448/93.

## Section III

### *Export quota management in the milk and milk products sector*

## Article 171

### Management of tariff quotas opened by third countries

1 With regard to milk and milk products, where an agreement concluded in accordance with Article 300 of the Treaty provides for the total or partial management of a tariff quota opened by a third country, the management method to be applied and detailed rules relating to that method shall be adopted by the Commission.

2 The tariff quotas referred to in paragraph 1 shall be administered in a manner which avoids any discrimination between the operators concerned and which guarantees the full use of the possibilities available under the quota concerned, by applying one of the following methods or a combination of them or another appropriate method:

- a a method based on the chronological order of the lodging of applications ('first come, first served' principle);
- b a method of distribution in proportion to the quantities requested when the applications were lodged (using the 'simultaneous examination method');
- c a method based on taking traditional trade patterns into account (using the 'traditional/new arrival method').



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#### *Section IV*

### ***Special import treatment by third countries***

#### *Article 172*

### **Certificates for products benefiting from a special import treatment in a third country**

1 When products are exported which may, in accordance with agreements concluded by the Community in accordance with Article 300 of the Treaty, benefit from a special treatment on importation into a third country if certain conditions are respected, the competent authorities of the Member States shall, on request and after appropriate checks, issue a document certifying that the conditions are met.

2 Detailed rules for the application of this Article shall be adopted by the Commission.

#### *Section V*

### ***Special provisions for live plants***

#### *Article 173*

### **Minimum export prices**

1 For each of the products of the live plants sector falling within CN code 0601 10, one or more minimum prices for exports to third countries may be fixed by the Commission each year in good time before the marketing season.

Exportation of such products shall be permitted only at a price equal to or above the minimum price fixed for the product in question.

2 Detailed rules for the application of paragraph 1 shall be adopted by the Commission having regard to the obligations arising from agreements concluded in accordance with Article 300(2) of the Treaty.

#### *Section VI*

### ***Outward processing***

#### *Article 174*

### **Suspension of outward processing arrangements**

[<sup>F1</sup> Where the Community market is disturbed or is liable to be disturbed by outward processing arrangements, the Commission may suspend at the request of a Member State or on its own initiative fully or partially the use of outward processing arrangements for the products of the cereals, rice, fruit and vegetables, processed fruit and vegetables, beef and veal, pigmeat, sheepmeat and goatmeat and poultrymeat sectors. If the Commission receives a request from a Member State, it shall take a decision thereon within five working days following receipt of the request.]

*Status: Point in time view as at 01/10/2008.*

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The Member States shall be notified of such measures, which shall be immediately applicable.

Measures decided on by the Commission pursuant to the first subparagraph may be referred to the Council by any Member State within five working days of the date on which they were notified. The Council shall meet without delay. It may, acting by qualified majority, amend or repeal the measures in question within one month following the date on which they were referred to the Council.

2 To the extent necessary for the proper functioning of the CMO, the use of outward processing arrangements for the products referred to in paragraph 1 may be fully or partially prohibited by the Council, acting in accordance with the procedure laid down in Article 37(2) of the Treaty.

#### Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

## PART IV

### COMPETITION RULES

#### CHAPTER I

#### Rules applying to undertakings

*[<sup>F1</sup>Article 175*

#### Application of Articles 81 to 86 of the Treaty

Save as otherwise provided for in this Regulation, Articles 81 to 86 of the Treaty and implementation provisions thereof shall, subject to Articles 176 to 177 of this Regulation, apply to all agreements, decisions and practices referred to in Articles 81(1) and 82 of the Treaty which relate to the production of or trade in the products referred to in points (a) to (k) and Article 1(1)(m) to (u) and in Article 1(3) of this Regulation.]

#### Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

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## Article 176

### Exceptions

1 Article 81(1) of the Treaty shall not apply to the agreements, decisions and practices referred to in Article 175 of this Regulation which are an integral part of a national market organisation or are necessary for the attainment of the objectives set out in Article 33 of the Treaty.

In particular, Article 81(1) of the Treaty shall not apply to agreements, decisions and practices of farmers, farmers' associations, or associations of such associations belonging to a single Member State which concern the production or sale of agricultural products or the use of joint facilities for the storage, treatment or processing of agricultural products, and under which there is no obligation to charge identical prices, unless the Commission finds that competition is thereby excluded or that the objectives of Article 33 of the Treaty are jeopardised.

2 After consulting the Member States and hearing the undertakings or associations of undertakings concerned and any other natural or legal person that it considers appropriate, the Commission shall have sole power, subject to review by the Court of Justice, to determine, by a decision which shall be published, which agreements, decisions and practices fulfil the conditions specified in paragraph 1.

The Commission shall undertake such determination either on its own initiative or at the request of a competent authority of a Member State or of an interested undertaking or association of undertakings.

3 The publication of the decision referred to in the first subparagraph of paragraph 2 shall state the names of the parties and the main content of the decision. It shall have regard to the legitimate interest of undertakings in the protection of their business secrets.

### [<sup>F2</sup>Article 176a

#### **Agreements and concerted practices in the fruit and vegetables sector**

1 Article 81(1) of the Treaty shall not apply to the agreements, decisions and concerted practices of recognised interbranch organisations with the object of carrying out the activities referred to in Article 123(3)(c) of this Regulation.

2 Paragraph 1 shall apply only provided that:

- a the agreements, decisions and concerted practices have been notified to the Commission;
- b within two months of receipt of all the details required the Commission has not found that the agreements, decisions or concerted practices are incompatible with Community rules.

3 The agreements, decisions and concerted practices may not be put into effect before the lapse of the period referred to in paragraph 2(b).

4 The following agreements, decisions and concerted practices shall in any case be declared incompatible with Community rules:

- a agreements, decisions and concerted practices which may lead to the partitioning of markets in any form within the Community;

*Status: Point in time view as at 01/10/2008.*

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- b agreements, decisions and concerted practices which may affect the sound operation of the market organisation;
- c agreements, decisions and concerted practices which may create distortions of competition which are not essential to achieving the objectives of the common agricultural policy pursued by the interbranch organisation activity;
- d agreements, decisions and concerted practices which entail the fixing of prices, without prejudice to activities carried out by interbranch organisations in the application of specific Community rules;
- e agreements, decisions and concerted practices which may create discrimination or eliminate competition in respect of a substantial proportion of the products in question.

5 If, following expiry of the two-month period referred to in paragraph 2(b), the Commission finds that the conditions for applying paragraph 1 have not been met, it shall take a Decision declaring that Article 81(1) of the Treaty applies to the agreement, decision or concerted practice in question.

That Commission Decision shall not apply earlier than the date of its notification to the interbranch organisation concerned, unless that interbranch organisation has given incorrect information or abused the exemption provided for in paragraph 1.

6 In the case of multiannual agreements, the notification for the first year shall be valid for the subsequent years of the agreement. However, in that event, the Commission may, on its own initiative or at the request of another Member State, issue a finding of incompatibility at any time.]

#### Textual Amendments

- F2** Inserted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

### Article 177

#### Agreements and concerted practices in the tobacco sector

1 Article 81(1) of the Treaty shall not apply to the agreements and concerted practices of recognised interbranch organisations in the tobacco sector, intended to implement the aims referred to in Article 123(c) of this Regulation provided that:

- a the agreements and concerted practices have been notified to the Commission;
- b the Commission, acting within three months of receipt of all the details required, has not found that those agreements or concerted practices are incompatible with Community competition rules.

The agreements and concerted practices may not be implemented during that three-month period.

2 Agreements and concerted practices shall be declared contrary to Community competition rules in the following cases where:

- a they may lead to the partitioning of markets in any form within the Community;
- b they may affect the sound operation of the market organisation;

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- c they may create distortions of competition which are not essential to achieving the objectives of the common agricultural policy pursued by the interbranch organisation measure;
- d they entail the fixing of prices or quotas, without prejudice to measures taken by interbranch organisations in the application of specific provisions of Community rules;
- e they may create discrimination or eliminate competition in respect of a substantial proportion of the products in question.

3 If, following expiry of the three-month period referred to in point (b) of paragraph 1, the Commission finds that the conditions for applying this Chapter have not been met, it shall without the assistance of the Committee referred to in Article 195(1), take a decision declaring that Article 81(1) of the Treaty applies to the agreement or concerted practice in question.

That decision shall not apply earlier than the date of notification to the interbranch organisation concerned, unless that interbranch organisation has given incorrect information or misused the exemption provided for in paragraph 1.

#### *Article 178*

### **Binding effect of agreements and concerted practices on non-members in the tobacco sector**

1 Interbranch organisations in the tobacco sector may request that certain of their agreements or concerted practices be made binding for a limited period on individuals and groups in the economic sector concerned which are not members of the trade branches which they represent, in the areas in which the branches operate.

In order for their rules to be extended, interbranch organisations shall represent at least two thirds of the production and/or the trade concerned. Where the proposed extension of the rules is of inter-regional scope, the interbranch organisations shall prove they possess a minimum degree of representativeness, in respect of each of the grouped branches, in each region covered.

2 The rules for which an extension of scope is requested shall have been in force for at least one year and shall relate to one of the following objectives:

- a knowledge of production and the market;
- b definition of minimum qualities;
- c use of cultivation methods compatible with the protection of the environment;
- d definition of minimum standards of packing and presentation;
- e use of certified seed and monitoring of product quality.

3 Extension of the rules shall be subject to approval by the Commission.

#### *[<sup>F1</sup>Article 179*

### **Implementing rules in respect of agreements and concerted practices in the fruit and vegetables and tobacco sectors**

The Commission may adopt the detailed rules for the application of Articles 176a, 177 and 178, including the rules concerning notification and publication.]

*Status: Point in time view as at 01/10/2008.*

*Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

- F1** Substituted by Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).

## CHAPTER II

### State Aid rules

#### <sup>F1</sup>Article 180

#### Application of Articles 87, 88 and 89 of the Treaty

Save as otherwise provided for in this Regulation, and in particular with the exception of the State aids referred to in Article 182 of this Regulation, Articles 87, 88 and 89 of the Treaty shall apply to the production of and trade in the products referred to in points (a) to (k) and Article 1(1)(m) to (u) and in Article 1(3) of this Regulation.]

#### Textual Amendments

- F1** Substituted by Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).

#### Article 181

#### Specific provisions for the milk and milk products sector

Subject to Article 87(2) of the Treaty, aids the amount of which is fixed on the basis of the price or quantity of products listed in Part XVI of Annex I of this Regulation shall be prohibited.

National measures permitting equalisation between the prices of products listed in Part XVI of Annex I of this Regulation shall also be prohibited.

#### Article 182

#### Specific national provisions

1 Subject to Commission authorisation, aids for the production and marketing of reindeer and reindeer products (CN ex 0208 and ex 0210) may be granted by Finland and Sweden insofar as they do not entail any increase in traditional levels of production.

<sup>F12</sup> Subject to Commission authorisation, Finland may grant aid for certain quantities of seeds, with the exception of Timothy seeds (*Phleum pratense* L.), and for certain quantities of cereal seed produced solely in Finland up to and including the 2010 harvest.

*Status: Point in time view as at 01/10/2008.*

*Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

By 31 December 2008, Finland shall transmit to the Commission a detailed report on the results of the aid authorised.]

3 Member States which reduce their sugar quota by more than 50 % of the sugar quota fixed on 20 February 2006 in Annex III to Regulation (EC) No 318/2006 may grant temporary State aid during the period for which the transitional aid for beet growers is being paid in accordance with Chapter 10f of Title IV of Regulation (EC) No 1782/2003. The Commission shall, on the basis of an application by any Member State concerned, decide on the total amount of the State aid available for this measure.

For Italy, the temporary aid referred to in the first subparagraph shall not exceed a total of EUR 11 per marketing year per tonne of sugar beet to be granted to sugar beet growers and for the transport of sugar beet.

Finland may grant aid up to EUR 350 per hectare per marketing year to sugar beet growers.

The Member States concerned shall inform the Commission within 30 days of the end of each marketing year of the amount of State aid actually granted in that marketing year.

4 Without prejudice to the application of Article 88(1) and of the first sentence of Article 88(3) of the Treaty, until 31 December 2010, Germany may grant aid in the framework of the German Alcohol Monopoly for products marketed, after further transformation, by the Monopoly, as ethyl alcohol of agricultural origin listed in Annex I to the Treaty. The total amount of this aid shall not exceed EUR 110 million per year.

Germany shall present before 30 June each year, a report to the Commission on the functioning of the system.

[<sup>F25</sup> Member States may continue to pay state aids under any existing schemes in respect of the production of and trade in potatoes, fresh or chilled, of CN code 0701 until 31 December 2011.

6 With regard to the fruit and vegetables sector, Member States may pay a state aid until 31 December 2010 under the following conditions:

- a the state aid is paid only to producers of fruit and vegetables who are not members of a recognised producer organisation and who sign a contract with a recognised producer organisation in which they accept that they shall apply the crisis prevention and management measures of the producer organisation concerned;
- b the amount of aid paid to such producers is no more than 75 % of the Community support received by the members of the producer organisation concerned; and
- c the Member State concerned presents a report to the Commission by 31 December 2010 on the effectiveness and efficiency of the state aid, in particular analysing how much it has supported the organisation of the sector. The Commission will examine the report and decide whether to make any appropriate proposals.]

#### Textual Amendments

- F1** Substituted by Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).
- F2** Inserted by Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).

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*Status: Point in time view as at 01/10/2008.*

*Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

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## PART V

### SPECIFIC PROVISIONS FOR INDIVIDUAL SECTORS

#### Article 183

#### Promotional levy in the milk and milk products sector

Without prejudice to the application of Articles 87, 88 and 89 of the Treaty as provided for in Article 180 of this Regulation, a Member State may impose a promotional levy on its milk producers in respect of marketed quantities of milk or milk equivalent in order to finance the measures on promoting consumption in the Community, expanding the markets for milk and milk products and improving quality.

#### Article 184

#### Reporting in respect of certain sectors

The Commission shall present a report:

- 1) to the Council before 30 September 2008 on the dried fodder sector, on the basis of an evaluation of the provisions contained in this Regulation, dealing in particular with the development of areas of leguminous and other green fodder, the production of dried fodder and the savings of fossil fuels achieved. The report shall be accompanied, if necessary, by appropriate proposals;
- 2) every three years and for the first time by 31 December 2010 to the European Parliament and the Council on the implementation of the measures concerning the apiculture sector set out in Section VI of Chapter IV of Title I of Part II;
- 3) before 31 December 2009 to the European Parliament and the Council on the application of the derogation provided for in Article 182(4) in respect of the German Alcohol Monopoly, including an evaluation of the aids granted in the framework of that Monopoly, together with any appropriate proposals<sup>[F1]</sup>;
- 4) <sup>[F2]</sup> to the European Parliament and the Council by 31 December 2013 on the implementation of the provisions set out in Section IVa of Chapter IV of Title I of Part II and Chapter II of Title II of Part II as regards producer organisations, operational funds and operational programmes in the fruit and vegetables sector.]

#### Textual Amendments

- F1** Substituted by Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).
- F2** Inserted by Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).



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*Status: Point in time view as at 01/10/2008.*

*Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

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## Article 185

### Registration of contracts in the hops sector

1 Any contract to supply hops produced within the Community concluded between a producer or producer organisation on the one hand and a buyer on the other shall be registered by the bodies designated for that purpose by each producer Member State concerned.

2 Contracts relating to the supply of specific quantities at agreed prices for a period covering one or more harvests and concluded before 1 August of the year of the first harvest concerned shall be known as 'contracts concluded in advance'. They shall be registered separately.

3 The data on which registration is based may be used only for the purposes of this Regulation.

4 The Commission shall lay down the detailed rules concerning the registration of contracts to supply hops.

## Article 186

### Disturbances as regards internal market prices

The Commission may take the necessary measures in the case of the following situations, when those situations are likely to continue, thereby disturbing or threatening to disturb the markets:

- (a) with regard to the products of the sugar, hops, beef and veal and sheepmeat and goatmeat sectors, where the prices on the Community market for any of those products rise or fall significantly;
- (b) with regard to the products of the pigmeat, eggs and poultrymeat sectors and, with regard to olive oil, where the prices on the Community market for any of those products rise significantly.

## Article 187

### Disturbances caused by quotations or prices on the world market

Where, with regard to the products of the cereals, rice, sugar and milk and milk products sectors, the quotations or prices on the world market of one or more products reach a level that disrupts or threatens to disrupt the availability of supply on the Community market and where that situation is likely to continue or to deteriorate, the Commission may take the necessary measures for the sector concerned. It may in particular suspend import duties in whole or in part for certain quantities.

## Article 188

### Conditions for measures to be applied in cases of disturbances and implementing rules

1 The measures provided for in Articles 186 and 187 may be adopted:

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*Status: Point in time view as at 01/10/2008.*

*Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

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- a provided that any other measures available under this Regulation appear insufficient;
- b having regard to the obligations arising from agreements concluded in accordance with Article 300(2) of the Treaty.

2 Detailed rules for the application of Articles 186 and 187 may be adopted by the Commission.

### *Article 189*

#### **Communications in the ethyl alcohol sector**

1 As regards the products of the ethyl alcohol sector, the Member States shall communicate to the Commission the following information:

- a the production of ethyl alcohol of agricultural origin expressed as hectolitres of pure alcohol, broken down by alcohol-producing product used;
- b the volume of ethyl alcohol of agricultural origin disposed of, expressed as hectolitres of pure alcohol, broken down by sector of destination;
- c the stocks of ethyl alcohol of agricultural origin available in the Member State at the end of the previous year;
- d forecast production for the current year.

Rules for communicating this information and, in particular, the frequency of communication and the definition of the sectors of destination shall be adopted by the Commission.

2 On the basis of the information referred to in paragraph 1 and of any other information available, the Commission without the assistance of the Committee referred to in Article 195(1), shall draw up a Community balance for the market in ethyl alcohol of agricultural origin for the previous year and an estimated balance for the current year.

The Community balance shall also contain information on ethyl alcohol of non-agricultural origin. The precise content and means of collecting such information shall be laid down by the Commission.

For the purposes of this paragraph, 'ethyl alcohol of non-agricultural origin' shall mean products falling within CN codes 2207, 2208 90 91 and 2208 90 99 not obtained from a specific agricultural product listed in Annex I to the Treaty.

3 The Commission shall notify the Member States of the balances referred to in paragraph 2.

## PART VI

### **GENERAL PROVISIONS**

#### *Article 190*

#### **Financial provisions**

Regulation (EC) No 1290/2005 and the provisions adopted for the implementation thereof shall apply to the expenditure incurred by the Member States in carrying out obligations under this Regulation.

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*Status: Point in time view as at 01/10/2008.*

*Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

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## Article 191

### Emergency

The Commission shall adopt the measures which are both necessary and justifiable in an emergency, in order to resolve specific practical problems.

Such measures may derogate from provisions of this Regulation, but only to the extent that, and for such a period, as is strictly necessary.

## Article 192

### Exchange of information between the Member States and the Commission

1 Member States and the Commission shall provide each other with any information necessary for the application of this Regulation or for market monitoring and analysis and for complying with the international obligations concerning the products referred to in Article 1.

2 The Commission shall adopt detailed rules to determine what information is necessary for the application of paragraph 1, as well as those on its form, content, timing and deadlines and on arrangements for transmitting or making available information and documents.

## Article 193

### Circumvention clause

Without prejudice to any specific provisions, no advantage provided for under this Regulation shall be granted in favour of a natural or legal person in respect of whom it is established that the conditions required for obtaining such advantages were created artificially, contrary to the objectives of this Regulation.

## Article 194

### Controls and administrative measures and administrative penalties and their reporting

The Commission shall determine:

- (a) the rules concerning administrative and physical controls to be conducted by the Member States with regard to the respect of obligations resulting from the application of this Regulation;
- (b) a system for the application of administrative measures and administrative penalties where non-compliance with any of the obligations resulting from the application of this Regulation is found;
- (c) the rules regarding the recovery of undue payments resulting from the application of this Regulation;
- (d) the rules on the reporting of the controls carried out and their results.

The administrative penalties referred to in point (b) shall be graduated according to the severity, extent, permanence and repetition of the non-compliance found.

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*Status: Point in time view as at 01/10/2008.*

*Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

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## PART VII

### IMPLEMENTING, TRANSITIONAL AND FINAL RULES

#### CHAPTER I

##### Implementing provisions

###### *Article 195*

###### **Committee**

1 The Commission shall be assisted by the Management Committee for the Common Organisation of Agricultural Markets (hereinafter referred to as the Committee).

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

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

###### *Article 196*

###### **Organisation of the Committee**

The organisation of meetings of the Committee referred to in Article 195 shall take into account, in particular, the scope of its responsibilities, the specificities of the subject to be dealt with, and the need to involve appropriate expertise.

#### CHAPTER II

##### Transitional and final provisions

###### *Article 197*

###### **Amendments to Regulation (EC) No 1493/1999**

Articles 74 to 76 of Regulation (EC) No 1493/1999 shall be deleted.

###### *Article 198*

###### **Amendments to Regulation (EC) No 2200/96**

Articles 46 and 47 of Regulation (EC) No 2200/96 shall be deleted.

###### *Article 199*

###### **Amendments to Regulation (EC) No 2201/96**

Articles 29 and 30 of Regulation (EC) No 2201/96 shall be deleted.

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*Status: Point in time view as at 01/10/2008.*

*Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

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## Article 200

### Amendments to Regulation (EC) No 1184/2006

Regulation (EC) No 1184/2006 shall be amended as follows:

1. The title shall be replaced by the following:

Council Regulation (EC) No 1184/2006 of 24 July 2006 applying certain rules of competition to the production of and trade in certain agricultural products;

2. Article 1 shall be replaced by the following:

#### *Article 1*

This Regulation shall lay down the rules to be applied as regards the applicability of Articles 81 to 86 and certain provisions of Article 88 of the Treaty in relation to production of, or trade in, the products listed in Annex I to the Treaty with the exception of the products referred to in points (a) to (h), point (k) and points (m) to (u) of Article 1(1) and in Article 1(3) of Council Regulation (EC) No 1234/2007<sup>(17)</sup>.

#### *Article 1a*

Articles 81 to 86 of the Treaty and provisions made for their implementation shall, subject to Article 2 of this Regulation, apply to all agreements, decisions and practices referred to in Articles 81(1) and 82 of the Treaty which relate to the production of, or trade in, the products referred to in Article 1.;

3. The first subparagraph of Article 2(1) shall be replaced by the following:

1. Article 81(1) of the Treaty shall not apply to those agreements, decisions and practices referred to in Article 1a of this Regulation which form an integral part of a national market organisation or are necessary for attainment of the objectives set out in Article 33 of the Treaty.;

4. Article 3 shall be replaced by the following:

#### *Article 3*

Article 88(1) and of the first sentence of Article 88(3) of the Treaty shall apply to aid granted for the production of, or trade in, the products referred to in Article 1..

## Article 201

### Repeals

- 1 Subject to paragraph 3, the following Regulations shall be repealed:
  - a Regulations (EEC) No 234/68, (EEC) No 827/68, (EEC) No 2517/69, (EEC) No 2728/75, (EEC) No 1055/77, (EEC) No 2931/79, (EEC) No 1358/80, (EEC) No 3730/87, (EEC) No 4088/87, (EEC) No 404/93, (EC) No 670/2003 and (EC) No 797/2004, as from 1 January 2008;
  - b Regulations (EEC) No 707/76, (EC) No 1786/2003, (EC) No 1788/2003 and (EC) No 1544/2006 as from 1 April 2008;
  - c Regulations (EEC) No 315/68, (EEC) No 316/68, (EEC) No 2729/75, (EEC) No 2759/75, (EEC) No 2763/75, (EEC) No 2771/75, (EEC) No 2777/75, (EEC) No 2782/75, (EEC) No 1898/87, (EEC) No 1906/90, (EEC) No 2204/90,

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*Status: Point in time view as at 01/10/2008.*

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- (EEC) No 2075/92, (EEC) No 2077/92, (EEC) No 2991/94, (EC) No 2597/97, (EC) No 1254/1999, (EC) No 1255/1999, (EC) No 2250/1999, (EC) No 1673/2000, (EC) No 2529/2001, (EC) No 1784/2003, (EC) No 865/2004 and (EC) No 1947/2005 (EC) No 1952/2005 and (EC) No 1028/2006, as from 1 July 2008;
- d Regulation (EC) No 1785/2003 as from 1 September 2008;
- e Regulation (EC) No 318/2006 as from 1 October 2008;
- f Regulations (EEC) No 3220/84, (EEC) No 386/90, (EEC) No 1186/90, (EEC) No 2137/92, and (EC) No 1183/2006 as from 1 January 2009.
- 2 Decision 74/583/EEC shall be repealed as from 1 January 2008.
- 3 The repeal of the Regulations referred to in paragraph 1 shall be without prejudice to:
- a the maintenance in force of Community acts adopted on the basis of those Regulations; and
- b the continuing validity of amendments made by those Regulations to other acts of Community law that are not repealed by this Regulation.

#### *Article 202*

#### **Construction of references**

References to the provisions and Regulations which are amended or repealed by Articles 197 to 201 shall be construed as references to this Regulation and shall be read in accordance with the correlation tables set out in Annex XXII.

#### *Article 203*

#### **Transitional rules**

The Commission may adopt the measures required to facilitate the transition from the arrangements provided for in the Regulations which are amended or repealed by Articles 197 to 201 to those established by this Regulation.

#### *[<sup>F2</sup>Article 203a*

#### **Transitional rules in the fruit and vegetables and the processed fruit and vegetables sectors**

1 The aid schemes set out in Regulations (EC) No 2201/96 and (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruit<sup>(18)</sup> and abolished by Regulation (EC) No 1182/2007 shall remain applicable in respect of each of the products concerned for the marketing year for that product ending in 2008.

2 Producer organisations and associations of producer organisations already recognised under Regulation (EC) No 2200/96 before the date of entry into force of this Regulation shall continue to be recognised under this Regulation. Where necessary, they shall make adaptations to the requirements of this Regulation by 31 December 2010.

Producer organisations and associations of producer organisations already recognised under Regulation (EC) No 1182/2007 shall continue to be recognised under this Regulation.

*Status: Point in time view as at 01/10/2008.*

*Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

3 At the request of a producer organisation, an operational programme approved under Regulation (EC) No 2200/96 before the date of application of Regulation (EC) No 1182/2007:

- a may continue to run until its end; or
- b be modified to meet the requirements of this Regulation; or
- c be replaced by a new operational programme approved under this Regulation.

Article 103d(3)(e) and (f) shall apply to operational programmes submitted in 2007 but not yet approved at the date of application of this Regulation which otherwise meet the criteria of those points.

4 Producer groups which were granted preliminary recognition under Regulation (EC) No 2200/96 shall continue to benefit from that preliminary recognition under this Regulation. Recognition plans accepted under Regulation (EC) No 2200/96 shall continue to benefit from that acceptance under this Regulation. However the plans shall be modified, if necessary, so as to permit the producer group to be able to meet the criteria for recognition as a producer organisation laid down in Article 125b of this Regulation. As concerns such producer groups in Member States which acceded to the European Union on 1 May 2004 or thereafter, the aid rates set out in Article 103a(3)(a) shall apply to recognition plans from the date of application of this Regulation.

5 The contracts referred to in Article 3(2) of Regulation (EC) No 2202/96 covering more than one marketing year of the aid scheme for processing citrus fruits which relate to the marketing year beginning on 1 October 2008 or to subsequent marketing years may, with the agreement of both parties, be amended or terminated to take into account the repeal of that Regulation by Regulation (EC) No 1182/2007 and the consequential abolition of the aid. No penalties shall be applied under that Regulation or its implementing rules to the parties concerned as a result of such an amendment or termination.

6 Where a Member State makes use of the transitional arrangement under Article 68b or Article 143bc of Regulation (EC) No 1782/2003, the rules adopted pursuant to Article 6 of Regulation (EC) No 2201/96 or Article 6 of Regulation (EC) No 2202/96 on the minimum characteristics of the raw material supplied for processing and minimum quality requirements for finished products shall remain applicable in respect of the raw materials harvested in its territory.

7 Until new marketing standards are adopted in respect of fruit and vegetables and processed fruit and vegetables in accordance with Articles 113 and 113a, the marketing standards drawn up pursuant to Regulations (EC) No 2200/96 and (EC) No 2201/96 shall continue to apply.

8 The Commission may adopt the measures required to facilitate the transition from the arrangements provided for in Regulations (EC) No 2200/96, (EC) No 2201/96, (EC) No 2202/96 and (EC) No 1182/2007 to those laid down in this Regulation including those provided for in paragraphs 1 to 7 of this Article.]

#### Textual Amendments

- F2** Inserted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

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*Status: Point in time view as at 01/10/2008.*

*Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

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## Article 204

### Entry into force

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

2 It shall apply from 1 January 2008.

However, it shall apply:

- a as regards the cereals, seeds, hops, olive oil and table olives, flax and hemp, raw tobacco, beef and veal, pigmeat, sheepmeat and goatmeat, eggs and poultrymeat sectors, from 1 July 2008;
- b as regards the rice sector, from 1 September 2008;
- c as regards the sugar sector, from 1 October 2008 with the exception of Article 59 which shall apply as from 1 January 2008;
- d as regards the dried fodder and the silkworm sectors, from 1 April 2008;
- e as regards the wine sector as well as Article 197, from 1 August 2008;
- f as regards the milk and milk products sector, with the exception of the provisions set out in Chapter III of Title I of Part II, from 1 July 2008;
- g as regards the system of milk production limitation established in Chapter III of Title I of Part II, from 1 April 2008;
- h as regards the Community scales for carcass classification referred to in Article 42(1), from 1 January 2009.

Articles 27, 39 and 172 shall apply from 1 January 2008 and Articles 149 to 152 from 1 July 2008 for all the products concerned.

3 As regards the sugar sector, Title I of Part II shall apply until the end of the marketing year 2014/2015 for sugar.

4 The provisions related to the system of milk production limitation established in Chapter III of Title I of Part II shall, in accordance with Article 66, apply until 31 March 2015.

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



*Status: Point in time view as at 01/10/2008.*

*Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

- (1) [OJ L 197, 30.7.1994, p. 4](#). Regulation as last amended by Regulation (EC) No 671/2007 ([OJ L 156, 16.6.2007, p. 1](#)).
- (2) [OJ L 42, 14.2.2006, p. 1](#).
- (3) [OJ L 244, 29.9.2000, p. 27](#).
- (4) [<sup>F2</sup>[OJ L 265, 26.9.2006, p. 1](#)].
- (5) [OJ L 277, 21.10.2005, p. 1](#). Regulation as last amended by Regulation (EC) No 146/2008 ([OJ L 46, 21.2.2008, p. 1](#)).
- (6) [OJ L 198, 22.7.1991, p. 1](#). Regulation as last amended by Commission Regulation (EC) No 123/2008 ([OJ L 38, 13.2.2008, p. 3](#)).
- (7) [OJ L 189, 20.7.2007, p. 1](#).
- (8) Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme ([OJ L 242, 10.9.2002, p. 1](#)).]
- (9) [OJ L 277, 21.10.2005, p. 1](#).
- (10) [<sup>F2</sup>[OJ L 93, 31.3.2006, p. 12](#). Regulation as amended by Regulation (EC) No 1791/2006 ([OJ L 363, 20.12.2006, p. 1](#)).]
- (11) [OJ L 256, 7.9.1987, p. 1](#). Regulation as last amended by Regulation (EC) No 733/2007 ([OJ L 169, 29.6.2007, p. 1](#)).
- (12) [OJ L 316, 2.12.2005, p. 1](#).
- (13) [OJ L 169, 30.6.2005, p. 1](#).
- (14) [OJ L 67, 10.3.1994, p. 89](#).
- (15) [OJ L 349, 31.12.1994, p. 53](#).
- (16) [OJ L 318, 20.12.1993, p. 18](#).
- (17) [OJ L 299, 16.11.2007, p. 1](#).’;
- (18) [<sup>F2</sup>[OJ L 297, 21.11.1996, p. 49](#). Regulation as last amended by Commission Regulation (EC) No 1933/2001 ([OJ L 262, 2.10.2001, p. 6](#)).;]

#### Textual Amendments

- F2** Inserted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

**Status:**

Point in time view as at 01/10/2008.

**Changes to legislation:**

There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations.