

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of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (repealed)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 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>F1</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.

*Status: Point in time view as at 01/08/2009.*

*Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed).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** 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 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:

- [<sup>F2</sup>a as regards the cereals sector, EUR 101,31 per tonne;]
- 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>F3</sup>EUR 169,80 per 100 kg for skimmed milk powder;]
- 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;

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- (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.

#### Textual Amendments

- F2** Substituted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.
- F3** 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>F3</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.]

<sup>F4</sup>2 .....

#### Textual Amendments

- F3** 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).
- F4** Deleted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.

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## [F<sup>2</sup>Subsection II

### Opening of buying-in

#### Article 11

#### Public intervention periods

Public intervention shall be available:

- (a) for cereals, from 1 November to 31 May;
- (b) for paddy rice, from 1 April to 31 July;
- (c) for sugar, throughout the marketing years 2008/2009 and 2009/2010;
- (d) for beef and veal, throughout any marketing year;
- (e) for butter and skimmed milk powder, from 1 March to 31 August.

#### Article 12

#### Opening of public intervention

- 1 During the periods referred to in Article 11, public intervention:
  - a shall be open for common wheat;
  - b shall be open for durum wheat, barley, maize, sorghum, paddy rice, sugar, butter and skimmed milk powder up to the intervention limits referred to in Article 13(1);
  - c shall be opened for beef and veal by the Commission, without the assistance of the Committee referred to in Article 195(1), if the average market price for beef and veal over a representative period 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) is below EUR 1 560/tonne.
- 2 Public intervention for beef and veal, referred to in point (c) of paragraph 1, shall be closed by the Commission, without the assistance of the Committee referred to in Article 195(1), where, over a representative period, the conditions provided for in that point are no longer fulfilled.

#### Article 13

#### Intervention limits

- 1 Buying into public intervention shall be carried out within the following limits:
  - a for durum wheat, barley, maize, sorghum and paddy rice, 0 tonnes for the periods referred to in Article 11(a) and (b) respectively;
  - b for sugar, 600 000 tonnes, expressed in white sugar, for each marketing year;
  - c for butter, 30 000 tonnes for each period referred to in Article 11(e);
  - d for skimmed milk powder 109 000 tonnes for each period referred to Article 11(e).

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2 Sugar stored in accordance with point (b) of paragraph 1 of this Article during a marketing year shall not be subject to any of the other storage measures provided for in Articles 32, 52 and 63.

3 By way of derogation from paragraph 1, for the products referred to in points (a), (c) and (d) of that paragraph, the Commission may decide to continue public intervention beyond the amounts referred to in that paragraph if the market situation and, in particular, the development of market prices, so requires.]

### [<sup>F2</sup>Subsection III

#### **Intervention prices**

##### *Article 18*

#### **Intervention prices**

- 1 The intervention price:
  - a for common wheat shall be equal to the reference price for a maximum quantity offered of 3 million tonnes per intervention period as fixed in Article 11(a);
  - b for butter shall be equal to 90 % of the reference price for amounts offered within the limit in Article 13(1)(c);
  - c for skimmed milk powder shall be equal to the reference price for amounts offered within the limit in Article 13(1)(d).
- 2 The intervention prices and the quantities for intervention for the following products shall be determined by the Commission by means of tendering procedures:
  - a common wheat for amounts in excess of the maximum quantity offered of 3 million tonnes per intervention period as fixed in Article 11(a);
  - b durum wheat, barley, maize, sorghum and paddy rice, in application of Article 13(3);
  - c beef and veal;
  - d butter for amounts offered in excess of the limit in Article 13(1)(c), in application of Article 13(3), and
  - e skimmed milk powder for amounts offered in excess of the limit in Article 13(1)(d), in application of Article 13(3).

In special circumstances, tendering procedures may be restricted to, or the intervention prices and the quantities for intervention may be fixed per, Member State or region of a Member State on the basis of recorded average market prices.

- 3 The maximum buying-in price determined in accordance with tendering procedures under paragraph 2 shall not be higher:
  - a for cereals and paddy rice, than the respective reference prices;
  - b for beef and veal, than the average market price recorded in a Member State or a region of a Member State increased by an amount to be determined by the Commission on the basis of objective criteria;
  - c for butter, than 90 % of the reference price;
  - d for skimmed milk powder, than the reference price.
- 4 The intervention prices referred to in paragraphs 1, 2 and 3 shall be:
  - a for cereals, without prejudice to price increases or reductions for quality reasons, and

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- b for paddy rice, increased or decreased accordingly if the quality of the products offered to the paying agency differs from the standard quality, defined in point A of Annex IV. 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.

5 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.]

#### *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>F3</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>F5</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.

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### Textual Amendments

- F3** 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).
- F5** 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 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>F3</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) [<sup>F4</sup> . . . . .]

#### Textual Amendments

- F3** 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).
- F4** Deleted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.

#### [<sup>F3</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

- F3** 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>F4</sup>Article 30

#### [<sup>F4</sup>Conditions and aid-level for cheese]

#### Textual Amendments

- F4** Deleted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.

#### 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>F1</sup>d skimmed milk powder of top quality, obtained in an approved undertaking of the Community directly and exclusively from skimmed milk;]
- [<sup>F4</sup>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>F3</sup>2 The Commission shall fix the aid for private storage provided for in paragraph 1 in advance or by means of tendering procedures.]

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[F4 . . . . .]

#### Textual Amendments

- F1** 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).
- F3** 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).
- F4** Deleted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.

#### 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

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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.

*F1* Article 35

**[<sup>F1</sup>Conditions of granting for skimmed milk powder]**

**Textual Amendments**

- F1** 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 \(Single CMO Regulation\)](#).

*F4* Article 36

**[<sup>F4</sup>Conditions of granting for cheese]**

**Textual Amendments**

- F4** Deleted by [Council Regulation \(EC\) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations \(EC\) No 247/2006, \(EC\) No 320/2006, \(EC\) No 1405/2006, \(EC\) No 1234/2007, \(EC\) No 3/2008 and \(EC\) No 479/2008 and repealing Regulations \(EEC\) No 1883/78, \(EEC\) No 1254/89, \(EEC\) No 2247/89, \(EEC\) No 2055/93, \(EC\) No 1868/94, \(EC\) No 2596/97, \(EC\) No 1182/2005 and \(EC\) No 315/2007](#).

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;

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- (c) any Member State other than the United Kingdom, taken separately.

#### *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) [<sup>F2</sup>the requirements and conditions to be met by 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, and the duration of private storage;]

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*Status: Point in time view as at 01/08/2009.*

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- (aa) [<sup>F6</sup>the respect of the maximum quantities and quantitative limits set out in Article 13(1) and point (a) of Article 18(1); in this context, the implementing rules may authorise the Commission to close buying-in at a fixed price, adopt allocation coefficients and, for common wheat, switch to the tendering procedure referred to in Article 18(2), without the assistance of the Committee referred to in Article 195(1);]
- (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,

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

#### Textual Amendments

- F2** Substituted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.
- F6** Inserted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.

## 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.



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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.

#### 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.

F<sup>4</sup><sub>3</sub> .....

#### Textual Amendments

- F4** Deleted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.

#### 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.

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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.

#### *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.

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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.

[<sup>F35</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

- F3** 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.

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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.

### *[<sup>F3</sup>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, the Commission may decide to withdraw from the market, for a given marketing year, those quantities of sugar or isoglucose produced under quotas which exceed the threshold calculated in accordance with paragraph 2 of this Article.

2 The withdrawal threshold referred to in paragraph 1 of this Article shall be calculated, for each undertaking holding a quota, by multiplying its quota by a coefficient, which shall be fixed by the Commission by 16 March of the previous marketing year, on the basis of expected market trends. For the marketing year 2008/2009, that coefficient shall be applied to the quota after renunciations in accordance with Regulation (EC) No 320/2006 granted on 15 March 2008 at the latest.

On the basis of updated market trends, the Commission may decide by 31 October of the marketing year concerned either to adjust or, in the case where no such decision has been taken in accordance with the first subparagraph of this paragraph, to fix a coefficient.

3 Each undertaking provided with a quota shall store at its own expense until the beginning of the following marketing year the sugar produced under quota beyond the threshold calculated in accordance with paragraph 2. The sugar or isoglucose quantities withdrawn during a marketing year shall be treated as the first quantities produced under quota for the following marketing year.

By way of derogation from the first subparagraph of this paragraph, 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 or isoglucose as:

- a surplus sugar or surplus isoglucose available to become industrial sugar or industrial isoglucose; or
- b temporary quota production of which a part may be reserved for export respecting the 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 may be sold on the Community market before the end of the period of withdrawal.

5 In the case where withdrawn sugar is treated as the first sugar production of the following marketing year, the minimum price of that marketing year shall be paid to beet growers.

In the case where withdrawn sugar becomes industrial sugar or is exported according to points (a) and (b) of paragraph 3 of this Article, the requirements of Article 49 on the minimum price shall not apply.

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In the case where withdrawn sugar is sold on the Community market before the end of the period of withdrawal according to paragraph 4, the minimum price of the ongoing marketing year shall be paid to beet growers.}]

#### Textual Amendments

- F3** 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>F5</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

- F5** 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 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).

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*Status: Point in time view as at 01/08/2009.*

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#### *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.

## CHAPTER III

### **Systems of production limitation**

#### *Section I*

### ***General provisions***

*[<sup>F2</sup>[<sup>F7</sup>Article 55]*

### **Quota systems and production potential**

- 1 A quota system shall apply to the following products:
  - a milk and other milk products within the meaning of points (a) and (b) of Article 65;
  - b sugar, isoglucose and inulin syrup;
  - c potato starch which may benefit from Community aid.
- 2 As regards the quota systems referred to in points (a) and (b) of paragraph 1 of this Article, 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.

<sup>F8</sup>2a In relation to the wine sector, rules concerning production potential as regards unlawful plantings, transitional planting rights as well as a grubbing-up scheme shall apply in accordance with the provisions set out in Section IVa.]]

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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**

- F2** Substituted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.
- F7** Substituted by Council Regulation (EC) No 491/2009 of 25 May 2009 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).
- F8** Inserted by Council Regulation (EC) No 491/2009 of 25 May 2009 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*

### *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.

#### *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;

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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>F3</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 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



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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

- F3** 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>F3</sup>Article 60]

### National quota reallocation and reduction of quotas

[<sup>F31</sup> 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>F54</sup> 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

- F3** 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 \(Single CMO Regulation\)](#).
- F5** 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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## 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>(1)</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>[F3c]</sup> 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.

*Status: Point in time view as at 01/08/2009.*

*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

- F3** 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 , 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 [<sup>F2</sup>85 %] 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.

#### Textual Amendments

- F2** Substituted by [Council Regulation \(EC\) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations \(EC\) No 247/2006, \(EC\) No 320/2006, \(EC\) No 1405/2006, \(EC\) No 1234/2007, \(EC\) No 3/2008 and \(EC\) No 479/2008 and repealing Regulations \(EEC\) No 1883/78, \(EEC\) No 1254/89, \(EEC\) No 2247/89, \(EEC\) No 2055/93, \(EC\) No 1868/94, \(EC\) No 2596/97, \(EC\) No 1182/2005 and \(EC\) No 315/2007.](#)

#### 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 (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



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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 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.

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*Status: Point in time view as at 01/08/2009.*

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## 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.

## 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.

[<sup>F6</sup>However, for the twelve-month periods starting on 1 April 2009 and 1 April 2010, the surplus levy for milk delivered in excess of 106 % of the national quota for deliveries applicable for the twelve-month period starting on 1 April 2008 shall be set at 150 % of the levy referred to in the second subparagraph.]

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>(2)</sup> shall not apply.

*Status: Point in time view as at 01/08/2009.*

*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 Commission shall determine the arrangements for the implementation of this Article.

**Textual Amendments**

**F6** Inserted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.

*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.

*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.

[<sup>F6</sup>At national level, the surplus levy shall be calculated on the basis of the sum of the deliveries, adjusted in accordance with the first subparagraph.]

<sup>F4</sup>2 .....

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.

[<sup>F6</sup>Where the third subparagraph of Article 78(1) applies, Member States, in establishing each producer's contribution to the amount of levy payable due to the application of the higher rate referred to in that subparagraph, shall ensure that this amount is contributed proportionately by the producers responsible according to objective criteria to be set by the Member State.]

*Status: Point in time view as at 01/08/2009.*

*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

- F4** Deleted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.
- F6** Inserted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.

### 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.

### 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.

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### 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.
- 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.

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## [<sup>F6</sup>Section IIIa

### Potato starch quotas

#### Article 84a

### Potato starch quotas

1 The potato starch producing Member States shall be allocated quotas for the marketing year during which the quota scheme applies in accordance with Article 204(5) and Annex Xa.

2 Each producer Member State referred to in Annex Xa shall allocate its quota among potato starch manufacturers for use in the marketing years concerned on the basis of the subquotas allocated to each manufacturer in 2007/2008.

3 An undertaking producing potato starch shall not conclude cultivation contracts with potato producers for a quantity of potatoes which would produce a quantity of starch in excess of its quota as referred to in paragraph 2.

4 Any potato starch produced in excess of the quota as referred to in paragraph 2 shall be exported, as such, from the Community before 1 January following the end of the marketing year in question. No export refund shall be paid in respect of it.

5 Notwithstanding paragraph 4, an undertaking producing potato starch may, in any marketing year, in addition to its quota for that year, utilise no more than 5 % of its quota relating to the following marketing year. In such case, the quota for the following marketing year shall be reduced accordingly.

6 The provisions of this Section shall not apply to the production of potato starch by undertakings which are not subject to paragraph 2 of this Article and which purchase potatoes for which producers do not benefit from the payment provided for in Article 77 of Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes under the Common Agricultural Policy and establishing certain support schemes for farmers<sup>(3)</sup>.]

## [<sup>F7</sup>Section IV

### *Procedural rules concerning sugar, milk and potato starch quotas]*

#### Article 85

### Implementing rules

[<sup>F7</sup>The Commission shall adopt detailed rules for the application of Sections I to IIIa 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[<sup>F2</sup>;

*Status: Point in time view as at 01/08/2009.*

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- (d) [<sup>F6</sup>in respect of Section IIIa, mergers, changes of ownership and the commencement or cessation of trading of potato starch manufacturers.]

#### Textual Amendments

- F2** Substituted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.
- F6** Inserted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.

### *[<sup>F8</sup>Section IVa*

#### *Production potential in the wine sector*

##### *Subsection I*

#### *Unlawful plantings*

##### *Article 85a*

#### **Unlawful plantings planted after 31 August 1998**

1 Producers shall grub up at their own cost areas planted with vines without a corresponding planting right, where applicable, after 31 August 1998.

2 Pending grubbing-up in accordance with paragraph 1, grapes and products made from grapes from areas referred to in that paragraph may be put into circulation only for the purposes of distillation at the exclusive expense of the producer. The products resulting from distillation may not be used in the preparation of alcohol having an actual alcoholic strength by 80 % volume or less.

3 Without prejudice, where applicable, to earlier penalties imposed by Member States, Member States shall impose penalties on producers who have not complied with this grubbing-up obligation graduated according to the severity, extent and duration of the non-compliance.

4 The end of the transitional ban on new plantings on 31 December 2015, as provided for in Article 85g(1), shall not affect the obligations provided for in this Article.

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*Status: Point in time view as at 01/08/2009.*

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### *Article 85b*

#### **Obligatory regularisation of unlawful plantings planted before 1 September 1998**

1 Producers shall, against the payment of a fee and not later than 31 December 2009, regularise areas planted with vines without a corresponding planting right, where applicable, before 1 September 1998.

Without prejudice to any proceedings under clearance of accounts, the first subparagraph shall not apply to areas regularised on the basis of Article 2(3) of Regulation (EC) No 1493/1999.

2 The fee referred to in paragraph 1 shall be determined by Member States. It shall be equivalent to at least twice the average value of the corresponding planting right in the region concerned.

3 Pending regularisation under paragraph 1, grapes or products made from grapes from areas referred to in that paragraph may be put into circulation only for the purpose of distillation at the exclusive expense of the producer. The products may not be used in the preparation of alcohol having an actual alcoholic strength of 80 % volume or less.

4 Unlawful areas referred to in paragraph 1 which are not regularised in accordance with that paragraph by 31 December 2009 shall be grubbed up by the producers concerned at their own expense.

Member States shall impose penalties, graduated according to the severity, extent and duration of the non-compliance, on producers who do not comply with this grubbing-up obligation.

Pending the grubbing-up referred to in the first subparagraph, paragraph 3 shall apply *mutatis mutandis*.

5 The end of the transitional ban on new plantings on 31 December 2015, as provided for in Article 85g(1), shall not affect the obligations provided for in paragraphs 3 and 4.

### *Article 85c*

#### **Verification of non-circulation or distillation**

1 In relation to Article 85a(2) and Article 85b(3) and (4), Member States shall require proof of non-circulation of the products concerned or, where the products concerned are distilled, the submission of distillation contracts.

2 Member States shall verify non-circulation and distillation referred to in paragraph 1. They shall impose penalties in case of non-compliance.

3 Member States shall notify the Commission of the areas subject to distillation and the corresponding volumes of alcohol.



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#### *Article 85d*

### **Accompanying measures**

Areas referred to in the first subparagraph of Article 85b(1), as long as they are not regularised and areas referred to in Article 85a(1) shall not benefit from any national or Community support measures.

#### *Article 85e*

### **Implementing measures**

Detailed rules for the implementation of this Subsection shall be adopted by the Commission.

Those rules may include:

- (a) details on the communication requirements of Member States, including possible reductions of the budget allocations referred to in Annex Xb in case of non-compliance;
- (b) details on the penalties to be imposed by Member States in case of non-compliance with the obligations laid down in Articles 85a, 85b and 85c.

#### *Subsection II*

### ***Transitional planting right regime***

#### *Article 85f*

### **Duration**

This Subsection shall apply until 31 December 2015.

#### *Article 85g*

### **Transitional prohibition on planting vines**

1 Without prejudice to Article 120a(1) to (6) and in particular paragraph 4 thereof, the planting of vines of wine grape varieties classifiable according to Article 120a(2) shall be prohibited.

2 Grafting-on of wine grape varieties classifiable according to Article 120a(2) to varieties other than wine grape varieties referred to in that Article shall also be prohibited.

3 Notwithstanding paragraphs 1 and 2, plantings and grafting-on as referred to in those paragraphs shall be allowed if covered by:

- a a new planting right, as provided for in Article 85h;
- b a replanting right, as provided for in Article 85i;
- c a planting right granted from a reserve, as provided for in Articles 85j and 85k.

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4 The planting rights referred to in paragraph 3 shall be granted in hectares.

5 Member States may decide to maintain the prohibition referred to in paragraph 1 in their territory or parts of their territory until 31 December 2018 at the latest. In such cases the rules governing the transitional planting right regime as laid down in this Subsection, including this Article, shall apply accordingly in the given Member State.

#### *Article 85h*

### **New planting rights**

- 1 Member States may grant new planting rights to producers in respect of areas:
  - a intended for new plantings carried out under measures for land consolidation or measures concerning compulsory purchases in the public interest adopted under national law;
  - b intended for experimental purposes;
  - c intended for graft nurseries; or
  - d whose wine or vine products are intended solely for the consumption by the wine-grower's household.
- 2 New planting rights granted shall be:
  - a exercised by the producer to whom they are granted;
  - b used before the end of the second wine year after the one in which they were granted;
  - c used for the purposes for which they were granted.

#### *Article 85i*

### **Replanting rights**

1 Member States shall grant replanting rights to producers who have grubbed up an area planted with vines.

However, grubbed-up areas for which a grubbing-up premium is granted in accordance with Subsection III shall not generate replanting rights.

2 Member States may grant replanting rights to producers who undertake to grub up an area planted with vines. In such cases, the grubbing-up of the pledged area shall be carried out at the latest at the end of the third year after which new vines for which the replanting rights had been granted have been planted.

3 Replanting rights granted shall correspond to the equivalent of the grubbed-up area in terms of pure crop.

4 Replanting rights shall be exercised on the holding in respect of which they were granted. Member States may further stipulate that such replanting rights may be exercised only on the area where the grubbing-up was carried out.

5 By way of derogation from paragraph 4, Member States may decide that replanting rights may be transferred, in whole or in part, to another holding in the same Member State in the following cases:

- a part of the holding concerned is transferred to that other holding;
- b areas on that other holding are intended for:

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- (i) the production of wines with a protected designation of origin or a protected geographical indication; or
- (ii) the cultivation of graft nurseries.

Member States shall ensure that the application of the derogation provided for in the first subparagraph does not lead to an overall increase in production potential on their territory, in particular when transfers are made from non-irrigated to irrigated areas.

6 Paragraphs 1 to 5 shall apply *mutatis mutandis* to rights similar to replanting rights acquired under prior Community or national legislation.

7 Replanting rights granted under Article 4(5) of Regulation (EC) No 1493/1999 shall be used within the periods provided for therein.

#### *Article 85j*

### **National and regional reserve of planting rights**

1 In order to improve management of the production potential, Member States shall create a national reserve or regional reserves of planting rights.

2 Member States which have established national or regional reserves of planting rights under Regulation (EC) No 1493/1999 may maintain those reserves as long as they apply the transitional planting right regime in accordance with this Subsection.

3 The following planting rights shall be allocated to national or regional reserves if they are not used within the prescribed period:

- a new planting rights;
- b replanting rights;
- c planting rights granted from the reserve.

4 Producers may transfer replanting rights to national or regional reserves. The conditions of such transfer, where necessary in return for a payment from national funds, shall be determined by the Member States taking into account the legitimate interests of the parties.

5 By way of derogation from paragraph 1, Member States may decide not to implement a reserve system provided that they can prove that an effective alternative system for managing planting rights exists throughout their territory. The alternative system may, where necessary, derogate from the relevant provisions of this Subsection.

The first subparagraph shall also apply to Member States which cease the operation of national or regional reserves under Regulation (EC) No 1493/1999.

#### *Article 85k*

### **Granting planting rights from the reserve**

- 1 Member States may grant rights from a reserve:
  - a without payment, to producers who are under 40 years of age, who possess adequate occupational skills and competences, who are setting up for the first time and who are established as the head of the holding;

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- b against payment into national or, if appropriate, regional funds, to producers who intend to use the rights to plant vineyards the production of which has an assured outlet.

Member States shall define the criteria for setting the amounts of the payment referred to in point (b) of the first subparagraph, which may vary depending on the final intended product of the vineyards concerned and on the residual transitional period during which the prohibition on new plantings, as provided for in Article 85g(1) and (2), applies.

2 Where planting rights granted from a reserve are used, Member States shall ensure that:

- a the location and the varieties and the cultivation techniques used guarantee that the subsequent production is adapted to market demand;
- b the yields concerned are typical of the average in the region, in particular where planting rights originating in non-irrigated areas are used in irrigated areas.

3 Planting rights granted from a reserve which are not used before the end of the second wine year after the one in which they were granted shall be forfeited and re-allocated to the reserve.

4 Planting rights in a reserve which are not disbursed before the end of the fifth wine year following their allocation to the reserve shall be extinguished.

5 If regional reserves exist in a Member State, the Member State may lay down rules permitting the transfer of planting rights between regional reserves. If both regional and national reserves exist in a Member State, the Member State may also allow for transfers between those reserves.

Transfers may be subject to a reduction coefficient.

#### *Article 85l*

#### **De minimis**

This Subsection shall not apply in Member States where the Community planting right regime did not apply by 31 December 2007.

#### *Article 85m*

#### **Stricter national rules**

Member States may adopt stricter national rules in respect of the award of new planting rights or replanting rights. They may require that the respective applications and the relevant information to be supplied therein be supplemented by additional information necessary for monitoring the development of production potential.

#### *Article 85n*

#### **Implementing measures**

Detailed rules for the implementation of this Subsection shall be adopted by the Commission.

Those rules may in particular include:

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- (a) provisions to avoid excessive administrative charges when applying the provisions of this Subsection;
- (b) the co-existence of vines pursuant to Article 85i(2);
- (c) the application of the reduction coefficient referred to in Article 85k(5).

### *Subsection III*

#### **Grubbing up scheme**

##### *Article 85o*

##### **Duration**

The provisions of this Subsection shall apply until the end of the wine year 2010/2011.

##### *Article 85p*

##### **Scope and definition**

This Subsection lays down the conditions under which vine-growers shall receive a premium in exchange for grubbing up vines (hereinafter referred to as the grubbing-up premium).

##### *Article 85q*

##### **Conditions of eligibility**

The grubbing-up premium may be granted only if the area concerned complies with the following conditions:

- (a) it did not receive Community or national support for restructuring and conversion-type measures within the 10 wine years preceding the grubbing-up request;
- (b) it did not receive Community support under any other common market organisation within the five wine years preceding the grubbing-up request;
- (c) it is tended;
- (d) it is not smaller than 0,1 hectares. However, if a Member State so decides, that minimum size may be 0,3 hectares in certain administrative regions of that Member State in which the average of the area planted with vines of a wine holding exceeds one hectare;
- (e) it has not been planted in violation of any applicable Community or national legislation; and
- (f) it is planted with a wine grape variety classifiable according to Article 120a(2).

Notwithstanding point (e) of the first paragraph, areas regularised in accordance with Article 2(3) of Regulation (EC) No 1493/1999 and Article 85b(1) of this Regulation shall be eligible for the grubbing-up premium.

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### *Article 85r*

#### **Amount of the grubbing-up premium**

- 1 Scales for the grubbing-up premiums to be granted shall be fixed by the Commission.
- 2 The specific amount of the grubbing-up premium shall be established by Member States within the scales referred to in paragraph 1 and on the basis of the historical yields of the holding concerned.

### *Article 85s*

#### **Procedure and budget**

- 1 Interested producers shall submit applications for the grubbing-up premium to the respective authorities in Member States not later than 15 September of each year. Member States may fix an earlier date than 15 September provided that it is later than 30 June and that they take into due account, where applicable, their application of the exemptions provided for in Article 85u.
- 2 Member States shall carry out administrative controls concerning the applications received, process eligible applications and notify to the Commission by 15 October each year the total area and amounts covered by those applications split by regions and by yield ranges.
- 3 The maximum annual budget for the grubbing-up scheme is set out in Annex Xd.
- 4 By 15 November each year, the Commission shall set a single percentage for acceptance of the amounts notified if the total amount notified to the Commission by Member States exceeds the available budget resources, regard being had, where applicable, to the application of Article 85u(2) and (3).
- 5 By 1 February each year, Member States shall accept the applications:
  - a for the areas applied for in their entirety if the Commission has not set a percentage as referred to in paragraph 4; or
  - b for the areas resulting from the application of the percentage referred to in paragraph 4 based on objective and non-discriminatory criteria and in accordance with the following priorities:
    - (i) Member States shall give priority to applicants whose application for the grubbing-up premium covers their entire vineyard;
    - (ii) Member States shall give second priority to applicants who are not less than 55 years old, or older, where Member States so provide.

### *Article 85t*

#### **Cross-compliance**

Where farmers are found not to have complied on their holding, at any time during three years from payment of the grubbing-up premium, with the statutory management requirements and the good agricultural and environmental condition referred to in Articles 3 to 7 of Regulation (EC) No 1782/2003, the amount of the payment shall,

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where non-compliance is the result of an action or omission directly imputable to the farmer, be reduced or cancelled, partially or wholly depending on the severity, extent, permanence and repetition of the non-compliance, and the farmer shall, where applicable, be ordered to reimburse it in accordance with the conditions set out in those provisions.

#### *Article 85u*

### **Exemptions**

1 A Member State may decide to reject any further applications referred to in Article 85s(1) once the accumulated grubbed-up area on its territory reaches 8 % of its area planted with vines as referred to in Annex Xe.

A Member State may decide to reject any further applications referred to in Article 85s(1) for a region once the accumulated grubbed-up area in that region reaches 10 % of the region's area planted with vines.

2 The Commission may decide to stop the application of the grubbing-up scheme in a Member State if, taking into account the pending applications, continued grubbing-up would lead to a cumulated grubbed-up area of more than 15 % of the Member State's total area planted with vines as referred to in Annex Xe.

3 The Commission may decide to stop the application of the grubbing-up scheme in a Member State for a given year if, taking into account the pending applications, continued grubbing-up would lead to a grubbed-up area of more than 6 % of the Member State's total area planted with vines as referred to in Annex Xe in that particular year of the scheme's operation.

4 Member States may declare vines in mountain and steep-slope areas ineligible for the grubbing-up scheme in accordance with conditions to be determined by the Commission.

5 Member States may declare areas ineligible for the grubbing-up scheme where application of the scheme would be incompatible with environmental concerns. Areas thus declared ineligible shall not exceed 3 % of the total area planted with vines as referred to in Annex Xe.

6 Greece may declare areas planted with vines on the Aegean islands and the Greek Ionian islands, with the exception of Crete and Eubia, ineligible under the grubbing-up scheme.

7 The grubbing-up scheme set out in this Subsection shall not apply in the Azores, Madeira and the Canary Islands.

8 Member States shall grant producers in the areas ineligible or declared ineligible under paragraphs 4 to 7 priority under other support measures laid down in this Regulation in respect of the wine sector, in particular, where applicable, the restructuring and conversion measure under the support programmes and rural development measures.

#### *Article 85v*

### **De minimis**

This Subsection shall not apply in Member States where wine production does not exceed 50 000 hectolitres per wine year. This production shall be calculated on the basis of the average production during the previous five wine years.

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### *Article 85w*

#### **Complementary national aid**

Member States may grant complementary national aid not exceeding 75 % of the applicable grubbing-up premium in addition to the grubbing-up premium granted.

### *Article 85x*

#### **Implementing measures**

Detailed rules for the implementation of this Subsection shall be adopted by the Commission.

Those rules may in particular include:

- (a) details on the conditions of eligibility referred to in Article 85q, in particular as regards proof that areas were properly tended in 2006 and 2007;
- (b) the premium scales and amounts referred to in Article 85r;
- (c) the criteria for exemptions as referred to in Article 85u;
- (d) the reporting requirements of Member States concerning the implementation of the grubbing-up scheme, including penalties in case of delays in reporting and the information which Member States give to producers concerning the availability of the scheme;
- (e) the reporting requirements as regards complementary national aid;
- (f) deadlines for payments.]



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## 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;
- 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.

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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.

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;

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- (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.

#### *[F<sup>9</sup>Subsection II*

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

#### *Article 91*

#### **Eligibility**

1 [F<sup>2</sup>Aid for processing the straw of long flax grown for fibre and the straw of short flax and hemp grown for fibre shall be granted for the 2009/2010 to 2011/2012 marketing years 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.]

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.

[F<sup>9</sup>2 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.]

#### **Textual Amendments**

- F2** Substituted by [Council Regulation \(EC\) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations \(EC\) No 247/2006, \(EC\) No 320/2006, \(EC\) No 1405/2006, \(EC\) No 1234/2007, \(EC\) No 3/2008 and \(EC\) No 479/2008 and repealing Regulations \(EEC\) No 1883/78, \(EEC\) No 1254/89, \(EEC\) No 2247/89, \(EEC\) No 2055/93, \(EC\) No 1868/94, \(EC\) No 2596/97, \(EC\) No 1182/2005 and \(EC\) No 315/2007.](#)

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## Article 92

### Aid rate

- [<sup>F9</sup>1 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,
    - [<sup>F2</sup>at EUR 200 per tonne for the 2009/2010 marketing year; and
    - at EUR 160 per tonne for the 2010/2011 and 2011/2012 marketing years.]
  - [<sup>F2</sup>b at EUR 90 per tonne for the 2009/2010, 2010/2011 and 2011/2012 marketing years for short flax and hemp fibre containing not more than 7,5 % impurities and shives.]

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.

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.

#### Textual Amendments

- F2** Substituted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.

## 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>F2</sup>1 A maximum guaranteed quantity of 80 878 tonnes for each of the 2009/2010 to 2011/2012 marketing years shall be established for long flax fibre in respect of which aid may be

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granted. That quantity shall be apportioned among certain Member States as national guaranteed quantities in accordance with point A.I. of Annex XI.]

[<sup>F2</sup>1a. A maximum guaranteed quantity of 147 265 tonnes for each of the 2009/2010 to 2011/2012 marketing years 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>F10</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.]

#### Textual Amendments

- F2** Substituted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.
- F10** 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).

#### [<sup>F10</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.]

*Status: Point in time view as at 01/08/2009.*

*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

**F10** 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).

[<sup>F6</sup>Subsection III

### Potato starch

#### Article 95a

### Potato starch premium

1 A premium of EUR 22,25 per tonne of starch produced shall be paid for the 2009/2010, 2010/2011 and 2011/2012 marketing years to potato starch manufacturers for the quantity of potato starch up to the quota limit referred to in Article 84a(2), provided that they have paid to potato producers a minimum price for all the potatoes necessary to produce starch up to that quota limit.

2 The minimum price of potatoes intended for the manufacture of potato starch shall be set at EUR 178,31 per tonne for the marketing years concerned.

This price applies to the quantity of potatoes, delivered to the factory, which is needed to make one tonne of starch.

The minimum price shall be adjusted according to the starch content of the potatoes.

3 The Commission shall adopt the detailed rules for the implementation of this Subsection.]

*Status: Point in time view as at 01/08/2009.*

*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)*

## Section II

### **Production refund**

<sup>F4</sup>Article 96

#### **[<sup>F4</sup>Production refund for starch]**

#### **Textual Amendments**

- F4** Deleted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.

## 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.

*Status: Point in time view as at 01/08/2009.*

*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)*

### Section III

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

#### *[<sup>F2</sup>Article 99*

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

1 When surpluses of milk products build up or are likely to occur, creating or likely to create a serious imbalance in the market, the Commission may decide that aid shall be granted for Community-produced skimmed milk and skimmed-milk powder intended for use as feedingstuffs, according to conditions and product standards to be determined by the Commission. The aid may be fixed in advance or by means of tendering procedures.

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 reference price fixed in point (e)(ii) of Article 8(1) for skimmed-milk powder, and the development of the market situation as regards skimmed milk and skimmed-milk powder.

#### **Textual Amendments**

- F2** Substituted by [Council Regulation \(EC\) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations \(EC\) No 247/2006, \(EC\) No 320/2006, \(EC\) No 1405/2006, \(EC\) No 1234/2007, \(EC\) No 3/2008 and \(EC\) No 479/2008 and repealing Regulations \(EEC\) No 1883/78, \(EEC\) No 1254/89, \(EEC\) No 2247/89, \(EEC\) No 2055/93, \(EC\) No 1868/94, \(EC\) No 2596/97, \(EC\) No 1182/2005 and \(EC\) No 315/2007.](#)

### Article 100

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

1 When surpluses of milk products build up or are likely to occur, creating or likely to create a serious imbalance in the market, the Commission may decide that 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. The aid may be fixed in advance or by means of tendering procedures.

2 Aid shall be fixed by the Commission taking into account the development of the market situation for skimmed-milk powder and the reference price for skimmed-milk powder, fixed in point (e)(ii) of Article 8(1).

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

#### **Textual Amendments**

- F2** Substituted by [Council Regulation \(EC\) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations \(EC\) No 247/2006, \(EC\) No 320/2006, \(EC\) No 1405/2006, \(EC\) No 1234/2007, \(EC\) No 3/2008 and \(EC\) No 479/2008 and repealing Regulations](#)



*Status: Point in time view as at 01/08/2009.*

*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)*

(EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.

#### <sup>F4</sup> Article 101

### [<sup>F4</sup>Aid for the purchase of cream, butter and concentrated butter at reduced prices]

#### Textual Amendments

- F4** Deleted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.

#### 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.

[<sup>F22</sup> 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>F33</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

- F2** Substituted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.
- F3** 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).

*Status: Point in time view as at 01/08/2009.*

*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)*

## Section IV

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

#### Article 103

#### **Aids to operator organisations**

[<sup>F21</sup> The Community shall finance three-year work programmes to be drawn up by the operator organisations referred to in Article 125 in one or more of the following areas.]

[<sup>F61a</sup> The Community financing per year of the work programmes shall be:

- a EUR 11 098 000 for Greece,
- b EUR 576 000 for France, and
- c EUR 35 991 000 for Italy.]

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.

#### **Textual Amendments**

- F2** Substituted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.
- F6** Inserted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.

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*Status: Point in time view as at 01/08/2009.*

*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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## 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;
- 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;

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*Status: Point in time view as at 01/08/2009.*

*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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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;
- 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.

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*Status: Point in time view as at 01/08/2009.*

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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.

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:

*Status: Point in time view as at 01/08/2009.*

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- 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 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.

F42 .....

#### **Textual Amendments**

**F4** Deleted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.

### *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:

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*Status: Point in time view as at 01/08/2009.*

*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 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.

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.

### [<sup>F11</sup>Subsection IIa

#### **School Fruit Scheme**

### *Article 103ga*

#### **Aid for the supply of fruit and vegetable, processed fruit and vegetable and banana products to children**

1 Under conditions to be determined by the Commission, from the 2009-2010 school year onwards, Community aid shall be granted for:

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*Status: Point in time view as at 01/08/2009.*

*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 the supply to children in educational establishments, including nurseries, other pre-school establishments, primary and secondary schools, of products of the fruit and vegetables, processed fruit and vegetables, and bananas sectors; and
  - b certain related costs of logistics and distribution, equipment, communication, monitoring and evaluation.
- 2 Member States, at national or regional level, wishing to participate in the scheme shall draw up a prior strategy for its implementation containing, in particular, the budget of their scheme including: the Community and national contributions, the duration, the target group, the eligible products and the involvement of relevant stakeholders. They shall also provide for the accompanying measures necessary to make the scheme effective.
- 3 When drawing up their strategies, Member States shall draw up a list of products of the fruit and vegetables, processed fruit and vegetables, and bananas sectors that will be eligible under their respective schemes. This list, however, shall not include products excluded by a measure adopted by the Commission under Article 103h(f). They shall choose their products on the basis of objective criteria which may include seasonality, availability of produce or environmental concerns. In this connection, Member States may give preference to products of Community origin.
- 4 The Community aid referred to in paragraph 1 shall neither:
- a exceed EUR 90 million per school year; nor
  - b exceed 50 % of the costs of supply and related costs referred to in paragraph 1, or 75 % of such costs in the regions eligible under the Convergence Objective in accordance with Article 5(1) of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund<sup>(9)</sup>, and in the outermost regions referred to in Article 299(2) of the Treaty; nor
  - c cover costs other than the costs of supply and related costs referred to in paragraph 1.
- 5 The Community aid referred to in paragraph 1 shall be allocated to each Member State on the basis of objective criteria based on their proportion of six to ten year old children. However, Member States participating in the scheme shall each receive at least EUR 175 000 of Community aid. Member States participating in the scheme shall apply every year for Community aid on the basis of their strategy. Following the requests of the Member States, the Commission shall decide on definitive allocations, within the appropriations available in the budget.
- 6 Community aid referred to in paragraph 1 shall not be used to replace funding for any existing national school fruit schemes or other school distribution schemes that include fruit. However, if a Member State already has a scheme in place that would be eligible for Community aid under this Article and intends to extend it or make it more effective, including as regards the target group of the scheme, its duration or eligible products, Community aid may be granted provided that the limits of paragraph 4(b) are abided by as regards the proportion of Community aid to the total national contribution. In this case, the Member State shall indicate in its strategy how it intends to extend its scheme or make it more effective.
- 7 Member States may, in addition to Community aid, grant national aid for the supply of products and related costs referred to in paragraph 1. These costs may also be covered by contributions from the private sector. Member States may also grant national aid for financing the accompanying measures referred to in paragraph 2.
- 8 The Community School Fruit Scheme shall be without prejudice to any separate national school fruit schemes which are compatible with Community law.



*Status: Point in time view as at 01/08/2009.*

*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)*

9 The Community may also finance, under Article 5 of Regulation (EC) No 1290/2005, information, monitoring and evaluation measures relating to the School Fruit Scheme, including raising public awareness of it, and related networking measures.]

[<sup>F11</sup>Subsection III

### **Procedural provisions]**

*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[<sup>F12</sup>;]
- (f) [<sup>F11</sup>provisions concerning the School Fruit Scheme referred to in Article 103ga, including: a list of products or ingredients that should be excluded from the School Fruit Scheme, the definitive allocation of aid between Member States, financial and budgetary management, and the related costs, the strategies of the Member States, accompanying measures and information, monitoring and evaluation and networking measures.]]

#### **Textual Amendments**

**F12** Substituted by [Council Regulation \(EC\) No 13/2009 of 18 December 2008 amending Regulations \(EC\) No 1290/2005 on the financing of the common agricultural policy and \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\) in order to set up a School Fruit Scheme.](#)

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*Status: Point in time view as at 01/08/2009.*

*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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## *f<sup>8</sup>*Section IVb

### **Support programmes in the wine sector**

#### *Subsection I*

#### **Introductory provisions**

##### *Article 103i*

##### **Scope**

This Section lays down the rules governing the attribution of Community funds to Member States and the use of those funds by Member States through national support programmes (hereinafter referred to as support programmes) to finance specific support measures to assist the wine sector.

##### *Article 103j*

##### **Compatibility and consistency**

1 Support programmes shall be compatible with Community law and consistent with the activities, policies and priorities of the Community.

2 Member States shall be responsible for the support programmes and ensure that they are internally consistent and drawn up and implemented in an objective manner, taking into account the economic situation of the producers concerned and the need to avoid unjustified unequal treatment between producers.

Member States shall be responsible for providing for and carrying out the necessary controls and penalties in case of non-compliance with the support programmes.

3 No support shall be granted:

- a for research projects and measures to support research projects;
- b for measures which are contained in Member States' rural development programmes under Regulation (EC) No 1698/2005.

#### *Subsection II*

#### **Submission and content of support programmes**

##### *Article 103k*

##### **Submission of support programmes**

1 Each producer Member State referred to in Annex Xb shall submit to the Commission a draft five-year support programme containing measures in accordance with this Section.

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*Status: Point in time view as at 01/08/2009.*

*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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Support programmes that became applicable in accordance with the first subparagraph of Article 5(1) of Regulation (EC) No 479/2008 shall continue to apply under this Regulation.

The support measures in the support programmes shall be drawn up at the geographical level which the Member States deem most appropriate. Before being submitted to the Commission, the support programme shall be subject to consultation with the competent authorities and organisations at the appropriate territorial level.

Each Member State shall submit one single draft support programme which may accommodate regional particularities.

2 Support programmes shall become applicable three months after their submission to the Commission.

However, if the submitted support programme does not comply with the conditions laid down in this Section, the Commission shall inform the Member State thereof. In such a case, the Member State shall submit a revised support programme to the Commission. The revised support programme shall become applicable two months after its notification unless an incompatibility persists in which case this subparagraph shall apply.

3 Paragraph 2 shall apply *mutatis mutandis* to changes in respect of support programmes submitted by Member States.

4 Article 1031 shall not apply where a Member State's only measure in a support programme consists of the transfer to the Single Payment Scheme referred to in Article 103o. In such case, Article 188a(5) shall apply only in relation to the year in which the transfer takes place and Article 188a(6) shall not apply.

### *Article 1031*

#### **Content of support programmes**

Support programmes shall consist of the following elements:

- (a) a detailed description of the measures proposed as well as their quantified objectives;
- (b) the results of consultations held;
- (c) an appraisal showing the expected technical, economic, environmental and social impact;
- (d) a schedule for implementing the measures;
- (e) a general financing table showing the resources to be deployed and the envisaged indicative allocation of the resources between the measures in accordance with ceilings provided for in Annex Xb;
- (f) the criteria and quantitative indicators to be used for monitoring and evaluation as well as the steps taken to ensure that the support programmes are implemented appropriately and effectively; and
- (g) the designation of competent authorities and bodies responsible for implementing the support programme.

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### *Article 103m*

#### **Eligible measures**

- 1 Support programmes shall contain one or more of the following measures:
  - a Single Payment Scheme support in accordance with Article 103o;
  - b promotion in accordance with Article 103p;
  - c restructuring and conversion of vineyards in accordance with Article 103q;
  - d green harvesting in accordance with Article 103r;
  - e mutual funds in accordance with Article 103s;
  - f harvest insurance in accordance with Article 103t;
  - g investments in accordance with Article 103u;
  - h by-product distillation in accordance with Article 103v;
  - i potable alcohol distillation in accordance with Article 103w;
  - j crisis distillation in accordance with Article 103x;
  - k use of concentrated grape must in accordance with Article 103y.
- 2 Support programmes shall not contain other measures than the ones listed in Articles 103o to 103y.

### *Article 103n*

#### **General rules concerning support programmes**

- 1 The allocation of the available Community funds as well as the budgetary limits are provided for in Annex Xb.
- 2 Community support shall only relate to eligible expenditure incurred after the submission of the relevant support programme as referred to in Article 103k(1).
- 3 Member States shall not contribute to the costs of measures financed by the Community under the support programmes.
- 4 By way of derogation from paragraph 3, Member States may grant national aid in accordance with the relevant Community rules on State aid for the measures referred to in Articles 103p, 103t and 103u.

The maximum aid rate as laid down in the relevant Community rules on State aids shall apply to the global public financing, including both Community and national funds.

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*Status: Point in time view as at 01/08/2009.*

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### *Subsection III*

#### ***Specific support measures***

##### *Article 103o*

#### **Single Payment Scheme and support to vine-growers**

1 Member States may provide support to vine-growers by allocating to them payment entitlements within the meaning of Chapter 3 of Title III of Regulation (EC) No 1782/2003 in accordance with point O of Annex VII to that Regulation.

2 Member States intending to make use of the possibility referred to in paragraph 1 shall foresee such support in their support programmes, including, as regards subsequent transfers of funds to the Single Payment Scheme, by way of changes to those programmes in accordance with Article 103k(3).

3 Once effective, support as referred to in paragraph 1 shall:

- a remain in the Single Payment Scheme and no longer be available, or be made available under Article 103k(3), for the measures listed in Articles 103p to 103y in subsequent years of the operation of the support programmes;
- b commensurately reduce the amount of funds available for measures listed in Articles 103p to 103y in the support programmes.

##### *Article 103p*

#### **Promotion on third-country markets**

1 Support under this Article shall cover information or promotion measures concerning Community wines in third countries, thereby improving their competitiveness in those countries.

2 The measures referred to in paragraph 1 shall relate to wines with a protected designation of origin or a protected geographical indication or wines with an indication of the wine grape variety.

3 The measures referred to in paragraph 1 may consist only of:

- a public relations, promotion or advertisement measures, in particular highlighting the advantages of the Community products, especially in terms of quality, food safety or environmental friendliness;
- b participation at events, fairs or exhibitions of international importance;
- c information campaigns, in particular on the Community systems covering designations of origin, geographical indications and organic production;
- d studies of new markets, necessary for the expansion of market outlets;
- e studies to evaluate the results of the information and promotion measures.

4 The Community contribution to promotion activities shall not exceed 50 % of the eligible expenditure.

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*Status: Point in time view as at 01/08/2009.*

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### *Article 103q*

#### **Restructuring and conversion of vineyards**

1 The objective of measures relating to the restructuring and conversion of vineyards shall be to increase the competitiveness of wine producers.

2 The restructuring and conversion of vineyards shall be supported in accordance with this Article only if Member States submit the inventory of their production potential in accordance with Article 185a(3).

3 Support for the restructuring and conversion of vineyards may only cover one or more of the following activities:

- a varietal conversion, including by means of grafting-on;
- b relocation of vineyards;
- c improvements to vineyard management techniques.

The normal renewal of vineyards which have come to the end of their natural life shall not be supported.

4 Support for the restructuring and conversion of vineyards may only take the following forms:

- a compensation to producers for the loss of revenue due to the implementation of the measure;
- b contribution to the costs of restructuring and conversion.

5 Compensation to producers for the loss of revenue as referred to in paragraph 4(a) may cover up to 100 % of the relevant loss and take either of the following forms:

- a notwithstanding Subsection II of Section IVa of Chapter III of Title I of Part II setting out the transitional planting right regime, the permission for both old and new vines to coexist for a fixed period which shall not exceed three years, until the end of the transitional regime concerning planting rights;
- b financial compensation.

6 The Community contribution to the actual costs of the restructuring and conversion of vineyards shall not exceed 50 %. In regions classified as convergence regions in accordance with Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund<sup>(10)</sup>, the Community contribution to the costs of restructuring and conversion shall not exceed 75 %.

### *Article 103r*

#### **Green harvesting**

1 For the purposes of this Article, green harvesting means the total destruction or removal of grape bunches while still in their immature stage, thereby reducing the yield of the relevant area to zero.

2 Support for green harvesting shall contribute to restoring the balance of supply and demand in the market in wine in the Community in order to prevent market crises.

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3 Support for green harvesting may be granted as compensation in the form of a flat rate payment per hectare to be determined by the Member State concerned.

The payment shall not exceed 50 % of the sum of the direct costs of the destruction or removal of grape bunches and the loss of revenue related to such destruction or removal.

4 The Member States concerned shall establish a system based on objective criteria to ensure that the green harvesting measure does not lead to compensation of individual wine producers in excess of the ceiling referred to in the second subparagraph of paragraph 3.

#### *Article 103s*

### **Mutual funds**

1 Support for the setting up of mutual funds shall provide assistance to producers seeking to insure themselves against market fluctuations.

2 Support for the setting up of mutual funds may be granted in the form of temporary and degressive aid to cover the administrative costs of the funds.

#### *Article 103t*

### **Harvest insurance**

1 Support for harvest insurance shall contribute to safeguarding producers' incomes where these are affected by natural disasters, adverse climatic events, diseases or pest infestations.

2 Support for harvest insurance may be granted in the form of a financial Community contribution which must not exceed:

- a 80 % of the cost of the insurance premiums paid for by producers for insurance against losses resulting from adverse climatic events which can be assimilated to natural disasters;
- b 50 % of the cost of the insurance premiums paid for by producers for insurance against:
  - (i) losses referred to in point (a) and against other losses caused by adverse climatic events;
  - (ii) losses caused by animals, plant diseases or pest infestations.

3 Support for harvest insurance may only be granted if the insurance payments concerned do not compensate producers for more than 100 % of the income loss suffered, taking into account any compensation the producers may have obtained from other support schemes related to the insured risk.

4 Support for harvest insurance shall not distort competition in the insurance market.

#### *Article 103u*

### **Investments**

1 Support may be granted for tangible or intangible investments in processing facilities, winery infrastructure and marketing of wine which improve the overall performance of the enterprise and concern one or more of the following:

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- a the production or marketing of products referred to in Annex XIb;
- b the development of new products, processes and technologies related to the products referred to in Annex XIb.

2 Support under paragraph 1 at its maximum rate shall be limited to micro, small and medium-sized enterprises within the meaning of Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises<sup>(11)</sup>. For the territories of the Azores, Madeira, the Canary Islands, the smaller Aegean islands within the meaning of Regulation (EC) No 1405/2006 and the French overseas departments, no size limits shall apply for the maximum rate. For enterprises that are not covered by Article 2(1) of Title I of the Annex to Recommendation 2003/361/EC with less than 750 employees or with a turnover of less than EUR 200 million, the maximum aid intensity shall be halved.

Support shall not be granted to enterprises in difficulty within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty.

3 The eligible expenditure shall exclude the elements referred to in Article 71(3)(a), (b) and (c) of Regulation (EC) No 1698/2005.

4 The following maximum aid rates in relation to the eligible investment costs shall apply to the Community contribution:

- a 50 % in regions classified as convergence regions in accordance with Regulation (EC) No 1083/2006;
- b 40 % in regions other than convergence regions;
- c 75 % in the outermost regions in accordance with Regulation (EC) No 247/2006;
- d 65 % in the smaller Aegean islands within the meaning of Regulation (EC) No 1405/2006.

5 Article 72 of Regulation (EC) No 1698/2005 shall apply *mutatis mutandis* to support referred to in paragraph 1 of this Article.

#### *Article 103v*

#### **By-product distillation**

1 Support may be granted for the voluntary or obligatory distillation of by-products of wine making which has been carried out in accordance with the conditions laid down in point D of Annex XVb.

The amount of aid shall be fixed per % volume and per hectolitre of alcohol produced. No aid shall be paid for the volume of alcohol contained in the by-products to be distilled which exceeds 10 % in relation to the volume of alcohol contained in the wine produced.

2 The maximum applicable aid levels shall be based on collection and processing costs and fixed by the Commission.

3 The alcohol resulting from the supported distillation referred to in paragraph 1 shall be used exclusively for industrial or energy purposes so as to avoid distortion of competition.



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### *Article 103w*

#### **Potable alcohol distillation**

1 Support may be granted, in the form of a per-hectare aid, until 31 July 2012 to producers, for wine which is distilled into potable alcohol.

2 The relevant contracts concerning the distillation of wine as well as the relevant proofs of delivery for distillation shall be submitted before support is granted.

### *Article 103x*

#### **Crisis distillation**

1 Support may be granted until 31 July 2012 for voluntary or obligatory distillation of surplus wine decided upon by Member States in justified cases of crisis so as to reduce or eliminate the surplus and at the same time ensure supply continuity from one harvest to the next.

2 The maximum applicable aid levels shall be fixed by the Commission.

3 The alcohol resulting from the supported distillation referred to in paragraph 1 shall be used exclusively for industrial or energy purposes so as to avoid distortion of competition.

4 The share of the available budget used for the crisis distillation measure shall not exceed the following percentage shares as calculated against the globally available funds laid down in Annex Xb per Member State in the respective budget year:

- 20 % in 2009,
- 15 % in 2010,
- 10 % in 2011,
- 5 % in 2012.

5 Member States may increase the available funds for the crisis distillation measure beyond the annual ceilings given in paragraph 4 by way of contributing national funds in accordance with the following limits (expressed in terms of percentage of the respective annual ceiling given in paragraph 4):

- 5 % in the wine year 2010,
- 10 % in the wine year 2011,
- 15 % in the wine year 2012.

Member States shall, where applicable, notify the Commission of the addition of national funds referred to in the first subparagraph and the Commission shall approve the transaction before such funds are made available.

### *Article 103y*

#### **Use of concentrated grape must**

1 Support may be granted until 31 July 2012 to wine producers who use concentrated grape must, including rectified concentrated grape must, to increase the natural alcoholic strength of products in accordance with the conditions laid down in Annex XVa.

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2 The amount of the aid shall be fixed per % volume potential alcoholic strength and per hectolitre of the must used for enrichment.

3 The maximum applicable aid levels for this measure in the different wine growing zones shall be fixed by the Commission.

#### *Article 103z*

### **Cross-compliance**

Where farmers are found not to have complied on their holding, at any time during three years from payment under the support programmes for restructuring and conversion or at any time during one year from payment under the support programmes for green harvesting, with the statutory management requirements and the good agricultural and environmental condition referred to in Articles 3 to 7 of Regulation (EC) No 1782/2003, the amount of the payment shall, where non-compliance is the result of an action or omission directly imputable to the farmer, be reduced or cancelled, partially or wholly depending on the severity, extent, permanence and repetition of the non-compliance, and the farmer shall, where applicable, be ordered to reimburse it in accordance with the conditions set out in those provisions.

#### *Subsection IV*

### **Procedural provisions**

#### *Article 103za*

### **Implementing measures**

The measures necessary for the implementation of this Section shall be adopted by the Commission.

Those measures may include, in particular:

- (a) the format of presentation of the support programmes;
- (b) rules concerning changes to support programmes after they have become applicable;
- (c) detailed rules for the implementation of the measures provided for in Articles 103p to 103y;
- (d) the conditions under which assistance through Community funds is to be communicated and publicised.]

*Status: Point in time view as at 01/08/2009.*

*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)*

## 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 in the Community, and a study on preventing nicotine;
  - 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.
- 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>[F13]</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

- F13** 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').

<sup>[F2]</sup> Member States may pay 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. These aids shall be notified to the Commission

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*Status: Point in time view as at 01/08/2009.*

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by Member States together with the communication of the apiculture programme in accordance with Article 109.]

#### **Textual Amendments**

- F2** Substituted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.

### *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;
- (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>(12)</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.

*Status: Point in time view as at 01/08/2009.*

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### *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.

### *Section VII*

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

### *Article III*

#### **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).

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*Status: Point in time view as at 01/08/2009.*

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## TITLE II

### RULES CONCERNING MARKETING AND PRODUCTION

#### [<sup>F7</sup>CHAPTER I

#### Rules concerning marketing and production]

#### [<sup>F7</sup>Section I

#### Marketing rules]

#### Article 113

#### Marketing standards

[<sup>F31</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;
- 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>F3</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>F5</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>F3b</sup> 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.

*Status: Point in time view as at 01/08/2009.*

*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)*

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

- F3** 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).
- F5** 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>F5</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.

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

- F5** 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 01/08/2009.*

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### 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>(13)</sup>, before 29 June 2007.]

#### Textual Amendments

- F5** 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>F8</sup> Article 113c

#### Marketing rules to improve and stabilise the operation of the common market in wines

1 In order to improve and stabilise the operation of the common market in wines, including the grapes, musts and wines from which they derive, producer Member States may lay down marketing rules to regulate supply, particularly by way of implementing decisions taken by the inter-branch organisations referred to in Articles 123(3) and 125o.

Such rules shall be proportionate to the objective pursued and shall not:

- a relate to any transaction after the first marketing of the produce concerned;
- b allow for price fixing, including where prices are set for guidance or recommendation;
- c render unavailable an excessive proportion of the vintage that would otherwise be available;
- d provide scope for refusing to issue the national and Community certificates required for the circulation and marketing of wines where such marketing is in accordance with those rules.

2 The rules referred to in paragraph 1 must be brought to the attention of operators by publication *in extenso* in an official publication of the Member State concerned.

3 The reporting obligation referred to in Article 125o(3) shall also apply in respect of the decisions or actions taken by the Member States in accordance with this Article.



*Status: Point in time view as at 01/08/2009.*

*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

- F8** Inserted by [Council Regulation \(EC\) No 491/2009 of 25 May 2009 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 113d

#### Specific provisions for the marketing of wine

1 A designation for a category of a grapevine product as provided for in Annex XIb may be used in the Community only for the marketing of a product which conforms to the corresponding conditions laid down in that Annex.

However, notwithstanding Article 118y(1)(a), Member States may allow the use of the term 'wine' if:

- a it is accompanied by the name of a fruit in the form of a composite name to market products obtained by the fermentation of fruit other than grapes; or
- b it is part of a composite name.

Any confusion with products corresponding to the wine categories in Annex XIb shall be avoided.

2 Categories of grapevine products listed in Annex XIb may be modified by the Commission in accordance with the procedure referred to in Article 195(4).

3 Except for bottled wine in respect of which there is evidence that bottling was performed before 1 September 1971, wine produced from wine grape varieties listed in the classifications drawn up in accordance with the first subparagraph of Article 120a(2) but not conforming to one of the categories laid down in Annex XIb, shall be used only for consumption by individual wine-producers' households, for the production of wine vinegar or for distillation.]

#### Textual Amendments

- F8** Inserted by [Council Regulation \(EC\) No 491/2009 of 25 May 2009 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 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.

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### 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 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.

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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.

### *f<sup>8</sup> Section Ia*

#### ***Designations of origin, geographical indications and traditional terms in the wine sector***

### *Article 118a*

#### **Scope**

1 Rules relating to designations of origin, geographical indications and traditional terms laid down in this Section shall apply to the products referred to in paragraphs 1, 3 to 6, 8, 9, 11, 15 and 16 of Annex XIb.

2 The rules referred to in paragraph 1 shall be based on:

- a protecting of legitimate interests of:
  - (i) consumers; and
  - (ii) producers;
- b ensuring the smooth operation of the common market in the products concerned; and
- c promoting the production of quality products, whilst allowing national quality policy measures.

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### *Subsection I*

## ***Designations of origin and geographical indications***

### *Article 118b*

#### **Definitions**

- 1 For the purposes of this Subsection, the following definitions shall apply:
  - a ‘designation of origin’ means the name of a region, a specific place or, in exceptional cases, a country used to describe a product referred to in Article 118a(1) that complies with the following requirements:
    - (i) its quality and characteristics are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors;
    - (ii) the grapes from which it is produced come exclusively from this geographical area;
    - (iii) its production takes place in this geographical area; and
    - (iv) it is obtained from vine varieties belonging to *Vitis vinifera*;
  - b ‘geographical indication’ means an indication referring to a region, a specific place or, in exceptional cases, a country, used to describe a product referred to in Article 118a(1) which complies with the following requirements:
    - (i) it possesses a specific quality, reputation or other characteristics attributable to that geographical origin;
    - (ii) at least 85 % of the grapes used for its production come exclusively from this geographical area;
    - (iii) its production takes place in this geographical area; and
    - (iv) it is obtained from vine varieties belonging to *Vitis vinifera* or a cross between the *Vitis vinifera* species and other species of the genus *Vitis*.
- 2 Certain traditionally used names shall constitute a designation of origin where they:
  - a designate a wine;
  - b refer to a geographical name;
  - c meet the requirements referred to in paragraph 1(a)(i) to (iv); and
  - d undergo the procedure conferring protection on designations of origin and geographical indications laid down in this Subsection.
- 3 Designations of origin and geographical indications, including those relating to geographical areas in third countries, shall be eligible for protection in the Community in accordance with the rules laid down in this Subsection.

### *Article 118c*

#### **Content of applications for protection**

- 1 Applications for protection of names as designations of origin or geographical indications shall include a technical file containing:

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- a the name to be protected;
- b the name and address of the applicant;
- c a product specification as referred to in paragraph 2; and
- d a single document summarising the product specification referred to in paragraph 2.

2 The product specification shall enable interested parties to verify the relevant conditions of production of the designation of origin or geographical indication.

It shall consist at least of:

- a the name to be protected;
- b a description of the wine(s):
  - (i) for wines with a designation of origin, its principal analytical and organoleptic characteristics;
  - (ii) for wines with a geographical indication, its principal analytical characteristics as well as an evaluation or indication of its organoleptic characteristics;
- c where applicable, the specific oenological practices used to make the wine(s) as well as the relevant restrictions on making the wine(s);
- d the demarcation of the geographical area concerned;
- e the maximum yields per hectare;
- f an indication of the wine grape variety or varieties the wine(s) is obtained from;
- g the details bearing out the link referred to in Article 118b(1)(a)(i) or, as the case may be, in Article 118b(1)(b)(i);
- h applicable requirements laid down in Community or national legislation or, where foreseen by Member States, by an organisation which manages the protected designation of origin or the protected geographical indication, having regard to the fact that such requirements shall be objective, and non-discriminatory and compatible with Community law;
- i the name and address of the authorities or bodies verifying compliance with the provisions of the product specification and their specific tasks.

#### *Article 118d*

### **Application for protection relating to a geographical area in a third country**

1 Where the application for protection concerns a geographical area in a third country, it shall contain in addition to the elements provided for in Article 118c, proof that the name in question is protected in its country of origin.

2 The application shall be sent to the Commission, either directly from the applicant or via the authorities of the third country concerned.

3 The application for protection shall be filed in one of the official languages of the Community or accompanied by a certified translation into one of those languages.

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## Article 118e

### Applicants

1 Any interested group of producers, or in exceptional cases a single producer, may apply for the protection of a designation of origin or geographical indication. Other interested parties may participate in the application.

2 Producers may lodge an application for protection only for wines which they produce.

3 In the case of a name designating a trans-border geographical area or a traditional name connected to a trans-border geographical area, a joint application may be lodged.

## Article 118f

### Preliminary national procedure

1 Applications for protection of a designation of origin or a geographical indication of wines in accordance with Article 118b originating in the Community shall be subject to a preliminary national procedure in accordance with this Article.

2 The application for protection shall be filed with the Member State in which territory the designation of origin or geographical indication originates.

3 The Member State shall examine the application for protection in order to verify whether it meets the conditions set out in this Subsection.

The Member State shall carry out a national procedure ensuring adequate publication of the application and providing for a period of at least two months from the date of publication within which any natural or legal person having a legitimate interest and resident or established on its territory may object to the proposed protection by lodging a duly substantiated statement with the Member State.

4 If the Member State considers that the designation of origin or geographical indication does not meet the relevant requirements or is incompatible with Community law in general, it shall reject the application.

- 5 If the Member State considers that the relevant requirements are met, it shall:
- a publish the single document and the product specification at least on the Internet; and
  - b forward to the Commission an application for protection containing the following information:
    - (i) the name and address of the applicant;
    - (ii) the single document referred to in Article 118c(1)(d);
    - (iii) a declaration by the Member State that it considers that the application lodged by the applicant meets the conditions required; and
    - (iv) the reference to publication, as referred to in point (a).

This information shall be forwarded in one of the official languages of the Community or accompanied by a certified translation into one of those languages.

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6 Member States shall introduce the laws, regulations or administrative provisions necessary to comply with this Article by 1 August 2009.

7 Where a Member State has no national legislation concerning the protection of designations of origin and geographical indications, it may, on a transitional basis only, grant protection to the name in accordance with the terms of this Subsection at national level with effect from the day the application is lodged with the Commission. Such transitional national protection shall cease on the date on which a decision on registration or refusal under this Subsection is taken.

#### *Article 118g*

### **Scrutiny by the Commission**

1 The Commission shall make the date of submission of the application for protection of the designation of origin or geographical indication public.

2 The Commission shall examine whether the applications for protection referred to in Article 118f(5) meet the conditions laid down in this Subsection.

3 Where the Commission considers that the conditions laid down in this Subsection are met, it shall publish in the *Official Journal of the European Union* the single document referred to in Article 118c(1)(d) and the reference to the publication of the product specification referred to in Article 118f(5).

Where this is not the case, the Commission shall decide, in accordance with the procedure referred to in Article 195(4), to reject the application.

#### *Article 118h*

### **Objection procedure**

Within two months from the date of publication provided for in the first subparagraph of Article 118g(3), any Member State or third country, or any natural or legal person having a legitimate interest, resident or established in a Member State other than that applying for the protection or in a third country, may object to the proposed protection by lodging a duly substantiated statement relating to the conditions of eligibility as laid down in this Subsection with the Commission.

In the case of natural or legal persons resident or established in a third country, such statement shall be lodged, either directly or via the authorities of the third country concerned, within the time limit of two months referred to in the first paragraph.

#### *Article 118i*

### **Decision on protection**

On the basis of the information available to the Commission, the Commission shall decide, in accordance with the procedure referred to in Article 195(4), either to confer protection on the designation of origin or geographical indication which meets the conditions laid down in this Subsection and is compatible with Community law, or to reject the application where those conditions are not satisfied.

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## Article 118j

### Homonyms

1 A name, for which an application is lodged, and which is wholly or partially homonymous with that of a name already registered under this Regulation concerning the wine sector, shall be registered with due regard for local and traditional usage and for any risk of confusion.

A homonymous name which misleads the consumer into believing that products come from another territory shall not be registered even if the name is accurate as far as the actual territory, region or place of origin of the products in question is concerned.

The use of a registered homonymous name shall be subject to there being a sufficient distinction in practice between the homonym registered subsequently and the name already on the register, having regard to the need to treat the producers concerned in an equitable manner and the need not to mislead the consumer.

2 Paragraph 1 shall apply *mutatis mutandis* if a name, for which an application is lodged, is wholly or partially homonymous with a geographical indication protected as such under the legislation of Member States.

Member States shall not register non-identical geographical indications for protection under their respective legislation on geographical indications if a designation of origin or geographical indication is protected in the Community by virtue of the Community law relevant to designations of origin and geographical indications.

3 Save as otherwise provided for in Commission implementing measures, where the name of a wine grape variety contains or consists of a protected designation of origin or a protected geographical indication, that name shall not be used for the purposes of labelling the products covered by this Regulation.

4 The protection of designations of origin and geographical indications for products covered in Article 118b shall be without prejudice to protected geographical indications applying in relation to spirit drinks within the meaning of Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks<sup>(14)</sup> and vice versa.

## Article 118k

### Grounds for refusal of protection

1 Names that have become generic shall not be protected as a designation of origin or geographical indication.

For the purposes of this Subsection, a ‘name that has become generic’ means the name of a wine which, although it relates to the place or the region where this product was originally produced or marketed, has become the common name of a wine in the Community.

To establish whether or not a name has become generic, account shall be taken of all relevant factors, in particular:



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- a the existing situation in the Community, notably in areas of consumption;
- b the relevant Community or national legislation.

2 A name shall not be protected as a designation of origin or geographical indication where, in the light of a trademark's reputation and renown, protection is liable to mislead the consumer as to the true identity of the wine.

### *Article 118l*

#### **Relationship with trademarks**

1 Where a designation of origin or a geographical indication is protected under this Regulation, the registration of a trademark corresponding to one of the situations referred to in Article 118m(2) and relating to a product falling under one of the categories listed in Annex XIb shall be refused if the application for registration of the trademark is submitted after the date of submission of the application for protection of the designation of origin or geographical indication to the Commission and the designation of origin or geographical indication is subsequently protected.

Trademarks registered in breach of the first subparagraph shall be invalidated.

2 Without prejudice to Article 118k(2), a trademark the use of which corresponds to one of the situations referred to in Article 118m(2), which has been applied for, registered or established by use, if that possibility is provided for by the legislation concerned, in the territory of the Community before the date on which the application for protection of the designation of origin or geographical indication is submitted to the Commission, may continue to be used and renewed notwithstanding the protection of a designation of origin or geographical indication, provided that no grounds for the trademark's invalidity or revocation exist as specified by the First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks<sup>(15)</sup> or by Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade<sup>(16)</sup>.

In such cases the use of the designation of origin or geographical indication shall be permitted alongside the relevant trademarks.

### *Article 118m*

#### **Protection**

1 Protected designations of origins and protected geographical indications may be used by any operator marketing a wine which has been produced in conformity with the corresponding product specification.

2 Protected designations of origins and protected geographical indications and the wines using those protected names in conformity with the product specification shall be protected against:

- a any direct or indirect commercial use of a protected name:
  - (i) by comparable products not complying with the product specification of the protected name; or
  - (ii) in so far as such use exploits the reputation of a designation of origin or a geographical indication;

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- b any misuse, imitation or evocation, even if the true origin of the product or service is indicated or if the protected name is translated or accompanied by an expression such as ‘style’, ‘type’, ‘method’, ‘as produced in’, ‘imitation’, ‘flavour’, ‘like’ or similar;
  - c any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product, on the inner or outer packaging, advertising material or documents relating to the wine product concerned, and the packing of the product in a container liable to convey a false impression as to its origin;
  - d any other practice liable to mislead the consumer as to the true origin of the product.
- 3 Protected designations of origin or protected geographical indications shall not become generic in the Community within the meaning of Article 118k(1).
- 4 Member States shall take the steps necessary to stop unlawful use of protected designations of origin and protected geographical indications as referred to in paragraph 2.

#### *Article 118n*

#### **Register**

The Commission shall establish and maintain an electronic register of protected designations of origin and protected geographical indications for wine which shall be publicly accessible.

#### *Article 118o*

#### **Designation of competent control authority**

- 1 Member States shall designate the competent authority or authorities responsible for controls in respect of the obligations established by this Chapter in accordance with the criteria laid down in Article 4 of Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on the official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules<sup>(17)</sup>.
- 2 Member States shall ensure that any operator complying with this Subsection is entitled to be covered by a system of controls.
- 3 Member States shall inform the Commission of the competent authority or authorities referred to in paragraph 1. The Commission shall make their names and addresses public and update them periodically.

#### *Article 118p*

#### **Verification of compliance with specifications**

- 1 In respect of protected designations of origin and protected geographical indications relating to a geographical area within the Community, annual verification of compliance with the product specification, during the production and during or after conditioning of the wine, shall be ensured by:
- a the competent authority or authorities referred to in Article 118o(1); or
  - b one or more control bodies within the meaning of point 5 of the second subparagraph of Article 2 of Regulation (EC) No 882/2004 operating as a product certification body in accordance with the criteria laid down in Article 5 of that Regulation.

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The costs of such verification shall be borne by the operators subject to it.

2 In respect of protected designations of origin and protected geographical indications relating to a geographical area in a third country, annual verification of compliance with the product specification, during the production and during or after conditioning of the wine, shall be ensured by:

- a one or more public authorities designated by the third country; or
- b one or more certification bodies.

3 The certification bodies referred to in paragraphs 1(b) and 2(b) shall comply with, and from 1 May 2010 be accredited in accordance with, the European standard EN 45011 or ISO/IEC Guide 65 (General requirements for bodies operating product certification systems).

4 Where the authority or authorities referred to in paragraphs 1(a) and 2(a) verify compliance with the product specification, they shall offer adequate guarantees of objectivity and impartiality, and have at their disposal the qualified staff and resources needed to carry out their tasks.

#### *Article 118q*

### **Amendments to product specifications**

1 An applicant satisfying the conditions of Article 118e may apply for approval of an amendment to the product specification of a protected designation of origin or a protected geographical indication, in particular to take account of developments in scientific and technical knowledge or to redefine the geographical area referred to in point (d) of the second subparagraph of Article 118c(2). Applications shall describe and give reasons for the amendments requested.

2 Where the proposed amendment involves one or more amendments to the single document referred to in Article 118c(1)(d), Articles 118f to 118i shall apply *mutatis mutandis* to the amendment application. However, if the proposed amendment is only minor, the Commission shall decide, in accordance with the procedure referred to in Article 195(4), whether to approve the application without following the procedure laid down in Article 118g(2) and Article 118h and in the case of approval, the Commission shall proceed to the publication of the elements referred to in Article 118g(3).

3 Where the proposed amendment does not involve any change to the single document, the following rules shall apply:

- a where the geographical area is in a given Member State, that Member State shall express its position on the amendment and, if it is in favour, shall publish the amended product specification and inform the Commission of the amendments approved and the reasons for them;
- b where the geographical area is in a third country, the Commission shall determine whether to approve the proposed amendment.

#### *Article 118r*

### **Cancellation**

The Commission may decide, in accordance with the procedure referred to in Article 195(4), at its own initiative or at the duly substantiated request of a Member State, of a third country or of a natural or legal person having a legitimate interest, to cancel the

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protection of a designation of origin or a geographical indication if compliance with the corresponding product specification is no longer ensured.

Articles 118f to 118i shall apply *mutatis mutandis*.

#### *Article 118s*

### **Existing protected wine names**

1 Wine names, which are protected in accordance with Articles 51 and 54 of Regulation (EC) No 1493/1999 and Article 28 of Commission Regulation (EC) No 753/2002 of 29 April 2002 laying down certain rules for applying Council Regulation (EC) No 1493/1999 as regards the description, designation, presentation and protection of certain wine sector products<sup>(18)</sup>, shall automatically be protected under this Regulation. The Commission shall list them in the register provided for in Article 118n of this Regulation.

2 Member States shall, in respect of existing protected wine names referred to in paragraph 1, transmit to the Commission:

- a the technical files as provided for in Article 118c(1);
- b the national decisions of approval.

3 Wine names referred to in paragraph 1, for which the information referred to in paragraph 2 is not submitted by 31 December 2011, shall lose protection under this Regulation. The Commission shall take the corresponding formal step of removing such names from the register provided for in Article 118n.

4 Article 118r shall not apply in respect of existing protected wine names referred to in paragraph 1.

The Commission may decide, until 31 December 2014, at its own initiative and in accordance with the procedure referred to in Article 195(4), to cancel protection of existing protected wine names referred to in paragraph 1 if they do not meet the conditions laid down in Article 118b.

#### *Article 118t*

### **Fees**

Member States may charge a fee to cover their costs, including those incurred in examining applications for protection, statements of objections, applications for amendments and requests for cancellations under this Subsection.

#### *Subsection II*

### **Traditional terms**

#### *Article 118u*

### **Definitions**

1 ‘Traditional term’ means a term traditionally used in Member States for products referred to in Article 118a(1) to designate:

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- a that the product has a protected designation of origin or a protected geographical indication under Community or national law;
  - b the production or ageing method or the quality, colour, type of place, or a particular event linked to the history of the product with a protected designation of origin or a protected geographical indication.
- 2 Traditional terms shall be recognised, defined and protected by the Commission.

#### *Article 118v*

##### **Protection**

1 A protected traditional term may only be used for a product which has been produced in conformity with the definition referred to in Article 118u(1).

Traditional terms shall be protected against unlawful use.

Member States shall take the steps necessary to stop the unlawful use of protected traditional terms.

2 Traditional terms shall not become generic in the Community.

#### *Section Ib*

##### ***Labelling and presentation in the wine sector***

#### *Article 118w*

##### **Definition**

For the purposes of this Section:

- (a) 'labelling' means any words, particulars, trademarks, brand name, pictorial matter or symbol placed on any packaging, document, notice, label, ring or collar accompanying or referring to a given product;
- (b) 'presentation' means any information conveyed to consumers by virtue of the packaging of the product concerned, including the form and type of bottles.

#### *Article 118x*

##### **Applicability of horizontal rules**

Save as otherwise provided for in this Regulation, Directive 89/104/EEC, Council Directive 89/396/EEC of 14 June 1989 on indications or marks identifying the lot to which a foodstuff belongs<sup>(19)</sup>, Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling presentation and adversity of foodstuffs<sup>(20)</sup> and Directive 2007/45/EC of the European Parliament and of the Council of 5 September 2007 laying down rules on nominal quantities for pre-packed products<sup>(21)</sup> shall apply to the labelling and presentation of products falling within their scopes.

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## Article 118y

### Compulsory particulars

1 Labelling and presentation of the products referred to in paragraphs 1 to 11, 13, 15 and 16 of Annex XIb marketed in the Community or for export shall contain the following compulsory particulars:

- a the designation for the category of the grapevine product in accordance with Annex XIb;
- b for wines with a protected designation of origin or a protected geographical indication:
  - (i) the term ‘protected designation of origin’ or ‘protected geographical indication’; and
  - (ii) the name of the protected designation of origin or the protected geographical indication;
- c the actual alcoholic strength by volume;
- d an indication of provenance;
- e an indication of the bottler or, in the case of sparkling wine, aerated sparkling wine, quality sparkling wine or quality aromatic sparkling wine, the name of the producer or vendor;
- f an indication of the importer in the case of imported wines; and
- g in the case of sparkling wine, aerated sparkling wine, quality sparkling wine or quality aromatic sparkling wine, an indication of the sugar content.

2 By way of derogation from paragraph 1(a) the reference to the category of the grapevine product may be omitted for wines whose labels include the name of a protected designation of origin or a protected geographical indication.

3 By way of derogation from paragraph 1(b) the reference to the terms ‘protected designation of origin’ or ‘protected geographical indication’ may be omitted in the following cases:

- a where a traditional term as referred to in Article 118u(1)(a) is displayed on the label;
- b where, in exceptional circumstances to be determined by the Commission, the name of the protected designation of origin or protected geographical indication is displayed on the label.

## Article 118z

### Optional particulars

1 Labelling and presentation of the products referred to in Article 118y(1) may in particular contain the following optional particulars:

- a the vintage year;
- b the name of one or more wine grape varieties;
- c in the case of wines other than those referred to in Article 118y(1)(g), terms indicating the sugar content;
- d for wines with a protected designation of origin or a protected geographical indication, traditional terms as referred to in Article 118u(1)(b);
- e the Community symbol indicating the protected designation of origin or the protected geographical indication;

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*Status: Point in time view as at 01/08/2009.*

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- f terms referring to certain production methods;
- g for wines bearing a protected designation of origin or a protected geographical indication, the name of another geographical unit that is smaller or larger than the area underlying the designation of origin or geographical indication.

2 Without prejudice to Article 118j(3), as regards the use of particulars referred to in paragraph 1(a) and (b) for wines without a protected designation of origin or a protected geographical indication:

- a Member States shall introduce laws, regulations or administrative provisions to ensure certification, approval and control procedures so as to guarantee the veracity of the information concerned;
- b Member States may, on the basis of non-discriminatory and objective criteria and with due regard to loyal competition, for wine produced from wine grape varieties on their territory, draw up lists of excluded wine grape varieties, in particular if:
  - (i) there is a risk of confusion for consumers as to the true origin of the wine due to the fact that the given wine grape variety forms an integral part of an existing protected designation of origin or a protected geographical indication;
  - (ii) the relevant controls would not be cost effective due to the fact that the given wine grape variety represents a very small part of the Member State vineyard;
- c mixtures of wines from different Member States shall not give rise to labelling of the wine grape variety or varieties unless the Member States concerned agree otherwise and ensure the feasibility of the relevant certification, approval and control procedures.

#### *Article 118za*

### **Languages**

1 Compulsory and optional particulars referred to in Articles 118y and 118z shall, where expressed in words, appear in one or more of the official languages of the Community.

2 Notwithstanding paragraph 1, the name of a protected designation of origin or a protected geographical indication or a traditional term as referred to in Article 118u(1)(a) shall appear on the label in the language or languages for which the protection applies.

In the case of protected designations of origin or protected geographical indications or national specific designations using a non-Latin alphabet, the name may also appear in one or more official languages of the Community.

#### *Article 118zb*

### **Enforcement**

The competent authorities of the Member States shall take measures to ensure that a product referred to in Article 118y(1) which is not labelled in conformity with this Section is not placed on, or is withdrawn from, the market.]

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## Section II

### Conditions for production

#### <sup>F2</sup>Article 119

#### Use of casein and caseinate in the manufacture of cheese

Where aid is paid under Article 100, the Commission may make the use of casein and caseinates in the manufacture of cheese subject to prior authorisation which shall be granted only if such use is a necessary condition for the manufacture of the products.]

#### Textual Amendments

- F2** Substituted by [Council Regulation \(EC\) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations \(EC\) No 247/2006, \(EC\) No 320/2006, \(EC\) No 1405/2006, \(EC\) No 1234/2007, \(EC\) No 3/2008 and \(EC\) No 479/2008 and repealing Regulations \(EEC\) No 1883/78, \(EEC\) No 1254/89, \(EEC\) No 2247/89, \(EEC\) No 2055/93, \(EC\) No 1868/94, \(EC\) No 2596/97, \(EC\) No 1182/2005 and \(EC\) No 315/2007.](#)

#### 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.

#### <sup>F8</sup>Section IIa

#### Production rules in the wine sector

#### Subsection I

#### Wine grape varieties

#### Article 120a

#### Classification of wine grape varieties

1 Products listed in Annex XIb and produced in the Community shall be made from wine grape varieties classifiable according to paragraph 2.

2 Subject to paragraph 3, Member States shall classify which wine grape varieties may be planted, replanted or grafted on their territories for the purpose of wine production.

Only wine grape varieties meeting the following conditions may be classified by Member States:



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- a the variety concerned belongs to the *Vitis vinifera* or comes from a cross between the species *Vitis vinifera* and other species of the genus *Vitis*;
- b the variety is not one of the following: Noah, Othello, Isabelle, Jacquez, Clinton and Herbemont.

Where a wine grape variety is deleted from the classification referred to in the first subparagraph, grubbing-up of this variety shall take place within 15 years of its deletion.

3 Member States whose wine production does not exceed 50 000 hectolitres per wine year, calculated on the basis of the average production during the latest five wine years, shall be exempted from the classification obligation referred to in paragraph 2.

However, also in the Member States referred to in the first subparagraph, only wine grape varieties complying with paragraph 2(a) and (b) may be planted, replanted or grafted for the purpose of wine production.

4 By way of derogation from the first and second subparagraphs of paragraph 2 and the second subparagraph of paragraph 3, the planting, replanting or grafting of the following wine grape varieties shall be allowed for scientific research and experimental purposes:

- a wine grape varieties which are not classified as far as Member States referred to in paragraph 2 are concerned;
- b wine grape varieties which do not comply with paragraph 2(a) and (b) as far as Member States referred to in paragraph 3 are concerned.

5 Areas planted with wine grape varieties for the purpose of wine production planted in breach of paragraphs 2, 3 and 4 shall be grubbed up.

However, there shall be no obligation to grub up such areas where the relevant production is intended exclusively for consumption by the wine-producers' households.

6 Member States shall take the necessary measures to check compliance by producers with paragraphs 2 to 5.

## *Subsection II*

### ***Oenological practices and restrictions***

#### *Article 120b*

#### **Scope**

This Subsection concerns the authorised oenological practices and the applicable restrictions applying to the production and commercialisation of products of the wine sector as well as the procedure for deciding on those practices and restrictions.

#### *Article 120c*

### **Oenological practices and restrictions**

1 Only oenological practices authorised under Community law as laid down in Annex XVa or decided upon in accordance with Articles 120d and 120e shall be used in the production and conservation in the Community of products of the wine sector.

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The first subparagraph shall not apply to:

- a grape juice and concentrated grape juice;
  - b grape must and concentrated grape must intended for the preparation of grape juice.
- 2 Authorised oenological practices shall only be used for the purposes of ensuring proper vinification, proper preservation or proper refinement of the product.
- 3 Products of the wine sector shall be produced in the Community in accordance with the relevant restrictions laid down in Annex XVb.
- 4 Products covered by this Regulation, which have undergone unauthorised Community oenological practices or, where applicable, unauthorised national oenological practices or which contravene the restrictions laid down in Annex XVb, shall not be marketed in the Community.

#### *Article 120d*

#### **Stricter rules decided by Member States**

Member States may limit or exclude the use of certain oenological practices and provide for more stringent restrictions for wines authorised under Community law produced in their territory with a view to reinforcing the preservation of the essential characteristics of wines with a protected designation of origin or a protected geographical indication and of sparkling wines and liqueur wines.

Member States shall communicate those limitations, exclusions and restrictions to the Commission, which shall bring them to the attention of the other Member States.

#### *Article 120e*

#### **Authorisation of oenological practices and restrictions**

1 Except for the oenological practices concerning enrichment, acidification and de-acidification laid down in Annex XVa for the specific products covered therein as well as the restrictions listed in Annex XVb, the authorisation of oenological practices and restrictions as regards the production and conservation of products of the wine sector shall be decided by the Commission in accordance with the procedure referred to in Article 195(4).

2 Member States may allow the experimental use of unauthorised oenological practices under conditions to be determined by the Commission in accordance with the procedure referred to in Article 195(4).

#### *Article 120f*

#### **Authorisation criteria**

When authorising oenological practices in accordance with the procedure referred to in Article 195(4), the Commission shall:

- (a) base itself on the oenological practices recommended and published by the International Organisation of Vine and Wine (OIV) as well as on the results of experimental use of as yet unauthorised oenological practices;
- (b) take into account the protection of human health;

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- (c) take into account the possible risk of consumers being misled due to their established expectations and perceptions, having regard to the availability and feasibility of informational means to exclude such risks;
- (d) allow the preservation of the natural and essential characteristics of the wine and not cause a substantial change in the composition of the product concerned;
- (e) ensure an acceptable minimum level of environmental care;
- (f) respect the general rules concerning oenological practices and restrictions laid down in Annexes XVa and XVb respectively.

### *Article 120g*

#### **Methods of analysis**

The methods of analysis for determining the composition of the products of the wine sector and the rules whereby it may be established whether these products have undergone processes contrary to the authorised oenological practices shall be those recommended and published by the OIV.

Where there are no methods and rules recommended and published by the OIV, corresponding methods and rules shall be adopted by the Commission in accordance with the procedure referred to in Article 195(4).

Pending the adoption of such rules, the methods and rules to be used shall be the ones allowed by the Member State concerned.]

### *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) [<sup>F3</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):

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- (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;
  - (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;

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- (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;
  - (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>[F3;]</sup>
- (j) <sup>[F5]</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>[F7;]</sup>
- (k) <sup>[F8]</sup>the rules concerning the designation of origin and geographical indications referred to in Subsection I of Section Ia, in particular derogations from the applicability of the rules and requirements laid down in that Subsection:

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- (i) in so far as pending applications for protection of designations of origin or geographical indications are concerned;
  - (ii) in so far as the production of certain wines with a protected designation of origin or a protected geographical indication in a geographical area in proximity of the geographical area where the grapes originate is concerned;
  - (iii) in so far as traditional production practices of certain wines with a protected designation of origin are concerned;
- (l) the rules concerning traditional terms referred to in Subsection II of Section Ia in particular concerning:
- (i) the procedure conferring protection;
  - (ii) the specific level of protection;
- (m) the rules concerning labelling and presentation referred to in Section Ib, in particular:
- (i) details on the indication of provenance of the relevant product;
  - (ii) the terms of use of the optional particulars listed in Article 118z;
  - (iii) specific requirements relating to the indications concerning the vintage year and the wine grape variety displayed on labels as referred to in Article 118z(2);
  - (iv) further derogations in addition to those referred to in Article 118y(2) which provide that the reference to the category of the grapevine product may be omitted;
  - (v) rules concerning protection to be conferred in relation to the presentation of a given product.]

[<sup>F5</sup>The Commission may amend Part B of the table set up in point III(2) of Annex XIa.]

[<sup>F8</sup>The measures necessary for the implementation of the provisions concerning oenological practices and restrictions laid down in Subsection II of Section IIa and Annexes XVa and XVb, save as otherwise provided in those Annexes, shall be adopted by the Commission in accordance with the procedure referred to in Article 195(4).

The measures referred to in the third paragraph may include, in particular:

- (a) provisions to the effect that the Community oenological practices listed in Annex IV to Regulation (EC) No 1493/1999 are considered authorised oenological practices;
- (b) authorised oenological practices and restrictions, including enrichment, acidification and de-acidification concerning sparkling wines, quality sparkling wines and quality aromatic sparkling wines;
- (c) authorised oenological practices and restrictions concerning liqueur wines;
- (d) subject to point C of Annex XVb, provisions regulating the blending and coupage of musts and wines;
- (e) where Community rules on that matter do not exist, the purity and identification, specification of substances used in oenological practices;
- (f) administrative rules for carrying out the oenological practices authorised;

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- (g) the conditions governing the holding, circulation and use of products not complying with Article 120c and possible exemptions from the requirements of that Article, as well as the establishment of criteria for the purpose of avoiding hardship in individual cases;
- (h) the conditions under which Member States may authorise the holding, circulation and use of products not complying with Subsection II of Section IIa other than Article 120c, or with provisions implementing that Subsection.]

#### Textual Amendments

- F3** 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).
- F5** 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).
- F8** Inserted by Council Regulation (EC) No 491/2009 of 25 May 2009 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

### Producer organisations, interbranch organisations, operator organisations

#### Section I

#### General principles

#### Article 122

#### Producer organisations

Member States shall recognise producer organisations, which:

- (a) <sup>[F3]</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>[F3]</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:

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- (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.;

[<sup>F6</sup>Member States may also recognise producer organisations constituted by producers in any sector referred to in Article 1, other than those sectors referred to in point (a) of the first paragraph, on the conditions set out in points (b) and (c) of that paragraph.]

[<sup>F8</sup>Member States may, as regards the wine sector, recognise producer organisations under the same conditions as those set out in points (b) and (c) of the first paragraph and which apply rules of association which require their 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) provide the information requested by the producer organisation for statistical purposes, in particular on growing areas and market evolution;
- (c) pay penalties for infringement of obligations under the rules of association.

The following specific aims within the meaning of point (c) of the first paragraph may be pursued, in particular, in the wine sector:

- (a) promoting and providing technical assistance for the use of environmentally sound cultivation practices and production techniques;
- (b) promoting initiatives for the management of by-products of wine making and the management of waste in particular to protect the quality of water, soil and landscape and preserving or encouraging biodiversity;
- (c) carrying out research into sustainable production methods and market developments;
- (d) contributing to the achievement of support programmes as referred to in Section IVb of Chapter IV of Title I of Part II.]

#### Textual Amendments

- F3** 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 \(Single CMO Regulation\)](#).
- F6** Inserted by [Council Regulation \(EC\) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations \(EC\) No 247/2006, \(EC\) No 320/2006, \(EC\) No 1405/2006, \(EC\) No 1234/2007, \(EC\) No 3/2008 and \(EC\) No 479/2008 and repealing Regulations \(EEC\) No 1883/78, \(EEC\) No 1254/89, \(EEC\) No 2247/89, \(EEC\) No 2055/93, \(EC\) No 1868/94, \(EC\) No 2596/97, \(EC\) No 1182/2005 and \(EC\) No 315/2007](#).
- F8** Inserted by [Council Regulation \(EC\) No 491/2009 of 25 May 2009 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 123

### Interbranch organisations

- [<sup>F51</sup>1.] 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;
    - (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>F1</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>F52</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>F53</sup> [<sup>F7</sup>Further to paragraph 1, Member States shall, with regard to the fruit and vegetables sector, and may, with regard to the wine sector, also recognise inter-branch organisations which:

- a are made up of representatives of economic activities linked to the production of, trade in, or processing of the products of the sectors referred to in the introductory words;
- b are formed on the initiative of all or some of the representatives referred to in point (a);]
- c [<sup>F7</sup>carry out one, and in the case of the fruit and vegetables sector, two or more, of the following activities in one or more regions of the Community, taking into account the interests of consumers, and, without prejudice to other sectors, in the wine sector taking into account public health and the interests of consumers:]
  - (i) improving knowledge and the transparency of production and the market;
  - (ii) [<sup>F7</sup>helping to coordinate better the way the products of the fruit and vegetables and the wine sectors 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) [<sup>F7</sup>exploiting to a fuller extent the potential of the fruit and vegetables produced, and the potential of production in the wine sector;]

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- (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) [<sup>F7</sup>developing methods and instruments for improving product quality at all stages of production and marketing and, as regards the wine sector, also vinification;
- (viii) exploiting the potential of organic farming and protecting and promoting such farming as well as designations of origin, quality labels and geographical indications;]
- (ix) promoting integrated production or other environmentally sound production methods;
- (x) [<sup>F7</sup>with regard to the fruit and vegetables sector, 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;]
- (xi) [<sup>F8</sup>with regard to the wine sector:
  - providing information on particular characteristics of wine with a protected designation of origin or a protected geographical indication,
  - encouraging moderate and responsible consumption of wine and informing on the harm linked to hazardous consumption patterns,
  - carrying out promotion actions for wine, especially in third countries.]]

#### Textual Amendments

- F1** 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).
- F5** 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).
- F7** Substituted by Council Regulation (EC) No 491/2009 of 25 May 2009 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).
- F8** Inserted by Council Regulation (EC) No 491/2009 of 25 May 2009 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 124

### Common provisions concerning producer and interbranch organisations

[<sup>F21</sup> Article 122 and Article 123(1) 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 point (a) of the first paragraph of Article 122 and in Article 123(1).]

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.

#### Textual Amendments

- F2** Substituted by [Council Regulation \(EC\) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations \(EC\) No 247/2006, \(EC\) No 320/2006, \(EC\) No 1405/2006, \(EC\) No 1234/2007, \(EC\) No 3/2008 and \(EC\) No 479/2008 and repealing Regulations \(EEC\) No 1883/78, \(EEC\) No 1254/89, \(EEC\) No 2247/89, \(EEC\) No 2055/93, \(EC\) No 1868/94, \(EC\) No 2596/97, \(EC\) No 1182/2005 and \(EC\) No 315/2007.](#)

## 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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*Status: Point in time view as at 01/08/2009.*

*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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## [<sup>F5</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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*Status: Point in time view as at 01/08/2009.*

*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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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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*Status: Point in time view as at 01/08/2009.*

*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 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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*Status: Point in time view as at 01/08/2009.*

*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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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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*Status: Point in time view as at 01/08/2009.*

*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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- 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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*Status: Point in time view as at 01/08/2009.*

*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 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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*Status: Point in time view as at 01/08/2009.*

*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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- (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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*Status: Point in time view as at 01/08/2009.*

*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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- (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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*Status: Point in time view as at 01/08/2009.*

*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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## *[<sup>F8</sup>Section Ib*

### ***Rules concerning producer and inter-branch organisations in the wine sector***

#### *Article 125o*

#### **Recognition**

1 Member States may recognise producer and inter-branch organisations which have lodged an application for recognition with the Member State concerned and the application contains evidence that the entity:

- a as regards producer organisations:
  - (i) meets the requirements laid down in Article 122;
  - (ii) has a minimum number of members, to be laid down by the Member State concerned;
  - (iii) covers a minimum volume of marketable production, to be laid down by the Member State concerned, in the area where the organisation operates;
  - (iv) can carry out its activities properly, both over time and in terms of effectiveness and concentration of supply;
  - (v) effectively enables its members to obtain technical assistance in using environmentally sound cultivation practices;
- b as regards inter-branch organisations:
  - (i) meets the requirements laid down in Article 123(3);
  - (ii) carries out its activities in one or more regions in the territory concerned;
  - (iii) represents a significant share of the production of, or trade in, products covered by this Regulation;
  - (iv) does not engage in the production, processing or marketing of products of the wine sector.

2 Producer organisations recognised in accordance with Regulation (EC) No 1493/1999 shall be considered as recognised producer organisations under this Article.

Organisations meeting the criteria set out in Article 123(3) and of paragraph (1)(b) of this Article, which have been recognised by Member States, shall be considered as recognised interbranch organisations under those provisions.

3 Articles 125b(2) and 125k(3) shall apply *mutatis mutandis* to producer and inter-branch organisations respectively in the wine sector. However:

- a the periods referred to in Articles 125b(2)(a) and 125k(3)(c) respectively shall be four months;
- b the applications for recognition referred to in Articles 125b(2)(a) and 125k(3)(c) shall be lodged with the Member State where the organisation has its headquarters;
- c the annual notifications referred to in Articles 125b(2)(c) and 125k(3)(d) respectively shall be made by 1 March each year.]

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*Status: Point in time view as at 01/08/2009.*

*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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## *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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*Status: Point in time view as at 01/08/2009.*

*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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- (c) the activities of such organisations;
- (d) derogations from the requirements laid down in Articles 122, 123 and 125;
- (da) [<sup>F5</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.

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**Textual Amendments**

- F5** 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 01/08/2009.*

*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 42, 14.2.2006, p. 1.
- (2) OJ L 244, 29.9.2000, p. 27.
- (3) [<sup>F6</sup>See page 16 of this Official Journal.]
- (4) [<sup>F5</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) [<sup>F11</sup>OJ L 210, 31.7.2006, p. 25.;]
- (10) [<sup>F8</sup>OJ L 210, 31.7.2006, p. 25.
- (11) OJ L 124, 20.5.2003, p. 36.;]
- (12) OJ L 277, 21.10.2005, p. 1.
- (13) [<sup>F5</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).]
- (14) [<sup>F8</sup>OJ L 39, 13.2.2008, p. 16.
- (15) OJ L 40, 11.2.1989, p. 1.
- (16) OJ L 11, 14.1.1994, p. 1.
- (17) OJ L 165, 30.4.2004, p. 1.
- (18) OJ L 118, 4.5.2002, p. 1.
- (19) OJ L 186, 30.6.1989, p. 21.
- (20) OJ L 109, 6.5.2000, p. 29.
- (21) OJ L 247, 21.9.2007, p. 17.;]

#### Textual Amendments

- F5** 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).
- F6** Inserted by Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007.
- F8** Inserted by Council Regulation (EC) No 491/2009 of 25 May 2009 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).
- F11** Inserted by Council Regulation (EC) No 13/2009 of 18 December 2008 amending Regulations (EC) No 1290/2005 on the financing of the common agricultural policy and (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) in order to set up a School Fruit Scheme.

**Status:**

Point in time view as at 01/08/2009.

**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.