

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of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (repealed)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*Status: Point in time view as at 01/07/2009.*

*Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed).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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- (aa) [F6the 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.

### *Article 52*

#### **Withdrawal of sugar**

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the Treaty, a percentage, common to all Member States, of quota sugar, quota isoglucose and quota inulin syrup may be withdrawn from the market until the beginning of the following marketing year.

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

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

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

The sugar quantities withdrawn during a marketing year shall be treated as the first quantities produced under quota for the following marketing year.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trends, the Commission may decide to consider, for the current and/or the following marketing year, all or part of the withdrawn sugar, isoglucose or inulin syrup as:

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

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

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

### *f<sup>5</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

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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).

### Section IV

#### Adjustment of supply

### Article 54

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

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

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

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## CHAPTER III

### Systems of production limitation

#### Section I

#### General provisions

#### [<sup>F2</sup>Article 55

#### Quota systems

- 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.]

#### 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.

#### 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.

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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;
- 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.

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### *[<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 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>F3</sup>1 A Member State may reduce the sugar or isoglucose quota allocated to an undertaking established on its territory by up to 10 % for the marketing year 2008/2009 and following, whilst respecting the freedom of undertakings to participate in the mechanisms established by Regulation (EC) No 320/2006. In doing so, the Member States shall apply objective and non discriminatory criteria.]

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

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

<sup>F5</sup>4 By way of derogation from paragraph 3 of this Article, where Article 4a of Regulation (EC) No 320/2006 is applied, Member States shall adjust the sugar quota allocated to the



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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).

### *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.

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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.

### 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);

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[<sup>F3</sup>c sugar and isoglucose withdrawn from the market in accordance with Articles 52 and 52a and for which the obligations provided for in Article 52(3) are not met.]

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

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

#### 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

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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 ‘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,

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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.

#### *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.

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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.

#### *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.

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## 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.

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 [F285 %] 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.

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## Article 74

### Transfers of quotas together with land

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

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

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



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- e determine, on the basis of objective criteria, the regions or collection areas within which the permanent transfer of quotas without transfer of the corresponding land is authorised, with the aim of improving the structure of milk production;
- f authorise, upon application by a producer to the competent authority or a body designated by that authority, the definitive transfer of quotas without transfer of the corresponding land, or vice versa, with the aim of improving the structure of milk production at the level of the holding or to allow for extensification of production.

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

#### *Article 76*

### **Retention of quotas**

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

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

#### *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

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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.

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>F42</sup> .....

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;

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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.]

#### 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.

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

### Article 83

#### Surplus levy on direct sales

- 1 In the case of direct sales, each producer's contribution to payment of the surplus levy shall be established by decision of the Member State, after any unused part of the national quota allocated to direct sales has or has not been re-allocated, at the appropriate territorial level or at national level.
- 2 Member States shall establish the basis of calculation of the producer's contribution to the surplus levy due on the total quantity of milk sold, transferred or used to manufacture the milk products sold or transferred by applying criteria fixed by the Commission.
- 3 No correction linked to fat content shall be taken into account for the purpose of drawing up the definitive surplus levy statement.
- 4 The Commission shall determine how and when the surplus levy must be paid to the Member State's competent body.

### Article 84

#### Amounts paid in excess or unpaid

- 1 Where, in the case of deliveries or direct sales, the surplus levy is found to be payable and the contribution collected from producers is greater than that levy, the Member State may:
  - a use partially or totally the excess to finance the measures in point (a) of Article 75(1), and/or
  - b redistribute it partially or totally to producers who:
    - fall within priority categories established by the Member State on the basis of objective criteria and within the period to be laid down by the Commission, or
    - are affected by an exceptional situation resulting from a national rule unconnected with the quota system for milk and other milk products set up by this Chapter.
- 2 Where it is established that no surplus levy is payable, any advances collected by purchasers or the Member State shall be reimbursed no later than the end of the following twelve-month period.
- 3 Where a purchaser does not meet the obligation to collect the producers' contribution to the surplus levy in accordance with Article 81, the Member State may collect unpaid amounts directly from the producer, without prejudice to any penalties it may impose upon the defaulting purchaser.
- 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>.]

#### Section IV

### Procedural provisions

#### Article 85

### Implementing rules

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

- (a) supplementary information to be submitted by approved undertakings referred to in Article 57 as well as the criteria for administrative penalties, suspensions and withdrawal of approval of the undertakings;
- (b) the establishment and the communications of the amounts referred to in Article 58 and the surplus levy referred to in Article 64;
- (c) derogations from the dates laid down in Article 63<sup>F2</sup>;

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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.

## 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;

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- b its minimum total crude protein content in the dry matter is not less than:
  - (i) 15 % for the products referred to in point (a) and the second indent of point (b) of Part IV of Annex I;
  - (ii) 45 % for the products referred to in the first indent of point (b) of Part IV of Annex I;
- c it is of sound and fair merchantable quality.

#### *Article 87*

### **Advance payment**

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

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

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

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

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

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

#### *Article 88*

### **Aid rate**

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

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

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.

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## Article 89

### Guaranteed quantity

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

## Article 90

### Implementing rules

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

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

## *[<sup>F7</sup>Subsection II*

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

## Article 91

### Eligibility

1 <sup>F2</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



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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.

[<sup>F72</sup> For the purposes of this Subsection, ‘authorised primary processor’ shall mean a natural or legal person or a group of natural or legal persons, irrespective of its legal status under national law, or that of its members, that has been authorised by the competent authority of the Member State in the territory of which are located its facilities for producing flax or hemp fibre.]

#### 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 92

#### Aid rate

[<sup>F71</sup> The amount of processing aid provided for in Article 91 shall be fixed:

- a for long flax fibre:
  - at EUR 160 per tonne for the 2008/2009 marketing year,
  - [<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.

*Status: Point in time view as at 01/07/2009.*

*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

- 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>F21</sup> 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 granted. That quantity shall be apportioned among certain Member States as national guaranteed quantities in accordance with point A.I. of Annex XI.]

[<sup>F21a</sup> 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>F83</sup> 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.

*Status: Point in time view as at 01/07/2009.*

*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)*

**F8** 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>F8</sup>Article 94a*

#### **Additional aid**

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

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

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

#### **Textual Amendments**

**F8** Inserted by [Council Regulation \(EC\) No 247/2008 of 17 March 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

### *Article 95*

#### **Implementing rules**

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

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

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*Status: Point in time view as at 01/07/2009.*

*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>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.]

#### *Section II*

#### ***Production refund***

##### <sup>F4</sup>*Article 96*

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

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#### **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).

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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.

### *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

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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 (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>F2</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>F3</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.]

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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).

### Section IV

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

#### Article 103

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

[<sup>F2</sup>1 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>F6</sup>1a 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

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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.

### [<sup>F5</sup>Section IVa

#### AIDS in the fruit and vegetables sector

##### Subsection I

#### Producer groups

##### Article 103a

#### Aid to producer groups

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

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



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No 1405/2006 of 18 September 2006 laying down specific measures for agriculture in favour of the smaller Aegean Islands<sup>(4)</sup>.

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

## Subsection II

### Operational funds and operational programmes

#### *Article 103b*

#### Operational funds

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

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

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

#### *Article 103c*

#### Operational programmes

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

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

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

- 3 Member States shall provide that:
- a operational programmes include two or more environmental actions; or
  - b at least 10 % of the expenditure under operational programmes covers environmental actions.

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

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

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

- 4 Paragraph 3 shall only apply in Bulgaria and Romania from 1 January 2011.
- 5 Investments which increase environmental pressure shall only be permitted in situations where effective safeguards to protect the environment from these pressures are in place.

#### *Article 103d*

#### **Community financial assistance**

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

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

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

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- agricultural products and foodstuffs<sup>(6)</sup> and, from 1 January 2009, by Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products<sup>(7)</sup>;
- d it is submitted by a producer organisation in one of the Member States which acceded to the European Union on 1 May 2004 or thereafter for measures running no later than the end of 2013;
  - e it is the first to be submitted by a recognised producer organisation which has merged with another recognised producer organisation;
  - f it is the first to be submitted by a recognised association of producer organisations;
  - g it is submitted by producer organisations in Member States where producer organisations market less than 20 % of fruit and vegetables production;
  - h it is submitted by a producer organisation in one of the outermost regions of the Community;
  - i it covers solely specific support for actions to promote the consumption of fruit and vegetables targeted at children in educational establishments.
- 4 The percentage provided for in paragraph 1 shall be 100 % in the case of market withdrawals of fruit and vegetables which shall not exceed 5 % of the volume of marketed production of each producer organisation and which are disposed of by way of:
- a free distribution to charitable organisations and foundations, approved to that effect by the Member States, for use in their activities to assist persons whose right to public assistance is recognised in national law, in particular because they lack the necessary means of subsistence;
  - b free distribution to penal institutions, schools and public education institutions and to children's holiday camps as well as to hospitals and old people's homes designated by the Member States, which shall take all necessary steps to ensure that the quantities thus distributed are additional to the quantities normally bought in by such establishments.

### *Article 103e*

#### **National financial assistance**

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

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### *Article 103f*

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

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

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

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

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

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

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

### *Article 103g*

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

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

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

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.

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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>F9</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:

- 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

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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.

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>F9</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>F10</sup>];
- (f) [<sup>F9</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,

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accompanying measures and information, monitoring and evaluation and networking measures.]]]

#### Textual Amendments

**F10** 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.

### 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 nicotinism in the Community, and a study on preventing nicotinism;
- 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>F11</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

**F11** 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.

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## 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 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>(10)</sup> shall be excluded from the apiculture programme.



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### *Article 107*

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

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

### *Article 108*

#### **Financing**

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

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

### *Article 109*

#### **Consultation**

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

### *Article 110*

#### **Implementing rules**

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

### *Section VII*

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

### *Article 111*

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

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

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

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

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## 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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- (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>F9</sup>OJ L 210, 31.7.2006, p. 25.;]]
- (10) OJ L 277, 21.10.2005, p. 1.

#### 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.
- F9** 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.

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