

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of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (repealed)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 IV

Aid schemes

Section I

Aid for processing

Subsection I

Dried fodder

Article 86

Eligible undertakings

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

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

2 The aid provided for in paragraph 1 shall be paid in respect of dried fodder that has left the processing plant and meets the following requirements:

- a its maximum moisture content is from 11 % to 14 % which may vary depending on the presentation of the product;
- b its minimum total crude protein content in the dry matter is not less than:

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- (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.

[^{F1}Subsection II

Flax and hemp grown for fibre]

Article 91

Eligibility

1 [^{F2}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.

[^{F12} 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

[^{F11} 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,
 - [^{F2}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.]

[^{F2b} 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.

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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

[^{F2}1 A maximum guaranteed quantity of 80 878 tonnes for each of the 2009/2010 to 2011/2012 marketing years shall be established for long flax fibre in respect of which aid may be granted. That quantity shall be apportioned among certain Member States as national guaranteed quantities in accordance with point A.I. of Annex XI.]

[^{F2}1a. A maximum guaranteed quantity of 147 265 tonnes for each of the 2009/2010 to 2011/2012 marketing years shall be established for short flax fibre and hemp fibre in respect of which aid may be granted. That quantity shall be apportioned as national guaranteed quantities among certain Member States in accordance with point A.II. of Annex XI.]

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

[^{F3}3 Each Member State may transfer part of its national guaranteed quantity as referred to in paragraph 1 to its national guaranteed quantity as referred to in paragraph 1a and *vice versa*.

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

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

Textual Amendments

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

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

F3 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).

[^{F3} 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

F3 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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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)

[^{F4}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

^{F5}*Article 96*

[^{F5}Production refund for starch]

Textual Amendments

- F5** 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

[^{F2}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.

^{F5}Article 101

[^{F5}Aid for the purchase of cream, butter and concentrated butter at reduced prices]

Textual Amendments

F5 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.

[^{F22} Member States may, in addition to ^{F2}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.]

[^{F63} 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.
- F6** 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

[^{F2}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.]

[^{F4}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.
- F4** 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.

[^{F7}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⁽¹⁾.

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)⁽²⁾.

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⁽³⁾ and, from 1 January 2009, by Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products⁽⁴⁾;
- 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.

F52

Textual Amendments

- F5** 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.](#)

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

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

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⁽⁵⁾. 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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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)

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.

[^{F8}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⁽⁶⁾, 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

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

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

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.]

[^{F8}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[^{F9}];
- (f) [^{F8}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,

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

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

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

Textual Amendments

- F9** 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.

Textual Amendments

- F7** 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).

[^{F10}Section IVb

Support programmes in the wine sector

Subsection I

Introductory provisions

Article 103i

Scope

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

Article 103j

Compatibility and consistency

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

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

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

3 No support shall be granted:

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

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

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

Subsection II

Submission and content of support programmes

Article 103k

Submission of support programmes

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

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

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

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

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

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

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

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

Article 103l

Content of support programmes

Support programmes shall consist of the following elements:

- (a) a detailed description of the measures proposed as well as their quantified objectives;
- (b) the results of consultations held;

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

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

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

Article 103m

Eligible measures

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

Article 103n

General rules concerning support programmes

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

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

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

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

Subsection III

Specific support measures

Article 103o

Single Payment Scheme and support to vine-growers

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

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

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

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

Article 103p

Promotion on third-country markets

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

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

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

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

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

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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)

Article 103q

Restructuring and conversion of vineyards

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

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

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

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

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

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

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

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

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

6 The Community contribution to the actual costs of the restructuring and conversion of vineyards shall not exceed 50 %. In regions classified as convergence regions in accordance with Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund⁽⁷⁾, the Community contribution to the costs of restructuring and conversion shall not exceed 75 %.

Article 103r

Green harvesting

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

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

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

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

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

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

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

Article 103s

Mutual funds

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

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

Article 103t

Harvest insurance

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

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

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

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

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

Article 103u

Investments

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

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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)

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

2 Support under paragraph 1 at its maximum rate shall be limited to micro, small and medium-sized enterprises within the meaning of Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises⁽⁸⁾. For the territories of the Azores, Madeira, the Canary Islands, the smaller Aegean islands within the meaning of Regulation (EC) No 1405/2006 and the French overseas departments, no size limits shall apply for the maximum rate. For enterprises that are not covered by Article 2(1) of Title I of the Annex to Recommendation 2003/361/EC with less than 750 employees or with a turnover of less than EUR 200 million, the maximum aid intensity shall be halved.

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

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

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

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

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

Article 103v

By-product distillation

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

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

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

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

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

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

Article 103w

Potable alcohol distillation

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

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

Article 103x

Crisis distillation

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

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

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

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

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

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

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

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

Article 103y

Use of concentrated grape must

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

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

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

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

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

Article 103z

Cross-compliance

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

Subsection IV

Procedural provisions

Article 103za

Implementing measures

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

Those measures may include, in particular:

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

Textual Amendments

- F10** Inserted by [Council Regulation \(EC\) No 491/2009 of 25 May 2009 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

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

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

Section V

Community Tobacco Fund

Article 104

Tobacco Fund

- 1 A Community Tobacco Fund (hereinafter referred to as the Fund) shall be set up to finance measures in the following areas:
 - a improving public awareness of the harmful effects of all forms of tobacco consumption, in particular through information and education, support for the collection of data to establish tobacco consumption patterns and to conduct epidemiological studies on 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;
 - ^[F11]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.](#)

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').

^[F2] 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

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

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

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⁽⁹⁾ shall be excluded from the apiculture programme.

Article 107

Study of the production and marketing structure in the beekeeping sector

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

Article 108

Financing

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

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

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

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)

Article 109

Consultation

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

Article 110

Implementing rules

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

Section VII

Aids in the silkworm sector

Article III

Aid to be granted to silkworm rearers

- 1 Aid shall be granted for silkworms falling within CN-code ex 0106 90 00 and for silkworm eggs falling within CN-code ex 0511 99 85 reared within the Community.
- 2 The aid shall be granted to silkworm rearers for each box of silkworm eggs used, on condition that the boxes contain a minimum quantity of eggs, to be determined, and that the worms have been successfully reared.
- 3 The aid per box of silkworm eggs used shall be EUR 133,26.

Article 112

Implementing rules

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

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

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

- (1) [^{F7}OJ L 265, 26.9.2006, p. 1.
- (2) 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).
- (3) 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).
- (4) OJ L 189, 20.7.2007, p. 1.
- (5) 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).
- (6) [^{F8}OJ L 210, 31.7.2006, p. 25.];]
- (7) [^{F10}OJ L 210, 31.7.2006, p. 25.
- (8) OJ L 124, 20.5.2003, p. 36.];]
- (9) OJ L 277, 21.10.2005, p. 1.

Textual Amendments

- F7** Inserted by Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).
- F8** Inserted by Council Regulation (EC) No 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.
- F10** Inserted by Council Regulation (EC) No 491/2009 of 25 May 2009 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).

Status:

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

Changes to legislation:

There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations.