

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of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (repealed)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

COMPETITION RULES

CHAPTER I

Rules applying to undertakings

F1 Article 175

Application of Articles 81 to 86 of the Treaty

Save as otherwise provided for in this Regulation, Articles 81 to 86 of the Treaty and implementation provisions thereof shall, subject to Articles 176 to 177 of this Regulation, apply to all agreements, decisions and practices referred to in Articles 81(1) and 82 of the Treaty which relate to the production of or trade in the products referred to in points (a) to (k) and Article 1(1)(m) to (u) and in Article 1(3) of this Regulation.]

Textual Amendments

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

Article 176

Exceptions

1 Article 81(1) of the Treaty shall not apply to the agreements, decisions and practices referred to in Article 175 of this Regulation which are an integral part of a national market organisation or are necessary for the attainment of the objectives set out in Article 33 of the Treaty.

In particular, Article 81(1) of the Treaty shall not apply to agreements, decisions and practices of farmers, farmers' associations, or associations of such associations belonging to a single Member State which concern the production or sale of agricultural products or the use of joint facilities for the storage, treatment or processing of agricultural products, and under which there is no obligation to charge identical prices, unless the Commission finds that competition is thereby excluded or that the objectives of Article 33 of the Treaty are jeopardised.

2 After consulting the Member States and hearing the undertakings or associations of undertakings concerned and any other natural or legal person that it considers appropriate, the Commission shall have sole power, subject to review by the Court of Justice, to determine,

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by a decision which shall be published, which agreements, decisions and practices fulfil the conditions specified in paragraph 1.

The Commission shall undertake such determination either on its own initiative or at the request of a competent authority of a Member State or of an interested undertaking or association of undertakings.

3 The publication of the decision referred to in the first subparagraph of paragraph 2 shall state the names of the parties and the main content of the decision. It shall have regard to the legitimate interest of undertakings in the protection of their business secrets.

[^{F2} Article 176a

Agreements and concerted practices in the fruit and vegetables sector

1 Article 81(1) of the Treaty shall not apply to the agreements, decisions and concerted practices of recognised interbranch organisations with the object of carrying out the activities referred to in Article 123(3)(c) of this Regulation.

2 Paragraph 1 shall apply only provided that:

- a the agreements, decisions and concerted practices have been notified to the Commission;
- b within two months of receipt of all the details required the Commission has not found that the agreements, decisions or concerted practices are incompatible with Community rules.

3 The agreements, decisions and concerted practices may not be put into effect before the lapse of the period referred to in paragraph 2(b).

4 The following agreements, decisions and concerted practices shall in any case be declared incompatible with Community rules:

- a agreements, decisions and concerted practices which may lead to the partitioning of markets in any form within the Community;
- b agreements, decisions and concerted practices which may affect the sound operation of the market organisation;
- c agreements, decisions and concerted practices which may create distortions of competition which are not essential to achieving the objectives of the common agricultural policy pursued by the interbranch organisation activity;
- d agreements, decisions and concerted practices which entail the fixing of prices, without prejudice to activities carried out by interbranch organisations in the application of specific Community rules;
- e agreements, decisions and concerted practices which may create discrimination or eliminate competition in respect of a substantial proportion of the products in question.

5 If, following expiry of the two-month period referred to in paragraph 2(b), the Commission finds that the conditions for applying paragraph 1 have not been met, it shall take a Decision declaring that Article 81(1) of the Treaty applies to the agreement, decision or concerted practice in question.

That Commission Decision shall not apply earlier than the date of its notification to the interbranch organisation concerned, unless that interbranch organisation has given incorrect information or abused the exemption provided for in paragraph 1.

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6 In the case of multiannual agreements, the notification for the first year shall be valid for the subsequent years of the agreement. However, in that event, the Commission may, on its own initiative or at the request of another Member State, issue a finding of incompatibility at any time.]

Textual Amendments

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

Article 177

Agreements and concerted practices in the tobacco sector

1 Article 81(1) of the Treaty shall not apply to the agreements and concerted practices of recognised interbranch organisations in the tobacco sector, intended to implement the aims referred to in Article 123(c) of this Regulation provided that:

- a the agreements and concerted practices have been notified to the Commission;
- b the Commission, acting within three months of receipt of all the details required, has not found that those agreements or concerted practices are incompatible with Community competition rules.

The agreements and concerted practices may not be implemented during that three-month period.

2 Agreements and concerted practices shall be declared contrary to Community competition rules in the following cases where:

- a they may lead to the partitioning of markets in any form within the Community;
- b they may affect the sound operation of the market organisation;
- c they may create distortions of competition which are not essential to achieving the objectives of the common agricultural policy pursued by the interbranch organisation measure;
- d they entail the fixing of prices or quotas, without prejudice to measures taken by interbranch organisations in the application of specific provisions of Community rules;
- e they may create discrimination or eliminate competition in respect of a substantial proportion of the products in question.

3 If, following expiry of the three-month period referred to in point (b) of paragraph 1, the Commission finds that the conditions for applying this Chapter have not been met, it shall without the assistance of the Committee referred to in Article 195(1), take a decision declaring that Article 81(1) of the Treaty applies to the agreement or concerted practice in question.

That decision shall not apply earlier than the date of notification to the interbranch organisation concerned, unless that interbranch organisation has given incorrect information or misused the exemption provided for in paragraph 1.

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Article 178

Binding effect of agreements and concerted practices on non-members in the tobacco sector

1 Interbranch organisations in the tobacco sector may request that certain of their agreements or concerted practices be made binding for a limited period on individuals and groups in the economic sector concerned which are not members of the trade branches which they represent, in the areas in which the branches operate.

In order for their rules to be extended, interbranch organisations shall represent at least two thirds of the production and/or the trade concerned. Where the proposed extension of the rules is of inter-regional scope, the interbranch organisations shall prove they possess a minimum degree of representativeness, in respect of each of the grouped branches, in each region covered.

2 The rules for which an extension of scope is requested shall have been in force for at least one year and shall relate to one of the following objectives:

- a knowledge of production and the market;
- b definition of minimum qualities;
- c use of cultivation methods compatible with the protection of the environment;
- d definition of minimum standards of packing and presentation;
- e use of certified seed and monitoring of product quality.

3 Extension of the rules shall be subject to approval by the Commission.

[^{F1}Article 179

Implementing rules in respect of agreements and concerted practices in the fruit and vegetables and tobacco sectors

The Commission may adopt the detailed rules for the application of Articles 176a, 177 and 178, including the rules concerning notification and publication.]

Textual Amendments

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

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CHAPTER II

State Aid rules

[^{F3}Article 180

Application of Articles 87, 88 and 89 of the Treaty

Articles 87, 88 and 89 of the Treaty shall apply to the production of, and trade in, the products referred to in points (a) to (k) and points (m) to (u) of Article 1(1) and in Article 1(3) of this Regulation.

However, Articles 87, 88 and 89 of the Treaty shall not apply to payments made under Articles 44, 45, 46, 47, 48, 102, 102a, 103, 103a, 103b, 103e, 103ga, 104, 105 and 182 of this Regulation by Member States in conformity with this Regulation.]

Textual Amendments

- F3** 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 181

Specific provisions for the milk and milk products sector

Subject to Article 87(2) of the Treaty, aids the amount of which is fixed on the basis of the price or quantity of products listed in Part XVI of Annex I of this Regulation shall be prohibited.

National measures permitting equalisation between the prices of products listed in Part XVI of Annex I of this Regulation shall also be prohibited.

Article 182

Specific national provisions

1 Subject to Commission authorisation, aids for the production and marketing of reindeer and reindeer products (CN ex 0208 and ex 0210) may be granted by Finland and Sweden insofar as they do not entail any increase in traditional levels of production.

[^{F12} Subject to Commission authorisation, Finland may grant aid for certain quantities of seeds, with the exception of Timothy seeds (*Phleum pratense* L.), and for certain quantities of cereal seed produced solely in Finland up to and including the 2010 harvest.

By 31 December 2008, Finland shall transmit to the Commission a detailed report on the results of the aid authorised.]

3 Member States which reduce their sugar quota by more than 50 % of the sugar quota fixed on 20 February 2006 in Annex III to Regulation (EC) No 318/2006 may grant temporary

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State aid during the period for which the transitional aid for beet growers is being paid in accordance with Chapter 10f of Title IV of Regulation (EC) No 1782/2003. The Commission shall, on the basis of an application by any Member State concerned, decide on the total amount of the State aid available for this measure.

For Italy, the temporary aid referred to in the first subparagraph shall not exceed a total of EUR 11 per marketing year per tonne of sugar beet to be granted to sugar beet growers and for the transport of sugar beet.

Finland may grant aid up to EUR 350 per hectare per marketing year to sugar beet growers.

The Member States concerned shall inform the Commission within 30 days of the end of each marketing year of the amount of State aid actually granted in that marketing year.

4 Without prejudice to the application of Article 88(1) and of the first sentence of Article 88(3) of the Treaty, until 31 December 2010, Germany may grant aid in the framework of the German Alcohol Monopoly for products marketed, after further transformation, by the Monopoly, as ethyl alcohol of agricultural origin listed in Annex I to the Treaty. The total amount of this aid shall not exceed EUR 110 million per year.

Germany shall present before 30 June each year, a report to the Commission on the functioning of the system.

[^{F25} Member States may continue to pay state aids under any existing schemes in respect of the production of and trade in potatoes, fresh or chilled, of CN code 0701 until 31 December 2011.]

6 With regard to the fruit and vegetables sector, Member States may pay a state aid until 31 December 2010 under the following conditions:

- a the state aid is paid only to producers of fruit and vegetables who are not members of a recognised producer organisation and who sign a contract with a recognised producer organisation in which they accept that they shall apply the crisis prevention and management measures of the producer organisation concerned;
- b the amount of aid paid to such producers is no more than 75 % of the Community support received by the members of the producer organisation concerned; and
- c the Member State concerned presents a report to the Commission by 31 December 2010 on the effectiveness and efficiency of the state aid, in particular analysing how much it has supported the organisation of the sector. The Commission will examine the report and decide whether to make any appropriate proposals.]

[^{F47} Member States may grant until 31 March 2014 state aid of a total annual amount of up to 55 % of the ceiling set out in Article 69(4) and (5) of Regulation (EC) No 73/2009 to farmers in the dairy sector in addition to Community support granted in accordance with Article 68(1) (b) of that Regulation. However, in no case shall the total amount of Community support under the measures referred to in Article 68(4) of that Regulation and state aid exceed the ceiling referred to in the Article 68(4).]

Textual Amendments

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

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

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