

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of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (repealed)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

Status: Point in time view as at 01/07/2009.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1234/2007 (repealed).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

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.

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)

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.

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)

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 \(Single CMO Regulation\)](#).

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.