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(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

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)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 36 and 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

- (1) With a view to simplifying the regulatory environment of the common agricultural policy (CAP), Regulation (EC) No 1234/2007 (Single CMO Regulation) ⁽¹⁾ repealed, and replaced by one single legal act, all the regulations which the Council had adopted since the introduction of the CAP in the framework of the establishment of common organisations of the markets for the agricultural products or groups of products.
- (2) As explained in recital 7 of the Single CMO Regulation, that act of simplification was not meant to lead to calling into question policy decisions that had been taken over the years in the CAP and, therefore, it did not envisage providing for any new instruments or measures. The Single CMO Regulation, therefore, reflects the policy decisions taken up to the moment when the text for the Single CMO Regulation was proposed by the Commission.
- (3) In parallel to the negotiations carried out within the Council on the adoption of the Single CMO Regulation, the Council also negotiated and adopted a series of policy decisions in several sectors. This is the case in respect of the sugar, seeds, milk and milk products sectors.

- (4) Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector ⁽²⁾ was amended mainly with a view to achieving a structural balance of the market concerned. Those amendments have been adopted and were published only shortly before the publication of the Single CMO Regulation.

- (5) Council Regulation (EC) No 1947/2005 of 23 November 2005 on the common organisation of the market in seeds ⁽³⁾ was amended at the same time as the Single CMO Regulation was adopted. That amendment discontinues the possibility for Finland to grant national aid for seeds and cereal seed and, in order to provide farmers in Finland with the opportunity to prepare for a situation without national aid, provides for a final, additional transitional period during which national aid for the production of seeds and cereal seed, with the exception of Timothy seeds, may be granted by Finland.

- (6) Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽⁴⁾, was amended shortly before the adoption of the Single CMO Regulation introducing various amendments to the public intervention and private storage schemes in respect of butter and skimmed milk powder, repealing the possibility for military forces to buy butter at reduced prices and setting a flat-rate aid for all categories of milk supplied to pupils in educational establishments.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1. Regulation as last amended by Regulation (EC) No 248/2008 OJ L 76, 19.3.2008, p. 6).

⁽²⁾ OJ L 58, 28.2.2006, p. 1. Regulation as last amended by Regulation (EC) No 1260/2007 OJ L 283, 27.10.2007, p. 1).

⁽³⁾ OJ L 312, 29.11.2005, p. 3. Regulation as last amended by Regulation (EC) No 1247/2007 OJ L 282, 26.10.2007, p. 1).

⁽⁴⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Regulation (EC) No 1152/2007 OJ L 258, 4.10.2007, p. 3).

Moreover, Council Regulation (EC) No 2597/97 of 18 December 1997 laying down additional rules on the common organisation of the market in milk and milk products for drinking milk ⁽¹⁾ was also amended at the same time as Regulation (EC) No 1255/1999 allowing the marketing, as drinking milk, of products with a fat content other than those that had previously been provided for in that Regulation.

- (7) Those amendments need to be incorporated into the Single CMO Regulation in order to ensure that those policy decisions are being maintained from the application of the Single CMO Regulation in the sectors concerned.
- (8) In parallel to the negotiations and adoption of the Single CMO Regulation, the Council also negotiated and adopted a policy reform in the fruit and vegetables and processed fruit and vegetables sectors. To that end, Council Regulation (EC) No 1182/2007 of 26 September 2007 laying down specific rules as regards the fruit and vegetable sector ⁽²⁾ was adopted. As explained in recital 8 of the Single CMO Regulation, only those provisions of the two aforementioned sectors which were not themselves subject to any policy reforms were incorporated into the Single CMO Regulation from the beginning and the substantive provisions which were subject to policy amendments should be incorporated into the Single CMO Regulation once enacted. Since that is the case, the fruit and vegetables and processed fruit and vegetables sectors should now be fully incorporated into the Single CMO Regulation by way of introducing the policy decisions taken in Regulation (EC) No 1182/2007 in respect of the common organisation of the markets for the products of these two sectors into the Single CMO Regulation.
- (9) Council Regulation (EC) No 700/2007 of 11 June 2007 on the marketing of the meat of bovine animals aged 12 months or less ⁽³⁾ introduced new marketing rules for the products concerned. The aim of the Single CMO Regulation was to amalgamate all the rules existing in the context of the common organisation of the markets into a single legal framework and to replace sectoral approaches by a horizontal approach. The Single CMO Regulation contains marketing rules for various sectors and it is therefore appropriate to incorporate the new marketing rules introduced by Regulation (EC) No 700/2007 into the Single CMO Regulation.
- (10) The incorporation of these provisions into the Single CMO Regulation should follow the same approach as that taken by the Single CMO Regulation when it was adopted,

namely by not calling into question the policy decisions taken when those provisions were adopted by the Council and the motivation for those policy decisions as expressed in the recitals of the respective Regulations.

- (11) The Single CMO Regulation should therefore be amended accordingly.
- (12) The amendments should apply at the latest from the same dates from which the Single CMO Regulation applies for the sectors concerned in accordance with Article 204(2) thereof. As regards the seeds, beef and veal and milk and milk products sectors, Article 204(2) provides for 1 July 2008 as the date from which the Single CMO Regulation applies. This Regulation should, therefore, also provide for 1 July 2008 as the application date for these sectors.
- (13) Concerning the few provisions in the Single CMO Regulation which had already been provided in relation to the fruit and vegetables and processed fruit and vegetables sectors, they applied, in accordance with Article 204(2) of that Regulation, from 1 January 2008. The respective amendments envisaged in this Regulation could therefore be made to apply from the same date as those for the seeds, beef and veal and milk and milk products sectors, namely, from 1 July 2008.
- (14) Article 2 of Regulation (EC) No 1152/2007 provides that certain of the amendments introduced by that Regulation in the milk sector should apply only from 1 September 2008. The same application date should be provided for the amendments concerned in the context of this Regulation.
- (15) As regards the sugar sector, the Single CMO Regulation applies from 1 October 2008 in accordance with point (c) of the second subparagraph of Article 204(2) of that Regulation. The provisions envisaged in this Regulation for that sector should, therefore, also start to apply from 1 October 2008.
- (16) The following regulations in the fruit and vegetables sector are obsolete and should, therefore, in the interests of legal certainty, be repealed: Regulation (EEC) No 449/69 of the Council of 11 March 1969 on the reimbursement of aid granted by Member States to organisations of fruit and vegetable producers ⁽⁴⁾, Regulation (EEC) No 1467/69 of the Council of 23 July 1969 on imports of citrus fruit originating in Morocco ⁽⁵⁾, Regulation (EEC) No 2511/69

⁽¹⁾ OJ L 351, 23.12.1997, p. 13. Regulation as last amended by Regulation (EC) No 1153/2007 (OJ L 258, 4.10.2007, p. 6).

⁽²⁾ OJ L 273, 17.10.2007, p. 1.

⁽³⁾ OJ L 161, 22.6.2007, p. 1.

⁽⁴⁾ OJ L 61, 12.3.1969, p. 2. Regulation as amended by Regulation (EC) No 3669/93 (OJ L 338, 31.12.1993, p. 26).

⁽⁵⁾ OJ L 197, 8.8.1969, p. 95. Regulation as amended by Regulation (EEC) No 2365/70 (OJ L 257, 26.11.1970, p. 1).

of the Council of 9 December 1969 laying down special measures for improving the production and marketing of Community citrus fruit ⁽¹⁾, Regulation (EEC) No 2093/70 of the Council of 20 October 1970 laying down general rules for applying Articles 6 and 7(1) of Regulation (EEC) No 2517/69 laying down certain measures for reorganizing Community fruit production ⁽²⁾, Regulation (EEC) No 846/72 of the Council of 24 April 1972 providing for special measures for the award of contracts for processing tomatoes which have been the subject of intervention measures ⁽³⁾, Regulation (EEC) No 1252/73 of the Council of 14 May 1973 on imports of citrus fruits originating in Cyprus ⁽⁴⁾, Regulation (EEC) No 155/74 of the Council of 17 December 1973 on imports of citrus fruits originating in the Lebanon ⁽⁵⁾, Regulation (EEC) No 1627/75 of the Council of 26 June 1975 on imports of fresh lemons originating in Israel ⁽⁶⁾, Council Regulation (EEC) No 794/76 of 6 April 1976 laying down further measures for reorganising Community fruit production ⁽⁷⁾, Council Regulation (EEC) No 1180/77 of 17 May 1977 on imports into the Community of certain agricultural products originating in Turkey ⁽⁸⁾, Council Regulation (EEC) No 10/81 of 1 January 1981 fixing, in respect of fruit and vegetables, the general rules for implementing the 1979 Act of Accession ⁽⁹⁾, Council Regulation (EEC) No 40/81 of 1 January 1981 fixing the basic prices and the buying-in prices applicable in Greece to cauliflowers and apples ⁽¹⁰⁾, Council Regulation (EEC) No 3671/81 of 15 December 1981 on imports into the Community of certain agricultural products originating in Turkey ⁽¹¹⁾, Council Regulation (EEC) No 1603/83 of 14 June 1983 laying down special measures for the disposal of dried grapes and dried figs from the 1981 harvest held by storage agencies ⁽¹²⁾, Council Regulation (EEC) No 790/89 of 20 March 1989 fixing the level of additional flat-rate aid for the formation of producers' organisations and the maximum amount applied to aid for quality and marketing improvement in the nut- and locust bean-growing sector ⁽¹³⁾, Council Regulation (EEC) No 3650/90 of 11 December 1990 on measures to strengthen the application of the common quality standards for fruit and vegetables in Portugal ⁽¹⁴⁾, Council Regulation (EEC) No 525/92 of 25 February 1992 on temporary compensation for the consequences of the situation in Yugoslavia on transport of some fresh fruit and vegetables from

Greece ⁽¹⁵⁾, Council Regulation (EEC) No 3438/92 of 23 November 1992 laying down special measures for the transport of certain fresh fruit and vegetables originating in Greece ⁽¹⁶⁾, Council Regulation (EEC) No 3816/92 of 28 December 1992 providing for, in the fruit and vegetables sector, the abolition of the compensation mechanism in trade between Spain and the other Member States and allied measures ⁽¹⁷⁾, Council Regulation (EEC) No 742/93 of 17 March 1993 providing for, in the fruit and vegetables sector, the abolition of the compensation mechanism in trade between Portugal and the other Member States ⁽¹⁸⁾, Council Regulation (EEC) No 746/93 of 17 March 1993 on the granting of aid to encourage the formation and facilitate the operation of producer organisations as provided for in Regulations (EEC) No 1035/72 and (EEC) No 1360/78 in Portugal ⁽¹⁹⁾, Council Regulation (EC) No 399/94 of 21 February 1994 concerning specific measures for dried grapes ⁽²⁰⁾, Council Regulation (EC) No 2241/2001 of 15 November 2001 amending the autonomous common customs tariff duty for garlic falling within CN code 0703 20 00 ⁽²¹⁾, Council Regulation (EC) No 545/2002 of 18 March 2002 extending the financing of quality and marketing improvement plans for certain nuts and locust beans approved under Title IIa of Regulation (EEC) No 1035/72 and providing for a specific aid for hazelnuts ⁽²²⁾,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1234/2007 is hereby amended as follows:

1. Article 1 shall be amended as follows:

(a) paragraph 2 shall be replaced by the following:

'2. In respect of the wine sector, only Article 195 of this Regulation shall apply.'

⁽¹⁾ OJ L 318, 18.12.1969, p. 1. Regulation as last amended by Regulation (EEC) No 1130/89 (OJ L 119, 29.4.1989, p. 22).

⁽²⁾ OJ L 232, 21.10.1970, p. 5.

⁽³⁾ OJ L 100, 27.4.1972, p. 3.

⁽⁴⁾ OJ L 133, 21.5.1973, p. 113.

⁽⁵⁾ OJ L 18, 22.1.1974, p. 97.

⁽⁶⁾ OJ L 165, 28.6.1975, p. 9.

⁽⁷⁾ OJ L 93, 8.4.1976, p. 3.

⁽⁸⁾ OJ L 142, 9.6.1977, p. 10. Regulation as last amended by Regulation (EC) No 2008/97 (OJ L 284, 16.10.1997, p. 17).

⁽⁹⁾ OJ L 1, 1.1.1981, p. 17.

⁽¹⁰⁾ OJ L 3, 1.1.1981, p. 11.

⁽¹¹⁾ OJ L 367, 23.12.1981, p. 3. Regulation as amended by Regulation (EEC) No 1555/84 (OJ L 150, 6.6.1984, p. 4).

⁽¹²⁾ OJ L 159, 17.6.1983, p. 5. Regulation as last amended by Regulation (EEC) No 1979/85 (OJ L 186, 19.7.1985, p. 5).

⁽¹³⁾ OJ L 85, 30.3.1989, p. 6. Regulation as last amended by Commission Regulation (EC) No 1825/97 (OJ L 260, 23.9.1997, p. 9).

⁽¹⁴⁾ OJ L 362, 27.12.1990, p. 22. Regulation as amended by Regulation (EC) No 1468/97 (OJ L 200, 29.7.1997, p. 1).

⁽¹⁵⁾ OJ L 58, 3.3.1992, p. 1.

⁽¹⁶⁾ OJ L 350, 1.12.1992, p. 1. Regulation as last amended by Regulation (EC) No 1600/96 (OJ L 206, 16.8.1996, p. 45).

⁽¹⁷⁾ OJ L 387, 31.12.1992, p. 10. Regulation as amended by Commission Regulation (EC) No 1363/95 (OJ L 132, 16.6.1995, p. 8).

⁽¹⁸⁾ OJ L 77, 31.3.1993, p. 8.

⁽¹⁹⁾ OJ L 77, 31.3.1993, p. 14. Regulation as amended by Regulation (EC) No 952/97 (OJ L 142, 2.6.1997, p. 30).

⁽²⁰⁾ OJ L 54, 25.2.1994, p. 3. Regulation as last amended by Commission Regulation (EC) No 386/2005 (OJ L 62, 9.3.2005, p. 3).

⁽²¹⁾ OJ L 303, 20.11.2001, p. 8.

⁽²²⁾ OJ L 84, 28.3.2002, p. 1.

- (b) the following paragraph shall be added:
- ‘4. In respect of potatoes, fresh or chilled of CN code 0701, Chapter II of Part IV shall apply.’;
2. the following paragraph shall be added to Article 3:
- ‘For products of the fruit and vegetables and processed fruit and vegetables sectors, the marketing years shall, if necessary, be fixed by the Commission.’;
3. Article 6(2)(c) shall be deleted;
4. Article 8(1)(e)(ii) shall be replaced by the following:
- ‘(ii) EUR 169,80 per 100 kg for skimmed milk powder.’;
5. Article 10(1)(f) shall be replaced by the following:
- ‘(f) skimmed milk powder of top quality made from milk in an approved undertaking in the Community by the spray process, with a minimum protein-content of 34,0 % by weight of the fat free dry matter.’;
6. Article 15 shall be replaced by the following:
- ‘Article 15
- Butter**
1. For butter, public intervention shall be open during the period 1 March to 31 August.
2. Where the quantities offered for intervention during the period laid down in paragraph 1 exceed 30 000 tonnes, the Commission may suspend buying-in by public intervention. In that case buying-in may be carried out on the basis of a tendering procedure according to specifications to be determined by the Commission.’;
7. Article 22 shall be replaced by the following:
- ‘Article 22
- Butter**
- Without prejudice to the fixing of the intervention price by means of a tendering procedure in the case referred to in Article 15(2), the intervention price for butter shall be 90 % of the reference price.’;
8. the second paragraph of Article 23 shall be deleted;
9. Article 26 shall be amended as follows:
- (a) Point (a)(ii) of paragraph 2 shall be replaced by the following:
- ‘(ii) for export, either without further processing or after processing into products listed in Annex I to the Treaty or into goods listed in Part III of Annex XX to this Regulation, or’;
- (b) the following point shall be added to paragraph 2(a):
- ‘(iii) for industrial use referred to in Article 62.’;
10. Article 28(a) shall be replaced by the following:
- ‘(a) in respect of:
- (i) unsalted butter produced from cream or milk in an approved undertaking of the Community of a minimum butterfat content, by weight, of 82 %, a maximum milk solids-non-fat content, by weight, of 2 % and a maximum water content, by weight, of 16 %,
- (ii) salted butter produced from cream or milk in an approved undertaking of the Community of a minimum butterfat content, by weight, of 80 %, a maximum milk solids-non-fat content, by weight, of 2 %, a maximum water content, by weight, of 16 % and a maximum salt content, by weight, of 2 %.’;
11. Article 29 shall be replaced by the following:
- ‘Article 29
- Conditions and aid-level for butter**
- The amount of aid for butter shall be fixed by the Commission in the light of storage costs and the likely trends in prices for fresh butter and butter from stocks.
- Where, at the time of removal from storage, an adverse change unforeseeable at the time of entry into storage has occurred on the market, the aid may be increased.’;
12. Article 31 shall be amended as follows:
- (a) paragraph 1(d) shall be deleted;
- (b) paragraph 2 shall be replaced by the following:
- ‘2. The Commission shall fix the aid for private storage provided for in paragraph 1 in advance or by means of tendering procedures.
- In respect of the cheeses referred to in paragraph 1(e), the aid shall be fixed in the light of storage costs and the balance to be maintained between cheeses for which aid is granted and other cheeses coming on the market.’;

13. Article 35 shall be deleted;

14. Article 50(5) and (6) shall be replaced by the following:

'5. Sugar undertakings which have not signed pre-sowing delivery contracts at the minimum price for quota beet for a quantity of beet equivalent to the sugar for which they hold a quota, adjusted, as the case may be, by the coefficient for a preventive withdrawal fixed in accordance with the first subparagraph of Article 52(2), shall be required to pay at least the minimum price for quota beet for all the sugar beet they process into sugar.

6. Subject to the approval of the Member State concerned, agreements within the trade may derogate from paragraphs 3, 4 and 5.;

15. Article 52 shall be replaced by the following:

'Article 52

Withdrawal of sugar

1. In order to preserve the structural balance of the market at a price level which is close to the reference price, taking into account the commitments of the Community resulting from agreements concluded in accordance with Article 300 of the Treaty, the Commission may decide to withdraw from the market, for a given marketing year, those quantities of sugar or isoglucose produced under quotas which exceed the threshold calculated in accordance with paragraph 2 of this Article.

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

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

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

By way of derogation from the first subparagraph of this paragraph, taking into account the expected sugar market trends, the Commission may decide to consider, for the current and/or the following marketing year, all or part of the withdrawn sugar or isoglucose as:

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

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

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

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

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

16. the following Article shall be inserted:

'Article 52a

Withdrawal of sugar in the 2008/2009 and 2009/2010 marketing years

1. By way of derogation from Article 52(2) of this Regulation, for Member States for which the national sugar quota has been reduced as a result of renunciations of quota in accordance with Articles 3 and 4a(4) of Regulation (EC) No 320/2006, the coefficient shall be fixed by the Commission for the 2008/2009 and 2009/2010 marketing years by way of application of Annex VIIc to this Regulation.

2. An undertaking which, in accordance with Article 3(1)(a) or (b) of Regulation (EC) No 320/2006, renounces, with effect from the following marketing year, the total quota assigned to it shall, at its request, not be submitted to the application of the coefficients referred to in Article 52(2) of this Regulation. That request shall be submitted before the end of the marketing year to which the withdrawal applies.;

17. Article 59 shall be replaced by the following:

'Article 59

Quota management

1. The Commission shall adjust the quotas set out in Annex VI by 30 April 2008 for the 2008/2009 marketing year and by 28 February 2009 and 2010 respectively for the 2009/2010 and 2010/2011 marketing years. The adjustments shall result from the application of paragraph 2 of this Article and Article 58 of this Regulation, and of Articles 3 and 4a(4) of Regulation (EC) No 320/2006.

2. Taking into account the results of the restructuring scheme provided for in Regulation (EC) No 320/2006, the Commission shall decide by 28 February 2010 the common percentage needed to reduce the existing quotas for sugar and isoglucose per Member State or region with a view to avoiding market imbalances in the marketing years from the 2010/2011 marketing year. The Member States shall adjust the quota of each undertaking accordingly.

By way of derogation from the first subparagraph of this paragraph, for Member States for which the national quota has been reduced as a result of renunciations of quota in accordance with Articles 3 and 4a(4) of Regulation (EC) No 320/2006, the Commission shall fix the percentage by way of application of Annex VIIa to this Regulation. Such Member States shall adjust, for each undertaking in their territory holding a quota, the percentage in accordance with Annex VIIb to this Regulation.

The first and second subparagraphs of this paragraph shall not apply to the outermost regions referred to in Article 299(2) of the Treaty.;

18. Article 60 shall be amended as follows:

(a) the title shall be replaced by the following:

'Article 60

National quota reallocation and reduction of quotas'

(b) paragraph 1 shall be replaced by the following:

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

(c) the following paragraph shall be added:

'4. By way of derogation from paragraph 3 of this Article, where Article 4a of Regulation (EC) No 320/2006 is applied, Member States shall adjust the sugar quota allocated to the undertaking concerned by applying the reduction defined under paragraph 4 of that Article, within the limit of the percentage fixed in paragraph 1 of this Article.;

19. Article 64(c) shall be replaced by the following:

'(c) sugar and isoglucose withdrawn from the market in accordance with Articles 52 and 52a and for which the obligations provided for in Article 52(3) are not met.;

20. Article 101 points (b) to (e) shall be replaced by the following:

'(b) by manufacturers of pastry products and ice-cream;

(c) by manufacturers of other foodstuffs to be determined by the Commission;

(d) for the direct consumption of concentrated butter.;

21. Article 102(3) shall be replaced by the following:

'3. 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.;

22. the following Section shall be inserted in Chapter IV of Title I of Part II:

'Section IVa

AIDS in the fruit and vegetables sector

Subsection I

Producer groups

Article 103a

Aid to producer groups

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

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

(b) aid, provided either directly or through credit institutions, to cover part of the investments required to attain recognition and set out in the recognition plan referred to in the third subparagraph of Article 125e(1).

2. The aid referred to in paragraph 1 shall be reimbursed by the Community in accordance with rules to be adopted by the Commission on the financing of such measures, including the thresholds and ceilings and the degree of Community financing.

3. The aid referred to in paragraph 1(a) shall be determined for each producer group on the basis of its marketed production and shall amount, for the first, second, third, fourth and fifth years, to:

- (a) 10 %, 10 %, 8 %, 6 % and 4 % respectively of the value of marketed production in the Member States which acceded to the European Union on 1 May 2004 or thereafter; and
- (b) 5 %, 5 %, 4 %, 3 % and 2 %, respectively of the value of marketed production in the outermost regions of the Community as referred to in Article 299(2) of the Treaty or in the smaller Aegean Islands as referred to in Article 1(2) of Regulation (EC) No 1405/2006 of 18 September 2006 laying down specific measures for agriculture in favour of the smaller Aegean Islands (*).

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.

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) (**).

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 agricultural products and foodstuffs (***) and, from 1 January 2009, by Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products (****);

- (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.

2. By way of derogation from Article 180 of this Regulation, Articles 87, 88 and 89 of the Treaty shall not apply to the national financial assistance authorised pursuant to paragraph 1.

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 (****). 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.

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.

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.

(*) OJ L 265, 26.9.2006, p. 1.

(**) 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).

(***) 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).

(****) OJ L 189, 20.7.2007, p. 1.

(*****) 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).'

23. Article 113 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

'1. Provision may be made by the Commission for marketing standards for one or more of the products of the following sectors:

- (a) olive oil and table olives in respect of the products referred to in point (a) of Part VII of Annex I;
- (b) fruit and vegetables;
- (c) processed fruit and vegetables;
- (d) bananas;
- (e) live plants.;

(b) paragraph 2 shall be amended as follows:

(i) point (a) shall be amended as follows:

(ia) point (iii) shall be replaced by the following:

'(iii) the interest of consumers to receive adequate and transparent product information including, in particular for products of the fruit and vegetables and processed fruit and vegetables sectors, the country of origin, the class and, where appropriate, the variety (or the commercial type) of the product;'

(ib) the following point shall be added:

'(v) as regards the fruit and vegetables and the processed fruit and vegetables sectors, the Standard recommendations adopted by the UN-Economic Commission for Europe (UN/ECE).;'

(ii) point (b) shall be replaced by the following:

'(b) may in particular relate to quality, grading into classes, weight, sizing, packaging, wrapping, storage, transport, presentation, marketing, origin and labelling.;

24. the following Articles shall be inserted:

'Article 113a

Additional requirements for the marketing of the products of the fruit and vegetables sector

1. The products of the fruit and vegetables sector which are intended to be sold fresh to the consumer, may only be

marketed if they are sound, fair and of marketable quality and if the country of origin is indicated.

2. The marketing standards referred to in paragraph 1 of this Article and in points (b) and (c) of Article 113(1) shall apply at all marketing stages including import and export unless otherwise provided for by the Commission.

3. The holder of products of the fruit and vegetables and processed fruit and vegetables sector covered by marketing standards may not display such products or offer them for sale or deliver or market them in any manner within the Community other than in conformity with those standards and shall be responsible for ensuring such conformity.

4. Further to the second subparagraph of Article 113(3) and without prejudice to any specific provisions which may be adopted by the Commission in accordance with Article 194, in particular on the consistent application in the Member States of the conformity checks, Member States shall, in respect of the fruit and vegetables and the processed fruit and vegetables sectors, check selectively, based on a risk analysis, whether the products concerned conform to the respective marketing standards. These checks shall be focused on the stage prior to dispatch from the production areas when the products are being packed or loaded. For products from third countries, checks shall be done prior to release for free circulation.

Article 113b

Marketing of the meat of bovine animals aged 12 months or less

1. Without prejudice to the provisions laid down in Article 42(1)(a) and (2) and point A of Annex V, the conditions laid down in Annex XIa, in particular the sales descriptions to be used set out in point III thereof, shall apply to the meat of bovine animals aged 12 months or less slaughtered on or after 1 July 2008, whether produced in the Community or imported from third countries.

However, the meat from animals aged 12 months or less and slaughtered before 1 July 2008 may continue to be marketed without meeting the conditions laid down in Annex XIa.

2. The conditions referred to in paragraph 1 shall not apply to the meat of bovine animals for which a protected designation of origin or geographical indication has been registered in accordance with Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (*), before 29 June 2007.

(*) OJ L 93, 31.3.2006, p. 12. Regulation as amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).;

25. Article 121 shall be amended as follows:

(a) point (a) shall be replaced by the following:

‘(a) marketing standards referred to in Articles 113 and 113a including rules on:

- (i) derogations or exemptions from the application of the standards;
- (ii) presentation of particulars required by the standards as well as on marketing and labelling;
- (iii) the application of the standards to products imported into, or exported from, the Community;
- (iv) in respect of Article 113a(1), to define what constitutes a product which is sound, fair and of marketable quality.’;

(b) the following point shall be added:

‘(j) as regards the conditions that shall be used in the marketing of the meat of bovine animals aged 12 months or less in accordance with Article 113b:

- (i) the practical methods of indicating the category identification letter as defined in point II of Annex XIa, as regards the location and size of the characters used;
- (ii) the import of meat from third countries as referred to in point VIII of Annex XIa, as regards the methods of verifying compliance with this Regulation.’;

(c) the following paragraph shall be added:

‘The Commission may amend Part B of the table set up in point III(2) of Annex XIa.’;

26. Article 122 shall be amended as follows:

(a) point (a) shall be replaced by the following:

‘(a) are constituted by producers of one of the following sectors:

- (i) hops;
- (ii) olive oil and table olives;
- (iii) fruit and vegetables in respect of farmers growing one or more products of that sector and/or of such products solely intended for processing;
- (iv) silkworm.’;

(b) point (c) shall be replaced by the following:

‘(c) pursue a specific aim which may in particular, or as regards the fruit and vegetables sector shall, include one or more of the following objectives:

- (i) ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity;
- (ii) concentration of supply and the placing on the market of the products produced by its members;
- (iii) optimising production costs and stabilising producer prices.’;

27. Article 123 shall be amended as follows:

(a) the first paragraph becomes paragraph 1;

(b) the second paragraph shall be replaced by the following:

‘2. Where interbranch organisations referred to in paragraph 1 carry out their activities in the territories of several Member States, recognition shall be granted by the Commission without the assistance of the Committee referred to in Article 195(1).’;

(c) the following paragraph shall be added:

‘3. Further to paragraph 1, Member States shall also recognise interbranch organisations which:

- (a) are made up of representatives of economic activities linked to the production of and/or trade in and/or processing of the products of the fruit and vegetables sector;
- (b) are formed on the initiative of all or some of the organisations or associations which constitute them;
- (c) carry out two or more of the following activities in one or more regions of the Community, taking into account the interests of consumers:

- (i) improving knowledge and the transparency of production and the market;
- (ii) helping to coordinate better the way fruit and vegetables are placed on the market, in particular by means of research and market studies;
- (iii) drawing up standard forms of contract compatible with Community rules;
- (iv) exploiting to a fuller extent the potential of the fruit and vegetables produced;

- (v) providing the information and carrying out the research necessary to adjust production towards products more suited to market requirements and consumer tastes and expectations, in particular with regard to product quality and protection of the environment;
 - (vi) seeking ways of restricting the use of plant-health products and other inputs and ensuring product quality and soil and water conservation;
 - (vii) developing methods and instruments for improving product quality;
 - (viii) exploiting the potential of and protecting organic farming as well as designations of origin, quality labels and geographical indications;
 - (ix) promoting integrated production or other environmentally sound production methods;
 - (x) laying down rules, as regards the production and marketing rules referred to in points 2 and 3 of Annex XVIa, which are stricter than Community or national rules.;
- (c) market their entire production concerned through the producer organisation;
 - (d) provide the information requested by the producer organisation for statistical purposes, in particular on growing areas, quantities cropped, yields and direct sales;
 - (e) pay the financial contributions provided for in its rules of association for the establishment and replenishment of the operational fund provided for in Article 103b.

2. Notwithstanding paragraph 1(c), where the producer organisation so authorises and where this is in compliance with the terms and conditions laid down by the producer organisation, the producer members may:

- (a) sell no more than a fixed percentage of their production and/or products directly on their holdings and/or outside their holdings to consumers for their personal needs, such percentages being fixed by Member States at not less than 10 %;
- (b) market themselves or through another producer organisation designated by their own organisation, quantities of products which are marginal in relation to the volume of marketable production of their organisation;
- (c) market themselves or through another producer organisation designated by their own organisation products which, because of their characteristics, are not normally covered by the commercial activities of the producer organisation concerned.

28. the following Section shall be inserted in Chapter II of Title II of Part II:

‘Section IA

Rules concerning producer and interbranch organisations and producer groups in the fruit and vegetables sector

Subsection I

Rules of association and recognition of producer organisations

Article 125a

Rules of association of producer organisations

1. The rules of association of a producer organisation in the fruit and vegetables sector shall require its producer members, in particular, to:

- (a) apply the rules adopted by the producer organisation relating to production reporting, production, marketing and protection of the environment;
- (b) belong to only one producer organisation in respect of a given holding's production of any given product referred to in Article 122(a)(iii);

3. The rules of association of a producer organisation shall also provide for:

- (a) procedures for determining, adopting and amending the rules referred to in paragraph 1;
- (b) the imposition on members of financial contributions needed to finance the producer organisation;
- (c) rules enabling the producer members to scrutinise democratically their organisation and its decisions;
- (d) penalties for infringement of obligations under the rules of association, particularly non-payment of financial contributions, or of the rules laid down by the producer organisation;
- (e) rules on the admission of new members, particularly a minimum membership period;
- (f) the accounting and budgetary rules necessary for the operation of the organisation.

4. Producer organisations in the fruit and vegetables sector shall be deemed as acting in the name of, and on behalf of, their members in economic matters.

*Article 125b***Recognition**

1. Member States shall recognise as producer organisations in the fruit and vegetables sector all legal entities or clearly defined parts of legal entities applying for such recognition, provided that:

- (a) they have the objective of the use of environmentally sound cultivation practices, production techniques and waste management practices in particular to protect the quality of water, soil and landscape and preserve or encourage biodiversity and meet the requirements laid down in Articles 122 and 125a and provide the relevant evidence therefore;
- (b) they have a minimum number of members and cover a minimum volume or value of marketable production to be laid down by Member States, and provide the relevant evidence therefore;
- (c) there is sufficient evidence that they can carry out their activities properly, both over time and in terms of effectiveness and concentration of supply, to which end Member States may decide which of the products, or groups of products referred to in Article 122(a)(iii) should be covered by the producer organisation;
- (d) they effectively enable their members to obtain technical assistance in using environmentally-sound cultivation practices;
- (e) they effectively provide their members, where necessary, with the technical means for collecting, storing, packaging and marketing their produce;
- (f) they ensure proper commercial and accounting management of their activities; and
- (g) they do not hold a dominant position on a given market unless this is necessary in pursuance of the objectives of Article 33 of the Treaty.

2. Member States shall:

- (a) decide whether to grant recognition to a producer organisation within three months of the lodging of an application accompanied by all the relevant evidence;
- (b) carry out checks at regular intervals to ascertain that producer organisations comply with this Chapter, impose the penalties on such organisations in the event of non-compliance or irregularities concerning the provisions of this Regulation and decide, where necessary, to withdraw recognition;

- (c) notify the Commission, once per year, of every decision to grant, refuse or withdraw recognition.

Subsection II

Association of producer organisations and producer groups*Article 125c***Association of producer organisations in the fruit and vegetables sector**

An association of producer organisations in the fruit and vegetables sector shall be formed on the initiative of recognised producer organisations and may carry out any of the activities of a producer organisation referred to in this Regulation. To this end, Member States may recognise, on request, an association of producer organisations where:

- (a) the Member State considers that the association is capable of effectively carrying out those activities; and
- (b) the association does not hold a dominant position on a given market unless this is necessary in pursuance of the objectives of Article 33 of the Treaty.

Article 125a(4) shall apply *mutatis mutandis*.

*Article 125d***Outsourcing**

Member States may permit a recognised producer organisation in the fruit and vegetables sector or a recognised association of producer organisations in that sector to outsource any of its activities, including to subsidiaries, provided that it provides sufficient evidence to the Member State that doing so is an appropriate way to achieve the objectives of the producer organisation or association of producer organisations concerned.

*Article 125e***Producer groups in the fruit and vegetables sector**

1. In Member States which acceded to the European Union on 1 May 2004 or thereafter, or in the outermost regions of the Community as referred to in Article 299(2) of the Treaty, or in the smaller Aegean Islands as referred to in Article 1(2) of Regulation (EC) No 1405/2006, producer groups may be formed as a legal entity or clearly defined part of a legal entity, on the initiative of farmers who are growers of one or more products of the fruit and vegetables sector and/or of such products solely intended for processing, with a view to being recognised as a producer organisation.

Such producer groups may be allowed a transitional period in which to meet the conditions for recognition as a producer organisation in accordance with Article 122.

In order to qualify, those producer groups shall present a phased recognition plan to the relevant Member State, acceptance of which shall signal the start of the transitional period referred to in the second subparagraph and shall constitute a preliminary recognition. The transitional period shall be no more than five years long.

2. Before acceptance of the recognition plan, Member States shall inform the Commission of their intentions and the likely financial implications thereof.

Subsection III

Extension of rules to producers in an economic area

Article 125f

Extension of rules

1. In cases where a producer organisation in the fruit and vegetables sector which operates in a specific economic area is considered, in respect of a specific product, to be representative of production and producers in that area, the Member State concerned may, at the request of the producer organisation, make the following rules binding on producers established in that economic area who do not belong to the producer organisation:

- (a) the rules referred to in Article 125a(1)(a);
- (b) the rules required to implement the measures referred to in Article 103c(2)(c).

The first subparagraph shall apply on condition that those rules:

- (a) have been in force for at least one marketing year;
- (b) are included in the exhaustive list in Annex XVIa;
- (c) are made binding for no more than three marketing years.

However, the condition referred to in point (a) of the second subparagraph shall not apply if the rules concerned are those listed in points 1, 3 and 5 of Annex XVIa. In this case, the extension of rules may not apply for more than one marketing year.

2. For the purposes of this subsection, "economic area" means a geographical zone made up of adjoining or neighbouring production regions in which production and marketing conditions are homogeneous.

Member States shall notify a list of economic areas to the Commission.

Within one month of notification, the Commission shall approve the list or shall, after consultation with the Member State concerned, decide on the amendments which the latter must make to it. The Commission shall make the approved list publicly available by the methods it considers appropriate.

3. A producer organisation shall be deemed representative within the meaning of paragraph 1 where its members account for at least 50 % of the producers in the economic area in which it operates and it covers at least 60 % of the volume of production of that area. Without prejudice to paragraph 5, in calculating these percentages account shall not be taken of producers or production of organic products covered, until 31 December 2008, by Regulation (EEC) No 2092/91 and, from 1 January 2009, by Regulation (EC) No 834/2007.

4. The rules which are made binding on all producers in a specific economic area:

- (a) shall not cause any damage to other producers in the Member State concerned or in the Community;
- (b) shall not apply, unless they expressly cover them, to products delivered for processing under a contract signed before the beginning of the marketing year, with the exception of the rules on production reporting referred to in Article 125a(1)(a);
- (c) shall not be incompatible with Community and national rules in force.

5. Rules may not be made binding on producers of organic products covered, until 31 December 2008, by Regulation (EEC) No 2092/91 and, from 1 January 2009, by Regulation (EC) No 834/2007 unless such a measure has been agreed to by at least 50 % of such producers in the economic area in which the producer organisation operates and that organisation covers at least 60 % of such production of that area.

Article 125g

Notification

Member States shall notify the Commission forthwith of the rules which they have made binding on all producers in a specific economic area pursuant to Article 125f(1). The Commission shall make these rules publicly available by the methods it considers appropriate.

Article 125h

Repeal of the extension of rules

The Commission shall decide that a Member State shall repeal an extension of the rules decided on by that Member State pursuant to Article 125f(1):

- (a) where it finds that the extension in question to other producers excludes competition in a substantial part of the internal market or jeopardises free trade, or that the objectives of Article 33 of the Treaty are endangered;

- (b) where it finds that Article 81(1) of the Treaty applies to the rules extended to other producers. The Commission's decision with regard to those rules shall apply only from the date of such a finding;
- (c) where it finds after checks that this subsection has not been complied with.

Article 125i

Financial contributions of non-member producers

Where Article 125f(1) is applied, the Member State concerned may decide, on scrutiny of evidence presented, that non-member producers shall be liable to the producer organisation for the part of the financial contributions paid by the producer members, insofar as these are used to cover:

- (a) administrative costs resulting from applying the rules referred to in Article 125f(1);
- (b) the cost of research, market studies and sales promotion undertaken by the organisation or association and benefiting all producers in the area.

Article 125j

Extension of rules of associations of producer organisations

For the purposes of this subsection, any reference to producer organisations shall also be construed as a reference to recognised associations of producer organisations.

Subsection IV

Interbranch organisations in the fruit and vegetables sector

Article 125k

Recognition and withdrawal of recognition

1. If warranted by the Member State's structures, Member States may recognise as interbranch organisations in the fruit and vegetables sector all legal entities established on their territory which make an appropriate application, on condition that:

- (a) they carry out their activity in one or more regions in the Member State concerned;
- (b) they represent a significant share of the production of, trade in and/or processing of fruit and vegetables and products processed from fruit and vegetables in the region or regions in question and, where more than one region is involved, they can demonstrate a minimum level of representativeness in each region for each of the branches that they group;

- (c) they carry out two or more of the activities referred to in Article 123(3)(c);
- (d) they are not themselves engaged in the production or processing or marketing of fruit and vegetables or products processed from fruit and vegetables;
- (e) they do not engage in any of the agreements, decisions and concerted practices referred to in Article 176a(4).

2. Before granting recognition Member States shall notify the Commission of the interbranch organisations which have applied for recognition, providing all relevant information about their representativeness and their various activities, together with all other information needed for an assessment.

The Commission may object to recognition within a time limit of two months after notification.

3. Member States shall:

- (a) decide whether to grant recognition within three months of the lodging of an application with all relevant supporting documents;
- (b) carry out checks at regular intervals to ascertain that interbranch organisations comply with the terms and conditions for recognition, impose the penalties on such organisations in the event of non-compliance or irregularities concerning the provisions of this Regulation and decide, where necessary, to withdraw recognition;
- (c) withdraw recognition if:
 - (i) the requirements and conditions for recognition laid down in this subsection are no longer met;
 - (ii) the interbranch organisation engages in any of the agreements, decisions and concerted practices referred to in Article 176a(4), without prejudice to any other penalties to be imposed pursuant to national law;
 - (iii) the interbranch organisation fails to comply with the notification obligation referred to in Article 176a(2);
- (d) notify the Commission, within two months, of any decision to grant, refuse or withdraw recognition.

4. The Commission shall lay down the terms and conditions on which and the frequency with which the Member States are to report to the Commission on the activities of interbranch organisations.

The Commission may, as a result of checks, request a Member State to withdraw recognition.

5. Recognition shall constitute an authorisation to carry out the activities listed in Article 123(3)(c), subject to the terms of this Regulation.

6. The Commission shall make publicly available a list of recognised interbranch organisations, by the methods it considers appropriate, indicating the economic sphere or the area of their activities and the activities carried out within the meaning of Article 125l. Withdrawals of recognition shall also be made publicly available.

Article 125l

Extension of rules

1. In cases where an interbranch organisation operating in a specific region or regions of a Member State is considered to be representative of the production of or trade in or processing of a given product, the Member State concerned may, at the request of that interbranch organisation, make binding some of the agreements, decisions or concerted practices agreed on within that organisation for a limited period on other operators operating in the region or regions in question, whether individuals or groups, who do not belong to the organisation.

2. An interbranch organisation shall be deemed representative within the meaning of paragraph 1 where it accounts for at least two thirds of the production or trade in or processing of the product or products concerned in the region or regions concerned of a Member State. Where the application for extension of its rules to other operators covers more than one region, the interbranch organisation must demonstrate a minimum level of representativeness for each of the branches it groups in each of the regions concerned.

3. The rules for which extension to other operators may be requested:

- (a) shall have one of the following aims:
- (i) production and market reporting;
 - (ii) stricter production rules than those laid down in Community or national rules;
 - (iii) drawing up of standard contracts which are compatible with Community rules;
 - (iv) rules on marketing;
 - (v) rules on protecting the environment;
 - (vi) measures to promote and exploit the potential of products;
 - (vii) measures to protect organic farming as well as designations of origin, quality labels and geographical indications;
- (b) shall have been in force for at least one marketing year;
- (c) may be made binding for no more than three marketing years;
- (d) shall not cause any damage to other operators in the Member State concerned or the Community.

However, the condition referred to in point (b) of the first subparagraph shall not apply if the rules concerned are those listed in points 1, 3 and 5 of Annex XVIa. In this case, the extension of rules may not apply for more than one marketing year.

4. The rules referred to in points (a)(ii), (iv) and (v) of paragraph 3 shall not be other than those set out in Annex XVIa. The rules referred to in point (a)(ii) of paragraph 3 shall not apply to products which were produced outside the specific region or regions referred to in paragraph 1.

Article 125m

Notification and repeal of the extension of rules

1. Member States shall notify the Commission forthwith of the rules which they have made binding on all operators in one or more specific regions pursuant to Article 125l(1). The Commission shall make those rules publicly available by the methods it considers appropriate.

2. Before the rules are made publicly available, the Commission shall inform the Committee set up by Article 195 of any notification of the extension of interbranch agreements.

3. The Commission shall decide that a Member State must repeal an extension of the rules decided on by that Member State in the cases referred to in Article 125h.

Article 125n

Financial contributions of non-members

In cases where rules for one or more products are extended and where one or more of the activities referred to in Article 125l(3)(a) are pursued by a recognised interbranch organisation and are in the general economic interest of those persons whose activities relate to one or more of the products concerned, the Member State which has granted recognition may decide that individuals or groups which are not members of the interbranch organisation but which benefit from those activities shall pay the organisation all or part of the financial contributions paid by its members to the extent that such contributions are intended to cover costs directly incurred as a result of pursuing the activities in question.;

29. the following point shall be inserted in Article 127:

'(da) as the case may be, the rules on transnational producer organisations and transnational associations of producer organisations including administrative assistance to be given by the relevant competent authorities in the case of transnational cooperation;'

30. the following points shall be inserted in Article 130:

'(fa) fruit and vegetables;

'(fb) processed fruit and vegetables;'

31. the following Article shall be inserted:

'Article 140a

Entry price system for the fruit and vegetables and the processed fruit and vegetables sectors

1. Should application of the common customs tariff duty rate depend on the entry price of the imported consignment, the veracity of this price shall be checked using a flat-rate import value calculated by the Commission, by product and by origin, on the basis of the weighted average of prices for the product on Member States' representative import markets or on other markets, where appropriate.

Specific provisions may, however, be adopted by the Commission for verifying the entry price of products imported primarily for processing.

2. Where the declared entry price of the consignment in question is higher than the flat-rate import value, increased by a margin set by the Commission which may not exceed the flat-rate value by more than 10 %, the lodging of a security equal to the import duty determined on the basis of the flat-rate import value shall be required.

3. If the entry price of the consignment in question is not declared at the time of customs clearance, the common customs tariff duty rate to be applied shall depend on the flat-rate import value or be arrived at by application of the relevant customs legislation provisions under conditions to be determined by the Commission.;

32. in Article 141(1), the first subparagraph shall be replaced by the following:

'1. An additional import duty shall apply to imports at the rate of duty laid down in Articles 135 to 140a of one or more products of the cereals, rice, sugar, fruit and vegetables, processed fruit and vegetables, beef and veal, milk and milk products, pig meat, sheep meat and goat meat, eggs, poultry and bananas sectors, in order to prevent or counteract adverse effects on the market of the Community which may result from those imports, if:;

33. in Article 153(1), the first subparagraph shall be replaced by the following:

'1. A traditional supply need of sugar for refining is fixed for the Community at 2 424 735 tonnes per marketing year, expressed in white sugar.;

34. in Article 160(1), the first subparagraph shall be replaced by the following:

'1. Where the Community market is disturbed or is liable to be disturbed by inward processing arrangements, the Commission may suspend at the request of a Member State or on its own initiative fully or partially the use of inward processing arrangements for the products of the cereals, rice, sugar, olive oil and table olives, fruit and vegetables, processed fruit and vegetables, beef and veal, milk and milk

products, pigmeat, sheepmeat and goatmeat, eggs, poultrymeat and agricultural ethyl alcohol sectors. If the Commission receives a request from a Member State, it shall take a decision thereon within five working days following receipt of the request.;

35. the following points shall be inserted in Article 161(1):

'(da) fruit and vegetables;

(db) processed fruit and vegetables;'

36. in Article 174(1), the first subparagraph shall be replaced by the following:

'1. Where the Community market is disturbed or is liable to be disturbed by outward processing arrangements, the Commission may suspend at the request of a Member State or on its own initiative fully or partially the use of outward processing arrangements for the products of the cereals, rice, fruit and vegetables, processed fruit and vegetables, beef and veal, pigmeat, sheepmeat and goatmeat and poultrymeat sectors. If the Commission receives a request from a Member State, it shall take a decision thereon within five working days following receipt of the request.;

37. Article 175 shall be replaced by the following:

'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.;

38. the following Article shall be inserted:

'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 inter-branch 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.

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.;

39. Article 179 shall be replaced by the following:

'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.;

40. Article 180 shall be replaced by the following:

'Article 180

Application of Articles 87, 88 and 89 of the Treaty

Save as otherwise provided for in this Regulation, and in particular with the exception of the State aids referred to in Article 182 of this Regulation, 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 Article 1(1)(m) to (u) and in Article 1(3) of this Regulation.;

41. Article 182 shall be amended as follows:

(a) paragraph 2 shall be replaced by the following:

*'2. 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.;

(b) the following paragraphs shall be added:

'5. 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.;

42. the following point shall be added to Article 184:

- ‘4. to the European Parliament and the Council by 31 December 2013 on the implementation of the provisions set out in Section IVa of Chapter IV of Title I of Part II and Chapter II of Title II of Part II as regards producer organisations, operational funds and operational programmes in the fruit and vegetables sector.’;

43. the following Article shall be inserted:

‘Article 203a

Transitional rules in the fruit and vegetables and the processed fruit and vegetables sectors

1. The aid schemes set out in Regulations (EC) No 2201/96 and (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruit (*) and abolished by Regulation (EC) No 1182/2007 shall remain applicable in respect of each of the products concerned for the marketing year for that product ending in 2008.

2. Producer organisations and associations of producer organisations already recognised under Regulation (EC) No 2200/96 before the date of entry into force of this Regulation shall continue to be recognised under this Regulation. Where necessary, they shall make adaptations to the requirements of this Regulation by 31 December 2010.

Producer organisations and associations of producer organisations already recognised under Regulation (EC) No 1182/2007 shall continue to be recognised under this Regulation.

3. At the request of a producer organisation, an operational programme approved under Regulation (EC) No 2200/96 before the date of application of Regulation (EC) No 1182/2007:

- (a) may continue to run until its end; or
- (b) be modified to meet the requirements of this Regulation; or
- (c) be replaced by a new operational programme approved under this Regulation.

Article 103d(3)(e) and (f) shall apply to operational programmes submitted in 2007 but not yet approved at the date of application of this Regulation which otherwise meet the criteria of those points.

4. Producer groups which were granted preliminary recognition under Regulation (EC) No 2200/96 shall continue to benefit from that preliminary recognition under this Regulation. Recognition plans accepted under Regulation (EC)

No 2200/96 shall continue to benefit from that acceptance under this Regulation. However the plans shall be modified, if necessary, so as to permit the producer group to be able to meet the criteria for recognition as a producer organisation laid down in Article 125b of this Regulation. As concerns such producer groups in Member States which acceded to the European Union on 1 May 2004 or thereafter, the aid rates set out in Article 103a(3)(a) shall apply to recognition plans from the date of application of this Regulation.

5. The contracts referred to in Article 3(2) of Regulation (EC) No 2202/96 covering more than one marketing year of the aid scheme for processing citrus fruits which relate to the marketing year beginning on 1 October 2008 or to subsequent marketing years may, with the agreement of both parties, be amended or terminated to take into account the repeal of that Regulation by Regulation (EC) No 1182/2007 and the consequential abolition of the aid. No penalties shall be applied under that Regulation or its implementing rules to the parties concerned as a result of such an amendment or termination.

6. Where a Member State makes use of the transitional arrangement under Article 68b or Article 143bc of Regulation (EC) No 1782/2003, the rules adopted pursuant to Article 6 of Regulation (EC) No 2201/96 or Article 6 of Regulation (EC) No 2202/96 on the minimum characteristics of the raw material supplied for processing and minimum quality requirements for finished products shall remain applicable in respect of the raw materials harvested in its territory.

7. Until new marketing standards are adopted in respect of fruit and vegetables and processed fruit and vegetables in accordance with Articles 113 and 113a, the marketing standards drawn up pursuant to Regulations (EC) No 2200/96 and (EC) No 2201/96 shall continue to apply.

8. The Commission may adopt the measures required to facilitate the transition from the arrangements provided for in Regulations (EC) No 2200/96, (EC) No 2201/96, (EC) No 2202/96 and (EC) No 1182/2007 to those laid down in this Regulation including those provided for in paragraphs 1 to 7 of this Article.

(*) OJ L 297, 21.11.1996, p. 49. Regulation as last amended by Commission Regulation (EC) No 1933/2001 (OJ L 262, 2.10.2001, p. 6).;

44. the Annexes shall be amended as follows:

(a) Part XXI of Annex I shall be amended as follows:

- (i) the entries under CN-codes 0511 99 31, 0511 99 39 and 0511 99 85 shall be deleted;

- (ii) the entry under CN-code 1211 shall be replaced by the following:

'Plants and parts of plants (including seeds and fruits) of a kind used primarily in perfumery, in pharmacy or for insecticidal, fungicidal or similar purposes, fresh or dried, whether or not cut, crushed or powdered excluding the products listed under CN-code ex 1211 90 85 in Part IX of this Annex';

- (b) Annexes VIIa, VIIb and VIIc shall be inserted, the text of which appears in Annex I to this Regulation;
- (c) point VI of Annex VIII shall be replaced by the following:

'VI.

Where Article 59(2) is applied, Member States shall allocate the adjusted quotas by the end of February with a view to applying them in the following marketing year.;

- (d) Annex XIa shall be inserted, the text of which appears in Annex II to this Regulation;
- (e) the following subparagraph shall be added to point III(1) of Annex XIII:

'Heat-treated milk not complying with the fat content requirements laid down in points (b), (c) and (d) of the first subparagraph shall be considered drinking milk provided that the fat content is clearly indicated with one decimal and easily readable on the packaging in form of "... % fat". Such milk shall not be described as whole milk, semi-skimmed milk or skimmed milk.;

- (f) Annex XVIa shall be inserted, the text of which appears in Annex III to this Regulation;
- (g) Annex XXII shall be amended in accordance with Annex IV to this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 14 April 2008.

Article 2

Amendments to Regulation (EC) No 1184/2006

Article 1 of Regulation (EC) No 1184/2006 shall be replaced by the following:

'Article 1

This Regulation shall lay down the rules to be applied as regards the applicability of Articles 81 to 86 and certain provisions of Article 88 of the Treaty in relation to production of, or trade in, the products listed in Annex I to the Treaty with the exception of the products referred to in points (a) to (k) and Article 1(1)(m) to (u) and in Article 1(3) of Regulation (EC) No 1234/2007 (*).

(* OJ L 299, 16.11.2007. Regulation as last amended by Regulation (EC) No 361/2008 (OJ L 121, 7.5.2008, p. 1).'

Article 3

Repeals

1. Regulations (EC) No 2200/96, (EC) No 2201/96, (EC) No 700/2007 and (EC) No 1182/2007 shall be repealed.

References to the repealed Regulations shall be construed as references to Regulation (EC) No 1234/2007 and shall be read in accordance with the respective correlation tables set out in Annex XXII to that Regulation.

2. Regulations (EEC) No 449/69, (EEC) No 1467/69, (EEC) No 2511/69, (EEC) No 2093/70, (EEC) No 846/72, (EEC) No 1252/73, (EEC) No 155/74, (EEC) No 1627/75, (EEC) No 794/76, (EEC) No 1180/77, (EEC) No 10/81, (EEC) No 40/81, (EEC) No 3671/81, (EEC) No 1603/83, (EEC) No 790/89, (EEC) No 3650/90, (EEC) No 525/92, (EEC) No 3438/92, (EEC) No 3816/92, (EEC) No 742/93, (EEC) No 746/93, (EC) No 399/94, (EC) No 2241/2001 and (EC) No 545/2002 shall be repealed.

Article 4

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 July 2008. However:

- (a) points 3, 4, 5, 8, 12 and 13 of Article 1 shall apply from 1 September 2008;
- (b) points 9, 14 to 19, 33 and 44 (b) and (c) of Article 1 shall apply from 1 October 2008.

For the Council
The President
I. JARC

ANNEX I

ANNEX VIIa

CALCULATION OF THE PERCENTAGE TO BE ESTABLISHED IN ACCORDANCE WITH THE SECOND SUBPARAGRAPH OF ARTICLE 59(2)

1. For the purpose of the calculation set out in point 2, the following definitions shall apply:
 - (a) “percentage at Member State level” means the percentage to be established in accordance with point 2 for the purpose of determining the total quantity to be reduced at the level of the Member State concerned;
 - (b) “common percentage” means the common percentage established by the Commission in accordance with the first subparagraph of Article 59(2);
 - (c) “reduction” means the figure obtained by dividing the total renunciation of quotas in the Member State by the national quotas as fixed in Annex III to Regulation (EC) No 318/2006 in the version applicable on 1 July 2006. For those Member States which were not members of the Community on 1 July 2006, the reference to that Annex concerns the version applicable on the date of their accession to the Community.
2. The percentage at Member State level is equal to the common percentage multiplied by $1 - [(1/0,6) \times \text{the reduction}]$.

When the result is below zero, the applicable percentage is equal to zero.

ANNEX VIIIb

CALCULATION OF THE PERCENTAGE APPLICABLE TO UNDERTAKINGS IN ACCORDANCE WITH THE SECOND SUBPARAGRAPH OF ARTICLE 59(2)

1. For the purpose of the calculation set out in point 2, the following definitions shall apply:
 - (a) “applicable percentage” means the percentage to be established in accordance with point 2 and applicable to the quota allocated to the undertaking concerned;
 - (b) “common percentage at Member State level” means the percentage calculated for the Member State concerned as:

$$\text{Qty} / \Sigma [(1 - R/K) \times Q]$$

with

Qty = the quantity to be reduced at the level of the Member State referred to in point 1(a) of Annex VIIa,

R = renunciation referred to under (c) for a given undertaking,

Q = the quota of the same given undertaking available at the end of February 2010,

K = the figure calculated under (d),

Σ refers to the sum of the product of $(1 - R/K) \times Q$ calculated for each undertaking holding a quota in the territory of the Member State; when the product is below zero, it shall be equal to zero;

- (c) “renunciation” means the figure obtained by dividing the quantity of quotas renounced by the undertaking concerned by its quota as allocated in accordance with Articles 7 and 11(1) to (3) of Regulation (EC) No 318/2006 and Article 60(1) to (3) of this Regulation;
- (d) “K” is calculated in each Member State by dividing the total reduction of quota in that Member State (voluntary renunciations plus the quantity to be reduced at the level of Member State referred to in point 1(a) of Annex VIIa) by its initial quota as fixed in Annex III to Regulation (EC) No 318/2006 in the version applicable on 1 July 2006. For those Member States which were not members of the Community on 1 July 2006, the reference to that Annex concerns the version applicable on the date of their accession to the Community.

2. The applicable percentage is equal to the common percentage at Member State level multiplied by $1 - [(1/K) \times \text{the renunciation}]$.

When the result is below zero, the applicable percentage is equal to zero.

ANNEX VIIc

CALCULATION OF THE COEFFICIENT TO BE ESTABLISHED IN ACCORDANCE WITH ARTICLE 52A(1)

1. For the purpose of the calculations set out in point 2, the following definitions shall apply:
 - (a) "coefficient at Member State level" means the coefficient to be established in accordance with point 2;
 - (b) "reduction" means the figure obtained by dividing the total renunciation of sugar quotas in the Member State, including renunciations in the marketing year to which the withdrawal applies, by the national sugar quotas as fixed in Annex III to Regulation (EC) No 318/2006 in the version applicable on 1 July 2006. For those Member States which were not members of the Community on 1 July 2006, the reference to that Annex concerns the version applicable on the date of their accession to the Community;
 - (c) "coefficient" means the coefficient established by the Commission in accordance with Article 52(2).
2. For the 2008/2009 and 2009/2010 marketing years, the coefficient at Member State level shall be equal to the coefficient increased by $[(1/0,6) \times \text{the reduction}] \times (1 - \text{the coefficient})$.

When the result is above 1, the applicable coefficient is equal to 1.'

ANNEX II

'ANNEX XIa

MARKETING OF THE MEAT OF BOVINE ANIMALS AGED 12 MONTHS OR LESS IN ACCORDANCE WITH ARTICLE 113B**I. Definition**

For the purposes of this Annex, "meat" means all carcasses, meat on the bone or boned, and offal, whether or not cut, intended for human consumption, obtained from bovine animals aged 12 months or less, presented fresh, frozen or deep-frozen, whether or not wrapped or packed.

II. Classification of bovine animals aged 12 months or less at the slaughterhouse

On slaughter, all bovine animals aged 12 months or less shall be classified by the operators, under the supervision of the competent authority referred to in point VII(1) of this Annex, in one of the following two categories:

(A) Category V: bovine animals aged 8 months or less

Category identification letter: V;

(B) Category Z: bovine animals aged more than 8 months but not more than 12 months

Category identification letter: Z.

This classification shall be carried out on the basis of the information contained in the passport accompanying the bovine animals or, failing this, on the basis of the data contained in the computerised database provided for in Article 5 of Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products (*).

(*) OJ L 204, 11.8.2000, p. 1. Regulation as last amended by Council Regulation (EC) 1791/2006 (OJ L 363, 20.12.2006, p. 1).

III. Sales descriptions

1. The sale description is the name under which a foodstuff is sold, within the meaning of Article 5(1) of Directive 2000/13/EC.

2. The meat of bovine animals aged 12 months or less shall only be marketed in the Member States under the following sales description(s) laid down for each Member State:

(A) For the meat of bovine animals in category V:

Country of marketing	Sales descriptions to be used
Belgium	veau, viande de veau/kalfsvlees/Kalbfleisch
Bulgaria	месо от малки телета
Czech Republic	telecí
Denmark	lyst kalvekød
Germany	Kalbfleisch
Estonia	vasikaliha
Greece	μοσχάρι γάλακτος
Spain	ternera blanca, carne de ternera blanca
France	veau, viande de veau
Ireland	veal
Italy	vitello, carne di vitello

Country of marketing	Sales descriptions to be used
Cyprus	μοσχάρι γάλακτος
Latvia	teļa gaļa
Lithuania	veršiena
Luxembourg	veau, viande de veau/Kalbfleisch
Hungary	borjúhús
Malta	vitella
Netherlands	kalfsvlees
Austria	Kalbfleisch
Poland	cielęcina
Portugal	vitela
Romania	carne de vițel
Slovenia	teletina
Slovakia	teľacie mäso
Finland	vaalea vasikanliha/ljust kalvkött
Sweden	ljjust kalvkött
United Kingdom	veal

(B) For the meat of bovine animals in category Z:

Country of marketing	Sales descriptions to be used
Belgium	jeune bovin, viande de jeune bovin/jongrundvlees/Jungrindfleisch
Bulgaria	телешко месо
Czech Republic	hovězí maso z mladého skotu
Denmark	kalvekød
Germany	Jungrindfleisch
Estonia	noorloomaliha
Greece	vealό μοσχάρι
Spain	ternera, carne de ternera
France	jeune bovin, viande de jeune bovin
Ireland	rosé veal
Italy	vitellone, carne di vitellone
Cyprus	vealό μοσχάρι
Latvia	jaunlopa gaļa
Lithuania	jautiena
Luxembourg	jeune bovin, viande de jeune bovin/Jungrindfleisch
Hungary	növendék marha húsa
Malta	vitellun
Netherlands	rosé kalfsvlees
Austria	Jungrindfleisch
Poland	młoda wołowina
Portugal	vitelão
Romania	carne de tineret bovin
Slovenia	meso težjih telet
Slovakia	mäso z mladého dobytku
Finland	vasikanliha/kalvkött
Sweden	kalvkött
United Kingdom	beef

3. The sales descriptions referred to in paragraph 2 may be supplemented by an indication of the name or designation of the pieces of meat or offal concerned.
4. The sales descriptions listed for category V in point A of the table set-out in paragraph 2 and any new name derived from those sales descriptions shall only be used if all the requirements of this Annex are met.

In particular, the terms "veau", "telecí", "Kalb", "μσσχύρι", "ternera", "kalv", "veal", "vitello", "vitella", "kalf", "vitela" and "teletina" shall not be used in a sales description or be indicated on the labelling of the meat of bovine animals aged more than 12 months.

IV. **Compulsory information on the label**

1. Without prejudice to Article 3(1) of Directive 2000/13/EC and Articles 13, 14 and 15 of Regulation (EC) No 1760/2000, at each stage of production and marketing, operators shall label the meat of bovine animals aged 12 months or less with the following information:
 - (a) the age of the animals on slaughter, indicated, as the case may be, on the form "age on slaughter: up to eight months" in the case of animals aged eight months or less, or "age on slaughter: from eight to 12 months" in the case of animals aged more than eight months but not more than 12 months;
 - (b) the sales description in accordance with point III of this Annex.

However, by way of derogation from point (a), operators may, at each stage of production and marketing, except the release to the final consumer, replace the age on slaughter by the category identification letter provided for in point II of this Annex.

2. In the case of the meat of bovine animals aged 12 months or less presented for sale un-prepacked at the point of retail sale to the final consumer, Member States shall lay down rules on how the information referred to in paragraph 1 is to be indicated.

V. **Optional information on the label**

Operators may supplement the compulsory information referred to in point IV by optional information approved in accordance with the procedure provided for in Articles 16 or 17 of Regulation (EC) No 1760/2000.

VI. **Recording**

At each stage of production and marketing of the meat of bovine animals aged 12 months or less, operators shall, in order to guarantee the accuracy of labelling information referred to in points IV and V, record in particular the following information:

- (a) an indication of the identification number and the date of birth of the animals, at slaughterhouse level only;
- (b) an indication of a reference number making it possible to establish a link between, on the one hand, the identification of the animals from which the meat originates and, on the other hand, the sales description, the age on slaughter and the category identification letter given on the meat label;
- (c) an indication of the date of arrival and departure of the animals and meat in the establishment, to ensure that a correlation between arrivals and departures is established.

VII. **Official checks**

1. Before 1 July 2008 Member States shall designate the competent authority or authorities responsible for official checks performed to verify the application of Article 113b and this Annex and inform the Commission thereof.
2. Official checks shall be carried out by the competent authority or authorities in accordance with the general principles laid down in Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (*).

3. The Commission shall, jointly with the competent authorities, ensure that Member States are complying with the provisions of Article 113b and this Annex.
4. The Commission's experts shall carry out, where required, jointly with the competent authorities concerned, and where applicable, the Member States' experts, on the spot checks to ensure that the provisions of Article 113b and this Annex are being implemented.
5. Any Member State on whose territory checks are carried out shall provide the Commission with all necessary assistance which it may require for the accomplishment of its tasks.

(*) OJ L 165, 30.4.2004, p. 1. Regulation as last amended by Commission Regulation (EC) No 180/2008 (OJ L 56, 29.2.2008, p. 4).

VIII. **Meat imported from third countries**

1. The meat of bovine animals aged 12 months or less imported from third countries shall be marketed in the Community in accordance with the provisions of Article 113b and this Annex.
2. Operators from a third country wishing to place on the Community market meat as referred to in paragraph 1 shall subject their activities to checks by the competent authority designated by that third country or, failing that, an independent third-party body. The independent body shall provide full assurance of compliance with the conditions laid down in European Standard EN 45011 or ISO/IEC Guide 65 (General requirements for bodies operating product certification systems).
3. The designated competent authority or, where applicable, the independent third-party body shall ensure that the requirements of Article 113b and this Annex are met.

IX. **Penalties**

Without prejudice to any specific provisions which may be adopted by the Commission in accordance with Article 194 of this Regulation, Member States shall lay down the rules on penalties applicable to infringements of the provisions of Article 113b and this Annex and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. The Member States shall notify the provisions on the penalties to the Commission by 1 July 2009 and shall notify it without delay of any subsequent amendment affecting them.'

ANNEX III

'ANNEX XVIa

EXHAUSTIVE LIST OF RULES THAT MAY BE EXTENDED TO NON-MEMBER PRODUCERS PURSUANT TO ARTICLE 125F AND ARTICLE 125L**1. Rules on production information**

- (a) notification of growing intentions, by product and where appropriate by variety;
- (b) notification of sowings and plantings;
- (c) notification of total areas grown, by product and if possible variety;
- (d) notification of anticipated tonnages and probable cropping dates by product and if possible variety;
- (e) periodic notification of quantities cropped and available stocks, by variety;
- (f) information on storage capacities.

2. Production rules

- (a) choice of seed to be used according to intended destination (fresh market/industrial processing);
- (b) thinning in orchards.

3. Marketing rules

- (a) specified dates for commencement of cropping, staggering of marketing;
- (b) minimum quality and size requirements;
- (c) preparation, presentation, packaging and marking at first marketing stage;
- (d) indication of product origin.

4. Rules on the protection of the environment

- (a) use of fertiliser and manure;
- (b) use of plant-health products and other crop protection methods;
- (c) maximum residue content in fruit and vegetables of plant-health products and fertilisers;
- (d) rules on disposal of by-products and used material;
- (e) rules concerning products withdrawn from the market.

5. Rules on promotion and communication in the context of crisis prevention and management as referred to in Article 103c(2)(c).'

ANNEX IV

AMENDMENTS CONCERNING ANNEX XXII TO REGULATION (EC) No 1234/2007

1. In the table set-out under point 4 concerning Regulation (EEC) No 2759/75, the row indicating the correlation between the first paragraph, first indent of Article 3 of that Regulation and the respective provision in the Single CMO Regulation shall be replaced by the following:

'Article 3 first paragraph, first indent	Article 31(1)(e)'
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2. In the table set-out under point 26 concerning Regulation (EC) No 1255/1999, the rows indicating the correlations between Articles 6 to Article 9 of that Regulation and the respective provisions in the Single CMO Regulation shall be replaced by the following:

'Article 6(1) first subparagraph	Articles 15(1) and 22
Article 6(1) second and third subparagraphs	Article 15(2)
Article 6(2) first subparagraph, point (a), first indent	Article 10(1)(e)
Article 6(2) first subparagraph, point (a), second and third indents and point (b)	Article 10 in conjunction with Article 43(a)
Article 6(2) second subparagraph	Article 10 in conjunction with Article 43(a)
Article 6(3) first subparagraph	Article 28(a)
Article 6(3) second subparagraph	Article 29
Article 6(3) third subparagraph	Article 43(d)(i)
Article 6(3) fourth subparagraph	Article 43(d)(iii)
Article 6(4) first subparagraph and second subparagraph first sentence	Article 25 and 43(f)
Article 6(4) second subparagraph second sentence	Article 43(d)(iii)
Article 6(5)	—
Article 6(6)	Article 6(2)(b) and (c)
Article 7(1) first subparagraph	Articles 10(1)(f), 16 first paragraph and 43(a)
Article 7(1) second subparagraph	Article 23 and 43(a)
Article 7(1) third subparagraph	Article 43(l)
Article 7(2)	Article 16 second paragraph
Article 7(4)	Article 25 and 43(e)
Article 8(1)	Article 28(b)
Article 8(2) and (3)	Article 30 and 43(d)(i) and (iii)
Article 9(1)	Articles 31(1)(d) and 36(1)
Article 9(2)	Article 31(2)
Article 9(3)	Article 43(d)(iii)
Article 9(4)	Article 36(2)'

3. In the table set-out under point 30 concerning Regulation (EC) No 2529/2001, the row indicating the correlation between Article 12 of that Regulation and the respective provision in the Single CMO Regulation shall be replaced by the following:

'Article 12	Articles 31(1)(f) and 38'
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4. In the table set-out under point 40 concerning Regulation (EC) No 318/2006, the following point shall be inserted after the row concerning Article 19 of that Regulation:

‘Article 19a

Article 52a’

5. the following tables shall be added:

‘45. Regulation (EC) No 700/2007

Regulation (EC) No 700/2007	This Regulation
Article 1(1) and (2)	Article 113b(1) first subparagraph
Article 1(3)	Article 113b(2)
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