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Subject : Proposal for a Council Regulation laying down specific rules as regards the fruit and vegetable sector and amending certain Regulations

In view of the discussions at the Council "Agriculture and Fisheries" session on 11-12 June 2007, delegations will find attached a **consolidated revised text** of the draft Regulation as amended¹ by the Presidency, in consultation with the Commission services.

¹ The suggested changes to the Commission proposal are indicated in **bold** and deletions by [...].

**Proposal for a
COUNCIL REGULATION**

laying down specific rules as regards the fruit and vegetable sector [...] amending [...]

**Directives 2001/112/EC and 2001/113/EC and Regulations (EEC) No 827/68, (EC) No 2200/96,
(EC) No 2201/96, (EC) No 2826/2000, (EC) No 1782/2003 and (EC) No 318/2006
and repealing Regulation (EC) No 2202/96**

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 Parliament²,

Having regard to the opinion of the European Economic and Social Committee³,

Having regard to the opinion of the Committee of the Regions⁴,

Whereas:

- (1) The current regime for the fruit and vegetables sector is laid down in Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables⁵, Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products⁶ and Council Regulation (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruits⁷.

² OJ C ..., ..., p.

³ OJ C ..., ..., p.

⁴ OJ C ..., ..., p.

⁵ OJ L 297, 21.11.1996, p. 1. Regulation as last amended by Commission Regulation (EC) No 6/2005 (OJ L 2, 5.1.2005, p. 3).

⁶ OJ L 297, 21.11.1996, p. 29. Regulation as last amended by the Act of Accession of 2003.

⁷ OJ L 297, 21.11.1996, p. 49. Regulation as last amended by the Act of Accession of 2003.

- (2) In the light of experience it is necessary to change the regime for fruit and vegetables in order to achieve the following objectives: improving the competitiveness and market orientation of the sector so as to contribute to achieving sustainable production that is competitive both on internal and external markets, reducing fluctuations in producers' income resulting from crises on the market, increasing the consumption of fruit and vegetables in the Community and continuing the efforts made by the sector to maintain and protect the environment.
- (3) The **Commission submitted a separate** proposal for a Council Regulation establishing a common organisation of agricultural markets **which** could initially incorporate certain provisions **of a horizontal nature** covering the fruit and vegetables sector [...] and applying for a range of other agricultural products, namely those on [...] a management committee. It is appropriate to leave such provisions in Regulations (EC) No 2200/96 and (EC) No 2201/96. Those provisions should however be updated, simplified and streamlined so as to allow for their easy incorporation into [...] the **Regulation establishing a common organisation of agricultural markets.**
- (4) As regards other provisions **specific to** [...] the fruit and vegetables sector, the scope of the changes to the **current** regime make it necessary, in the interests of clarity, to incorporate all such provisions in a separate Regulation. Where such provisions are to some extent also of a horizontal nature and apply for a range of other agricultural products, such as those on marketing standards and trade with third countries, they should also be updated and simplified so as to allow for their easy incorporation into **the above mentioned** [...] Council Regulation establishing a common organisation of agricultural markets, at a later date. This Regulation should not, therefore, repeal or change existing instruments of [...] horizontal nature unless they have become obsolete, redundant or should not, by their very nature, be dealt with at Council level.

- (5) The scope of this Regulation should be products covered by the common market organisations of the markets in fruit and vegetables and processed fruit and vegetables. However, the provisions on producer organisations and interbranch organisations and agreements [...] apply **only** to products covered by the common market organisation for fruit and vegetables and this distinction should be maintained. The scope of the common market organisation in fruit and vegetables should also be extended to certain culinary herbs to allow them to benefit from **that** [...] regime. **Thyme is currently covered in Council Regulation (EEC) No 827/68 of 28 June 1968 on the common organisation of the market in certain products listed in Annex II to the Treaty⁸, from which it should therefore be removed.**
- (6) Marketing standards, in particular relating to definition, quality, grading, weight, sizing, packaging, wrapping, storage, transport, presentation, marketing and labelling, should apply in respect of certain products to permit the market to be supplied with products of uniform and satisfactory quality. Moreover, special measures, in particular up-to-date methods of analysis and other measures to determine the characteristics of the standards concerned, may need to be adopted to avoid abuses as regards the quality and authenticity of the products presented to the consumers and the important disturbances on the markets they may **give rise to**[...]. [...]
- (7) **Currently, Council Directive 2001/112/EC of 20 December 2001 relating to fruit juices and certain similar products intended for human consumption⁹ and Council Directive 2001/113/EC of 20 December 2001 relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption¹⁰ lay down specific provisions regarding production, composition and labelling of these products. However these rules are not fully updated to take account of developments in relevant international standards and should therefore be modified to allow for such updating.**

⁸ OJ L 151, 30.6.1968, p. 16. Regulation as last amended by Regulation (EC) No 865/2004 (OJ No L 206, 9.6.2004, p. 37).

⁹ OJ L 10, 12.1.2002, p. 58.

¹⁰ OJ L 10, 12.1.2002, p. 67. Directive as amended by Directive 2004/84/EC (OJ L 219, 19.6.2004, p. 8).

[...](8) The production and marketing of fruit and vegetables should take full account of environmental concerns, including cultivation practices, the management of waste materials and the disposal of products withdrawn from the market, in particular as regards the protection of water quality, the maintenance of biodiversity and the upkeep of the countryside.

[...](9) Producer organisations are the basic **actors** [...] in the fruit and vegetables regime, the decentralised operation of which they ensure at their level. In the face of ever greater concentration of demand, the grouping of supply through these organisations continues to be an economic necessity in order to strengthen the position of producers in the market. Such grouping must be effected on a voluntary basis and must prove its utility by the scope and efficiency of the services offered by producer organisations to their members. **Since producer organisations act exclusively in the interests of their members, they should be deemed as acting in the name of, and on behalf of, their members in economic matters.**

[...](10) Experience shows that producer organisations are the correct tool for grouping supply. However, the spread of producer organisations in different Member States has been uneven. In order to further improve the attractiveness of producer organisations, provision should be made for more flexibility in their operation wherever possible. Such flexibility should concern in particular the product range of a producer organisation, the extent of direct sales permitted and the extension of rules to non-members as well as permitting the delegation of powers or functions of producer organisations to associations of producer organisations, subject to necessary conditions, and the delegation of functions to subsidiaries.

[...](11) A producer organisation should not be recognised by its Member State as able to contribute to achievement of the objectives of the common market organisation unless its articles of association impose certain requirements on it and its members. The establishment and proper functioning of operational funds require that producer organisations should in general take charge of the whole of the relevant fruit and vegetable production of their members.

[...](12) Producer groups in Member States which have acceded to the [...] **European Union** on 1 May 2004 or thereafter and wishing to acquire the status of producer organisations in accordance with this Regulation should be allowed the benefit of a transitional period during which national and Community financial support can be given against certain commitments by the **producer** group.

[...](13) In order to give producer organisations greater responsibility for their financial decisions in particular and to gear the public resources assigned to them towards future requirements, terms should be set for the use of these resources. Joint financing of operational funds set up by producer organisations is an appropriate solution. Additional scope for financing should be permitted in particular cases. In order to control Community expenditure, there should be a cap on assistance granted to producer organisations that establish operational funds.

[...](14) In regions where the organisation of production is weak, the grant of additional, national, financial contributions should be allowed. In the case of Member States which are at a particular disadvantage with regard to structures, those contributions should be reimbursable by the Community.

[...](15) In order to simplify and reduce the cost of the scheme it could be helpful to align, where possible, the procedures and rules for the eligibility of expenditure under operational funds with those of rural development programmes by permitting Member States to establish a national strategy for operational programs.

[...](16) In order to further boost the impact of producer organisations and associations thereof and ensure the market as much stability as is desirable, Member States should be allowed on certain conditions to extend to non-member producers in their region the rules, particularly on production, marketing and environmental protection, adopted for its members by the organisation or association for the region concerned. Where proper justification is given, certain costs arising from this extension of the rules should be chargeable to the producers concerned since they will benefit from the extension. However, organic producers should not be subject to this extension of rules without their consent.

[...](17) A number of heterogeneous aid schemes for certain fruit and vegetables have been set out in Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 2202/96. The number and variety of those schemes have made them complex to administer. Whilst they have been targeted at some specific fruits and vegetables, they have not been able to fully take into account regional conditions of production, and have not covered all fruit and vegetables. It is therefore appropriate to seek a different tool for supporting fruit and vegetable producers.

[...](18) Furthermore, the aid schemes for fruit and vegetables were not fully integrated into Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers¹¹. This had led to certain complexities and rigidities in the administration of that scheme.

[...](19) In the interests of a more targeted but flexible system of support for the fruit and vegetables sector and in the interests of simplification, it is therefore appropriate to abolish the existing aid schemes and include fruit and vegetables fully into the scheme established by Regulation (EC) No 1782/2003. To this end it is necessary to provide that farmers who produced fruit and vegetables in the reference period should be eligible for the single payment scheme. Provision should also be made for the establishment by Member States of reference amounts and eligible hectares under the single payment scheme on the basis of a representative period appropriate to the market of each fruit and vegetable product and of appropriate objective and non-discriminatory criteria. Areas planted with fruit and vegetables, including permanent fruits and vegetables should be eligible to the single payment scheme. National ceilings should be amended appropriately. Provision should also be made for the Commission to adopt detailed **implementing** rules and any necessary transitional measures **with regard to the above**.

¹¹ OJ L 270, 21.10.2003, p. 1. Regulation as last amended by Commission Regulation (EC) No 1405/2006 (OJ L 265, 26.9.2006, p. 1).

[...](20) The production of fruit and vegetables is unpredictable and the products are perishable. Surplus on the market, even if it is not too great, can strongly disturb the market. Some schemes for market withdrawals have been operated but have proved somewhat complex to administer. Some further measures for crisis management should be introduced, in a manner as easy to apply as possible. Integration of all such measures into the operational programmes of producer organisations appears the best approach in these circumstances, and should also provide for increased attractiveness of producer organisations for producers.

[...](21) The integration of potatoes into the scheme set out in Regulation (EC) No 1782/2003 implies that, in order to safeguard the proper working of the single market based on common prices, the provisions of the Treaty governing State aid should also apply to the potatoes.

[...](22) Council Regulation (EC) No 2826/2000 of 19 December 2000 on information and promotion actions for agricultural products on the internal market¹² provides for a Community contribution to certain promotion actions of up to 50%. In order to promote the consumption of fruit and vegetables amongst young people, that percentage should be increased for promotion of fruit and vegetables targeted towards children under 18.

[...](23) Interbranch organisations set up on the initiative of individual or already grouped operators can, if they account for a significant proportion of the members of the various occupational categories of the fruit and vegetable sector, contribute to behaviour taking closer account of market realities and facilitate a commercial approach that will improve production reporting, [...] **in particular, as regards** the organisation of production, product presentation and marketing. Since the work of these organisations is able to contribute in general to attaining the objectives of Article 33 of the Treaty, and in particular those of this Regulation, it should, once the relevant forms of action are defined, be possible to grant specific recognition to those organisations which provide proof of sufficient representativeness and carry out practical action in regard to those objectives. The provisions on extending the rules adopted by producer organisations and their associations and on sharing the costs resulting from such extension should, given the similarity of the objectives pursued, also apply to interbranch organisations.

¹² OJ L 328, 23.12.2000, p. 2. Regulation as amended by Regulation (EC) No 2060/2004 (OJ L 357, 2.12.2004, p. 3).

[...](24) The creation of a single Community market involves the introduction of a trading system at the external borders of the Community. That trading system should include import duties and should, in principle, stabilise the Community market. The trading system should be based on the undertakings accepted under the Uruguay Round of multilateral trade negotiations.

[...](25) The application of the entry price system for fruit and vegetables requires the adoption of specific provisions **to take account of the international commitments of the Community.**

[...](26) Monitoring the volume in trade in agricultural products with third countries may, in respect of certain products, require the introduction of licensing systems for imports and exports including the lodging of a security to ensure that the transactions for which such licences are issued are actually carried out. The Commission should, therefore, be empowered to introduce licensing systems in respect of such products.

[...](27) In order to prevent or counteract adverse effects on the Community market which could result from imports of certain agricultural products, imports of such products should be subject to payment of an additional duty, if certain conditions are fulfilled.

[...](28) It is appropriate, under certain conditions, to confer on the Commission the power to open and administer tariff quotas resulting from international agreements concluded in accordance with the Treaty or from other acts of the Council.

[...](29) The customs duty system makes it possible to dispense with all other protective measures at the external frontiers of the Community. The internal market and duty mechanism could, in exceptional circumstances, prove to be inadequate. In such cases, in order not to leave the Community market without defence against disturbances that might ensue, the Community should be able to take all necessary measures without delay. Such measures should comply with the international commitments of the Community.

[...](30) To ensure that those trading arrangements can function properly, provision should be made for regulating or, when the situation on the market so requires, prohibiting the use of inward or outward processing arrangements.

(30a) To continue to provide for a legal base for export refunds for sugar incorporated into certain processed fruit and vegetables products as proved for in Article 16(1)(b) of Regulation (EC) No 2201/96, which is to be repealed, the list of products concerned should be added to that contained in Annex VII of Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector¹³.

[...] Since the common markets in agricultural products are continuously evolving, the Member States and the Commission should keep each other informed of relevant developments.

(31) The proper working of the single market based on common prices would be jeopardised by the granting of national aid. Therefore, the provisions of the Treaty governing State aid should, as a general rule, apply to the products covered by this Regulation.

(32) Expenditure incurred by the Member States as a result of the obligations arising from the application of this Regulation should be financed by the Community in accordance with Regulation (EC) No 1290/2005¹⁴.

[...](33) The fruit and vegetables regime provides for certain obligations to be respected. To guarantee compliance with these obligations, there is a need for controls and the application of penalties in case of non-compliance with such obligations. The power should, therefore, be conferred on the Commission to set up the corresponding rules including those concerning the recovery of undue payments and on the reporting obligations of the Member States. The special corps of inspectors in the fruit and vegetables sector will no longer be necessary under the new regime and may be abolished.

¹³ OJ L 58, 28.2.2006, p. 1. Regulation as amended by Regulation (EC) No 2011/2006 (OJ L 384, 29.12.2006, p. 1).

¹⁴ OJ L 209, 11.8.2005, p. 1.

[...](34) Directives 2001/112/EC and 2001/113/EC and Regulations (EEC) No 827/68, (EC) No 2200/96, (EC) No 2201/96, (EC) No 2826/2000 [...], (EC) No 1782/2003 and (EC) No 318/2006 should be amended accordingly.

[...](35) The aid scheme established by Regulation (EC) No 2202/96 is to be abolished. That Regulation thus will no longer have any purpose and should therefore be repealed.

[...](36) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹⁵. In the interests of simplification, the separate committees for fresh fruit and vegetables and processed fruit and vegetables should be abolished and replaced with a single committee for fruit and vegetables to be set up in Council Regulation (EC) No 2200/96.

[...](37) The change-over from the existing arrangements to those provided for by this Regulation could give rise to difficulties which are not dealt with in this Regulation. In order to deal with such difficulties, the Commission should be enabled to adopt transitional measures. **Further, provision should be made for continued recognition of producer organisations and associations of producer organisations recognised under Regulation (EC) No 2200/96 and the possible continuation of operational programmes approved under that Regulation, as well as similar provisions for producer groups recognised under Regulation (EC) No 2200/96 and their recognition plans.**

[...](38) This Regulation should, as a general rule, apply from 1 January 2008. However in order to avoid the interruption of the aid schemes for processed fruit and vegetable products and citrus fruits part-way through a marketing year, such aid schemes should be allowed to run until the end of the 2007/2008 marketing year,

¹⁵ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

HAS ADOPTED THIS REGULATION:

TITLE I

Introductory provisions

Article 1

Scope

This Regulation lays down specific rules applying to the products listed in Article 1(2) of Regulation (EC) No 2200/96 and in Article 1(2) of Regulation (EC) No 2201/96.

However Titles III and IV of this Regulation shall only apply in respect of the products listed in Article 1(2) of Regulation (EC) No 2200/96 **and/or of such products solely intended for processing.**

Article 40 [...] shall **also** apply to potatoes, fresh or chilled of CN code 0701.

TITLE II

Classification of products

Article 2

Marketing standards

1. **The products listed in Article 1(2) of Regulation (EC) No 2200/96 [and potatoes of CN codes 0701 90 50 and 0701 90 90], 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. Provision may be made by the Commission for marketing standards for one or more of the products listed in Article 1(2) of Regulation (EC) No 2200/96, **[potatoes of CN codes 0701 90 50 and 0701 90 90] and products listed** in Article 1(2) of Regulation (EC) No 2201/96.

3. In doing so, account shall be taken of the Standard recommendations adopted by the UN-Economic Commission for Europe (UN/ECE).

[...]4. The **marketing** standards referred to in paragraph 1 and 2:

- (a) shall apply at all marketing stages including import and export unless otherwise provided for by the Commission;
- [...](b) shall be established taking into account, in particular, the specificities of the products concerned, the need to ensure the conditions for a smooth disposal of those products on the market and the interest of consumers to receive adequate and transparent product information **in particular, the country of origin, the class and, where appropriate, the variety (or the commercial type) of the product**;
- [...](c) may in particular relate to quality, grading **into classes**, [...]sizing, packaging, wrapping, storage, transport, presentation, **marketing** and labelling.

[...]

5. The holder of products covered by the marketing standards adopted 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. The holder shall be responsible for ensuring such conformity.
6. Without prejudice to any specific provisions which may be adopted by the Commission in accordance with Article 39 [...], Member States shall check selectively, based on a risk analysis, whether those products conform to those **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.
7. Until new marketing standards are adopted, the marketing standards drawn up pursuant to Regulation (EC) No 2200/96 and Regulation (EC) No 2201/96 shall continue to apply.

TITLE III
Producer organisations
Chapter I

Requirements [...] and recognition

Article 3

Requirements [...]

1. For the purposes of this Regulation, [...] producer organisation [...] **shall be** [...] any legal entity or clearly defined part of a legal entity which complies with the following requirements:
 - (a) it is formed on the initiative of farmers within the meaning of Article 2(a) of Regulation (EC) No 1782/2003, who are growers of one or more products listed in Article 1(2) of Regulation (EC) No 2200/96 **and/or of such products solely intended for processing**;
 - (b) it has [...] 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**;
- (ba) **it has 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;
[...]
- (c) its rules of association [...] **provide for the** specific requirements as laid down in paragraph 2; **and**
- (d) it has been recognised by the Member State concerned pursuant to Article 4.

2. The rules of association of a producer organisation 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 paragraph 1(a);**
 - (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 7.
3. Notwithstanding [...] **paragraph 2(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.
4. 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 2;**
 - (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.
- 5. Producer organisations shall be deemed as acting in the name of, and on behalf of, their members in economic matters.**

Article 4

Recognition

1. Member States shall recognise as producer organisations for the purposes of this Regulation all [...] **legal entities or clearly defined parts of legal entities** applying for such recognition, [...] **provided that:**
 - (a) they meet the requirements laid down in Article 3 and provide the relevant evidence **therefor**[...];
 - (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 therefor**;
 - [...](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 3(1)(a) 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 goals 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 Title, 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.

Article 5

[...] **Associations of producer organisations**

[...]

An association of producer organisations 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 goals of Article 33 of the Treaty.**

Article 3(5) shall apply *mutatis mutandis* to actions of associations of producer organisations.

Article 5a
Outsourcing

Member States may permit a recognised producer organisation or a recognised association of producer organisations 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 6

[...] **Producer groups**

1. **For the purposes of this Regulation, a producer group shall be any legal entity or clearly defined part of a legal entity which is formed on the initiative of farmers within the meaning of Article 2(a) of Regulation (EC) No 1782/2003, who are growers of one or more products listed in Article 1(2) of Regulation (EC) No 2200/96 and/or of such products solely intended for processing, with a view to being recognised as a producer organisation.**

Producer [...] **groups** 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** may be allowed a transitional period [...]in which to meet the conditions for recognition laid down in Article 4.

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 first 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.**

[...]**3.During the [...] transitional period,** Member States may grant to the producer [...] **groups** referred to in paragraph 1:

- (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 second subparagraph of paragraph 1.

[...]

4. **The aid referred to in paragraph 3 shall be reimbursed by the Community in accordance with the rules adopted pursuant to Article 39(b)(ii).**

5. The aid referred to in paragraph 3(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.

Those 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.

Chapter II

Operational funds and operational programmes

Article 7

Operational funds

1. Producer organisations 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 12.
[...]

Article 8

[...]Operational programmes

1. Operational programmes shall have [...] **two** or more of the objectives referred to in Article 3(1)(ba) 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 [...] **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, up to a limit of 20% of the expenditure under the operational programme in any given year, and so may be eligible for Community financial assistance under Article 9. 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 shall include[...] **two or more environmental actions, or**
- (b) **at least 20% of the expenditure under operational programmes shall cover 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)¹⁶.

Where all 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.[...]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 9

Community financial assistance

1. The Community financial assistance shall be equal to the amount of the financial contributions [...]referred to in Article 7(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.

¹⁶ OJ L 277, 21.10.2005, p. 1. Regulation as last amended by Regulation (EC) No 2012/2006 (OJ L 384, 29.12.2006, p. 8).

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 by Council Regulation (EC) No 2092/91¹⁷;
 - (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 establishment.

- 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;

¹⁷ OJ L 198, 22.7.1991, p. 1.

- (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 10

National financial assistance

1. In regions of the [...] **Member States** where the degree of organisation of producers 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 [...] **50% of** the financial contributions [...] referred to in Article 7(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. Articles 87, 88 and 89 of the Treaty shall not apply to the national financial assistance [...] authorised [...] pursuant to paragraph 1.

Article 11

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 8(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**¹⁸. [...] **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 12

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 Chapter.

¹⁸ 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).

2. [...] Producer organisations shall communicate to the Member State the estimated amount of the operational fund for the [...] **each** year and shall submit appropriate reasons **therefor** 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 9.
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.

Chapter III

Extension of rules to *producers of an economic area*

Article 13

Extension of rules

1. In cases where a producer organisation 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 3(2)(a),
 - (b) the rules [...] **referred to in Article 8(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 I,
- (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(a) to (f), point 3(a) and (b) [and (c) and (d)] and point 5 of Annex I. In this case, the extension of rules may not apply for more than one marketing year.

2. For the purposes of this Chapter, "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. **In calculating these percentages account shall not be taken of producers or production of organic products covered by Regulation (EC) No 2092/91.**
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 3(2)(a);
 - (ba) shall not apply in respect of organic products covered by Regulation (EC) No 2092/91;**
 - (c) [...] shall not [...] **be incompatible** with Community and national rules in force.

[...]

Article 14
Notification [...]

4. 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 13(1). The Commission shall make these rules publicly available by the methods it considers appropriate.

Article 15

Repeal

[...]The Commission shall decide that a Member State [...] **shall** repeal an extension of the rules decided on by that Member State **pursuant to Article 13(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 Chapter has not been complied with.

Article [...] 16

Financial contributions of non-member producers

Where Article 13(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 13(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 16a

Extension of rules of associations of producer organisations

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

Chapter IV

Report

Article 17

Report

The Commission shall present a report to the European Parliament and Council by 31 December 2013 at the latest on the implementation of this Title as regards producer organisations, operational funds and operational programmes.

TITLE IV

Interbranch organisations and agreements

Chapter I

Requirements [...]and recognition

Article [...] 18

Requirements [...]

For the purposes of this Regulation, "interbranch organisations" [...] shall be legal entities 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 listed in Article 1(2) of Regulation (EC) No 2200/96;
- (b) are established at 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 I, which are stricter than Community or national rules;
- (d) have been recognised by the Member State concerned on the terms set out in Article [...] **19**.

Article [...] 19

Recognition

1. If warranted by the Member State's structures, Member States may recognise as interbranch organisations within the meaning of this Regulation all organisations 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 **and**/or 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 [...] **18(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 [...] **20(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 Chapter are no longer met;
 - (ii) the interbranch organisation [...] **engages in any of the agreements, decisions and concerted practices referred to in Article 20(3)**, 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 [...]**20(2)**;
 - (d) notify the Commission, within two months, of any decision to grant, refuse or withdraw recognition.
4. 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 shall be drawn up in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96.
5. Recognition shall constitute an authorisation to carry out the [...] **activities** listed in Article [...]**18(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 [...]21. Withdrawals of recognition shall also be made publicly available.

Chapter II

Competition rules

Article [...] 20

Application of competition rules

1. Notwithstanding Article 1 of Council Regulation (EC) No 1184/2006¹⁹, Article 81(1) of the Treaty shall not apply to the agreements, decisions and concerted practices of recognised interbranch organisations **with the object of carrying out the activities** [...] referred to in Article [...]18(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)** [...].

¹⁹ OJ L 214, 4.8.2006, p. 7.

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.

Chapter III

Extension of rules

Article [...] 21

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(a) to (f), point 3(a) and (b) [and (c) and (d)] and point 5 of Annex I. In this case, the extension of rules may not apply for more than one marketing year.

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

Article [...]22

Notification and repeal

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 **21**[...](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 46(1) of Regulation (EC) No 2200/96 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 [...]15.

Article [...] 23

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 [...]21(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.

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TITLE V

Trade with third countries

Chapter I

General provisions

Article [...]24

General principles

Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:

- (a) the levying of any charge having equivalent effect to a customs duty;
- (b) the application of any quantitative restriction or measure having equivalent effect.

Article [...]25

Combined Nomenclature

The general rules for interpreting the Combined Nomenclature and the special rules for its application shall apply to the tariff classification of products covered by this Title. The tariff nomenclature resulting from the application of this Regulation shall be included in the Common Customs Tariff.

Chapter II Imports

Section I Import licences

Article[...]26

Optional Import Licence Systems

The Commission may decide that imports into the Community of one or more products falling within the scope of this Regulation shall be subject to presentation of an import licence.

Article[...]27

Issue of licences

Import licences shall be issued by Member States to any applicant, irrespective of his place of establishment in the Community, unless a Council Regulation or an agreement concluded in accordance with Article 133 or Article 300 of the Treaty provides otherwise, and without prejudice to measures taken for the application of Section III.

Article [...]28

Validity

Import licences shall be valid throughout the Community.

Article[...]29

Security

1. Licences shall be issued subject to the lodging of a security guaranteeing that the products are imported during the term of validity of the licence.

2. Except in cases of *force majeure*, the security shall be forfeited in whole or in part if the import is not carried out, or is carried out only partially, within the period of validity of the licence.

Article[...]30

Implementing rules

Detailed rules for the application of this Section, including the term-of validity of the licences, shall be adopted in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96.

Section II

Import duties and entry price system

Article[...]31

Import duties

Save as otherwise provided for in this Section, the rates of import duty in the Common Customs Tariff shall apply to products falling within the scope of this Regulation.

Article [...]32

Entry price system

1. Should application of the common customs tariff duty rate depends 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 for verifying the entry price of products imported primarily for processing, in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96.

2. Where the declared entry price of the consignment in question is higher than the flat-rate import value, increased by a margin set in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96 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 in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96.
4. Detailed **implementing** rules for the application of paragraphs 1, 2 and 3 shall be adopted in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96.

Article[...]33

Additional import duties

1. An additional import duty shall apply to imports at the rate of duty laid down in Articles 29 and 30 of one or more products falling within the scope of this Regulation, in order to prevent or counteract adverse effects on the market of the Community-which may result from those imports, if:
 - (a) the imports are made at a price below the level notified by the Community to the World Trade Organisation ("the trigger price"); or
 - (b) the volume of imports in any year exceeds a certain level ("the trigger volume").The trigger volume shall be based on market access opportunities defined as imports as a percentage of the corresponding domestic consumption during the three previous years.
2. Additional import duties shall not be imposed where the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.
3. For the purposes of paragraph 1(a), import prices shall be determined on the basis of the cif import prices of the consignment under consideration.

Cif import prices shall be checked against the representative prices for the product on the world market or on the Community import market for that product.

4. Detailed rules for the application of paragraphs 1, 2 and 3 shall be adopted in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96. Such detailed rules shall specify in particular:
 - (a) the products to which additional import duties shall be applied;
 - (b) the other criteria necessary to ensure application of paragraph 1 of this Article.

Section III

Import quota management

Article [...]34

Tariff quotas

1. Tariff quotas for imports of products falling within the scope of this Regulation resulting from agreements concluded in accordance with Article 300 of the Treaty or from any other act of the Council shall be opened and administered by the Commission under detailed rules adopted in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96.
2. Tariff quotas shall be administered in a manner which avoids any discrimination between the operators concerned, by applying one of the following methods or a combination of them or another appropriate method:
 - (a) a method based on the chronological order of the lodging of applications ("first come, first served" principle);
 - (b) a method of distribution in proportion to the quantities requested when the applications were lodged (using the "simultaneous examination method");
 - (c) a method based on taking traditional trade patterns into account (using the "traditional/newcomers method").
3. The method of administration adopted shall, where appropriate, give due weight to the supply requirements of the Community market and the need to safeguard the equilibrium of that market.

Article [...]34a

Opening of Tariff Quotas

The Commission, in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96, shall provide for the annual tariff quotas, if necessary suitably phased over the year and shall determine the administrative method to be used.

Detailed rules for the implementation of this Section shall be adopted in accordance with the same procedure, in particular on:

- (a) guarantees covering the nature, provenance and origin of the product;
- (b) recognition of the document used for verifying the guarantees referred to in point (a);
- (c) the conditions under which import licences shall be issued and their term of validity.

Section IV

Safeguard and suspension of inward processing

Article[...]35

Safeguard measures

Save as otherwise provided for pursuant to this Regulation, other Council acts or international agreements concluded in accordance with Article 300 of the Treaty, safeguard measures against imports into the Community may be taken by the Commission in accordance with the provisions of Council Regulations (EC) No 519/94²⁰ and (EC) No 3285/94²¹.

Article[...]36

Suspension of Inward Processing Arrangements

To the extent necessary for the proper functioning of the common organisation of the markets, the use of inward processing arrangements for the products falling within the scope of this Regulation may be fully or partially prohibited in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96.

²⁰ OJ L 67, 10.3.1994, p. 89.

²¹ OJ L 349, 31.12.1994, p. 53.

Chapter III

Exports

Section I

Export licences

Article [...]37

Optional Export Licence Systems

1. The Commission may decide that exports from the Community of products falling within the scope of this Regulation shall be subject to presentation of an export licence.
2. Articles 25, 26 and 27 shall apply *mutatis mutandis*.
3. Detailed rules for the application of paragraphs 1 and 2, including the term of validity of the licences, shall be adopted in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96.

Section II

Suspension of outward processing

Article [...]38

Suspension of Outward Processing Arrangements

To the extent necessary for the proper functioning of the common organisation of the market in the products falling within the scope of this Regulation, the use of outward processing arrangements for these products may be fully or partially prohibited in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96.

TITLE VI

Implementing, amending and final provisions

Chapter I

Implementing provisions

Article [...] 39

Detailed implementing rules

Detailed **implementing** rules for [...]this Regulation may be adopted in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96.

These rules may include, in particular:

- (a) [...] rules for the [...]**implementation** of Title II which may in particular include:
 - (i) **the products submitted to standardisation and the provision for marketing standards referred to in Article 2, in particular to define what constitutes a product which is sound, fair and of marketable quality;**
 - (ii) rules [...] **on conformity inspections, in particular on their consistent application in Member States;**
 - (iii) rules on derogations **and exemptions from the application of the marketing standards;**
 - (iv) rules on presentation, **marketing and labelling** [...];
 - (v) rules on the application of the **marketing** standards to products imported into the Community and products exported from the Community;

- (b) rules for the implementation of Title III, including:
 - (i) [...]**those 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**[...];
 - (ii) [...]**those on financing of the measures referred to in Article 6[...]; including the thresholds and ceilings for aid and the degree of Community co-financing of the aid;**
 - (iii) **the proportion of and detailed rules on the reimbursement of the measures referred to in Article 10(1);**
 - (iv) **those on investments on individual holdings;**

- (v) the dates for the communications and notifications referred to in Article 12;
 - (vi) provision for partial payments of the Community financial assistance referred to in Article 12.
- (c) rules for the implementation of Title IV;
- (d) [...] rules concerning administrative and physical controls to be conducted by the Member States with regard to the respect of obligations resulting from the application of this Regulation;
- (e) a system for the application of **administrative** penalties where non-compliances with any of the obligations resulting from the application of this Regulation are found. The **administrative** penalties shall be graduated according to the severity, extent, permanence and repetition of the non-compliance found;
- (f) [...] rules regarding the recovery of undue payments **resulting from the application of this Regulation**;
- (g) [...] rules on the reporting of the controls carried out as well as their results;
- (h) rules for the implementation of Title V, including the measures specifically referred to in that Title;
- (i) **rules to determine what information is necessary for the purposes of application of Article 41, as well as those on its form, content, timing and deadlines and on arrangements for transmitting or making available information and documents;**
- [...](j) measures required to facilitate the transition from the arrangements provided for in Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 2202/96 to those laid down in this Regulation, **including those for the implementation of Article 49.**

Chapter II

Amendments, repeal and final provisions

Article [...] 40

State aids

Save as otherwise provided for in this Regulation, Articles 87, 88 and 89 of the Treaty shall apply to the production of and trade in the products listed in Article 1(2) of Regulation (EC) No 2200/96, the products listed in Article 1(2) of Regulation (EC) No 2201/96 and potatoes, fresh or chilled, of CN code 0701.

Article 41

Communications

Member States and the Commission shall provide each other with any information necessary for the application of this Regulation, for market monitoring and analysis and for complying with the international obligations concerning the products covered by this Regulation.

Article 42

Expenditure

Expenditure under this Regulation shall be deemed to be intervention measures to regulate agricultural markets as referred to in Article 3(1)(b) of Council Regulation (EC) No 1290/2005.

Article 43

Amendments to Regulation (EC) No 827/68

In the Annex to Regulation (EC) No 827/68 the entry for CN code 0901 shall be replaced by the following:

"ex 0910 Ginger, saffron, turmeric (curcuma), bay leaves, curry and other spices excluding thyme"

Article [...] 44

Amendments to Regulation (EC) No 2200/96

Regulation (EC) No 2200/96 is **hereby** amended as follows:

- 1) **In [...] Article 1(2), the table shall be [...] replaced by the following:**

"CN code	Description
0702 00 00	Tomatoes, fresh or chilled
0703	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled
0704	Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled
0705	Lettuce (<i>Lactuca sativa</i>) and chicory (<i>Cichorium spp.</i>), fresh or chilled
0706	Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots, fresh or chilled
0707 00	Cucumbers and gherkins, fresh or chilled
0708	Leguminous vegetables, shelled or unshelled, fresh or chilled
ex 0709	Other vegetables, fresh or chilled, excluding vegetables of subheadings 0709 60 91, 0709 60 95, 0709 60 99, 0709 90 31, 0709 90 39 und 0709 90 60
ex 0802	Other nuts, fresh or dried, whether or not shelled or peeled, excluding areca (or betel) and cola nuts falling within subheading 0802 90 20
0803 00 11	Fresh plantains
ex 08030090	Dried plantains
0804 20 10	Figs, fresh
0804 30 00	Pineapples
0804 40 00	Avocados
0804 50 00	Guavas, mangos and mangosteens
0805	Citrus fruit, fresh or dried
0806 10 10	Fresh table grapes
0807	Melons (including watermelons) and pawpaws (papayas), fresh
0808	Apples, pears and quinces, fresh
0809	Apricots, cherries, peaches (including nectarines), plums and sloes, fresh
0810	Other fruit, fresh
0813 50 31 0813 50 39	Mixtures exclusively of dried nuts of CN codes 0801 and 0802
ex 0910 99	Thyme, fresh or chilled
ex 12 11 90 85	Basil, melissa, mint, <i>origanum vulgare</i> (oregano / wild marjoram), rosemary, sage, fresh or chilled
1212 99 30	Locust (or carob) beans":

- 2) **Titles I, II, III, IV, V and VI, Articles 43 and 44, Articles 47 to 57 and Annexes I to V shall be [...] deleted.**

[...]

[...]3)Article 46 **shall be** [...] replaced by the following:

"Article 46

1. The Commission shall be assisted by a Management Committee for Fruit and Vegetables (hereinafter referred to as "the Committee").
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.
The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.
3. The Committee shall adopt its Rules of Procedure.";

[...]

Article [...] 45

Amendments to Regulation (EC) No 2201/96

Regulation (EC) No 2201/96 is **hereby** amended as follows:

- 1) [...]**Paragraph 3 of Article 1 shall be replaced by the following:** [...]

"The marketing years for the products referred to in paragraph 2 shall be fixed, if necessary, in accordance with the procedure laid down in Article 46(2) of Regulation (EC) No 2200/96";

- 2) [...]**Titles I and II, Articles 23 to 32 and Annexes I to III shall be deleted.**

[...]

Article [...] 46

Amendments to Regulation (EC) No 2826/2000

Regulation (EC) No 2826/2000 is **hereby** amended as follows:

- 1) In Article 5(3), the following subparagraph [...]**shall be** added:

"As regards the promotion of fresh fruits and vegetables, the main target group shall be [...] children in educational establishment";

- 2) In Article 9(2), the following subparagraph [...] **shall be** added:

"The percentage referred to in the first subparagraph shall be 60% in the case of promotion of fruit and vegetables targeted only towards [...] **children in educational establishment**".

Article 46a

Amendment to Directive (EC) 2001/112/EC

The following indent shall be added to Article 7 of Directive (EC) 2001/112/EC:

"- bringing this Directive into line with developments in relevant international standards, where appropriate."

Article 46b

Amendment to Directive (EC) 2001/113/EC

The following indent shall be added to Article 5 of Directive (EC) 2001/113/EC:

"- bringing this Directive into line with developments in relevant international standards, where appropriate."

Article [...] 47

Amendments to Regulation (EC) No 1782/2003

Regulation (EC) No 1782/2003 is **hereby** amended as follows:

- 1) [...] **In** Article 33(1), point (a) [...] **shall be** replaced by the following:

"(a) they have been granted a payment in the reference period referred to in Article 38 under at least one of the support schemes referred to in Annex VI or, in the case of olive oil, in the marketing years referred to in the second subparagraph of Article 37(1), or, in the case of sugar beet, cane and chicory, if they have benefited from market support in the representative period referred to in point K of Annex VII, or, in the case of bananas, if they have benefited from compensation for loss of income in the representative period referred to in point L of Annex VII, or in the case of fruit and vegetables **and ware potatoes, they were producers of fruit and vegetable products **or ware potatoes** in the representative period applied by Member States for those products pursuant to point M of Annex VII;"**

- 2) [...] **In Article 37(1), the following subparagraph [...]shall be** added:
“For fruit and vegetables **and ware potatoes** the reference amount shall be calculated and adjusted in accordance with point M of Annex VII.”[...];
- 3) [...] **In Article 40, paragraph 2 [...]shall be** replaced by the following:
"2. If the whole reference period was affected by the case of *force majeure* or exceptional circumstances, the Member State shall calculate the reference amount on the basis of the 1997 to 1999 period.

In the case of sugar beet, cane and chicory, the reference amount shall be calculated on the basis of the closest marketing year prior to the representative period chosen in accordance with point K of Annex VII. In the case of bananas it shall be calculated on the basis of the closest marketing year prior to the representative period chosen in accordance with point L of Annex VII. In the case of fruit and vegetables **and ware potatoes**, it shall be calculated on the basis of the closest marketing year prior to the representative period chosen in accordance with point M of Annex VII. In those cases, paragraph 1 shall apply *mutatis mutandis*.";

- 4) [...] **In Article 43(2), point (a) [...]shall be** replaced by the following:
- "(a) in the case of potato starch, dried fodder, seed, olive groves, and tobacco aids listed in Annex VII, the number of hectares whose production has been granted the aid in the reference period, as calculated in points B, D, F, H and I of Annex VII;
 - (aa) in the case of sugar beet, cane and chicory, the number of hectares as calculated in accordance with point 4 of point K of Annex VII;
 - (ab) in the case of bananas, the number of hectares as calculated in accordance with point L of Annex VII;
 - (ac) in the case of fruit and vegetables **and ware potatoes**, the number of hectares as calculated in accordance with point M of Annex VII;" [...];

- 5) In Article 44(2), the second subparagraph [...] **shall be** replaced by the following:
"Eligible hectare' shall also mean one of the following
(a) areas planted with hops or being under a temporary resting obligation;
(b) areas under olive trees;
(c) areas planted with bananas;
(d) areas with permanent fruit and vegetables crops." [...];

- 6) Article 51 [...] **shall be** replaced by the following:

"Article 51

Agricultural use of the land

Farmers may use the parcels declared in accordance with Article 44(3) for any agricultural activity except for permanent crops. However farmers may use the parcels for the following permanent crops:

- (a) hops,
- (b) olive trees,
- (c) bananas,
- (d) permanent fruit and vegetable crops.";

- 7) Article 60 [...] **shall be deleted**[...];

- 8) In Article 63(3), the following subparagraph [...] **shall be** added:

"With regard to the inclusion of the fruit and vegetables payments **and ware potatoes** component in the single payment scheme, Members States may decide, by 1 April 2008, to apply the derogation provided for in the first subparagraph.";

- 9) Article 71g [...] **shall be deleted**;

- 10) In Article 71k(2), the following subparagraph [...] **shall be** added :

"However, with regard to the inclusion of the fruit and vegetables payments component in the single payment scheme, New Members States may decide, by 1 April 2008, or by 1 August of the year preceding the first year of application of the single payment scheme, to apply the derogation provided for in the first subparagraph.";

- 11) In Article 145, the following point [...] **shall be** inserted after point (d)c):
"(d)d) **detailed implementing** rules relating to the inclusion of fruit and vegetables **and ware potatoes** support into the single payment scheme." [...];

- 12) Article 155 [...] **shall be** replaced by the following:

"Article 155

Other transitional rules

Further measures required to facilitate the transition from the arrangements provided for in the Regulations referred to in Articles 152 and 153 and in Regulations (EEC) No 404/93, (EC) No 2200/96, (EC) No 2201/96, (EC) No 2202/96 and (EC) No 1260/2001 to those established by this Regulation, notably those related to the application of Articles 4 and 5 and the Annex to Regulation (EC) No 1259/1999 and Article 6 of Regulation (EC) No 1251/1999 and from the provisions related to the improvement plans provided for in Regulation (EEC) No 1035/72 to those referred to in Articles 83 to 87 of this Regulation, may be adopted in accordance with the procedure referred to in Article 144(2) of this Regulation. Regulations and Articles referred to in Articles 152 and 153 shall continue to apply for the purpose of the establishment of the reference amounts referred to in Annex VII." [...];

- 13) [...] **The Annexes** [...] **shall be** amended in accordance with Annex II to this Regulation.

Article [...] 47a

Amendments to Regulation (EC) No 318/2006

Regulation (EC) No 318/2006 shall be amended as follows:

- 1) **In paragraphs 1, 2 and 4 of Article 32, the words "or Annex VIII" shall be inserted after "Annex VII".**

2) The following Annex shall be added after Annex VII:

"ANNEX VIII
Processed fruit and vegetable products

The products listed in Article 1(2)(b) of Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products(*)).

- (*) OJ L 297, 21.11.1996, p. 29. Regulation as last amended by [this Regulation, number to be inserted by OPOCE after publication.]

Article [...] 48

Repeal

Regulation (EC) No 2202/96 [...] **shall be** repealed.

Article [...] 49

Transitional provisions [...]

1. The aid schemes set out in Regulations (EC) No 2201/96 and (EC) No 2202/96 and abolished by this Regulation 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.**
3. **At the request of a producer organisation, an operational programme approved under Regulation (EC) No 2200/96 before the date of entry into force of this Regulation:**
 - 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.**

- 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 4 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 6(4)(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 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.**

Article [...] 50

Entry into force

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

It shall apply from 1 January 2008.

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

Done at Brussels,

For the Council

The President

ANNEX I

Exhaustive list of rules [...] that may be extended to non-member producers pursuant to Article 13 [...]and Article 21

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 8(2)(c).**

ANNEX II

The Annexes to Regulation (EC) No 1782/2003 **are hereby** amended as follows:

- 1) [...] **In** Annex I, the row concerning dried grapes **shall be** [...] deleted;
- 2) Annex II [...] **shall be** replaced by the following:

"ANNEX II

National ceilings referred to in Article 12(2)

(EUR million)

Member State	2005	2006	2007	2008	2009	2010	2011	2012
Belgium	4.7	6.4	8.0	8.0	8.1	8.1	8.1	8.1
Denmark	7.7	10.3	12.9	12.9	12.9	12.9	12.9	12.9
Germany	40.4	54.6	68.3	68.3	68.3	68.3	68.3	68.3
Greece	45.4	61.1	76.4	79.7	79.7	79.7	79.7	79.7
Spain	56.9	77.3	97.0	103.8	103.9	103.9	103.9	103.9
France	51.4	68.7	85.9	87.0	87.0	87.0	87.0	87.0
Ireland	15.3	20.5	25.6	25.6	25.6	25.6	25.6	25.6
Italy	62.3	84.5	106.4	116.5	116.6	116.6	116.6	116.6
Luxembourg	0.2	0.3	0.4	0.4	0.4	0.4	0.4	0.4
Netherlands	6.8	9.5	12.0	12.0	12.0	12.0	12.0	12.0
Austria	12.4	17.1	21.3	21.4	21.4	21.4	21.4	21.4
Portugal	10.8	14.6	18.2	19.6	19.6	19.6	19.6	19.6
Finland	8.0	10.9	13.7	13.8	13.8	13.8	13.8	13.8
Sweden	6.6	8.8	11.0	11.0	11.0	11.0	11.0	11.0
United Kingdom	17.7	23.6	29.5	29.5	29.5	29.5	29.5	29.5

"

- 3) [...] **In** Annex V, the rows concerning dried grapes, citrus for processing and tomatoes for processing [...] **shall be** deleted [...];

4) [...] In Annex VII, the following point shall be [...] added:

"M. Fruit and vegetables **and ware potatoes**

Member States shall determine the amount to be included in the reference amount of each farmer on the basis of objective and non-discriminatory criteria such as:

- the amount of market support received, directly or indirectly, by the farmer in respect of fruit and vegetables **and ware potatoes**,
- the area used to produce fruit and vegetables **and ware potatoes**,
- the amount of fruit and vegetables produced **and ware potatoes**,

in respect of a representative period which could be different for each product, of one or more marketing years starting from the marketing year ending in 2001 and, in case of the Member States which have acceded to the Community in 2004 or thereafter, from the marketing year ending in 2004, up to the marketing year ending in 2007.

Member States shall calculate the applicable hectares referred to in Article 43(2) of this Regulation on the basis of objective and non-discriminatory criteria such as the areas referred to in the second indent of the first paragraph.

The application of the criteria in this point may be varied between different fruit and vegetable products **and ware potatoes** if duly justified on an objective basis.

For the purposes of this Regulation, "fruit and vegetables" shall mean the products listed in Article 1(2) of Regulation (EC) No 2200/96 and in Article 1(2) of Regulation (EC) No 2201/96 and "**ware potatoes**" shall mean potatoes of **CN code 0701 other than those intended for the manufacture of potato starch for which aid is granted under Article 93;**

5) Annexes VIII and VIIa **shall be** [...] replaced by the following:

"ANNEX VIII

National ceilings referred to in Article 41

(EUR '000)

Member State	2005	2006	2007	2008	2009	2010 and subsequent
Belgium	411 053	580 376	593 395	606 935	614 179	611 805
Denmark	943 369	1 015 479	1 021 296	1 027 278	1 030 478	1 030 478
Germany	5 148 003	5 647 175	5 695 607	5 744 240	5 770 254	5 774 254
Greece	838 289	2 143 603	2 171 217	2 362 198	2 364 613	2 175 282
Spain	3 266 092	4 635 365	4 649 913	4 830 954	4 838 536	4 840 413
France	7 199 000	8 236 045	8 282 938	8 382 272	8 407 555	8 415 555
Ireland	1 260 142	1 335 311	1 337 919	1 340 752	1 342 268	1 340 521
Italy	2 539 000	3 791 893	3 813 520	4 151 330	4 163 175	4 184 720
Luxembourg	33 414	36 602	37 051	37 051	37 051	37 051
Netherlands	386 586	428 329	833 858	846 389	853 090	853 090
Austria	613 000	633 577	737 093	742 610	745 561	744 955
Portugal	452 000	504 287	571 377	608 101	608 631	608 327
Finland	467 000	561 956	563 613	565 690	566 801	565 520
Sweden	637 388	670 917	755 045	760 281	763 082	763 082
United Kingdom	3 697 528	3 944 745	3 960 986	3 977 175	3 985 834	3 975 849

ANNEX VIIIa

National ceilings referred to in Article 71c

(EUR '000)

Calendar year	Bulgaria	Czech Republic	Estonia	Cyprus	Latvia	Lithuania	Hungary	Malta	Romania	Poland	Slovenia	Slovakia
2005		228 800	23 400	8 900	33 900	92 000	350 800	670		724 600	35 800	97 700
2006		294 551	27 300	12 500	43 819	113 847	446 305	830		980 835	44 184	127 213
2007	200 384	377 919	40 400	17 660	60 764	154 912	540 286	[...]	441 930	1 263 706	[...]	161 362
				27167				3017			73618	
2008	246 766	470 463	50 500	[...]	75 610	193 076	677 521	[...]	532 444	1 579 292	[...]	201 937
				31670				3434			87942	
2009	287 399	559 622	60 500	[...]	90 016	230 560	807 366	[...]	623 399	1 877 107	[...]	240 014
				36173				3851			101959	
2010	327 621	645 222	70 600	[...]	103 916	267 260	933 966	[...]	712 204	2 162 207	[...]	276 514
				40676				4268			115976	
2011	407 865	730 922	80 700	[...]	117 816	303 960	1 060 666	[...]	889 814	2 447 207	[...]	313 114
				45179				4685			129993	
2012	488 209	816 522	90 800	[...]	131 716	340 660	1 187 266	[...]	1 067 425	2 732 307	[...]	349 614
				49682				5102			144110	
2013	568 553	902 222	100 900	[...]	145 616	377 360	1 313 966	[...]	1 245 035	3 017 407	[...]	386 214
				49682				5102			144110	
2014	648 897	902 222	100 900	[...]	145 616	377 360	1 313 966	[...]	1 422 645	3 017 407	[...]	386 214
2015	729 241	902 222	100 900	49682	145 616	377 360	1 313 966	5102	1 600 256	3 017 407	144110	386 214
				[...]				[...]			[...]	
2016 and subsequent years	809 585	902 222	100 900	49 682	145 616	377 360	1 313 966	5102	1 777 866	3 017 407	144110	386 214
				[...]				[...]			[...]	

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