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

REGULATIONS

COUNCIL REGULATION (EC) No 72/2009

of 19 January 2009

on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

After consulting the European Economic and Social Committee ⁽²⁾,

After consulting the Committee of the Regions ⁽³⁾,

Whereas:

(1) The reforms of the Common Agricultural Policy (CAP) agreed in 2003 and 2004 included provisions for reports to gauge their effectiveness, and in particular to appraise their impact with respect to their objectives and to analyse their effects on the relevant markets. In this context, the Commission presented a Communication to the European Parliament and Council entitled 'Preparing for the "Health Check" of the CAP reform' on

20 November 2007. That Communication and the subsequent discussions of its main elements by the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, as well as numerous contributions arising from public consultation should be taken into account.

(2) The provisions of the CAP concerning public intervention should be simplified and aligned by extending tendering in order to achieve a harmonised approach insofar as possible. In particular, the respect of maximum quantities and quantitative limits for cereals, butter and skimmed milk powder may require rapid action. In order to provide for this, and since closing buying-in at a fixed price, adopting allocation coefficients and, for common wheat, switching to the tendering procedure, do not involve the exercise of discretion, the Commission should be permitted to do so without the assistance of the Committee.

(3) In respect of cereals intervention, the system should be adjusted to ensure competitiveness and market orientation for the sector, while keeping the role of intervention as a safety net in the event of market disruptions and facilitating farmers' response to market conditions. Upon adoption by the Council of Regulation (EC) No 735/2007 ⁽⁴⁾, which reformed the intervention system for maize the Commission undertook to review the cereals intervention system, on the basis of an analysis which revealed some degree of risk for additional

⁽¹⁾ Opinion of 19 November 2008 (not yet published in the Official Journal).

⁽²⁾ Opinion of 23 October 2008 (not yet published in the Official Journal). Opinion delivered following non-compulsory consultation.

⁽³⁾ Opinion of 8 October 2008 (not yet published in the Official Journal). Opinion delivered following non-compulsory consultation.

⁽⁴⁾ Council Regulation (EC) No 735/2007 of 11 June 2007 amending Regulation (EC) No 1784/2003 on the common organisation of the market in cereals (OJ L 169, 29.6.2007, p. 6).

barley intervention if prices were low. The present outlook for cereals has, however, since changed significantly, and is characterised by a favourable world market price environment driven by expanding world demand and low global cereal stocks. Within this context, intervention levels should be set at zero for other feed grains. This would allow for intervention without having negative implications for the cereals market as a whole. The favourable outlook for the cereals sector also applies to durum wheat. This means that buying into intervention has currently lost its relevance since market prices are significantly above the intervention price. Therefore, buying into intervention for durum wheat is not currently necessary and intervention levels should be set at zero. Since intervention for cereals should be a safety net rather than an element which influences price formation, the differences in harvesting periods across Member States, which effectively start the marketing years, are no longer relevant since the system will no longer provide for prices reflecting intervention levels plus monthly increments. In the interests of simplification, the dates for cereals intervention should therefore be harmonised across the Community.

- (4) Since the 2003 CAP reform, the competitiveness of the rice sector has increased, with stable production, falling stocks in view of increasing demand both in the Community and on the world market, and with the expected price significantly above the intervention price. Therefore buying into intervention for rice is not currently necessary and intervention levels should be set at zero.
- (5) Pigmeat production and consumption are projected to increase over the medium term, though at a slower pace than in the past decade, due to the competition from poultry meat and higher feed prices. Pigmeat prices are expected to remain significantly above the intervention price. Buying into intervention has not been used for many years for pigmeat and, in the light of the market situation and its perspectives, the possibility of buying into intervention should therefore be abolished.
- (6) Since the current market situation and perspectives suggest that intervention would not, in any case, be applicable to pigmeat, durum wheat and rice in 2009, the changes to or abolition of intervention for these products should be carried out from the 2009/2010 marketing year. For other cereals, in order to allow farmers to adapt, the changes should only apply from the 2010/2011 marketing year.
- (7) The medium-term outlook for the dairy sector is characterised by a continued increase in Community demand for high value added products; a substantial expansion in global demand for dairy commodities, driven by income and population growth in many regions of the world; and by changes in consumer preferences towards dairy products.
- (8) Constrained by the milk quota ceilings, total Community milk production is projected to follow a gradual, though modest decline over the medium term as continued

restructuring in the Member States, which were not members of the Community before 1 May 2004, will lead to a decline in subsistence milk production, while production growth remains limited due to the existence of quotas. At the same time, the quantity of milk delivered to dairies for processing is expected to continue to increase over the projected period. In the light of strong internal and external demand, the milk quota system is hence restricting production expansion, as opposed to the situation when quotas were introduced as a response to overproduction. In such a market situation, quotas reduce market orientation because they distort farmers' response to price signals, and prevent efficiency gains in the sector by slowing down restructuring. The quotas are scheduled to end in 2015. Appropriate adjustments should be made by degrees so to allow for a smooth transition by avoiding an excessive adjustment after quotas have ended. The phasing-out of dairy quotas by annual increases of 1 % should therefore be provided per marketing year from 2009/2010 to 2013/2014. Other changes to make the milk quota system more flexible as regards the fat adjustment, by abolishing the adjustment set out in Article 80(2) of Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (the Single CMO Regulation) ⁽¹⁾, and as regards the quota inactivity rules, by increasing the percentage in Article 72(2) of that Regulation which a producer should use during a twelve-month period and thus making it easier for unused quota to be reallocated, should also be made for the same reasons. In the context of the restructuring of the sector, Member States should be permitted until 31 March 2014 to grant an additional national aid within certain limits. The quota increases decided by Council Regulation (EC) No 248/2008 of 17 March 2008 amending Regulation (EC) No 1234/2007 as regards the national quotas for milk ⁽²⁾ and the 1 % annual increase, along with the other changes which reduce the likelihood of the surplus levy being incurred mean that only Italy would be at risk of the levy being incurred on the basis of current production patterns if annual increases of 1 % were applied from the 2009/2010 period until 2013/2014. Therefore, taking into account the current production patterns in all Member States, the increase in quota should be front-loaded for Italy in order to avoid this risk. In order to ensure that in all Member States the quota increases lead to a controlled and smooth transition, the surplus levy system should be strengthened for the next two years and be set at an appropriately dissuasive level. An additional levy should therefore be imposed in cases where increases in deliveries would significantly exceed the 2008/2009 quota levels.

- (9) The cheese market is steadily expanding with increased demand from inside as well as from outside the Community. In general, therefore, prices for cheese have for some time remained constant and have not been significantly influenced by the reduction of the institutional

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 76, 19.3.2008, p. 6.

- prices for bulk products (butter and skimmed-milk powder). From both an economic and market management point of view, permanent and optional aid for the private storage of a high value, market-driven product like cheese is no longer justified and should therefore be abolished.
- (10) In the context of the dairy reform and the current market situation, the aid for skimmed-milk powder used as animal feed and skimmed milk for casein production is not currently needed. However, should surpluses of milk products build up or be likely to occur, thus creating or likely to create a serious imbalance in the market, such aid could still play a role. The decision should, however, be taken by the Commission based on sound market analysis rather than an obligation to open the scheme every year. The scheme should, therefore, become optional. If applied, the aid should be determined in advance or by tender.
- (11) Disposal aid for butter intended for pastry and ice cream and for direct consumption has been reduced in line with the reduction of the intervention price for butter as from 2004 and was consequently at zero before tenders were suspended due to the favourable market situation. Disposal aid schemes are no longer needed to support the market at intervention price level and should therefore be abolished.
- (12) As was the case with the CAP reform of 2003, with a view to enhancing the competitiveness of Community agriculture and promoting more market-oriented and sustainable agriculture, it is necessary to continue the shift from production support to producer support by abolishing the existing aids in the Single CMO Regulation for dried fodder, flax, hemp and potato starch and integrating support for these products into the system of decoupled income support for each farm. As was the case with the 2003 CAP reform, while decoupling aid paid to farmers will leave the actual amounts paid unchanged, it will significantly increase the effectiveness of the income support.
- (13) The aid for flax and hemp fibre should now be decoupled. However, in order to allow the flax and hemp industry to adapt, integration of this support into the Single Payment Scheme should be carried out during a transitional period. Aid should therefore be provided for long flax fibre, short flax fibre and hemp fibre until 1 July 2012. Maintaining the aid for short flax fibre and hemp fibre, in order to balance the aid in the sector, means that the aid for long flax fibre should be reduced. However, in order to respect the legitimate expectations of growers, this reduction should only take place from the 2010/2011 marketing year.
- (14) The dried fodder regime was reformed in 2003, when part of the aid was given to the industry and the rest was decoupled and integrated into the Single Payment Scheme. In the context of the overall move towards more market orientation, the present outlook in the markets for feed and protein crops and the particular negative environmental impact that the production of dehydrated fodder has recently been found to generate, the transition to full decoupling for the entire sector should be completed by decoupling the remaining aid to the industry. In order to mitigate the effects of ending the payment of aid to the industry, the appropriate adjustments in the price paid to the producers of the raw materials, who will themselves be receiving increased direct aid entitlements as a result of decoupling, should be made. The sector has been restructuring since the 2003 reform, a transitional period until 1 April 2012 should nonetheless be provided for to allow the sector to adjust.
- (15) The system set out in Council Regulation (EC) No 1868/94 of 27 July 1994 establishing a quota system in relation to the production of potato starch ⁽¹⁾ will no longer be required once the related aid for starch potato growers laid down in Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes under the Common Agricultural Policy and establishing certain support schemes for farmers ⁽²⁾ is abolished. Aid to producers was partially decoupled in 2003 and this aid should now be fully decoupled although a transitional period until 1 July 2012 should be provided to allow farmers to adapt their supply commitments to the potato starch aid scheme. The related minimum price should, therefore, also be extended for the same period. Beyond that date, the quota system related to the direct payment should be removed in parallel with the full integration of that direct payment into the single payment scheme. In the meantime, the provisions concerned should be integrated, as is the case with other aids and quota schemes, into the Single CMO Regulation.
- (16) Developments in domestic and international cereal and starch markets render the starch production refund no longer relevant with respect to its initial objectives, and it should therefore be abolished. The market situation and perspectives are such that the aid has been set at zero for some time and this is expected to continue, which means that abolition may take place rapidly without any negative effects for the sector.
- (17) Producer organisations can serve a useful role in grouping supply in sectors where there is an imbalance in the concentration of producers and purchasers. Member States should therefore be able to recognise producer organisations on a Community level in all sectors.
- (18) Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and

⁽¹⁾ OJ L 197, 30.7.1994, p. 4.

⁽²⁾ See page 16 of this Official Journal.

establishing certain support schemes for farmers ⁽¹⁾ provides for Member States to retain part of the component of national ceilings corresponding to the hops area payments and use them, in particular, to finance certain activities of recognised producer organisations. That Regulation is being repealed and in Regulation (EC) No 73/2009 the hops area payment is being decoupled from 1 January 2010, which means that under the provision the last payment to producer organisations will be made in 2010. In order to allow the hop producer organisations to continue their activities as before, a specific provision should be made for equivalent amounts to be used in the Member State concerned for the same activities with effect from 1 January 2011.

(19) The Single CMO Regulation provides for amounts withheld from the aid for olive groves under Article 110i(4) of Regulation (EC) No 1782/2003 to be used to finance work programmes of operator organisations. Regulation (EC) No 1782/2003 is being repealed. In the interests of clarity and legal certainty, specific provision should be made to set out the amounts to be used in the Member States concerned for the work programmes.

(20) In the interests of legal certainty, and simplicity it is appropriate to clarify and harmonise the provisions on the non-application of Articles 87, 88 and 89 of the Treaty to payments made by Member States in conformity with Regulation (EC) No 1234/2007 or Council Regulation (EC) No 247/2006 of 30 January 2006 laying down specific measures for agriculture in the outermost regions of the Union ⁽²⁾, Council Regulation (EC) No 320/2006 of 20 February 2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community ⁽³⁾, Council Regulation (EC) No 1405/2006 of 18 September 2006 laying down specific measures for agriculture in favour of the smaller Aegean islands ⁽⁴⁾, Council Regulation (EC) No 3/2008 of 17 December 2007 on information provision and promotion measures for agricultural products on the internal market and in third countries ⁽⁵⁾ and Council Regulation (EC) No 479/2008 of 29 April 2008 on the common organisation of the market in wine ⁽⁶⁾. In this context, the provisions of those Regulations which otherwise would or might, under certain circumstances, fall within the notion of State aid within the meaning of Article 87(1) of the Treaty should be excluded from the application of State aid rules. The provisions concerned contain appropriate conditions for the granting of support to prevent the undue distortion of competition.

(21) Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008

and (EC) No 479/2008 should therefore be amended accordingly.

(22) The following acts are obsolete and should therefore, in the interests of legal certainty, be repealed: Council Regulation (EEC) No 1883/78 of 2 August 1978 laying down general rules for the financing of interventions by the European Agricultural Guidance and Guarantee Fund, Guarantee Section ⁽⁷⁾, Council Regulation (EEC) No 1254/89 of 3 May 1989 fixing, for the 1989/90 marketing year, inter alia, certain sugar prices and the standard quality of beet ⁽⁸⁾, Council Regulation (EEC) No 2247/89 of 24 July 1989 on an emergency measure for the free supply of certain agricultural products to Poland ⁽⁹⁾, Council Regulation (EEC) No 2055/93 of 19 July 1993 allocating a special reference quantity to certain producers of milk and milk products ⁽¹⁰⁾ and Council Regulation (EC) No 1182/2005 of 18 July 2005 adopting autonomous and transitional measures to open a Community tariff quota for the import of live bovine animals originating in Switzerland ⁽¹¹⁾. The following acts will become obsolete with effect from 1 May 2009 and, for the same reasons, should therefore be repealed with effect from that date: Council Regulation (EC) No 2596/97 of 18 December 1997 extending the period provided for in Article 149(1) of the Act of Accession of Austria, Finland and Sweden ⁽¹²⁾ and Council Regulation (EC) No 315/2007 of 19 March 2007 laying down transitional measures derogating from Regulation (EC) No 2597/97 as regards drinking milk produced in Estonia ⁽¹³⁾.

(23) This Regulation should, as a general rule, apply from the date of its entry into force. However, in order to ensure that the provisions of this Regulation do not interfere with certain aids payable for the 2008/2009 or 2009/2010 marketing years, a later date of application should be provided for in respect of those provisions directly affecting the operation of schemes in sectors for which marketing years are envisaged. This Regulation should in such cases only apply as from the start of the later marketing years,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 247/2006

Article 16 of Regulation (EC) No 247/2006 is amended as follows:

1) The second subparagraph of paragraph 3 shall be deleted.

⁽¹⁾ OJ L 270, 21.10.2003, p. 1.

⁽²⁾ OJ L 42, 14.2.2006, p. 1.

⁽³⁾ OJ L 58, 28.2.2006, p. 42.

⁽⁴⁾ OJ L 265, 26.9.2006, p. 1.

⁽⁵⁾ OJ L 3, 5.1.2008, p. 1.

⁽⁶⁾ OJ L 148, 6.6.2008, p. 1.

⁽⁷⁾ OJ L 216, 5.8.1978, p. 1.

⁽⁸⁾ OJ L 126, 9.5.1989, p. 1.

⁽⁹⁾ OJ L 216, 27.7.1989, p. 5.

⁽¹⁰⁾ OJ L 187, 29.7.1993, p. 8.

⁽¹¹⁾ OJ L 190, 22.7.2005, p. 1.

⁽¹²⁾ OJ L 351, 23.12.1997, p. 12.

⁽¹³⁾ OJ L 84, 24.3.2007, p. 1.

2) The following paragraph shall be added:

‘4. Without prejudice to paragraphs 1 and 2 of this Article and by way of derogation from Article 180 of Regulation (EC) No 1234/2007 (*) and Article 3 of Regulation (EC) No 1184/2006 (**), Articles 87, 88 and 89 of the Treaty shall not apply to payments made under Title III, paragraph 3 of this Article and Articles 17 and 21 of this Regulation by Member States in conformity with this Regulation.

(*) Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (the Single CMO Regulation) (OJ L 299, 16.11.2007, p. 1).

(**) Council Regulation (EC) No 1184/2006 of 24 July 2006 applying certain rules of competition to the production of, and trade in, agricultural products (OJ L 214, 4.8.2006, p. 7)’.

Article 2

Amendments to Regulation (EC) No 320/2006

Regulation (EC) No 320/2006 is amended as follows:

1) Article 6(6) shall be replaced by the following:

‘6. Member States shall not grant national aid in respect of diversification measures provided for in this Article. However, if the ceilings referred to in the third subparagraph of paragraph 4 permit the granting of an aid for diversification of 100 %, the Member State concerned shall contribute at least 20 % of the eligible expenditure.’.

2) The following Article shall be inserted:

Article 13a

State aids

Without prejudice to Article 6(5) of this Regulation and by way of derogation from Article 180 of Regulation (EC) No 1234/2007 (*) and Article 3 of Regulation (EC) No 1184/2006 (**), Articles 87, 88 and 89 of the Treaty shall not apply to payments made under Articles 3, 6, 7, 8,

9 and 11 of this Regulation by Member States in conformity with this Regulation.

(*) Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (the Single CMO Regulation) (OJ L 299, 16.11.2007, p. 1).

(**) Council Regulation (EC) No 1184/2006 of 24 July 2006 applying certain rules of competition to the production of, and trade in, agricultural products (OJ L 214, 4.8.2006, p. 7)’.

Article 3

Amendment to Regulation (EC) No 1405/2006

The following paragraph shall be added to Article 11 of Regulation (EC) No 1405/2006:

‘3. Without prejudice to paragraphs 1 and 2 of this Article and by way of derogation from Article 180 of Regulation (EC) No 1234/2007 (*) and Article 3 of Regulation (EC) No 1184/2006 (**), Articles 87, 88 and 89 of the Treaty shall not apply to payments made under Articles 4 and 7 of this Regulation by Member States in conformity with this Regulation.

(*) Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (the Single CMO Regulation) (OJ L 299, 16.11.2007, p. 1).

(**) Council Regulation (EC) No 1184/2006 of 24 July 2006 applying certain rules of competition to the production of, and trade in, agricultural products (OJ L 214, 4.8.2006, p. 7)’.

Article 4

Amendments to Regulation (EC) No 1234/2007

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

1) Point (a) of Article 8(1) shall be replaced by the following:

‘(a) as regards the cereals sector, EUR 101,31 per tonne’;

2) Paragraph 2 of Article 10 shall be deleted;

- 3) Subsection II of Section II of Chapter I of Title I of Part II shall be replaced by the following:

‘Subsection II

Opening of buying-in

Article 11

Public intervention periods

Public intervention shall be available:

- (a) for cereals, from 1 November to 31 May;
- (b) for paddy rice, from 1 April to 31 July;
- (c) for sugar, throughout the marketing years 2008/2009 and 2009/2010;
- (d) for beef and veal, throughout any marketing year;
- (e) for butter and skimmed milk powder, from 1 March to 31 August.

Article 12

Opening of public intervention

1. During the periods referred to in Article 11, public intervention:

- (a) shall be open for common wheat;
- (b) shall be open for durum wheat, barley, maize, sorghum, paddy rice, sugar, butter and skimmed milk powder up to the intervention limits referred to in Article 13(1);
- (c) shall be opened for beef and veal by the Commission, without the assistance of the Committee referred to in Article 195(1), if the average market price for beef and veal over a representative period in a Member State or in a region of a Member State recorded on the basis of the Community scale for the classification of carcasses provided for in Article 42(1) is below EUR 1 560/tonne.

2. Public intervention for beef and veal, referred to in point (c) of paragraph 1, shall be closed by the Commission, without the assistance of the Committee referred to in Article 195(1), where, over a representative period, the conditions provided for in that point are no longer fulfilled.

Article 13

Intervention limits

1. Buying into public intervention shall be carried out within the following limits:

- (a) for durum wheat, barley, maize, sorghum and paddy rice, 0 tonnes for the periods referred to in Article 11(a) and (b) respectively;

- (b) for sugar, 600 000 tonnes, expressed in white sugar, for each marketing year;

- (c) for butter, 30 000 tonnes for each period referred to in Article 11(e);

- (d) for skimmed milk powder 109 000 tonnes for each period referred to Article 11(e).

2. Sugar stored in accordance with point (b) of paragraph 1 of this Article during a marketing year shall not be subject to any of the other storage measures provided for in Articles 32, 52 and 63.

3. By way of derogation from paragraph 1, for the products referred to in points (a), (c) and (d) of that paragraph, the Commission may decide to continue public intervention beyond the amounts referred to in that paragraph if the market situation and, in particular, the development of market prices, so requires.’

- 4) Subsection III of Section II of Chapter I of Title I of Part II shall be replaced by the following:

‘Subsection III

Intervention prices

Article 18

Intervention prices

1. The intervention price:

- (a) for common wheat shall be equal to the reference price for a maximum quantity offered of 3 million tonnes per intervention period as fixed in Article 11(a);
- (b) for butter shall be equal to 90 % of the reference price for amounts offered within the limit in Article 13(1)(c);
- (c) for skimmed milk powder shall be equal to the reference price for amounts offered within the limit in Article 13(1)(d).

2. The intervention prices and the quantities for intervention for the following products shall be determined by the Commission by means of tendering procedures:

- (a) common wheat for amounts in excess of the maximum quantity offered of 3 million tonnes per intervention period as fixed in Article 11(a);
- (b) durum wheat, barley, maize, sorghum and paddy rice, in application of Article 13(3);
- (c) beef and veal;
- (d) butter for amounts offered in excess of the limit in Article 13(1)(c), in application of Article 13(3), and

- (e) skimmed milk powder for amounts offered in excess of the limit in Article 13(1)(d), in application of Article 13(3).

In special circumstances, tendering procedures may be restricted to, or the intervention prices and the quantities for intervention may be fixed per, Member State or region of a Member State on the basis of recorded average market prices.

3. The maximum buying-in price determined in accordance with tendering procedures under paragraph 2 shall not be higher:

- (a) for cereals and paddy rice, than the respective reference prices;
- (b) for beef and veal, than the average market price recorded in a Member State or a region of a Member State increased by an amount to be determined by the Commission on the basis of objective criteria;
- (c) for butter, than 90 % of the reference price;
- (d) for skimmed milk powder, than the reference price.

4. The intervention prices referred to in paragraphs 1, 2 and 3 shall be:

- (a) for cereals, without prejudice to price increases or reductions for quality reasons, and
- (b) for paddy rice, increased or decreased accordingly if the quality of the products offered to the paying agency differs from the standard quality, defined in point A of Annex IV. Moreover, increases and reductions of the intervention price may be fixed by the Commission in order to ensure that production is orientated towards certain varieties.

5. The intervention price for sugar shall be 80 % of the reference price fixed for the marketing year following the marketing year during which the offer is lodged. However, if the quality of the sugar offered to the paying agency differs from the standard quality defined in point B of Annex IV for which the reference price is fixed, the intervention price shall be increased or reduced accordingly.

5) Point (b) of Article 28 shall be deleted.

6) Article 30 shall be deleted.

7) Article 31 shall be amended as follows:

- (a) point (e) of paragraph 1 shall be deleted;
- (b) in paragraph 2, the second subparagraph shall be deleted.

8) Article 36 shall be deleted.

9) Article 43 shall be amended as follows:

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

‘(a) the requirements and conditions to be met by products to be bought into public intervention as

referred to in Article 10 or for which aid for private storage is granted as referred to in Articles 28 and 31, in particular with respect to quality, quality groups, quality grades, categories, quantities, packaging including labelling, maximum ages, preservation, the stage of the products to which the intervention price relates, and the duration of private storage;’;

(b) the following point shall be added after point (a):

‘(aa) the respect of the maximum quantities and quantitative limits set out in Article 13(1) and point (a) of Article 18(1); in this context, the implementing rules may authorise the Commission to close buying-in at a fixed price, adopt allocation coefficients and, for common wheat, switch to the tendering procedure referred to in Article 18(2), without the assistance of the Committee referred to in Article 195(1);’.

10) Article 46(3) shall be deleted.

11) Article 55 shall be replaced by the following:

Article 55

Quota systems

1. A quota system shall apply to the following products:

- (a) milk and other milk products within the meaning of points (a) and (b) of Article 65;
- (b) sugar, isoglucose and inulin syrup;
- (c) potato starch which may benefit from Community aid.

2. As regards the quota systems referred to in points (a) and (b) of paragraph 1 of this Article, if a producer exceeds the relevant quota and, with regard to sugar, does not make use of the surplus quantities as provided for in Article 61, a surplus levy shall be payable on such quantities, subject to the conditions set out in Sections II and III.

12) In Article 72(2), ‘70 %’ shall be replaced by ‘85 %’.

13) The following subparagraph shall be added to Article 78(1):

‘However, for the twelve-month periods starting on 1 April 2009 and 1 April 2010, the surplus levy for milk delivered in excess of 106 % of the national quota for deliveries applicable for the twelve-month period starting on 1 April 2008 shall be set at 150 % of the levy referred to in the second subparagraph.’.

14) Article 80 shall be amended as follows:

- (a) the following subparagraph shall be added to paragraph 1:

‘At national level, the surplus levy shall be calculated on the basis of the sum of the deliveries, adjusted in accordance with the first subparagraph.’;

- (b) paragraph 2 shall be deleted;
- (c) the following subparagraph shall be added to paragraph 3:
- ‘Where the third subparagraph of Article 78(1) applies, Member States, in establishing each producer’s contribution to the amount of levy payable due to the application of the higher rate referred to in that subparagraph, shall ensure that this amount is contributed proportionately by the producers responsible according to objective criteria to be set by the Member State.’
- 15) The following Section shall be inserted in Chapter III of Title I of Part II:
- ‘Section IIIa
- Potato starch quotas**
- Article 84a*
- Potato starch quotas**
1. The potato starch producing Member States shall be allocated quotas for the marketing year during which the quota scheme applies in accordance with Article 204(5) and Annex Xa.
2. Each producer Member State referred to in Annex Xa shall allocate its quota among potato starch manufacturers for use in the marketing years concerned on the basis of the subquotas allocated to each manufacturer in 2007/2008.
3. An undertaking producing potato starch shall not conclude cultivation contracts with potato producers for a quantity of potatoes which would produce a quantity of starch in excess of its quota as referred to in paragraph 2.
4. Any potato starch produced in excess of the quota as referred to in paragraph 2 shall be exported, as such, from the Community before 1 January following the end of the marketing year in question. No export refund shall be paid in respect of it.
5. Notwithstanding paragraph 4, an undertaking producing potato starch may, in any marketing year, in addition to its quota for that year, utilise no more than 5 % of its quota relating to the following marketing year. In such case, the quota for the following marketing year shall be reduced accordingly.
6. The provisions of this Section shall not apply to the production of potato starch by undertakings which are not subject to paragraph 2 of this Article and which purchase potatoes for which producers do not benefit from the payment provided for in Article 77 of Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes under the Common Agricultural Policy and establishing certain support schemes for farmers ⁽¹⁾.
- ⁽¹⁾ See page 16 of this Official Journal.’
- 16) In Article 85, the following point shall be added:
- ‘(d) in respect of Section IIIa, mergers, changes of ownership and the commencement or cessation of trading of potato starch manufacturers.’
- 17) Subsection I of Section I of Chapter IV of Title I of Part II shall be deleted.
- 18) In Article 91(1), the first two subparagraphs shall be replaced by the following subparagraph:
- ‘Aid for processing the straw of long flax grown for fibre and the straw of short flax and hemp grown for fibre shall be granted for the 2009/2010 to 2011/2012 marketing years to authorised primary processors on the basis of the quantity of fibre actually obtained from straw for which a contract of sale has been concluded with a farmer.’
- 19) The first subparagraph of Article 92(1) shall be amended as follows:
- (a) the second indent of point (a) shall be replaced by the following two indents:
- at EUR 200 per tonne for the 2009/2010 marketing year; and
- at EUR 160 per tonne for the 2010/2011 and 2011/2012 marketing years.’
- (b) point (b) shall be replaced by the following:
- ‘(b) at EUR 90 per tonne for the 2009/2010, 2010/2011 and 2011/2012 marketing years for short flax and hemp fibre containing not more than 7,5 % impurities and shives.’
- 20) Article 94(1) shall be replaced by the following:
- ‘1. A maximum guaranteed quantity of 80 878 tonnes for each of the 2009/2010 to 2011/2012 marketing years shall be established for long flax fibre in respect of which aid may be granted. That quantity shall be apportioned among certain Member States as national guaranteed quantities in accordance with point A.I. of Annex XI.’
- 21) Article 94(1a) shall be replaced by the following:
- ‘1a. A maximum guaranteed quantity of 147 265 tonnes for each of the 2009/2010 to 2011/2012 marketing years shall be established for short flax fibre and hemp fibre in respect of which aid may be granted. That quantity shall be apportioned as national guaranteed quantities among certain Member States in accordance with point A.II. of Annex XI.’

22) The following subsection shall be inserted into Section I of Chapter IV of Title I of Part II:

‘Subsection III

Potato starch

Article 95a

Potato starch premium

1. A premium of EUR 22,25 per tonne of starch produced shall be paid for the 2009/2010, 2010/2011 and 2011/2012 marketing years to potato starch manufacturers for the quantity of potato starch up to the quota limit referred to in Article 84a(2), provided that they have paid to potato producers a minimum price for all the potatoes necessary to produce starch up to that quota limit.

2. The minimum price of potatoes intended for the manufacture of potato starch shall be set at EUR 178,31 per tonne for the marketing years concerned.

This price applies to the quantity of potatoes, delivered to the factory, which is needed to make one tonne of starch.

The minimum price shall be adjusted according to the starch content of the potatoes.

3. The Commission shall adopt the detailed rules for the implementation of this Subsection.’.

23) Article 96 shall be deleted.

24) Articles 99 and 100 shall be replaced by the following:

‘*Article 99*

Aid for skimmed milk and skimmed milk powder for use as feedingstuffs

1. When surpluses of milk products build up or are likely to occur, creating or likely to create a serious imbalance in the market, the Commission may decide that aid shall be granted for Community-produced skimmed milk and skimmed-milk powder intended for use as feedingstuffs, according to conditions and product standards to be determined by the Commission. The aid may be fixed in advance or by means of tendering procedures.

For the purposes of this Article, buttermilk and buttermilk powder shall be regarded as skimmed milk and skimmed-milk powder.

2. Aid amounts shall be fixed by the Commission taking into account the reference price fixed in point (e)(ii) of Article 8(1) for skimmed-milk powder, and the develop-

ment of the market situation as regards skimmed milk and skimmed-milk powder.

Article 100

Aid for skimmed milk processed into casein and caseinates

1. When surpluses of milk products build up or are likely to occur, creating or likely to create a serious imbalance in the market, the Commission may decide that aid shall be granted for Community-produced skimmed milk processed into casein and caseinates, according to conditions and product standards of such milk and the casein or caseinates produced from it to be determined by the Commission. The aid may be fixed in advance or by means of tendering procedures.

2. Aid shall be fixed by the Commission taking into account the development of the market situation for skimmed-milk powder and the reference price for skimmed-milk powder, fixed in point (e)(ii) of Article 8(1).

The aid may vary, according to whether the skimmed milk is processed into casein or caseinates and according to the quality of those products.’.

25) Article 101 shall be deleted.

26) Article 102(2) shall be replaced by the following:

‘2. Member States may, in addition to Community aid, grant national aid for supplying the products referred to in paragraph 1 to pupils in educational establishments. Member States may finance their national aid by means of a levy on the dairy sector or by any other contribution from the dairy sector.’.

27) The following section shall be inserted:

‘Section IIIa

Aids in the hops sector

Article 102a

Aids to producer organisations

1. The Community shall finance a payment to producer organisations in the hops sector recognised under Article 122 to finance the aims referred to in that Article.

2. The Community financing per year for the payment to producer organisations shall be EUR 2 277 000 for Germany.

3. The Commission shall adopt the detailed rules for the implementation of this Section.’.

28) Article 103 shall be amended as follows:

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

'1. The Community shall finance three-year work programmes to be drawn up by the operator organisations referred to in Article 125 in one or more of the following areas:'

(b) the following paragraph shall be inserted:

'1a. The Community financing per year of the work programmes shall be:

(a) EUR 11 098 000 for Greece,

(b) EUR 576 000 for France, and

(c) EUR 35 991 000 for Italy.'

29) Article 103e(2) shall be deleted.

30) Article 105(2) shall be replaced by the following:

'2. Member States may pay specific national aids for the protection of apiaries disadvantaged by structural or natural conditions or under economic development programmes, except for those allocated for production or trade. These aids shall be notified to the Commission by Member States together with the communication of the apiculture programme in accordance with Article 109.'

31) Article 119 shall be replaced by the following:

'Article 119

Use of casein and caseinate in the manufacture of cheese

Where aid is paid under Article 100, the Commission may make the use of casein and caseinates in the manufacture of cheese subject to prior authorisation which shall be granted only if such use is a necessary condition for the manufacture of the products.'

32) The following paragraph shall be added to Article 122:

'Member States may also recognise producer organisations constituted by producers in any sector referred to in Article 1, other than those sectors referred to in point (a) of the first paragraph, on the conditions set out in points (b) and (c) of that paragraph.'

33) Article 124(1) shall be replaced by the following:

'1. Article 122 and Article 123(1) shall apply without prejudice to the recognition, decided by Member States on the basis of national law and in compliance with Community law, of producer organisations or interbranch organisations respectively, in any sector referred to in Article 1

except for the sectors referred to in point (a) of the first paragraph of Article 122 and in Article 123(1).'

34) Article 180 shall be replaced by the following:

'Article 180

Application of Articles 87, 88 and 89 of the Treaty

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

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

35) The following paragraph shall be added to Article 182:

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

36) The following point shall be added to Article 184:

'6) before 31 December 2010 and 31 December 2012 to the European Parliament and Council regarding the evolution of the market situation and the consequent conditions for smoothly phasing out the milk quota system, accompanied if necessary by appropriate proposals. Furthermore, a report will study the consequences for producers of cheeses with a protected designation of origin in accordance with Regulation (EC) No 510/2006.'

37) The following paragraph shall be added to Article 204:

'5. As regards potato starch, Section IIIa of Chapter III of Title I of Part II shall apply until the end of the 2011/2012 marketing year for potato starch.'

38) Point 1 of Annex IX shall be replaced by the text in Annex I to this Regulation.

39) The text of Annex II to this Regulation shall be inserted as Annex Xa.

40) The text of Annex III to this Regulation shall be inserted in Annex XXII as point 20a.

Article 5

Amendment to Regulation (EC) No 3/2008

Article 13(6) of Regulation (EC) No 3/2008 shall be replaced by the following:

‘6. By way of derogation from Article 180 of Regulation (EC) No 1234/2007 (*) and Article 3 of Regulation (EC) No 1184/2006 (**), Articles 87, 88 and 89 of the Treaty shall not apply to payments made by Member States, including their financial participations, nor to the financial participations from parafiscal charges or mandatory contributions of Member States or proposing organisations for programmes eligible for Community support under Article 36 of the Treaty, that the Commission has selected in accordance with Article 8(1) of this Regulation.

(*) Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (the Single CMO Regulation) (OJ L 299, 16.11.2007, p. 1).

(**) Council Regulation (EC) No 1184/2006 of 24 July 2006 applying certain rules of competition to the production of, and trade in, agricultural products (OJ L 214, 4.8.2006, p. 7).

Article 6

Amendment to Regulation (EC) No 479/2008

Article 127(2) of Regulation (EC) No 479/2008 shall be replaced by the following:

‘2. Without prejudice to the maximum aid rates referred to in the second subparagraph of Article 8(4) of this Regulation, Articles 87, 88 and 89 of the Treaty shall not apply to payments made under Title II, Chapter III of Title V, and Article 119 of this Regulation by Member States in conformity with this Regulation.’

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

Done at Brussels, 19 January 2009.

Article 7

Repeals

1. Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93 and (EC) No 1182/2005 shall be repealed.

2. Regulations (EC) No 2596/97 and (EC) No 315/2007 shall be repealed with effect from 1 May 2009.

3. Regulation (EC) No 1868/94 shall be repealed with effect from 1 July 2009.

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

Article 8

Entry into force

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

However:

- (a) Points 5 to 8, 12 to 14 and 38 of Article 4 shall apply from 1 April 2009;
- (b) Points 11, 15, 16, 18 to 25, 31, 37 and 39 of Article 4 shall apply from 1 July 2009;
- (c) Points 1, 3, 4, and 9(b) of Article 4 shall apply from:
 - (i) 1 July 2009, as regards durum wheat,
 - (ii) 1 September 2009, as regards the rice sector,
 - (iii) 1 October 2009, as regards the sugar sector,
 - (iv) 1 July 2010, as regards common wheat, barley, maize and sorghum,
- (d) Point 27 of Article 4 shall apply from 1 January 2011;
- (e) Point 17 of Article 4 shall apply from 1 April 2012.

For the Council

The President

P. GANDALOVIČ

ANNEX I

*1. National quotas: quantities (tonnes) per twelve-month period per Member State:

Member State	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
Belgium	3 427 288,740	3 461 561,627	3 496 177,244	3 531 139,016	3 566 450,406	3 602 114,910	3 602 114,910
Bulgaria	998 580,000	1 008 565,800	1 018 651,458	1 028 837,973	1 039 126,352	1 049 517,616	1 049 517,616
Czech Republic	2 792 689,620	2 820 616,516	2 848 822,681	2 877 310,908	2 906 084,017	2 935 144,857	2 935 144,857
Denmark	4 612 619,520	4 658 745,715	4 705 333,172	4 752 386,504	4 799 910,369	4 847 909,473	4 847 909,473
Germany	28 847 420,391	29 135 894,595	29 427 253,541	29 721 526,076	30 018 741,337	30 318 928,750	30 318 928,750
Estonia	659 295,360	665 888,314	672 547,197	679 272,669	686 065,395	692 926,049	692 926,049
Ireland	5 503 679,280	5 558 716,073	5 614 303,234	5 670 446,266	5 727 150,729	5 784 422,236	5 784 422,236
Greece	836 923,260	845 292,493	853 745,418	862 282,872	870 905,700	879 614,757	879 614,757
Spain	6 239 289,000	6 301 681,890	6 364 698,709	6 428 345,696	6 492 629,153	6 557 555,445	6 557 555,445
France	25 091 321,700	25 342 234,917	25 595 657,266	25 851 613,839	26 110 129,977	26 371 231,277	26 371 231,277
Italy	10 740 661,200	11 288 542,866	11 288 542,866	11 288 542,866	11 288 542,866	11 288 542,866	11 288 542,866
Cyprus	148 104,000	149 585,040	151 080,890	152 591,699	154 117,616	155 658,792	155 658,792
Latvia	743 220,960	750 653,170	758 159,701	765 741,298	773 398,711	781 132,698	781 132,698
Lithuania	1 738 935,780	1 756 325,138	1 773 888,389	1 791 627,273	1 809 543,546	1 827 638,981	1 827 638,981
Luxembourg	278 545,680	281 331,137	284 144,448	286 985,893	289 855,752	292 754,310	292 754,310
Hungary	2 029 861,200	2 050 159,812	2 070 661,410	2 091 368,024	2 112 281,704	2 133 404,521	2 133 404,521
Malta	49 671,960	50 168,680	50 670,366	51 177,070	51 688,841	52 205,729	52 205,729
Netherlands	11 465 630,280	11 580 286,583	11 696 089,449	11 813 050,343	11 931 180,847	12 050 492,655	12 050 492,655
Austria	2 847 478,469	2 875 953,254	2 904 712,786	2 933 759,914	2 963 097,513	2 992 728,488	2 992 728,488
Poland	9 567 745,860	9 663 423,319	9 760 057,552	9 857 658,127	9 956 234,709	10 055 797,056	10 055 797,056
Portugal	1 987 521,000	2 007 396,210	2 027 470,172	2 047 744,874	2 068 222,323	2 088 904,546	2 088 904,546
Romania	3 118 140,000	3 149 321,400	3 180 814,614	3 212 622,760	3 244 748,988	3 277 196,478	3 277 196,478

Member State	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
Slovenia	588 170,760	594 052,468	599 992,992	605 992,922	612 052,851	618 173,380	618 173,380
Slovakia	1 061 603,760	1 072 219,798	1 082 941,996	1 093 771,416	1 104 709,130	1 115 756,221	1 115 756,221
Finland	2 491 930,710	2 516 850,017	2 542 018,517	2 567 438,702	2 593 113,089	2 619 044,220	2 619 044,220
Sweden	3 419 595,900	3 453 791,859	3 488 329,778	3 523 213,075	3 558 445,206	3 594 029,658	3 594 029,658
United Kingdom	15 125 168,940	15 276 420,629	15 429 184,836	15 583 476,684	15 739 311,451	15 896 704,566	15 896 704,566

ANNEX II

‘ANNEX Xa

Potato starch quotas per marketing year as referred to in Article 84a

Member State	(tonnes)
Czech Republic	33 660
Denmark	168 215
Germany	656 298
Estonia	250
Spain	1 943
France	265 354
Latvia	5 778
Lithuania	1 211
Netherlands	507 403
Austria	47 691
Poland	144 985
Slovakia	729
Finland	53 178
Sweden	62 066
TOTAL	1 948 761'

ANNEX III

'20a. Regulation (EEC) No 1868/94

Regulation (EEC) No 1868/94	This Regulation
Article 1	Article 55(1)(c)
Article 2(1) and (2), first subparagraph	Article 84a(1) and (2)
Article 4	Article 84a(3)
Article 4a	Article 95a(2)
Article 5	Article 95a(1)
Article 6	Article 84a(4) and (5)
Article 7	Article 84a(6)
Article 8	Articles 85(d) and 95a(3)'