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Subject: Proposal for a Regulation of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products (Single CMO Regulation) (*CAP Reform*)  
*- Presidency's further set of suggested amendments*

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With a view to the Working Party on Horizontal Agricultural Questions on 26-27 September 2012, delegations will find attached in Annex a further set of amendments prepared by the Presidency.

These changes relate to the specific provisions on:

- **adult bovine definition** (Articles 7 to 20 and Annex IIIa) in **Annex I**,
- **aid in the apiculture sector** (Articles 52-54) in **Annex II**, and
- **milk package** (Articles 104-116, 143-145a, 157-158, 160-165 and related correlation table) in **Annex III**.

The changes compared to the previous version of the Presidency texts (docs 10889/12 and 12715/12) are marked in ***bold and italics*** and **~~strikethrough~~**.

Delegations will be invited to take a view on these further suggested amendments.

*Article 7*

***Reference prices***

The following reference prices are fixed:

- (a) as regards the cereals sector, EUR 101,31/tonne, related to the wholesale stage for goods delivered to the warehouse, before unloading;
- (b) as regards paddy rice, EUR 150/tonne for the standard quality as defined in point A of Annex III, related to the wholesale stage for goods delivered to the warehouse, before unloading;
- (c) as regards sugar of standard quality as defined in point B of Annex III, related to unpacked sugar, ex-factory:
  - (i) for white sugar: EUR 404,4/tonne;
  - (ii) for raw sugar: EUR 335,2/tonne.
- (d) as regards the beef and veal sector, EUR 2 224/tonne for carcasses of male bovine animals of grade R3 as laid down in the Union scale for the classification of carcasses of ~~adult bovine animals~~ **bovines aged 8 months or more** referred to in point A of Annex IIIa;
- (e) as regards the milk and milk products sector:
  - (i) EUR 246,39 per 100 kg for butter;
  - (ii) EUR 169,80 per 100 kg for skimmed milk powder;
- (f) as regards pigmeat, EUR 1 509,39/tonne for pig carcasses of a standard quality defined in terms of weight and lean meat content as laid down in the Union scale for the classification of pig carcasses referred to in point B of Annex IIIa as follows:
  - (i) carcasses weighing from 60 to less than 120 kg: grade E;
  - (ii) carcasses weighing from 120 to 180 kg: grade R.

PART II  
INTERNAL MARKET  
TITLE I  
MARKET INTERVENTION

CHAPTER I  
**Public intervention and aid for private storage**

Section 1  
General provisions on public intervention and aid for private storage

*Article 8*

***Scope***

This Chapter lays down rules on market intervention concerning:

- (a) public intervention, where products are bought-in by the competent authorities of the Member States and stored by them until disposed of, and
- (b) granting of aid for the storage of products by private operators.

*Article 9*

***Origin of eligible products***

Products eligible for buying-in under public intervention or for the granting of aid for private storage shall originate in the Union. In addition, if they come from crops, those crops shall have been harvested in the Union and if they come from milk, that milk shall have been produced in the Union.

*Article 9a*

*Union scales for the classification of carcasses*

Union scales for the classification of carcasses shall apply in accordance with Annex IIIa in the beef and veal sector as regards carcasses of ~~adult bovine animals~~ **bovines aged 8 months or more** and in the pigmeat sector as regards pigs other than those that have been used for breeding.

In the sheepmeat and goatmeat sector Member States may apply a Union scale for the classification of sheep carcasses in accordance with the rules laid down in point C of Annex IIIa.

SECTION 2  
PUBLIC INTERVENTION

*Article 10*

***Products eligible for public intervention***

Public intervention shall apply in respect of the following products subject to the conditions laid down in this Section and requirements and conditions to be determined by the Commission, by means of delegated acts pursuant to Article 18 and implementing acts pursuant to Article 19:

- (a) common wheat, barley and maize;
- (b) paddy rice;
- (c) fresh or chilled meat of the beef and veal sector falling within CN codes 0201 10 00 and 0201 20 20 to 0201 20 50;
- (d) butter produced directly and exclusively from pasteurised cream obtained directly and exclusively from cow's milk in an approved undertaking in the Union of a minimum butterfat content, by weight, of 82 % and a maximum water content, by weight, of 16 %;
- (e) skimmed milk powder of top quality made from cow's milk in an approved undertaking in the Union by the spray process, with a minimum protein-content of 34,0 % by weight of the fat free dry matter.

*Article 11*

***Public intervention periods***

Public intervention shall be available for:

- (a) common wheat, barley and maize, from 1 November to 31 May;
- (b) paddy rice, from 1 April to 31 July;
- (c) beef and veal, throughout the year;
- (d) butter and skimmed milk powder, from 1 March to 31 August.

*Article 12*

***Opening and closing of public intervention***

1. During the periods referred to in Article 11, public intervention:
  - (a) shall be open for common wheat, butter and skimmed milk powder;
  - (b) may be opened by the Commission, by means of implementing acts, for barley, maize, and paddy rice (including specific varieties or types of paddy rice), if the market situation so requires. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 162(2);
  - (c) may be opened for the beef and veal sector by the Commission, by means of implementing acts adopted without applying the procedure referred to in Article 162(2) or (3), if the average market price over a representative period adopted pursuant to Article 19(a) in a Member State or in a region of a Member State recorded on the basis of the Union scale for the classification of carcasses referred to in point A of Annex IIIa is below EUR 1 560/tonne.
  
2. The Commission may, by means of implementing acts adopted without applying the procedure referred to in Article 162(2) or (3), close public intervention for the beef and veal sector, where, over a representative period adopted pursuant to point (a) of Article 19, the conditions provided for in point (c) of paragraph 1 of this Article are no longer fulfilled.

*Article 13*

***Buying-in at a fixed price or tendering***

1. Where public intervention is open pursuant to point (a) of Article 12(1), buying-in shall be carried out at a fixed price within the following limits for each period referred to in Article 11:
  - (a) for common wheat, 3 million tonnes;
  - (b) for butter, 30 000 tonnes;
  - (c) for skimmed milk powder, 109 000 tonnes.
  
2. Where public intervention is open pursuant to Article 12(1), buying-in shall be carried out by way of a tendering procedure to determine the maximum buying-in price:
  - (a) for common wheat, butter and skimmed milk powder beyond the limits referred to in paragraph 1,
  - (b) for barley, maize, paddy rice and beef and veal.

In special and duly justified circumstances, the Commission may, by means of implementing acts, restrict tendering procedures to a Member State or region of a Member State, or, subject to Article 14(2), determine the buying-in prices for public intervention per Member State or region of a Member State on the basis of recorded average market prices. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 162(2).

*Article 14*

***Public intervention prices***

1. Public intervention price shall mean:
  - (a) the price at which products shall be bought-in under public intervention where this is done at a fixed price, or
  - (b) the maximum price at which products eligible for public intervention may be bought-in where this is done by tendering.
  
2. The level of the public intervention price:
  - (a) for common wheat, barley, maize, paddy rice and skimmed milk powder shall be equal to the respective reference prices fixed in Article 7 in the case of buying-in at a fixed price and shall not exceed the respective reference prices in the case of buying-in by tendering;
  - (b) for butter shall be equal to 90 % of the reference price fixed in Article 7 in the case of buying-in at a fixed price and shall not exceed 90 % of the reference price in the case of buying-in by tendering;
  - (c) for beef and veal, shall not exceed the price referred to in point (c) of Article 12(1).
  
3. The public intervention prices referred to in paragraphs 1 and 2 shall be without prejudice to price increases or reductions for quality reasons for common wheat, barley, maize and paddy rice. Moreover, in order to ensure that production is orientated towards certain varieties of paddy rice, the Commission shall be empowered to adopt delegated acts in accordance with Article 160 fixing increases and reductions of the public intervention price.



*Article 15*

***General principles on disposal from public intervention***

Disposal of products bought in under public intervention shall take place in such a way as to:

- (a) avoid any disturbance of the market,
- (b) ensure equal access to goods and equal treatment of purchasers and
- (c) be in compliance with the commitments resulting from international agreements concluded in accordance with the Treaty.

Products may be disposed of by making them available for the scheme for food distribution to the most deprived in the Union if a Union act provides for such a scheme and for the disposal of products to that end. In that case, the accounting value of such products shall be at the level of the relevant fixed public intervention price referred to in Article 14(2).

SECTION 3  
AID FOR PRIVATE STORAGE

*Article 16*

***Products eligible***

Aid for private storage may be granted in respect of the following products subject to the conditions set out in this Section and to requirements and conditions to be adopted by the Commission, by means of delegated acts pursuant to Article 18 and implementing acts pursuant to Articles 17 and 19:

- (a) white sugar;
- (b) olive oil;
- (c) flax fibre;
- (d) fresh or chilled meat of ~~adult bovine animals~~ ***bovines aged 8 months or more***;
- (e) butter produced from cream obtained directly and exclusively from cow's milk;
- (f) skimmed milk powder made from cow's milk;
- (g) pigmeat;
- (h) sheepmeat and goatmeat.

*Article 17*

***Conditions for granting aid***

1. In order to provide for market transparency, where necessary, the Commission shall be empowered to adopt delegated acts in accordance with Article 160 laying down the conditions under which it may decide to grant private storage aid for the products listed in Article 16, taking into account average recorded Union market prices and the reference prices for the products concerned or the need to respond to a particularly difficult market situation or economic developments in the sector in one or more Member States.

2. The Commission may, by means of implementing acts, decide to grant private storage aid for the products listed in Article 16, taking into account the conditions referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 162(2).
3. The Commission shall, by means of implementing acts, fix the aid for private storage provided for in Article 16 in advance or by means of tendering procedures. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 162(2).
4. The Commission may, by means of implementing acts, restrict the granting of private storage aid or fix the private storage aid per Member State or region of a Member State on the basis of recorded average market prices. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 162(2).

SECTION 4  
COMMON PROVISIONS ON PUBLIC INTERVENTION AND  
AID FOR PRIVATE STORAGE

*Article 18*

***Delegated powers***

- [1. deleted]
2. In order to ensure that products bought in under public intervention or subject to aid for private storage are suitable for long-term storage and of fair, sound and marketable quality and to take into account the specificities of the different sectors for the purposes of ensuring the cost-effective operation of public intervention and private storage, the Commission shall be empowered to adopt delegated acts in accordance with Article 160 laying down the requirements and conditions to be met by those products, in addition to the requirements laid down in this Regulation. Those requirements and conditions shall aim to guarantee, for the products bought in and stored:
- (a) their quality with respect to quality parameters, quality groups, quality grades, categories and maximum ages;
  - (b) their eligibility, with respect to quantities, packaging including labelling, preservation, approval of undertakings and the stage of the products to which the public intervention price and the aid for private storage applies.

3. In order to ensure the price increases and reductions referred to in Article 14(4) for quality reasons, as regards cereals, and if the quality of the product offered differs from the standard quality, as regards rice, the Commission may, by means of delegated acts, adopt the applicable price increases or reductions taking into account the main characteristics and quality criteria for cereals and rice, which allow an objective assessment of the quality and its related price.
- [4. deleted]
5. In order to ensure appropriate storage capacity and the efficiency of the public intervention system in terms of cost effectiveness, distribution and access for operators, and to maintain the quality of products bought in under public intervention for their disposal at the end of the storage period, the Commission shall be empowered to adopt delegated acts in accordance with Article 160 laying down:
- (a) the requirements to be met by storage places for all products subject to public intervention;
  - (c) rules on storage of products inside and outside the Member State responsible for them and for treatment of such products as regards customs duties and any other amounts to be granted or levied under the CAP.
6. In order to ensure that aid for private storage has the desired effect on the market, the Commission shall be empowered to adopt delegated acts in accordance with Article 160 laying down:
- (a) measures for reducing the amount of aid to be paid where the quantity stored is lower than the contracted quantity;
  - (b) the conditions for granting of an advance payment of such aid.

7. In order to ensure the proper functioning of the public intervention and or private storage systems, the Commission shall be empowered to adopt delegated acts in accordance with Article 160:
- (a) providing for the use of tendering procedures guaranteeing equal access to goods and equal treatment of operators;
  - (b) laying down the additional conditions to be fulfilled by operators in order to facilitate the effective management and control of the system for Member States and operators;
  - (c) laying down the obligation to lodge a security guaranteeing the execution of operators' obligations.
8. In order to take account of technical developments and of the needs of sectors referred to in Article 9a, as well as the need to standardise the presentation of the different products for the purposes of improving market transparency, price recording and the application of the market intervention measures, the Commission shall be empowered to adopt delegated acts in accordance with Article 160 adapting and updating the provisions of Annex IIIa on the Union scales for the classification, identification and presentation of carcasses and:
- (a) laying down supplementary provisions relating to classification (including by qualified classifiers), grading (including by automated grading techniques), identification, weighing and marking of carcasses and on the calculation of average Union prices and the weighting coefficients used in the calculation of those prices;
  - (b) laying down derogations from provisions and specific derogations which may be granted by Member States to slaughterhouses in which few bovine animals are slaughtered, and additional provisions for the products concerned, including such regarding the classes of conformation and fat cover in the beef and veal sector and further provisions as regards weight, colour of meat and fat cover and the criteria for the classification of light lambs in sheep-meat sector;

(c) providing Member States the authorisation not to make application of the grading scale for pig carcass classification and to use assessment criteria in addition to weight and estimated lean-meat content.

9. Taking into account the need to ensure the accuracy and reliability of the classification of carcasses, the Commission may, by means of delegated acts, provide for the review of the application of classification of carcasses in Member States by a Union committee composed of experts from the Commission and experts appointed by the Member States. Those provisions **may shall** provide for the Union to bear the costs resulting from the review activity.

#### *Article 19*

#### ***Implementing powers in accordance with the examination procedure***

The Commission shall, by means of implementing acts, adopt the measures necessary for the uniform application of this Chapter throughout the Union which may, in particular, concern the following:

- (aa) the costs payable by the operator where products delivered for public intervention do not meet the minimum quality requirements;
- (ab) the fixing of minimum storage capacity for intervention storage places;
- (a) the representative periods, markets and market prices necessary for the application of this Chapter;
- (b) the delivery of the products to be bought-in under public intervention, the transport costs to be borne by the offerer, the taking over of the products by paying agencies and the payment;

- (c) the different operations connected with the boning process for the beef and veal sector;
- (ca) the practical modalities for packaging, marketing and labelling of products;
- (cb) the procedures for the approval of undertakings producing butter and skimmed milk powder for the purposes of this Chapter;
- (d) any authorisation of storage outside the territory of the Member State where the products have been bought-in and stored;
- (e) the sale or disposal of products bought-in under public intervention, in particular, regarding selling prices, the conditions for removal from storage, the subsequent use or destination of products released, including procedures relating to products made available for use in a scheme referred to in the second paragraph of Article 15, including transfers between Member States;
- (ea) in respect of products bought in under public intervention, the provisions relating to sale of small quantities remaining in storage or quantities which may no longer be repackaged or are deteriorated in the Member States, to be carried out under their own responsibility;
- (f) in respect of private storage, the conclusion and the content of contracts between the competent authority of the Member State and the applicants;
- (g) the placing and keeping of products in private storage and their removal from storage;
- (h) the duration of the private storage period and the provisions according to which such periods, once specified in the contracts, may be curtailed or extended;
- (i) the provisions according to which it may be decided that products covered by private storage contracts may be re-marketed or disposed of;
- (j) the procedures to be followed for buying-in at a fixed price, including the procedures for and amount of the security to be lodged or for the granting of aid fixed in advance for private storage;



- (k) the use of tendering procedures, both for public intervention and for private storage, in particular concerning:
  - (i) the submission of offers or tenders, and the minimum quantity for an application or submission;
  - (ia) procedures for and the amount of the security to be lodged; and
  - (ii) selection of offers ensuring that preference is given to those which are most favourable to the Union whilst permitting that the award of a contract does not necessarily ensue.
- (l) the implementation of Union scales for the classification of beef, pig and sheep carcasses;
- (m) a different presentation of carcasses and half carcasses than the one laid down in point A.IV of Annex IIIa for the purpose of establishing market prices;
- (n) the corrective factors to be applied by Member States to be used for a different presentation of beef and sheep carcasses in case of the reference presentation is not used;
- (o) the practical modalities for marking of classified carcasses and for the calculation by the Commission of the weighted average Union price for beef, pig and sheep carcasses;
- (p) the authorisation of Member States to provide, with regard to pigs slaughtered in their territory, for a different presentation of pig carcasses than the one laid down in point B.III of Annex IIIa, if one of the following conditions is fulfilled:
  - (i) normal commercial practice in their territory differs from the standard presentation defined in the first subparagraph;
  - (ii) technical requirements warrant it;
  - (iii) carcasses are deheaded in a uniform manner.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 162(2).

*Article 20*

***Other implementing powers***

The Commission shall adopt, without applying the procedure referred to in Article 162(2) or (3), implementing acts necessary in order to:

- (a) respect the intervention limits set out in Article 13(1); and
- (b) apply the tendering procedure referred to in Article 13(2) for common wheat, butter and skimmed milk powder beyond the quantities set out in Article 13(1).
- (c) authorise Member States to use for lambs of less than 13 kg carcass weight, by way of derogation from point C.III.1 of Annex IIIa, the following criteria for classification:
  - (i) carcass weight;
  - (ii) colour of meat;
  - (iii) fat cover.

## ANNEX II

### DEFINITIONS REFERRED TO IN ARTICLE 3(1)

#### Part I: Definitions concerning the rice sector

- I. The terms ‘paddy rice’, ‘husked rice’, ‘semi-milled rice’, ‘wholly milled rice’, ‘round grain rice’, ‘medium grain rice’, ‘long grain rice A or B’ and ‘broken rice’ shall be defined as follows:
1. (a) ‘Paddy rice’ means rice which has retained its husk after threshing.
  - (b) ‘Husked rice’ means paddy rice from which only the husk has been removed. Examples of rice falling within this definition are those with the commercial descriptions ‘brown rice’, ‘cargo rice’, ‘loonzain’ and ‘riso sbramato’.
  - (c) ‘Semi-milled rice’ means paddy rice from which the husk, part of the germ and the whole or part of the outer layers of the pericarp but not the inner layers have been removed.
  - (d) ‘Wholly milled rice’ means paddy rice from which the husk, the whole of the outer and inner layers of the pericarp, the whole of the germ in the case of long grain or medium grain rice and at least part thereof in the case of round grain rice have been removed, but in which longitudinal white striations may remain on not more than 10 % of the grains.
2. (a) ‘Round grain rice’ means rice, the grains of which are of a length not exceeding 5,2 mm and of a length/width ratio of less than 2.
  - (b) ‘Medium grain rice’ means rice, the grains of which are of a length exceeding 5,2 mm but not exceeding 6,0 mm and of a length/width ratio no greater than 3.
  - (c) ‘Long grain rice’ means:
    - (i) long grain rice A, rice, the grains of which are of a length exceeding 6,0 mm and of a length/width ratio is greater than 2 but less than 3;
    - (ii) long grain rice B, rice, the grains of which are of a length exceeding 6,0 mm and of a length/width ratio is equal to or greater than 3.
  - (d) ‘Measurements of the grains’ means grain measurements on wholly milled rice taken by the following method:
    - (i) take a sample representative of the batch;

- (ii) sieve the sample so as to retain only whole grains, including immature grains;
- (iii) carry out two measurements of 100 grains each and work out the average;
- (iv) express the result in millimetres, rounded off to one decimal place.

3. 'Broken rice' means grain fragments the length of which does not exceed three quarters of the average length of the whole grain.

II. As regards grains and broken grains which are not of unimpaired quality, the following definitions shall apply:

A. 'Whole grains' means grains from which only part of the end has been removed, irrespective of characteristics produced at each stage of milling.

B. 'Clipped grains' means grains from which the entire end has been removed.

C. 'Broken grains or fragments' means grains from which a part of the volume greater than the end has been removed; broken grains include:

large broken grains (pieces of grain of a length not less than half that of a grain, but not constituting a complete grain),

medium broken grains (pieces of grain of a length not less than a quarter of the length of a grain but which are smaller than the minimum size of 'large broken grains'),

fine broken grains (pieces of grain less than a quarter of the size of a grain but too large to pass through a sieve with a mesh of 1,4 mm),

fragments (small pieces or particles of grain which can pass through a sieve with a mesh of 1,4 mm); split grains (pieces produced by a longitudinal split in the grain) come under this definition.

D. 'Green grains' means grains which are not fully ripened.

E. 'Grains showing natural malformation' means grains showing a natural malformation whether or not of hereditary origin, as compared with the morphological characteristics typical of the variety.

F. 'Chalky grains' means grains at least three-quarters of the surface of which looks opaque and chalky.

- G. ‘Grains striated with red’ means grains showing longitudinal red striations of differing intensity and shades, due to residues from the pericarp.
- H. ‘Spotted grains’ means grains showing a well-defined small circle of dark colour of more or less regular shape; spotted grains also include those which show slight black striations on the surface only; the striations and spots must not show a yellow or dark aureole.
- I. ‘Stained grains’ means grains which have undergone, on a small area of their surface, an obvious change in their natural colour; the stains may be of different colours (blackish, reddish, brown); deep black striations are also to be regarded as stains. If the colour of the stains is sufficiently marked (black, pink, reddish-brown) to be immediately visible and if they cover an area not less than half that of the grain, the grains must be considered to be yellow grains.
- J. ‘Yellow grains’ means grains which have undergone, totally or partially, otherwise than by drying, a change in their natural colour and have taken on a lemon or orange-yellow tone.
- K. ‘Amber grains’ means grains which have undergone, otherwise than by drying, a slight uniform change in colour over the whole surface; this change alters the colour of the grains to a light amber-yellow.

## **Part II: Definitions concerning the hops sector**

1. ‘hops’ means the dried inflorescences, also known as cones, of the (female) climbing hop plant (*Humulus lupulus*); these inflorescences, which are greenish yellow and of an ovoid shape, have a flower stalk and their longest dimension generally varies from 2 to 5 cm;
2. ‘hop powder’ means the product obtained by milling the hops, containing all the natural elements thereof;
3. ‘hop powder with higher lupulin content’ means the product obtained by milling the hops after mechanical removal of a part of the leaves, stalks, bracts and rachides;
4. ‘extract of hops’ means the concentrated products obtained by the action of a solvent on the hops or on the hop powder;
5. ‘mixed hop products’ means a mixture of two or more of the products referred to in points (1) to (4).

### Part III: Definitions concerning the wine sector

#### Vine-related

1. “Grubbing-up” means the complete elimination of all vine stocks on an area planted with vines.
2. “Planting” means the definitive establishment of vine plants or parts of vine plants, whether or not grafted, with a view to producing grapes or to establishing a graft nursery.
3. “Grafting-on” means the grafting of a vine which has already been subject to a previous grafting.

#### Produce-related

4. “Fresh grapes” means the fruit of the vine used in making wine, ripe or even slightly raisined, which may be crushed or pressed by normal wine-cellar means and which may spontaneously produce alcoholic fermentation.
5. “Fresh grape must with fermentation arrested by the addition of alcohol” means a product which:
  - (a) has an actual alcoholic strength of not less than 12 % volume and not more than 15 % volume;
  - (b) is obtained by addition to unfermented grape must, which has a natural alcoholic strength of not less than 8,5 % volume and is exclusively derived from wine grape varieties classifiable according to Article 63(2):
    - (i) either of neutral alcohol of vinous origin, including alcohol obtained from the distillation of dried grapes, having an actual alcoholic strength of not less than 96 % volume;
    - (ii) or of an unrectified product derived from the distillation of wine and having an actual alcoholic strength of not less than 52 % volume and not more than 80 % volume.
6. “Grape juice” means the unfermented but fermentable liquid product which:
  - (a) is obtained by appropriate treatment rendering it fit for consumption as it is;
  - (b) is obtained from fresh grapes or from grape must or by reconstitution. Where obtained by reconstitution, it shall be reconstituted from concentrated grape must or concentrated grape juice.

An actual alcoholic strength of the grape juice of not more than 1 % volume is permissible.

7. “Concentrated grape juice” means uncaramelised grape juice obtained by partial dehydration of grape juice carried out by any authorised method other than by direct heat in such a way that the figure indicated by a refractometer used in accordance with a method to be prescribed at a temperature of 20 °C is not less than 50,9 %.

An actual alcoholic strength of the concentrated grape juice of not more than 1 % volume is permissible.

8. “Wine lees” means the residue:
- (a) accumulating in vessels containing wine after fermentation, during storage or after authorised treatment;
  - (b) obtained from filtering or centrifuging the product referred to in (a);
  - (c) accumulating in vessels containing grape must during storage or after authorised treatment; or
  - (d) obtained from filtering or centrifuging the product referred to in (c).
9. “Grape marc” means the residue from the pressing of fresh grapes, whether or not fermented.
10. “Piquette” means a product obtained by:
- (a) the fermentation of untreated grape marc macerated in water; or
  - (b) leaching fermented grape marc with water.
11. “Wine fortified for distillation” means a product which:
- (a) has an actual alcoholic strength of not less than 18 % volume and not more than 24 % volume;
  - (b) is obtained exclusively by the addition to wine containing no residual sugar of an unrectified product derived from the distillation of wine and having a maximum actual alcoholic strength of 86 % volume; or
  - (c) has a maximum volatile acidity of 1,5 grams per litre, expressed as acetic acid.

12. “Cuvée” means:
- (a) the grape must;
  - (b) the wine; or
  - (c) the mixture of grape musts and/or wines with different characteristics,
- intended for the preparation of a specific type of sparkling wine.

#### Alcoholic strength

13. “Actual alcoholic strength by volume” means the number of volumes of pure alcohol contained at a temperature of 20 °C in 100 volumes of the product at that temperature.
14. “Potential alcoholic strength by volume” means the number of volumes of pure alcohol at a temperature of 20 °C capable of being produced by total fermentation of the sugars contained in 100 volumes of the product at that temperature.
15. “Total alcoholic strength by volume” means the sum of the actual and potential alcoholic strengths.
16. “Natural alcoholic strength by volume” means the total alcoholic strength by volume of a product before any enrichment.
17. “Actual alcoholic strength by mass” means the number of kilograms of pure alcohol contained in 100 kilograms of product.
18. “Potential alcoholic strength by mass” means the number of kilograms of pure alcohol capable of being produced by total fermentation of the sugars contained in 100 kilograms of product.
19. “Total alcoholic strength by mass” means the sum of the actual and potential alcoholic strength.

#### **Part IV: Definitions concerning the beef and veal sector**

- ~~1.~~———~~‘B~~**Bovine animals’** means live animals of the domestic bovine species falling within CN codes 0102 21, 0102 31 00, 0102 90 20, ex 0102 29 10 to ex 0102 29 99, 0102 39 10, 0102 90 91;
- ~~2.~~———~~‘adult bovine animals’ means bovine animals aged 8 months or more.~~



### **Part V: Definitions concerning the milk and milk products sector**

For the purpose of the implementation of the tariff quota for butter of New Zealand origin, the phrase ‘manufactured directly from milk or cream’ does not exclude butter manufactured from milk or cream, without the use of stored materials, in a single, self-contained and uninterrupted process which may involve the cream passing through a stage of concentrated milkfat and/or the fractionation of such milkfat.

### **Part VI: Definitions concerning the eggs sector**

1. ‘eggs in shell’ means poultry eggs in shell, fresh, preserved, or cooked, other than eggs for hatching specified in point 2.;
2. ‘eggs for hatching’ means poultry eggs for hatching;
3. ‘whole products’ means birds' eggs not in shell, whether or not containing added sugar or other sweetening matter suitable for human consumption;
4. ‘separated products’ means birds' egg yolks, whether or not containing added sugar or other sweetening matter suitable for human consumption.

### **Part VII: Definitions concerning the poultrymeat sector**

1. ‘live poultry’ means live fowls, ducks, geese, turkeys and guinea fowls each weighing more than 185 grams;
2. ‘chicks’ means live fowls, ducks, geese, turkeys and guinea fowls, each weighing not more than 185 grams;
3. ‘slaughtered poultry’ means dead fowls of the species *gallus domesticus*, ducks, geese, turkeys and guinea fowls, whole, with or without offal;
4. ‘derived products’ means the following:
  - (a) products specified in point (a) of Part XX of Annex I;
  - (b) products specified in point (b) of Part XX of Annex I, excluding slaughtered poultry and edible offal, known as ‘poultry cuts’;
  - (c) edible offals specified in point (b) of Part XX of Annex I;
  - (d) products specified in point (c) of Part XX of Annex I;
  - (e) products specified in points (d) and (e) of Part XX of Annex I;
  - (f) products referred to in point (f) of Part XX of Annex I, other than those falling within CN codes 1602 20 10.

## Part VIII: Definitions concerning the apiculture sector

1. 'Honey' means the natural sweet substance produced by *Apis mellifera* bees from the nectar of plants or from secretions of living parts of plants or excretions of plant-sucking insects on the living parts of plants, which the bees collect, transform by combining with specific substances of their own, deposit, dehydrate, store and leave in honeycombs to ripen and mature.

The main types of honey are as follows:

- (a) according to origin:
- (i) blossom honey or nectar honey: honey obtained from the nectar of plants;
  - (ii) honeydew honey: honey obtained mainly from excretions of plant sucking insects (*Hemiptera*) on the living part of plants or secretions of living parts of plants;
- (b) according to mode of production and/or presentation:
- (iii) comb honey: honey stored by bees in the cells of freshly built broodless combs or thin comb foundation sheets made solely of beeswax and sold in sealed whole combs or sections of such combs;
  - (iv) chunk honey or cut comb in honey: honey which contains one or more pieces of comb honey;
  - (v) drained honey: honey obtained by draining decapped broodless combs;
  - (vi) extracted honey: honey obtained by centrifuging decapped broodless combs;
  - (vii) pressed honey: honey obtained by pressing broodless combs with or without the application of moderate heat not exceeding 45 C;
  - (viii) filtered honey: honey obtained by removing foreign inorganic or organic matter in such a way as to result in the significant removal of pollen.

'Baker's honey' means honey which is:

- (a) suitable for industrial uses or as an ingredient in other foodstuffs which are then processed and

- (b) may:
- have a foreign taste or odour, or
  - have begun to ferment or have fermented, or
  - have been overheated.

2. 'Apiculture products' means honey, beeswax, royal jelly, propolis or pollen.

## ANNEX IIIa

### UNION SCALES FOR THE CLASSIFICATION OF CARCASSES REFERRED TO IN ARTICLE 9a

A. Union scale for the classification of carcasses of ~~adult bovine animals~~ *bovines aged 8 months or more*

I. Definitions

The following definitions shall apply:

1. 'carcass': the whole body of a slaughtered animal as presented after bleeding, evisceration and skinning;
2. 'half-carcass': the product obtained by separating the carcass referred to in point (1) symmetrically through the middle of each cervical, dorsal, lumbar and sacral vertebra and through the middle of the sternum and the ischiopubic symphysis.

II. Categories

The *bovine* carcasses shall be divided into the following categories:

**Z:** *carcasses of animals aged from 8 months to less than 12 months*

A: carcasses of uncastrated ~~young~~ male animals ~~of aged from 12 months to less than 24 months~~ *two years of age*;

B: carcasses of ~~other~~ uncastrated male animals *aged from 24 months*;

C: carcasses of castrated male animals *aged from 12 months*;

D: carcasses of female animals that have calved;

E: carcasses of other female animals *aged from 12 months*.

III. Classification

The carcasses shall be classified by successive assessment of:

1. Conformation, defined as follows:

Development of carcass profiles, in particular the essential parts (round, back, shoulder)

Conformation class	Description
S Superior	All profiles extremely convex; exceptional muscle development (double muscled carcass type)
E Excellent	All profiles convex to super-convex; exceptional muscle development
U Very good	Profiles on the whole convex, very good muscle development
R Good	Profiles on the whole straight; good muscle development
O Fair	Profiles straight to concave; average muscle development
P Poor	All profiles concave to very concave; poor muscle development

2. Fat cover, defined as follows:

Amount of fat on the outside of the carcass and in the thoracic cavity

Class of fat cover	Description
1 low	None up to low fat cover
2 slight	Slight fat cover, flesh visible almost everywhere
3 average	Flesh with the exception of the round and shoulder, almost everywhere covered with fat, slight deposits of fat in the thoracic cavity
4 high	Flesh covered with fat, but on the round and shoulder still partly visible, some distinctive fat deposits in the thoracic cavity
5 very high	Entire carcass covered with fat; heavy deposits in the thoracic cavity

Member States are authorised to subdivide each of the classes provided for in points 1 and 2 into a maximum of three subclasses.

#### IV. Presentation

Carcasses and half-carcasses shall be presented:

1. without the head and without the feet; the head shall be separated from the carcass at the atloido-occipital joint and the feet shall be severed at the carpometacarpal or tarsometatarsal joints,
2. without the organs contained in the thoracic and abdominal cavities with or without the kidneys, the kidney fat and the pelvic fat,
3. without the sexual organs and the attached muscles and without the udder or the mammary fat.

#### V. Classification and identification

Slaughterhouses approved under Article 4 of Regulation (EC) No 853/2004 of the European Parliament and of the Council<sup>1</sup> shall take measures to ensure that all carcasses or half-carcasses ~~adult bovine animals~~ **bovines aged 8 months or more** slaughtered in such slaughterhouses and bearing a health mark provided for Article 5(2) in conjunction with Chapter III of Section I of Annex I to Regulation (EC) No 854/2004 of the European Parliament and of the Council<sup>2</sup> are classified and identified in accordance with the Union scale.

Before identification by marking, Member States may grant authorisation to have the external fat removed from the carcasses or half-carcasses if this is justified by the fat cover.

#### B. Union scale for the classification of pig carcasses

##### I. Definition

'carcass' shall mean the body of a slaughtered pig, bled and eviscerated, whole or divided down the mid-line.

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<sup>1</sup> OJ L 139, 30.4.2004, p. 55.

<sup>2</sup> OJ L 139, 30.4.2004, p. 206.

## II. Classification

Carcasses shall be divided into classes according to their estimated lean-meat content and classified accordingly:

Classes	Lean meat as percentage of carcass weight
S	60 or more (*)
E	55 or more <i>but less than 60</i>
U	50 or more but less than 55
R	45 or more but less than 50
O	40 or more but less than 45
P	less than 40

~~(\*) [Member States may introduce, for pigs slaughtered in their territory, a separate class of 60 % or more of lean meat designated with the letter S.]~~

## III. Presentation

Carcasses shall be presented without tongue, bristles, hooves, genital organs, flare fat, kidneys and diaphragm.

## IV. Lean-meat content

1. The lean-meat content shall be assessed by means grading methods authorised by the Commission. Only statistically proven assessment methods based on the physical measurement of one or more anatomical parts of the pig carcass may be authorised. Authorisation of grading methods shall be subject to compliance with a maximum tolerance for statistical error in assessment.

2. However, the commercial value of the carcasses shall not be determined solely by their estimated lean-meat content.

## V. Identification of carcasses

Unless otherwise provided for by the Commission, classified carcasses shall be identified by marking in accordance with the Union scale.

C. Union scale for the classification of sheep carcasses

I. Definition

As regards the terms 'carcass' and 'half-carcass' the definitions laid down in point A.I shall apply.

II. Categories

The carcasses shall be divided into the following categories:

A: carcasses of sheep under 12 months old,

B: carcasses of other sheep.

III. Classification

1. The carcasses shall be classified by way of application of the provisions in point A.III. *mutatis mutandis*. However, the term 'round' in point A.III.1 and in rows 3 and 4 of the table under point A.III.2. shall be replaced by the term 'hindquarter'.

IV. Presentation

Carcasses and half-carcasses shall be presented without the head (severed at the atlantooccipital joint), the feet (severed at the carpometacarpal or tarso-metatarsal joints), the tail (severed between the sixth and seventh caudal vertebrae), the udder, the genitalia, the liver and the pluck. Kidneys and kidney fat are included in the carcass.

Member States are authorised to permit different presentations when the reference presentation is not used.

V. Identification of carcasses

Classified carcasses and half-carcasses shall be identified by marking in accordance with the Union scale.

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SECTION 5  
AID IN THE APICULTURE SECTOR

*Article 52*

***National programmes and financing***

1. With a view to improving general conditions for the production and marketing of apiculture products, Member States may draw up national programmes for the apiculture sector covering a period of three years (hereinafter referred to as the 'apiculture programmes').
2. The Union contribution to the apiculture programmes shall ~~not exceed~~ ***be equivalent to*** 50 % of the expenditure borne by Member States.
3. To be eligible for the Union contribution provided for in paragraph 2, Member States shall carry out a study of the production and marketing structure in the beekeeping sector in their territory.

*Article 52a*

***Measures eligible for aid***

The following measures may be included in the apiculture programmes:

- (a) technical assistance to beekeepers and groupings of beekeepers;
- (b) control of varroasis;
- (c) rationalisation of transhumance;
- (d) measures to support laboratories carrying out analyses of the physico-chemical properties of honey;
- (e) measures to support the restocking of hives in the Union;
- (f) cooperation with specialised bodies for the implementation of applied research programmes in the field of beekeeping and apiculture products.

*Article 53*

***Delegated powers***

1. In order to ensure the effective and efficient use of Union funds for apiculture, the Commission shall be empowered to adopt delegated acts in accordance with Article 160 on:
  - (a) the avoidance of double funding between Member States' apiculture programmes and rural development programmes;
  - [(b) deleted]
  - (c) the basis of the allocation of the Union's financial contribution to each participating Member State based on inter alia the total number of bee hives in the Union.
  
2. In order to ensure that the Union aid scheme is adapted to the latest developments and that the measures covered are effective in reaching an improvement in the general conditions for the production and marketing of apiculture products, the Commission shall be empowered to adopt delegated acts in accordance with Article 160 to update the list of measures referred to in Article 452a that may be included in Member States' apiculture programmes, by adding other measures or adapting those measures without deleting any of them. ***That update of the list of measures shall not affect national programmes adopted prior to the entry into force of the delegated act.***

*Article 54*

***Implementing powers in accordance with the examination procedure***

The Commission may, by means of implementing acts, adopt all measures necessary for the application of this Section, including:

- (aa) the content of apiculture programmes and of the studies carried out by Member States on the production and marketing structure of their beekeeping sectors;
- (a) the procedure for the reallocation of unused funds;
- (b) the approval of apiculture programmes submitted by Member States, including the allocation of the Union's financial contribution to each participating Member State.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 162(2).

SECTION 3  
MILK AND MILK PRODUCTS

*Article 104*

***Contractual relations in the milk and milk products sector***

1. If a Member State decides that every delivery of raw milk *in its territory* by a farmer to a processor of raw milk must be covered by a written contract between the parties *and/or decides that first purchasers must make a written offer for a contract for the delivery of raw milk by the farmers*, such contract *and/or such an offer for a contract* shall fulfil the conditions laid down in paragraph 2.

*Where the Member State decides that deliveries of raw milk by a farmer to a processor of raw milk must be covered by a written contract between the parties* ~~In the case described in the first subparagraph, the Member State concerned~~ *it shall also decide which stage or stages of the delivery shall be covered by such a contract* ~~that~~ if the delivery of raw milk is made through one or more collectors, ~~each stage of the delivery must be covered by such a contract between the parties. To this end~~ *For the purposes of this Article*, a "collector" means an undertaking which transports raw milk from a farmer or another collector to a processor of raw milk or another collector, where the ownership of the raw milk is transferred in each case.

2. The contract *and/or the offer for a contract* shall:
- (a) be ~~concluded~~ *made* in advance of the delivery,
  - (b) be made in writing, and
  - (c) include, in particular, the following elements:
    - (i) the price payable for the delivery, which shall:
      - be static and be set out in the contract, and/or

- ~~vary only on~~ *be calculated by combining various* factors ~~which are~~ set out in the contract, *which may include in particular the development of the market situation based on* market indicators *reflecting changes in market conditions*, the volume delivered and the quality or composition of the raw milk delivered,
- (ii) the volume *of raw milk* which may and/or ~~shall~~ *must* be delivered and the timing of *such* deliveries, ~~and~~
- (iii) the duration of the contract, which may include *either a definite or an indefinite* duration with termination clauses,
- (iv) *details regarding payment periods and procedures,*
- (v) *arrangements for collecting or delivering raw milk, and*
- (vi) *rules applicable in the event of force majeure.*

3. By way of derogation from paragraph 1, a contract *and/or an offer for a contract* shall not be required where raw milk is delivered by a farmer to a ~~processor of raw milk where the processor is a~~ co-operative of which the farmer is a member if ~~it's~~ *the statutes of that cooperative or the rules and decisions provided for in or derived from these statutes* contain provisions having similar effects ~~to the provisions as those~~ set out in points (a), (b) and (c) of paragraph 2.
4. All elements of contracts for the delivery of raw milk concluded by farmers, collectors or processors of raw milk, including ~~those~~ elements referred to in *point (c) of* paragraph 2(~~e~~), shall be freely negotiated between the parties.

*Notwithstanding the first subparagraph,*

- (i) where a Member State decides to make written contracts for the delivery of raw milk compulsory in accordance with paragraph 1 of this Article, it may establish a minimum duration, applicable only to written contracts between a farmer and the first purchaser of raw milk. Such a minimum duration shall be at least six months and shall not impair the proper functioning of the internal market; and/or*
- (ii) where a Member State decides that the first purchaser of raw milk must make a written offer for a contract to the farmer in accordance with paragraph 1, it may provide that the offer must include a minimum duration for the contract, set by national law for this purpose. Such a minimum duration shall be at least six months and shall not impair the proper functioning of the internal market.*

*The second subparagraph shall be without prejudice to the farmer's right to refuse such a minimum duration provided that he does so in writing. In this case, the parties shall be free to negotiate all elements of the contract, including those elements referred to in point (c) of paragraph 2.*

- 5. *The Member States which make use of the options referred to in this Article shall notify the Commission of how they are applied.*
- 6. ~~*In order to guarantee a uniform application of this Article, t*~~*The Commission may, by means of adopt* implementing acts, ~~*adopt necessary laying down*~~ *measures necessary for the uniform application of points (a) and (b) of paragraph 2 and paragraph 3 of this Article and measures relating to notifications to be made by the Member States in accordance with this Article.* Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 162(2).

*Contractual negotiations in the milk and milk products sector*

1. *A producer organisation in the milk and milk products sector which is recognised under Article 106(2) may negotiate on behalf of its farmer members, in respect of part or all of their joint production, c*~~Contracts for the delivery of raw milk by a farmer to a processor of raw milk, or to a collector within the meaning of the second subparagraph of Article 104(1), may be negotiated by a producer organisation in the milk and milk products sector which is recognised under Article 106, on behalf of its farmer members for part or all of their joint production.~~
  
2. The negotiations by the producer organisation may take place:
  - (a) whether or not there is a transfer of ownership of the raw milk by the farmers to the producer organisation,
  - (b) whether or not the price negotiated is the same as regards the joint production of some or all of the farmer members,
  - (c) provided that, *for a particular producer organisation:*
    - (i) the ~~total~~ volume of raw milk covered by such negotiations ~~by a particular producer organisation~~ does not exceed:
      - (i) 3.5% of total Union production, and
      - (ii) *the volume of raw milk covered by such negotiations which is produced in any particular Member State does not exceed* 33% of the total national production of ~~any particular that~~ Member State ~~covered by such negotiations by that producer organisation~~, and
      - (iii) *the volume of raw milk covered by such negotiations which is delivered in any particular Member State does not exceed* 33% of the total ~~combined~~ national production of ~~all the that~~ Member States ~~covered by such negotiations by that producer organisation~~,

- (d) provided *that* the farmers concerned are not members of any other producer organisation which also negotiates such contracts on their behalf; *however, Member States may derogate from this condition in duly justified cases where farmers hold two distinct production units located in different geographic areas;* ~~and~~
- (e) *provided that the raw milk is not covered by an obligation to deliver arising from the farmer's membership of a cooperative in accordance with the conditions set out in the cooperative's statutes or the rules and decisions provided for in or derived from these statutes; and*
- (fe) provided that the producer organisation notifies the competent authorities of the Member State or Member States in which it operates *of the volume of raw milk covered by such negotiations.*

3. *Notwithstanding the conditions set out in points (ii) and (iii) of point (c) of paragraph 2, a producer organisation may negotiate pursuant to paragraph 1, provided that, with regard to that producer organisation, the volume of raw milk covered by the negotiations which is produced in or delivered in a Member State having a total annual raw milk production of less than 500 000 tonnes does not exceed 45 % of the total national production of that Member State.*

4. For the purposes of this Article, references to producer organisations shall also ~~include~~ *cover* associations of such producer organisations. ~~Taking into account the need to ensure that these associations may be appropriately monitored, the Commission shall be empowered to adopt delegated acts in accordance with Article 160 concerning the conditions for recognition of such associations.~~

45. *For the purposes of applying point (c) of paragraph 2 and paragraph 3, the Commission shall publish, by such means as it considers appropriate, the amounts of raw milk production in the Union and the Member States using the most up-to-date information available.*

6. By way of derogation from *point (c) of paragraph 2* ~~(e)(ii) and (iii) and paragraph 3~~, even where the thresholds ~~of 33% is set out therein are~~ not exceeded, the competition authority referred to in the second subparagraph *of this paragraph* may decide in an individual case that ~~the a particular~~ negotiation by the producer organisation *should either be reopened or should* ~~may~~ not take place *at all* if it considers that this is necessary in order to prevent competition being excluded or in order to avoid seriously ~~prejudice to~~ *damaging* SME processors of raw milk in its territory.

*For negotiations covering more than one Member State, the decision referred to in the first subparagraph shall be taken by the Commission without applying the procedure referred to in Article 162(2) or (3). ~~The decision referred to in the first subparagraph shall be taken by the Commission, by way of an implementing act, adopted in accordance with the advisory procedure referred to in Article 14 of Regulation (EC) No 1/2003 for negotiations covering the production of more than one Member State.~~* In other cases, ~~it~~ *that decision* shall be taken by the national competition authority of the Member State *to which the negotiations relate* ~~the production of which is covered by the negotiations.~~

The decisions referred to in ~~the first and second subparagraphs~~ *this paragraph* shall not apply earlier than the date of their notification to the undertakings concerned.



75. For the purposes of this Article:

- (a) a "national competition authority" ~~shall be~~*means* the authority referred to in Article 5 of *Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 101 and 102 of the Treaty*<sup>3</sup>;
- (b) a "SME" ~~shall~~ means a micro, small or medium-sized enterprise within the meaning of Commission Recommendation 2003/361/EC *of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises*<sup>4</sup>.

8. *The Member States in which negotiations take place in accordance with this Article shall notify the Commission of the application of point (f) of paragraph 2 and paragraph 6.*

#### *Article 105a*

#### **Regulation of supply for cheese with a protected designation of origin or protected geographical indication**

1. *Upon the request of a producer organisation recognised under Article 106(2), an interbranch organisation recognised under Article 108(2) or a group of operators referred to in Article 5(1) of Regulation (EC) No 510/2006, Member States may lay down, for a limited period of time, binding rules for the regulation of the supply of cheese benefiting from a protected designation of origin or from a protected geographical indication under points (a) and (b) of Article 2(1) of Regulation (EC) No 510/2006.*

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<sup>3</sup> *OJ L 1, 4.1.2003, p. 1. Editorial note: The title of Regulation (EC) N° 1/2003 has been adjusted to take account of the renumbering of the articles of the Treaty establishing the European Community, in accordance with Article 5 of the Treaty of Lisbon; the original reference was to Articles 81 and 82 of the Treaty.*

<sup>4</sup> *OJ L 124, 20.5.2003, p. 36.*

2. *The rules referred to in paragraph 1 shall comply with the conditions set out in paragraph 4 and shall be subject to the existence of a prior agreement between the parties in the geographical area referred to in point (c) of Article 4(2) of Regulation (EC) No 510/2006. Such an agreement shall be concluded between at least two thirds of the milk producers or their representatives representing at least two thirds of the raw milk used for the production of the cheese referred to in paragraph 1 and, if appropriate, at least two thirds of the producers of that cheese representing at least two thirds of the production of that cheese in the geographical area referred to in point (c) of Article 4(2) of Regulation (EC) No 510/2006.*
  
3. *For the purpose of paragraph 1, concerning cheese benefiting from a protected geographical indication, the geographical area of origin of the raw milk, as set in the product specification for the cheese, shall be the same as the geographical area referred to in point (c) of Article 4(2) of Regulation (EC) No 510/2006 related to that cheese.*
  
4. *The rules referred to in paragraph 1:*
  - (a) *shall only cover the regulation of supply of the product concerned and shall have the aim of adapting the supply of that cheese to demand;*
  - (b) *shall have effect only on the product concerned;*
  - (c) *may be made binding for no more than three years and be renewed after this period, following a new request, as referred to in paragraph 1;*
  - (d) *shall not damage the trade of products other than those concerned by the rules referred to in paragraph 1;*
  - (e) *shall not relate to any transaction after the first marketing of the cheese concerned;*
  - (f) *shall not allow for price fixing, including where prices are set for guidance or recommendation;*
  - (g) *shall not render unavailable an excessive proportion of the product concerned that would otherwise be available;*

- (h) shall not create discrimination, constitute a barrier for new entrants in the market, or lead to small producers being adversely affected;*
  - (i) shall contribute to maintaining the quality and/or the development of the product concerned;*
  - (j) shall be without prejudice to Article 105.*
5. *The rules referred to in paragraph 1 shall be published in an official publication of the Member State concerned.*
  6. *Member States shall carry out checks in order to ensure that the conditions laid down in paragraph 4 are complied with, and, where it has been found by the competent national authorities that such conditions have not been complied with, shall repeal the rules referred to in paragraph 1.*
  7. *Member States shall notify the Commission forthwith of the rules referred to in paragraph 1 which they have adopted. The Commission shall inform Member States of any notification of such rules.*
  8. *The Commission may at any time adopt implementing acts requiring that a Member State repeal the rules laid down by that Member State pursuant to paragraph 1 if the Commission finds that those rules do not comply with the conditions laid down in paragraph 4, prevent or distort competition in a substantial part of the internal market or jeopardise free trade or the attainment of the objectives of Article 39 TFEU. Those implementing acts shall be adopted without applying the procedure referred to in Article 162(2) or (3).*

*Article 105b*

**Compulsory declarations in the milk and milk products sector**

*From 1 April 2015, the first purchasers of raw milk shall declare to the competent national authority the quantity of raw milk that has been delivered to them each month.*

*For the purpose of this Article and of Article 104, a “first purchaser” means an undertaking or group which buys milk from producers in order to:*

- (a) subject it to collecting, packing, storing, chilling or processing, including under a contract;*
- (b) sell it to one or more undertakings treating or processing milk or other milk products.*

*Member States shall notify the Commission of the quantity of raw milk referred to in the first subparagraph.*

*The Commission may adopt implementing acts laying down rules on the content, format and timing of such declarations and measures relating to the notifications to be made by the Member States in accordance with this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 162(2).*

CHAPTER III  
PRODUCER ORGANISATIONS AND ASSOCIATIONS, INTERBRANCH ORGANISATIONS,  
OPERATOR ORGANISATIONS

SECTION 1  
DEFINITION AND RECOGNITION

*Article 106*

***Producer organisations***

- 1.** ***Without prejudice to paragraph 2***, Member States may recognise, on request, producer organisations, which:
- (a) are constituted by producers in any of the sectors listed in Article 1(2);
  - (b) are formed on the initiative of the producers;
  - (c) pursue a specific aim which may include at least one 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;
    - (iv) carrying out research into sustainable production methods and market developments;
    - (v) promoting and providing technical assistance for the use of environmentally sound cultivation practices and production techniques;
    - (vi) the management of by-products and of waste in particular to protect the quality of water, soil and landscape and preserving or encouraging biodiversity; and
    - (vii) contributing to a sustainable use of natural resources and to climate change mitigation;
  - (d) do not hold a dominant position on a given market unless this is necessary in pursuance of the objectives of Article 39 of the Treaty.

2. ***Member States shall recognise producer organisations, constituted by producers in the milk and milk products sector, which:***
- (a) are formed on the initiative of the producers;***
  - (b) pursue a specific aim which may include at least one 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.***

*Article 107*

***Associations of producer organisations***

1. ***Without prejudice to paragraph 2***, Member States may recognise, on request, associations of producer organisations in any of the sectors listed in Article 1(2) which are formed on the initiative of recognised producer organisations.
- Subject to the rules adopted pursuant to Article 114(1), associations of producer organisations may carry out any of the activities or functions of producer organisations.
2. ***In response to an application, Member States may recognise an association of recognised producer organisations in the milk and milk products sector if the Member State concerned considers that this association is capable of carrying out effectively any of the activities of a recognised producer organisation and that it fulfils the conditions laid down in Article 109c(1).***

*Article 108*

***Interbranch organisations***

- 1. Without prejudice to paragraph 2,** Member States may recognise, on request, interbranch organisations in any of the sectors listed in Article 1(2) which:
- (a) are constituted of representatives of economic activities linked to the production of trade in, and/or processing of products in one or more sectors;
  - (b) are formed on the initiative of all or some of the organisations or associations which constitute them;
  - (c) pursue a specific aim, which may include at least one of the following objectives:
    - (i) improving knowledge and the transparency of production and the market, including by publication of statistical data on the prices, volumes and duration of contracts which have been previously concluded, and by providing analyses of potential future market developments at regional or national level;
    - (ii) helping to ~~better~~ coordinate *better* the way the products are placed on the market, in particular by means of research and market studies;
    - (iii) drawing up standard forms of contract compatible with Union rules;
    - (iv) exploiting to a fuller extent the potential of the products;
    - (v) providing the information and carrying out the research necessary to rationalise, improve and adjust production towards products more suited to market requirements and consumer tastes and expectations, in particular with regard to product quality, including the particular characteristics of products with a protected designation of origin or a protected geographical indication, and protection of the environment;
    - (vi) seeking ways of restricting the use of animal-health or plant protection products and other inputs and ensuring product quality and soil and water conservation;
    - (vii) developing methods and instruments for improving product quality at all stages of production and marketing;

- (viii) exploiting the potential of organic farming and protecting and promoting such farming as well as designations of origin, quality labels and geographical indications;
- (ix) promoting and carrying out research into integrated, sustainable production or other environmentally sound production methods;
- (x) encouraging healthy consumption of the products and informing about the harm linked to hazardous consumption patterns;
- (xi) carrying out promotion actions, especially in third countries.

**2. As regards the milk and milk products sector, Member States may recognise interbranch organisations which:**

- (a) have formally requested recognition and are made up of representatives of economic activities linked to the production of raw milk and linked to at least one of the following stages of the supply chain: processing of or trade in, including distribution of, products of the milk and milk products sector;**
- (b) are formed on the initiative of all or some of the representatives referred to in point (a);**
- (c) carry out, in one or more regions of the Union, taking into account the interests of the members of those interbranch organisations and of consumers, one or more of the following activities:**
  - (i) improving the knowledge and the transparency of production and the market, including by publication of statistical data on the prices, volumes and durations of contracts for the delivery of raw milk which have been previously concluded, and by providing analyses of potential future market developments at regional, national and international level;**
  - (ii) helping to coordinate better the way the products of the milk and milk products sector are placed on the market, in particular by means of research and market studies;**
  - (iii) promoting consumption of, and providing information on, milk and milk products in both internal and external markets;**
  - (iv) exploring potential export markets;**



- (v) *drawing up standard forms of contract compatible with Union rules for the sale of raw milk to purchasers and/or the supply of processed products to distributors and retailers, taking into account the need to achieve fair competitive conditions and to avoid market distortions;*
- (vi) *providing the information and carrying out the research necessary to adjust production in favour of products more suited to market requirements and consumer tastes and expectations, in particular with regard to product quality and protection of the environment;*
- (vii) *maintaining and developing the production potential of the dairy sector, inter alia, by promoting innovation and supporting programmes for applied research and development in order to exploit the full potential of milk and milk products, especially in order to create value-added products which are more attractive to the consumer;*
- (viii) *seeking ways of restricting the use of animal-health products, improving the management of other inputs and enhancing food safety and animal health;*
- (ix) *developing methods and instruments for improving product quality at all stages of production and marketing;*
- (x) *exploiting the potential of organic farming and protecting and promoting such farming as well as the production of products with designations of origin, quality labels and geographical indications; and*
- (xi) *promoting integrated production or other environmentally sound production methods.*

*Article 109*

***Operator organisations***

For the purposes of this Regulation, operator organisations in the olive oil and table olives sector shall comprise recognised producer organisations, recognised interbranch organisations or recognised organisations of other operators or their associations.

SECTION IA  
ADDITIONAL RULES FOR SPECIFIC SECTORS

*Article 109a*

***Obligatory recognition***

By way of derogation from Articles 106 to 108 Member States shall recognise, on request:

- (a) producer organisations in:
  - (i) the fruit and vegetables sector,
  - (ii) the olive oil and table olives sector,
  - (iii) the silkworm sector,
  - (iv) the hops sector;
- (b) interbranch organisations in the olive oil and table olives sector and the tobacco sector.

*Article 109b*

***Producer organisations in the fruit and vegetables sector***

In the fruit and vegetables sector producer organisations shall pursue at least one of the objectives set out in Article 106(1)(c) (i) to (iii).

*Article 109c*

***Recognition of producer organisations and their associations in the milk  
and milk products sector***

1. ***Member States shall recognise as producer organisations in the milk and milk products sector 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 106(2);***
  - (b) ***they have a minimum number of members and/or cover a minimum volume of marketable production, to be laid down by the Member State concerned, in the area where they operate;***
  - (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;***
  - (d) ***they have a statute that is consistent with points (a), (b) and (c) of this paragraph.***

2. *Member States may decide that producer organisations which have been recognised before 2 April 2012 on the basis of national law and which fulfil the conditions laid down in paragraph 1 of this Article are to be considered to be recognised as producer organisations pursuant to Article 106(2).*
3. *Member States shall:*
- (a) decide whether to grant a recognition to a producer organisation within four months of the lodging of an application accompanied by all the relevant supporting evidence. This application shall be lodged with the Member State where the organisation has its headquarters;*
  - (b) carry out, at intervals to be determined by them, checks to ascertain that recognised producer organisations and associations of producer organisations are complying with the provisions of this Chapter;*
  - (c) in the event of non-compliance or irregularities in the implementation of the measures provided for in this Chapter, impose on those organisations and associations the applicable penalties they have laid down and decide whether, if necessary, recognition should be withdrawn;*
  - (d) inform the Commission once a year, and no later than 31 March, of every decision to grant, refuse or withdraw recognition which they have taken during the previous calendar year.*

*Article 109de*

*Interbranch organisations in the olive oil and table olive and tobacco sectors*

For interbranch organisations in the olive oil and table olive and tobacco sectors, the specific aim referred to in *point (c) of Article ~~(1)~~(e) 108(1)* may also include at least one of the following objectives:

- (a) concentrating and co-ordinating supply and marketing of the produce of the members;*
- (b) adapting production and processing jointly to the requirements of the market and improving the product;*
- (c) promoting the rationalisation and improvement of production and processing.*

*Article 109e*

**Recognition of interbranch organisations in the milk and milk products sector**

1. *Member States may recognise interbranch organisations in the milk and milk products sector provided that such organisations:*
  - (a) *meet the requirements laid down in Article 108(2);*
  - (b) *carry out their activities in one or more regions in the territory concerned;*
  - (c) *account for a significant share of the economic activities referred to in point (a) of Article 108(2);*
  - (d) *do not themselves engage in the production of, processing of, or the trade in, products in the milk and milk products sector.*
  
2. *Member States may decide that interbranch organisations which have been recognised before 2 April 2012 on the basis of national law and which fulfil the conditions laid down in paragraph 1 are to be considered to be recognised as interbranch organisations under Article 108(2).*
  
3. *Where Member States make use of the option to recognise an interbranch organisation in accordance with paragraph 1 and/or 2, they shall:*
  - (a) *decide whether to grant recognition to the interbranch organisation within four months of the lodging of an application accompanied by all the relevant supporting evidence. This application shall be lodged with the Member State where the organisation has its headquarters;*
  - (b) *carry out, at intervals to be determined by them, checks to verify that recognised interbranch organisations are complying with the conditions governing their recognition;*
  - (c) *in the event of non-compliance or irregularities in the implementation of the measures provided for in this Regulation, impose on those organisations the applicable penalties they have laid down and decide whether, if necessary, recognition should be withdrawn;*

- (d) withdraw recognition if:**
- (i) the requirements and conditions for recognition laid down in this Article are no longer met;**
  - (ii) the interbranch organisation engages in any of the agreements, decisions and concerted practices referred to in Article 145a(4), without prejudice to any other penalties to be imposed pursuant to national law;**
  - (iii) the interbranch organisation fails to comply with the notification obligation referred to in Article 145a(2);**
- (e) inform the Commission once a year, and no later than 31 March, of every decision to grant, refuse or withdraw recognition taken during the previous calendar year.**

SECTION 2  
EXTENSION OF RULES AND COMPULSORY CONTRIBUTIONS

*Article 110*  
***Extension of rules***

1. In cases where a recognised producer organisation, a recognised association of producer organisations or a recognised interbranch organisation operating in a specific economic area or economic areas 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 organisation, make binding for a limited period of time some of the agreements, decisions or concerted practices agreed on within that organisation on other operators acting in the economic area or areas in question, whether individuals or groups and not belonging to the organisation or association.
2. An “economic area” shall mean a geographical zone made up of adjoining or neighbouring production regions in which production and marketing conditions are homogeneous.
3. An organisation or association shall be deemed representative where, in the economic area or areas concerned of a Member State:
  - (a) it accounts for, as a proportion of the volume of production or of trade in or of processing of the product or products concerned:
    - (i) for producer organisations in the fruit and vegetables sector, at least 60%, or
    - (ii) in other cases, at least two thirds, and
  - (b) it accounts for, in the case of producer organisations, more than 50% of the producers concerned.

Where the request for extension of its rules to other operators covers more than one economic area, the organisation or association shall demonstrate the minimum level of representativeness as defined in the first subparagraph for each of the branches it groups in each of the economic areas concerned.

4. The rules for which extension to other operators may be requested as provided in paragraph 1 shall have one of the following aims:
- (a) production and market reporting;
  - (b) stricter production rules than those laid down in Union or national rules;
  - (c) drawing up of standard contracts which are compatible with Union rules;
  - (d) rules on marketing;
  - (e) rules on protecting the environment;
  - (f) measures to promote and exploit the potential of products;
  - (g) measures to protect organic farming as well as designations of origin, quality labels and geographical indications;
  - (h) research to add value to the products, in particular through new uses which do not pose a threat to public health;
  - (i) studies to improve the quality of products;
  - (j) research, in particular into methods of cultivation permitting reduced use of plant protection or animal health products and guaranteeing conservation of the soil and the environment;
  - (k) definition of minimum qualities and definition of minimum standards of packing and presentation;
  - (l) use of certified seed and monitoring of product quality.

Those rules shall not cause any damage to other operators in the Member State concerned or the Union and shall not have any of the effects listed in Article 145(4) or be otherwise incompatible with Union law or national rules in force.

*Article 111*

***Financial contributions of non-members***

Where rules of a recognised producer organisation, a recognised association of producer organisations or a recognised interbranch organisation are extended under Article 110 and the activities covered by those rules are in the general economic interest of persons whose activities relate to the products concerned, the Member State which has granted recognition may decide that individuals or groups which are not members of the 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.



SECTION 3  
ADJUSTMENT OF SUPPLY

*Article 112*

***Measures to facilitate the adjustment of supply to market requirements***

In order to encourage action by the organisations referred to in Articles 106 to 108 to facilitate the adjustment of supply to market requirements, with the exception of action relating to withdrawal from the market, the Commission shall be empowered to adopt delegated acts in accordance with Article 160, concerning measures in the live plants, beef and veal, pigmeat, sheepmeat and goatmeat, eggs and poultrymeat sectors:

- (a) improving quality;
- (b) promoting better organisation of production, processing and marketing;
- (c) facilitating the recording of market price trends;
- (d) permitting the establishment of short and long-term forecasts on the basis of the means of production used.

*Article 113*

***Marketing rules to improve and stabilise the operation of the common market in wines***

In order to improve and stabilise the operation of the common market in wines, including the grapes, musts and wines from which they derive, producer Member States may lay down marketing rules to regulate supply, particularly by way of decisions taken by the interbranch organisations recognised under Article 108.

Such rules shall be proportionate to the objective pursued and shall not:

- (a) relate to any transaction after the first marketing of the produce concerned;
- (b) allow for price fixing, including where prices are set for guidance or recommendation;
- (c) render unavailable an excessive proportion of the vintage that would otherwise be available;
- (d) provide scope for refusing to issue the national and Union certificates required for the circulation and marketing of wines where such marketing is in accordance with those rules.

SECTION 4  
PROCEDURAL RULES

*Article 114*

***Delegated powers***

- 1.** In order to ensure that the objectives and responsibilities of producer organisations, associations of producer organisations, operator organisations in the olive oil and table olives sector and interbranch organisations are clearly defined so as to contribute to the effectiveness of the actions of such organisations and associations without undue administrative burden and without undermining the principle of freedom of association in particular toward non-members of such organisations, the Commission shall be empowered to adopt delegated acts in accordance with Article 160 concerning the following matters regarding producer organisations, associations of producer organisations, interbranch organisations and operator organisations:
- (a) the specific aims which may, shall or shall not be pursued by such organisations and associations,
  - (b) the rules of such organisations and associations, the additional conditions for recognition by Member States, the obligations for Member States to ensure the adequacy of the structure membership period, size and of democratic accountability, the principle of main activity related to the production by members of such organisations and associations and the requirement referred to in point (d) of Article 106 for recognition of a producer organisation that it does not hold a dominant position on a given market unless this is necessary in pursuance of the objectives of Article 39 of the Treaty;
  - (c) transnational organisations and associations and the principle of administrative assistance to be given by the relevant competent authorities in the case of transnational cooperation, including the rules referred to in points (a) and (b) of this Article;

- (d) outsourcing and the nature of activities which may be outsourced and the provision of technical means by organisations or associations;
- (e) the basis for calculation of minimum volume or value of marketable production of organisations and associations;
- (ea) the acceptance of members who are not producers in the case of producer organisations and who are not producer organisations in the case of association of producer organisations;
- (f) the extension of certain rules of the organisations provided for in Article 110 to non-members and the compulsory payment of subscriptions by non-members referred to in Article 111 including the use and allocation of that payment by those organisations and a list of the stricter production rules which may be extended under point (b) of the first subparagraph of Article 110(4), while ensuring that such organisations are transparent and accountable toward non-members and that members of such organisations do not enjoy a more favourable treatment than non-members, in particular as to the use of the compulsory payment of subscriptions;
- (g) further requirements as regards representativeness of the organisations referred to in Article 110, the economic areas concerned, including Commission scrutiny of their definition, minimum periods during which the rules shall apply before their extension, the persons or organisations to whom the rules or contributions may be applied, and the circumstances in which the Commission may require that the extension of rules or compulsory contributions shall be refused or withdrawn.

***[2. By way of derogation to paragraph 1, in order to ensure that the objectives and responsibilities of producer organisations and associations of producer organisations in the milk and milk products sector are clearly defined, so as to contribute to the effectiveness of the actions of such organisations without imposing an undue burden, the Commission shall be empowered to adopt delegated acts in accordance with Article 160 which lay down:***

- (a) the conditions for recognising transnational producer organisations and transnational associations of producer organisations;***

- (b) rules relating to the establishment and the conditions of administrative assistance to be given by the relevant competent authorities in the case of transnational cooperation;*
- (c) additional rules regarding the calculation of the volume of raw milk covered by the negotiations referred to in point (c) of Article 105(2) and Article 105(3).]*

*Article 115*

***Implementing powers in accordance with the examination procedure***

1. The Commission may, by means of implementing acts, adopt the measures necessary for the application of this Chapter, in particular:
  - (a) procedures for recognition of organisations and their associations;
  - (b) procedures in the event of a merger of producer organisations;
  - (c) procedures to be determined by Member States in relation to the minimum size and minimum membership period;
  - (d) procedures relating to the extension of rules;
  - (e) procedures relating to administrative assistance;
  - (f) procedures relating to the outsourcing of activities;
  - (g) any other procedures and technical conditions concerning the implementation of the measures referred to in Articles 110 and 112.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 162(2).

- [2. By way of derogation to paragraph 1, as regards the milk and the milk product sector, the Commission may adopt implementing acts laying down detailed rules necessary for:*
  - (a) the implementation of the conditions for recognition of producer organisations and their associations and interbranch organisations set out in Articles 109c and 109e;*
  - (b) the notification referred to in Article 105(2)(f);*

- (c) *the notifications to be made by the Member States to the Commission in accordance with point (d) of Article 109c(3), point (e) of Article 109e(3), Article 105(8) and Article 105a(7);*
- (d) *the procedures relating to administrative assistance in the case of transnational cooperation.*

*Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 162(2).]*

#### *Article 116*

#### ***Other implementing powers***

The Commission may, by means of implementing acts adopted without applying the procedure referred to in Article 162(2) or (3), adopt individual decisions regarding:

- (a) the recognition of organisations carrying out activities in more than one Member State, pursuant to the rules adopted under ***point (c) of Article 114(1)(e)***;
- [(b) deleted]
- (c) the objection to, or withdrawal of, recognition by a Member State of an interbranch organisation;
- (d) the list of economic areas notified by Member States pursuant to the rules adopted under ***point (f) of Article 114(1)(f)***;
- (e) the requirement that a Member State refuse or repeal an extension of rules or financial contributions by non-members decided on by that Member State.

PART IV  
COMPETITION RULES

CHAPTER I  
RULES APPLYING TO UNDERTAKINGS

*Article 143*

***Application of Articles 101 to 106 of the Treaty***

Save as otherwise provided for in this Regulation, Articles 101 to 106 of the Treaty and implementing provisions thereto shall, subject to Articles 144 to 146 of this Regulation, apply to all agreements, decisions and practices referred to in Article 101(1) and Article 102 of the Treaty which relate to the production of, or trade in, agricultural products.

*Article 144*

***Exceptions for the objectives of the CAP and farmers and their associations***

1. Article 101(1) of the Treaty shall not apply to the agreements, decisions and practices referred to in Article 143 of this Regulation necessary for the attainment of the objectives set out in Article 39 of the Treaty.  
In particular, Article 101(1) of the Treaty shall not apply to agreements, decisions and practices of farmers, farmers' associations, or associations of such associations, or producer organisations recognised under Article 106 of this Regulation, or associations of producer organisations recognised under Article 107 of this Regulation, which concern the production or sale of agricultural products or the use of joint facilities for the storage, treatment or processing of agricultural products, and under which there is no obligation to charge identical prices, unless competition is thereby excluded or the objectives of Article 39 of the Treaty are jeopardised.

2. After consulting the Member States and hearing the undertakings or associations of undertakings concerned and any other natural or legal person that it considers appropriate, the Commission shall have sole power, subject to review by the Court of Justice and without applying the procedure referred to in Article 162(2) or (3) to adopt a decision which shall be published and which shall determine the agreements, decisions and practices that fulfil the conditions specified in paragraph 1.  
The Commission shall undertake such determination either on its own initiative or at the request of a competent authority of a Member State or of an interested undertaking or association of undertakings.
3. The publication of the decision referred to in the first subparagraph of paragraph 2 shall state the names of the parties and the main content of the decision. It shall have regard to the legitimate interest of undertakings in the protection of their business secrets.

*Article 145*

***Agreements and concerted practices of recognised interbranch organisations  
other than in the milk and milk product sector***

1. Article 101(1) ~~of the Treaty~~ *TFEU* shall not apply to the agreements, decisions and concerted practices of interbranch organisations recognised under Article 108(1) of this Regulation with the object of carrying out the activities listed in point (c) of Article 108(1) of this Regulation, and, for the olive oil and table olive and tobacco sectors, Article ~~108(2)~~ *109d* 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 without applying the procedure referred to in Article 162(2) or (3) has not found that the agreements, decisions or concerted practices are incompatible with Union rules.

3. The agreements, decisions and concerted practices may not be put into effect before the lapse of the two-month period referred to in paragraph 2(b).
4. Agreements, decisions and concerted practices shall in any case be declared incompatible with Union rules if they:
  - (a) may lead to the partitioning of markets within the Union in any form;
  - (b) may affect the sound operation of the market organisation;
  - (c) may create distortions of competition which are not essential to achieving the objectives of the CAP pursued by the interbranch organisation activity;
  - (d) entail the fixing of prices or the fixing of quotas;
  - (e) 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 without applying the procedure referred to in Article 162(2) or (3) take a decision declaring that Article 101(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.



*Article 145a*

**Agreements, decisions and concerted practices in the milk and milk product sector**

1. *Article 101(1) TFEU shall not apply to the agreements, decisions and concerted practices of recognised interbranch organisations recognised for the purpose of carrying out the activities referred to in point (c) of Article 108(2) of this Regulation.*
  
2. *Paragraph 1 shall only apply if:*
  - (a) *the agreements, decisions and concerted practices have been notified to the Commission; and*
  - (b) *within three months of receipt of all the details required the Commission, without applying the procedure referred to in Article 162(2) or (3), has not found that the agreements, decisions or concerted practices are incompatible with Union rules.*
  
3. *The agreements, decisions and concerted practices may not be put into effect before the period referred to in point (b) of paragraph 2 elapses.*
  
4. *Agreements, decisions and concerted practices shall in any case be declared incompatible with Union rules if they:*
  - (a) *may lead to the partitioning of markets in any form within the Union;*
  - (b) *may affect the sound operation of the market organisation;*
  - (c) *may create distortions of competition and are not essential to achieving the objectives of the CAP pursued by the interbranch organisation activity;*
  - (d) *entail the fixing of prices;*
  - (e) *may create discrimination or eliminate competition in respect of a substantial proportion of the products in question.*

5. *If, after the period referred to in point (b) of paragraph 2 has expired, the Commission finds that the conditions for applying paragraph 1 have not been met, it shall without applying the procedure referred to in Article 162(2) or (3) take a decision declaring that Article 101(1) TFEU 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 has abused the exemption provided for in paragraph 1 of this Article.*
6. *In the case of multiannual agreements, the notification for the first year shall be valid for the subsequent years of the agreement. However, the Commission may, on its own initiative or at the request of another Member State, issue a finding of incompatibility at any time.*
7. *The Commission may adopt implementing acts laying down measures necessary for the uniform application this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 162(2).*

CHAPTER II  
COMMUNICATIONS AND REPORTING

*Article 157*

***Communication requirements***

1. For the purposes of applying this Regulation, monitoring, analysing and managing the market in agricultural products, ensuring market transparency, the proper functioning of CAP measures, of checking, controlling, monitoring, evaluating and auditing CAP measures, complying with the requirements laid down in international agreements which have been concluded by a Council decision, including notification requirements under those agreements, the Commission may, in accordance with the procedure referred to in paragraph 2, adopt the necessary measures regarding communications to be made by undertakings, Member States and/or third countries. In so doing it shall take into account the data needs and synergies between potential data sources.  
The information obtained may be transmitted or made available to international organisations, the competent authorities of third countries and may be made public, subject to the protection of personal data and the legitimate interest of undertakings in the protection of their business secrets, including prices.
  
2. In order to ensure the integrity of information systems and to ensure the authenticity and legibility of documents and associated data transmitted, the Commission shall be empowered to adopt delegated acts in accordance with Article 160 laying down:
  - (a) the nature and type of the information to be notified;
  - [(b) deleted]
  - (c) the access rights to the information or information systems made available;
  - (d) the conditions of publication of the information.

3. The Commission shall, by means of implementing acts, adopt all provisions necessary for the application of this Article, including:
- (aa) the methods of notification;
  - (a) rules on the information to be notified;
  - (b) arrangements for the management of the information to be notified, as well as on the content, form, timing, frequency and deadlines of the notifications;
  - (c) the arrangements for transmitting or making information and documents available to the Member States, international organisations, the competent authorities in third countries, or the public, subject to the protection of personal data and the legitimate interest of undertakings in the protection of their business secrets.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 162(2).

#### *Article 158*

#### ***Reporting obligation of the Commission***

The Commission shall present a report to the European Parliament and to the Council:

- (a) every three years after 2013 on the implementation of the measures concerning the apiculture sector as set out in Articles 52 to 54;
- (b) by 30 June 2014 and also by 31 December 2018 ***onto the European Parliament and the Council regarding*** the development of the market situation in the milk and milk products sector and in particular on the operation of ***Article 106(2), Article 108(2) and of Articles 104, 105, 105a, 105b and 145a, assessing*** ~~Articles 104 to 107 and 145 in that sector covering~~ ***in particular, the effects on milk producers and milk production in disadvantaged regions in connection with the general objective of maintaining production in such regions, and covering*** potential incentives to encourage farmers to enter into joint production agreements together with any appropriate proposals.

PART VI  
DELEGATIONS OF POWER, IMPLEMENTING PROVISIONS, TRANSITIONAL  
AND FINAL PROVISIONS

CHAPTER I  
DELEGATIONS OF POWER AND IMPLEMENTING PROVISIONS

*Article 160*

***Exercise of the delegation***

1. The power to adopt the delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
  
2. The power to adopt delegated acts referred to in this Regulation, ***other than referred to in Article 114(2)*** shall be conferred on the Commission for a period of seven years from ... [the date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.  
***The power to adopt delegated acts referred to in Article 114(2) shall be conferred on the Commission for a period of five years from 2 April 2012. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.***
  
3. The delegation of powers referred to in this Regulation may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to this Regulation shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### *Article 161*

#### ***Urgency procedure***

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act adopted under this Article to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.
2. Either the European Parliament or the Council may object to a delegated act adopted under this Article in accordance with the procedure referred to in Article 160(5). In such a case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or the Council.

#### *Article 162*

#### ***Committee procedure***

1. The Commission shall be assisted by a committee called the Committee for the Common Organisation of the Agricultural Markets. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

In the case of acts referred to in Article 62(3), in points (e), (ea), (eb), (ec) and (ed) of Article 68, Article 74(4), Article 76, Article 83 and Article 84(3), where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

CHAPTER II  
TRANSITIONAL AND FINAL PROVISIONS

*Article 163*

***Repeals***

1. Regulation (EC) No 1234/2007 is repealed.

However, the following provisions of Regulation (EC) No 1234/2007 shall continue to apply:

- (a) as regards the sugar sector, Title I of Part II, Article 153(1) first subparagraph, (2) and (3), Articles 142, 156 and Part II of Annex III until the end of the 2014/2015 marketing year for sugar on 30 September 2015;
  - (b) as regards the system of milk production limitation, Chapter III of Title I of Part II, until 31 March 2015;
  - (c) as regards the wine sector:
    - (i) Articles 85a to 85e as regards areas referred to in Article 85a(2) which have not yet been grubbed up and as regards areas referred to in Article 85b(1) which have not been regularised, until such areas are grubbed up or regularised,
    - (ii) the transitional planting right regime set out in Subsection II of Section IVa of Chapter III of Title I of Part II, until 31 December 2015, or, to the extent necessary in order to give effect to any decision taken by Member States under Article 85g(5), until 31 December 2018;
- ~~(ea) the first paragraph of Article 122, only as regards milk and milk products sector, Section II A of Chapter II of Title II of Part II, Article 123(4), Article 177a, the introductory sentence and point 9 of Article 184, Articles 185e and 185f and, as far as it concerns Article 126e, Article 196a until 30 June 2020;~~



- (cb) Articles 113a, 113b, 114, 115 and 116 and Article 117(1) to (4), as well as Annex XIa (II), second paragraph, and (IV) to (IX); Annex XII (IV)(2), Annex XIII (VI) second paragraph, Annex XIV Part (B)(I) (2) and (3) and (III) and Part (C), and Annex XV (II), (III), (IV) and (VI) for the purpose of applying those Articles, until the date of application of the corresponding marketing rules to be established pursuant to the delegated acts provided for in Article 59(1), Article 61, Article 65(4) and Article 66 of this Regulation;
- [(d) deleted]
- (e) the first and second subparagraphs of Article 182(3) until the end of the 2013/2014 marketing year for sugar on 30 September 2014;
- (f) Article 182(4) until 31 December 2017;
- (fa) Article 182(7) until 31 March 2014.

2. References to Regulation (EC) No 1234/2007 shall be construed as references to this Regulation and to Regulation (EU) No [...] [Horizontal CAP Regulation] and be read in accordance with the correlation tables set out in Annex VIII to this Regulation.
3. Council Regulations (EEC) No 922/72, (EEC) 234/79, (EC) No 1601/96 and (EC) No 1037/2001 are repealed.

#### *Article 164*

#### ***Transitional rules***

In order to ensure the smooth transition from the arrangements provided for in Regulation (EC) No 1234/2007 to those laid down in this Regulation, the Commission shall be empowered to adopt delegated acts in accordance with Article 160 concerning measures necessary to protect the acquired rights and legitimate expectations of undertakings.

*Article 165*

***Entry into force and application***

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

It shall apply from 1 January 2014.

However, point (c) of Articles 7, point (a) of Article 16, Article 101 and Part B of Annex III shall apply from 1 October 2015.

**2.** ***As regards the milk and milk products sector, Articles 104, 105, 105a, 105b 106(2), 107(2), 108(2), 109c, 109e, 114(2), 115(2) and 145a shall apply until 30 June 2020.***

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

Done at Brussels,

*For the European Parliament*

*The President*

*For the Council*

*The President*

## CORRELATION TABLE FOR MILK PACKAGE

<b>Milk Package (1234/2007)</b>	<b>sCMO Proposal (COM(2011)626)</b>
122(a)(iiia)	[106(2)]
123(4)	108(2)
126a(1), 126a(3), first paragraph, 126a(4)	109c
126a(2)	107(2)
126a(3), second paragraph	-
126b	109e
126c	105
126d	105a
126e(1)	114(2)
126e(2)	115(2)
177a	145a
184(6)	-
184(9)	158(b)
185e	105b
185f	104
196(a)(1) and (3) to (5)	Covered by 160(1) and (3) to (5)
196a(2)	[160(2), second paragraph]
196b	Covered by 162(1) and (2)
204(7)	165(2)

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