

EN

EN

EN



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 24 January 2007
COM(2007) 17 final

Proposal for a

COUNCIL REGULATION

**laying down specific rules as regards the fruit and vegetable sector
and amending certain Regulations**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. INTRODUCTION

EU-27 fruit and vegetables production accounts for 3.1% of the Community budget and 17% of the total EU agricultural production.

The current common market organisation (CMO) is set out in Council Regulations (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables¹, (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products² and (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruits.

In October 2005, drawing its first conclusions from the debate launched in 2004 by the publication of the report on the simplification of the fruit and vegetables common market organisation³, the Commission said that in 2006 it would propose a reform covering both the fresh and processed sectors⁴.

In May 2005 the European Parliament adopted its own-initiative report on this Communication⁵.

In keeping its commitments of better legislation, the Commission proposal is accompanied by an analysis of the economic, social and environmental aspects of the problems linked to the CMO and of the impact, the advantages and drawbacks of the different options to these issues, including the results of a public consultation on a set of options for reform.

This reform proposal also answers the European Court of Auditors' recommendations in its Special Report No 8/2006 "Growing success? The effectiveness of the European Union support for fruit and vegetable producers' operational programmes", published in September.

2. REASONS AND OBJECTIVES OF THE REFORM

During the last ten years, the fruit and vegetables sector has faced both strong pressure from the highly concentrated retail and discount chains that plays a major role in the setting of the market price and the strong competition of third country products who are offering a combination of improved quality at relatively low prices and are taking rapidly growing market shares.

Since the fruit and vegetables' CMO reform in 1996, producer organisations (POs) and their operational programs (OPs) have been the key elements for the grouping of the supply of fruit and vegetables. The experience has shown that POs are still a valid element to face the highly concentrated retail and discount chains. Nevertheless the level of the concentration of fruit and

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

² OJ L 297, 21.11.1996, p. 29. Regulation as last amended by the 2004 Act of Accession (OJ L 236, 23.9.2003, p. 33).

³ COM(2004) 549 of 10 August 2004.

⁴ COM(2005) 531 of 25 October 2005.

⁵ P6-A(2005)0121.

vegetables production through POs has not succeeded in concentrating supply in all Member States. A high percentage of growers in the main producing Member States choose not to participate. The reform includes measures to improve POs' attractiveness.

On the other hand, the current CMO for processed fruit and vegetables products is based on principles which for other common market organisations have been substantially reformed. The current system, essentially providing support to quantities of products is no more in line with the CAP. The reform proposes the inclusion of fruit and vegetables' area in the single payment scheme and in the single area payment scheme. The shifting from production support to direct aid to producers by introducing a system of decoupled income support for each farm will contribute to promote a more marketed oriented and sustainable agriculture.

The present reform proposal includes measures for crises management, to increase promotion of fruit and vegetables, and to maintain the environment.

The identified objectives of this reform are to:

- improve EU fruit and vegetables' competitiveness and market orientation or, in other words to contribute to achieving sustainable production that is competitive both on internal and external markets,
- reduce fluctuations in fruit and vegetables producers' income resulting from crises,
- increase consumption of fruit and vegetables in the EU,
- continue the efforts made by the sector to maintain and protect the environment,
- simplify and where possible reduce the administrative burden for all concerned.

The aforementioned objectives of the reform have been identified taking into account the need for WTO compatibility; consistency with the reformed CAP, first and second pillar and conformity with the financial perspectives. Finally, it has to be pointed out that this proposal has been drawn up in light of the Commission proposal for a Council Regulation establishing a common organisation of agricultural markets. The fruit and vegetables CMO reform proposal is affected by the latter.

- Some provisions of horizontal nature and existing for a range of other agricultural products such as those on state aids, exchange of information between the Commission and the Member States and the management Committee are left in the existing CMO for fruit and vegetables. Nevertheless they have been updated, simplified and streamlined so as to allow for their easy incorporation into that single CMO proposal.
- With regards to other provisions in the fruit and vegetables sector, the scope of the changes to the regime make it necessary in the interests of clarity to incorporate them in this proposal. Nevertheless, where such provisions are to some extent also of a horizontal nature and so exist for a range of other agricultural products, such as marketing standards and trade with third countries, they have been updated and simplified so as to allow for their easy incorporation into a Council Regulation establishing a common organisation of agricultural markets.

3. PROPOSED MEASURES FOR REFORM OF THE FRUIT AND VEGETABLES CMO

1. Producer organisations

Producer organisations: Taking into account that POs have played a relevant role in the concentration of the supply, provisions have been made for simplification and more flexibility in their operation wherever possible. Such provisions concern the product range of producer organisation, the extent of direct sales permitted and the extension of rules to non-members, more incentives to mergers of POs, associations of producer organisations (APO), to those regions where the level of the concentration of the supply through POs is very low (less than 20% of fruit and vegetables production), to the States who became members of the Union as from 1 May 2004 and to the outermost regions, the delegation of powers or functions of PO to APO and the delegation of functions to subsidiaries under certain conditions. In its report to the European Parliament and to the Council on the situation of the sector of soft fruits and cherries intended for processing, the Commission indicates that it may propose specific additional aid for Member States with a low level of organisation. This is being done with the above mentioned changes.

The Commission has also proposed the inclusion of additional culinary herbs in the common market organisation for fruit and vegetables.

New producer groups: In order to improve the grouping of the supply through POs in new Member States, Producer groups in new Member States wishing to acquire the status of producer organisations in accordance with this Regulation shall be allowed the benefit of a transitional period during which specific national and Community financial support can be given against certain commitments by the group

National strategy for sustainable operational programs: The Court of Auditors considers that Member States have not ensured that the expenditure on producer organisations' operational programmes has been effective. They also consider that the Commission has not monitored the effectiveness of the operational programmes or evaluated the policy either. In order to achieve more effective operational programmes, the Commission proposes that Member States shall establish a national strategy for sustainable operational programmes in the fruit and vegetable market. Such a strategy should provide for the following elements: an *ex-ante* analysis, the objectives of operational programmes and instruments, performance indicators, assessments of operational programmes and reporting obligations for producer organisations.

Extension of rules: In order to further boost the impact of producer organisations and associations and ensure the market as much stability as is desirable, the Commission proposes that Member States shall be allowed on certain conditions to extend to non-member producers in their region the rules, particularly on production, marketing and environmental protection, adopted for its members by the organisation or association for the region concerned on the basis of more flexible criteria (producer organisations will be deemed representative for the extension of rules when their members account for at least 50% of the producers in the economic area where they operate and they cover at least 60% of the production of that area. At present, a producer organisation or association of producer organisations is deemed representative where its members account for at least two thirds of the producers in the economic area in which it operates and it covers at least two thirds of the production of that area).

The Commission proposes also that costs arising from this extension of the rules should be chargeable to the producers who are subject to the extension of rules since they will benefit from the extension.

Given the particularities of the organic market, the Commission also proposes that the extension of rules will not apply to organic producers unless they agree and as long as they respect certain conditions.

Interbranch organisations: The reform introduces flexibility on Interbranch organisations. Given the similarity of the objectives pursued, the provisions on extending the rules adopted by producer organisations and their associations and on sharing the costs resulting from such extension are also applied to interbranch organisations.

2. Crisis management

Fruit and vegetables are perishable products and production is unpredictable. Surplus on the market, even if they are not too high, can strongly disturb the market. For this reason, producer organisations have been receiving 100% of the withdrawal costs for some products (Community Withdrawal Contribution – CWC) and for free distribution. POs have also been allowed to use Operational funds to top up this CWC and to withdraw other products not covered by that scheme.

Experience has shown that the budget devoted to withdrawals has been reduced due to the fact that during the last ten years supply has been better adapted to demand. Nevertheless, the fruit and vegetables sector goes on suffering from market crises. This is why the Commission proposes a wider range of tools for the crisis management to be carried out through POs. Crisis management shall cover in this context: market withdrawal, green harvesting or non-harvesting of fruit and vegetables; promotion and communication; training measures; harvest insurance; and support for the administrative costs of setting up mutual funds

Concerning withdrawals, as explained above, the CWC (Community Withdrawals Compensation) has been removed. The Commission proposes that:

- withdrawals can be carried out by POs on the principle of 50/50% co-financing.
- withdrawals for free distribution in the EU will be 100% paid by the Community up to at a limit of 5% of the volume of the marketed production of each producer organisation.

3. The introduction of fruit and vegetables areas in the single payment scheme (SPS)

The proposal sets out the integration of the fruit and vegetables into the single payment scheme. Such integration implies:

- making the land covered by fruit and vegetables (including orchards and potatoes for human consumption) eligible for the activation of payment entitlements;
- decoupling the existing support for processed fruit and vegetable products and increasing the SPS national budgetary ceilings;
- allowing Member States to establish reference amounts under the scheme on the basis of a representative period appropriate to the market of each fruit and vegetable product and of appropriate objective and non-discriminatory criteria.

4. Environmental concerns

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

In order to achieve this, the Commission proposes:

- the introduction of fruit and vegetables areas in the Single Payment Scheme means that the cross compliance rules will be compulsory for all fruit and vegetables producers receiving direct payments;
- an enhanced approach to operational programs: Currently there are no limits in the operational programs for environmental measures expenditures: The reform proposal introduces a minimum of 20% of expenditure in each operational program;
- an enhanced approach to organic production: During the last years, an increasing demand for organic vegetables, largely being met by innovative, medium scale producers has occurred. The proposal introduces a Community co-financing rate of 60% for organic production in each operational program.

5. Promotion

The goal intake of fruit and vegetables in a healthy diet is set at a minimum of 400 g per day by the WHO/FAO. Taking into account that in the EU only Greece and Italy reach this level, the Commission proposes the following ways to improve promotion of fruit and vegetables:

- POs will continue to be able to include promotion in their operational programs; in particular they will carry out generic promotion under certain conditions to be decided in the implementing regulations and promotion of POs' brands; furthermore they will have to include in their operational programmes action targeted at promoting consumption of fruit and vegetables by young consumers;
- Council Regulation (EC) No 2826/2000 will be amended in order to increase the EU co-financing rate would to 60% in the case where the promotion of fruit and vegetables would be targeted towards school-age children and adolescents;
- under the new heading of crisis management, promotion and communication are eligible measures for funding by POs operational programmes;
- market withdrawals, which are 100% EU co-financed, can be distributed in the EU for free not only to charitable organisations and foundations but also to schools and public education institutions and children's holiday camps.

6. Trade with third countries

Taking into account that the WTO negotiation talks are still ongoing and that their outcome remains unknown, the reform proposal does not touch on the current legal framework relating to external trade (entry price system, tariff quotas, trigger volumes...).

For fruit and vegetables, the impact and the role of export refunds have been analysed. Their economic impact has considerably decreased. Indeed, exports with refunds represent less than one third of total exports. The value of export refunds is situated between 0.8 and 8.9% of the

price of the products in question. It has therefore been considered that better use can be made of the funds allocated to this instrument and it is proposed to abolish export refunds.

7. Simplification

The administrative simplification resulting from the abolition of the processing aids in favour of the existing single payment scheme or of the single area payment scheme is a great advantage of the proposed reform.

In its effort to improve the attractiveness of Producer Organisations the reform proposes several simplifications and increased flexibility.

Abolition of export refunds also implies a resulting simplification as all the procedures relating to the granting of these refunds will no longer exist for exporters.

8. Marketing standards

The particular issue of the simplification of marketing standards has been dealt with by replacing the legal provisions on these standards with the more concise text that will be in the single CMO. In particular this ensures that the Commission has sufficient flexibility and powers to simplify where appropriate and possible.

4. BUDGETARY IMPACT OF THE PROPOSAL

The impact of the proposed reform does not increase costs with respect to the status quo scenario. It is expected that the changes and innovations in the regime will lead to the budget being used more efficiently.

The increase to the Single Payment Scheme budgetary ceilings will be equal to the historical level of expenditure for the States who were members of the Union before 1 May 2004 and to the amounts resulting from the enlargement treaties for the other Member States.

The operational programmes of the Producer Organisations will be reinforced, especially for the Member States where the grouping of the supply through the Producer Organisations is very low. It is expected that the value of production passing through the targeted organisations in these countries will grow faster than for the other Producer Organisations. Reinforced financial support will also be given to improve the recognition of producer groups in order to become Producer Organisations. The overall budget effect will be largely neutral due to the proposed abolition of export refunds and market withdrawals.

Proposal for a

COUNCIL REGULATION

laying down specific rules as regards the fruit and vegetable sector and amending certain Regulations

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission⁶,

Having regard to the opinion of the European Parliament⁷,

Having regard to the opinion of the European Economic and Social Committee⁸,

Having regard to the opinion of the Committee of the Regions⁹,

Whereas:

- (1) The current regime for the fruit and vegetables sector is laid down in Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables¹⁰, Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products¹¹ and Council Regulation (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruits¹².
- (2) In the light of experience it is necessary to change the regime for fruit and vegetables in order to achieve the following objectives: improving the competitiveness and market orientation of the sector so as to contribute to achieving sustainable production that is competitive both on internal and external markets, reducing fluctuations in producers' income resulting from crises on the market, increasing the consumption of fruit and vegetables in the Community and continuing the efforts made by the sector to maintain and protect the environment.
- (3) The proposal for a Council Regulation establishing a common organisation of agricultural markets could initially incorporate certain provisions covering the fruit and

⁶ OJ C ..., ..., p.

⁷ OJ C ..., ..., p.

⁸ OJ C ..., ..., p.

⁹ OJ C ..., ..., p.

¹⁰ OJ L 297, 21.11.1996, p. 1. Regulation as last amended by Commission Regulation (EC) No 6/2005 (OJ L 2, 5.1.2005, p. 3).

¹¹ OJ L 297, 21.11.1996, p. 29. Regulation as last amended by the Act of Accession of 2003.

¹² OJ L 297, 21.11.1996, p. 49. Regulation as last amended by the Act of Accession of 2003.

vegetables sector which are of a horizontal nature and apply for a range of other agricultural products, namely those on state aids, exchange of information between the Commission and the Member States and a management committee. It is appropriate to leave such provisions in Regulations (EC) No 2200/96 and (EC) No 2201/96. Those provisions should however be updated, simplified and streamlined so as to allow for their easy incorporation into that proposal.

- (4) As regards other provisions in the fruit and vegetables sector, the scope of the changes to the regime make it necessary in the interests of clarity to incorporate all such provisions in a separate Regulation. Where such provisions are to some extent also of a horizontal nature and apply for a range of other agricultural products, such as those on marketing standards and trade with third countries, they should also be updated and simplified so as to allow for their easy incorporation into a Council Regulation establishing a common organisation of agricultural markets at a later date. This Regulation should not, therefore, repeal or change existing instruments of this horizontal nature unless they have become obsolete, redundant or should not, by their very nature, be dealt with at Council level.
- (5) The scope of this Regulation should be products covered by the common market organisations of the markets in fruit and vegetables and processed fruit and vegetables. However, the provisions on producer organisations and interbranch organisations and agreements only apply to products covered by the common market organisation for fruit and vegetables and this distinction should be maintained. The scope of the common market organisation in fruit and vegetables should also be extended to certain culinary herbs to allow them to benefit from the regime.
- (6) Marketing standards, in particular relating to definition, quality, grading, weight, sizing, packaging, wrapping, storage, transport, presentation, marketing and labelling, should apply in respect of certain products to permit the market to be supplied with products of uniform and satisfactory quality. Moreover, special measures, in particular up-to-date methods of analysis and other measures to determine the characteristics of the standards concerned, may need to be adopted to avoid abuses as regards the quality and authenticity of the products presented to the consumers and the important disturbances on the markets they may involve. Currently, Council Directive 2001/112/EC of 20 December 2001 relating to fruit juices and certain similar products intended for human consumption¹³ lays down marketing standards for these products. However these rules are not fully updated. For reasons of simplification it is therefore appropriate to repeal that Directive and so allow updated marketing standards to be adopted for fruit juices in the same way as for other fruit and vegetable products.
- (7) The production and marketing of fruit and vegetables should take full account of environmental concerns, including cultivation practices, the management of waste materials and the disposal of products withdrawn from the market, in particular as regards the protection of water quality, the maintenance of biodiversity and the upkeep of the countryside.
- (8) Producer organisations are the basic elements in the fruit and vegetables regime, the decentralised operation of which they ensure at their level. In the face of ever greater concentration of demand, the grouping of supply through these organisations continues

¹³ OJ L 10, 12.1.2002, p. 58.

to be an economic necessity in order to strengthen the position of producers in the market. Such grouping must be effected on a voluntary basis and must prove its utility by the scope and efficiency of the services offered by producer organisations to their members.

- (9) Experience shows that producer organisations are the correct tool for grouping supply. However, the spread of producer organisations in different Member States has been uneven. In order to further improve the attractiveness of producer organisations, provision should be made for more flexibility in their operation wherever possible. Such flexibility should concern in particular the product range of a producer organisation, the extent of direct sales permitted and the extension of rules to non-members as well as permitting the delegation of powers or functions of producer organisations to associations of producer organisations, subject to necessary conditions, and the delegation of functions to subsidiaries.
- (10) A producer organisation should not be recognised by its Member State as able to contribute to achievement of the objectives of the common market organisation unless its articles of association impose certain requirements on it and its members. The establishment and proper functioning of operational funds require that producer organisations should in general take charge of the whole of the relevant fruit and vegetable production of their members.
- (11) Producer groups in Member States which have acceded to the Community in 2004 or thereafter and wishing to acquire the status of producer organisations in accordance with this Regulation should be allowed the benefit of a transitional period during which national and Community financial support can be given against certain commitments by the group.
- (12) In order to give producer organisations greater responsibility for their financial decisions in particular and to gear the public resources assigned to them towards future requirements, terms should be set for the use of these resources. Joint financing of operational funds set up by producer organisations is an appropriate solution. Additional scope for financing should be permitted in particular cases. In order to control Community expenditure, there should be a cap on assistance granted to producer organisations that establish operational funds.
- (13) In regions where the organisation of production is weak, the grant of additional, national, financial contributions should be allowed. In the case of Member States which are at a particular disadvantage with regard to structures, those contributions should be reimbursable by the Community.
- (14) In order to simplify and reduce the cost of the scheme it could be helpful to align, where possible, the procedures and rules for the eligibility of expenditure under operational funds with those of rural development programmes by permitting Member States to establish a national strategy for operational programs.
- (15) In order to further boost the impact of producer organisations and associations thereof and ensure the market as much stability as is desirable, Member States should be allowed on certain conditions to extend to non-member producers in their region the rules, particularly on production, marketing and environmental protection, adopted for its members by the organisation or association for the region concerned. Where proper justification is given, certain costs arising from this extension of the rules should be

chargeable to the producers concerned since they will benefit from the extension. However, organic producers should not be subject to this extension of rules without their consent.

- (16) A number of heterogeneous aid schemes for certain fruit and vegetables have been set out in Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 2202/96. The number and variety of those schemes have made them complex to administer. Whilst they have been targeted at some specific fruits and vegetables, they have not been able to fully take into account regional conditions of production, and have not covered all fruit and vegetables. It is therefore appropriate to seek a different tool for supporting fruit and vegetable producers.
- (17) Furthermore, the aid schemes for fruit and vegetables were not fully integrated into Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers¹⁴. This had led to certain complexities and rigidities in the administration of that scheme.
- (18) In the interests of a more targeted but flexible system of support for the fruit and vegetables sector and in the interests of simplification, it is therefore appropriate to abolish the existing aid schemes and include fruit and vegetables fully into the scheme established by Regulation (EC) No 1782/2003. To this end it is necessary to provide that farmers who produced fruit and vegetables in the reference period should be eligible for the single payment scheme. Provision should also be made for the establishment by Member States of reference amounts and eligible hectares under the single payment scheme on the basis of a representative period appropriate to the market of each fruit and vegetable product and of appropriate objective and non-discriminatory criteria. Areas planted with fruit and vegetables, including permanent fruits and vegetables should be eligible to the single payment scheme. National ceilings should be amended appropriately. Provision should also be made for the Commission to adopt detailed rules and any necessary transitional measures.
- (19) The production of fruit and vegetables is unpredictable and the products are perishable. Surplus on the market, even if it is not too great, can strongly disturb the market. Some schemes for market withdrawals have been operated but have proved somewhat complex to administer. Some further measures for crisis management should be introduced, in a manner as easy to apply as possible. Integration of all such measures into the operational programmes of producer organisations appears the best approach in these circumstances, and should also provide for increased attractiveness of producer organisations for producers.
- (20) The integration of potatoes into the scheme set out in Regulation (EC) No 1782/2003 implies that, in order to safeguard the proper working of the single market based on common prices, the provisions of the Treaty governing State aid should also apply to the potatoes.

¹⁴ OJ L 270, 21.10.2003, p. 1. Regulation as last amended by Commission Regulation (EC) No 1405/2006 (OJ L 265, 26.9.2006, p. 1).

- (21) Council Regulation (EC) No 2826/2000 of 19 December 2000 on information and promotion actions for agricultural products on the internal market¹⁵ provides for a Community contribution to certain promotion actions of up to 50%. In order to promote the consumption of fruit and vegetables amongst young people, that percentage should be increased for promotion of fruit and vegetables targeted towards children under 18.
- (22) Interbranch organisations set up on the initiative of individual or already grouped operators can, if they account for a significant proportion of the members of the various occupational categories of the fruit and vegetable sector, contribute to behaviour taking closer account of market realities and facilitate a commercial approach that will improve production reporting, that is to say the organisation of production, product presentation and marketing. Since the work of these organisations is able to contribute in general to attaining the objectives of Article 33 of the Treaty, and in particular those of this Regulation, it should, once the relevant forms of action are defined, be possible to grant specific recognition to those organisations which provide proof of sufficient representativeness and carry out practical action in regard to those objectives. The provisions on extending the rules adopted by producer organisations and their associations and on sharing the costs resulting from such extension should, given the similarity of the objectives pursued, also apply to interbranch organisations.
- (23) The creation of a single Community market involves the introduction of a trading system at the external borders of the Community. That trading system should include import duties and should, in principle, stabilise the Community market. The trading system should be based on the undertakings accepted under the Uruguay Round of multilateral trade negotiations.
- (24) The application of the entry price system for fruit and vegetables requires the adoption of specific provisions.
- (25) Monitoring the volume in trade in agricultural products with third countries may, in respect of certain products, require the introduction of licensing systems for imports and exports including the lodging of a security to ensure that the transactions for which such licences are issued are actually carried out. The Commission should, therefore, be empowered to introduce licensing systems in respect of such products.
- (26) In order to prevent or counteract adverse effects on the Community market which could result from imports of certain agricultural products, imports of such products should be subject to payment of an additional duty, if certain conditions are fulfilled.
- (27) It is appropriate, under certain conditions, to confer on the Commission the power to open and administer tariff quotas resulting from international agreements concluded in accordance with the Treaty or from other acts of the Council.
- (28) The customs duty system makes it possible to dispense with all other protective measures at the external frontiers of the Community. The internal market and duty mechanism could, in exceptional circumstances, prove to be inadequate. In such cases, in order not to leave the Community market without defence against disturbances that

¹⁵ OJ L 328, 23.12.2000, p. 2. Regulation as amended by Regulation (EC) No 2060/2004 (OJ L 357, 2.12.2004, p. 3).

might ensue, the Community should be able to take all necessary measures without delay. Such measures should comply with the international commitments of the Community.

- (29) To ensure that those trading arrangements can function properly, provision should be made for regulating or, when the situation on the market so requires, prohibiting the use of inward or outward processing arrangements.
- (30) Since the common markets in agricultural products are continuously evolving, the Member States and the Commission should keep each other informed of relevant developments.
- (31) The fruit and vegetables regime provides for certain obligations to be respected. To guarantee compliance with these obligations, there is a need for controls and the application of penalties in case of non-compliance with such obligations. The power should, therefore, be conferred on the Commission to set up the corresponding rules including those concerning the recovery of undue payments and on the reporting obligations of the Member States. The special corps of inspectors in the fruit and vegetables sector will no longer be necessary under the new regime and may be abolished.
- (32) Regulations (EC) No 2200/96, (EC) No 2201/96, (EC) No 2826/2000 and (EC) No 1782/2003 should be amended accordingly.
- (33) The aid scheme established by Regulation (EC) No 2202/96 is to be abolished. That Regulation thus will no longer have any purpose and should therefore be repealed.
- (34) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹⁶. In the interests of simplification, the separate committees for fresh fruit and vegetables and processed fruit and vegetables should be abolished and replaced with a single committee for fruit and vegetables to be set up in Council Regulation (EC) No 2200/96.
- (35) The change-over from the existing arrangements to those provided for by this Regulation could give rise to difficulties which are not dealt with in this Regulation. In order to deal with such difficulties, the Commission should be enabled to adopt transitional measures.
- (36) This Regulation should, as a general rule, apply from 1 January 2008. However in order to avoid the interruption of the aid schemes for processed fruit and vegetable products and citrus fruits part-way through a marketing year, such aid schemes should be allowed to run until the end of the 2007/2008 marketing year,

¹⁶ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

HAS ADOPTED THIS REGULATION:

TITLE I

Introductory provisions

Article 1

Scope

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

However Titles III and IV of this Regulation shall only apply in respect of the products listed in Article 1(2) of Regulation (EC) No 2200/96.

Article 39 shall apply to potatoes, fresh or chilled of CN code 0701.

TITLE II

Classification of products

Article 2

Marketing standards

1. Provision may be made by the Commission for marketing standards for one or more of the products listed in Article 1(2) of Regulation (EC) No 2200/96 and in Article 1(2) of Regulation (EC) No 2201/96.
2. The standards referred to in paragraph 1:
 - (a) shall be established taking into account, in particular, the specificities of the products concerned, the need to ensure the conditions for a smooth disposal of those products on the market and the interest of consumers to receive adequate and transparent product information;
 - (b) may in particular relate to quality, grading, weight, sizing, packaging, wrapping, storage, transport, presentation, marketing and labelling.
3. Save as otherwise provided for by the Commission in accordance with the criteria referred to in point (a) of paragraph 2, the products for which marketing standards have been laid down may be marketed in the Community only in accordance with such standards.

Without prejudice to any specific provisions which may be adopted by the Commission in accordance with Article 38, Member States shall check whether those products conform to those standards and shall apply penalties as appropriate.

TITLE III

Producer organisations

Chapter I

Definition and recognition

Article 3

Definition

1. For the purposes of this Regulation, 'producer organisation' means any legal entity or clearly defined part of a legal entity which complies with the following requirements:
 - (a) it is formed on the initiative of farmers within the meaning of Article 2(a) of Regulation (EC) No 1782/2003, who are growers of one or more products listed in Article 1(2) of Regulation (EC) No 2200/96;
 - (b) it has in particular the objective of:
 - (i) ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity;
 - (ii) promoting concentration of supply and the placing on the market of the products produced by its members;
 - (iii) reducing production costs and stabilising producer prices;
 - (iv) promoting the use of cultivation practices, production techniques and environmentally sound waste management practices in particular to protect the quality of water, soil and landscape and preserve or encourage biodiversity;
 - (c) its rules of association provides for specific requirements as laid down in paragraph 2.
 - (d) it has been recognised by the Member State concerned pursuant to Article 4.
2. The rules of association of a producer organisation shall require its producer members, in particular, to:
 - (a) apply the rules adopted by the producer organisation relating to production reporting, production, marketing and protection of the environment;
 - (b) belong to only one producer organisation in respect of a given holding's production of any given product listed in Article 1(2) of Regulation (EC) No 2200/96;
 - (c) market their entire production concerned through the producer organisation.
 - (d) provide the information requested by the producer organisation for statistical purposes, in particular on growing areas, quantities cropped, yields and direct sales;

- (e) pay the financial contributions provided for in its rules of association for the establishment and replenishment of the operational fund provided for in Article 7;

Notwithstanding point (c) of the first subparagraph, in compliance with the terms and conditions laid down by the producer organisation, the producer members may:

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

The rules of association of a producer organisation shall provide for:

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

Article 4 **Recognition**

1. Member States shall recognise as producer organisations for the purposes of this Regulation all producer groups applying for such recognition, on condition that:
 - (a) they meet the requirements laid down in Article 3 and provide the relevant evidence, including proof that they have a minimum number of members and cover a minimum volume of marketable production to be laid down by Member States;
 - (b) there is sufficient evidence that they can carry out their activities properly, both over time and in terms of effectiveness and concentration of supply;

- (c) they effectively enable their members to obtain technical assistance in using environmentally-sound cultivation practices;
 - (d) they effectively provide their members, if necessary, with the technical means for storing, packaging and marketing their produce and ensure proper commercial and budgetary management of their activities.
2. Member States may also recognise as producer organisations for the purposes of this Regulation producer organisations which do not comply with the requirement laid down in Article 3(1)(a) provided that:
- (a) they existed before 21 November 1996;
 - (b) they were recognised under Council Regulation (EEC) No 1035/72¹⁷ before 1 January 1997.

The other requirements laid down in Article 3, except, if appropriate, paragraph 1(c) thereof, and in paragraph 1 of this article shall apply to producer organisations recognised pursuant to the first subparagraph of this paragraph.

3. Member States shall:
- (a) decide whether to grant recognition to a producer organisation within three months of the lodging of an application with all supporting documents;
 - (b) carry out checks at regular intervals to ascertain that producer organisations comply with this Title, impose in the event of non-compliance or irregularities concerning the provisions of this Regulation the penalties to apply to such organisations and decide, where necessary, to withdraw recognition;
 - (c) notify the Commission, once per year, of every decision to grant, refuse or withdraw recognition.

Article 5 **Delegation of powers**

1. A Member State may permit producer organisations to delegate any of their powers to an association of producer organisations of which they are members provided that the Member State considers that the association is capable of exercising those powers effectively.
2. Producer organisations and associations of producer organisations to which powers have been delegated pursuant to paragraph 1 may not hold a dominant position on a given market unless necessary in pursuance of the goals of Article 33 of the Treaty.

¹⁷ OJ L 118, 20.5.1972, p. 1. Regulation repealed by Regulation (EC) No 2200/96.

Article 6
New Member States

1. Producer organisations in Member States which acceded to the Community in 2004 or thereafter may be allowed a transitional period of no more than five years in which to meet the conditions for recognition laid down in Article 4.

In order to qualify, they shall present a phased recognition plan to the relevant Member State, acceptance of which shall signal the start of the five-year period referred to in the first subparagraph and shall constitute a preliminary recognition.

2. During the five years following the date of preliminary recognition, Member States may grant to the producer organisations referred to in paragraph 1:
 - (a) aid to encourage their formation and facilitate their administrative operation;
 - (b) aid, provided either directly or through credit institutions, in the form of special loans to cover part of the investments required to attain recognition and set out in the recognition plan referred to in the second subparagraph of paragraph 1.
3. Before granting preliminary recognition, Member States shall inform the Commission of their intentions and the financial implications thereof.

Chapter II
Operational funds and operational programmes

Article 7
Operational funds

1. Producer organisations may set up an operational fund. The fund shall be maintained by:
 - (a) financial contributions of members or the producer organisation itself;
 - (b) Community financial assistance which may be granted to producer organisations setting up an operational fund.
2. Operational funds shall be used to finance operational programmes approved by Member States in accordance with Article 12.
3. The Commission shall present a report to the European Parliament and Council by 31 December 2013 at the latest on the implementation of this Title as regards producer organisations, operational funds and operational programmes.

Article 8
Objectives of operational programmes

1. Operational programmes shall have one or more of the objectives referred to in Article 3(1)(b) or of the following objectives:
 - (a) improvement of product quality,
 - (b) boosting products' commercial value,

- (c) promotion of the products targeted at consumers,
- (d) creation of organic product lines,
- (e) promotion of integrated production or other methods of production respecting the environment,
- (f) crisis management.

Crisis management shall be related to avoiding and dealing with crises on the fruit and vegetable markets and shall cover in this context:

- (a) market withdrawal,
- (b) green harvesting or non-harvesting of fruit and vegetables,
- (c) promotion and communication,
- (d) training measures,
- (e) harvest insurance,
- (f) support for the administrative costs of setting up mutual funds.

Crisis management measures may not comprise more than one-third of the expenditure under the operational programme.

2. Operational programmes shall include action to develop the use of environmentally sound techniques by the producer members with regard to both cultivation practices and the management of waste materials.

For the purposes of the first subparagraph, "environmentally sound techniques" shall mean, in particular, techniques which help to achieve the following aims:

- (a) the use of farming practices which reduce the polluting effects of agriculture;
- (b) an environmentally favourable extensification of crop farming;
- (c) ways of using agricultural land which are compatible with protection and improvement of the environment, the countryside, the landscape, natural resources, the soil and genetic diversity.

3. Investments which increase environmental pressure shall only be permitted in situations where effective safeguards to protect the environment from these pressures are in place.
4. Operational programmes shall include action to promote the consumption of fruit and vegetables targeted at young consumers at local, regional or national level.

Article 9

Community financial assistance

1. The Community financial assistance shall be equal to the amount of the financial contributions of member producers as actually paid but limited to 50% of the actual expenditure incurred.

The Community financial assistance shall be capped at 4,1% of the value of the marketed production of each producer organisation.

2. The percentage provided for in the first subparagraph of paragraph 1 shall be 60% where an operational programme or part of an operational programme meets at least one of the following conditions:
 - (a) it is submitted by several Community producer organisations operating in different Member States on transnational schemes;
 - (b) it is submitted by one or more producer organisations engaged in schemes operated on an interbranch basis;
 - (c) it covers solely specific support for the production of organic products covered by Council Regulation (EC) No 2092/91¹⁸;
 - (d) it is submitted by a producer organisation in one of the Member States which acceded to the Community in 2004 or thereafter for measures running no later than the end of 2013;
 - (e) it is the first to be submitted by a recognised producer organisation which has merged with another recognised producer organisation or an association of recognised producer organisations, provided that none of the member producers concerned were previously members of a producer organisation which benefited from this subparagraph;
 - (f) it is submitted by producer organisations in Member States where producer organisations market less than 20% of fruit and vegetables production;
 - (g) it is submitted by a producer organisation in one of the outermost regions of the Community.
3. The percentage provided for in the first subparagraph of paragraph 1 shall be 100% in the case of market withdrawals of fruit and vegetables which shall not exceed 5% of the quantity of the marketed production of each producer organisation and which are disposed of by way of:
 - (a) free distribution to charitable organisations and foundations, approved to that effect by the Member States, for use in their activities to assist persons whose right to public assistance is recognised in national law, in particular because they lack the necessary means of subsistence;
 - (b) free distribution to penal institutions, schools and public education institutions and to children's holiday camps as well as to hospitals and old people's homes designated by the Member States, which shall take all necessary steps to ensure that the quantities thus distributed are additional to the quantities normally bought in by such establishments.

¹⁸ OJ L 198, 22.7.1991, p. 1.

Article 10
National financial assistance

1. In regions of the Community where the degree of organisation of producers is particularly low, Member States may be authorised, on a duly substantiated request, to pay producer organisations national financial assistance equal to a maximum of half the financial contributions of producers. This assistance shall be additional to the operational fund.

In regions of Member States where producer organisations market less than 15% of the fruit and vegetable production and whose fruit and vegetable production represents at least 15% of their total agricultural output, the assistance referred to in the first subparagraph may be partly reimbursed by the Community at the request of the Member State concerned.

2. Articles 87, 88 and 89 of the Treaty shall not apply to the national financial assistance which is authorised by the Commission pursuant to paragraph 1.

Article 11
Planning of operational programmes

1. Member States shall establish a national framework for drawing up the general conditions relating to the measures referred to in the first subparagraph of Article 8(2). This framework shall provide in particular that at least 20% of the total expenditure under an operational programme shall relate to those measures.

Member States shall submit their proposed framework to the Commission which may request modifications within three months if it finds that the proposal does not enable the objectives set out in Article 174 of the Treaty and in the Community programme of policy and action in relation to the environment and sustainable development to be attained. Individual investments supported by operational programmes shall also respect those objectives.

2. Member States shall establish a national strategy for sustainable operational programmes in the fruit and vegetable market. Such a strategy should provide for the following elements:
 - (a) an *ex-ante* analysis;
 - (b) the objectives of operational programmes and instruments, performance indicators;
 - (c) assessment of operational programmes;
 - (d) reporting obligations for producer organisations.

The strategy should also integrate the national framework referred to in paragraph 1.

Article 12
Approval of operational programmes

1. Draft operational programmes shall be submitted to the competent national authorities, who shall approve or reject them or request their modification in line with the provisions of this Chapter.
2. By the end of each year at the latest, producer organisations shall communicate to the Member State the estimated amount of the operational fund for the next year and shall submit appropriate reasons based on operational programme estimates, expenditure for the current year and possible for previous years and, if necessary, on estimated production quantities for the next year. The Member State shall, before 1 January of the following year, notify the producer organisation of the estimated amount of Community financial assistance in line with the limits set out in Article 9.

Community financial assistance payments shall be made on the basis of expenditure incurred for the schemes covered by the operational programme. Advances may be made in respect of the same schemes subject to the provision of a guarantee or security.

At the beginning of each year and by 31 January at the latest, the producer organisation shall notify the Member State of the final amount of expenditure for the previous year, accompanied by the necessary supporting documents, so that it may receive the balance of the Community financial assistance.

3. Operational programmes and their financing by producers and producer organisations on the one hand and by Community funds on the other shall have a minimum duration of three and a maximum duration of five years.

Chapter III
Extension of rules to producers of an economic area

Article 13
Extension of rules

1. In cases where a producer organisation which operates in a specific economic area is considered, in respect of a specific product, to be representative of production and producers in that area, the Member State concerned may, at the request of the producer organisation, make the following rules binding on producers established in the area who do not belong to the producer organisation:
 - (a) the rules referred to in point (a) of the first subparagraph of Article 3(2),
 - (b) the rules adopted by the producer organisation relating to market withdrawals.

The first subparagraph shall apply on condition that those rules:

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

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

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

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

3. A producer organisation shall be deemed representative within the meaning of paragraph 1 where its members account for at least 50% of the producers in the economic area in which it operates and it covers at least 60% of the production of that area.
4. The rules which are made binding on all producers in a specific economic area:
 - (a) must not cause any harm to other producers in the Member State or in the Community;
 - (b) shall not apply, unless they expressly cover them, to products delivered for processing under a contract signed before the beginning of the marketing year, with the exception of the rules on production reporting referred to in point (a) of the first subparagraph of Article 3(2);
 - (c) must not clash with Community and national rules in force.
5. Rules may not be made binding on producers of organic products covered by Regulation (EC) No 2092/91 unless such a measure has been agreed to by at least 50% of such producers in the economic area in which the producer organisation operates and that organisation covers at least 60% of such production of that area.

Article 14 ***Notification and repeal***

1. Member States shall notify the Commission forthwith of the rules which they have made binding on all producers in a specific economic area pursuant to Article 13(1). The Commission shall make these rules publicly available by the methods it considers appropriate.
2. The Commission shall decide that a Member State must repeal an extension of the rules decided on by that Member State:
 - (a) if it finds that the extension in question to other producers excludes competition in a substantial part of the internal market or jeopardises free trade, or that the objectives of Article 33 of the Treaty are endangered;
 - (b) if it finds that Article 81(1) of the Treaty applies to the agreement, decision or concerted practice which it has been decided to extend to other producers. The Commission's decision with regard to that agreement, decision or concerted practice shall apply only from the date of such a finding;
 - (c) where it finds after checks that this Chapter has not been complied with.

Article 15
Financial contributions of non-member producers

Where Article 13(1) is applied, the Member State concerned may decide, on scrutiny of evidence presented, that non-member producers shall be liable to the organisation for the part of the financial contributions paid by the producer members, insofar as these are used to cover:

- (a) administrative costs resulting from applying the rules referred to in Article 13(1);
- (b) the cost of research, market studies and sales promotion undertaken by the organisation or association and benefiting all producers in the area.

TITLE IV
Interbranch organisations and agreements

Chapter I
Definition and recognition

Article 16
Definition

For the purposes of this Regulation, "interbranch organisations" means legal entities which:

- (a) are made up of representatives of economic activities linked to the production of or trade in or processing of the products listed in Article 1(2) of Regulation (EC) No 2200/96;
- (b) are established at the initiative of all or some of the organisations or associations which constitute them;
- (c) carry out several of the following measures in one or more regions of the Community, taking account of the interests of consumers:
 - (i) improving knowledge and the transparency of production and the market,
 - (ii) helping to coordinate better the way fruit and vegetables are placed on the market, in particular by means of research and market studies,
 - (iii) drawing up standard forms of contract compatible with Community rules,
 - (iv) exploiting more fully the potential of the fruit and vegetables produced,
 - (v) providing the information and carrying out the research necessary to adjust production towards products more suited to market requirements and consumer tastes and expectations, in particular with regard to product quality and protection of the environment,
 - (vi) seeking ways of restricting the use of plant-health products and other inputs and ensuring product quality and soil and water conservation,
 - (vii) developing methods and instruments for improving product quality,
 - (viii) exploiting the potential of and protecting organic farming as well as designations of origin, quality labels and geographical indications,

- (ix) promoting integrated production or other environmentally sound production methods,
 - (x) laying down rules, as regards the production and marketing rules referred to in points 2 and 3 of Annex I, which are stricter than Community or national rules.
- (d) have been recognised by the Member State concerned on the terms set out in Article 17.

Article 17
Recognition

1. If warranted by the Member State's structures, Member States may recognise as interbranch organisations within the meaning of this Regulation all organisations established on their territory which make an appropriate application, on condition that:
 - (a) they carry out their activity in one or more regions in that territory;
 - (b) they represent a significant share of the production of or trade in or processing of fruit and vegetables and products processed from fruit and vegetables in the region or regions in question and, where more than one region is involved, they can demonstrate a minimum level of representativeness in each region for each of the branches that they group;
 - (c) they carry out several of the measures referred to in Article 16(c);
 - (d) they are not themselves engaged in the production or processing or marketing of fruit and vegetables or products processed from fruit and vegetables;
 - (e) they do not carry out any of the activities referred to in Article 18(3).
2. Before granting recognition Member States shall notify the Commission of the interbranch organisations which have applied for recognition, providing all relevant information about their representativeness and their various activities, together with all other information needed for an assessment.

The Commission may object to recognition within a time limit of two months after notification.
3. Member States shall:
 - (a) decide whether to grant recognition within three months of the lodging of an application with all relevant supporting documents;
 - (b) carry out checks at regular intervals to ascertain that interbranch organisations comply with the terms and conditions for recognition, impose in the event of non-compliance or irregularities concerning the provisions of this Regulation, the penalties to apply to such organisations and, if necessary, decide to withdraw their recognition;
 - (c) withdraw recognition if:
 - (i) the terms and conditions for recognition laid down in this Chapter are no longer met;

- (ii) the interbranch organisation contravenes one of the prohibitions imposed in Article 18(3), without prejudice to any other penalties otherwise incurred pursuant to national law;
 - (iii) the interbranch organisation fails to comply with the notification obligation referred to in Article 18(2);
 - (d) notify the Commission, within two months, of any decision to grant, refuse or withdraw recognition.
4. The terms and conditions on which and the frequency with which the Member States are to report to the Commission on the activities of interbranch organisations shall be drawn up in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96.
- The Commission may, as a result of checks, ask a Member State to withdraw recognition.
5. Recognition shall constitute an authorisation to carry out the measures listed in Article 16(c), consistent with the terms of this Regulation.
6. The Commission shall make publicly available, by the methods it considers appropriate, a list of the interbranch organisations recognised, indicating the economic sphere or the area of their activities and the activities carried out within the meaning of Article 19. Withdrawals of recognition shall also be made publicly available.

Chapter II

Competition rules

Article 18

Application of competition rules

1. Notwithstanding Article 1 of Council Regulation (EC) No 1184/2006¹⁹, Article 81(1) of the Treaty shall not apply to the agreements, decisions and concerted practices of recognised interbranch organisations intended to implement the measures referred to in Article 16(c) of this Regulation.
2. Paragraph 1 shall apply only provided that:
 - (a) the agreements, decisions and concerted practices have been notified to the Commission;
 - (b) within two months of receipt of all the details required the Commission has not found that the agreements, decisions or concerted practices are incompatible with Community rules.

The agreements, decisions and concerted practices may not be implemented until the period indicated point (b) of the first subparagraph has elapsed.

¹⁹ OJ L 214, 4.8.2006, p. 7.

3. The following agreements, decisions and concerted practices shall in any case be declared incompatible with Community rules:
 - (a) agreements, decisions and concerted practices which may lead to the partitioning of markets in any form within the Community;
 - (b) agreements, decisions and concerted practices which may affect the sound operation of the market organisation;
 - (c) agreements, decisions and concerted practices which may create distortions of competition which are not essential in achieving the objectives of the common agricultural policy pursued by the interbranch organisation measure;
 - (d) agreements, decisions and concerted practices which entail the fixing of prices, without prejudice to measures taken by interbranch organisations in the application of specific provisions of Community rules;
 - (e) agreements, decisions and concerted practices which may create discrimination or eliminate competition in respect of a substantial proportion of the products in question.
4. If, following expiry of the two-month period referred to in point (b) of the first subparagraph of paragraph 2, the Commission finds that the conditions for applying paragraph 1 have not been met, it shall take a decision declaring that Article 81(1) of the Treaty applies to the agreement, decision or concerted practice in question.

That Commission decision shall not apply earlier than the date of notification to the interbranch organisation concerned, unless that interbranch organisation has given incorrect information or abused the exemption provided for in paragraph 1.
5. In the case of multiannual agreements, the prior notification for the first year shall be valid for the subsequent years of the agreement. However, in that event, the Commission may, on its own initiative or at the request of another Member State, issue a finding of incompatibility at any time.

Chapter III

Extension of rules

Article 19

Extension of rules

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

a Member State. Where the application for extension of its rules to other operators covers more than one region, the interbranch organisation must demonstrate a minimum level of representativeness for each of the branches it groups in each of the regions concerned.

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

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

Article 20 **Notification and repeal**

1. Member States shall notify the Commission forthwith of the rules which they have made binding on all operators in one or more specific regions pursuant to Article 19(1). The Commission shall make those rules publicly available by the methods it considers appropriate.
2. Before the rules are made publicly available, the Commission shall inform the Committee set up by Article 46(1) of Regulation (EC) No 2200/96 of any notification of the extension of interbranch agreements.

The Commission shall decide that a Member State must repeal an extension of the rules decided on by that Member State in the cases referred to in Article 14(2).

Article 21
Financial contributions of non-members

In cases where rules for one or more products are extended and where one or more of the activities referred to in point (a) of the first subparagraph of Article 19(3) are pursued by a recognised interbranch organisation and are in the general economic interest of those persons whose activities relate to one or more of the products concerned, the Member State which has granted recognition may decide that individuals or groups which are not members of the interbranch organisation but which benefit from those activities shall pay the organisation all or part of the financial contributions paid by its members to the extent that such contributions are intended to cover costs directly incurred as a result of pursuing the activities in question.

TITLE V
Trade with third countries

Chapter I
General provisions

Article 22
General principles

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

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

Article 23
Combined Nomenclature

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

Chapter II
Imports

SECTION I
IMPORT LICENCES

Article 24
Optional Import Licence Systems

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

Article 25
Issue of licences

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

Article 26
Validity

Import licences shall be valid throughout the Community.

Article 27
Security

1. Licences shall be issued subject to the lodging of a security guaranteeing that the products are imported during the term of validity of the licence.
2. Except in cases of *force majeure*, the security shall be forfeited in whole or in part if the import is not carried out, or is carried out only partially, within the period of validity of the licence.

Article 28
Implementing rules

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

SECTION II
IMPORT DUTIES AND ENTRY PRICE SYSTEM

Article 29
Import duties

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

Article 30
Entry price system

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

Specific provisions may, however, be adopted for verifying the entry price of products imported primarily for processing, in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96.

2. Where the declared entry price of the consignment in question is higher than the flat-rate import value, increased by a margin set in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96 which may not exceed the flat-rate value by more than 10%, the lodging of a security equal to the import duty determined on the basis of the flat-rate import value shall be required.
3. If the entry price of the consignment in question is not declared at the time of customs clearance, the common customs tariff duty rate to be applied shall depend on the flat-rate import value or be arrived at by application of the relevant customs legislation provisions under conditions to be determined in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96.
4. Detailed rules for the application of paragraphs 1, 2 and 3 shall be adopted in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96.

Article 31

Additional import duties

1. An additional import duty shall apply to imports at the rate of duty laid down in Articles 29 and 30 of one or more products falling within the scope of this Regulation, in order to prevent or counteract adverse effects on the market of the Community which may result from those imports, if:
 - (a) the imports are made at a price below the level notified by the Community to the World Trade Organisation ("the trigger price"); or
 - (b) the volume of imports in any year exceeds a certain level ("the trigger volume").

The trigger volume shall be based on market access opportunities defined as imports as a percentage of the corresponding domestic consumption during the three previous years.

2. Additional import duties shall not be imposed where the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.
3. For the purposes of paragraph 1(a), import prices shall be determined on the basis of the cif import prices of the consignment under consideration.

Cif import prices shall be checked against the representative prices for the product on the world market or on the Community import market for that product.
4. Detailed rules for the application of paragraphs 1, 2 and 3 shall be adopted in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96. Such detailed rules shall specify in particular:
 - (a) the products to which additional import duties shall be applied;

- (b) the other criteria necessary to ensure application of paragraph 1 of this article.

SECTION III

IMPORT QUOTA MANAGEMENT

Article 32

Tariff quotas

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

Article 33

Opening of Tariff Quotas

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

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

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

SECTION IV SAFEGUARD AND SUSPENSION OF INWARD PROCESSING

Article 34 **Safeguard measures**

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

Article 35 **Suspension of Inward Processing Arrangements**

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

Chapter III Exports

SECTION I EXPORT LICENCES

Article 36 **Optional Export Licence Systems**

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

²⁰ OJ L 67, 10.3.1994, p. 89.

²¹ OJ L 349, 31.12.1994, p. 53.

SECTION II

SUSPENSION OF OUTWARD PROCESSING

Article 37

Suspension of Outward Processing Arrangements

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

TITLE VI

Implementing, amending and final provisions

Chapter I

Implementing provisions

Article 38

Detailed rules

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

These rules may include, in particular:

- (a) detailed rules for the application of Title II which may in particular include:
 - (i) the provision for marketing standards referred to in Article 2;
 - (ii) rules concerning the question whether products for which standards are laid down may be marketed in the Community only in accordance with those standards;
 - (iii) rules on derogations from the standards;
 - (iv) rules on presentation of particulars required by the standards;
 - (v) rules on the application of the standards to products imported into the Community and products exported from the Community;
- (b) rules for the implementation of Title III, including:
 - (i) the conditions under which producer organisations may delegate their powers to subsidiaries,
 - (ii) the degree of, and detailed rules for, financing of the measures referred to in Article 6 and Article 10(1),
- (c) rules for the implementation of Title IV,
- (d) the rules concerning administrative and physical controls to be conducted by the Member States with regard to the respect of obligations resulting from the application of this Regulation;

- (e) a system for the application of penalties where non-compliances with any of the obligations resulting from the application of this Regulation are found. The penalties shall be graduated according to the severity, extent, permanence and repetition of the non-compliance found;
- (f) the rules regarding the recovery of undue payments;
- (g) the rules on the reporting of the controls carried out as well as their results;
- (h) rules for the implementation of Title V, including the measures specifically referred to in that Title.
- (i) measures required to facilitate the transition from the arrangements provided for in Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 2202/96 to those laid down in this Regulation.

Chapter II

Amendments, repeal and final provisions

Article 39 State aids

Articles 87, 88 and 89 of the Treaty shall apply to the production of and trade in potatoes, fresh or chilled of CN code 0701.

Article 40 Amendments to Regulation (EC) No 2200/96

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

- (1) In Article 1(2), the table is replaced by the following:

"CN code	Description
0702 00 00	Tomatoes, fresh or chilled
0703	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled
0704	Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled
0705	Lettuce (<i>Lactuca sativa</i>) and chicory (<i>Cichorium spp.</i>), fresh or chilled
0706	Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots, fresh or chilled
0707 00	Cucumbers and gherkins, fresh or chilled
0708	Leguminous vegetables, shelled or unshelled, fresh or chilled
ex 0709	Other vegetables, fresh or chilled, excluding vegetables of subheadings 0709 60 91, 0709 60 95, 0709 60 99, 0709 90 31, 0709 90 39 und 0709 90 60
ex 0802	Other nuts, fresh or dried, whether or not shelled or peeled, excluding areca (or betel) and cola nuts falling within subheading 0802 90 20
0803 00 11	Fresh plantains
ex 08030090	Dried plantains
0804 20 10	Figs, fresh

0804 30 00	Pineapples
0804 40 00	Avocados
0804 50 00	Guavas, mangos and mangosteens
0805	Citrus fruit, fresh or dried
0806 10 10	Fresh table grapes
0807	Melons (including watermelons) and pawpaws (papayas), fresh
0808	Apples, pears and quinces, fresh
0809	Apricots, cherries, peaches (including nectarines), plums and sloes, fresh
0810	Other fruit, fresh
0813 50 31 0813 50 39	Mixtures exclusively of dried nuts of CN codes 0801 and 0802
ex 0910 99	Thyme, fresh or chilled
ex 12 11 90 85	Basil, melissa, mint, <i>origanum vulgare</i> (oregano / wild marjoram), rosemary, sage, fresh or chilled
1212 99 30	Locust (or carob) beans"

(2) Titles I, II, III, IV, V and VI are deleted.

(3) Article 44 is replaced by the following:

"Article 44

Member States and the Commission shall provide each other with any information necessary for the application of this Regulation and Council Regulation (EC) No [...]*, for market monitoring and analysis and for complying with the international obligations concerning the products covered by those Regulations.

* OJ L [This Regulation, number to be inserted by OPOCE on publication]."

(4) Article 46 is replaced by the following:

"Article 46

1. The Commission shall be assisted by a Management Committee for Fruit and Vegetables (hereinafter referred to as "the Committee").

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its Rules of Procedure."

(5) Article 47 is deleted.

(6) Article 48 is replaced by the following:

"Article 48

Detailed rules for the application of this Regulation shall be adopted in accordance with the procedure referred to in Article 46(2).

They may include rules to determine what information is necessary for the purposes of application of Article 44, as well as those on its form, content, timing and deadlines and on arrangements for transmitting or making available information and documents."

- (7) Articles 49, 50 and 51 are deleted.
- (8) Article 52 is replaced by the following:

"Article 52

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

* OJ L 209, 11.8.2005, p. 1."

- (9) Articles 55, 56 and 57 are deleted.
- (10) Annexes I to V are deleted.

Article 41

Amendments to Regulation (EC) No 2201/96

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

- (1) Titles I and II are deleted.
- (2) Articles 24 and 25 are deleted.
- (3) Articles 26 and 27 are replaced by the following:

"Article 26

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

They may include rules to determine what information is necessary for the purpose of application of Article 27, as well as those on its form, content, timing and deadlines and on arrangements for transmitting or making available information and documents.

Article 27

Member States and the Commission shall provide each other with any information necessary for the application of this Regulation and Council Regulation (EC) No [...]*, for market monitoring and analysis and for complying with the international obligations concerning the products covered by those Regulations.

* OJ L [This Regulation, number to be inserted by OPOCE on publication]"

- (4) Articles 29 to 32 are deleted.
- (5) Annexes I, II and III are deleted.

Article 42
Amendments to Regulation (EC) No 2826/2000

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

- (1) In Article 5(3), the following subparagraph is added:
"As regards the promotion of fresh fruits and vegetables, the main target group shall be children under 18 years."
- (2) In Article 9(2), the following subparagraph is added:
"The percentage referred to in the first subparagraph shall be 60% in the case of promotion of fruit and vegetables targeted only towards children under 18."

Article 43
Amendments to Regulation (EC) No 1782/2003

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

- (1) In Article 33(1), point (a) is replaced by the following:
“(a) they have been granted a payment in the reference period referred to in Article 38 under at least one of the support schemes referred to in Annex VI or, in the case of olive oil, in the marketing years referred to in the second subparagraph of Article 37(1), or, in the case of sugar beet, cane and chicory, if they have benefited from market support in the representative period referred to in point K of Annex VII, or, in the case of bananas, if they have benefited from compensation for loss of income in the representative period referred to in point L of Annex VII, or in the case of fruit and vegetables, they were producers of fruit and vegetable products in the representative period applied by Member States for those products pursuant to point M of Annex VII;”
- (2) In Article 37(1), the following subparagraph is added:
“For fruit and vegetables the reference amount shall be calculated and adjusted in accordance with point M of Annex VII.”
- (3) In Article 40, paragraph 2 is replaced by the following:
"2. If the whole reference period was affected by the case of *force majeure* or exceptional circumstances, the Member State shall calculate the reference amount on the basis of the 1997 to 1999 period.

In the case of sugar beet, cane and chicory, the reference amount shall be calculated on the basis of the closest marketing year prior to the representative period chosen in accordance with point K of Annex VII. In the case of bananas it shall be calculated on the basis of the closest marketing year prior to the representative period chosen in accordance with point L of Annex VII. In the

case of fruit and vegetables, it shall be calculated on the basis of the closest marketing year prior to the representative period chosen in accordance with point M of Annex VII. In those cases, paragraph 1 shall apply *mutatis mutandis*."

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

- (5) In Article 44(2), the second subparagraph is replaced by the following:

"Eligible hectare' shall also mean one of the following

- (a) areas planted with hops or being under a temporary resting obligation;
- (b) areas under olive trees;
- (c) areas planted with bananas;
- (d) areas with permanent fruit and vegetables crops."

- (6) Article 51 is replaced by the following:

"Article 51
Agricultural use of the land

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

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

- (7) Article 60 is deleted.

- (8) In Article 63(3), the following subparagraph is added:

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

- (9) Article 71g is deleted.
- (10) In Article 71k(2), the following subparagraph is added :
- "However, with regard to the inclusion of the fruit and vegetables payments component in the single payment scheme, New Members States may decide, by 1 April 2008, or by 1 August of the year preceding the first year of application of the single payment scheme, to apply the derogation provided for in the first subparagraph."
- (11) In Article 145, the following point is inserted after point (d)c):
- "(d)detailed rules relating to the inclusion of fruit and vegetables support into the single payment scheme."
- (12) Article 155 is replaced by the following:

"Article 155
Other transitional rules

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

- (13) The Annexes are amended in accordance with Annex II to this Regulation.

Article 44
Repeal

Regulation (EC) No 2202/96 and Council Directive 2001/112/EC are repealed.

Article 45
Current aid schemes

The aid schemes set out in Regulations (EC) No 2201/96 and (EC) No 2202/96 and abolished by this Regulation shall remain applicable in respect of each of the products concerned for the marketing year for that product which ends during 2008.

Article 46
Entry into force

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

It shall apply from 1 January 2008.

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

Done at Brussels,

For the Council
The President

ANNEX I

Exhaustive list of rules applied by producer organisations that may be extended to non-member producers pursuant to Article 13(1)

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

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

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

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

ANNEX II

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

- (1) In Annex I, the row concerning dried grapes is deleted.
- (2) Annex II is replaced by the following:

"ANNEX II National ceilings referred to in Article 12(2)

(EUR million)

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

"

- (3) In Annex V, the rows concerning dried grapes, citrus for processing and tomatoes for processing are deleted.
- (4) In Annex VII, the following point is added:

"M. Fruit and vegetables

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

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

in respect of a representative period which could be different for each product, of one or more marketing years starting from the marketing year ending in

2001 and, in case of the Member States which have acceded to the Community in 2004 or thereafter, from the marketing year ending in 2004, up to the marketing year ending in 2007.

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

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

For the purposes of this Regulation, "fruit and vegetables" shall mean the products listed in Article 1(2) of Regulation (EC) No 2200/96 and in Article 1(2) of Regulation (EC) No 2201/96."

(5) Annexes VIII and VIIIa are replaced by the following:

**"ANNEX VIII
National ceilings referred to in Article 41**

(EUR '000)

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

ANNEX VIIIa
National ceilings referred to in Article 71c

(EUR '000)

Calendar year	Bulgaria	Czech Republic	Estonia	Cyprus	Latvia	Lithuania	Hungary	Malta	Romania	Poland	Slovenia	Slovakia
2005		228 800	23 400	8 900	33 900	92 000	350 800	670		724 600	35 800	97 700
2006		294 551	27 300	12 500	43 819	113 847	446 305	830		980 835	44 184	127 213
2007	200 384	377 919	40 400	17 660	60 764	154 912	540 286	1 640	441 930	1 263 706	58 958	161 362
2008	246 766	470 463	50 500	26 852	75 610	193 076	677 521	2 982	532 444	1 579 292	73 533	201 937
2009	287 399	559 622	60 500	31 292	90 016	230 560	807 366	3 392	623 399	1 877 107	87 840	240 014
2010	327 621	645 222	70 600	35 732	103 916	267 260	933 966	3 802	712 204	2 162 207	101 840	276 514
2011	407 865	730 922	80 700	40 172	117 816	303 960	1 060 666	4 212	889 814	2 447 207	115 840	313 114
2012	488 209	816 522	90 800	44 612	131 716	340 660	1 187 266	4 622	1 067 425	2 732 307	129 840	349 614
2013	568 553	902 222	100 900	49 052	145 616	377 360	1 313 966	5 032	1 245 035	3 017 407	143 940	386 214
2014	648 897	902 222	100 900	45 652	145 616	377 360	1 313 966	5 032	1 422 645	3 017 407	143 940	386 214
2015	729 241	902 222	100 900	45 652	145 616	377 360	1 313 966	5 032	1 600 256	3 017 407	143 940	386 214
2016 and subsequent years	809 585	902 222	100 900	45 652	145 616	377 360	1 313 966	5 032	1 777 866	3 017 407	143 940	386 214

"

FINANCIAL STATEMENT

1. BUDGET HEADING: 05 02 08 – 05 03 02 29 – 05 02 10 01 – 05 03 01		APPROPRIATIONS: €1 319.758 Mio, €15 Mio, €8 Mio and €30 196 Mio				
2. TITLE: Council Regulation laying down specific rules as regards the fruit and vegetable sector and amending certain Regulations						
3. LEGAL BASIS: Articles 36 and 37 of the Treaty						
4. AIMS: Reform of the fruit and vegetables regime.						
5. FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR 2007 (EUR million)	FOLLOWING FINANCIAL YEAR 2008 (EUR million)			
5.0 EXPENDITURE	–	–	–40.6			
– CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS)						
– NATIONAL AUTHORITIES						
– OTHER						
5.1 REVENUE	–	–	–			
– OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES)						
– NATIONAL						
	2009	2010	2011	2012	2013	
5.0.1 ESTIMATED EXPENDITURE	+36.7	–5.8	+2.6	+12.6	+15.7	
5.1.1 ESTIMATED REVENUE	–	–	–	–	–	
5.2 METHOD OF CALCULATION: See annexed table						
6.0 CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?						YES NO
6.1 CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?						YES NO
6.2 WILL A SUPPLEMENTARY BUDGET BE NECESSARY?						YES NO
6.3 WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?						YES NO
OBSERVATIONS:						

ANNEX

Estimated impact of the reform of fruit and vegetables compared to the status quo:

Fruit and vegetables status quo – in EUR Mio

Measures	B-2008	B-2009	B-2010	B-2011	B-2012	B-2013
Export refunds	30	30	30	30	30	30
<i>Bulgaria Romania</i>	0.7	0.7	0.7	0.7	0.7	0.7
Market withdrawals	32	32	32	32	32	32
Operational funds (1)	693	744	799	858	922	990
<i>Bulgaria Romania</i>	3	5	7	8.5	10.2	12.2
Tomatoes	329	329	329	329	329	329
<i>Bulgaria Romania</i>	7.2	7.2	7.2	7.2	7.2	7.2
Peaches – pears – prunes – figs	76	76	76	76	76	76
<i>Bulgaria Romania</i>	0.9	0.9	0.9	0.9	0.9	0.9
Citrus	241	241	241	241	241	241
Free distribution	6	6	6	6	6	6
Pre-recognition of PO's	15	15	15	15	15	15
Dried grapes	115	115	115	115	115	115
Total	1 548.8	1 601.8	1 658.8	1 719.3	1 785	1 855

Fruit and vegetables – reform proposal – in EUR Mio

Measures	B-2008	B-2009	B-2010	B-2011	B-2012	B-2013
Operational funds (1)	695.08	752.6	815.51	884.44	960.09	1 043.28
Free distribution	8	8	8	8	8	8
Pre-recognition of PO's	30	40	40	40	40	30
Single payment scheme (2) (3) (4) (5)	769.1	831.865	783.465	783.465	783.465	783.465
Total	1 502.2	1 632.5	1 647.0	1 715.9	1 791.6	1 864.7
Promotion (amendment of Regulation (EC) No 2628/2000)	6	6	6	6	6	6
Impact of the proposal	-40.6	36.7	-5.8	+2.6	12.6	15.7

- (1) Hypothesis of yearly increase in expenditure:
 - for the baseline (status quo): +7.5% for all Member States,
 - for the reformed CMO: +7.5% for Member States with sufficient levels of grouping of supply and +20% for Member States with low grouping of supply.
- (2) Old regime for B-2008 (marketing year 2007/08 processed products).
- (3) Forecasted residual amounts of marketing year 2007/08 for some processed products (EUR 48.4 Mio) + single payment scheme for B-2009.
- (4) Before modulation.
- (5) Based on expenditures during 2003/2004 and 2005 for 15 "old" Member States and on maximum guaranteed quantities x aid for NMS.