Commission Regulation (EC) No 753/2008 of 31 July 2008 amending Regulation (EC) No 1299/2007 on the recognition of producer groups for hops

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)[(1)], and in particular Article 127 in conjunction with Article 4 thereof,

Whereas:

(1) Council Regulation (EC) No 1952/2005 of 23 November 2005 concerning the common organisation of the market in hops[(2)] is to be repealed from 1 July 2008 under Article 201(1)(c) of Regulation (EC) No 1234/2007 (Single CMO Regulation).

(2) Certain provisions relating to the producer groups laid down in Regulation (EC) No 1952/2005 have not been incorporated in the Single CMO Regulation. In order to enable the hops sector to continue to function properly, it is necessary to lay down those provisions in Commission Regulation (EC) No 1299/2007 of 6 November 2007 on the recognition of producer groups for hops[(3)].

(3) The Single CMO Regulation has laid down in Article 122 the general conditions for the recognition of producer organisations by the Member States. Those conditions should be specified for the hops sector. For sake of consistency, the term ‘producer groups’ should continue to be used in that sector.

(4) To avoid any discrimination between producers and to ensure the unity and effectiveness of any action undertaken, conditions should be laid down, for the whole of the Community, with which producer groups must comply in order to be recognised by the Member States. To achieve an effective centralisation of supply, it is necessary in particular that the groups should be of an economically viable size and that the entire output of producers should be marketed either directly by the group or by the producers, according to common rules.

(5) Regulation (EC) No 1299/2007 should be amended accordingly.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 753/2008. (See end of Document for details)*

Article 1

Regulation (EC) No 1299/2007 is amended as follows:

1. Article 1 is replaced by the following:

Article 1

1 The authority competent to recognise producer organisations as provided for in Article 122 of Council Regulation (EC) No 1234/2007[(4)], hereinafter referred to as "producer groups", shall be the Member State within whose territory the producer group has its registered office.

2 Member States shall recognise producer groups which request recognition and fulfil the following general conditions:

a they have legal personality or sufficient legal capacity to be subject, under national legislation, to rights and obligations;

b they apply common rules for production and the first marketing stage within the meaning of the second subparagraph;

c their statutes include an obligation for producers who are members of groups to:

(i) comply with the common rules on production and decisions on the varieties to be grown;

(ii) market all their produce through the group;

d they provide proof of economically viable activity;

e they exclude throughout their field of activity any discrimination between Community producers or groups in respect of, in particular, their nationality or place of establishment;

f they guarantee all producers who undertake to comply with the statutes, without discrimination, the right to belong to a group;

g their statutes include provisions aimed at ensuring that the members of a group who wish to give up their membership may do so after having been a member for at least three years and provided that they inform the group of their intention at least one year before they leave, without prejudice to the national laws or regulations designed to protect, in specific cases, the group or creditors thereof against the financial consequences which might arise from a member leaving, or to prevent a member from leaving during the financial year;

h their statutes include the obligation to keep separate accounts for the activities in respect of which they have been recognised;

i they do not hold a dominant position in the Community.

The first marketing stage means the sale of hops by the producer himself or, in the case of a producer group, the sale of hops by its members to the wholesale trade or to the user industries.

3 The obligation provided for in paragraph 2(c) shall not apply to products covered by sales contracts concluded by producers before they joined the producer group, provided that the latter was informed of and approved such contracts.

4 By way of derogation from paragraph 2(c)(ii), where the producer group so authorises and under the conditions it lays down, members of a producer group may:

a replace the obligation to have all their production marketed by the producer group provided for in paragraph 2(c)(ii) by the obligation to market in accordance with common rules incorporated in the statutes, in order to ensure that the producer group has the right to monitor selling prices, which it must approve, failure to do so requiring the group to buy back the hops concerned at a higher price;

b market, through the offices of another producer group chosen by their own group, products which by virtue of their characteristics are not necessarily covered by them commercial activities of the latter.

5 The common rules referred to in paragraph 2, points (b) and (c)(i) shall be laid down in writing. These rules shall comprise at least:

a as regards production:

(i) provisions concerning the use of one or more specified varieties when renewing plantations or creating new ones;

(ii) provisions concerning compliance with certain methods of cultivation and plant protection;

(iii) provisions concerning harvesting, drying and, where appropriate, preparation for marketing;

b as regards placing on the market, particularly where concentration and conditions of supply are concerned:

(i) general provisions governing sales by the group;

(ii) provisions relating to the quantities which the producers are authorised to sell themselves and the rules governing these sales.

2. In Article 2, paragraph 2 is replaced by the following:

2. In accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007, a Member State may be authorised, on request, to recognise a group whose registered areas comprise less than 60 hectares, if the areas are situated in a recognised production region covering less than 100 hectares.

Article 2

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

It shall apply from 1 July 2008.

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

Done at Brussels, 31 July 2008.

For the Commission

Mariann FISCHER BOEL

Member of the Commission