Council Regulation (EC) No 361/2008 of 14 April 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)

COUNCIL REGULATION (EC) No 361/2008

of 14 April 2008

amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

(1) With a view to simplifying the regulatory environment of the common agricultural policy (CAP), Regulation (EC) No 1234/2007 (Single CMO Regulation)[(1)] repealed, and replaced by one single legal act, all the regulations which the Council had adopted since the introduction of the CAP in the framework of the establishment of common organisations of the markets for the agricultural products or groups of products.

(2) As explained in recital 7 of the Single CMO Regulation, that act of simplification was not meant to lead to calling into question policy decisions that had been taken over the years in the CAP and, therefore, it did not envisage providing for any new instruments or measures. The Single CMO Regulation, therefore, reflects the policy decisions taken up to the moment when the text for the Single CMO Regulation was proposed by the Commission.

(3) In parallel to the negotiations carried out within the Council on the adoption of the Single CMO Regulation, the Council also negotiated and adopted a series of policy decisions in several sectors. This is the case in respect of the sugar, seeds, milk and milk products sectors.

(4) Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector[(2)] was amended mainly with a view to achieving a structural balance of the market concerned. Those amendments have been adopted and were published only shortly before the publication of the Single CMO Regulation.

(5) Council Regulation (EC) No 1947/2005 of 23 November 2005 on the common organisation of the market in seeds[(3)] was amended at the same time as the Single CMO Regulation was adopted. That amendment discontinues the possibility for Finland to

Changes to legislation: *Council Regulation (EC) No 361/2008 is up to date with all changes known to be in force on or before 27 February 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

grant national aid for seeds and cereal seed and, in order to provide farmers in Finland with the opportunity to prepare for a situation without national aid, provides for a final, additional transitional period during which national aid for the production of seeds and cereal seed, with the exception of Timothy seeds, may be granted by Finland.

(6) Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products[(4)], was amended shortly before the adoption of the Single CMO Regulation introducing various amendments to the public intervention and private storage schemes in respect of butter and skimmed milk powder, repealing the possibility for military forces to buy butter at reduced prices and setting a flat-rate aid for all categories of milk supplied to pupils in educational establishments.
Moreover, Council Regulation (EC) No 2597/97 of 18 December 1997 laying down additional rules on the common organisation of the market in milk and milk products for drinking milk[(5)] was also amended at the same time as Regulation (EC) No 1255/1999 allowing the marketing, as drinking milk, of products with a fat content other than those that had previously been provided for in that Regulation.

(7) Those amendments need to be incorporated into the Single CMO Regulation in order to ensure that those policy decisions are being maintained from the application of the Single CMO Regulation in the sectors concerned.

(8) In parallel to the negotiations and adoption of the Single CMO Regulation, the Council also negotiated and adopted a policy reform in the fruit and vegetables and processed fruit and vegetables sectors. To that end, Council Regulation (EC) No 1182/2007 of 26 September 2007 laying down specific rules as regards the fruit and vegetable sector[(6)] was adopted. As explained in recital 8 of the Single CMO Regulation, only those provisions of the two aforementioned sectors which were not themselves subject to any policy reforms were incorporated into the Single CMO Regulation from the beginning and the substantive provisions which were subject to policy amendments should be incorporated into the Single CMO Regulation once enacted. Since that is the case, the fruit and vegetables and processed fruit and vegetables sectors should now be fully incorporated into the Single CMO Regulation by way of introducing the policy decisions taken in Regulation (EC) No 1182/2007 in respect of the common organisation of the markets for the products of these two sectors into the Single CMO Regulation.

(9) Council Regulation (EC) No 700/2007 of 11 June 2007 on the marketing of the meat of bovine animals aged 12 months or less[(7)] introduced new marketing rules for the products concerned. The aim of the Single CMO Regulation was to amalgamate all the rules existing in the context of the common organisation of the markets into a single legal framework and to replace sectoral approaches by a horizontal approach. The Single CMO Regulation contains marketing rules for various sectors and it is therefore appropriate to incorporate the new marketing rules introduced by Regulation (EC) No 700/2007 into the Single CMO Regulation.

(10) The incorporation of these provisions into the Single CMO Regulation should follow the same approach as that taken by the Single CMO Regulation when it was adopted, namely by not calling into question the policy decisions taken when those provisions

***Changes to legislation:** Council Regulation (EC) No 361/2008 is up to date with all changes known to be in force on or before 27 February 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

were adopted by the Council and the motivation for those policy decisions as expressed in the recitals of the respective Regulations.

(11) The Single CMO Regulation should therefore be amended accordingly.

(12) The amendments should apply at the latest from the same dates from which the Single CMO Regulation applies for the sectors concerned in accordance with Article 204(2) thereof. As regards the seeds, beef and veal and milk and milk products sectors, Article 204(2) provides for 1 July 2008 as the date from which the Single CMO Regulation applies. This Regulation should, therefore, also provide for 1 July 2008 as the application date for these sectors.

(13) Concerning the few provisions in the Single CMO Regulation which had already been provided in relation to the fruit and vegetables and processed fruit and vegetables sectors, they applied, in accordance with Article 204(2) of that Regulation, from 1 January 2008. The respective amendments envisaged in this Regulation could therefore be made to apply from the same date as those for the seeds, beef and veal and milk and milk products sectors, namely, from 1 July 2008.

(14) Article 2 of Regulation (EC) No 1152/2007 provides that certain of the amendments introduced by that Regulation in the milk sector should apply only from 1 September 2008. The same application date should be provided for the amendments concerned in the context of this Regulation.

(15) As regards the sugar sector, the Single CMO Regulation applies from 1 October 2008 in accordance with point (c) of the second subparagraph of Article 204(2) of that Regulation. The provisions envisaged in this Regulation for that sector should, therefore, also start to apply from 1 October 2008.

(16) The following regulations in the fruit and vegetables sector are obsolete and should, therefore, in the interests of legal certainty, be repealed: Regulation (EEC) No 449/69 of the Council of 11 March 1969 on the reimbursement of aid granted by Member States to organisations of fruit and vegetable producers[(8)], Regulation (EEC) No 1467/69 of the Council of 23 July 1969 on imports of citrus fruit originating in Morocco[(9)], Regulation (EEC) No 2511/69 of the Council of 9 December 1969 laying down special measures for improving the production and marketing of Community citrus fruit[(10)], Regulation (EEC) No 2093/70 of the Council of 20 October 1970 laying down general rules for applying Articles 6 and 7(1) of Regulation (EEC) No 2517/69 laying down certain measures for reorganizing Community fruit production[(11)], Regulation (EEC) No 846/72 of the Council of 24 April 1972 providing for special measures for the award of contracts for processing tomatoes which have been the subject of intervention measures[(12)], Regulation (EEC) No 1252/73 of the Council of 14 May 1973 on imports of citrus fruits originating in Cyprus[(13)], Regulation (EEC) No 155/74 of the Council of 17 December 1973 on imports of citrus fruits originating in the Lebanon[(14)], Regulation (EEC) No 1627/75 of the Council of 26 June 1975 on imports of fresh lemons originating in Israel[(15)], Council Regulation (EEC) No 794/76 of 6 April 1976 laying down further measures for reorganising Community fruit production[(16)], Council Regulation (EEC) No 1180/77 of 17 May 1977 on imports into the Community of certain agricultural products originating in Turkey[(17)], Council Regulation (EEC) No

Changes to legislation: *Council Regulation (EC) No 361/2008 is up to date with all changes known to be in force on or before 27 February 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

10/81 of 1 January 1981 fixing, in respect of fruit and vegetables, the general rules for implementing the 1979 Act of Accession[18], Council Regulation (EEC) No 40/81 of 1 January 1981 fixing the basic prices and the buying-in prices applicable in Greece to cauliflowers and apples[19], Council Regulation (EEC) No 3671/81 of 15 December 1981 on imports into the Community of certain agricultural products originating in Turkey[20], Council Regulation (EEC) No 1603/83 of 14 June 1983 laying down special measures for the disposal of dried grapes and dried figs from the 1981 harvest held by storage agencies[21], Council Regulation (EEC) No 790/89 of 20 March 1989 fixing the level of additional flat-rate aid for the formation of producers' organisations and the maximum amount applied to aid for quality and marketing improvement in the nut- and locust bean-growing sector[22], Council Regulation (EEC) No 3650/90 of 11 December 1990 on measures to strengthen the application of the common quality standards for fruit and vegetables in Portugal[23], Council Regulation (EEC) No 525/92 of 25 February 1992 on temporary compensation for the consequences of the situation in Yugoslavia on transport of some fresh fruit and vegetables from Greece[24], Council Regulation (EEC) No 3438/92 of 23 November 1992 laying down special measures for the transport of certain fresh fruit and vegetables originating in Greece[25], Council Regulation (EEC) No 3816/92 of 28 December 1992 providing for, in the fruit and vegetables sector, the abolition of the compensation mechanism in trade between Spain and the other Member States and allied measures[26], Council Regulation (EEC) No 742/93 of 17 March 1993 providing for, in the fruit and vegetables sector, the abolition of the compensation mechanism in trade between Portugal and the other Member States[27], Council Regulation (EEC) No 746/93 of 17 March 1993 on the granting of aid to encourage the formation and facilitate the operation of producer organisations as provided for in Regulations (EEC) No 1035/72 and (EEC) No 1360/78 in Portugal[28], Council Regulation (EC) No 399/94 of 21 February 1994 concerning specific measures for dried grapes[29], Council Regulation (EC) No 2241/2001 of 15 November 2001 amending the autonomous common customs tariff duty for garlic falling within CN code 0703 20 00[30], Council Regulation (EC) No 545/2002 of 18 March 2002 extending the financing of quality and marketing improvement plans for certain nuts and locust beans approved under Title IIa of Regulation (EEC) No 1035/72 and providing for a specific aid for hazelnuts[31],

HAS ADOPTED THIS REGULATION:

Article 1

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

1. Article 1 shall be amended as follows:

(a) paragraph 2 shall be replaced by the following:

2. In respect of the wine sector, only Article 195 of this Regulation shall apply.;

(b) the following paragraph shall be added:

4. In respect of potatoes, fresh or chilled of CN code 0701, Chapter II of Part IV shall apply.;

***Changes to legislation:** Council Regulation (EC) No 361/2008 is up to date with all changes known to be in force on or before 27 February 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

2. the following paragraph shall be added to Article 3:

For products of the fruit and vegetables and processed fruit and vegetables sectors, the marketing years shall, if necessary, be fixed by the Commission.;

3. Article 6(2)(c) shall be deleted;

4. Article 8(1)(e)(ii) shall be replaced by the following:

(ii) EUR 169,80 per 100 kg for skimmed milk powder;

5. Article 10(1)(f) shall be replaced by the following:

(f) skimmed milk powder of top quality made from milk in an approved undertaking in the Community by the spray process, with a minimum protein-content of 34,0 % by weight of the fat free dry matter.;

6. Article 15 shall be replaced by the following:

Article 15

Butter

1 For butter, public intervention shall be open during the period 1 March to 31 August.

2 Where the quantities offered for intervention during the period laid down in paragraph 1 exceed 30 000 tonnes, the Commission may suspend buying-in by public intervention. In that case buying-in may be carried out on the basis of a tendering procedure according to specifications to be determined by the Commission.;

7. Article 22 shall be replaced by the following:

Article 22

Butter

Without prejudice to the fixing of the intervention price by means of a tendering procedure in the case referred to in Article 15(2), the intervention price for butter shall be 90 % of the reference price.;

8. the second paragraph of Article 23 shall be deleted;

9. Article 26 shall be amended as follows:

(a) Point (a)(ii) of paragraph 2 shall be replaced by the following:

(ii) for export, either without further processing or after processing into products listed in Annex I to the Treaty or into goods listed in Part III of Annex XX to this Regulation, or;

(b) the following point shall be added to paragraph 2(a):

(iii) for industrial use referred to in Article 62.;

10. Article 28(a) shall be replaced by the following: