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**COMMISSION REGULATION (EC) No 1580/2007  
of 21 December 2007**

**laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and  
(EC) No 1182/2007 in the fruit and vegetable sector**

(OJ L 350, 31.12.2007, p. 1)

Amended by:

		Official Journal		
		No	page	date
► <b><u>M1</u></b>	Commission Regulation (EC) No 292/2008 of 1 April 2008	L 90	3	2.4.2008
► <b><u>M2</u></b>	Commission Regulation (EC) No 352/2008 of 18 April 2008	L 109	9	19.4.2008
► <b><u>M3</u></b>	Commission Regulation (EC) No 498/2008 of 4 June 2008	L 146	7	5.6.2008
► <b><u>M4</u></b>	Commission Regulation (EC) No 514/2008 of 9 June 2008	L 150	7	10.6.2008
► <b><u>M5</u></b>	Commission Regulation (EC) No 590/2008 of 23 June 2008	L 163	24	24.6.2008
► <b><u>M6</u></b>	Commission Regulation (EC) No 853/2008 of 18 August 2008	L 232	3	30.8.2008
► <b><u>M7</u></b>	Commission Regulation (EC) No 1050/2008 of 24 October 2008	L 282	10	25.10.2008
► <b><u>M8</u></b>	Commission Regulation (EC) No 1277/2008 of 17 December 2008	L 339	76	18.12.2008
► <b><u>M9</u></b>	Commission Regulation (EC) No 1327/2008 of 19 December 2008	L 345	24	23.12.2008



**COMMISSION REGULATION (EC) No 1580/2007**

**of 21 December 2007**

**laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables <sup>(1)</sup>, and in particular Article 1(3) thereof,

Having regard to Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products <sup>(2)</sup>, and in particular Article 1(3) thereof,

Having regard to Council Regulation (EC) No 1182/2007 of 26 September 2007 laying down specific rules as regards the fruit and vegetable sector amending Directives 2001/112/EC and 2001/113/EC and Regulations (EEC) No 827/68, (EC) No 2200/96, (EC) No 2201/96, (EC) No 2826/2000, (EC) No 1782/2003 and (EC) No 318/2006 and repealing Regulation (EC) No 2202/96 <sup>(3)</sup>, and in particular Article 42 thereof,

Whereas:

- (1) Regulation (EC) No 1182/2007 has modified the previous regime for the fruit and vegetables sector as laid down in Regulation (EC) No 2200/96, Regulation (EC) No 2201/96 and Council Regulation (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruits <sup>(4)</sup>.
- (2) The existing implementing rules covering the fruit and vegetables sector are contained in a large number of regulations, many of which have been amended many times. Those implementing rules need to be changed as a result of the modifications made to the fruit and vegetables regime by Regulation (EC) No 1182/2007, as well as in the light of experience. The scope of the changes makes it necessary, in the interests of clarity, to incorporate all the implementing rules in a new, separate Regulation.
- (3) The following Commission Regulations should therefore be repealed:
  - Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables <sup>(5)</sup>,
  - Regulation (EC) No 1555/96 of 30 July 1996 on rules of application for additional import duties on fruit and vegetables <sup>(6)</sup>,

<sup>(1)</sup> 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).

<sup>(2)</sup> OJ L 297, 21.11.1996, p. 29. Regulation as last amended by the Act of Accession 2003.

<sup>(3)</sup> OJ L 273, 17.10.2007, p. 1.

<sup>(4)</sup> OJ L 297, 21.11.1996, p. 49. Regulation as last amended by the Act of Accession 2003.

<sup>(5)</sup> OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 756/2007 (OJ L 172, 30.6.2007, p. 41).

<sup>(6)</sup> OJ L 193, 3.8.1996, p. 1. Regulation as last amended by Regulation (EC) No 977/2007 (OJ L 217, 22.8.2007, p. 9).

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- Regulation (EC) No 961/1999 of 6 May 1999 laying down detailed implementing rules concerning the extension of rules issued by producer organisations in the fruit and vegetable sector <sup>(1)</sup>,
- Regulation (EC) No 544/2001 of 20 March 2001 laying down rules for the application of Council Regulation (EC) No 2200/96 as regards additional financial assistance to operational funds <sup>(2)</sup>,
- Regulation (EC) No 1148/2001 of 12 June 2001 on checks on conformity to the marketing standards applicable to fresh fruit and vegetables <sup>(3)</sup>,
- Regulation (EC) No 2590/2001 of 21 December 2001 approving operations to checks conformity to the marketing standards applicable to fresh fruit and vegetables carried out in Switzerland prior to import into the European Community <sup>(4)</sup>,
- Regulation (EC) No 1791/2002 of 9 October 2002 approving operations to check conformity with the marketing standards applicable to fresh fruit and vegetables carried out in Morocco prior to import into the European Community <sup>(5)</sup>,
- Regulation (EC) No 2103/2002 of 28 November 2002 approving operations to check conformity to the marketing standards applicable to fresh fruit and vegetables carried out in South Africa prior to import into the European Community <sup>(6)</sup>,
- Regulation (EC) No 48/2003 of 10 January 2003 laying down the rules applicable to mixes of different types of fresh fruit and vegetables in the same sales package <sup>(7)</sup>,
- Regulation (EC) No 606/2003 of 2 April 2003 approving operations to check conformity with the marketing standards applicable to fresh fruit and vegetables carried out in Israel prior to import into the Community <sup>(8)</sup>,
- Regulation (EC) No 761/2003 of 30 April 2003 approving operations to check conformity to the marketing standards applicable to fresh fruit and vegetables carried out in India prior to import into the Community <sup>(9)</sup>,
- Regulation (EC) No 1432/2003 of 11 August 2003 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 regarding the conditions for recognition of producer organisations and preliminary recognition of producer groups <sup>(10)</sup>,
- Regulation (EC) No 1433/2003 of 11 August 2003 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards operational funds, operational programmes and financial assistance <sup>(11)</sup>,
- Regulation (EC) No 1943/2003 of 3 November 2003 laying down rules for the application of Council Regulation (EC)

<sup>(1)</sup> OJ L 119, 7.5.1999, p. 23.

<sup>(2)</sup> OJ L 81, 21.3.2001, p. 20.

<sup>(3)</sup> OJ L 156, 13.6.2001, p. 9. Regulation as last amended by Regulation (EC) No 408/2003 (OJ L 62, 6.3.2003, p. 8).

<sup>(4)</sup> OJ L 345, 29.12.2001, p. 20.

<sup>(5)</sup> OJ L 272, 10.10.2002, p. 7.

<sup>(6)</sup> OJ L 324, 29.11.2002, p. 11.

<sup>(7)</sup> OJ L 7, 11.1.2003, p. 65.

<sup>(8)</sup> OJ L 86, 3.4.2003, p. 15.

<sup>(9)</sup> OJ L 109, 1.5.2003, p. 7.

<sup>(10)</sup> OJ L 203, 12.8.2003, p. 18.

<sup>(11)</sup> OJ L 203, 12.8.2003, p. 25. Regulation as last amended by Regulation (EC) No 576/2006 (OJ L 100, 8.4.2006, p. 4).

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No 2200/96 as regards aid to producer groups granted preliminary recognition <sup>(1)</sup>,

- Regulation (EC) No 103/2004 of 21 January 2004 laying down detailed rules for implementing Council Regulation (EC) No 2200/96 as regards intervention arrangements and market withdrawals in the fruit and vegetable sector <sup>(2)</sup>,
  - Regulation (EC) No 1557/2004 of 1 September 2004 approving operations to check conformity to the marketing standards applicable to certain fresh fruit carried out in New Zealand prior to import into the Community <sup>(3)</sup>,
  - Regulation (EC) No 179/2006 of 1 February 2006 introducing a system of import licences for apples imported from third countries <sup>(4)</sup>,
  - Regulation (EC) No 430/2006 of 15 March 2006 approving operations to check conformity with the marketing standards applicable to fresh fruit and vegetables carried out in Senegal prior to import into the Community <sup>(5)</sup>,
  - Regulation (EC) No 431/2006 of 15 March 2006 approving operations to check conformity to the marketing standards applicable to fresh fruit and vegetables carried out in Kenya prior to import into the Community <sup>(6)</sup>,
  - Regulation (EC) No 1790/2006 of 5 December 2006 approving operations to check conformity to the marketing standards applicable to fresh fruit and vegetables carried out in Turkey prior to import into the Community <sup>(7)</sup>.
- (4) Detailed rules for the implementation of Regulation (EC) No 1182/2007 should be adopted.
- (5) Marketing years should be set for fruit and vegetable products. Since there are no longer any aid schemes in the sector which follow the harvesting cycle of the products concerned, all marketing years may be harmonised to fit the calendar year.
- (6) Regulation (EC) No 1182/2007 authorises the Commission to provide for marketing standards for fruit and vegetable products and its Article 2(7) provides that the existing individual regulations providing for such standards should continue to apply until new standards are adopted.
- (7) Exceptions and exemptions from the application of marketing standards should be provided in the case of certain operations which are either very marginal and/or specific, or take place at the start of the distribution chain, or in the case of products intended for processing.
- (8) The information particulars required by marketing standards should be clearly displayed on the packaging/label.
- (9) Packages containing different types of fresh fruit and vegetables are becoming more common on the market in response to demand from certain consumers. Fair trading requires that fresh fruit and vegetables sold in the same package are of uniform quality. For products for which Community standards have not been adopted this can be ensured by recourse to general provisions. Labelling requirements should be laid down for

<sup>(1)</sup> OJ L 286, 4.11.2003, p. 5. Regulation as last amended by Regulation (EC) No 222/2005 (OJ L 39, 11.2.2005, p. 17).

<sup>(2)</sup> OJ L 16, 23.1.2004, p. 3.

<sup>(3)</sup> OJ L 283, 2.9.2004, p. 3.

<sup>(4)</sup> OJ L 29, 2.2.2006, p. 26.

<sup>(5)</sup> OJ L 79, 16.3.2006, p. 7.

<sup>(6)</sup> OJ L 79, 16.3.2006, p. 9.

<sup>(7)</sup> OJ L 339, 6.12.2006, p. 8.

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mixes of different types of fruit and vegetables in the same package. They should be less strict than those laid down by the marketing standards in order to take into account, in particular, the space available on the label.

- (10) Each Member State should designate the inspection bodies responsible for carrying out checks on conformity at each stage of marketing. One of those bodies should be responsible for contacts and coordination between all other designated bodies.
- (11) Since knowledge of traders and their main characteristics is an indispensable tool in Member States' analysis, it is essential to set up a database on traders of fresh fruit and vegetables in each Member State.
- (12) Conformity checks should be carried out by sampling and should concentrate on traders most likely to have goods which do not comply with the standards. Taking into account the characteristics of their national markets, Member States should lay down rules prioritising checks on particular categories of traders. To ensure transparency, these rules should be notified to the Commission.
- (13) Member States should ensure that exports of fresh fruits and vegetables to third countries conform to the marketing standards and should certify conformity, in accordance with the Geneva Protocol on standardisation of fresh fruit and vegetables and dry and dried fruit concluded within the United Nations Economical Commission for Europe and the OECD scheme for the application of international standards for fruit and vegetables.
- (14) Imports of fresh fruit and vegetables from third countries should conform to the marketing standards or to standards equivalent to them. Checks on conformity must therefore be carried out before these goods enter Community customs territory, except in the case of small lots which the inspection authorities/bodies consider to be low risk. In certain third countries which provide satisfactory guarantees of conformity, pre-export checks may be carried out by the inspection bodies of these third countries. Where this option is applied, the Member States should regularly verify the effectiveness/quality of the pre-export checks carried out by third country inspection bodies and inform the Commission of the results of these verifications.
- (15) Products intended for processing are not required to conform to marketing standards, so it should be ensured that they are not sold on the market for fresh products. Such products should be appropriately labelled and, in certain cases/when possible, accompanied by a processing certificate stating the end-use of the product which would allow checks to be made.
- (16) Fruit and vegetables checked for conformity with the marketing standards should be subject to the same type of check at all stages of marketing. The inspection guidelines recommended by the United Nations Economic Commission for Europe in line with the relevant OECD recommendations, should be applied to this end. Specific arrangements should however be laid down for checks at the retail sale stage.
- (17) Provision should be made for recognition of producer organisations for the products they request. Where the recognition is requested for products solely for processing, it should be ensured that they are indeed delivered for processing.
- (18) In order to help achieve the goals of the fruit and vegetables regime and to ensure that producer organisations carry out their work in a sustainable and effective way, there should be the utmost stability within producer organisations. Membership of a producer in the producer organisation should therefore be for a minimum period. It should be left up to the Member States to lay

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down the notice periods and the dates on which resignation from membership are to take effect.

- (19) The main and essential activities of a producer organisation should relate to the concentration of supply and marketing. However, producer organisations should be allowed to engage in other activities, whether or not of a commercial nature. Cooperation between producer organisations should be encouraged by allowing the marketing of fruit and vegetables bought exclusively from another recognised producer organisation to be left out of the calculations both for the purposes of the main activity and for other activities. As regards the provision of technical means it is appropriate to widen the scope of how this may be done to include provision via members of a producer organisation.
- (20) Producer organisations may hold shares in subsidiaries which help to increase the added value of the production of their members. Rules should be fixed for calculating the value of such marketed production. The main activities of such subsidiaries should be the same as those of the producer organisation, after allowing for a transitional period for adaptation.
- (21) Detailed rules should be laid down on the recognition and functioning of the associations of producer organisations, transnational producer organisations and transnational associations of producer organisations provided for in Regulation (EC) No 1182/2007. For the sake of consistency, they should as far as possible reflect the rules laid down for producer organisations.
- (22) In order to facilitate the concentration of supply, the merger of existing producer organisations to form new ones should be encouraged by providing rules for the merger of operational programmes of the merged organisations.
- (23) While respecting the principles whereby a producer organisation must be formed on the own initiative of producers and scrutinised by the producers, it should be left up to the Member States to lay down the conditions whereby other natural or legal persons are accepted as members of a producer organisation and/or an association of producer organisations.
- (24) In order to ensure that producer organisations genuinely represent a minimum number of producers, Member States should take measures to ensure that a minority of members who may account for the bulk of production in the producer organisation do not unduly dominate its management and operation.
- (25) In order to take account of different production and marketing circumstances in the Community, the Member States should lay down certain conditions for the grant of preliminary recognition to producer groups which submit a recognition plan.
- (26) To promote the setting-up of stable producer organisations capable of making a lasting contribution to the attainment of the objectives of the fruit and vegetable regime, preliminary recognition should be granted only to producer groups which can demonstrate their ability to meet all the requirements for recognition within a specified time limit.
- (27) Information which the producer groups must provide in the recognition plan should be laid down. To enable producer groups to better meet the recognition conditions, there is a need to authorise changes to recognition plans. To that end, provision should be made enabling Member States to request from producer organisation to take corrective action in order to ensure that their plan is implemented.
- (28) The producer group may satisfy the conditions for recognition before the recognition plan is completed. Provision should be made to allow such groups to submit applications for recognition

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along with draft operational programmes. For the sake of consistency, the grant of such recognition to a producer group must signify the termination of its recognition plan, and the aid provided for should be discontinued. However, to take account of the multiannual financing of investments, investments qualifying for investment aid should be able to be carried over to operational programmes.

- (29) To facilitate the correct application of the system of aid to cover the costs of formation and administrative operation of producer groups, that aid should be granted at a flat-rate. That flat-rate aid should be subject to a ceiling in order to comply with budgetary constraints. Moreover, taking into account the differing financial needs of producer groups of different sizes, that ceiling should be adjusted in line with the value of marketable production of the producer groups.
- (30) For the sake of consistency and a smooth transition to the status of a recognised producer group, the same rules on main activities of producer organisations and their value of marketed production should apply to producer groups.
- (31) In the event of mergers, the possibility should be given for the aid to be granted to the producer groups resulting from the merger, in order to take into account the financial needs of the new producers groups and to ensure the correct application of the aid scheme.
- (32) To facilitate the use of the scheme of support to operational programmes, the marketed production of producer organisations should be clearly defined, including the specification of which products may be taken into account and the marketing stage at which the value of production is to be calculated. Additional methods of calculation of marketable production should also be made possible in case of yearly fluctuations or insufficient data. To prevent misuse of the scheme, producer organisations should not in general be permitted to change reference periods within the duration of a programme.
- (33) To ensure correct use of aid, rules should be laid down for the management of operational funds and members' financial contributions, allowing for as much flexibility as possible on condition that all producers may take advantage of the operational fund and may democratically participate in decisions on its use.
- (34) Provisions should be laid down establishing the scope and structure of the national strategy for sustainable operational programmes and the national framework for environmental actions. Its aim shall be to optimise the allocation of financial resources and to improve the quality of the strategy.
- (35) In the interests of sound management, procedures for the presentation and approval of operational programmes, including deadlines, should be laid down in order to allow appropriate evaluation of the information by the competent authorities, and measures and activities to be included in, or excluded from, the programmes. Since the programmes are managed on an annual basis, it should be provided that programmes not approved before a given date are postponed for a year.
- (36) There should be a procedure for annually amending operational programmes for the following year, so that they can be adjusted to take account of any new conditions which could not have been foreseen when they were initially presented. In addition, it should be possible for measures and amounts of the operational fund to be changed during each year of execution of a programme. All such changes should be subject to certain limits and conditions, to be defined by Member States and including obligatory notifi-

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- cation of changes to the competent authorities, to ensure the approved programmes maintain their overall objectives.
- (37) For reasons of financial security and legal certainty, a list of operations and expenditure which may not be covered by operational programmes should be drawn up.
- (38) In the case of investments on individual holdings, so as to prevent the unjustified enrichment of a private party who has severed links with the organisation during the useful life of the investment, provisions should be laid down to allow the organisation to recover the residual value of the investment, whether such an investment is owned by a member or by the organisation.
- (39) To ensure correct application of the scheme, information to be included in the applications for aid as well as procedures for the payment of aid should be laid down. To prevent cash-flow difficulties, a system of advance payments accompanied by appropriate securities should be available to producer organisations. For similar reasons, an alternative system should be available for the reimbursement of expenditure already incurred.
- (40) Detailed provisions on the scope and application of crisis management and prevention measures should be laid down. As far as possible these rules should provide for flexibility and for rapid application in crises and therefore should allow decisions to be taken by Member States and producer organisations themselves. Nevertheless the rules should prevent abuses and provide for limits on the use of certain measures, including in financial terms. They should also ensure that phytosanitary and environmental requirements are duly respected.
- (41) As regards withdrawals from the market, detailed rules should be adopted taking into account the potential importance of that measure. In particular, rules should be drawn up concerning the system of increased support for fruit and vegetables withdrawn from the market which are distributed free of charge as humanitarian aid by charitable organisations and certain other establishments and institutions. In addition, maximum levels of support for market withdrawals should be fixed in order to ensure that they do not become a permanent alternative outlet for products compared to placing them on the market. In this context, for those products for which maximum levels of Community withdrawal compensation were set in Annex V to Regulation (EC) No 2200/96, it is appropriate to continue using such levels, subject to a certain degree of increase to reflect the fact that these withdrawals are now co-financed. For other products, where experience has not yet shown any risk of excessive withdrawals, it is appropriate to allow Member States to fix maximum levels of support. In all cases, however, for similar reasons, it is appropriate to set a quantitative limit of withdrawals per product per producer organisation.
- (42) Detailed rules should be adopted concerning the national financial assistance which Member States may grant in regions of the Community where the degree of organisation of producers is particularly low, including defining such low degree of organisations. Procedures for the approval of such national aid as well as for the approval and amount of Community reimbursement of the aid should be provided for, as well as for proportion of reimbursement which should reflect those currently applicable.
- (43) Detailed rules, in particular procedural provisions, should be adopted concerning the conditions under which the rules issued by producer organisations or associations of such organisations in the fruit and vegetables sector may be extended to all producers established in a specific economic area. Also, where produce is sold on the tree, it should be made clear which rules are to be extended to the producers and the buyers respectively.



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- (44) Apple producers in the Community have recently found themselves in a difficult situation, due, among other things, to a significant increase in imports of apples from certain third countries of the Southern hemisphere. The monitoring of the import of apples should therefore be improved. The appropriate instrument for achieving that objective is a mechanism based on issuing import licences subject to the provision of a security to ensure that the operations for which an import licence has been applied for are actually performed. Commission Regulations (EC) No 1291/2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products <sup>(1)</sup> and (EEC) No 2220/85 laying down common detailed rules for the application of the system of securities for agricultural products <sup>(2)</sup> should apply.
- (45) Detailed rules should be adopted concerning the entry price system for fruit and vegetables. Since most of the perishable fruit and vegetables concerned are supplied on consignment, this creates special difficulties for determining their value. The possible methods for calculation of the entry price on the basis of which imported products are classified in the Common Customs Tariff should be set. In particular, standard import values should be established on the basis of the weighted average of the average prices for the products and special provision must be made for cases in which no prices are available for products of a given origin. There should be provision for the lodging of a security in certain circumstances to ensure that the system is correctly applied.
- (46) Detailed rules should be adopted concerning the import duty which can be imposed on certain products in addition to that provided for in the Common Customs Tariff. The additional duty may be imposed if import volumes of the products concerned exceed trigger levels determined for the product and the period of application. Goods en route to the Community are exempt from additional duty and, therefore, specific provisions for such goods should be adopted.
- (47) Provision should be made for appropriate monitoring and evaluation of ongoing programmes and schemes in order to assess their effectiveness and efficiency by both producer organisations and Member States.
- (48) Measures/provisions should be laid down concerning the type, format and means of communications necessary to implement this Regulation. These should include communications from producers and producer organisations to the Member States and from the Member States to the Commission, as well as the consequences resulting from late or inaccurate communications.
- (49) Measures should be laid down for the checks necessary in order to ensure to proper application of this Regulation and Regulation (EC) No 1182/2007, and the appropriate sanctions applicable to irregularities found. Those measures should involve both specific checks and sanctions laid down at the Community level as well as additional national checks and sanctions. The checks and sanctions should be dissuasive, effective and proportionate. Rules should be provided for resolving cases of obvious error, *force majeure* and other exceptional circumstances to ensure fair treatment of producers. Rules for artificially created situations should be provided for in order to avoid any benefit being derived from such situations.

<sup>(1)</sup> OJ L 152, 24.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 1913/2006 (OJ L 365, 21.12.2006, p. 52).

<sup>(2)</sup> OJ L 205, 3.8.1985, p. 5. Regulation as last amended by Regulation (EC) No 1913/2006 (OJ L 365, 21.12.2006, p. 52).

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- (50) Provisions should be made for a smooth transition from the previous system to the new system set out in this Regulation and the implementation of the transitional provisions set out in Article 55 of Regulation (EC) No 1182/2007.
- (51) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

## TITLE I

## INTRODUCTORY PROVISIONS

*Article 1***Scope and use of terms**

1. This Regulation lays down implementing rules for Regulation (EC) No 2200/96, Regulation (EC) No 2201/96 and Regulation (EC) No 1182/2007.
2. Terms used in Regulations referred to in paragraph 1 shall have the same meaning when used in this Regulation unless this Regulation provides otherwise.

*Article 2***Marketing years**

The marketing years for the products listed in Article 1(2) of Regulation (EC) No 2200/96 and in Article 1(2) of Regulation (EC) No 2201/96 shall run from 1 January to 31 December.

## TITLE II

## CLASSIFICATION OF PRODUCTS

## CHAPTER I

**General rules***Article 3***Exceptions and exemptions from the application of marketing standards**

1. By way of derogation from Article 2(5) of Regulation (EC) No 1182/2007, the following shall not be required to conform to the marketing standards:
  - (a) products shipped to processing plants, other than where minimum quality criteria for products intended for industrial processing are specifically set in this Regulation;
  - (b) products transferred by the producer on his holding to consumers for their personal use; and
  - (c) on a Commission Decision taken at the request of a Member State using the procedure referred to in Article 46 of Regulation (EC) No 2200/1996 for products of a given region which are sold by the retail trade of the region for well established traditional local consumption.

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2. By way of derogation from Article 2(5) of Regulation (EC) No 1182/2007, the following shall not be required to conform to the marketing standards within a given production area:

- (a) products sold or delivered by the grower to preparation and packaging stations or storage facilities, or shipped from his holding to such stations; and
- (b) products shipped from storage facilities to preparation and packaging stations.

3. By way of derogation from Article 2(5) of Regulation (EC) No 1182/2007, Member States may exempt the following from the requirement of complying with marketing standards or with some provisions of the marketing standards:

- (a) products displayed or offered for sale, sold, delivered or marketed in any other manner by the grower on wholesale markets, in particular on producer markets, situated in the production area; and
- (b) products shipped from those wholesale markets to preparation and packaging stations and storage facilities situated in the same production area.

Where the first subparagraph applies, the Member State concerned notify the Commission of the measures taken.

4. Evidence shall be supplied to the competent authority of the Member State that the products covered by paragraphs 1(a) and 2 fulfil the conditions laid down, in particular with regard to their intended use.

*Article 4***Information particulars**

1. The information particulars required by marketing standards laid down pursuant to Article 2 of Regulation (EC) No 1182/2007 must be shown legibly and obviously on one side of the packaging, either indelibly printed directly onto the package or on a label which is an integral part of the package or affixed to it.

2. For goods shipped in bulk and loaded directly onto a means of transport, the information particulars referred to in paragraph 1 shall be given in a document accompanying the goods or shown on a notice placed in an obvious position inside the means of transport.

*Article 5***Information particulars at the retail stage**

At the retail stage, where products are packaged the information particulars required by marketing standards laid down pursuant to Article 2 of Regulation (EC) No 1182/2007 shall be legible and conspicuous.

For pre-packaged products as referred to in Directive 2000/13/EC of the European Parliament and of the Council <sup>(1)</sup>, the net weight shall be indicated, in addition to all the information provided for in the marketing standards. However, in the case of products normally sold by number, the requirement to indicate the net weight shall not apply if the number of items may be clearly seen and easily counted from the outside or, if the number is indicated on the label.

<sup>(1)</sup> OJ L 109, 6.5.2000, p. 29. Directive as last amended by Directive 2006/142/EC (OJ L 368, 23.12.2006, p. 110).

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Products may be presented unpackaged, provided that the retailer displays with the goods offered for sale a card showing prominently and legibly the information particulars specified in the marketing standards and in Article 2(1) of Regulation (EC) No 1182/2007 relating to variety, country of origin of the product, and class.

*Article 6***Sales packages**

1. Sales packages of fresh fruit and vegetables of a net weight of three kilograms or less may contain mixes of different types of fresh fruit and vegetables provided that:

- (a) the products are of uniform quality and that each type concerned complies with the standards in accordance with paragraph 2;
- (b) the package is appropriately marked, in accordance with paragraph 3; and
- (c) the mix is not such as to mislead the consumer.

2. The products contained in packages as referred to in paragraph 1 shall be of the same commercial quality class as referred to in Annex I.

Where a mix contains fruit and vegetables not covered by Community marketing standards, those products must be classed either in the same class, in accordance with Annex I.

3. The marking on sales packages as referred to in paragraph 1 and/or on each package containing them shall show at least the following details:

- (a) The name and the address of the packer and/or the dispatcher. This mention may be replaced:
  - (i) for all packages with the exception of pre-packages, by the officially issued or accepted code mark representing the packer and/or the dispatcher, indicated in close connection with the reference 'Packer and/or Dispatcher' (or equivalent abbreviations);
  - (ii) for pre-packages only, by the name and the address of a seller established within the Community indicated in close connection with the mention 'Packed for:' or an equivalent mention. In this case, the labelling shall also include a code representing the packer and/or the dispatcher. The seller shall give all information deemed necessary by the inspection body as to the meaning of this code;
- (b) name of each of the products/types contained in the package;
- (c) name of the variety or of the commercial type for each product contained in the mix for which the Community marketing standard requests it for non-mixed products;
- (d) country of origin of each of the products concerned, next to the name of the products concerned; and
- (e) class.

For fruit and vegetables covered by Community marketing standards, these details shall replace the particulars laid down by those standards.

*CHAPTER II**Checks on conformity to marketing standards*

## Section 1

**General provisions***Article 7***Scope**

This Chapter lays down rules for Member States when carrying out checks at all stages of marketing on conformity to the marketing standards laid down pursuant to Article 2 of Regulation (EC) No 1182/2007.

*Article 8***Competent bodies**

1. Each Member State shall designate:
  - (a) a single competent authority responsible for coordination and contacts in the areas covered by this Chapter, hereinafter called ‘the coordinating authority’; and
  - (b) an inspection body or bodies responsible for the application of Article 2(6) of Regulation (EC) No 1182/2007, hereinafter called ‘the inspection bodies’.
2. The Member States shall communicate to the Commission:
  - (a) the name and postal and e-mail address of the coordinating authority they have designated pursuant to paragraph 1;
  - (b) the name and postal and e-mail address of the inspection bodies they have designated pursuant to paragraph 1; and
  - (c) the exact description of the respective spheres of activity of the inspection bodies they have appointed.
3. The coordinating authority may be the inspection body or one of the inspection bodies or any other body designated pursuant to paragraph 1.
4. The Commission shall make publicly available the list of coordinating authorities designated by the Member States in the manner it considers appropriate.

*Article 9***Trader database**

1. The Member States shall set up a database on traders in fruit and vegetables, which shall list, under the conditions established in this Article, traders involved in the marketing of fresh fruit and vegetables for which standards have been laid down pursuant to Article 2 of Regulation (EC) No 1182/2007.

For the purposes of this Chapter ‘trader’ means any natural or legal person holding fresh fruit and vegetables subject to marketing standards with a view to their displaying or offering for sale, their sale or their marketing in any other manner for itself or on behalf of a third party in the Community's territory and/or export to third countries.

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2. Member States shall determine the conditions under which the following traders are to be included or not in the database:
  - (a) traders whose activities are exempt from the obligation to comply with the marketing standards pursuant to Article 3; and
  - (b) natural or legal persons whose activities in the fruit and vegetables sector are limited either to the transport of goods, or to the sale of small quantities at the retail stage.
3. Where the database is composed of several distinct elements, the coordinating authority shall ensure that the database, its elements and their updating are uniform. The updating shall be done in particular by the inspection bodies using the information collected during checks carried out at all stages of marketing.
4. This database shall contain, for each trader, the registration number, name, address, information needed for its classification in one of the categories mentioned in Article 10, in particular, position in the marketing chain, information concerning the importance of the firm, information concerning findings made during previous checks of each trader, as well as any other information considered necessary for checks.
5. Traders shall provide the information that Member States consider necessary to set up and update the database. Member States shall determine the conditions under which traders not established in their territory but trading on it shall be listed in their database.

**Section 2****Checks carried out on the internal market***Article 10***Conformity checks on the internal market**

1. Member States shall introduce a system of sampling checks on the conformity with marketing standards of products held by traders at all stages of marketing.

Under this system, Member States shall specify the frequency, based on a risk analysis of a trader marketing goods not in conformity with the marketing standards, with which checks must be made by the inspection bodies. The frequency of checks must be sufficient to ensure compliance with Community rules, for each category of trader they have first defined.

This risk analysis shall relate, in particular, to the size of the traders, their position in the marketing chain, findings made during previous checks and other possible parameters to be defined by the Member States.

Traders involved in preparing and packaging fruit and vegetables, particularly in the production region, shall be subject to a higher rate of checks than other categories of trader. Checks may also occur during transport.

Where checks reveal significant irregularities, the inspection bodies shall increase the frequency of checks on the traders concerned.

2. Traders shall provide the inspection bodies with all information those bodies judge necessary for organising and carrying out checks.
3. Member States may authorise traders guaranteeing a uniform and high conformity rate of the fruit and vegetables subject to marketing standards at the stage of dispatch to use the specimen in Annex II in the labelling of each package. The authorisation shall be granted for a period of three years and shall be renewable.

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In addition, in order to benefit from the use of the specimen, traders shall:

- (a) have inspection staff who have received training approved by the Member State;
- (b) have suitable equipment for preparing and packing produce;
- (c) commit themselves to proceed to a conformity check of the goods they dispatch and have a register recording all operations of checks carried out.

When traders are no longer able to guarantee a high and uniform conformity rate, or when one of the conditions provided for in the second subparagraph is no longer fulfilled, the Member State shall withdraw the authorisation for the trader to use the specimen in Annex II in the labelling of each package.

4. The coordinating authority shall communicate to the Commission the provisions of the inspection system as referred to in paragraph 1. This communication shall include the different categories of traders that were identified and the check frequency specified for each of them, as well as, where appropriate, the detailed conditions of implementation of paragraph 3, the detailed conditions of implementation of Article 11(1), including the minimum proportions of checks for the different traders concerned. It shall immediately inform the Commission of any subsequent amendments to that system.

5. The inspection bodies of a Member State on whose territory a lot of goods from another Member State is found not to conform with the standards because of defects or deterioration which could have been detected at the time of packaging shall immediately notify such cases of non-conformity discovered up to the wholesale marketing stage, including at distribution centres, to the authorities of the other Member States likely to be concerned.

#### *Article 11*

##### **Conformity checks at the point of export**

1. The competent inspection body shall at the stage of export ensure by a conformity check that products intended for export to third countries leave the Community's customs territory only if they conform to the marketing standards.

Exporters shall provide the inspection bodies with all information those bodies judge necessary for organising and carrying out checks.

2. Member States may specify, for each category of trader concerned and based on a risk analysis, the minimum proportion of consignments and quantities subject to conformity checks by the competent inspection body at the export stage. This proportion shall be sufficient to ensure compliance with Community rules. Where these checks reveal significant irregularities, the inspection bodies shall increase the proportion of consignments checked in the case of the traders concerned.

Member States may apply the provisions mentioned in the second subparagraph to traders fulfilling the following conditions:

- (a) they offer sufficient guarantees of a consistent and high rate of conformity for the fruit and vegetables which they market;
- (b) they have inspection staff who have received training approved by the Member State;
- (c) they undertake to check the conformity of the goods they market; and
- (d) they undertake to keep a register recording all the checks they have carried out.

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3. After completion of the checking operations mentioned in paragraph 1 the inspection body shall issue a certificate of conformity as set out in Annex III for each lot intended for export and which they consider to be in conformity with the marketing standards. Where the export consignment consists of several lots, the conformity of those lots may be certified on a single certificate which clearly lists the various lots constituting that consignment.

Where, in accordance with paragraph 2, lots concerned by the certificate of conformity have not been checked by the competent inspection body at the export stage, the mention 'self-check (Article 11(2) of Commission Regulation (EC) No 0000/2007)' shall be reported in box 13 (Comments) of the certificate.

4. The export declaration may be accepted by the competent customs authority only if:

- (a) the goods are accompanied by either the certificate referred to in paragraph 3 or the certificate referred to in Article 19(2); or
- (b) the competent inspection body informed the customs authority, by appropriate means, that the relevant lots have been subject to the issue of one of those two certificates.

*Article 12***Conformity checks at the point of import**

1. Before release for free circulation, products from third countries shall be checked for conformity with the marketing standards.

Importers shall provide the inspection bodies with all information those bodies judge necessary to organising and carrying out the checks mentioned in paragraph 2 and Article 16(1).

2. Without prejudice to Section 3, the official inspection body shall carry out a conformity check at the point of import for each imported lot and, where those products conform with the required standards, issue a certificate of conformity as set out in Annex III. Where the import consignment consists of several lots, the conformity of those lots may be certified on a single certificate which clearly lists the various lots constituting that consignment.

3. The customs authorities shall authorise release for free circulation only if:

- (a) the goods are accompanied by the certificate referred to in paragraph 2, the certificate referred to in Article 14(1) or the certificate referred to in Article 19(2); or if
- (b) the competent inspection body informed the customs authority, by appropriate means, that the relevant lots have been subject to the issuance of one of those certificates.

4. By way of derogation from paragraphs 1, 2 and 3, where the competent inspection body at the point of import considers that there is a low risk of certain lots not conforming to the marketing standards, it may choose not to check those lots. It shall send the customs authority a stamped declaration to that effect or inform that authority in another manner that it may carry out clearance procedures.

For the purposes of applying the first subparagraph, the inspection body shall lay down in advance the criteria for assessing the risk of lots not conforming and, on the basis of a risk analysis, for each type of import it has defined, the minimum proportions of consignments and quantities which will be subject to a conformity check by the competent inspection body at the import stage. Any proportion specified pursuant to this paragraph must in any case be substantially higher than the ones applied according to Article 16(1).



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5. In order to improve the uniformity of application of paragraph 4 in the Member States, the Commission shall adopt common guidelines for its application. The coordinating authority shall inform the Commission forthwith of the rules for the application of paragraph 4, including the criteria and minimum proportions referred to in paragraph 4, second subparagraph and any subsequent amendment to those rules.

6. Where, on import from a third country, a lot of goods are found not to conform with the standards, the coordinating authority of the Member State concerned shall immediately notify the Commission and the coordinating authorities of the other Member States likely to be concerned, which shall then pass on this information as necessary in their territory. The Commission shall be notified via the electronic system indicated by the Commission.

## Section 3

**Checks performed by third countries***Article 13***Approval of checking operations performed by third countries prior to import into the Community**

1. At the request of a third country, the Commission may approve, in accordance with the procedure laid down in Article 46 of Regulation (EC) No 2200/96, conformity checking operations performed by this third country prior to import into the Community.

2. The approval referred to in paragraph 1 may be granted to third countries which so request and on whose territory the Community marketing standards, or at least equivalent standards, are met for products exported to the Community.

The approval shall specify the official authority in the third country under the responsibility of which checking operations referred to in paragraph 1 are performed. This authority shall be responsible for contacts with the Community. The approval also specifies the inspection bodies in charge of the proper checks, hereinafter called 'third country inspection bodies'.

The approval may only apply to products originating in the third country concerned and may be limited to certain products.

3. The third country inspection bodies shall be official bodies or officially recognised by the authority referred to in paragraph 2 providing satisfactory guarantees and disposing of the necessary personnel, equipment and facilities to carry out checks according to the methods referred to in Article 20(1) or equivalent methods.

4. The list of countries whose checks on conformity have been approved under this Article, and the products concerned, are set out in Part A of Annex IV. Details of their official authorities and inspection bodies are set out in Part B of that Annex and the models for the certificates referred to in Article 14 are set out in Part C of that Annex.

*Article 14***Certificates**

1. The third country inspection bodies shall draw up, for each lot checked prior to its entry into Community customs territory, either the certificate of conformity set out in Annex III, or any other form agreed between the Commission and the third country. Where the import consignment consists of several lots, the conformity of these lots may be certified on a single certificate which clearly lists the various lots constituting that consignment.

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The standard forms on which the certificates provided for in the first subparagraph are drawn up shall be established within the framework of the approval referred to in Article 13(1).

2. The certificate shall bear the word 'original'. Where additional copies are required, they should be stamped with the word 'copy'. The competent authorities in the Community shall accept as valid only the original of the certificate.

The form shall measure 210 × 297 mm; a tolerance of up to plus 8 mm or minus 5 mm in the length may be allowed. The paper used shall be white, not containing mechanical pulp, sized for writing and shall weigh not less than 40 g/m<sup>2</sup>.

The forms shall be printed and completed in one of the official languages of the Community.

The forms must be completed using a mechanographical or similar process.

Entries must not be erased or overwritten. Any alterations shall be made by crossing out the incorrect particulars and, where appropriate, adding those required. Such changes shall be initialled by the person making them and endorsed by the issuing authorities.

Each certificate shall bear a serial number, by which it can be identified, and shall be stamped by the issuing authority and signed by the person or persons empowered to do so.

The issuing authority shall retain a copy of each certificate it issues.

*Article 15***Suspension of approval**

The Commission may suspend approval if it is found that, in a significant number of lots and/or quantities, the goods do not correspond to the information in the certificates of conformity issued by the third country inspection bodies, or where an unsatisfactory response has been made to the requests for *a posteriori* checks as referred to in Article 16(2).

*Article 16***Additional checks by the Member States**

1. Member States shall conduct physical checks at the point of import on products imported under the conditions set out in this Section for conformity with the standards by carrying out conformity checks for each third country concerned on a significant proportion of the consignments and quantities imported under those conditions. This proportion shall be sufficient to ensure compliance with the Community rules by the third country inspection bodies. Member States shall ensure that the measures laid down in Article 20(3) are applied to the lots checked where those lots do not comply with the marketing standards.

Where checks reveal significant irregularities, Member States shall immediately inform the Commission, and the inspection bodies shall increase the proportion of consignments and quantities checked in accordance with the provisions of this Article.

If a Member State levies a fee to cover the costs of the checks referred to in this paragraph, the level of this fee shall be such as to reflect the lower proportion of consignments and quantities checked for these checks than for those mentioned in Article 12.

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2. Whenever doubts arise as to the authenticity of a certificate as referred to in the first subparagraph of Article 14(1) or the accuracy of the information contained therein, an *a posteriori* check shall be carried out.

The competent authority in the Community shall return the certificate or its copy thereof to the official correspondent in the third country, as referred to in the second subparagraph of Article 13(2), giving, where appropriate, the reasons for the enquiry and any information obtained suggesting that the certificate is not authentic or that the details it contains are incorrect. Requests for *a posteriori* checks shall be brought to the attention of the Commission as quickly as possible, together with the results of each request.

Where a request is made for an *a posteriori* check, the importer of the products concerned may ask the competent inspection bodies to carry out a conformity check as referred to in Article 12.

*Article 17***Obligations of communication**

1. The coordinating authority shall communicate to the Commission each quarter, by the end of the quarter following that quarter at the latest, for each third country and product concerned, the number of lots and total quantities imported in accordance with Article 13, the number of lots and the quantities which have been checked for conformity as referred to in Article 16(1) and, of those lots, those which the inspection bodies found not to conform with the data mentioned in the conformity certificates issued by the third country inspection body, specifying the quantities for each of those lots and the type of defects giving rise to that finding.

2. The customs authorities shall closely cooperate with the coordinating authority and/or the inspection bodies in particular as regards the application of Article 16(1) and (2) and provide them with all the information necessary.

*Article 18***Administrative cooperation**

1. The application of this Section shall be subject to the establishment of a procedure for administrative cooperation between the Community and each third country concerned.

To be eligible for this procedure, the third countries concerned shall send the Commission all relevant information on checking operations, in particular specimens of the stamp imprints used by the inspection bodies of the third country and, where appropriate, and without delay, any change to this information. The Commission shall notify this information, and any subsequent amendments, to the coordinating authorities in the Member States who shall inform the customs authorities and other competent authorities thereof.

Once administrative cooperation has been established, and following any significant amendment of the information communicated by a third country concerned both within the framework of this administrative cooperation and as regards the names and addresses of the official correspondent and of the inspection bodies, the Commission shall make a notice to this end publicly available by such means as it considers appropriate.

2. The approval of the third countries referred to in Article 13(4) shall apply from the date the notice referred to in paragraph 1 of this Article relating to the establishment of administrative cooperation between the Community and the third country is made publicly available by the Commission.



## Section 4

### **Products intended for processing**

#### *Article 19*

##### **Products intended for processing**

1. For the purpose of the application of this Regulation, products intended for processing are fresh fruit and vegetables subject to marketing standards that are shipped to processing plants where they are processed into products classified in a CN position different from that of the initial fresh product.
2. The competent inspection bodies shall issue certificates of industrial use set out in Annex V for products intended for export to third countries and products imported into the Community where such products are intended for processing and are, therefore, in accordance with Article 3(1)(a), not subject to conformity with the marketing standards. They shall ensure that the special labelling provisions laid down in paragraph 4 of this Article are complied with.
3. In the case of imports, after having issued any certificate referred to in paragraph 2, the competent inspection body shall immediately send to the coordinating authority of the Member State where processing is to take place a copy of the certificate and any forth information needed for a possible check of the processing operations. After processing, the processing enterprise shall return the certificate to the competent inspection body, which shall ensure that the products have actually been processed.
4. The packaging of products intended for processing must be clearly marked by the pack with the words 'intended for processing' or other equivalent wording. In the case of goods shipped in bulk, directly loaded onto a means of transport, this indication shall be given in a document accompanying the goods or shown on a notice placed in an obvious position inside the means of transport.
5. Members States shall take all the appropriate measures, in particular those related to cooperation with the other Member States concerned, to avoid any goods intended for the fresh market being shipped outside the region of production as goods intended for processing.

## Section 5

### **Method of inspection**

#### *Article 20*

##### **Method of inspection**

1. The conformity checks provided for in this Chapter, with the exception of those at the point of retail sale to the end consumer, shall be carried out in accordance with the methods laid down in Annex VI, save as otherwise provided under this Regulation.  
  
Member States shall lay down specific arrangements for checking conformity at the point of retail sale to the end consumer.
2. Where inspectors find that the goods conform with the marketing standards, the inspection body may issue a certificate of conformity as set out in Annex III. This certificate shall in any event be issued at the point of import or export.
3. Where the goods do not conform with the standards, the inspection body shall issue a finding of non-conformity for the attention of the trader or their representatives. Goods for which a

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finding of non-conformity has been issued may not be moved without the authorisation of the inspection body which issued that finding. This authorisation can be subject to the respect of conditions laid down by the inspection body.

Traders may decide to bring all or some of the goods into conformity. Goods brought into conformity may not be marketed before the competent inspection body has ensured by all appropriate means that the goods have actually been brought into conformity. It shall issue, where applicable, a certificate of conformity as set out in Annex III for the lot or part thereof only once the goods have been brought into conformity.

If an inspection body accepts a trader's wish to bring the goods into conformity in a Member State other than that where the check leading to a finding of non-conformity has been carried out, the Member States shall take any measures which they deem appropriate, in particular with regard to cooperation between them, to check that the goods have been brought into conformity.

Where the goods can neither be brought into conformity nor sent to animal feed, industrial processing or any other non-food use, the inspection body may, if necessary, request traders to take adequate measures in order to ensure that the products concerned are not marketed.

Traders shall supply all information deemed necessary by Member States for the application of this paragraph.

4. For the purposes of applying this Chapter, invoices and accompanying documents shall indicate the quality class, the country of origin of the products and, where appropriate, the fact that it is intended for processing. This requirement shall not apply to retail sale to the end consumer.

## TITLE III

**PRODUCER ORGANISATIONS**

## CHAPTER I

***Requirements and recognition***

## Section 1

**Definitions***Article 21***Definitions**

1. For the purposes of this Title:
  - (a) 'producer' means a farmer as referred to in Article 3(1)(a) of Regulation (EC) No 1182/2007;
  - (b) 'subsidiary' means a company in which one or more producer organisations or associations thereof have taken shares and which contributes to the objectives of the producer organisation or the association of producer organisations;
  - (c) 'transnational producer organisation' means any organisation where at least one of the producers' holdings is located in a Member State other than where the organisation has its head office;

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- (d) ‘transnational association of producer organisations’ means any association of producer organisations in which at least one of the associated organisations is located in a Member State other than where the association has its head office;
- (e) ‘Convergence Objective’ means the objective of the action for the least developed Member States and regions according to the Community legislation governing the European Regional Development Fund, the European Social Fund and the Cohesion Fund for the period from 1 January 2007 to 31 December 2013;
- (f) ‘measure’ means one of the following:
- (i) actions aimed at planning of production, including acquisition of fixed assets;
  - (ii) actions aimed at improving or maintaining product quality, including acquisition of fixed assets;
  - (iii) actions aimed at improving marketing, including acquisition of fixed assets, as well as promotion and communication activities, other than promotion and communication activities falling under point (vi);
  - (iv) research and experimental production, including acquisition of fixed assets;
  - (v) training actions, other than training falling under point (vi), and actions aimed at promoting access to advisory services;
  - (vi) any of the six crisis prevention and management instruments listed in points (a) to (f) of the first subparagraph of Article 9(2) of Regulation (EC) No 1182/2007;
  - (vii) environmental actions as referred to in Article 9(3) of Regulation (EC) No 1182/2007, including acquisition of fixed assets;
  - (viii) other actions, including acquisition of fixed assets other than those falling under points (i), (ii), (iii), (iv) and (vii) which fulfil one or more of the objectives referred to in Article 9(1) of Regulation (EC) No 1182/2007.
- (g) ‘action’ means a specific activity or instrument aimed at achieving a particular operational objective contributing to one or more of the objectives referred to in Article 9(1) of Regulation (EC) No 1182/2007;
- (h) ‘by product’ means a product which results from preparation and/or processing of a fruit or vegetable product which has a positive economic value but is not the main intended result;
- (i) ‘first-stage processing’ means processing of a fruit or vegetable product into another product listed in Annex I to the EC Treaty. Cleaning, cutting, trimming, drying and packaging of fresh products with a view to marketing shall not be considered as first-stage processing;
- (j) ‘interbranch basis’ as referred to in Article 10(3)(b) of Regulation (EC) No 1182/2007, means one or more of the activities listed in Article 20(c) of Regulation (EC) No 1182/2007 approved by the Member State and managed jointly by a producer organisation or an association of producer organisations and at least one other actor in the food processing and/or distribution chain;

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- (k) 'baseline indicator' means any indicator reflecting a state or trend existing at the start of a programming period which may provide information useful:
- (i) in the analysis of the initial situation, in order to establish a national strategy for sustainable operational programmes or an operational programme;
  - (ii) as a reference against which the results and impact of a national strategy or an operational programme may be assessed; and/or
  - (iii) in interpreting the results and impact of a national strategy or an operational programme.

2. Member States shall define the legal entities concerned in their territory for the purposes of Articles 3(1) and 7(1) of Regulation (EC) No 1182/2007 in the light of their national legal and administrative structures. They shall, if appropriate, also lay down provisions on the clear definition of parts of legal entities for the application of those Articles.

## Section 2

### **Requirements applicable to producer organisations**

#### *Article 22*

##### **Product coverage**

1. Member States shall recognise producer organisations under Article 4 of Regulation (EC) No 1182/2007 in respect of the product or the group of products specified in the application for recognition, subject to any decision taken under Article 4(1)(c) of that Regulation.
2. Member States shall only recognise producer organisations in respect of products solely intended for processing where they are able to ensure that such products are delivered for processing, whether through a system of supply contracts or otherwise.

#### *Article 23*

##### **Minimum number of members**

In laying down the minimum number of members of a producer organisation pursuant to Article 4(1)(b) of Regulation (EC) No 1182/2007, Member States may provide that where an applicant for recognition is wholly or partly made up of members which are themselves legal entities or clearly defined parts of legal entities made up of producers, the minimum number of producers may be calculated on the basis of the number of producers associated with each of the legal entities or clearly defined parts of legal entities.

#### *Article 24*

##### **Minimum length of membership**

1. The minimum membership period of a producer shall not be less than one year.
2. Resignation from membership shall be notified to the organisation in writing. The Member States shall lay down the notice periods, which shall not exceed six months, and the dates on which resignation shall take effect.



#### Article 25

##### **Structures and activities of producer organisations**

Member States shall ensure that producer organisations have at their disposal the staff, infrastructure and equipment necessary to fulfil the requirements laid down in Article 3(1) of Regulation (EC) No 1182/2007 and ensure their essential functioning, in particular as regards:

- (a) the knowledge of their members' production;
- (b) collecting, sorting, storing and packaging the production of their members;
- (c) commercial and budgetary management; and
- (d) centralised bookkeeping and a system of invoicing.

#### Article 26

##### **Value or volume of marketable production**

For the purposes of Article 4(1)(b) of Regulation (EC) No 1182/2007, the value or volume of marketable production shall be calculated on the same basis as the value of marketed production set out in Articles 52 and 53 of this Regulation.

#### Article 27

##### **Provision of technical means**

For the purposes of Article 4(1)(e) of Regulation (EC) No 1182/2007, a producer organisation which is recognised for a product for which the provision of technical means is necessary shall be considered to fulfil its obligation where it provides an adequate level of technical means itself or through its members, or through subsidiaries, or by outsourcing.

#### Article 28

##### **Producer organisations' main activities**

1. The main activity of a producer organisation shall relate to the concentration of supply and the placing on the market of the products of its members for which it is recognised.
2. The value of the marketed production of the producer organisation's own members and of members of other producer organisations that it sells, shall be more than the value of all the other marketed production which it sells.

This calculation shall be based only on products for which the producer organisation is recognised.

3. Where Article 52(7) applies, paragraph 2 of this Article shall apply *mutatis mutandis* to the subsidiaries concerned from 1 January 2012.

#### Article 29

##### **Outsourcing**

Outsourcing of an activity of a producer organisation shall mean that the producer organisation enters into a commercial arrangement with another entity, including one of its members or a subsidiary, for the provision of the activity concerned. The producer organisation shall nevertheless remain responsible for ensuring the carrying out of that activity, and overall management control and supervision of commercial arrangement for the provision of the activity.



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The first paragraph shall apply *mutatis mutandis* where an association of producer organisations outsources an activity.

*Article 30***Transnational producer organisations**

1. A transnational producer organisation's head office shall be established in the Member State where the organisation has significant holdings or a significant number of members and/or achieves an important level of marketed production.
2. The Member State in which the head office of the transnational producer organisation is located shall be responsible for the following:
  - (a) recognising the transnational producer organisation;
  - (b) approving the transnational producer organisation's operational programme;
  - (c) establishing the necessary administrative collaboration with the other Member States in which the members are located with respect to compliance with the terms of recognition and the system of checks and sanctions. Those other Member States shall be obliged to give all necessary assistance to the Member State in which the head office is located; and
  - (d) providing, on request of other Member States, all relevant documentation, including any applicable legislation available to the other Member States in which the members are located, translated into an official language of the requesting Member States.

*Article 31***Mergers of producer organisations**

1. Where producer organisations with previously different operational programmes have merged, they may operate the programmes in parallel and separately until 1 January of the year following the merger. In such cases, the producer organisations concerned shall request the merger of the operational programmes by means of an amendment in accordance with the provisions of Article 66. Otherwise, the producer organisations concerned shall request forthwith the merger of the operational programmes by means of an amendment in accordance with the provisions of Article 67.
2. By way of derogation from paragraph 1, Member States may authorise producer organisations which so request, for duly substantiated reasons, to implement separate operational programmes in parallel until they reach their natural conclusion.

*Article 32***Non-producer members**

1. Member States may determine whether and on what conditions any individual or legal person who is not a producer may be accepted as a member of a producer organisation.
2. When setting the conditions referred to in paragraph 1, the Member States shall ensure, in particular, compliance with paragraphs 1(a) and 4(c) of Article 3 of Regulation (EC) No 1182/2007.
3. The natural or legal persons referred to in paragraph 1 shall not:
  - (a) be taken into account for the recognition criteria;
  - (b) benefit directly from the measures financed by the Community.

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Member States may restrict or prohibit their right to vote on decisions relating to operational funds, in line with the conditions laid down in paragraph 2.

*Article 33***Democratic accountability of producer organisations**

Member States shall take all measures they consider to be necessary in order to avoid any abuse of power or influence by one or more members over the management and operation of a producer organisation, which shall include voting rights.

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Member States may adopt measures to restrict or prohibit the powers of a legal entity to modify, approve or reject decisions of a producer organisation where it is a clearly defined part of that legal entity.

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## Section 3

**Associations of producer organisations***Article 34***Recognition of associations of producer organisations**

1. Member States may only recognise associations of producer organisations under Article 5 of Regulation (EC) No 1182/2007 in respect of the activities concerning the product or products specified in the application for recognition.

2. An association of producer organisations may be recognised under Article 5 of Regulation (EC) No 1182/2007 and carry out any of the activities of a producer organisation, even when the marketing of the products concerned continues to be carried out by its members.

*Article 35***Associations of producer organisations' main activities**

Article 28(2) and (3) shall apply *mutatis mutandis* to associations of producer organisations.

*Article 36***Members of associations of producer organisations which are not producer organisations**

1. Member States may determine whether and on what conditions any individual or legal person who is not a recognised producer organisation may be accepted as a member of an association of producer organisations.

2. Members of a recognised association of producer organisations who are not recognised producer organisations shall not:

(a) be considered for the recognition criteria;

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(c) benefit directly from the measures financed by the Community.

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Member States may permit, restrict or prohibit their right to vote on decisions relating to operational programmes.

*Article 37***Transnational association of producer organisations**

1. The head office of the transnational association of producer organisations shall be established in a Member State in which this association has a significant number of member organisations and/or the member organisations achieve an important level of marketed production.
2. The Member State in which the head office of the transnational association of producer organisations is located shall be responsible for the following:
  - (a) recognising the association;
  - (b) approving, where necessary, the association's operational programme;
  - (c) establishing the necessary administrative collaboration with the other Member States in which the associated organisations are located with respect to compliance with the terms of recognition and the system of checks and sanctions. Those other Member States shall be obliged to give all necessary assistance to the Member State in which the head office is located; and
  - (d) providing, on request of other Member States, all relevant documentation, including any applicable legislation available to the other Member States in which the members are located, translated into an official language of the requesting Member States.

## Section 4

**Producer groups***Article 38***Submission of recognition plans**

1. A legal entity or clearly defined part of a legal entity shall submit the recognition plan referred to in Article 7(1) of Regulation (EC) No 1182/2007 to the competent authority of the Member State in which the entity has its head office.
2. Member States shall lay down:
  - (a) the minimum criteria which the legal entity or clearly defined part of a legal entity shall meet to be able to submit a recognition plan;
  - (b) the rules for the drafting, content and implementation of recognition plans;
  - (c) the period during which a former member of a producer organisation shall be prohibited from joining a producer group after leaving the producer organisation in respect of the products for which the producer organisation was recognised; and
  - (d) the administrative procedures for the approval, monitoring and fulfilling of recognition plans.

*Article 39***Content of recognition plans**

A draft recognition plan shall cover at least the following:

- (a) a description of the initial situation, in particular as regards the number of producer members, giving full details of members, production, including the value of marketed production, marketing and infrastructure, including infrastructure owned by individual

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- members of the producer group if it is to be used by the producer group itself;
- (b) the proposed date for starting implementation of the plan and its duration, which shall not exceed five years; and
  - (c) activities to be implemented in order to achieve recognition.

*Article 40***Approval of recognition plans**

1. The competent national authority shall decide on a draft recognition plan within three months of the receipt of the plan accompanied by all supporting documents.
2. Following the checks referred to in Article 113, the competent national authority shall, as appropriate:
  - (a) accept the plan and grant preliminary recognition;
  - (b) request changes to the plan;
  - (c) reject the plan.

Acceptance may be granted, where necessary, only if the changes requested under point (b) have been incorporated in the plan.

It shall notify the legal entity or clearly defined part of a legal entity of its decision.

*Article 41***Implementation of recognition plans**

1. The recognition plan shall be implemented in annual segments starting on 1 January. Member States may allow producer groups to break down these annual segments into semestrial periods.

The recognition plan shall begin, in accordance with the proposed date under Article 39(b):

- (a) on 1 January following the date of its acceptance by the competent national authority; or
- (b) immediately following the date of its acceptance.

2. Member States shall set the conditions on which producer groups may request changes to plans during their implementation. These requests shall be accompanied by all the necessary supporting documents.

3. The competent national authority shall decide on changes to plans within three months of receipt of the request for change, after considering the evidence supplied. Where no decision is taken on a request for change within that period, the request shall be deemed to have been rejected.

*Article 42***Applications for recognition as a producer organisation**

Producer groups implementing a recognition plan may, at any time, submit an application for recognition under Article 4 of Regulation (EC) No 1182/2007. Such applications shall in any event be submitted before the end of the transitional period referred to in Article 7 of Regulation (EC) No 1182/2007.

From the date on which such an application is lodged, the group in question may submit a draft operational programme under Article 64.



*Article 43*

**Producer groups' main activities**

Article 28 shall apply *mutatis mutandis* to producer groups.

*Article 44*

**Value of marketed production**

1. Article 52 shall apply *mutatis mutandis* for producer groups.
2. Where a reduction in the value of marketed production has occurred due to reasons, duly justified to the Member State, falling outside the responsibility and control of the producer group, the value of the marketed production shall not be less than 65 % of the value declared in the previous application or applications for aid covering the most recent annual segment, as verified by the Member State, and in the absence thereof, of the value declared initially in the approved recognition plan.

*Article 45*

**Financing of recognition plans**

1. The rates of aid referred to in Article 7(5) of Regulation (EC) No 1182/2007 shall be reduced by half in relation to marketed production which exceeds EUR 1 000 000.
2. The aid referred to in Article 7(3)(a) of Regulation (EC) No 1182/2007 shall be subject to a ceiling for each producer group of EUR 100 000 per annual segment.
3. Where a segment of implementation does not run for a complete calendar year the ceilings referred to in paragraph 2 shall be reduced proportionately.
4. The aid referred to in Article 7(3) of Regulation (EC) No 1182/2007 shall be paid:
  - (a) in annual or semestrial instalments at the end of each annual or semestrial period for the implementation of the recognition plan; or
  - (b) in instalments covering part of an annual period if the plan starts during the annual period or if recognition occurs under Article 4 of Regulation (EC) No 1182/2007 before the end of an annual period.

In order to calculate the instalments, the Member States may use as a basis the marketed production corresponding to a period other than that in respect of which the instalment is paid, where checks so require. The difference between the periods shall be less than the actual period concerned.

5. The exchange rate applicable to the amounts referred to in paragraphs 1 and 2 shall be the rate most recently published by the European Central Bank prior to the first day of the period for which the aid in question is granted.

*Article 46*

**Aid for investments required for recognition**

As regards investments linked to implementation of recognition plans referred to in Article 39(c) of this Regulation for which aid is provided for under Article 7(3)(b) of Regulation (EC) No 1182/2007:

- (a) investments liable to distort competition where the other economic activities of the organisation are concerned shall be excluded; and

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- (b) investments to the direct or indirect benefit of such measures shall be financed pro rata to their use for the sectors or products for which preliminary recognition is granted.

*Article 47***Application for aid**

1. A producer group shall submit a single application for the aid referred to in Articles 7(3)(a) and (b) of Regulation (EC) No 1182/2007 within three months of the end of each annual or semestrial period as referred to in Article 45(4) of this Regulation. The application shall include a declaration of the value of marketed production for the period for which the aid is claimed.
2. Applications for aid covering semestrial periods may be submitted only if the recognition plan is broken into semestrial periods as referred to in Article 41(1)(2). All applications for aid shall be accompanied by a written declaration from the producer group to the effect that the latter:
  - (a) complies and will comply with Regulation (EC) No 1182/2007 and with this Regulation; and
  - (b) has not benefited, is not benefiting and will not benefit either directly or indirectly from duplicate Community or national financing for actions implemented under its recognition plan for which Community financing is granted pursuant to this Regulation.
3. Member States shall fix the deadline for paying the aid which in any case shall not be later than six months after the receipt of the application.

*Article 48***Eligibility**

Member States shall evaluate the eligibility of producer groups for the aid under this Regulation in order to establish that the aid is duly justified, taking into account the conditions and the date on which any earlier public aid was granted to the producer organisations or groups from which the members of the producer group in question originate and to any movements of members between producer organisations and producer groups.

*Article 49***Community contribution**

1. The Community contribution towards aid as referred to in Article 7(3)(a) of Regulation (EC) No 1182/2007 shall amount to:

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- (a) 75 % in the regions eligible under the Convergence Objective, and
- (b) 50 % in other regions.

The remainder of the aid shall be paid as a flat-rate payment by the Member State. The aid application shall not be required to include evidence as to the use of the aid.

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2. The Community contribution towards aid as referred to in Article 7(3)(b) of Regulation (EC) No 1182/2007, expressed in terms of a capital grant or capital-grant equivalent, shall not exceed, as a percentage of eligible investment costs:
  - (a) 50 % in the regions eligible under the Convergence Objective; and
  - (b) 30 % in other regions.

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The Member States concerned shall undertake to contribute at least 5 % of eligible investment costs.

Beneficiaries of aid towards eligible investment costs shall pay at least:

- (a) 25 % in the regions eligible under the Convergence Objective; and
- (b) 45 % in other regions.

*Article 50***Mergers**

1. Aid as provided for in Article 7(3) of Regulation (EC) No 1182/2007 may be given, or may continue to be given, to producer groups which have been granted preliminary recognition and which result from the merger between two or more producer group granted preliminary recognition.

2. For the purposes of calculating the aid payable pursuant to paragraph 1, the producer group resulting from the merger shall replace the merging groups.

3. Where two or more producer groups merge, the new entity shall assume the rights and obligations of the producer group which has been granted pre-recognition status the earliest.

4. Where a producer group which has been granted preliminary recognition merges with a recognised producer organisation, the resulting entity shall no longer be eligible for preliminary recognition as a producer group, nor for the aid referred to in Article 7(3) of Regulation (EC) No 1182/2007. The resulting entity shall continue to be treated as the recognised producer organisation, provided that it respects the applicable requirements. If necessary, the producer organisation shall request a change to its operational programme, and to this end Article 31 shall apply *mutatis mutandis*.

However, actions carried out by producer groups before such a merger shall continue to be eligible under the conditions set out in the recognition plan.

*Article 51***Consequences of recognition**

1. Aid as provided for in Article 7(3) of Regulation (EC) No 1182/2007 shall cease once recognition is granted.

2. Where an operational programme is submitted pursuant to this Regulation, the Member State concerned shall ensure that there is no duplicated financing of the measures set out in the recognition plan.

3. Investments qualifying for the aid or the costs referred to in Article 7(3)(b) of Regulation (EC) No 1182/2007 may be carried over to operational programmes provided they are in line with the requirements of this Regulation.

4. Member States shall fix the period, starting after implementation of the recognition plan, within which the producer group shall be required to be recognised as a producer organisation. The period shall not exceed four months.

*CHAPTER II**Operational funds and operational programmes*

## Section 1

**Value of marketed production***Article 52***Basis for calculation**

1. For the purposes of this Chapter, the value of marketed production for a producer organisation shall be calculated on the basis of the production of members of producer organisations, for which the producer organisation is recognised.
2. The value of the marketed production shall include the production of members who leave or join the producer organisation. The Member States shall determine the conditions to avoid duplicate counting.
3. Member States may allow producer organisations to include the value of the by-products in the value of the marketed production.
4. The value of the marketed production shall include the value of market withdrawal disposed of as provided for in points (a) and (b) of Article 10(4) of Regulation (EC) No 1182/2007, estimated at the average price of those products marketed by the producer organisation in the previous year.
5. Only the production of the members of the producer organisation marketed by the producer organisation itself or in conformity with Article 3(3)(b) and (c) of Regulation (EC) No 1182/2007, shall be counted in the value of marketed production.
6. The marketed production shall be invoiced at the 'ex-producer organisation' stage:
  - (a) where applicable, as product which is packaged, prepared, or has undergone first-stage processing;
  - (b) excluding VAT; and
  - (c) excluding internal transport costs, where the distance between the centralised collection or packing points of the producer organisation and the point of distribution of the producer organisation is significant. Member States shall provide for reductions to be applied to the invoiced value for products invoiced at different stages of processing or delivery or transport.
7. The value of the marketed production may also be calculated at the ex-subsidary stage, on the same basis as set out in paragraph 6, provided that at least 90 % of the capital of the subsidiary is owned:
  - (a) by the producer organisations or association of producer organisations; or
  - (b) subject to Member State approval, by members, which are cooperatives, of the producer organisations or associations of producer organisations if doing so contributes to the objectives listed in Article 3(1)(b) and (c) of Regulation (EC) No 1182/2007.
8. Where a reduction in production occurs due to a climatic event or animal or plant diseases or pest infestations, any insurance indemnification received in respect of harvest insurance measures covered by Section 6 of Chapter III, or equivalent measures managed by the producer organisation, due to these causes may be included in the value of marketed production.



**▼B***Article 53***Reference period**

1. The annual ceiling on aid referred to in Article 10(2) of Regulation (EC) No 1182/2007 shall be calculated each year on the basis of the value of marketed production during a 12-month reference period to be determined by the Member States.
2. The reference period shall be fixed by the Member States for each producer organisation as:
  - (a) a 12-month period, starting no earlier than 1 January three years preceding the year in which the operational programme is implemented and ending no later than 1 August of the same year; or
  - (b) the average value of three subsequent 12-month periods starting no earlier than 1 January five years preceding the year in which the operational programme is implemented and ending no later than 1 August of the same year.
3. The 12-month period shall be the accounting period of the producer organisation concerned.

The reference period shall not vary during an operational programme except in duly justified situations.

4. Where a reduction in the value of a product has occurred due to reasons, duly justified to the satisfaction of a Member State, falling outside the responsibility and control of the producer organisation, the value of the marketed production referred to in paragraph 1 shall not be less than 65 % of the value of the product concerned in the previous reference period.

The reasons referred to in the first subparagraph shall be duly justified.

5. Where recently recognised producer organisations have insufficient historical data on marketed production for the application of paragraph 2 the value of marketed production may be considered to be the value of marketable production provided by the producer organisation for the purposes of recognition. This shall be calculated as the average value of the marketed production for the three previous years of all producers who are members of the producer organisation when the application for recognition is submitted.

6. Member States shall take the measures necessary to gather information on the value of marketed production of producer organisations which have not submitted operational programmes.

7. By way of derogation from paragraphs 1 and 6, the value of marketed production for the reference period shall be as calculated under the legislation applicable in this reference period.

## Section 2

**Operational Funds***Article 54***Management**

Member States shall ensure that operational funds are managed in such a way that it is possible for external auditors to annually identify, check and certify their expenditure and revenue.

*Article 55***Financing of operational funds**

The financial contributions to the operational fund referred to in Article 8(1) of Regulation (EC) No 1182/2007 shall be determined by the producer organisation.

All producers shall have the opportunity to benefit from the operational fund, and all producers shall have the opportunity to participate democratically in decisions concerning the use of funds of the producer organisation and the financial contributions to the operational funds.

*Article 56***Communication of estimated amount**

Producer organisations shall communicate the estimated amounts of Community contribution, and the contribution of its members and of the producer organisation itself to the operational funds for the following year to the Member State by 15 September at the latest, together with the operational programmes or requests for approval of their amendments.

Member States may set a later date than 15 September.

Calculation of the estimated amount of operational funds shall be based on the operational programmes and the value of marketed production. The calculation shall be split between expenditure for crisis prevention and management measures and other measures.

## Section 3

**Operational Programmes***Article 57***National strategy**

1. The overall structure and content of the national strategy referred to in Article 12(2) of Regulation (EC) No 1182/2007 shall, from 1 January 2009, be established in accordance with the guidelines set out in Annex VII. Prior to that date, Member States shall determine its overall structure and content. It may be comprised of regional elements.

The national strategy shall integrate all the decisions taken and provisions adopted by the Member State in application of Title III of Regulation (EC) No 1182/2007 and this Title.

2. The national strategy, including the integration of the national framework referred to in Article 12(1) of Regulation (EC) No 1182/2007, shall be established before draft operational programmes are submitted in any given year. The national framework shall be integrated after having been submitted to the Commission and if appropriate, after having been amended, in accordance with the second subparagraph of Article 12(1) of Regulation (EC) No 1182/2007.

3. An analysis of the initial situation shall form part of the process of drawing up the national strategy and be carried out under responsibility of the Member State. It shall identify and assess the needs to be met, the ranking of the needs in terms of priorities, the goals to be achieved through the operational programmes to meet those priority needs, the results expected and the quantified targets to be attained in relation to the initial situation, and lay down the most appropriate instruments and actions for attaining those objectives.

4. Member States shall also ensure monitoring and evaluation of the national strategy and its implementation through operational programmes.

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The national strategy may be amended, in particular in the light of monitoring and evaluation. Such amendments shall be made before the submission of draft operational programmes in any given year.

5. Member States shall set out in the national strategy maximum percentages of the fund which may be spent on any individual measure and/or type of action and/or expenditure in order to ensure an appropriate balance between different measures.

*Article 58***National framework for environmental actions**

1. In addition to the notification foreseen under Article 12(1) of Regulation (EC) No 1182/2007 Member States shall also notify the Commission of any amendments to the national framework which shall be subject to the procedure set out in the second subparagraph of Article 12(1) of Regulation (EC) No 1182/2007. The Commission shall make the framework available to other Member States by the means it considers appropriate.

2. The framework shall set out a non-exhaustive list of environmental actions and the conditions therefore applicable in the Member State for the purposes of Article 9(3) of Regulation (EC) No 1182/2007 and, for each environmental action selected, shall indicate:

- (a) the specific commitment or commitments entailed; and
- (b) the justification of the action based on its expected environmental impact in relation to environmental needs and priorities.

*Article 59***Complementary Member State rules**

Member States may adopt rules complementing Regulation (EC) No 1182/2007 and this Regulation concerning the eligibility of measures, actions or expenditure under operational programmes.

*Article 60***Relationship with rural development programmes**

1. No support under the Member State's rural development programme or programmes approved under Regulation (EC) No 1698/2005, shall be granted to actions which are covered by measures set out by this Regulation, subject to paragraph 2.

2. Where support under Regulation (EC) No 1698/2005 has exceptionally been granted in accordance with Article 5(6) of that Regulation, to measures which would be potentially eligible under this Regulation, Member States shall ensure that a beneficiary may receive support for a given action only under one scheme.

To that end, when Member States, include measures containing such exceptions in their rural development programmes, they shall ensure that the national strategy as referred to in Article 57 of this Regulation lays down the criteria and administrative rules which they will apply in the rural development programmes.

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Where relevant, and without prejudice to provisions of Articles 103a(3), 103d(1) and (3) and 103e of Regulation (EC) No 1234/2007 and Article 49 of this Regulation, the level of support for measures covered by this Regulation shall not exceed that applicable for the measures under the rural development programme.

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Support for environmental actions, other than acquisition of fixed assets, shall be limited to the maximum amounts laid down in the Annex to Regulation (EC) No 1698/2005 for agri-environment payments. These amounts may be increased in exceptional cases taking account of specific circumstances to be justified in the national strategy as referred to in Article 57 of this Regulation.

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The fourth subparagraph shall not apply to environmental actions which do not relate directly or indirectly to a particular parcel.

**▼B***Article 61***Contents of operational programmes and eligible expenditure**

1. Operational programmes shall include the following:
  - (a) a description of the initial situation, based, where relevant, on the baseline indicators listed in Annex XIV;
  - (b) the objectives of the programme, bearing in mind the outlook for production and outlets, and an explanation of how the programme contributes to the national strategy and confirmation that it is consistent with the national strategy, including in its balance between activities. The description of the objectives shall refer to objectives defined in the national strategy and indicate measurable targets, so as to facilitate the monitoring of progress gradually made in implementing the programme;
  - (c) a detailed description of the measures, including those for crisis prevention and management, containing separate actions, to be taken and the means for attaining those objectives in each year of implementation of the programme. The description shall indicate the extent to which different measures proposed:
    - (i) complement and are consistent with other measures, including measures financed or eligible for support by other European Community funds, and in particular rural development support. In this respect, a specific reference shall also be made, if appropriate, to measures carried out under previous operational programmes;
    - (ii) do not entail any risk of double financing by European Community funds;
  - (d) the duration of the programme; and
  - (e) the financial aspects, namely:
    - (i) the method of calculation and the level of financial contributions;
    - (ii) the procedure for financing the operational fund;
    - (iii) information necessary to justify different levels of contribution; and
    - (iv) the budget and timetable for undertaking operations for each year of implementation of the programme.
2. Various environmental actions may be combined provided that they are complementary and compatible.

Where environmental actions are combined, the level of support shall take account of the specific income foregone and additional costs resulting from the combination.

3. Investments, including those under leasing contracts, whose repayment period exceeds the length of the operational programme may be carried over to a subsequent operational programme on duly

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justified economic grounds, and in particular in cases where the fiscal depreciation period is longer than five years.

Where investments are replaced, the residual value of the investments replaced shall be:

- (a) added to the operational fund of the producer organisation; or
- (b) subtracted from the cost of the replacement.

Investments or actions may be implemented on individual holdings of members of the producer organisation, provided that they contribute to the objectives of the operational programme. If the member leaves the producer organisation, Member States shall ensure that the investment or its residual value is recovered, unless the Member State provides otherwise.

4. Operational programmes shall not include actions or expenditure referred to in the list set out in Annex VIII.

5. Expenditure under operational programmes eligible for aid shall be restricted to the actual costs incurred. However, Member States may instead fix standard flat rates in advance and in a duly justified way in the following cases:

- (a) where such standard flat-rates are referred to in Annex VIII;
- (b) for additional per-kilometre external transport costs, compared to road haulage costs, incurred when using rail and/or ship transport as part of a measure to respect the environment; and
- (c) for additional costs and income foregone resulting from environmental actions, calculated in conformity with Article 53(2) of Regulation (EC) No 1974/2006.

Member States shall review such rates at least every five years.

6. In order for an action to be eligible, more than 50 % by value of the products concerned by it shall be those for which the producer organisation is recognised. To be counted in the 50 %, the products shall come from the producer organisation's members or members of another producer organisation. The appropriate rules in Article 52 shall apply to the calculation of the value.

#### *Article 62*

##### **Documents to be submitted**

Operational programmes shall be accompanied by, in particular:

- (a) evidence of the setting-up of an operational fund;
- (b) a written undertaking from the producer organisation to comply with Regulation (EC) No 1182/2007 and this Regulation; and
- (c) a written undertaking from the producer organisation that it has and will not receive, directly or indirectly, any other Community or national funding in respect of actions qualifying for aid under this Regulation.

#### *Article 63*

##### **Partial operational programmes**

1. Pursuant to Article 5 of Regulation (EC) No 1182/2007 a Member State may authorise an association of producer organisations to present a partial operational programme of its own, which shall consist of actions identified, but not implemented by two or more member producer organisations in their operational programmes.

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2. The same rules shall apply to partial operational programmes as to other operational programmes and they shall be considered together with the operational programmes of the member producer organisations.
3. Member States shall ensure that:
  - (a) the actions are fully financed from contributions of member producer organisations paid out of the operational funds of those organisations;
  - (b) the actions and the corresponding financial participation are listed in the operational programme of each participating producer organisation; and
  - (c) there is no risk of duplicate aid and that Article 60 is applied *mutatis mutandis*.

*Article 64***Time limit for submission**

Operational programmes shall be submitted for approval by the producer organisation to the competent authority in the Member State in which the producer organisation has its headquarters by 15 September at the latest of the year preceding that in which they are to be implemented. However, the Member States may postpone that date.

When a legal entity or clearly defined part of a legal entity, including a producer group, submits an application for recognition as a producer organisation it may at the same time submit the operational programme referred to in the first paragraph for approval. Approval of the programme shall be subject to obtainment of recognition no later than on the final date laid down in Article 65(2).

*Article 65***Decision**

1. The competent national authority shall, as appropriate:
  - (a) approve amounts of funds and programmes which meet the requirements of Regulation (EC) No 1182/2007 and those of this Chapter;
  - (b) approve the programmes, on condition that certain amendments are accepted by the producer organisation; or
  - (c) reject the programmes or part of the programmes.
2. The competent national authority shall take decisions on programmes and funds by 15 December at the latest of the year in which they are submitted.

Member States shall notify the producer organisations of those decisions by 15 December at the latest.

However, for duly justified reasons, the competent national authority may take a decision on operational programmes and funds by 20 January at the latest following the date of the application. The approval decision may stipulate that expenditure is eligible from 1 January of the year following the application.

*Article 66***Amendments to operational programmes for subsequent years**

1. Producer organisations may request amendments to operational programmes, including if necessary an extension of its duration up to

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a total duration of five years, by 15 September at the latest to be applied from 1 January of the following year.

However, Member States may postpone the date for submitting requests.

2. Requests for amendments shall be accompanied by supporting documents giving the reason, nature and implications of the changes.
3. The competent authority shall take decisions on requests for amendments to operational programmes by 15 December at the latest.

However, for duly justified reasons, Member States may take a decision on amendments to operational programmes not later than 20 January following the date of the application. The approval decision may stipulate that expenditure is eligible from 1 January of the year following the application.

*Article 67***Amendments to operational programmes during the year**

1. Member States may authorise amendments to operational programmes during the year, under conditions to be determined by them.
2. Producer organisations may be authorised by the competent national authority, during the year to:
  - (a) implement their operational programmes in part only;
  - (b) change the contents of the operational programme, including if necessary the extension of its duration up to a total duration of five years;

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- (c) increase the amount of the operational fund by a maximum of 25 %, and decrease it by a percentage to be fixed by Member States, of the amount initially approved provided the overall objectives of the operational programme are maintained. Member States may increase this percentage in case of mergers of producer organisations as referred to in Article 31(1) and in case of application of Article 94a.

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3. Member States shall determine the conditions under which operational programmes may be amended during the year without prior approval by the competent national authority. These changes are only eligible for aid if they are communicated by the producer organisation to the competent authority without delay.

*Article 68***Operational programmes' format**

1. Operational programmes shall be implemented in annual periods running from 1 January to 31 December.
2. Operational programmes approved on 15 December at the latest shall be implemented from 1 January of the following year.

The implementation of programmes approved after 15 December shall be postponed for one year.

By way of derogation from the first and second subparagraphs of this paragraph, where the third subparagraph of Article 65(2) or the second subparagraph of Article 66(3) apply, the implementation of operational programmes approved in accordance with those provisions shall start not later than 31 January following their approval.



## Section 4

### Aid

#### *Article 69*

##### **Approved amount of aid**

Member States shall notify producer organisations and associations of producer organisations of the approved amount of aid, as required by Article 13(3) of Regulation (EC) No 1182/2007, by 15 December at the latest.

Where the third subparagraph of Article 65(2) or the second subparagraph of Article 66(3) of this Regulation apply, Member States shall give notification of the approved amount of aid not later than 20 January.

#### *Article 70*

##### **Applications**

1. Producer organisations shall submit an application for aid or the balance thereof to the competent authority for each operational programme for which aid is requested on 15 February at the latest of the year following that for which the aid is requested.

2. Applications shall be accompanied by supporting documents showing:

- (a) the aid requested;
- (b) the value of the marketed production;
- (c) the financial contributions levied on its members and those of the producer organisation itself;
- (d) the expenditure incurred in respect of the operational programme;
- (e) the expenditure concerning crisis prevention and management broken down by actions;
- (f) the proportion of the operational fund spent on crisis prevention and management broken down by actions;
- (g) compliance with Article 9(2) and Article 9(3)(a) or (b) and Article 10 of Regulation (EC) No 1182/2007;
- (h) a written undertaking that it has not received any duplicate Community or national funding in respect of measures and/or operations qualifying for aid under this Regulation; and
- (i) in the case of an application for payment based on a standard flat-rate as referred to in Article 61(4), proof of the implementation of the action concerned.

3. Applications may cover expenditure programmed but not incurred if the following elements are proved:

- (a) the operations concerned could not be carried out by 31 December at the latest of the year of implementation of the operational programme for reasons beyond the control of the producer organisation concerned;
- (b) those operations can be carried out by 30 April at the latest of the following year at the latest; and
- (c) an equivalent contribution from the producer organisation remains in the operational fund.

The aid shall be paid and the security lodged in accordance with Article 72(3) shall be released only on condition that proof of implementation of the programmed expenditure referred to in point (b) of the



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first subparagraph is provided by 30 April at the latest of the year following that for which the expenditure in question was programmed, and on the basis of the entitlement to the aid actually established.

4. Where applications are submitted after the date provided for in paragraph 1, the aid shall be reduced by 1 % for each day late.

In exceptional and duly justified cases, the competent authority may accept applications after the date provided for in paragraph 1, if the necessary checks have been carried out and the time limit for payment provided for in Article 71 is complied with.

*Article 71***Payment of the aid**

Member States shall pay the aid by 15 October at the latest of the year following the year of implementation of the programme.

*Article 72***Advance payments**

1. Member States may permit producer organisations to apply for the advance payment of the part of the aid corresponding to the foreseeable expenditure resulting from the operational programme during the three- or four-month period starting in the month in which the application is submitted.

2. Applications for advance payments shall be submitted as decided by the Member State, either on three-monthly basis in January, April, July and October or on a four-monthly basis in January, May and September.

Total advance payments made for a given year may not exceed 80 % of the initially approved amount of aid for the operational programme.

3. Advances shall be paid subject to the lodging of a security equivalent to 110 % thereof in accordance with Regulation No 2220/85.

Conditions shall be provided for by the Member States to ensure that financial contributions to the operational fund have been levied in accordance with Article 54 and Article 55 of this Regulation and previous advance payments have actually been spent.

4. Applications for the release of securities may be submitted during the current programme year and shall be accompanied by the relevant supporting documents.

Securities shall be released in respect of up to 80 % of advances paid.

5. The primary requirement within the meaning of Article 20 of Regulation (EC) No 2220/85 shall cover the performance of the operations set out in the operational programmes subject to the undertakings provided for in Article 62(b) and (c) of this Regulation.

In the event of failure to comply with the primary requirement or of serious failure to meet the obligations provided for in Article 62(b) and (c) the security shall be forfeited, without prejudice to other penalties to be applied in accordance with Section 3 of Chapter V.

In the event of failure to comply with other requirements, the security shall be forfeited in proportion to the gravity of the irregularity that has been established.

6. Member States may set a minimum amount and the deadlines for advance payments.

**▼B***Article 73***Partial payments**

Member States may permit producer organisations to apply for the payment of the part of the aid corresponding to the expenditure resulting from the operational programme.

Applications may be submitted at any time, but no more than three times in any given year. They shall be accompanied by suitable supporting documents.

Total payments in respect of applications for parts of the aid may not exceed 80 % of the initially approved amount of aid for the operational programme or of the real expenditure, whichever is less.

Member States may set a minimum amount and the deadlines for partial payments.

*CHAPTER III**Crisis prevention and management measures*

## Section 1

**General provisions***Article 74***Selection of crisis prevention and management measures**

Member States may provide that one or more of the measures listed in Article 9(2) of Regulation (EC) No 1182/2007 shall not apply in their territory.

*Article 75***Loans to finance crisis prevention and management measures**

Loans taken out to finance crisis prevention and management measures pursuant to the third subparagraph of Article 9(2) of Regulation (EC) No 1182/2007 whose repayment period exceeds the length of the operational programme may be carried over to a subsequent operational programme on duly justified economic grounds.

## Section 2

**Market withdrawals***Article 76***Definition**

This Section lays down rules concerning market withdrawals as referred to in Article 9(2)(a) of Regulation (EC) No 1182/2007. For the purposes of this Chapter, 'products withdrawn from the market', 'withdrawn products' and 'products not put up for sale' mean products which are so withdrawn from the market.

*Article 77***Marketing standards**

1. Where a marketing standard as referred to in paragraphs 2 and 7 of Article 2 of Regulation (EC) No 1182/2007 exists for a given product, such product withdrawn from the market shall comply with

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those standards, except for the provisions on the presentation and marking of products. Products may be withdrawn in bulk, all sizes together, provided that the minimum requirements for class II, in particular as regards quality and size, are complied with.

However, miniature produce as defined in the relevant standards shall comply with the applicable marketing standards, including the provisions on the presentation and marking of products.

2. If no such marketing standards exist for a given product, the minimum requirements laid down in Annex IX shall be met by products withdrawn from the market. The Member States may lay down additional rules supplementing those minimum requirements.

*Article 78***Three-year average for market withdrawals for free distribution**

The limit of 5 % of the volume of marketed production referred to in Article 10(4) of Regulation (EC) No 1182/2007 shall be calculated on the basis of an arithmetic mean of the overall volumes of products for which the producer organisation is recognised and are marketed through the producer organisation during the three previous years.

For recently recognised producer organisations, the data for marketing years prior to recognition shall be:

- (a) where the organisation was a producer group, the equivalent data for that producer group, where applicable; or
- (b) the volume applicable to the application for recognition.

*Article 79***Prior notification of withdrawal operations**

1. Producer organisations and associations of producer organisations shall notify in advance the competent national authorities, by written telecommunication or electronic message, of each withdrawal operation they intend to undertake. Such notification shall specify, in particular, the list of products taken into intervention and their principal characteristics according to the relevant marketing standards, the estimated quantity of each product concerned, their intended destination and the place where the withdrawn products may be inspected as provided for in Article 110. Notifications shall include a certificate attesting that the withdrawn products conform to the applicable marketing standards or minimum requirements referred to in Article 77.

2. Member States shall lay down detailed rules for producer organisations as regards notifications provided for in paragraph 1, in particular as regards time limits.

3. Within the time limits referred to in paragraph 2, the Member States shall:

- (a) either carry out the check referred to in Article 110(1), following which, if no irregularities are detected, it shall authorise the withdrawal operation as noted in the check; or;
- (b) in the cases referred to in Article 110(3), not carry out the check referred to in Article 110(1), in which case it shall inform the producer organisation of this by a written telecommunication or an electronic message and authorise the withdrawal operation as notified.

**▼B***Article 80***Support**

1. The support, comprising both the Community contribution and the producer organisation contribution, for market withdrawals shall be no more than the amounts set out in Annex X for the products referred to in that Annex. For other products, Member States shall set maximum amounts of support.

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2. Market withdrawals shall not exceed 5 % as a proportion of the volume of the marketed production of any given product in any given producer organisation. However, amounts which are disposed in one of the ways referred to in Article 10(4)(a) and (b) of Regulation (EC) No 1182/2007 or any other way approved by Member States under Article 81(2) shall not be taken into account in that proportion.

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The volume of marketed production shall be calculated as average of the volume of marketed production in the previous three years. If this information is not available, the volume of marketed production for which the producer organisation was recognised shall be used.

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The percentages referred to in the first subparagraph shall be annual averages over a three year period, with a 3 % annual margin of overrun.

**▼B***Article 81***Destinations for withdrawn products**

1. Member States shall lay down the permissible destinations for products subjected to market withdrawals. They shall adopt provisions to ensure that no negative impact on the environment nor any negative phytosanitary consequences result from the withdrawal or its destination. Costs incurred by the producer organisations due to compliance with these provisions shall be eligible as part of the support for market withdrawals under the operational programme.

2. The destinations referred to in paragraph 1 of this Article shall include free distribution which shall mean those referred to in points (a) and (b) of Article 10(4) of Regulation (EC) No 1182/2007 and any other equivalent destinations approved by Member States.

Member States shall take all the necessary steps to facilitate contacts and co-operation between producer organisations and the recipients they have approved, on request, for free distribution.

3. Disposal of products to the processing industry shall be possible only on condition that there is no resulting distortion of competition for the industries concerned within the Community or for imported products.

*Article 82***Transport costs**

1. The transport costs for the free distribution of all products withdrawn from the market shall be eligible under the operational programme on the basis of the flat-rate amounts set according to the distance between the point of withdrawal and the place of delivery set out in Annex XI.

In the case of sea transport, the Commission shall determine the transport costs which may be met on the basis of the real transport costs and the distance. The compensation thus determined may not exceed the cost of land transport over the shortest route between the

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place of loading and the theoretical point of exit. A correcting coefficient of 0,6 shall be applied to the amounts as set out in Annex XI.

2. The transport costs shall be paid to the party which actually bears the financial cost of the transport operation in question.

Payment shall be subject to the presentation of supporting documents certifying in particular:

- (a) the names of the beneficiary organisations;
- (b) the quantity of the products concerned;
- (c) acceptance by the beneficiary organisations and the means of transport used; and

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- (d) the distance between the place of withdrawal and the place of delivery.

**▼B***Article 83***Sorting and packing costs**

1. The costs of sorting and packaging fresh fruit and vegetables withdrawn from the market for free distribution shall be eligible under operational programmes at the flat-rate amount of EUR 132 per tonne net weight, in the case of products put up in packages of less than 25 kilograms net weight.

2. Packages of products for free distribution shall display the European emblem, together with one or more of the references set out in Annex XII.

3. The costs of sorting and packaging shall be paid to the producer organisations which have performed those operations.

Payment shall be subject to the presentation of supporting documents certifying in particular:

- (a) the names of the beneficiary organisations;
- (b) the quantity of the products concerned; and
- (c) acceptance by the beneficiary organisations, specifying the presentation.

*Article 84***Conditions for the recipients of withdrawn products**

1. The recipients of withdrawn products referred to in points (a) and (b) of Article 10(4) of Regulation (EC) No 1182/2007 shall undertake to:

- (a) comply with this Regulation;
- (b) keep separate stock records and financial accounts for the operations in question;
- (c) accept the checks provided for by the Community rules; and
- (d) provide the supporting documents on the final destination of each of the products concerned, in the form of a take-over certificate (or equivalent document) attesting that the withdrawn products have been taken over by a third party with a view to their free distribution.

Member States may decide that recipients do not have to keep records or accounts referred to in point (b) of the first subparagraph, if they receive only small quantities and where they consider that the risk is low. That decision and its justification shall be recorded.

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2. The recipients of withdrawn products for other destinations shall undertake to:
- (a) comply with this Regulation;
  - (b) keep separate stock records and financial accounts for the operations in question if the Member States considers it as appropriate despite the fact that the product has been denatured before delivery;
  - (c) accept the checks provided for by the Community rules; and
  - (d) not request additional aid for the alcohol produced from the products concerned in the case of withdrawn products intended for distillation.

## Section 3

**Green harvesting and non-harvesting***Article 85***Definitions of green harvesting and non-harvesting**

1. Green harvesting shall mean the total harvesting of non-marketable products on a given area carried out before the beginning of the normal harvest. The products concerned shall not have been already damaged prior to the green harvesting, whether due to climatic reasons or disease or otherwise.
2. Non-harvesting shall be where no commercial production is taken from the area concerned during the normal production cycle. However destruction of products due to climatic event or disease shall not be considered as non-harvesting.
3. Green harvesting and non-harvesting shall be additional to and different from normal cultivation practices.

*Article 86***Conditions for the application of green harvesting and non-harvesting**

1. In relation to green harvesting and non-harvesting measures, Member States shall:
  - (a) adopt detailed provisions on the implementation of the measures, including on prior notifications of non-harvesting and green harvesting, their content and deadlines, on the amount of compensation to be paid and on the application of the measures, as well as the list of products eligible under the measures;
  - (b) adopt provisions to ensure that no negative impact on the environment nor any negative phytosanitary consequences result from their application;
  - (c) ensure that it is possible to check that the measures are carried out correctly, and not approve the application of the measures where this is not the case;
  - (d) apply such checks to ensure that the measures are carried out correctly, including in relation to the provisions mentioned in points (a) and (b).
2. Producer organisations and associations of producer organisations shall notify in advance the competent national authorities, by written telecommunication or electronic message, of each green harvesting or non-harvesting operation they intend to undertake.

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They shall include in the first notification of any given year and for a given product, an analysis based on the expected market situation which justifies green harvesting as a crisis prevention measure.

3. Green harvesting and non-harvesting shall not both be applied for the same product and the same given area in any given year, or in any two consecutive years.

4. Compensation amounts, comprising both the Community contribution and the producer organisation contribution, for green harvesting and non-harvesting shall be per hectare payments set by the Member State under paragraph 1(a):

- (a) at the level to cover only additional costs generated by the application of the measure, taking into account the environmental and phytosanitary management needed to comply with the provisions adopted pursuant to paragraph 1(b); or
- (b) at a level to cover not more than 90 % of the maximum support level for market withdrawals as referred to in Article 80.

**Section 4****Promotion and communication***Article 87***Implementation of promotion and communication measures**

1. Member States shall adopt detailed provisions on the implementation of promotion and communication measures. These provisions shall allow for the rapid application of the measures when required.

2. Actions under promotion and communication measures shall be additional to any on-going promotion and communication actions being applied by the producer organisation concerned.

**Section 5****Training***Article 88***Implementation of training measures**

In relation to training measures, Member States shall adopt detailed provisions on the implementation of those measures.

**Section 6****Harvest insurance***Article 89***Objective of harvest insurance measures**

Harvest insurance actions shall be managed by a producer organisation which shall contribute to safeguarding producers' incomes and to covering market losses incurred by the producer organisation and/or its members where these are affected by natural disasters, climatic events and, where appropriate, diseases or pest infestations.



*Article 90*

**Implementation of harvest insurance measures**

1. In relation to harvest insurance measures, Member States shall adopt detailed provisions on the implementation of those measures, including those necessary to ensure that harvest insurance measures do not distort competition in the insurance market.
2. Member States may contribute additional national financing to support for harvest insurance measures which are benefiting from the operational fund. However, total public support for harvest insurance may not exceed:
  - (a) 80 % of the cost of the insurance premiums paid for by producers for insurance against losses as a result of adverse climatic events which can be assimilated to natural disasters;
  - (b) 50 % of the cost of the insurance premiums paid for by producers for insurance against:
    - (i) losses referred to in point (a) and against other losses caused by adverse climatic events; and
    - (ii) losses caused by animal or plant diseases or pest infestations.

The limit set out in point (b) of the first subparagraph shall apply even in cases where the operational fund is otherwise eligible for 60 % Community financial assistance pursuant to Article 10(3) of Regulation (EC) No 1182/2007.

3. Harvest insurance measures shall not cover insurance payments which compensate producers for more than 100 % of the income loss suffered, taking into account any compensation the producers obtain from other support schemes related to the insured risk.
4. For the purposes of this Article, an 'adverse climatic event which can be assimilated to a natural disaster' shall have the same meaning as in Article 2(8) of Commission Regulation (EC) No 1857/2006 <sup>(1)</sup>.

Section 7

**Support for the administrative cost of setting up mutual funds**

*Article 91*

**Conditions for support for the administrative cost of setting up mutual funds**

1. In relation to support for the administrative cost of setting up mutual funds, Member States shall adopt detailed provisions for the implementation of that measure.
2. Support for the administrative cost of setting up mutual funds shall be, in the first, second and third year of operation of the mutual fund respectively, the following proportion of the contribution of the producer organisation to the mutual fund in the first, second and third year of its operation:
  - (a) 10 %, 8 % and 4 % in the Member States which acceded to the European Union on 1 May 2004 or thereafter;
  - (b) 5 %, 4 % and 2 % in other Member States.
3. Member States may fix ceilings for the amounts that may be received by a producer organisation as support for the administrative cost of setting up mutual funds.

<sup>(1)</sup> OJ L 358, 16.12.2006, p. 3.



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## Section 8

**State aids for crisis prevention and management measures***Article 92***Detailed provisions in national strategies**

Member States paying State aid in accordance with point (c) of the second subparagraph of Article 43 of Regulation (EC) No 1182/2007 shall set out detailed provisions for the implementation of that provision in their national strategies.

*CHAPTER IV**National Financial Assistance**Article 93***Degree of organisation of producers**

For the purposes of Article 11(1) of Regulation (EC) No 1182/2007, the degree of organisation of producers in a region of a Member State shall be considered as particularly low where producer organisations, associations of producer organisations and producer groups have marketed less than 20 % of the average value of fruit and vegetable production in the last three years for which the data are available.

*Article 94***Authorisation to pay national financial assistance**

1. ►**M5** Member States shall submit a request to the Commission for authorisation to grant national financial assistance pursuant to the first subparagraph of Article 11(1) of Regulation (EC) No 1182/2007 for operational programmes to be implemented in any given calendar year by 31 January of that year. ◀

The request shall be accompanied by evidence showing that the degree of organisation of producers in the region concerned is particularly low, as defined in Article 93 of this Regulation, as well as details of the producer organisations concerned, the amount of assistance concerned and the proportion of financial contributions being made pursuant to Article 8(1)(a) of Regulation (EC) No 1182/2007.

2. The Commission shall approve or refuse the request within three months of its submission. If the Commission does not reply within this period the request shall be considered to have been approved.

**▼M5***Article 94a***Modifications to the operational programme**

A producer organisation wishing to apply for national financial assistance shall, if necessary, modify its operational programme pursuant to Article 67.

**▼B***Article 95***Application for and payment of the national financial assistance**

Producer organisations shall apply for the national financial assistance, and Member States shall pay the aid, in accordance with Articles 70 to 73.

**▼B***Article 96***Maximum proportion of Community reimbursement of the national financial assistance**

The proportion of Community reimbursement of national financial assistance shall be 60 % of the national financial assistance granted to the producer organisation.

*Article 97***Community reimbursement of the national financial assistance****▼M5**

1. Member States shall request Community reimbursement of approved national financial assistance actually paid to producer organisations, before 1 January of the second year following the year of implementation of the programme.

The request shall be accompanied by evidence showing that the conditions set out in the second subparagraph of Article 11(1) of Regulation (EC) No 1182/2007 have been fulfilled in three of the previous four years, as well as details of the producer organisations concerned, the amount of assistance actually paid and a description of the operational fund broken out between total amount, contributions from Community, Member State (national financial assistance) and producer organisations and members.

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2. The Commission shall take a decision to approve or refuse the request.

3. Where Community reimbursement of the assistance has been approved, the eligible expenditure shall be declared to the Commission in accordance with the procedure set out in Article 5 of Commission Regulation (EC) No 883/2006 <sup>(1)</sup>.

*CHAPTER V***General Provisions**

## Section 1

**Communications***Article 98***Producer organisations' reports**

1. Producer organisations shall submit annual reports, accompanying applications for aid, on the implementation of operational programmes.

Those reports shall concern the following:

- (a) operational programmes implemented during the preceding year;
- (b) main amendments to operational programmes; and
- (c) variances between estimated aid and aid applied for.

2. For each operational programme implemented, the annual report shall indicate:

- (a) the achievements and results of the operational programme, based on, where relevant, the common output and result indicators set out in Annex XIV and, where appropriate, additional output and result indicators set out in the national strategy; and

<sup>(1)</sup> OJ L 171, 23.6.2006, p. 1.

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- (b) a summary of the major problems encountered in managing the programme and any measures taken to ensure the quality and effectiveness of programme implementation.

Where relevant, the annual report shall specify what effective safeguards are in place, in accordance with the national strategy and in application of Article 9(5) of Regulation (EC) No 1182/2007, to protect the environment from possible increased pressures coming from investments supported under the operational programme.

3. For the final year of application of an operational programme, a final report shall replace the annual report referred to in paragraph 1.

Final reports shall show to what extent the objectives pursued by the programmes have been achieved. They shall explain changes to actions and/or methods and identify factors which contributed to the success or failure of the programme's implementation, which have been or will be considered when subsequent operational programmes are drawn up, or when existing operational programmes are amended.

4. Without prejudice to specific provisions in this Regulation, where a producer organisation fails to make a communication to the Member State as required under this Regulation or Regulation (EC) No 1182/2007 or if the communication appears incorrect in the light of objective facts in the Member State's possession, the Member State shall suspend approval for the relevant operational programme for the following year until the communication is correctly made.

The Member State shall include in its annual report referred to in Article 99(3) of this Regulation details of such cases.

*Article 99***Required communications from Member States**

1. Member States shall designate a single competent authority responsible for communications between the Commission and the Member State which concern producer organisations, producer groups and associations of producer organisations. They shall notify the Commission of this designation and the contact details of the authority.
2. Member States shall communicate to the Commission not later than 31 January the total amount of the operational fund approved that year for all operational programmes. This communication shall make clear both the total amount of the operational fund and also the total amount of Community financing of that operational fund. These figures shall be further broken down between amounts for crisis prevention and management measures and other measures.
3. Member States shall communicate to the Commission not later than 15 November in any given year an annual report on producer organisations and producer groups and operational funds, operational programmes and recognition plans running in the previous year. The annual report shall contain in particular the information set out in Annex XIII.

## Section 2

**Checks***Article 100***Unique identification system**

Member States shall ensure that a unique identification system applies with regard to all aid applications submitted by the same producer organisation or producer group. This identification shall be compatible

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with the system to record identity referred to in Article 18(1)(f) of Council Regulation (EC) No 1782/2003 <sup>(1)</sup>.

*Article 101***Aid applications**

Without prejudice to specific provisions of this Regulation, Member States shall provide for appropriate procedures for the submission of applications for support, for requests for recognition or approval of operational programme, as well as for payment claims.

*Article 102***Sampling**

Where it is appropriate to carry out checks by sampling, Member States shall ensure, by their nature and frequency and on the basis of a risk analysis, that the checks are appropriate to the measure concerned.

*Article 103***Administrative checks**

Administrative checks shall be carried out on all applications for support or payment claims, and shall cover all possible and appropriate elements to be checked by administrative means. The procedures shall require the recording of undertaken operations, the results of the verification and the measures taken in respect of discrepancies.

*Article 104***On-the-spot checks**

1. Every on-the-spot check shall be the subject of a monitoring report in order to make it possible to review the details of the checks carried out. The report shall indicate in particular:

- (a) the aid scheme and the application checked;
- (b) the persons present;
- (c) the actions, measures and documents checked; and
- (d) the results of the check.

2. The beneficiary may be given the opportunity to sign the report to attest his presence at the check and to add observations. Where irregularities are found the beneficiary may receive a copy of the monitoring report.

3. Advance notice of on-the-spot checks may be given, provided that the purpose of the check is not jeopardised. The advance notice should be limited to the minimum time necessary.

4. Where possible, on-the-spot checks provided for in this Regulation and other checks provided for in Community rules regarding agricultural subsidies shall be carried out at the same time. However, in 2008, where necessary, on-the-spot checks may be carried out by different bodies at different times.

<sup>(1)</sup> OJ L 270, 21.10.2003, p. 1.

*Article 105***Approval of requests for recognition and approval of operational programmes**

1. Before recognising a producer organisation under Article 4(2)(a) of Regulation (EC) No 1182/2007, Member States shall conduct an on-the-spot visit to the producer organisation prior to granting recognition to verify compliance with the conditions for recognition.
2. Before approving an operational programme under Article 65, the competent national authority shall verify by all appropriate means, including on-the-spot checks, the operational programme submitted for approval and, if applicable, the requests for modification. These checks shall in particular concern:
  - (a) the accuracy of information provided pursuant to Article 61(1)(a), (b) and (e);
  - (b) compliance of the programmes with Article 9 of Regulation (EC) No 1182/2007 as well as with the national framework and the national strategy;
  - (c) the eligibility of the actions and the eligibility of the expenditure proposed;
  - (d) the consistency and technical quality of programmes, the soundness of the estimates and the aid plan, and the planning of its implementation. Checks shall verify whether measurable targets have been set, so that their achievement can be monitored, and whether the targets set are achievable through implementing the proposed actions; and
  - (e) the compliance of the operations for which support is requested with applicable national and Community rules on, in particular, and where relevant, public procurement, State aid and the other appropriate obligatory standards established by national legislation or established in the national framework or the national strategy.

*Article 106***Checks on applications for aid for operational programmes**

Prior to granting the payment, Member States carry out administrative checks on all applications for aid as well as on-the-spot checks by sampling.

*Article 107***Administrative checks on applications for aid for operational programmes**

1. Administrative checks on applications for aid shall include in particular, and as far as this is appropriate for the claiming question, a verification of:
  - (a) the annual or, where applicable, the final report transmitted together with the application on the execution of the operational programme;
  - (b) the value of marketed production, the contributions to the operational fund and the expenditure incurred;
  - (c) the delivery of the products and services and the genuineness of expenditure claimed;
  - (d) the conformity of the actions executed with those included in the operational programme as approved; and
  - (e) the respect of financial or other limits and ceilings imposed.
2. Payments financed under the operational programme shall be supported by invoices and documents proving that payment has been

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made. Where this cannot be done, payments shall be supported by documents of equivalent probative value. Invoices used must be established in the name of the producer organisation, association of producer organisations, producer group or subsidiary as foreseen in Article 52(7) or, subject to Member State approval, in the name of one or more of its members.

*Article 108***On-the-spot checks on applications for aid for operational programmes**

1. In the context of the verification of the application for aid referred to in Article 70(1), Member States shall carry out on-the-spot checks on the producer organisations so as to ensure compliance with the conditions for grant of aid or the balance thereof for the year in question.

Such checks shall in particular concern:

- (a) compliance with the recognition criteria for the year in question;
- (b) the use of the operational fund in the given year including expenditure declared in claims for advance payments or partial payments; and
- (c) second level checks for the expenses of market withdrawals and green harvesting and non-harvesting.

2. The checks referred to in paragraph 1 shall relate to a significant sample of applications each year. The sample shall represent at least 30 % of the total aid amount, in Member States which have more than 10 recognised producer organisations. In other cases, each producer organisation shall be visited at least once every three years.

At least one check shall be made on each producer organisation before the payment of the aid or the balance thereof relating to the final year of its operational programme.

3. The results of the on-the-spot checks shall be evaluated to establish whether any problems encountered are of a systemic character, entailing a risk for other similar actions, beneficiaries or bodies. The evaluation shall also identify the causes of such situations, any further examination which may be required and the necessary corrective and preventive action.

If the checks reveal significant irregularities in a region or part of a region or for a specific producer organisation, the Member State shall carry out additional checks during the year in question and shall increase the percentage of corresponding applications to be checked the following year.

4. The Member State shall determine which producer organisations to check on the basis of a risk analysis.

The risk analysis shall in particular take account of:

- (a) the amount of aid;
- (b) the findings of the checks in previous years;
- (c) a random element; and
- (d) other parameters to be determined by Member States, in particular whether producer organisations are involved in a quality assurance programme officially recognised by the Member States or by independent certifying bodies.



*Article 109*

**On-the-spot checks on measures of operational programmes**

1. Through the on-the-spot checks concerning the measures of operational programmes, Member States shall verify in particular the following:

- (a) the implementation of the actions contained in the operational programme;
- (b) that the implementation or intended implementation of the action is consistent with the use described in the operational programme as approved;
- (c) for an adequate number of expenditure items, that the nature and timing of the relevant expenditure comply with Community provisions and correspond to the approved specifications;
- (d) that the expenditure incurred can be supported by accounting or other documents; and
- (e) the value of marketed production.

2. The value of marketed production shall be verified on the basis of data of the accounting system required under national law.

To that end, the Member States may decide that the declaration of the value of marketed production shall be certified in the same way as the accounting data required under national law.

The check on the declaration of the value of marketed production may be carried out before the relevant application for aid is transmitted.

3. Except in exceptional circumstances, the on-the-spot check shall include a visit to the action or, if the action is intangible, to the action promoter. In particular actions on individual holdings covered by the sample referred to in Article 108(2) shall be subject of at least one visit to verify their execution.

However, Member States may decide not to carry out such visits for smaller operations, or where they consider that the risk is low that the conditions for receiving aid are not fulfilled, or that the reality of the operation has not been respected. That decision and its justification shall be recorded.

4. The on-the-spot check shall cover all the commitments and obligations of the producer organisation or its members which can be checked at the time of the visit.

5. Only checks meeting all the requirements of this Article may be counted towards the fulfilment of the checking rate set out in Article 108(2).

*Article 110*

**First-level checks on withdrawal operations**

1. Member States shall make first-level checks on withdrawal operations in each producer organisation, comprising a documentary and identity check and a physical check, where appropriate by sampling, of the weight of the products withdrawn from the market and a check on compliance with the rules in Article 77, in accordance with the procedures laid down in Chapter II of Title II. The check shall take place following receipt of the notification referred to in Article 79(1), within the deadlines provided for in Article 79(2).

2. The first-level checks provided for in paragraph 1 shall cover 100 % of the quantity of products withdrawn from the market. At the end of this check, the withdrawn products other than those for free distribution shall be denatured or disposed of to the processing

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industry under the supervision of the competent authorities under the terms and conditions laid down by the Member State under Article 81.

However, where the products are for free distribution, Member States may check a smaller percentage than that set out in paragraph 2 of this Article, provided it is not less than 10 % of the quantities concerned during the marketing year. The check may take place at the producer organisation and/or at the sites of the recipients of the products. In the event that the checks reveal significant irregularities, the competent authorities shall carry out additional checks.

*Article 111***Second-level checks on withdrawal operations**

1. In the framework of the checks referred to in Article 108, Member States shall make second-level checks.

Member States shall lay down criteria for analysing and evaluating the risk of any given producer organisation carrying out non-compliant withdrawal operations. Such criteria shall relate, among other things, to the findings of previous first- and second-level checks, and whether or not a producer organisation has some form of quality-assurance procedure. They shall use these criteria to determine for each producer organisation a minimum frequency of second-level checks.

2. The checks referred to in paragraph 1 shall comprise on-the-spot checks at the premises of producer organisations and the recipients of withdrawn products, in order to ensure that the requisite conditions for payment of Community support have been complied with. These checks shall include:

- (a) the specific stock and accounting records to be kept by all producer organisations which carry out one or more withdrawal operations during the marketing year concerned;
- (b) verification of the quantities marketed as declared in the applications for aid, checking in particular the stock and accounting records, the invoices and, where necessary, their veracity and ensuring that the declarations tally with the accounting and/or tax data of the producer organisations concerned;
- (c) checks that the accounts are correct, in particular the veracity of net receipts by the producer organisations as declared in their payment applications, the proportionality of any withdrawal costs, the entries in the accounts regarding the receipt by the producer organisations of the Community support and any amounts thereof paid on to members, ensuring that these tally; and
- (d) checks on the destination of withdrawn products as declared in the payment application and checks on the appropriate denaturing to ensure that the producer organisations and recipients have complied with this Regulation.

3. The checks referred to in paragraph 2 shall be carried out on the producer organisations concerned and the recipients associated with those organisations. Each check shall include a sample representing at least 5 % of the quantities withdrawn during the marketing year by the producer organisation.

4. The stock and accounting records referred to in point (a) of paragraph 2 shall show, for each product withdrawn, the amounts moved, expressed in volume, of:

- (a) the production delivered by members of the producer organisation and by members of other producer organisations in accordance with Article 3(3)(b) and (c) of Regulation (EC) No 1182/2007;



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- (b) sales by the producer organisation, broken down by products prepared for the fresh market and other types of products including raw materials for processing; and
  - (c) products withdrawn from the market.
5. The checks on the destination of products referred to in point (c) of paragraph 4 shall include, in particular:
- (a) a sample check on the separate accounts to be kept by recipients and, where necessary, verification that these tally with the accounts required under national law; and
  - (b) checks on compliance with the relevant environmental requirements;
6. If the second-level checks reveal significant irregularities, the competent authorities shall carry out more detailed second-level checks for the marketing year concerned and shall increase the frequency of second-level checks on the producer organisations or their associations concerned during the following marketing year.

*Article 112***Green harvesting and non-harvesting**

1. Before a green harvesting operation takes place, Member States shall verify by an on-the-spot check that the products concerned are not damaged and the plot has been well maintained. After green harvesting, Member State shall verify that the area concerned has been harvested in total and the harvested product has been denatured.

After the end of the harvest period, Member States shall verify the reliability of the analysis based on the expected market situation referred to in Article 86(2). They shall also analyse any differences between the expected market situation and the real market situation.

2. Before a non-harvesting operation takes place, Member States shall verify by an on-the-spot check that the given area has been well maintained, that no partial harvest has already taken place and that the product is well developed and would in general be sound, fair and of marketable quality.

Member States shall ensure that the production is denatured. If this is not possible, they shall ensure, by an on-the-spot visit or visits during the harvest season, that no harvest takes place.

3. Paragraphs 1, 2, 3 and 6 of Article 111 shall apply *mutatis mutandis*.

*Article 113***Checks before approving recognition plans of producer groups**

1. Before approving a recognition plan of a producer group under Article 7(1) of Regulation (EC) No 1182/2007, Member States shall conduct an on-the-spot check on the legal entity or clearly defined part of the legal entity.

2. The Member State shall verify by all appropriate means, including the on-the-spot check:

- (a) the accuracy of the information provided in the recognition plan;
- (b) the commercial consistency and the technical quality of the plan, the soundness of the estimates and the planning of its implementation;
- (c) the eligibility of the actions and the eligibility and reasonableness of the expenditure proposed; and
- (d) the compliance of the operations for which support is requested with applicable national and Community rules and in particular, rules on public procurement, State aid and the other appropriate

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obligatory standards established by national legislation or established in the national framework or the national strategy.

*Article 114***Checks on applications for aid of producer groups**

1. Prior to granting payment, Member States carry out administrative checks on all applications for aid made by producer groups, as well as on-the-spot checks on by sampling.
2. Following the submission of the application for aid referred to in Article 47, Member States shall carry out on-the-spot checks on producer groups so as to ensure compliance with the conditions for grant of aid for the year in question.

Those checks shall in particular concern:

- (a) compliance with the recognition criteria for the year in question; and
  - (b) the value of marketed production as well as the implementation of the measures contained in the recognition plan and the expenses incurred.
3. The checks referred to in paragraph 2 shall relate to a significant sample of applications each year. The sample shall represent at least 30 % of the total amount of aid.

All producer groups shall be checked at least once every five years.

4. Articles 107 and 109 shall apply *mutatis mutandis*.

*Article 115***Transnational producer organisations and transnational associations of producer organisations**

1. The Member State in which a transnational producer organisation or a transnational association of producer organisations has its head office shall have overall responsibility for organisation of checks on that organisation or association and shall apply sanctions to it where necessary.
2. The other Member States required to provide the administrative co-operation referred to in Article 30(2)(c) and Article 37(2)(c) shall carry out such administrative and on the spot checks as required by the Member State referred to in paragraph 1 of this Article, and report the results to them. They shall respect all deadlines set by the Member State referred to in paragraph 1.
3. The rules applicable in the Member State referred to in paragraph 1 shall apply in relation to the producer organisation and the operational programme and operational fund. However in respect of environmental, phytosanitary questions, and in relation to the disposal of withdrawn products, the rules of the Member State where the production takes place shall apply.

## Section 3

**Sanctions***Article 116***Non-respect of recognition criteria**

1. Member States shall withdraw the recognition of a producer organisation if a failure to respect the criteria for recognition is substantial and results from the fact that the producer organisation acted deliberately or by serious negligence.

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Member States shall in particular withdraw the recognition of a producer organisation if a failure to respect the criteria for recognition concerns:

- (a) a breach of the requirements of Articles 23, 25, 28(1) and (2) or 33; or
- (b) a situation where the value of marketed production falls, in two consecutive years, below the limit set by the Member State pursuant to Article 4(1)(b) of Regulation (EC) No 1182/2007.

The withdrawal of recognition under this paragraph shall take effect from the date from which the conditions for recognition were not fulfilled, subject to any applicable horizontal legislation at national level on limitation periods.

2. Where paragraph 1 does not apply, Member States shall suspend the recognition of a producer organisation if a failure to respect the criteria for recognition is substantial but is only temporary.

During the period of suspension, no aid shall be paid. The suspension shall take effect from the day where the check has taken place and shall end on the day of the check which shows that the criteria concerned have been fulfilled.

The period of suspension shall not exceed 12 months. If the criteria concerned are subsequently not fulfilled after 12 months, recognition shall be withdrawn.

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Member States may make payments after the deadline set out in Article 71 where this is necessary in order to apply this paragraph. However, these later payments may not in any case be made later than 15 October of the second year following the year of implementation of the programme.

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3. In other cases of a failure to respect the criteria for recognition, where paragraphs 1 and 2 do not apply, Member States shall send a warning letter stating the corrective measures to be taken. Member States may delay payments of aid until the corrective measures are taken.

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Member States may make payments after the deadline set out in Article 71 where this is necessary in order to apply this paragraph. However, these later payments may not in any case be made later than 15 October of the second year following the year of implementation of the programme.

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A failure to take the corrective measures within a 12 month period shall be regarded as substantial failure to respect the criteria and paragraph 2 shall subsequently be applied.

*Article 117***Fraud**

1. Without prejudice to any other penalties applicable under Community and national legislation, Member States shall withdraw the recognition of a producer organisation, an association of producer organisations or a producer group if it is found to have committed fraud in respect of aid covered by Regulation (EC) No 1182/2007.

2. Member States may suspend the recognition of a producer organisation, an association of producer organisations or a producer groups, or suspend payments to such a body if they are suspected of having committed fraud in respect of aid covered by Regulation (EC) No 1182/2007.

**▼B***Article 118***Producer groups**

1. Member States shall apply, *mutatis mutandis*, the sanctions provided for in Article 116 and/or 119 to recognition plans.
2. In addition to paragraph 1, if, after the end of the period set by the Member State under Article 51(4), the producer group is not recognised as producer organisation, the Member State shall recover:
  - (a) 100 % of the aid paid to the producer group if the failure to achieve recognition was due to the producer group acting deliberately or by serious negligence; or
  - (b) 50 % of the aid paid to the producer group in all other cases.

*Article 119***Operational programme**

1. Payments shall be calculated on the basis of what is found eligible.
2. The Member State shall examine the application for aid received from the beneficiary, and establish the amounts that are eligible for support. It shall establish:
  - (a) the amount that would be payable to the beneficiary based solely on the application;
  - (b) the amount that is payable to the beneficiary after an examination of the eligibility of the application.
3. If the amount established pursuant to point (a) of paragraph 2 exceeds the amount established pursuant to point (b) of paragraph 2 by more than 3 %, a reduction shall be applied to the amount actually payable to the beneficiary. The amount of the reduction shall be the difference between the amounts calculated in points (a) and (b) of paragraph 2.
 

However, no reduction shall be applied if the producer organisation or producer group is able to demonstrate that it is not responsible for the inclusion of the ineligible amount.
4. Paragraphs 2 and 3 shall apply *mutatis mutandis* to ineligible expenditure identified during on-the-spot checks.
5. If the value of marketed production is declared and checked before the application for aid, a reduction shall be applied to the value of marketed production used in calculating amounts in accordance with paragraphs 2 and 3.
6. If a beneficiary is found to have intentionally made a false declaration the operation in question shall be excluded from support of the operational programme or recognition plan and any amounts already paid for that operation shall be recovered. Moreover, the beneficiary shall be excluded, for that operation, from receiving support under the operational programme in question in the following year.

*Article 120***Sanctions following first-level checks on withdrawal operations**

If, following the check referred to in Article 110, irregularities are found with regard to the marketing standards or the minimum requirements referred to in Article 77, the beneficiary shall be required:

- (a) to pay a penalty of the amount of the ►**M9** Community contribution ◀, calculated on the basis of the quantities of withdrawn products not in conformity with the marketing standards or minimum requirements, if those quantities are less than 10 % of

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- the quantities notified pursuant to Article 79 for the withdrawal operation in question;
- (b) to pay a penalty of the double amount of the ►**M9** Community contribution ◀, if those quantities are between 10 % and 25 % of the quantities notified; or
- (c) to pay a penalty of the amount of the ►**M9** Community contribution ◀ for the entire quantity notified pursuant to Article 79, where those quantities exceed 25 % of the quantity notified.

*Article 121***Other sanctions applicable to producer organisations regarding withdrawal operations**

1. The sanctions referred to in Article 119 shall cover aid applied for in respect of withdrawal operations as integrated parts of operational programme expenditure.
2. Expenditure for withdrawal operation shall be considered as ineligible if the products not put up for sale have not been disposed of as provided for by the Member State under Article 81(1) or that the withdrawal or its destination has had a negative impact on the environment or any negative phytosanitary consequences in contravention of the provisions adopted under Article 81(1).

*Article 122***Sanctions applicable to recipients of withdrawn products**

Where irregularities attributable to the recipients of withdrawn products are detected during checks made in accordance with Articles 110 and 111, the following sanctions shall apply:

- (a) the recipients shall cease to be eligible to receive withdrawals; and
- (b) recipients of products withdrawn from the market shall be obliged to repay the value of the products they received plus the related sorting, packaging and transport costs in accordance with the rules laid down by the Member States. ►**M5** ————— ◀

The sanction provided for in point (a) take effect immediately and continues for at least one marketing year, and may be extended depending on the seriousness of the irregularity.

*Article 123***Green harvesting and non-harvesting**

1. With regard to green harvesting, if it is found that the producer organisation has not fulfilled its obligations the producer organisation shall pay by way of penalty the amount of the compensation relating to the areas for which the obligation has not been respected. A failure to fulfil obligations shall include cases where:
- (a) the Member State finds, during the verification referred to in the second subparagraph of Article 112(1), that the green harvesting measure was not justified on the basis of the analysis of the expected market situation existing at the time;
- (b) the area notified for green harvesting is not eligible for green harvesting; or
- (c) the area is not totally harvested or the production not denatured.
2. With regard to non-harvesting, if it is found that the producer organisation has not fulfilled its obligations the producer organisation shall pay by way of penalty the amount of the compensation relating to

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the areas for which the obligation has not been respected. A failure to fulfil obligations shall include cases where:

- (a) the area notified for non-harvesting is not eligible for non-harvesting;
  - (b) a harvest or partial harvest has nevertheless taken place; or
  - (c) there has been a negative impact on the environment or any negative phytosanitary consequences for which the producer organisation is responsible.
3. The penalties in paragraphs 1 and 2 shall apply in addition to any reduction in payments made pursuant to Article 119.

*Article 124***Preventing an on-the-spot check**

An application for aid shall be rejected for the part of expenditure concerned if the producer organisation, the member or the relevant representative prevents an on-the-spot check from being carried out.

*Article 125***Recovery of aid**

Unduly paid aid shall be recovered, with interest, from the producer organisations, associations of producer organisations, producer groups or other operators concerned. The rules fixed in Article 73 of Regulation (EC) No 796/2004 <sup>(1)</sup> shall apply *mutatis mutandis*.

Implementation of administrative sanctions and recovery of unduly paid amounts, as provided for in this section, are without prejudice to communication of irregularities to the Commission pursuant to Commission Regulation (EC) No 1848/2006 <sup>(2)</sup>.

## Section 4

**Monitoring and evaluation of operational programmes and of national strategies***Article 126***Common set of performance indicators**

1. Both the national strategies and the operational programmes shall be subject to monitoring and evaluation aimed at assessing the progress made towards achieving the objectives set for operational programmes, as well as efficiency and effectiveness in relation to those objectives.
2. Progress, efficiency and effectiveness shall be assessed by means of a common set of performance indicators relating to the baseline situation as well as to the financial execution, outputs, results and impact of the operational programmes implemented.
3. The common set of performance indicators are listed in Annex XIV to this Regulation.
4. Where deemed appropriate by a Member State, the national strategy shall specify a limited set of additional indicators specific to that strategy, reflecting national and/or regional needs, conditions and objectives specific to the operational programmes implemented by producer organisations. Where available, additional indicators concerning environmental objectives which are not covered by common performance indicators shall be included.

<sup>(1)</sup> OJ L 141, 30.4.2004, p. 18.

<sup>(2)</sup> OJ L 355, 15.12.2006, p. 56.



*Article 127*

**Monitoring and evaluation procedures in relation to operational programmes**

1. Producer organisations shall ensure the monitoring and evaluation of their operational programmes by making use of relevant indicators among the common set of performance indicators referred to in Article 126 and, where appropriate, of the additional indicators specified in the national strategy.

To this end they shall establish a system to collect, record and maintain information useful for the compilation of those indicators.

2. Monitoring shall be aimed at assessing the progress made towards achieving the specific targets that have been set for the operational programme. It shall be carried out by means of financial, output and result indicators. The results of the exercise are intended to serve:

- (a) to verify the quality of programme implementation;
- (b) to identify any need for adjustments or review of the operational programme aimed at achieving the goals set for the programme or at improving the management of the programme, including its financial management;
- (c) to contribute to meeting reporting requirements concerning the implementation of the operational programme.

Information concerning the results of the monitoring activities shall be included in each annual report, as referred to in Article 98(1), which the producer organisation is required to transmit to the National Authority in charge of the management of the national strategy.

3. Evaluation shall take the form of a separate mid-term evaluation report.

The mid-term evaluation exercise, which may be carried out with the aid of a specialised consultancy office, shall be aimed at examining the degree of utilisation of financial resources, the efficiency and the effectiveness of the operational programme, and assessing the progress made in relation to the overall objectives of the programme. To this end, use shall be made of common indicators relating to the baseline situation, results and, where appropriate, impacts.

Where relevant, the mid-term evaluation exercise shall include a qualitative assessment of the results and the impact of the environmental actions aimed at:

- (a) the prevention of soil erosion;
- (b) a reduction in the use of and/or better management of plant protection products;
- (c) the protection of habitats and biodiversity; or
- (d) landscape conservation.

The results of the exercise shall be used:

- (a) to improve the quality of the operational programmes managed by the producer organisation;
- (b) to identify any need for substantive change of the operational programme;
- (c) to contribute to meeting reporting requirements concerning the implementation of the operational programmes; and
- (d) to draw lessons useful in improving the quality, efficiency and effectiveness of future operational programmes managed by the producer organisation.

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The mid-term evaluation exercise shall be carried out during the implementation of the operational programme, in time for allowing the results of the evaluation to be considered in the preparation of the subsequent operational programme.

The mid-term evaluation report shall be annexed to the corresponding annual report referred to in Article 98(1).

*Article 128***Monitoring and evaluation procedures in relation to the national strategy**

1. Monitoring and evaluation of the national strategy shall be carried out by using relevant indicators among the common set of performance indicators referred to in Article 126 and, where appropriate, additional indicators specified in the national strategy.

2. Member States shall establish a system to collect, record and maintain information in computerised form adequate for the purpose of compiling the indicators referred to in Article 126. To this end, they shall build on the information transmitted by the producer organisation in relation to the monitoring and the evaluation of their operational programmes.

3. Monitoring shall be on going and aimed at assessing the progress made towards achieving the objectives and the targets set for the operational programmes. It shall be carried out by means of financial, output and result indicators. To this end, use shall be made of the information provided in the annual progress reports transmitted by the producer organisation concerning the monitoring of their operational programmes. The results of the monitoring exercises shall be used:

- (a) to verify the quality of the implementation of the operational programmes;
- (b) to identify any need for adjustments or review of the national strategy aimed at achieving the goals set for the strategy or at improving the management of the strategy implementation, including the financial management of the operational programmes; and
- (c) to contribute to meeting reporting requirements concerning the implementation of the national strategy.

4. Evaluation shall be aimed at assessing the progress made towards the overall objectives of the strategy. It shall be carried out by means of indicators relating to the baseline situation, results and, where appropriate, impact. To this end, use shall be made of the results of the monitoring and mid-term evaluation of the operational programmes as indicated in the annual progress reports and final reports transmitted by the producer organisations. The results of the evaluation exercises shall be used:

- (a) to improve the quality of the strategy;
- (b) to identify any need for substantive change of the strategy; and
- (c) to contribute to meeting reporting requirements concerning the implementation of national strategy.

The evaluation shall include a evaluation exercise carried out in 2012, but in time to allow its results to be included in a separate evaluation report to be annexed, in the same year, to the annual national report referred to in Article 99(3). The report shall examine the degree of utilisation of financial resources, the efficiency and effectiveness of the operational programmes implemented, and assess the effects and impact of those programmes, in relation to the objectives, targets and goals set by the strategy and, where appropriate, other objectives set in Article 9(1) of Regulation (EC) No 1182/2007. It shall be aimed at



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drawing lessons useful in improving the quality of future national strategies, and in particular at identify possible shortcomings in the definition of objectives, targets or measures eligible for support, or needs for defining new instruments.

*CHAPTER VI**Extension of rules to producers of an economic area**Article 129***Notification of list of economic areas**

Notification as provided for in the second subparagraph of Article 14(2) of Regulation (EC) No 1182/2007 of the list of economic areas shall include all the information needed to assess whether the conditions laid down in the first subparagraph of Article 14(2) of that Regulation have been complied with.

*Article 130***Notification of binding rules; representativeness**

1. When a Member State notifies rules it has made binding for a given product and economic area pursuant to Article 15 of Regulation (EC) No 1182/2007, it shall inform at the same time the Commission of:

- (a) the producer organisation or association of organisations which requested the extension of the rules;
- (b) the number of producers who belong to that organisation or association and the total number of producers in the economic area concerned; such information shall be given in respect of the situation obtaining at the time when the application for extension is made;
- (c) the total production of the economic area and the production marketed by the producer organisation or association during the last marketing year for which figures are available;
- (d) the date from which the rules to be extended have applied to the producer organisation or association concerned; and
- (e) the date from which the extension is to take effect and the duration of application of the extension.

2. For the purposes of determining representativeness within the meaning of Article 14(3) of Regulation (EC) No 1182/2007, the Member States shall lay down rules excluding:

- (a) producers whose production is intended essentially for direct sale to consumers on the holding or in the production area;
- (b) direct sales as referred to in point (a);
- (c) produce delivered for processing as referred to in Article 14(4)(b) of Regulation (EC) No 1182/2007 except where the rules in question apply entirely or partly to such produce.

*Article 131***Financial contributions**

Where a Member State decides, pursuant to Article 17 of Regulation (EC) No 1182/2007, that producers who do not belong to producer organisations are liable for a financial contribution, it shall forward to the Commission the information needed to assess compliance with the conditions laid down in that Article. Such information shall

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include in particular the basis on which the contribution is calculated and the unit amount thereof, the beneficiary or beneficiaries and the nature of the various costs referred to in points (a) and (b) of Article 21.

*Article 132***Extensions beyond one marketing year**

Where it is decided to apply an extension for a period exceeding one marketing year, the Member States shall verify in respect of each marketing year that the conditions with regard to representativeness laid down in Article 14(3) of Regulation (EC) No 1182/2007 continue to be complied with throughout the period of application of the extension. If they find that the conditions are no longer complied with, they shall immediately repeal the extension with effect from the beginning of the following marketing year. They shall immediately inform the Commission of any repeal, which shall make such information publicly available by means it considers appropriate.

*Article 133***Produce sold on the tree; buyers**

1. In cases where producers not belonging to a producer organisation sell their produce on the tree, the buyer shall, for the purposes of compliance with the rules referred to in points 1(e), 1(f) and 3 of Annex I to Regulation (EC) No 1182/2007, be considered as having produced that produce.

2. The Member State concerned may decide that rules listed in Annex I to Regulation (EC) No 1182/2007 other than those referred to in paragraph 1 may be made binding on buyers where they are responsible for the management of the production concerned.

## TITLE IV

**TRADE WITH THIRD COUNTRIES***CHAPTER I****Import licences****Article 134***Import licences for apples****▼M4**

1. The imports of apples falling within CN codes 0808 10 80 for which an import licence shall be presented are laid down in Article 1(2)(a) of Commission Regulation (EC) No 376/2008 <sup>(1)</sup>

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2. Regulation (EC) No 1291/2000 shall apply to import licences issued pursuant to this Article.

3. Importers may submit import licence applications to the competent authorities of any Member State.

They shall enter the country of origin in box 8 of licence applications and mark the word 'yes' with a cross.

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4. Importers shall lodge with their application a security in accordance with Title III of Regulation (EEC) No 2220/85 guaranteeing

<sup>(1)</sup> OJ L 114, 26.4.2008, p. 3.

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compliance with the commitment to import during the term of validity of the import licence.

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 import licence.

The period of validity of the import licence and the amount of the security shall be as set out in Annex II, Part I, to Regulation (EC) No 376/2008.

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5. Import licences shall be issued without delay to any applicant, irrespective of their place of establishment in the Community.

The country of origin shall be entered in box 8 of the import licence and the word 'yes' shall be marked with a cross.

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6. Import licences shall be valid only for imports originating in the country indicated.

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7. Member States shall report to the Commission, no later than 12 noon (Brussels time) on Wednesday each week, the quantities of apples for which import licences have been issued during the previous week, broken down by third country of origin.

These quantities shall be reported via the electronic system indicated by the Commission.

*CHAPTER II**Import duties and entry price system*

## Section 1

**Entry price system***Article 135***Scope and definitions**

1. This Section lays down the rules for the application of Article 34 of Regulation (EC) No 1182/2007.
2. For the purposes of this Section:
  - (a) 'lot' means the goods presented under a declaration of release for free circulation, covering only goods of the same origin falling within one single combined nomenclature code; and
  - (b) 'importer' means the declarant within the meaning of Article 4(18) of Regulation (EEC) No 2913/92 <sup>(1)</sup>.

*Article 136***Reporting of prices**

1. For each product and for the periods set out in Part A of Annex XV, for each market day and each origin, the Member States shall communicate to the Commission, by 12 noon (Brussels time) the following working day at the latest:
  - (a) the average representative prices of the products imported from third countries sold on the representative import markets referred to in Article 137(1), and significant prices recorded on other markets for

<sup>(1)</sup> OJ L 302, 19.10.1992, p. 1.

**▼B**

large quantities of imported products, or, where no prices for the representative markets are available, significant prices for imported products recorded on other markets; and

(b) the total quantities relating to the prices referred to in point (a).

Where the total quantities referred to in point (b) are less than one tonne, the corresponding prices shall not be communicated to the Commission.

2. The prices referred to in paragraph 1(a) shall be recorded:

- (a) for each of the products listed in Part A of Annex XV;
- (b) for all of the available varieties and sizes; and
- (c) at the importer/wholesaler stage or the wholesaler/retailer stage where no prices at the importer/wholesaler stage are available.

They shall be reduced by the following amounts:

- (a) a marketing margin of 15 % for the marketing centres of London, Milan and Rungis and of 8 % for other marketing centres; and
- (b) costs of transport and insurance within the customs territory of the Community.

For the costs of freight and insurance to be deducted pursuant to the second subparagraph, the Member States may fix standard amounts for deduction. Such standard amounts and the methods for calculating them shall be reported to the Commission without delay.

3. The prices recorded in accordance with paragraph 2 shall, where they are established at the wholesaler/retailer stage, first be reduced by an amount equal to 9 % to take account of the wholesaler's trade margin, and then by an amount equal to EUR 0,7245 per 100 kilograms to take account of the costs of handling and market taxes and charges.

4. The following shall be deemed to be representative:

- (a) the prices of Class I products, provided that the quantities in that class account for at least 50 % of the total quantities marketed;
- (b) the prices of Class I products plus, where products in that class account for less than 50 % of the total quantities, the prices as established of Class II products for quantities enabling 50 % of the total quantities marketed to be covered;
- (c) the prices as established for Class II products, where Class I products are not available, unless it is decided to apply an adjustment coefficient to them if, as a result of the production conditions for products of the origin in question, those products are not normally and traditionally marketed in Class I as a result of their quality characteristics.

The adjustment coefficient referred to in point (c) of the first subparagraph shall be applied to prices after deduction of the amounts referred to in paragraph 2.

*Article 137*

**Representative markets**

Member States shall inform the Commission of the customary market days for the markets listed in Annex XVI which shall be deemed to be representative markets.

*Article 138***Standard import values**

1. For each product and for the periods set out in Part A of Annex XV, the Commission shall fix, each working day and for each origin, a standard import value equal to the weighted average of the representative prices referred to in Article 136, less a standard amount of EUR 5/100 kg and the *ad valorem* customs duties.
2. Where a standard import value is established for the products and for the periods of application listed in Part A of Annex XV, in accordance with this Section, the unit price as referred to in Article 152(1)(a) of Commission Regulation (EEC) No 2454/93 <sup>(1)</sup> shall not apply. It shall be replaced by the standard import value referred to in paragraph 1.
3. Where no standard import value is in force for a product of a given origin, the average of standard import values in force for that product shall apply.
4. During the periods of application set out in Part A of Annex XV, the standard import values shall remain applicable until they are changed. They shall cease to apply, however, where no average representative price has been communicated to the Commission for seven consecutive market days.

Where, pursuant to the first subparagraph, no standard import value applies to a given product, the standard import value applicable to that product shall be equal to the last average standard import value.

5. By way of derogation from paragraph 1, where it has not been possible to calculate a standard import value, no standard import value shall be applicable from the first day of the periods of application set out in Part A of Annex XV.
6. The representative prices in euro shall be converted using the representative market rate calculated for the day in question.
7. The standard import values expressed in euro shall be made publicly available by the Commission by the methods it considers appropriate.

*Article 139***Entry price basis**

1. The entry price on the basis of which the products listed in Part A of Annex XV are classified in the Customs Tariff of the European Communities shall be equal, as the importer chooses:
  - (a) the fob price of the products in their country of origin plus the costs of insurance and freight up to the borders of the Community customs territory, where that price and those costs are known at the time the declaration of release of the products for free circulation is made. Where the aforementioned prices are higher by more than 8 % than the standard value applicable to the product in question at the time the declaration of release for free circulation is made, the importer must lodge the security referred to in Article 248(1) of Regulation (EEC) No 2454/93. For this purpose, the amount of import duty for which the products may finally be liable shall be the amount of duty which he would have paid if the product in question had been classified on the basis of the standard value concerned; or
  - (b) the customs value calculated in accordance with Article 30(2)(c) of Regulation (EEC) No 2913/92 applied only to the imported products in question. In that case, the duty shall be deducted as

<sup>(1)</sup> OJ L 253, 11.10.1993, p. 1.

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provided for in Article 138(1). In that case the importer shall lodge the security referred to in Article 248(1) of Regulation (EEC) No 2454/93, equal to the amount of duty which he would have paid if the classification of the products had been made on the basis of the standard import value applicable to the lot in question; or

(c) the standard import value calculated in accordance with Article 138 of this Regulation.

2. The entry price on the basis of which the products listed in part B of Annex XV are classified in the customs tariff of the European Communities must be equal to, as the importer chooses:

(a) the fob price of the products in their country of origin plus the costs of insurance and freight up to the borders of the Community customs territory, where that price and those costs are known at the time the customs declaration is made. If the customs authorities deem that a security is required pursuant to Article 248 of Regulation (EEC) No 2454/93, the importer must lodge a security equal to the maximum amount of duty applicable to the product in question; or

(b) the customs value calculated in accordance with Article 30(2)(c) of Regulation (EEC) No 2913/92 applied only to the imported products in question. In that case, the duty shall be deducted as provided for in Article 138(1). In that case the importer must lodge the security referred to in Article 248 of Regulation (EEC) No 2454/93, equal to the maximum amount of duty applicable to the product in question.

3. Where the entry price is calculated on the basis of the fob price of the products in the country of origin, the customs value shall be calculated on the basis of the relevant sale at that price.

When the entry price is calculated in accordance with one of the procedures provided for in paragraph 1(b) or (c) or paragraph 2(b), the customs value shall be calculated on the same basis as the entry price.

4. The importer shall have one month from the sale of the products in question, subject to a limit of four months from the date of acceptance of the declaration of release for free circulation, to prove that the lot was disposed of under the conditions confirming the correctness of the prices referred to in the second subparagraph of paragraph 1(a) or paragraph 2(a), or to determine the customs value referred to in paragraph 1(b) and paragraph 2(a). Failure to meet one of these deadlines shall entail the loss of the security lodged, without prejudice to the application of paragraph 5.

The security lodged shall be released to the extent that proof of the conditions of disposal is provided to the satisfaction of the customs authorities.

Otherwise the security shall be forfeit by way of payment of the import duties.

5. The time limit of four months referred to in paragraph 4 may be extended by the competent authorities by a maximum of three months at the request of the importer, which must be duly justified.

6. If on verification the competent authorities establish that the requirements of this Article have not been met, they shall recover the duty due in accordance with Article 220 of Regulation (EEC) No 2913/92. The amount of the duty to be recovered or remaining to be recovered shall include interest from the date the goods were released for free circulation up to the date of recovery. The interest rate applied shall be that in force for recovery operations under national law.



## Section 2

### Additional import duties

#### *Article 140*

##### **Scope and definitions**

1. Additional import duty as referred to in Article 35(1) of Regulation (EC) No 1182/2007, hereinafter 'additional duty', may be applied to the products and during the periods listed in Annex XVII on the conditions set out in this Section.
2. Trigger levels for the additional duties are listed in Annex XVII.

#### *Article 141*

##### **Reporting of volumes**

1. For each of the products listed in Annex XVII and during the periods indicated Member States shall notify the Commission of details of the volumes put into free circulation using the method for the surveillance of preferential imports set out in Article 308d of Regulation (EEC) No 2454/93.

Such notification shall take place no later than 12 noon Brussels time each Wednesday for the volumes put into free circulation during the preceding week.

2. Declarations for release for free circulation of products covered by this Section which the customs authorities may accept at the declarant's request without their containing certain particulars referred to in Annex 37 of Regulation (EEC) No 2454/93 shall contain, in addition to the particulars referred to in Article 254 of that Regulation, an indication of the net mass (kg) of the products concerned.

Where the simplified declaration procedure referred to in Article 260 of Regulation (EEC) No 2454/93 is used to put into free circulation products covered by this Section, the simplified declarations shall contain, in addition to other requirements, an indication of the net mass (kg) of the products concerned.

Where the local clearance procedure referred to in Article 263 of Regulation (EEC) No 2454/93 is used to put into free circulation products covered by this Section, the notification to the customs authorities referred to in Article 266(1) of that Regulation shall contain all necessary data for the identification of the goods, as well as an indication of the net mass (kg) of the products concerned.

Article 266(2b) shall not apply to imports of the products covered by this Section.

#### *Article 142*

##### **Levying of additional duty**

1. If it is found that, for one of the products and one of the periods listed in Annex XVII, the quantity put into free circulation exceeds the corresponding triggering volume the Commission shall levy an additional duty unless the imports are unlikely to disturb the Community market, or the effects would be disproportionate to the intended objective.
2. The additional duty shall be levied on quantities put into free circulation after the date of application of that duty, provided that:
  - (a) their tariff classification determined in accordance with Article 139 entails application of the highest specific duties applicable to imports of the origin in question;

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- (b) importation is effected during the period of application of the additional duty.

*Article 143***Amount of additional duty**

The additional duty imposed under Article 142 shall be one third of the customs duty applicable to the given product in accordance with the Common Customs Tariff.

However, for imports benefiting from a tariff preference as to *ad valorem* duty the additional duty shall be one third of the specific duty on the product in so far as Article 142(2) applies.

*Article 144***Exemptions from additional duty**

1. The following are exempt from additional duty:
  - (a) goods imported against the tariff quotas listed in Annex VII to the combined nomenclature;
  - (b) goods *en route* to the Community as defined in paragraph 2.
2. Goods shall be considered to be *en route* to the Community if they:
  - (a) left the country of origin before the decision to impose additional duty; and
  - (b) are being transported under cover of a transport document valid from the place of loading in the country of origin to the place of unloading in the Community, drawn up before imposition of additional duty.
3. Interested parties shall provide evidence to the satisfaction of the customs authorities that the requirements of paragraph 2 are met.

However, these authorities may deem that goods left their country of origin before the date of imposition of additional duty if one of the following documents is provided:

- (a) for sea transport, the bill of lading showing that loading took place before that date;
- (b) for rail transport, the waybill accepted by the rail authorities of the country of origin before that date;
- (c) for road transport, the road carriage contract (CMR) or another transit document made out in the country of origin before that date, if the conditions laid down in bilateral or multilateral arrangements concluded in the context of Community transit or common transit are observed;
- (d) for air transport, the air way bill showing that the airline accepted the goods before that date.

## TITLE V

**GENERAL, REPEALING, TRANSITIONAL AND FINAL PROVISIONS***Article 145***Checks**

Without prejudice to specific provisions of this Regulation or other Community legislation, Member States shall introduce checks and measures in so far as they are necessary to ensure the proper application



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of Regulation (EC) No 1182/2007 and this Regulation. They shall be effective, proportionate and dissuasive so that they provide adequate protection for the Communities' financial interests.

In particular, they shall ensure that:

- (a) all eligibility criteria established by Community or national legislation or the national framework or the national strategy can be checked;
- (b) the competent authorities responsible for carrying out checks have a sufficient number of suitably qualified and experienced staff to carry out the checks effectively; and
- (c) provision is made for checks to avoid irregular duplicated financing of measures under this Regulation and other Community or national schemes.

*Article 146***National sanctions**

Without prejudice to any sanctions set out in this Regulation or Regulation (EC) No 1182/2007, Member States shall provide for the application of sanctions at national level in relation to irregularities committed in respect of requirements set out in this Regulation and Regulation (EC) No 1182/2007 which are effective, proportionate and dissuasive so that they provide adequate protection for the Communities' financial interests.

*Article 147***Artificially created situations**

Without prejudice to any specific measures set out in this Regulation or Regulation (EC) No 1182/2007, no payment shall be made in favour of beneficiaries for whom it is established that they artificially created the conditions required for obtaining such payments with a view to obtaining an advantage contrary to the objectives of the support scheme concerned.

*Article 148***Communications**

1. Without prejudice to any specific provisions of this Regulation, all communications to be made by Member States to the Commission under this Regulation shall be made by the means and in the format specified by the Commission.

Communications not made by the specified means and in the specified format may be considered as not made at all, without prejudice to paragraph 3.

2. Without prejudice to any specific provisions of this Regulation, Member States shall take all measures necessary to ensure that they are able to meet the deadlines for communications set out in this Regulation.

3. If a Member State fails to make a communication as required under this Regulation or Regulation (EC) No 1182/2007 or if the communication appears incorrect in the light of objective facts in the Commission's possession, the Commission may suspend part or all of the monthly payments referred to in Article 14 of Council Regulation (EC) No 1290/2005 <sup>(1)</sup> as regards the fruit and vegetables sector until the communication is correctly made.

<sup>(1)</sup> OJ L 209, 11.8.2005, p. 1.

**▼B***Article 149***Obvious errors**

Any communication, claim or request made to a Member State under this Regulation or Regulation (EC) No 1182/2007, including an aid application, may be adjusted at any time after its submission in cases of obvious errors recognised by the competent authority.

*Article 150***Force majeure and exceptional circumstances**

Where, under this Regulation or Regulation (EC) No 1182/2007, a sanction is to be imposed or a benefit or recognition is to be withdrawn, the sanction shall not be imposed or the withdrawal made in cases of *force majeure* or exceptional circumstances within the meaning of Article 40(4) of Regulation (EC) No 1782/2003.

However, the case of *force majeure* shall be notified, with relevant evidence to the satisfaction of the competent authority, to the authority within 10 working days of the date on which the person concerned is in a position to do so.

*Article 151***Repeals**

Regulations (EC) No 3223/94, (EC) No 1555/96, (EC) No 961/1999, (EC) No 544/2001, (EC) No 1148/2001, (EC) No 2590/2001, (EC) No 1791/2002, (EC) No 2103/2002, (EC) No 48/2003, (EC) No 606/2003, (EC) No 761/2003, (EC) No 1432/2003, (EC) No 1433/2003, (EC) No 1943/2003, (EC) No 103/2004, (EC) No 1557/2004, (EC) No 179/2006, (EC) No 430/2006, (EC) No 431/2006, and (EC) No 1790/2006 are hereby repealed.

However, the repealed Regulations shall continue to apply, where appropriate, for the purposes of Article 55(1) of Regulation (EC) No 1182/2007.

*Article 152***Transitional provisions**

1. Notwithstanding Article 2 of this Regulation, solely for the purposes of the application of Article 55(1) of Regulation (EC) No 1182/2007, the definitions of marketing years for the products listed in Article 1(2) of Regulation (EC) No 2201/96, existing before the entry into force of this Regulation shall apply.

2. The rules for the approval of all operational programmes submitted in 2007 shall be those applicable immediately prior to the date of application of this Regulation.

Operational programmes to which benefit from point (a) of Article 55(3) of Regulation (EC) No 1182/2007 may continue to run until their end provided they comply with the rules applicable prior to the date of application of this Regulation.

By way of derogation from Articles 66 and 67 of this Regulation, Member States may adopt any necessary provisions to permit producer organisations to amend their operational programmes as soon as possible after the entry into force of this Regulation in order to apply points (b) and (c) of Article 55(3) of Regulation (EC) No 1182/2007.

**▼M1**

Member States may provide that the expenditure on one or more of the crisis prevention and management measures on market withdrawal,

**▼ M1**

promotion and communication and training which are carried out in 2008 by a producer organisation shall be eligible even if the operational programme has not yet been amended to cover the measures concerned. In order for such expenditure to be eligible:

- (a) the Member State shall ensure that its national strategy adopted in 2008 in accordance with this Regulation covers the measures concerned,
- (b) in 2008 the operational programme shall be amended in accordance with this Regulation to cover the measures concerned before an application is made for payment of the related aid; and
- (c) the measures and any checks on those measures shall comply with this Regulation.

Member States may provide that an amendment to a measure in an existing operational programme made under Article 55(3)(b) of Regulation (EC) No 1182/2007 covers the expenditure on operations which are carried out in 2008 even before that amendment is made, provided that the requirements of points (a), (b) and (c) of the fourth subparagraph are respected.

**▼ B**

3. For the purposes of Article 55(6) of Regulation (EC) No 1182/2007, the rules on the minimum characteristics of the raw material supplied for processing and minimum quality requirements for finished products which shall remain applicable in respect of the raw materials harvested in the territory of Member States which make use of the transitional arrangement under Article 68b or Article 143bc of Regulation (EC) No 1782/2003 shall be, in addition to any relevant marketing standards as referred to in Article 2 of Regulation (EC) No 1182/2007, those contained in the Commission Regulations listed in Annex XVIII.

**▼ M5**

4. By way of derogation from Article 47(2) of this Regulation, producers groups which are implementing recognition plans to which Article 55(4) of Regulation (EC) No 1182/2007 applies and which are not broken into semestrial periods may submit applications for aid covering semestrial periods. Such applications may cover only semestrial periods corresponding to the yearly segments which started before 2008.

5. By way of derogation from Article 96, in respect of operational programmes implemented in 2007, additional financial assistance to operational funds shall be financed by EAGF at a level of 50 % of the financial assistance granted to the producer organisation.

6. Recognition plans accepted under Regulation (EC) No 2200/96 which continue to benefit from acceptance pursuant to Article 55(4) of Regulation (EC) No 1182/2007 for producer groups not in Member States which acceded to the Community on 1 May 2004 or after that date and not in the outermost regions of the Community as referred to in Article 299(2) of the Treaty or in the smaller Aegean islands as referred to in Article 1(2) of Regulation (EC) No 1405/2006 shall be financed at the rates set out in Article 7(5)(b) of Regulation (EC) No 1182/2007.

Recognition plans accepted under Regulation (EC) No 2200/96 which benefitted from Article 14(7) of that Regulation and continue to benefit from acceptance pursuant to Article 55(4) of Regulation (EC) No 1182/2007 shall be financed at the rates set out in Article 7(5)(a) of Regulation (EC) No 1182/2007.

7. Payments of Community withdrawal compensation and related checks which concern 2007 withdrawals but which were not yet made by 31 December 2007 may nevertheless be made after that date in accordance with Title IV of Regulation (EC) No 2200/96 as it existed at that date.

**▼ M5**

8. Where, in respect of an application for aid submitted for operational programmes implemented in 2007 or before, and in relation to acts or omissions which occurred in that period, a sanction would apply under Section 3 of Chapter V of Title III but a less severe sanction or no sanction would have applied under the legislation in force at the time, then that less severe sanction, or as the case may be, no sanction, shall apply.

**▼ M9**

9. By way of derogation from the third subparagraph of Article 65(2) of this Regulation, the Member States may, for duly justified reasons, take a decision on the 2009 operational programmes and funds by 1 March 2009 at the latest. The approval decision may stipulate that expenditure is eligible from 1 January 2009 onwards.

10. By way of derogation from Article 99(2) of this Regulation, Member States, who postponed decisions on the 2009 operational programmes, pursuant to the previous paragraph, shall communicate to the Commission by 31 January 2009 an estimate of the amount of the operational fund for the year 2009 for all operational programmes. This communication shall make clear both the total amount of the operational fund and also the total amount of Community financing of that operational fund. These figures shall be further broken down between amounts for crisis prevention and management measures and other measures.

The Member States referred to in the previous subparagraph shall communicate to the Commission the final approved amount of the operational fund for the year 2009 for all operational programmes, including the breakdown as indicated above, by 15 March 2009.

**▼ B***Article 153***Entry into force**

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

It shall apply from 1 January 2008.

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



*ANNEX I*

**QUALITY CONDITIONS TO BE SATISFIED BY EACH PRODUCT FOR WHICH THERE IS NO COMMUNITY MARKETING STANDARD AS REGARDS SALES PACKAGES OF FRESH FRUIT AND VEGETABLES AS REFERRED TO IN ARTICLE 6**

Minimum quality requirements

In all classes, and bearing in mind the permitted tolerances (see below), the products must be:

- intact,
- sound; products affected by rotting or deterioration such as to make them unfit for consumption are excluded,
- clean, practically free of any visible foreign matter,
- practically free from pests,
- practically free from damage caused by pests,
- free of abnormal external moisture,
- free of any foreign smell and/or taste.

'Extra' class

Products in this class must be of superior quality. They must be characteristic of the variety and/or commercial type.

They must be free from defects, with the exception of very slight superficial defects, provided these do not affect the general appearance of the product, its quality, keeping quality and presentation in the package.

Class I

Products in this class must be of good quality. They must be characteristic of the variety and/or commercial type.

Slight defects may be allowed, however, provided that they do not affect the general appearance of the product, its quality, keeping quality and presentation in the package.

Class II

This class includes products which do not qualify for inclusion in the higher classes but satisfy the minimum requirements required above.

They may present defects, provided they retain their essential characteristics as regards quality, keeping quality and presentation.

Quality tolerances

Quality tolerances shall be allowed in each package for products not satisfying the requirements of the class indicated.

— 'Extra' class

5 % by number or weight of products not satisfying the requirements of the class, but meeting those of Class I or, exceptionally, coming within the tolerances of that class.

— Class I

10 % by number or weight of products not satisfying the requirements of the class, but meeting those of Class II or, exceptionally, coming within the tolerances of that class.


— Class II

10 % by number or weight of products not satisfying the requirements of the class, nor the minimum requirements, with the exception of products affected by rotting or any other deterioration rendering them unfit for consumption.

Uniformity

All the products in the package must be of the same origin, variety or commercial class and quality.

**▼B***ANNEX II***SPECIMEN MENTIONED IN ARTICLE 10(3)**

	Community marketing standard  No  (Member State)
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## ANNEX III

**CERTIFICATE OF CONFORMITY WITH THE COMMUNITY MARKETING STANDARDS FOR FRESH FRUIT AND VEGETABLES MENTIONED IN ARTICLES 11 AND 12**

1. Trader		<b>Certificate of conformity with the Community marketing standards applicable to fresh fruit and vegetables</b>  <b>No .....</b>  (This certificate is exclusively for the use of inspection bodies)	
2. Packer identified on packaging (if other than trader)		3. Inspection body	
		4. Place of inspection/country of origin <sup>(1)</sup>	5. Region or country of destination
6. Identifier of means of transport			7. <input type="checkbox"/> internal <input type="checkbox"/> import <input type="checkbox"/> export
8. Packages (number and type) — —	9. Type of product (variety if the standard specifies)	10. Quality class	11. Total weight in kg gross/net <sup>(2)</sup>
12. The above mentioned inspection body certifies following inspection by sampling that the above goods correspond at the time of inspection to the Community marketing standards in force.  ..... Customs office foreseen: entry/exit <sup>(2)</sup> Period of validity: ..... days ..... Place and date of issue ..... Inspection ..... stamp ..... Inspector: ..... Signature (Name in block letters)			
13. Comments			

<sup>(1)</sup> Where the goods are being re-exported, indicate its origin in box 9.

<sup>(2)</sup> Delete as appropriate.



## ANNEX IV

## COUNTRIES WHOSE CHECKS ON CONFORMITY HAVE BEEN APPROVED UNDER ARTICLE 13

## PART A: LIST OF COUNTRIES AND PRODUCTS CONCERNED

Country	Products
Switzerland	Fresh fruit and vegetables other than citrus fruit
Morocco	Fresh fruit and vegetables
South Africa	Fresh fruit and vegetables
Israel	Fresh fruit and vegetables
India	Fresh fruit and vegetables
New Zealand	Apples, pears and kiwi fruit
Senegal	Fresh fruit and vegetables
Kenya	Fresh fruit and vegetables
Turkey	Fresh fruit and vegetables

## PART B: DETAILS OF OFFICIAL AUTHORITIES AND INSPECTION BODIES

Country	Official Authority	Inspection bodies
Switzerland	Office fédéral de l'agriculture Département fédéral de l'économie Mattenhofstrasse 5, CH-3003 Berne Tel. (41-31) 324 84 21 Fax (41-31) 323 05 55	Qualiservice Sàrl Kapellenstrasse 5 Case postale 7960 CH-3001 Berne Tel. (41-31) 385 36 90 Fax (41-31) 385 36 99
Morocco	Minister for Agriculture, Rural Development, Water and Forests Quartier Administratif Place Abdallah Chef- chouani BP 607 Rabat Morocco Tel. (212-37) 76 36 57/76 05 29 Fax (212-37) 76 33 78 E-mail: webmaster@madprm.gov.ma	Établissement Autonome de Contrôle et de Coordination des Exportations (EACCE) Angle Boulevard Mohamed Smiha et Rue Moulay Mohamed El Baâmrani Casablanca Morocco Tel. (212-22) 30 51 04/30 51 73/30 50 91/30 51 95 Fax (212-22) 30 51 68 E-mail: eacce@eacce.org.ma
South Africa	National Department of Agriculture DPHQ Private Bag X258 Pretoria 0001 South Africa Tel.: (27-12) 3196502 Fax: (27-12) 3265606 Email: smph@nda.agric.za	PPECB (Perishable Products Export Control Board) PO Box 15289 7500 Panorama, Parow South Africa Tel.: (27-21) 9301134 Fax: (27-21) 9306046 Email: ho@ppecb.com
Israel	Ministry of Agriculture and Rural Devel- opment PPIS (Plant Protection and Inspection Service) PO Box 78 Bet-Dagan 50250 Israel Tel. (972-3) 968 15 00 Fax (972-3) 368 15 07	Ministry of Agriculture and Rural Devel- opment PPIS (Plant Protection and Inspection Service) Fresh produce quality control service PO Box 78 Bet-Dagan 50250 Israel Tel. (972-3) 968 15 20 Fax (972-3) 368 15 07
India	Agricultural Marketing Adviser Ministry of Agriculture, Govt. of India NH-IV, Faridabad India Tel. (91-129) 241 65 68, 241 57 10; (91-11) 23 01 34 45 Fax (91-129) 241 65 68; (91-11) 23 01 34 45 E-mail: pkagarwall123@hotmail.com	Directorate of Marketing and Inspection (DMI) Department of Agriculture and Cooperation Ministry of Agriculture, Govt. of India NH- IV, Faridabad India Tel. (91-129) 241 65 68, 241 57 10 Fax (91-129) 241 65 68 E-mail: dmifbd@agmark.nic.in





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Country	Official Authority	Inspection bodies
New Zealand	Ministry of Agriculture and Forestry New Zealand Food Safety Authority 68-86 Jervois Quay, PO Box 2835 Wellington New Zealand Tel. (64-4) 463 2500 Fax (64-4) 463 2675 E-mail: nzfsa.info@nzfsa.govt.nz	New Zealand Food Safety Authority 68-86 Jervois Quay, PO Box 2835 Wellington New Zealand Tel. (64-4) 463 2500 Fax (64-4) 463 2675 E-mail: nzfsa.info@nzfsa.govt.nz
Senegal	Ministère de l'Agriculture et de l'Hydraulique Direction de la protection des végétaux bp 20054 Thiaroye Dakar, Senegal Tel. (221) 834 03 97 Fax (221) 834 28 54/834 42 90 Email: almhanne@hotmail.com	Ministère de l'Agriculture et de l'Hydraulique Direction de la protection des végétaux Bureau qualité de la Division Législation et Contrôle phytosanitaire Tel. (221) 834 03 97 Fax (221) 834 28 54 Email: dpv1@sentoosn almhanne@yahoo.fr
Kenya	Kenya Plant Health Inspectorate Service Kephis Managing Director PO Box 49592-00100 Nairobi Tel: (254-20) 88 25 84 Fax: (254-20) 88 22 65 e-mail: kephis@nbnet.co.ke	Kenya Plant Health Inspectorate Service, Kephis PO Box 49592-00100 Nairobi Tel: (254-20) 88 45 45/88 23 08/88 29 33 Fax: (254-20) 88 22 45 e-mail: kephis@nbnet.co.ke
Turkey	General Directorate of Standardisation for Foreign Trade General Director: Mr. Yavuz MOLLASA-LİHOĞLU Head of the Department for Agriculture: Mrs. Çiğdem KILIÇKAYA Address: İnönü Bulv. No: 36 Oda No: 2118 06510 Emek/Ankara Tel. (90-312) 212 58 99 Fax (90-312) 212 68 64, (90-312) 205 09 18 E-mail: kilickayac@dtm.gov.tr	Regional Directorate of Western Anatolia Regional Director: Mr. Muzaffer ERTÜRK Address: Gazi Bulv. No: 126 Kat: 1 35230 Basmane/İzmir Tel. (90-232) 483 40 26 Fax (90-232) 48 37 72 E-mail: izmirbolge@dtm.gov.tr  Regional Directorate of Southern Anatolia Regional Director: Mr. Şükri ÇALIŞKAN Address: Çakmak Cad. Buğdaycı Apt. No: 27 Kat: 6/32 Mersin Tel. (90-324) 237 97 18 Fax (90-324) 237 19 59 E-mail: mersinbolge@dtm.gov.tr  Regional Directorate of Southeastern Anatolia Regional Director: Mr. M. Zihni DOĞAN Address: Yeni Valilik Binası Kat: 5 No: 555 27330 Gaziantep Tel. (90-342) 230 78 52 Fax (90-342) 221 21 44 E-mail: gaziantepbolge@dtm.gov.tr  Regional Directorate of Marmara Regional Director: Mr. Çağatay ÖZTÜRK Address: Dış Ticaret Kompleksi D Blok K-1-2 Çobançeşme Mevkii Sanayi Cad Yenibosna — Bahçelievler/İstanbul Tel. (90-212) 454 08 20 Fax (90-212) 454 08 22 E-mail: istanbulbolge@dtm.gov.tr  Regional Directorate of Eastern Black Sea Regional Director: Mr. Ö. Naci GENÇTÜRK Address: Hükümet Konağı Üst Zemin Kat 61040 Trabzon Tel. (90-462) 230 19 82 Fax (90-462) 229 73 09 E-mail: izmirbolge@dtm.gov.tr  Regional Directorate of Central Anatolia

▼ **B**

Country	Official Authority	Inspection bodies
		Regional Director: Mr. Caner SOLMAZ Address: Mithatpaşa Cad. No: 18/4 Kızılay/Ankara Tel. (90-312) 430 61 08 Fax (90-312) 430 61 09 E-mail: ankarabolge@dtm.gov.tr

## PART C: MODELS FOR CERTIFICATES

1. Trader ..... ..... .....		<b>Certificate of conformity</b>		No
		with the Community marketing standards applicable to fruit and vegetables		
		This certificate is exclusively for the use of inspection bodies		
2. Packer identified on packaging (if other than trader) ..... .....		3. Inspection body Qualiservice GmbH Postfach 7960 3001 BERN		
		4. Place of inspection/country of origin (1) .....	5. Region or country of destination	
6. Identifier of means of transport			7. <input type="checkbox"/> Internal <input type="checkbox"/> Import <input type="checkbox"/> Export	
8. Packages (number and type)	9. Type of product (variety if the standard specifies)	10. Quality class	11. Total weight in kg gross/net (2)	
12. The above mentioned inspection body certifies, following inspection by sampling, that at the time of inspection the above goods met the Community marketing standards in force.				
Inspection stamp				
Intended customs office: entry/exit (2)				
Period of validity: ..... days .....				
Place and date of issue				
Inspector: (name in block letters) ..... Signature ..... Trader's signature				
13. Remarks: ..... ..... .....				
Time of inspection: ..... from ..... to ..... km .....				
This copy: For:	White (original): Consignee	Pink: Dispatcher	Yellow: Qualiservice	Green: Inspector
				 S SCHWEIZERISCHER INSPEKTIONSDIENST I SERVICE SUISSE D'INSPECTION S SERVIZIO SVIZZERO D'ISPEZIONE SWISS INSPECTION SERVICE

(1) Where the goods are re-exported, indicate their origin in box 9.

(2) Delete as appropriate.



1. Trader/Exporter's name:			Serial Number:		
2. Packer/production unit code identified on packaging (if other than trader)			3. Official authority/Competent authority: National Department of Agriculture		
			Inspection body: Perishable Products Export Control Board (PPECB), designated by the Minister of Agriculture as Assignee		
			4. Country of origin Republic of South Africa	5. Country of destination	
6. Means of Transport:	AIR	SEA	ROAD	7. National regulations: Issued in terms of the regulations regarding control of the export of certain products, published under section 15 of the Agricultural Product Standards Act, 1990 (Act No 119 of 1990)	
Vessel: Container numbers:					
8. Packages (number and type)	9. Type of product (variety if the standard specifies)		10. Quality class	11. Total weight in kg gross/net	
12. This is to certify that samples of the products specified herein have been inspected and, at the time of inspection complied with the standards and requirements specified in terms of section 4(3) of the Agricultural Product Standards Act, 1990. ..... Customs office foreseen: entry					
13. Period of validity days: 40 days by Sea or Land and 10 days by Air					
Inspection Stamp			Date of Issue:		
			Place of Issue:		
			Inspector:		
			Signature:		
14. Comments/observations:					

Any person who alters this certificate or makes a document or causes a document to be made which purports to be this certificate shall be guilty of an offence in terms of the Agricultural Product Standards Act, 1990.

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1. Name and address of exporter:		2.  State of Israel MINISTRY OF AGRICULTURE AND RURAL DEVELOPMENT Plant Protection and Inspection Services Agricultural Products Inspection Service 	
3. Packer identified on packaging (if other than exporter):		INSPECTION CERTIFICATE No _____ ORIGINAL	
		This certificate is exclusively for the use of inspection agencies	
		4. Country of destination:	
		5. Country of origin (*):	
6. Declared means of transport:		Indicate as appropriate:	
7. Declared point of entry (**):		Import ... <input type="checkbox"/>	
		Export ... <input type="checkbox"/>	
8. Packages (number and type)	9. Type of product (variety if the standard specifies)	10. Quality class	11. Total weight in kg (gross/net) (***)
12. The above mentioned inspection body certifies, following inspection by sampling, that the abovementioned goods corresponded at the time of inspection to the quality standards in force.			
13.			
_____		_____	
Customs office of exit (**)		Place and date of issue	
Period of validity _____ days			
_____		Inspection stamp	
Inspector (name in block letters)			
Signature _____			
14. Comments			
(*) If the product is re-exported, indicate its origin after the type of product. (**) Optional. (***) Delete as appropriate.			

▼ B

GOVERNMENT OF INDIA  
MINISTRY OF AGRICULTURE

DEPARTMENT OF AGRICULTURE AND COOPERATION  
DIRECTORATE OF MARKETING & INSPECTION

CERTIFICATE OF AGMARK GRADING FOR EXPORT OF FRESH FRUITS AND VEGETABLES

1. Name and address of the authorised packer			
2. Exporter identified on packaging (if other than the authorised packer)		3. Place of inspection	
4. Country of origin		5. Name of consignee and country of destination	
6. Identification of means of transport		7. Packer's/exporter's shipping marks	
8. Packages (number, type and identification)	9. Name of product (variety if the standard specifies)	10. Quality grade	11. Total weight in kg (gross/net)
<p>12. The above mentioned inspection body certifies, following inspection by sampling, that the above goods correspond, at the time of inspection, to the grading and marking standards in force.</p> <p>13. Comments/remarks</p> <p>14. Certificate No:</p> <p>15. Period of validity: _____ days ..... _____ Signature</p> <p>_____</p> <p>Place and date of issue ..... Inspecting Officer</p> <p style="text-align: right;">(Name in block letters)</p>			

**▼ B**

Exporter:		Certificate number:		
Packer as indicated on packaging (if other than exporter):		<b>NEW ZEALAND</b> <b>MINISTRY OF AGRICULTURE &amp; FORESTRY</b> <b>OFFICIAL GRADE ASSURANCE CERTIFICATE</b>		
		Country of Origin	Country of Destination	
Identification of means of transport:		The above mentioned control office certifies that, on the basis of an examination by sampling, the consignment referred to below conforms, at the time of inspection with the standards in force.		
		<b>No financial liability with respect to this certificate shall attach to the Ministry of Agriculture and Forestry or to any of its officers or representatives.</b>		
This certificate is for the exclusive use of control services.				
Number (and kind) of packages	Nature of produce (variety if specified)	Quality class	Total weight in kg	
			Gross weight	Net weight
Observations				
Duration of validity				
This certificate is valid for ..... days from the date of issue (including day of inspection).				
Stamp of Organisation				
Signature	Name	Place of issue	Date .../.../...	

Exporter's Reference Number




NEW ZEALAND  
MINISTRY OF AGRICULTURE & FORESTRY  
OFFICIAL GRADE ASSURANCE CERTIFICATE  
CONTINUATION PAGE 2 OF 2

Serial number of the certificate of inspection:

Number (and kind) of packages	Nature of produce (variety if specified)	Quality class	Total weight in kg	
			Gross weight	Net weight


Exporter's Reference Number

**▼ B**

1. Exporter <input type="checkbox"/>		2. Certificate No:	
3. Packer identified on packaging (if other than exporter)		 <b>MINISTRY OF AGRICULTURE &amp; RURAL DEVELOPMENT</b> <b>KENYA PLANT HEALTH INSPECTORATE SERVICE (KEPHIS)</b> <b>CERTIFICATE OF CONFORMITY</b> <b>Agricultural Produce (Export) Act Cap 319</b>	
4. Identification of Means of transport		5. Country of origin	6. Country of destination
7. Packages (number and type):		Nature of produce (variety if specified):	
		Quality class:	
		8. Total weight in kg	
		Gross	Net
9. Duration of validity:		days	
10. Comments			
11. KEPHIS certifies that following inspection by sampling the above consignment conformed with the standards in force.			
Name of inspector:		Place of issue:	
(Name in block letters)			
Signature:			
Date:		Official stamp	
<i>No financial liability with respect to this certificate shall attach to KEPHIS or any of its officers or representative.</i>			



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1. İhracatçının Unvanı, Vergi No (Exporter's name, tax No.)	 <b>KONTROL BELGESİ</b> <b>CONFORMITY CERTIFICATE</b> N° İşbu belge sadece Kontrol Dairelerince kullanılır (This certificate is for the exclusive use of control services)		
2. Ambalaj Üstünde Görülen Ambalajcı veya İmalatçı Firma (ihracatçıdan farklı ise) (Producer or packer as indicated on packing) (if other than exporter)	<b>T.C. BAŞBAKANLIK DIŞ TİCARET MÜSTEŞARLIĞI</b> (REPUBLIC OF TURKEY, PRIME MINISTRY, UNDERSECRETARIAT OF FOREIGN TRADE) ..... <b>BÖLGE MÜDÜRLÜĞÜ</b> (..... REGIONAL DIRECTORATE) <b>DTS Denetmenleri</b> ..... <b>Grup Başkanlığı</b> (..... Group of Inspectors of Standardization for Foreign Trade)		
5. Nakil Vasıtası (Identification of Means of transport)	3. Menşe Ülke ve Şehir (Country and city of origin)	4. Gideceği Ülke (Country of destination)	
7. Ambalaj Çeşidi ve Sayısı (Number and kind of packages)	8. Ürünün Türü ve Çeşidi (Nature and variety of product)	9. Kalite Sınıfı (Quality class)	10. Partinin Ağırlığı Brüt/Net (Total weight in kg gross/net)
11. Örnekleme suretiyle yapılan kontrolde, yukarıda vasıfları yazılı partinin, kontrol anında yürürlükte olan standartlara uygun bulunduğu tasdik olunur (It is certified that following inspection by sampling the above consignment conformed with the standards in force at the time of inspection)  Çıkış Gümrüğü (Customs office of departure)  Bu Kontrol Belgesi: .../.../200. tarihi bitimine kadar geçerlidir (This conformity certificate is valid until .../.../200.)  Kontrol Tarihi: .../.../200. (date of inspection: .../.../200.)  Kontrolü Yapanlar: ..... (Inspected by .....)  Kaşe, İmza, Mühür (Stamp — Signature — Seal)			



## ANNEX V

**CERTIFICATE OF INDUSTRIAL USE REFERED TO IN ARTICLE 19(2) FOR FRESH FRUIT  
AND VEGETABLES SUBJECT TO COMMUNITY MARKETING STANDARDS**

1. Trader		<b>Certificate of industrial use</b> <b>(Fresh fruit and vegetables subject to</b> <b>Community marketing standards)</b>  <b>No .....</b>	
2. Identifier of means of transport		3. Inspection body issuing the certificate	
4. Intended industrial use/ Name and address of processor		5. Inspection body for the region where processing is to take place	
6. Number of packages or the words 'in bulk'	7. Nature of goods/country of origin	8. Total weight in kg gross/net <sup>(1)</sup>	
9. ..... Inspection Customs office foreseen: entry/exit <sup>(1)</sup> ..... Place and date of issue ..... stamp ..... Inspector ..... Signature (Name in block letters)			
10. Comments			
11. The processor certifies that the product indicated above has been processed.  Place and date: ..... Signature ..... Stamp			
12. The present certificate shall be returned, signed and stamped in box 11, after processing of the goods mentioned in boxes 6, 7 and 8, to the inspection body mentioned in box 5.			

<sup>(1)</sup> Delete as appropriate.



*ANNEX VI*

**METHODS OF INSPECTION MENTIONED IN ARTICLE 20(1)**

Remark: the following methods of inspection are based on the provisions of the guide for the implementation of quality control of fresh fruit and vegetables adopted by the UN/ECE (United Nations Economic Commission for Europe) Working Party for standardisation of perishable goods and improvement of quality.

**1. DEFINITIONS**

(a) Conformity check

Inspection carried out by an inspector in accordance with this Regulation to check that fruit and vegetables conform to the marketing standards laid down pursuant to Article 2 of Regulation (EC) No 1182/2007.

This inspection includes:

- where appropriate, an identity and documentary inspection: an inspection of the documents or certificates accompanying the lot and/or the registers referred to in the third indent of the second subparagraph of Article 10(3) and in Article 11(2)(d) of this Regulation, and an inspection of the goods and the particulars in these documents, to check that they match,
- a physical inspection, by means of sampling, of the goods in the lot to ensure that it satisfies all the conditions laid down by the marketing standard, including the provisions on the presentation and marking of packages and packaging.

(b) Inspector

Person authorised by the competent inspection body who has an appropriate and regular training enabling them to undertake conformity inspection.

(c) Consignment

Quantity of produce to be sold by a given trader found at the time of control and defined by a document. The consignment may consist of one or several types of produce: it may contain one or several lots of fresh fruit and vegetables.

(d) Lot

Quantity of produce which, at the time of control at one place, has similar characteristics with regard to:

- packer and/or dispatcher,
- country of origin,
- nature of produce,
- class of produce,
- size (if the produce is graded according to size),
- variety or commercial type (according to the relevant provisions of the standard),
- type of packaging and presentation.

However, if during the inspection of consignments, it is not possible to distinguish between different lots and/or presentation of individual lots is not possible, all lots of a specific consignment may be treated as one lot if they are similar in regard to type of produce, dispatcher, country of origin, class and variety or commercial type, if this is provided for in the standard.

(e) Sampling

Collective sample taken temporarily from a lot during conformity check inspection.

(f) Primary sample

Package taken from the lot, or in the case of bulk produce, a quantity taken from a point in the lot.

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## (g) Bulk sample

Several representative primary samples taken from the lot whose quantity is sufficient to allow the assessment of the lot with regard to all criteria.

## (h) Secondary sample

In the case of nuts, a secondary sample shall be a representative quantity of product taken from each primary sample in the bulk sample, weighing between 300 g and 1 kg. If the primary sample is made up of packaged foods, the secondary sample shall be one package.

## (i) Composite sample

In the case of nuts a composite sample shall be a mix, weighing at least 3 kg, of all the secondary samples in a bulk sample. Nuts in the composite sample must be evenly mixed.

## (j) Reduced samples

Representative quantity of produce taken from the bulk sample whose size is sufficient to allow the assessment of certain individual criteria.

In the case of nuts, the reduced sample shall include at least 100 nuts taken from the composite sample. Several reduced samples may be taken from a bulk sample.

## (k) Packages

Individually packaged part of a lot, including contents. The packaging is conceived so as to facilitate handling and transport of a number of sales units or of products loose or arranged, in order to prevent damage by physical handling and transport. Road, rail, ship and air containers are not considered as packages. In some cases, the package constitutes a sales package.

## (l) Sales packages

Individually packaged part of a lot, including contents. The packaging of sales packages is conceived so as to constitute a sales unit to the final user or consumer at the point of purchase. Among sales packages, pre-packages are such as the packaging encloses the foodstuff completely or only partially, but in such a way that the contents cannot be altered without opening or changing the packaging.

**2. IMPLEMENTATION OF CONFORMITY CHECK**

## (a) General remark

A physical check shall be made by assessing bulk samples taken at random from different points in the lot to be controlled. It is based on the principle of presumption that the lot conforms to the bulk sample.

## (b) Identification of lots and/or getting a general impression of the consignment

The identification of lots shall be carried out on the basis of their marking or other criteria, such as the indications laid down under Council Directive 89/396/EEC <sup>(1)</sup>. In the case of consignments which are made up of several lots it is necessary for the inspector to get a general impression of the consignment with the aid of accompanying documents or declarations concerning the consignments. He then determines how far the lots presented comply with the information in these documents.

If the produce is to be or has been loaded onto a means of transport, the registration number of the latter shall be used for identification of the consignment.

## (c) Presentation of produce

The inspector decides which packages are to be controlled. The presentation shall be made by the operator or his representative. The procedure should include the presentation of the bulk sample.

If reduced or secondary samples are required, these are identified by the inspector himself from the bulk sample.

<sup>(1)</sup> OJ L 186, 30.6.1989, p. 21.

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## (d) Physical check

- Assessment of packaging and presentation on the basis of primary samples:

The packaging, including the material used within the package, shall be tested for suitability and cleanness according to the provisions of the marketing standards. If only certain types of packaging are permitted, the inspector checks whether these are being used.

- Verification of marking on the basis of primary samples: first, it is ascertained whether the produce is marked according to the marketing standards. During control a check is made on the accuracy of marking and/or the extent of amendment required.

Fruit and vegetables individually wrapped in plastic are not considered as pre-packed foodstuff in the meaning of European Parliament and Council Directive 2000/13/EC and do not necessarily need to be marked in accordance with the marketing standards. In such cases, the plastic wrapping can be considered a simple protection for fragile products.

- Verification of conformity of the produce using bulk sampling or composite and/or reduced sampling: The inspector shall determine the size of the bulk sample in such way as to be able to assess the lots. He shall at random select the packages to be inspected or in the case of bulk produce the points of the lot from which individual samples shall be taken.

Damaged packages shall not be used as part of the bulk sample. They should be set-aside and may, if necessary, be subject to a separate examination and report. The bulk sample should comprise the following quantities whenever a consignment is declared unsatisfactory:

**Packed produce**

Number of packages in the lot	Number of packages to be taken (primary samples)
Up to 100	5
From 101 to 300	7
From 301 to 500	9
From 501 to 1 000	10
More than 1 000	15 (minimum)

**Bulk produce**

Quantity of lot in kg or number of bundles in the lot	Quantity of primary samples in kg or number of bundles
Up to 200	10
From 201 to 500	20
From 501 to 1 000	30
From 1 001 to 5 000	60
More than 5 000	100 (minimum)

In the case of bulky fruit and vegetables (over 2 kg per unit), the primary samples should be made up of at least five units. In the case of lots comprising fewer than 5 packages or weighing less than 10 kg, the check shall cover the entire lot.

If the inspector discovers, after an inspection, that a decision cannot be reached, he may carry out another inspection and express the overall result as an average of the two checks.

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Certain criteria on the degree of development and/or ripeness or on the presence or absence of internal defects may be checked on the basis of reduced samples; this applies in particular to control which destroys the trade value of the produce. The size of the reduced sample shall be restricted to the minimum quantity absolutely necessary for the assessment of the lot. If, however, defects are ascertained or suspected the size of the reduced sample shall not exceed 10 per cent of the size of the bulk sample initially taken for the inspection.

(e) Control of produce

The produce has to be removed entirely from its packaging for the control; the inspector may only dispense with this in the case of nuts or if the type of packaging and form of presentation allow an inspection without unpacking the produce. The inspection of uniformity, minimum requirements, quality classes and size shall be carried out on the basis of the bulk sample, or on the basis of the composite sample in the case of nuts. When defects are detected, the inspector shall ascertain the respective percentage of the produce not in conformity with the standard by number or weight.

The criteria on the degree of development and/or ripeness can be checked using the instruments and methods laid down to this end in the marketing standards or in accordance with accepted practice.

(f) Report of control results

Documents mentioned in Article 20 are issued where appropriate.

If defects are found, the trader or his representative must be informed in writing about the reasons for complaint. If the compliance of produce with the standard is possible by a change in marking, the trader or his representative must be informed about it.

If defects are found in a product, the percentage found not to be in conformity with the standard must be indicated.

(g) Decline in value by conformity check

After the control, the bulk sample is put at the disposal of the operator or his representative.

The inspection body is not bound to hand back the elements of the bulk sample destroyed during the control.



ANNEX VII

**STRUCTURE AND CONTENT OF A NATIONAL STRATEGY FOR SUSTAINABLE OPERATIONAL PROGRAMMES REFERRED TO IN ARTICLE 57(1)**

1. Duration of the national strategy  
To be indicated by the Member State.
2. Analysis of the situation in terms of strengths and weaknesses and potential for development, the strategy chosen to meet them and the justification of the priorities chosen.  
(Article 12(2)(a) and (b) of Regulation (EC) No 1182/2007)
  - 2.1. *Analysis of the situation*  
Describe the current situation of the fruit and vegetable sector using quantified data, highlighting strengths and weaknesses, disparities, needs and gaps and potential for development on the basis of the relevant baseline indicators defined in Annex XIV and of other relevant additional indicators. This description shall concern at least:
    - the performances of the fruit and vegetable sector, including key trends: strengths and weaknesses of the sector, including in terms of competitiveness, and the potential for development of the producer organisations,
    - the environmental effects (impacts/pressures and benefits) of the fruit and vegetable production, including key trends.
  - 2.2. *The strategy chosen to meet strengths and weaknesses*  
Describe the key areas where intervention is expected to bring the maximum value added:
    - relevance of the objectives set for the operational programmes and of the related expected results and targets to the (priority) needs identified, and the extent to which they can be realistically achieved,
    - internal coherence of the strategy, and existence of mutually reinforcing interactions and absence of possible conflicts and contradictions between the operational objectives of different actions selected,
    - complementarity and consistency of the actions selected, and with other national/regional actions, and in particular with activities supported through European Community funds, and in particular with the rural development measures,
    - expected results and impact against the baseline situation, and their contribution to Community objectives.
  - 2.3. *Impact from the previous operational programmes (when available)*  
Describe, where appropriate, the impact of operational programmes implemented in the recent past. Present a summary of the available results.
3. Objectives of operational programmes and instruments, performance indicators  
(Article 12(2)(c) of Regulation (EC) No 1182/2007)  
Describe the types of actions selected as eligible for support (non exhaustive list) and indicate what are the objectives pursued, verifiable targets and the indicators that allow the progress towards achievement of the objectives, efficiency and effectiveness to be assessed.
  - 3.1. *Requirements concerning all or several types of actions*  
Criteria and administrative rules adopted for ensuring that certain actions selected as eligible for support are not also supported by other relevant instruments of the common agricultural policy, and in particular by rural development support.

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Effective safeguards in place, in application of Article 9(5) of Regulation (EC) No 1182/2007, to protect the environment from possible increased pressures coming from investments supported under operational programmes and criteria adopted, in application of Article 12(1) of that Regulation, for ensuring that investments on individual holdings supported under operational programmes respect the objectives set out in Article 174 of the Treaty and in the Sixth Community Environment Action Programme.

3.2. *Specific information required for types of actions (to be filled only for the types of actions selected)*

The following specific information is required for the actions envisaged:

3.2.1. *Actions aimed at planning of production (non exhaustive list)*

3.2.1.1. Acquisition of fixed assets

- types of investments eligible for support (including type of fixed assets concerned),
- other forms of acquisition eligible for support (e.g., renting, leasing) (including type of fixed assets concerned),
- details on eligibility conditions for support.

3.2.1.2. Other actions

- description of the types of actions eligible for support,
- details on eligibility conditions for support.

3.2.2. *Actions aimed at improving or maintaining product quality (non exhaustive list)*

3.2.2.1. Acquisition of fixed assets

- types of investments eligible for support (including type of fixed assets concerned),
- other forms of acquisition eligible for support (e.g., renting, leasing) (including type of fixed assets concerned),
- details on eligibility conditions for support.

3.2.2.2. Other actions

- description of the types of actions eligible for support,
- details on eligibility conditions for support.

3.2.3. *Actions aimed at improving marketing (non exhaustive list)*

3.2.3.1. Acquisition of fixed assets

- types of investments eligible for support (including type of fixed assets concerned),
- other forms of acquisition eligible for support (e.g., renting, leasing) (including type of fixed assets concerned),
- details on eligibility conditions for support.

3.2.3.2. Other types of actions including promotion and communication activities other than in relation to crisis prevention and management

- description of the types of actions eligible for support,
- details on eligibility conditions for support.

3.2.4. *Research and experimental production (non exhaustive list)*

3.2.4.1. Acquisition of fixed assets

- types of investments eligible for support (including type of fixed assets concerned),
- other forms of acquisition eligible for support (e.g., renting, leasing) (including type of fixed assets concerned),
- details on eligibility conditions for support.



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- 3.2.4.2. Other types of actions
- description of the types of actions eligible for support,
  - details on eligibility conditions for support.
- 3.2.5. *Training types of actions (other than in relation to crisis prevention and management) and actions aimed at promoting access to advisory services (non exhaustive list)*
- description of the types of actions eligible for support (including types of training and/or issues covered by the advisory service),
  - details on eligibility conditions for support.
- 3.2.6. *Crisis prevention and management measures*
- description of the types of actions eligible for support,
  - details on eligibility conditions for support.
- 3.2.7. *Environmental types of actions (non exhaustive list)*
- confirmation that the environmental actions selected as eligible for support respect the requirements set out in the second subparagraph of Article 9(3) of Regulation (EC) No 1182/2007,
  - confirmation that the support for eligible environmental actions respects the requirements set out in the fourth subparagraphs of Article 9(3) of Regulation (EC) No 1182/2007.
- 3.2.7.1. Acquisition of fixed assets
- types of investments eligible for support (including type of fixed assets concerned),
  - other forms of acquisition eligible for support (e.g., renting, leasing) (including type of fixed assets concerned),
  - details on eligibility conditions for support including.
- 3.2.7.2. Other types of actions
- list of the environmental actions eligible for support,
  - description of the types of actions eligible for support, including the specific commitment or commitments that they entail, their justification based on their expected environmental impact in relation to environmental needs and priorities,
  - amounts of support, where relevant,
  - criteria adopted for calculating the support levels.
- 3.2.8. *Other types of actions (non exhaustive list)*
- 3.2.8.1. Acquisition of fixed assets
- types of investments eligible for support (including type of fixed assets concerned),
  - other forms of acquisition eligible for support (e.g., renting, leasing) (including type of fixed assets concerned),
  - details on eligibility conditions for support.
- 3.2.8.2. Other actions
- description of the other types of actions eligible for support,
  - details on eligibility conditions for support.
4. Designation of competent authorities and bodies responsible
- Designation by the Member State of the national authority responsible for the management, monitoring and evaluation of the national strategy.
5. A description of the monitoring and evaluation systems
- These shall be constructed on the basis of the common list of performance indicators indicated in Annex XIV. Where deemed appropriate, the national strategy shall specify additional indicators reflecting

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national and/or regional needs, conditions and objectives specific to the national operational programmes.

5.1. *Assessment of the operational programmes and reporting obligations for producer organisations*

(Article 12(2)(d) and (e) of Regulation (EC) No 1182/2007)

Describe the monitoring and evaluation requirements and procedures in relation to operational programmes, including the reporting obligations for producer organisations.

5.2. *Monitoring and evaluation of the national strategy*

Describe the monitoring and evaluation requirements and procedures in relation to the national strategy.



*ANNEX VIII*

**LIST OF OPERATIONS AND EXPENDITURE NOT ELIGIBLE UNDER OPERATIONAL PROGRAMMES REFERRED TO IN ARTICLE 61**

1. General production costs and in particular; plant protection products, including integrated control materials, fertilisers and other inputs; packing costs, storage costs, packaging costs, even as part of new processes, costs of packages; costs of collection or transport (internal or external); operating costs (in particular electricity, fuel and maintenance), except:
  - Specific costs for quality improvement measures. In all cases costs for (even certified) mycelium, seeds and non perennial plants shall not be eligible;
  - Specific costs for organic plant protection materials (such as pheromones and predators) whether used in organic, integrated or conventional production;
  - Specific cost for environmental measures, including costs generated by the environmental management of packaging. The environmental management of packaging shall be properly justified and follow the criteria of Annex II to Directive 94/62/EC of the European Parliament and of the Council on Packaging and Packaging waste (OJ L 365, 31.12.1994, p. 10);
  - Specific cost for organic, integrated or experimental production. The competent national authority shall lay down the eligibility criteria for an experimental production taking account of the newness of the procedure or concept and the risk involved;
  - Specific costs to ensure the monitoring of compliance with the standards referred to in Title II of this regulation, with plant-health rules and with maximum level of residues.

Specific costs shall mean the additional costs, calculated as the difference between the conventional costs and the costs actually incurred.

For each category of eligible specific costs referred to above, in order to calculate additional costs compared with conventional ones, Member States may fix standard flat rates in a duly justified way.

2. Administrative and personnel costs with the exception of expenditure relating to the implementation of operational funds and operational programmes which shall include:
  - (a) overheads specifically related to the operational fund or operational programme, including management and personnel costs, reports and evaluation studies, and the costs of keeping accounts and the management of accounts, by means of the payment of a standard flat rate equal to 2 % of the approved operational fund and up to a maximum of EUR 180 000. The 2 % shall consist of 1 % of Community aid plus 1 % from the producer organisation.
 

In the case of a recognised association of producer organisations, the standard flat rate may be multiplied by the number member of producer organisations of the association, up to a maximum of EUR 1 250 000.

Member States may restrict funding to the real costs, in which case they should define the eligible costs;
  - (b) personnel costs (including charges linked to wages and salaries, if these are borne by the producer organisation) resulting from measures:
    - (i) to improve or maintain a high level of quality or environmental protection;
    - (ii) to improve the level of marketing.

The implementation of these measures shall essentially involve the use of qualified personnel. If, in such cases, the producer organisation uses its own employees or member producers, the time worked shall be documented.

If a Member State wishes to provide an alternative to restricting funding to the real costs, for all the eligible personnel costs referred to above, it shall fix, ex ante and in a duly justified way, standard flat rates up to a

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maximum of 20 % of the approved operational fund. This percentage may be increased in duly justified cases.

In order to request those standard flat rates, producer organisations shall furnish proof of the implementation of the action to the satisfaction of the Member State.

- (c) legal and administrative costs of mergers of producer organisations or their acquisition, as well as legal and administrative costs related to creating transnational producer organisations or transnational associations of producer organisations; feasibility studies and proposals commissioned by producer organisations in this respect.
3. Income or price supplements outside crisis prevention and management.
  4. Insurance costs outside crisis prevention and management.
  5. Reimbursement of loans taken out for an operation carried out before the beginning of the operational programme other than those referred to in Article 75.
  6. Purchase of land (costing more than 10 % of all the eligible expenditure on the operation concerned. In exceptional and duly justified cases, a higher percentage can be fixed for operations concerning environmental conservation) not built on except where purchase is necessary to carry out an investment included in the operational programme.
  7. Cost of meetings and training programmes except where they are related to the operational programme, including daily allowances, transport and accommodation costs (where appropriate on a flat-rate basis).
  8. Operations or costs relating to the quantities produced by the members of the producer organisation outside the Community.
  9. Operations that could distort competition in the other economic activities of the producer organisation.
  10. Second hand equipment which has been purchased with Community or national support within the seven previous years.
  11. Investments in means of transport to be used for marketing or distribution by the producer organisation except additional on-the-truck facilities for cold-storage or controlled atmosphere transport.
  12. Hire except where economically justified as an alternative to purchase at the satisfaction of the Member State.
  13. Operating cost of goods hired.
  14. Expenditure linked to leasing contracts (taxes, interest, insurance costs, etc.) and operating costs except the leasing itself within the limits of the net market value of the item and within the conditions laid down in point (b) of the first subparagraph of Article 55(1) of Commission Regulation (EC) No 1974/2006 <sup>(1)</sup>.
  15. Promotion of individual commercial labels or containing geographic references except:
    - producer organisation, associations of producer organisations and subsidiaries as foreseen in Article 52(7) brands/trade marks,
    - generic promotion and promotion of quality labels. Geographical names are allowed only:
      - (a) if they are a protected designation of origin or a protected geographical indication, covered by Council Regulation (EC) No 510/2006 <sup>(2)</sup>; or
      - (b) if, in all cases where the provision of point (a) does not apply, these geographical names are secondary to the principal message.

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Promotional material for generic promotion and promotion of quality labels shall bear the emblem of the European Community (in the case of visual media only) and include the following legend: 'Campaign financed with the aid of the European Community'. Producer organisations, associations of

<sup>(1)</sup> OJ L 368, 23.12.2006, p. 15. Regulation as amended by Regulation (EC) No 434/2007 (OJ L 104, 21.4.2007, p. 8).

<sup>(2)</sup> OJ L 93, 31.3.2006, p. 12.

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producer organisations and those subsidiaries referred to in Article 52(7) shall not use the emblem of the European Community in promotion of their brands/trademarks.

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16. Subcontracting or outsourcing contracts relating to the operations or expenditure mentioned as not eligible in this list.
17. VAT except non-recoverable VAT as referred to in Article 71(3)(a) of Regulation (EC) No 1698/2005.
18. Interest on debt except where the contribution is made in a form other than a non-repayable direct assistance.
19. Real estate purchase which has been purchased with Community or national support within the 10 previous years.
20. Investments in shares of companies if the investment represents a financial investment except investments contributing directly to the achievement of the goals of the operational programme.
21. Costs incurred by parties other than the producer organisation or its members.
22. Investments or similar types of actions not on the holdings of the producer organisation, association of producer organisations, subsidiary as referred to in Article 52(7) or its members.
23. Measures outsourced by the producer organisation outside the Community.

*ANNEX IX***MINIMUM REQUIREMENTS FOR WITHDRAWN PRODUCTS  
REFERRED TO IN ARTICLE 77(2)**

1. Products shall be:
  - whole,
  - sound; products affected by rotting or deterioration such as to make them unfit for consumption are excluded,
  - clean, practically free from any visible foreign matter,
  - practically free from pests and damage caused by pests,
  - free of abnormal external moisture,
  - free of any foreign taste and/or smell.
2. Products must be sufficiently developed and ripe, taking account of their type.
3. Products must be characteristic of the variety and/or commercial type.

*ANNEX X***MAXIMUM AMOUNTS OF SUPPORT FOR MARKET WITHDRAWALS  
AS REFERRED TO IN ARTICLE 80(1)**

Product	Maximum support (EUR/100 kg)
Cauliflowers	10,52
Tomatoes	7,25
Apples	13,22
Grapes	12,03
Apricots	21,26
Nectarines	19,56
Peaches	16,49
Pears	12,59
Aubergines	5,96
Melons	6,00
Watermelons	6,00
Oranges	21,00
Mandarins	19,50
Clementines	19,50
Satsumas	19,50
Lemons	19,50

**▼B***ANNEX XI***TRANSPORT COSTS UNDER FREE DISTRIBUTION REFERRED TO  
IN ARTICLE 82(1)**

Distance between the place of withdrawal and the place of delivery	Transport costs (EUR/t)
Less than 25 km	15,5
From 25 km to 200 km	32,3
From 200 km to 350 km	45,2
From 350 km to 500 km	64,5
From 500 km to 750 km	83,9
750 km or more	102

Supplement for refrigerated transport: EUR 7,7/t.





## ANNEX XII

**STATEMENT FOR PACKAGING OF PRODUCTS FOR FREE  
DISTRIBUTION REFERRED TO IN ARTICLE 83(2)**

- Продукт, предназначен за бесплатна дистрибуция (Регламент (ЕО) № 1580/2007)
- Producto destinado a su distribución gratuita [Reglamento (CE) nº 1580/2007]
- Produkt určený k bezplatné distribuci [nařízení (ES) č. 1580/2007]
- Produkt til gratis uddeling (forordning (EF) nr. 1580/2007)
- Zur kostenlosen Verteilung bestimmtes Erzeugnis (Verordnung (EG) Nr. 1580/2007)
- Tasuta jagamiseks mõeldud tooted [määrus (EÜ) nr 1580/2007]
- Προϊόν προοριζόμενο για δωρεάν διανομή [κανονισμός (ΕΚ) αριθ. 1580/2007]
- Product for free distribution (Regulation (EC) No 1580/2007)
- Produit destiné à la distribution gratuite [règlement (CE) nº 1580/2007]
- Prodotto destinato alla distribuzione gratuita [regolamento (CE) n. 1580/2007]
- Produkts paredzēts bezmaksas izplatīšanai [Regula (EK) Nr. 1580/2007]
- Produktas skirtas nemokamai distribucijai [Reglamentas (EB) Nr. 1580/2007]
- Térítésmentes terjesztésre szánt termék (1580/2007. sz. EK rendelet)
- Prodott destinat għad-distribuzzjoni bla ħlas [Regolament (KE) nru. 1580/2007]
- Voor gratis uitreiking bestemd product (Verordening (EG) nr. 1580/2007)
- Produkt przeznaczony do bezpłatnej dystrybucji [rozporządzenie (WE) nr 1580/2007]
- Produto destinado a distribuição gratuita [Regulamento (CE) n.º 1580/2007]
- Produs destinat distribuției gratuite [Regulamentul (CE) nr. 1580/2007]
- Výrobok určený na bezplatnú distribúciu [nariadenie (ES) č. 1580/2007]
- Proizvod, namenjen za prosto razdelitev [Uredba (ES) št. 1580/2007]
- Ilmaisjakehuun tarkoitettu tuote (asetus (EY) N:o 1580/2007)
- Produkt för gratisutdelning (förrordning (EG) nr 1580/2007)

**▼B***ANNEX XIII***INFORMATION TO BE INCLUDED IN THE ANNUAL REPORT OF MEMBER STATES AS REFERRED TO IN ARTICLE 99(3)**

All information shall be that related to the year being reported on. It shall include information on expenditure paid after the end of the year being reported on. It shall cover information on checks executed and sanctions applied in respect of that year including those executed or applied after that year. Information (which varies during the year) shall be that valid on 31 December of the year reported on.

**PART A — INFORMATION FOR MARKET MANAGEMENT****1. Administrative information****▼M9**

- (a) National legislation adopted in order to implement Section IVa of Chapter IV of Title I and Section IA of Chapter II of Title II of Part II of Regulation (EC) No 1234/2007, including the national strategy for sustainable operational programmes applicable to operational programmes implemented on the year being reported on.

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- (b) The Member States contact point for communications.
- (c) Information on producer organisations and associations of producer organisations and producer groups:
- code number;
  - name and contact details;
  - date of recognition (preliminary recognition in case of producer groups);
  - all the legal entities or clearly defined parts of legal entities involved and all subsidiaries involved;
  - number of members (broken down between producers and non-producers). Changes in membership during the year;
  - product coverage and description of the final products sold;
  - changes in structures during the year, in particular: newly recognised or formed bodies, withdrawals and suspensions of recognitions, mergers with dates of these events.
- (d) Information on interbranch organisations:
- name of the organisation and contact details;
  - date of recognition;
  - product coverage.

**2. Information related to expenditures**

- (a) Producer organisations. Financial data per beneficiary (producer organisation or association of producer organisations):
- Operational fund. Total amount, contributions from Community, Member State (national assistance) and producer organisation and members;
  - description of the level of Community financial assistance under Article 10 of Regulation (EC) No 1182/2007;
  - financial data of the operational program, broken out between producer organisations and associations of producer organisations;
  - value of the marketed production. Total and broken down into the different legal entities composing the producer organisation or association of producer organisations;
  - expenditure on the operational program, broken down by measures and types of action selected as eligible for support;

**▼M9**

- information on the volume of products withdrawn broken down by products and by months and between total volumes withdrawn from the market and volumes disposed of by way of free distribution, expressed in tonnes;

**▼B**

- list of the approved bodies for the purposes of Article 10(4)(a) and (b) of Regulation (EC) No 1182/2007.
- (b) Producer groups. Financial data per beneficiary:
- total amount, contributions from Community, Member State and producer group and members;
  - description of the Community financial assistance under Article 7(5) of Regulation (EC) No 1182/2007 and Member State contribution, showing sub-totals for producer groups in the first, second, third, fourth and fifth years of transition period;
  - expenditure on investments required to attain recognition under Article 7(3)(b) of Regulation (EC) No 1182/2007 with breakdown on Community, Member State and producer group contribution;
  - value of the marketed production, with sub-totals for produce groups in the first, second, third, fourth and fifth years of transition period.
3. Information on the implementation of the national strategy:
- summary description of progress made in the implementation of the operational programmes, broken down between each type of measure as referred to in Article 21(1)(f). The description shall be based on financial and common output and result indicators and summarise the information provided in the annual progress reports transmitted by the producer organisations concerning the operational programmes;
  - if the Member State is applying point (c) of the second subparagraph of Article 43 of Regulation (EC) No 1182/2007, the state aid concerned shall be described;
  - a summary of the results of the mid-term evaluations of the operational programmes, as transmitted by the producer organisations including, where appropriate, the qualitative assessments of the results and impact of environmental actions aimed at the prevention of soil erosion, reductions in the use and/or better management of plant protection products, the protection of habitats and biodiversity or landscape conservation;
  - a summary of the major problems encountered in the implementation of the national strategy and its management and any measure taken including, where appropriate, an indication of whether the national strategy has been updated and the reason for the updating. A copy of the updated strategy shall be annexed to the annual report;
  - a summary of the analyses made pursuant to the second subparagraph of Article 112(1).
- In 2012, the annual report shall also include the 2012 evaluation report referred to in Article 128(4).
4. The list of approved first processors and collectors broken down by product, for the Member States which make use of the transitional arrangement under Articles 68b or Article 143bc of Regulation (EC) No 1782/2003.

**PART B — INFORMATION FOR THE CLEARANCE OF ACCOUNTS**

5. Information on checks and sanctions:
- checks carried out by the Member State: details of bodies visited and dates of visiting;
  - checking rates;
  - results of checks;
  - sanctions applied.

**LIST OF COMMON PERFORMANCE INDICATORS REFERRED TO IN ARTICLE 126(3)**

The system of common performance indicators related to actions undertaken by producer organisations, associations of producer organisations and their members under an operational programme does not necessarily capture all the factors that may intervene and affect the outputs, results and impact of an operational programme. In this context, the information provided by performance indicators should be interpreted in the light of quantitative and qualitative information relating to other key factors contributing to the success or failure of the programme's implementation.

1. COMMON INDICATORS RELATING TO THE FINANCIAL EXECUTION (INPUT INDICATORS) (ANNUAL)

Measure	Type of action	Input indicators (annual)
Actions aimed at planning of production	a) Purchase of fixed assets b) Other forms of acquisition of fixed assets, including renting, hiring and leasing c) Other actions	Expenditure ( <i>Euro</i> )
Actions aimed at improving or maintaining product quality	a) Purchase of fixed assets b) Other forms of acquisition of fixed assets, including renting, hiring and leasing c) Other actions	Expenditure ( <i>Euro</i> )
Actions aimed at improving marketing	a) Purchase of fixed assets b) Other forms of acquisition of fixed assets, including renting, hiring and leasing c) Promotion and communication activities (other than in relation to crisis prevention and management) d) Other actions	Expenditure ( <i>Euro</i> )
Research and experimental production	a) Purchase of fixed assets b) Other forms of acquisition of fixed assets, including renting, hiring and leasing c) Other actions	Expenditure ( <i>Euro</i> )
Training actions (other than in relation to crisis prevention and management) and/or actions aimed at promoting access to advisory services	Based on the main issue covered: a) Organic production b) Integrated production or integrated pest management c) Other environmental issues d) Product quality, including pesticide residues and traceability e) Other issues	Expenditure ( <i>Euro</i> )

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Measure	Type of action	Input indicators (annual)
Crisis prevention and management measures	<ul style="list-style-type: none"> <li>a) market withdrawal;</li> <li>b) green harvesting or non-harvesting of fruit and vegetables;</li> <li>c) promotion and communication activities;</li> <li>d) training actions;</li> <li>e) harvest insurance;</li> <li>f) support for the administrative costs of setting up mutual funds.</li> </ul>	Expenditure ( <i>Euro</i> )
Environmental actions	<ul style="list-style-type: none"> <li>a) Purchase of fixed assets</li> <li>b) Other forms of acquisition of fixed assets, including renting, hiring and leasing</li> <li>c) Other actions <ul style="list-style-type: none"> <li>(1) Production <ul style="list-style-type: none"> <li>i) Organic production</li> <li>ii) Integrated production</li> <li>iii) Improved use and/or management of water, including water saving and draining</li> <li>iv) Actions to conserve soil (e.g., labour techniques to prevent/reduce soil erosion, green cover, conservation agriculture, mulching)</li> <li>v) Actions to create or maintain habitats favourable for biodiversity (e.g., wetlands) or to maintain the landscape, including the conservation of historical features (e.g. stonewalls, terraces, small wood)</li> <li>vi) Actions favouring energy saving</li> <li>vii) Actions related to reduction of waste production and to improvement of waste management</li> <li>viii) Other actions</li> </ul> </li> <li>(2) Transport</li> <li>(3) Marketing</li> </ul> </li> </ul>	Expenditure ( <i>Euro</i> )
Other actions	<ul style="list-style-type: none"> <li>a) Purchase of fixed assets</li> <li>b) Other forms of acquisition of fixed assets, including renting, hiring and leasing</li> <li>c) Other actions</li> </ul>	Expenditure ( <i>Euro</i> )

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## 2. COMMON OUTPUT INDICATORS (ANNUAL)

Measure	Type of action	Output indicators (annual)
Actions aimed at planning of production	a) Purchase of fixed assets	Number of holdings participating in the actions <sup>(1)</sup> Number of actions undertaken Total value of investments ( <i>Euro</i> ) <sup>(2)</sup>
	b) Other forms of acquisition of fixed assets, including renting, hiring and leasing	Number of holdings participating in the actions <sup>(1)</sup> Number of actions undertaken
	c) Other actions	Number of holdings participating in the actions Number of actions undertaken
Actions aimed at improving or maintaining product quality	a) Purchase of fixed assets	Number of holdings participating in the actions <sup>(1)</sup> Number of actions undertaken Total value of investments ( <i>Euro</i> ) <sup>(2)</sup>
	b) Other forms of acquisition of fixed assets, including renting, hiring and leasing	Number of holdings participating in the actions <sup>(1)</sup> Number of actions undertaken
	c) Other actions	Number of holdings participating in the actions Number of actions undertaken

## ▼B

Measure	Type of action	Output indicators (annual)
Actions aimed at improving marketing	a) Purchase of fixed assets	Number of holdings participating in the actions <sup>(1)</sup> Number of actions undertaken Total value of investments ( <i>Euro</i> ) <sup>(2)</sup>
	b) Other forms of acquisition of fixed assets, including renting, hiring and leasing	Number of holdings participating in the actions <sup>(1)</sup> Number of actions undertaken
	c) Promotion and communication activities (other than in relation to crisis prevention and management)	Number of actions undertaken <sup>(3)</sup>
	d) Other actions	Number of holdings participating in the actions Number of actions undertaken
Research and experimental production	a) Purchase of fixed assets	Number of holdings participating in the actions <sup>(1)</sup> Number of actions undertaken Total value of investments ( <i>Euro</i> )
	b) Other forms of acquisition of fixed assets, including renting, hiring and leasing	Number of holdings participating in the actions <sup>(1)</sup> Number of actions undertaken
	c) Other actions	Number of actions undertaken Number of holdings participating in the actions <sup>(4)</sup> Number of hectares concerned <sup>(5)</sup>

## ▼B

Measure	Type of action	Output indicators (annual)
Training actions (other than in relation to crisis prevention and management) and/or actions aimed at promoting access to advisory services	Based on the main issue covered: a) Organic production b) Integrated production or integrated pest management c) Other environmental issues d) Traceability e) Product quality, including pesticide residues f) Other issues	Number of actions undertaken <sup>(6)</sup> <sup>(7)</sup> Number of days of training received by participants
Crisis prevention and management measures	a) market withdrawal; b) green harvesting or non-harvesting of fruit and vegetables; c) promotion and communication activities; d) training actions; e) harvest insurance; f) support for the administrative costs of setting up mutual funds.	Number of actions undertaken <sup>(3)</sup> <sup>(6)</sup> <sup>(8)</sup> <sup>(9)</sup>
Environmental actions	a) Purchase of fixed assets <sup>(10)</sup>	Number of holdings participating in the actions <sup>(1)</sup> Number of actions undertaken Total value of investments ( <i>Euro</i> )
	b) Other forms of acquisition of fixed assets, including renting, hiring and leasing <sup>(11)</sup>	Number of holdings participating in the actions <sup>(1)</sup> Number of actions undertaken
	c) Other actions (1) Production i) Organic production ii) Integrated production iii) Improved use and/or management of water, including water saving and draining iv) Actions to conserve soil (e.g., labour techniques to prevent/reduce soil erosion, green cover, conservation agriculture, mulching) v) Actions to create or maintain habitats favourable for biodiversity (e.g., wetlands) or to maintain the landscape, including the conservation of historical features (e.g. stonewalls, terraces, small wood)	Number of holdings participating in the actions Number of actions undertaken Number of hectares concerned



▼B

Measure	Type of action	Output indicators (annual)
	vi) Actions favouring energy saving vii) Actions related to reduction of waste production and to improvement of waste management viii) Other actions	
	(2) Transport (3) Marketing	Number of actions undertaken
Other actions	a) Purchase of fixed assets	Number of holdings participating in the actions <sup>(1)</sup> Number of actions undertaken Total value of investments (Euro) <sup>(2)</sup>
	b) Other forms of acquisition of fixed assets, including renting, hiring and leasing	Number of holdings participating in the actions <sup>(1)</sup> Number of actions undertaken
	c) Other actions	Number of actions undertaken

<sup>(1)</sup> Only in the case where the acquisition of fixed assets is implemented on individual holdings of members of the producer organisation.

<sup>(2)</sup> To be filled in only for the year when the investment is made.

<sup>(3)</sup> Each day of a promotion campaign counts as one action.

<sup>(4)</sup> Only in case of actions relating to experimental production in plots belonging to member holdings.

<sup>(5)</sup> Only in case of actions relating to experimental production in plots belonging to member holdings and/or to the producer organisation.

<sup>(6)</sup> Each training activity counts as one action, whatever its specific content and the number of days of training received by participants.

<sup>(7)</sup> Each activity aimed at promoting the access of OP members to advisory services counts as one action, whatever the source of the advice (i.e. through an advisory service developed by the OP or by external services), the issue covered by the advice and the number of holdings using the advice provided.

<sup>(8)</sup> Market withdrawal of the same product in different periods of the year and market withdrawal of different products count as different actions. Each market withdrawal operation for a given product counts as one action.

<sup>(9)</sup> Green-harvesting and non-harvesting of different products count as different actions.

<sup>(10)</sup> Including non-productive investments linked to the achievement of commitments undertaken under other environmental actions.

<sup>(11)</sup> Including other forms of acquisitions of fixed assets linked to the achievement of commitments undertaken under other environmental actions.

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## 3. COMMON RESULT INDICATORS

*Nota bene:* Result indicators are to be communicated only once the results are appreciated.

Measure	Result indicators ( <i>Measurement</i> )
Actions aimed at planning of production	Change in volume of marketed production ( <i>tons</i> ) Change in value of total marketed production ( <i>Euro/kg</i> )
Actions aimed at improving or maintaining product quality	Change in volume of marketed production that meets the requirements of a specific 'quality scheme' ( <i>tons</i> ) <sup>(1)</sup> Change in value of total marketed production ( <i>Euro/kg</i> ) Estimated impact on production costs ( <i>Euro/kg</i> )
Actions aimed at improving marketing	Change in volume of marketed production ( <i>tons</i> ) Change in value of total marketed production ( <i>Euro/kg</i> )
Research and experimental production	Number of new techniques, processes and/or products adopted since the beginning of the operational programme
Training actions (other than in relation to crisis prevention and management) and/or actions aimed at promoting access to advisory services	Number of people who completed the full training activity/programme Number of holdings that use advisory services
Crisis prevention and management measures	
a) market withdrawal	Total volume of production subject to withdrawal ( <i>tons</i> )
b) green harvesting or non-harvesting of fruit and vegetables	Total area concerned by green harvesting or non-harvesting ( <i>ha</i> )
c) promotion and communication	Estimated change in volume of marketed production for products subject to the promotion/communication activities ( <i>tons</i> )
d) training actions	Number of people who completed the full training activity/programme
e) harvest insurance	Total value of the insured risk ( <i>Euro</i> )
f) support for the administrative costs of setting up mutual funds	Total value of the mutual fund set up ( <i>Euro</i> )
Environmental actions	
a) Purchase of fixed assets <sup>(2)</sup>	Estimated change in annual mineral fertiliser consumption/hectare, by type of fertiliser (N and P <sub>2</sub> O <sub>3</sub> ) ( <i>tons</i> )
b) Other forms of acquisition of fixed assets, including renting, hiring and leasing <sup>(3)</sup>	Estimated change in annual water use/hectare ( <i>m<sup>3</sup>/ha</i> )
c) Other actions	Estimated change in annual use of energy by type of energy source or type of fuel ( <i>Litres/m<sup>3</sup>/Kwh per ton of marketed production</i> )

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Measure	Result indicators ( <i>Measurement</i> )
(1) Production	Estimated change in annual volume of waste generated ( <i>tons per ton of marketed production</i> ) Estimated change in annual use of packaging ( <i>tons per ton of marketed production</i> )
(2) Transport	Estimated change in annual use of energy by type of energy source or type of fuel ( <i>Litres/m<sup>3</sup>/Kwh per ton of marketed production</i> )
(3) Marketing	Estimated change in annual volume of waste generated ( <i>tons per ton of marketed production</i> ) Estimated change in annual use of packaging ( <i>tons per ton of marketed production</i> )
Other actions	Change in volume of marketed production ( <i>tons</i> ) Change in value of total marketed production ( <i>Euro/kg</i> ) Estimated impact on production costs ( <i>Euro/kg</i> )

*Notes:* the reference for changes is the situation existing at the start of the programme.

(<sup>1</sup>) 'Quality' requirements are intended here to consist of a set of detailed obligations concerning the production methods (a) the respect of which is subject to independent inspection, and (b) that result in a final product the quality of which (i) goes significantly beyond the normal commercial standards as regards public health, plant health or environmental standards and (ii) responds to current and foreseeable market opportunities. It is proposed that the main types of 'quality schemes' cover the following: (a) certified organic production; (b) protected geographical indications and protected designations of origin, (c) certified integrated production, (d) private certified product quality schemes.

(<sup>2</sup>) Including non-productive investments linked to the achievement of commitments undertaken under other environmental actions.

(<sup>3</sup>) Including other forms of acquisitions of fixed assets linked to the achievement of commitments undertaken under other environmental actions.

#### 4. COMMON IMPACT INDICATORS

*Nota bene:* Impact indicators are to be communicated only once the impact is appreciated.

Measure	Overall objectives	Impact indicators ( <i>Measurement</i> )
Actions aimed at planning of production	Improving competitiveness	Estimated change in value of marketed production ( <i>Euro</i> )
Actions aimed at improving or maintaining product quality	Improving attractiveness of producer organisation's membership	Change in the total number of fruit and vegetable producers who are active members ( <sup>1</sup> ) of the OP/APO concerned ( <i>number</i> )
Actions aimed at improving marketing		Change in the total area under fruit and vegetable production cropped by members of the OP/APO concerned ( <i>ha</i> )
Research and experimental production		
Training actions (other than in relation to crisis prevention and management) and/or actions aimed at promoting access to advisory services		
Crisis prevention and management measures		

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Measure	Overall objectives	Impact indicators ( <i>Measurement</i> )
Environmental actions	Maintaining and protecting the environment:	
	— Soil	n.d.
	— Water quality	Estimated change in total mineral fertiliser consumption, by type of fertiliser (N and P <sub>2</sub> O <sub>3</sub> ) ( <i>tons</i> )
	— Sustainable use of water resources	Estimated change in total water use ( <i>m<sup>3</sup></i> )
	— Habitat and biodiversity	n.d.
	— Landscape	n.d.
	— Climate change mitigation	Estimated change in total use of energy, by type of energy source or type of fuel ( <i>Litres/m<sup>3</sup>/Kwh</i> )
	— Waste reduction	Estimated change in total volume of waste generated ( <i>tons</i> ) Estimated change in use of packaging ( <i>tons</i> )
Other actions	Improving competitiveness	Estimated change in value of marketed production ( <i>Euro</i> )
	Improving attractiveness of producer organisation's membership	Change in the total number of fruit and vegetable producers who are active members <sup>(1)</sup> of the OP/APO concerned ( <i>number</i> ) Change in the total area under fruit and vegetable production cropped by members of the OP/APO concerned ( <i>ha</i> )

*Notes:* the reference for changes is the situation existing at the start of the programme.

<sup>(1)</sup> Active members are members who deliver products to the PO/APO.

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5. COMMON BASELINE INDICATORS

*Nota bene:* Baseline indicators are needed in the analysis of the situation at the start of the programming period. Certain common baseline indicators are only relevant for the individual operational programmes at the level of producer organisations (e.g., volume of the production marketed at less than 80 % of the average price received by the PO/APO). Other common baseline indicators are also relevant for the national strategies at the level of the Member States (e.g., value of the marketed production).

As a general rule, baseline indicators are to be calculated as three year averages. If data are not available, they should be calculated at least with data related to one year.

Objectives	Baseline indicators related to objectives	
	Indicator	Definition (and measurement)
<b>Overall objectives</b>		
Improving competitiveness	Value of the marketed production	Value of marketed production of the producer organisation (PO)/association of POs (APO) ( <i>Euro</i> )
Improving the attractiveness of the producer organisation's membership	Number of fruit and vegetable producers who are active members of the PO/APO concerned	Number of fruit and vegetable producers who are active member <sup>(1)</sup> of the PO/APO
	Total area under fruits and vegetable production cropped by members of the PO/APO concerned	Total area under fruit and vegetable production cropped by members of the PO/APO ( <i>ha</i> )
Maintaining and protecting the environment	n.d.	
<b>Specific objectives</b>		
Promoting concentration of supply	Volume of marketed production	Total volume of the marketed production ( <i>tons</i> )
Promoting the placing on the market of products produced by the members		
Ensuring that production is adjusted to demand in terms of quality and quantity		Volume of the marketed production that meets the requirements of a specific 'quality scheme' <sup>(2)</sup> by main types of 'quality schemes' concerned ( <i>tons</i> )
Optimising production costs	n.d.	
Boosting products' commercial value	Average unit value of marketed production	Value of marketed production/Volume of marketed production ( <i>Euro/kg</i> )

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Objectives	Baseline indicators related to objectives	
	Indicator	Definition ( <i>and measurement</i> )
Stabilising producer prices	Fluctuations in market prices	Volume of production marketed at less than 80 % of the average price received by the PO/APO ( <i>tons</i> ) <sup>(3)</sup>
Promoting knowledge and improving human potential	Number of people having participated in training activities	Number of people who completed a training activity/programme during the last three years ( <i>number</i> )
	Number of holdings using advisory services	Number of holdings, members of the PO/APO, using advisory services ( <i>number</i> )
Developing technical and economic performances and promoting innovation	n.d.	
<b>Specific objectives in the environmental area</b>		
Contributing to soil protection	Area at risk of soil erosion with anti-erosion measures	Area under fruit and vegetable production at risk of soil erosion <sup>(4)</sup> where anti-erosion measures are implemented ( <i>ha</i> )
Contributing to maintaining and improving water quality	Area with reduction in use/better management of fertilisers	Area under fruit and vegetable production subject to reduction in use or better management of fertilisers ( <i>ha</i> )
Contributing to sustainable use of water resources	Area with water saving measures	Area under fruit and vegetable production with water saving measures ( <i>ha</i> )
Contributing to habitat and biodiversity protection	Organic production	Area under organic production of fruit and/or vegetables ( <i>ha</i> )
	Integrated production	Area under integrated production of fruit and/or vegetables ( <i>ha</i> )
	Other actions contributing to habitat and biodiversity protections	Area concerned by other actions contributing to habitat and biodiversity protection ( <i>ha</i> )
Contributing to landscape conservation	n.d.	
Contributing to climate change mitigation — Production	Greenhouse heating — energy efficiency	Estimated annual consumption of energy for greenhouse heating purposes by type of energy source ( <i>Tons/Litres/m<sup>3</sup>/Kwh per ton of marketed production</i> )

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Objectives	Baseline indicators related to objectives	
	Indicator	Definition (and measurement)
Contributing to climate change mitigation — Transport Contributing to maintaining and improving air quality — Transport	Transport — energy efficiency	Estimated annual consumption of energy for internal transport purposes <sup>(5)</sup> , by fuel type ( <i>Litres/m<sup>3</sup>/Kwh per ton of marketed production</i> )
Reducing the volume of waste generated	n.d.	

Notes: PO means producer organisation; APO means association of producer organisations; UAA means utilised agricultural area.

(1) Active members are members who deliver products to the PO/APO.

(2) 'Quality' requirements are intended here to consist of a set of detailed obligations concerning the production methods (a) the respect of which is subject to independent inspection, and (b) that result in a final product the quality of which (i) goes significantly beyond the normal commercial standards as regards public health, plant health or environmental standards and (ii) responds to current and foreseeable market opportunities. The main types of 'quality schemes' shall cover the following: (a) certified organic production; (b) protected geographical indications and protected designations of origin, (c) certified integrated production, (d) private certified product quality schemes.

(3) To be calculated on a yearly basis and for the main products (in terms of value of marketed production)

(4) 'At risk of soil erosion' shall mean any sloping plot with an inclination higher than 10 %, whether or not anti-erosion measures (e.g., soil cover, crop rotation, etc) have been taken on it.

Where the relevant information is available, a Member State may instead use the following definition: 'At risk of soil erosion' shall mean any plot with a predicted loss of soil exceeding the rate of natural soil formation, whether or not anti-erosion measures (e.g., soil cover or crop rotation) have been taken on it.

(5) Internal transport refers to transport of products from member holdings for delivery to the PO/APO.



## ANNEX XV

**ENTRY PRICE SYSTEM SET OUT IN TITLE IV, CHAPTER II,  
SECTION 1**

Without prejudice to the rules for the interpretation of the Combined Nomenclature, the description of the products is deemed to be indicative only. The scope of the arrangements provided for in this Title IV, Chapter II, Section 1 is, for the purposes of this Annex, determined by the scope of the CN codes as they exist at the time of the adoption of the latest amendment of this Regulation. Where 'ex' appears before the CN code, the scope of the additional duties is determined both by the scope of the CN code and that of the description of the products, and the corresponding period of application.

## PART A

CN code	Description	Period of application
ex 0702 00 00	Tomatoes	From 1 January to 31 December
ex 0707 00 05	Cucumbers <sup>(1)</sup>	From 1 January to 31 December
ex 0709 90 80	Artichokes	From 1 November to 30 June
0709 90 70	Courgettes	From 1 January to 31 December
ex 0805 10 20	Sweet oranges, fresh	From 1 December to 31 May
ex 0805 20 10	Clementines	From 1 November to end of February
ex 0805 20 30	Mandarins (including	From 1 November to end of February
ex 0805 20 50	tangerines and sat-	
ex 0805 20 70	sumas); wilking and	
ex 0805 20 90	similar citrus hybrids	
ex 0805 50 10	Lemons ( <i>Citrus limon</i> , <i>Citrus limonum</i> )	From 1 June to 31 May
ex 0806 10 10	Table grapes	From 21 July to 20 November
ex 0808 10 80	Apples	From 1 July to 30 June
ex 0808 20 50	Pears	From 1 July to 30 April
ex 0809 10 00	Apricots	From 1 June to 31 July
ex 0809 20 95	Cherries, other than sour cherries	From 21 May to 10 August
ex 0809 30 10	Peaches, including nec-	From 11 June to 30 September
ex 0809 30 90	tarines	
ex 0809 40 05	Plums	From 11 June to 30 September

<sup>(1)</sup> Other than cucumbers referred to in Part B of this Annex.

## PART B

CN code	Description	Period of application
ex 0707 00 05	Cucumbers intended for processing	From 1 May to 31 October
ex 0809 20 05	Sour cherries ( <i>Prunus cerasus</i> )	From 21 May to 10 August





## ANNEX XVI

## REPRESENTATIVE MARKETS REFERRED TO IN ARTICLE 137

Member State(s)	Representative markets
Belgium and Luxembourg	Brussels
Bulgaria	Sofia
Czech Republic	Prague
Denmark	Copenhagen
Germany	Hamburg, Munich, Frankfurt, Cologne, Berlin
Estonia	Tallinn
Ireland	Dublin
Greece	Athens, Thessaloniki
Spain	Madrid, Barcelona, Seville, Bilbao, Zaragoza, Valencia
France	Paris-Rungis, Marseille, Rouen, Dieppe, Perpignan, Nantes, Bordeaux, Lyon, Toulouse
Italy	Milan
Cyprus	Nicosia
Latvia	Riga
Lithuania	Vilnius
Hungary	Budapest
Malta	Attard
Netherlands	Rotterdam
Austria	Vienna-Inzersdorf
Poland	Ozarów Mazowiecki-Bronisze, Poznan
Portugal	Lisbon, Porto
Romania	Bucharest, Constanța
Slovenia	Ljubljana
Slovakia	Bratislava
Finland	Helsinki
Sweden	Helsingborg, Stockholm
United Kingdom	London

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## ANNEX XVII

## ADDITIONAL IMPORT DUTIES: TITLE IV, CHAPTER II, SECTION 2

Without prejudice to the rules governing the interpretation of the combined nomenclature, the description of the products is deemed to be indicative only. The scope of the additional duties for the purposes of this Annex is determined by the scope of the CN codes as they exist at the time of the adoption of this Regulation.

Serial No	CN code	Description	Trigger period	Trigger level (tonnes)
78.0015	0702 00 00	Tomatoes	— 1 October to 31 May	594 495
78.0020			— 1 June to 30 September	108 775
78.0065	0707 00 05	Cucumbers	— 1 May to 31 October	8 632
78.0075			— 1 November to 30 April	15 259
78.0085	0709 90 80	Artichokes	— 1 November to 30 June	16 421
78.0100	0709 90 70	Courgettes	— 1 January to 31 December	65 893
78.0110	0805 10 20	Oranges	— 1 December to 31 May	700 277
78.0120	0805 20 10	Clementines	— 1 November to end of February	385 569
78.0130	0805 20 30 0805 20 50 0805 20 70 0805 20 90	Mandarins (including tangerines and satsumas); wilkings and similar citrus hybrids	— 1 November to end of February	95 620
78.0155	0805 50 10	Lemons	— 1 June to 31 December	335 735
78.0160			— 1 January to 31 May	64 586
78.0170	0806 10 10	Table grapes	— 21 July to 20 November	89 754
78.0175	0808 10 80	Apples	— 1 January to 31 August	876 665
78.0180			— 1 September to 31 December	106 465
78.0220	0808 20 50	Pears	— 1 January to 30 April	257 327
78.0235			— 1 July to 31 December	37 316
78.0250	0809 10 00	Apricots	— 1 June to 31 July	4 199
78.0265	0809 20 95	Cherries, other than sour cherries	— 21 May to 10 August	151 059
78.0270	0809 30	Peaches, including nectarines	— 11 June to 30 September	39 144
78.0280	0809 40 05	Plums	— 11 June to 30 September	7 658

*ANNEX XVIII***REGULATIONS REFERRED TO IN ARTICLE 152(3)**

Commission Regulation (EEC) No 1764/86 of 27 May 1986 on minimum quality requirements for tomato-based products eligible for production aid <sup>(1)</sup>

Commission Regulation (EEC) No 2320/89 of 28 July 1989 of minimum quality requirements for peaches in syrup and peaches in natural fruit juice for the application of the production aid scheme <sup>(2)</sup>

Article 2 and Annex I(A) and B of Commission Regulation (EC) No 464/1999 of 3 March 1999 laying down detailed rules for the application of Council Regulation (EC) No 2201/96 as regards aid arrangements for prunes <sup>(3)</sup>

Article 1(1) and (2) and Annexes II and III of Commission Regulation (EC) No 1573/1999 of 19 July 1999 laying down detailed rules for the application of Council Regulation (EC) No 2201/96 as regards the characteristics of dried figs qualifying for aid under the production aid scheme <sup>(4)</sup>

Annexes I and II of Commission Regulation (EC) No 1621/1999 of 22 July 1999 laying down detailed rules for the application of Council Regulation (EC) No 2201/96 as regards aid for the cultivation of grapes to produce certain varieties of dried grapes <sup>(5)</sup>

Commission Regulation (EC) No 1666/1999 of 28 July 1999 laying down detailed rules for the application of Council Regulation (EC) No 2201/96 as regards the minimum marketing characteristics for certain varieties of dried grapes <sup>(6)</sup>

Commission Regulation (EC) No 1010/2001 of 23 May 2001 concerning the minimum quality requirements for mixed fruit under the production aid scheme <sup>(7)</sup>

Article 3 of Commission Regulation (EC) No 217/2002 of 5 February 2002 fixing eligibility criteria for raw materials under the production aid scheme in Regulation (EC) No 2201/96 <sup>(8)</sup>

Article 2 of Commission Regulation (EC) No 1535/2003 of 29 August 2003 laying down detailed rules for applying Council Regulation (EC) No 2201/96 as regards the aid scheme for products processed from fruit and vegetables <sup>(9)</sup>

Article 16 and Annex I of Commission Regulation (EC) No 2111/2003 of 1 December 2003 laying down detailed rules for the application of Council Regulation (EC) No 2202/96 introducing a Community aid scheme for producers of certain citrus fruits <sup>(10)</sup>

Commission Regulation (EC) No 1559/2006 of 18 October 2006 laying down minimum quality requirements for Williams and Rocha pears in syrup and/or in natural fruit juice under the production aid scheme <sup>(11)</sup>

<sup>(1)</sup> OJ L 153, 7.6.1986, p. 1.

<sup>(2)</sup> OJ L 220, 29.7.1989, p. 54.

<sup>(3)</sup> OJ L 56, 4.3.1999, p. 8.

<sup>(4)</sup> OJ L 187, 20.7.1999, p. 27.

<sup>(5)</sup> OJ L 192, 24.7.1999, p. 21.

<sup>(6)</sup> OJ L 197, 29.7.1999, p. 32.

<sup>(7)</sup> OJ L 140, 24.5.2001, p. 31.

<sup>(8)</sup> OJ L 35, 6.2.2002, p. 11.

<sup>(9)</sup> OJ L 218, 30.8.2003, p. 14.

<sup>(10)</sup> OJ L 317, 2.12.2003, p. 5.

<sup>(11)</sup> OJ L 288, 19.10.2006, p. 22.