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► **B** REGULATION (EU) No 228/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 13 March 2013

laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006

(OJ L 78, 20.3.2013, p. 23)

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**REGULATION (EU) No 228/2013 OF THE EUROPEAN  
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**laying down specific measures for agriculture in the outermost  
regions of the Union and repealing Council Regulation (EC)  
No 247/2006**

CHAPTER I

**SUBJECT MATTER AND OBJECTIVES**

*Article 1*

**Subject matter**

This Regulation lays down specific measures for agriculture to mitigate the difficulties caused by extreme remoteness, specifically remoteness, isolation, small surface areas, terrain, difficult climate and economic dependence on a limited number of products of the regions of the Union referred to in Article 349 of the Treaty ('the outermost regions').

*Article 2*

**Objectives**

1. The specific measures referred to in Article 1 shall help to meet the following objectives:

- (a) guaranteed supply to the outermost regions of products essential for human consumption or for processing and as agricultural inputs by mitigating the additional costs incurred due to their extreme remoteness, without harming local production and the growth thereof;
- (b) securing the long-term future and development of the 'livestock' and 'crop-diversification' sectors in the outermost regions, including the production, processing and sale of local products;
- (c) maintaining the development and strengthening the competitiveness of traditional agricultural activities in the outermost regions, including the production, processing and marketing of local crops and products.

2. The objectives set out in paragraph 1 shall be implemented by means of the measures referred to in Chapters III, IV and V.

CHAPTER II

**POSEI PROGRAMMES**

*Article 3*

**Establishing the POSEI programmes**

1. The measures provided for in Article 1 shall be defined for each outermost region by a Programme of Options Specifically Relating to Remoteness and Insularity (POSEI), ('the POSEI programme'), comprising:

- (a) specific supply arrangements as provided for in Chapter III; and

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(b) specific measures to assist local agricultural production as provided for in Chapter IV.

2. The POSEI programme shall be established at the geographical level which the Member State concerned deems to be the most appropriate. It shall be prepared by the competent authorities designated by the said Member State, which shall submit it to the Commission for approval in accordance with Article 6 after the competent authorities and organisations at the appropriate regional level have been consulted.

3. A single POSEI programme may be submitted for each Member State in respect of its outermost regions.

*Article 4***Compatibility and consistency**

1. Measures taken under POSEI programmes shall comply with Union law. Such measures shall be consistent with other Union policies and with the measures taken under such policies.

2. Consistency of the measures taken under POSEI programmes with measures implemented under other instruments of the common agricultural policy, and in particular the common organisations of markets, rural development, product quality, animal welfare and the protection of the environment, shall be ensured.

In particular, no measure under this Regulation shall be financed as:

- (a) additional support for premium or aid schemes under a common organisation of the market save in exceptional cases justified by objective criteria;
- (b) support for research projects, measures to support research projects or measures eligible for Union financing under Council Decision 2009/470/EC of 25 May 2009 on expenditure in the veterinary field <sup>(1)</sup>;
- (c) support for measures within the scope of Regulation (EC) No 1698/2005.

*Article 5***Content of the POSEI programmes**

A POSEI programme shall comprise:

- (a) a schedule for the implementation of the measures and a general annual indicative financing table showing the resources to be deployed;
- (b) proof of the compatibility and consistency between the various measures under the programmes and with the criteria and quantitative indicators to be used for monitoring and evaluation;

<sup>(1)</sup> OJ L 155, 18.6.2009, p. 30.

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- (c) the steps taken to ensure that the programmes are implemented effectively and appropriately, including the arrangements for publicity, monitoring and evaluation, and a specified set of quantified indicators for use in programme evaluation;
  
- (d) the designation of the competent authorities and bodies responsible for implementing the programme and the designation at the appropriate levels of authorities or associated bodies and socio-economic partners, and the results of consultations held.

*Article 6***Approval and amendments of the POSEI programmes**

1. The POSEI programmes are established by Regulation (EC) No 247/2006 and are financed under the financial allocation referred to in Article 30(2) and (3).

Each programme comprises a forecast supply balance indicating the products, the quantities thereof and the amount of aid for supply from the Union together with a draft programme of support for local production.

2. Depending on the annual evaluation of the implementation of measures included in the POSEI programmes, the Member States may, after consulting the socio-economic partners concerned, submit to the Commission duly substantiated proposals for amendments to those measures within the context of the financial allocation referred to in Article 30(2) and (3), to bring them more into line with the requirements of the outermost regions and the strategy proposed. The Commission shall adopt implementing acts laying down the procedures for assessing whether the amendments proposed comply with Union law and for deciding whether to approve them. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

3. The procedures laid down by the implementing acts referred to in paragraph 2 may take account of the following elements: the importance of the modifications proposed by the Member States with reference to the introduction of new measures, whether the changes to the budget allocated to the measures are substantial, changes in the quantities and in the level of aid for products in the forecast supply balances and any amendments to codes and descriptions laid down in Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff<sup>(1)</sup>.

4. The implementing acts referred to in paragraph 2 shall also determine, for each procedure, the frequency with which requests for amendments are to be made, as well as the time frames within which the approved amendments are to be implemented.

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<sup>(1)</sup> OJ L 256, 7.9.1987, p. 1.

*Article 7***Amendments regarding the financial allocations**

By 22 April 2013, Member States shall submit to the Commission the draft amendments to their POSEI programmes to reflect the changes introduced by Article 30(5).

These amendments shall become applicable one month after their submission if during this period the Commission raises no objections.

The competent authorities shall pay the aid referred to in Article 30(5) not later than 30 June 2013.

*Article 8***Monitoring and follow-up**

The Member States shall conduct verifications by means of administrative and on-the-spot checks. The Commission shall adopt implementing acts regarding the minimum characteristics of the checks to be carried out by the Member States.

The Commission shall also adopt implementing acts regarding the procedures and physical and financial indicators in order to ensure that the implementation of the programmes is monitored in an effective manner.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

## CHAPTER III

**SPECIFIC SUPPLY ARRANGEMENTS***Article 9***Forecast supply balance**

1. Specific supply arrangements are hereby established for the agricultural products listed in Annex I to the Treaty which are essential in the outermost regions for human consumption, for the manufacture of other products or as agricultural inputs.

2. The Member State concerned shall establish, at the geographical level which it deems most appropriate, a forecast supply balance so as to quantify the annual supply requirements for each outermost region with regard to the products listed in Annex I to the Treaty.

A separate forecast balance may be drawn up for the requirements of undertakings packaging and processing products intended for the local market for traditional consignment to the rest of the Union or for export as part of regional trade, in accordance with Article 14(3), or within the context of traditional trade flows.

*Article 10***Operation of the specific supply arrangements**

1. Within the limit of the quantities determined in the forecast supply balance, no duties shall apply to direct imports from third countries into the outermost regions of products covered by the specific supply arrangements.

Products which have entered the Union's customs territory under inward processing or customs warehousing arrangements shall be considered to be direct imports from third countries for the purposes of this Chapter.

2. In order to ensure coverage of the requirements established in accordance with Article 9(2) in terms of price and quality, while taking care to maintain the Union's share in supplies, aid shall be granted to supply the outermost regions with Union products held in public intervention storage or available on the Union market.

Such aid shall be determined for each type of product concerned, taking account of the additional cost of transport to the outermost regions and the prices applied to exports to third countries and, in the case of products intended for processing or agricultural inputs, other additional costs associated with extreme remoteness, and in particular their insularity and small surface areas.

3. No aid shall be granted for the supply of products which have already benefited from the specific supply arrangements in another outermost region.

4. Only products of sound, fair and marketable quality shall benefit from the specific supply arrangements. Products from third countries shall provide an equivalent level of guarantees to those produced under the Union's veterinary and plant health standards.

*Article 11***Implementation**

In implementing the specific supply arrangements, account shall be taken, in particular, of the following:

- (a) the specific requirements of the outermost regions and, in the case of products intended for processing and agricultural inputs, the quality requirements;
- (b) trade flows with the rest of the Union;
- (c) the economic aspect of the proposed aid;
- (d) the need to ensure that existing local production is neither destabilised, nor obstructed in its development.

**▼B***Article 12***Certificates**

1. Exemption from import duties or access to aid within the framework of the specific supply arrangements shall be granted on the presentation of a certificate.

Certificates shall be issued only to operators entered in a register held by the competent authorities.

Licences and certificates shall not be transferable.

2. No security shall be required when applying for import licences, exemption certificates or aid certificates. However, to the extent necessary to ensure the proper application of this Regulation, the competent authority may require a security to be lodged equal to the amount of the advantage as referred to in Article 13. In such cases, Article 34(1), (4), (5), (6), (7) and (8) of Commission Regulation (EC) No 376/2008 of 23 April 2008 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> shall apply.

The Commission shall be empowered to adopt delegated acts, in accordance with Article 33, determining the conditions for recording operators in the register and providing for the full exercise by operators of their rights to participate in the specific supply arrangements.

3. The Commission shall adopt implementing acts regarding the measures necessary to ensure the uniform application by the Member States of this Article, specifically relating to the introduction of the system of certificates and the commitment undertaken by operators at the time of registration. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

*Article 13***Impact of advantage**

1. Benefiting from the specific supply arrangements resulting from the exemption of import duty or the awarding of aid shall be subject to the condition that the impact of the economic advantage is passed on up to the end user who, as appropriate, may be the consumer in the case of products meant for direct consumption, the end processor or packager in the case of products meant for the processing or packaging industries, or farmers in the case of products used for animal feed or as agricultural inputs.

The advantage referred to in the first subparagraph shall be equal to the amount of the exemption from import duties or to the amount of the aid.

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

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2. In order to ensure that paragraph 1 is applied in a uniform manner, the Commission shall adopt implementing acts regarding the application of the rules set out in paragraph 1 and more specifically the conditions for the monitoring by Member States, that the advantage has in fact been passed on up to the end user. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

*Article 14***Export to third countries and dispatch to the rest of the Union**

1. The Commission shall adopt implementing acts establishing the requirements in accordance with which products covered by the specific supply arrangements may be exported to third countries or dispatched to the rest of the Union, which shall include the payment of import duty or the reimbursement of the aid received, as indicated in Article 10. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

Exports to third countries of products covered by the specific supply arrangements shall not be subject to the presentation of a certificate.

The first subparagraph shall not apply to trade flows between French overseas departments.

2. The first subparagraph of paragraph 1 shall not apply to products processed in the outermost regions from products that have benefited from the specific supply arrangements which are:

- (a) exported to third countries or dispatched to the rest of the Union within the limits of traditional exports and traditional dispatches. The Commission shall adopt implementing acts establishing those amounts, on the basis of dispatches or export average figures, taking as a reference the verified average figures for the three best years between 2005 and 2012. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2);
- (b) exported to third countries as part of regional trade;
- (c) dispatched between the regions of the Azores, Madeira and the Canary Islands;
- (d) dispatched between French overseas departments.

No export refund shall be granted on the export of products referred to in points (a) and (b) of the first subparagraph.

Exports to third countries of products referred to in points (a) and (b) of the first subparagraph shall not be subject to the presentation of a certificate.



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3. For the purposes of this Chapter, ‘regional trade’ shall be understood as trade, for each outermost region, with third countries belonging to the same geographical area as those outermost regions, and with countries with which there are historical trade links. The Commission shall adopt implementing acts establishing a list of those countries, taking into account objective requests made by the Member States following consultation with the sectors concerned. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

4. Products delivered to the French overseas departments, the Azores, Madeira or the Canary Islands which have benefited from the specific supply arrangements and are used to supply ships and aircraft shall be deemed to have been consumed locally.

5. By way of derogation from paragraph 2, first subparagraph, point (a), the following maximum quantities of sugar (CN code 1701) may be dispatched annually from the Azores to the rest of the Union in the following five years:

— in 2011: 3 000 tonnes,

— in 2012: 2 500 tonnes,

— in 2013: 2 000 tonnes,

— in 2014: 1 500 tonnes,

— in 2015: 1 000 tonnes.

6. Processing operations which may give rise to traditional or regional trade exports or traditional dispatches shall fulfil, *mutatis mutandis*, the processing conditions applicable under inward processing arrangements and the procedure for processing under customs control provided for in the relevant Union legislation, with the exception of all usual forms of handling.

*Article 15***Sugar**

1. During the period established in Article 204(2) and (3) of Regulation (EC) No 1234/2007, the non-quota production referred to in Article 61 of that Regulation shall be exempt from import duties subject to the forecast supply balance referred to in Article 9 of this Regulation in respect of:

(a) sugar brought for consumption to Madeira or the Canary Islands in the form of white sugar falling within CN code 1701;

(b) sugar refined and consumed in the Azores in the form of raw sugar falling within CN code 1701 12 10 (raw beet sugar).

2. In the Azores, for the purpose of refining, the quantities referred to in paragraph 1 may be supplemented, subject to the limit of the forecast supply balance, by raw sugar falling within CN code 1701 11 10 (raw cane sugar).

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When determining the Azores' raw sugar requirements, account shall be taken of the development of local production of sugar beet. The quantities covered by the supply arrangements shall be determined so as to ensure that the total volume of sugar refined in the Azores each year does not exceed 10 000 tonnes.

*Article 16***Skimmed milk powder**

By way of derogation from Article 9 above, the Canary Islands may continue to receive supplies of skimmed milk powder falling within CN code 1901 90 99 (skimmed milk powder containing vegetable fat) meant for industrial processing, subject to a limit of 800 tonnes per year. Aid granted for supplies of this product from the Union may not exceed EUR 210 per tonne and shall be included in the limit laid down in Article 30. This product shall be used for local consumption only.

*Article 17***Rice**

No customs duties shall be charged in the French overseas department of Réunion on products falling within CN codes 1006 10, 1006 20 and 1006 40 00 imported for consumption there.

*Article 18***Controls and penalties**

1. Products which are the subject of specific supply arrangements shall be subject to administrative checks at the time that they are imported into or enter the outermost regions, as well as when they are exported or dispatched.

The Commission shall adopt implementing acts regarding the minimum characteristics of the checks to be carried out by the Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

2. Except in cases of *force majeure* or exceptional climatic conditions, if an operator, as referred to in Article 12, fails to comply with the commitments made in accordance with Article 12, the competent authority, without prejudice to any penalties applicable under national law, shall:

- (a) recover the advantage granted to operator;
- (b) temporarily suspend or revoke the operator's registration, depending on the seriousness of the non-compliance.

3. Except in cases of *force majeure* or exceptional climatic conditions, where operators, as referred to in Article 12, do not carry out the planned import or entry, their entitlement to apply for licences or certificates shall be suspended by the competent authority for a period of 60 days following expiry of that licence or certificate. After the suspension period, the issue of subsequent licences or certificates shall be subject to the lodging of a security equal to the amount of the advantage to be granted during a period to be determined by the competent authority.

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The competent authority shall adopt the measures required to reutilise any quantities of products made available as a result of non-execution, partial execution or cancellation of the licenses and certificates issued or recovery of the advantage.

## CHAPTER IV

## MEASURES TO ASSIST LOCAL AGRICULTURAL PRODUCTS

*Article 19***Measures**

1. The POSEI programmes consist of specific measures designed to promote local agricultural production under the scope of Part Three, Title III of the Treaty, necessary in order to ensure the continuity and development of local agricultural production in each outermost region.

2. The parts of the programme which include measures to assist local agricultural production and which correspond to the objectives set out in Article 2 shall comprise at least the following elements:

- (a) a quantified description of the current situation of the agricultural production in question, taking into account the results of available evaluations, showing disparities, gaps and potential for development, the financial resources deployed and the primary results of measures taken previously;
- (b) a description of the strategy proposed, the priorities selected, its quantified general and operational objectives, and an appraisal showing the expected economic, environmental and social impact, including employment effects;
- (c) a description of the measures envisaged, and in particular aid schemes for implementing them, and, where appropriate, information on the need for any studies, demonstration projects, training or technical assistance operations relating to the preparation, implementation or adaptation of the measures concerned;
- (d) a list of the aid constituting direct payments in accordance with Article 2(d) of Regulation (EC) No 73/2009;
- (e) the aid amount established for each measure and the provisional amount for each action in order to achieve one or more objectives for the programme.

3. The Commission shall adopt implementing acts concerning requirements for the provision of the aid described in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

4. The programme may include measures to support production, processing or sale of agricultural products in the outermost regions.

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Each measure may include a variety of actions. For each action, the programme shall define at least the following elements:

- (a) the beneficiaries;
- (b) the eligibility conditions;
- (c) the unit amount of aid.

In order to support the marketing of products outside a region in which they are produced, the Commission shall be empowered to adopt delegated acts, in accordance with Article 33, regarding the conditions for establishing the amount of aid awarded in respect of such marketing and, where appropriate, the conditions for establishing the quantities of products subject to this aid.

*Article 20***Controls and wrongful payments**

1. Verification of measures provided for in this Chapter shall be conducted by administrative and on-the-spot checks.
2. In the event of wrongful payments, the beneficiary concerned shall be obliged to reimburse the amounts in question. Article 80 of Commission Regulation (EC) No 1122/2009 of 30 November 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector <sup>(1)</sup> shall apply *mutatis mutandis*.

## CHAPTER V

## ACCOMPANYING MEASURES

*Article 21***Logo**

1. A logo shall be introduced with a view to improving awareness and the consumption of quality agricultural products, whether processed or not, specific to the outermost regions.
2. The conditions for using the logo referred to in paragraph 1 shall be proposed by the trade organisations concerned. The national authorities shall forward such proposals, with their opinion thereon, to the Commission.

Use of the logo shall be monitored by a public authority or a body approved by the competent national authorities.

<sup>(1)</sup> OJ L 316, 2.12.2009, p. 65.

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3. The Commission shall be empowered to adopt delegated acts, in accordance with Article 33, regarding the conditions for exercising the right to use the logo and for reproducing and using it. Those conditions shall be set to improve awareness of high-quality agricultural products from the outermost regions and to increase the consumption thereof, regardless of whether those products are processed or non-processed.

4. The Commission shall adopt implementing acts regarding the detailed rules concerning the use of the logo and the minimum characteristics for the checks and monitoring which the Member States shall perform. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

*Article 22***Rural development**

1. Notwithstanding Article 39(4) of Regulation (EC) No 1698/2005, the maximum annual amounts eligible for Union aid, as set out in Annex I to that Regulation, may be increased up to twofold in the case of the measure to protect lakes in the Azores and the measure to preserve the landscape, biodiversity and traditional features of agricultural land and the conservation of stone walls in the outermost regions.

2. A description of the measures planned under paragraph 1 of this Article shall be included, where appropriate, in the programmes for these regions referred to in Article 16 of Regulation (EC) No 1698/2005.

*Article 23***State aid**

1. For the agricultural products covered by Annex I to the Treaty, to which Articles 107, 108 and 109 thereof apply, the Commission may authorise, in accordance with Article 108 of the Treaty, operating aid in the sectors producing, processing and marketing those products, with a view to alleviating the specific constraints on farming in the outermost regions as a result of their isolation, insularity and extreme remoteness.

2. Member States may grant additional financing for the implementation of POSEI programmes. In such cases, the Member States shall notify the Commission of the State aid and the Commission may approve it in accordance with this Regulation as part of those programmes. Aid thus notified shall be regarded as notified within the meaning of the first sentence of Article 108(3) of the Treaty.

3. France may grant the sugar sector in the French outermost regions aid of up to EUR 90 million per marketing year.

France shall inform the Commission within 30 days of the end of each marketing year of the amount of aid actually granted.

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4. Without prejudice to paragraphs 1 and 2 of this Article and by way of derogation from the first subparagraph of Article 180 of Regulation (EC) No 1234/2007 and Article 3 of Council Regulation (EC) No 1184/2006 of 24 July 2006 applying certain rules of competition to the production of, and trade in, agricultural products <sup>(1)</sup>, Articles 107, 108 and 109 of the Treaty shall not apply to payments made under Chapter IV of this Regulation, paragraph 3 of this Article and Articles 24 and 28 of this Regulation by Member States in conformity with this Regulation.

*Article 24***Plant health programmes**

1. The Member States shall submit programmes to the Commission for the control of organisms harmful to plants or plant products in the outermost regions. The programmes shall specify in particular the objectives to be achieved, the measures to be carried out, their duration and their cost.

The Commission shall evaluate the programmes submitted. The Commission shall adopt implementing acts to approve or not approve those programmes. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

2. The Union shall contribute to the financing of the programmes provided for in paragraph 1 on the basis of a technical analysis of the regional situations.

Such contribution may cover up to 75 % of eligible expenditure. Payment shall be made on the basis of documentation provided by Member States. If necessary, checks may be organised by the Commission and conducted on its behalf by the experts referred to in Article 21 of Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community <sup>(2)</sup>.

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Union financing of the programmes for the control of pests in the outermost regions of the Union shall be implemented in accordance with Regulation (EU) No 652/2014 of the European Parliament and of the Council <sup>(3)</sup>.

<sup>(1)</sup> OJ L 214, 4.8.2006, p. 7.

<sup>(2)</sup> OJ L 169, 10.7.2000, p. 1.

<sup>(3)</sup> Regulation (EU) No 652/2014 of the European Parliament and of the Council of 15 May 2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005 of the European Parliament and of the Council, Directive 2009/128/EC of the European Parliament and of the Council and Regulation (EC) No 1107/2009 of the European Parliament and of the Council and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC (OJ L 189, 27.6.2014, p. 1).

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3. The Commission shall adopt implementing acts in respect of each region and programme, on the basis of the criteria fixed in paragraph 2 and the programme presented in accordance with paragraph 1, establishing:

- (a) the financial participation of the Union, as well as the amount of the aid;
- (b) the measures eligible for Union financing.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

*Article 25***Wine**

1. Measures referred to in Articles 103v, 103w, 103x and 182a of Regulation (EC) No 1234/2007 shall not apply to the Azores and Madeira.

2. Notwithstanding the second subparagraph of Article 120a(2) of Regulation (EC) No 1234/2007, grapes from the vine varieties referred to in point (b) of that subparagraph, and harvested in the Azores and Madeira, may be used for the production of wine which must remain within those regions.

Portugal shall gradually cease harvesting the parcels planted using the vine varieties referred to in point (b) of the second subparagraph of Article 120a(2) of Regulation (EC) No 1234/2007 with, if necessary, the supports provided for in Article 103q of that Regulation.

3. By way of derogation from Article 85f of Regulation (EC) No 1234/2007, the transitional planting rights regime shall apply to the Canary Islands until 31 December 2012.

*Article 26***Milk**

1. For the purposes of distributing the surplus levy referred to in Article 79 of Regulation (EC) No 1234/2007, only producers who, within the meaning of Article 65(c) of that Regulation, established and producing in the Azores, market quantities exceeding their reference quantity increased by the percentage referred to in the third subparagraph of this paragraph shall be deemed to have contributed to the overrun.

The surplus levy shall be due on quantities exceeding the quota thus increased by the percentage referred to in the third subparagraph, after reallocation of the unused quantities within the margin resulting from this increase among all the producers within the meaning of Article 65(c) of Regulation (EC) No 1234/2007 established and producing in the Azores, and in proportion to the reference quantity available to each producer.

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The percentage referred to in the first subparagraph shall be equal to the ratio between the quantity of 23 000 tonnes from the 2005/2006 marketing year onwards and the total of the reference quantities available on each holding on 31 March 2010. It shall apply only to the quota available on 31 March 2010.

2. The quantities of milk or milk equivalent marketed which exceed the quota but which comply with the percentage referred to in the third subparagraph of paragraph 1, after the reallocation referred to in that same paragraph, shall not be taken into account in establishing any overrun by Portugal as calculated in accordance with Article 66 of Regulation (EC) No 1234/2007.

3. The surplus levy scheme applicable to producers of milk provided for in Regulation (EC) No 1234/2007 shall not apply in the French overseas departments or, within the limit of local production of 4 000 tonnes of milk, in Madeira.

4. Notwithstanding Article 114(2) of Regulation (EC) No 1234/2007, the production in Madeira and in the French overseas department of Réunion of UHT milk reconstituted from milk powder originating in the Union shall be authorised within the limits of local consumption requirements, provided that this measure does not hinder the collection or disposal of locally produced milk. If France demonstrates the expediency of such a measure for the French overseas departments of Martinique, Guadeloupe and French Guiana, the Commission shall be empowered to adopt, where necessary, delegated acts, in accordance with Article 33, in order to extend this measure to those departments. This product shall be used for local consumption only.

The method by which the UHT milk thus reconstituted has been obtained shall be clearly indicated on the sales labelling.

*Article 27***Cattle farming**

1. Until the local numbers of young male bovines reach a level sufficient to ensure the maintenance and development of local beef production in the French overseas departments and Madeira, the possibility shall be introduced of importing bovine animals from third countries for fattening and consumption in the French overseas departments and Madeira, without applying import duties under the Common Customs Tariff. The Commission shall adopt implementing acts regarding the measures necessary to implement this subparagraph and more specifically the means for introducing the exemption from import duties in respect of the young male bovines introduced into the French overseas departments and Madeira. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

Article 13 and Article 14(1) shall apply to animals qualifying for the exemption referred to in the first subparagraph of this paragraph.



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2. The numbers of animals qualifying for the exemption referred to in paragraph 1 shall be determined in the POSEI programmes, if the need to import is justified, in view of developments in local production. Priority for such animals shall be given to producers keeping animals for fattening at least 50 % of which are of local origin.

The Commission shall be empowered to adopt delegated acts, in accordance with Article 33, laying down the conditions for the exemption from import duties. Those conditions shall take into account the specific local features of the beef sector and industry.

3. Where Article 52 and Article 53(1) of Regulation (EC) No 73/2009 are applied, Portugal may reduce the component of the national ceiling corresponding to sheep and goat payments and suckler cow premium rights. In this case, the Commission shall adopt implementing acts regarding the relevant amount to be transferred from the ceilings established in accordance with Article 52 and Article 53(1) of Regulation (EC) No 73/2009 to the financial allocation referred to in the second indent of Article 30(2) of this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

*Article 28***State aid for tobacco production**

Spain is authorised to award aid concerning the production of tobacco in the Canary Islands. The granting of this aid may not result in discrimination between producers in the islands.

The amount of the aid may not exceed EUR 2 980,62 per tonne. The additional aid shall be granted for up to 10 tonnes each year.

*Article 29***Exemption of tobacco from customs duties**

1. No customs duties shall be applied to direct imports into the Canary Islands of raw and semi-manufactured tobacco falling, respectively, within:

- (a) CN code 2401; and
- (b) the following subheadings:
  - 2401 10 Tobacco, not stemmed/stripped,
  - 2401 20 Tobacco, partly or wholly stemmed/stripped,
  - ex 2401 20 Outer coverings for cigars presented on supports, in reels for the manufacture of tobacco,
  - 2401 30 Tobacco waste,
  - ex 2402 10 Unfinished cigars without wrapping,

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- ex 2403 10 Cigarette rag (finished mixtures of tobacco for the manufacture of cigarettes, cigars, cheroots and cigarillos),
- ex 2403 91 Homogenised or reconstituted tobacco, whether or not put up in sheets or strips,
- ex 2403 99 Expanded tobacco.

The exemption provided for in the first subparagraph is granted by means of the certificates referred to in Article 12.

This exemption applies to the products referred to in the first subparagraph, meant to be processed in the Canary Islands in order to produce manufactured products ready for smoking, subject to an annual import limit of 20 000 tonnes of raw stripped tobacco equivalent.

2. The Commission shall adopt implementing acts regarding the measures necessary to implement paragraph 1 and more specifically the measures for introducing the exemption from import duties in respect of tobacco in the Canary Islands. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

## CHAPTER VI

**FINANCIAL PROVISIONS***Article 30***Financial resources**

1. The measures provided for in this Regulation shall constitute intervention intended to stabilise the agricultural markets within the meaning of Article 3(1)(b) of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy <sup>(1)</sup>, with the exception of the measures provided for in:

- (a) Article 22; and
- (b) Article 24, from the date of application of the multiannual financial framework for the years 2014-2020.

2. In respect of each financial year, the Union shall finance the measures provided for in Chapters III and IV, up to an annual sum equivalent to:

- in the French overseas departments: EUR 278,41 million
- Azores and Madeira: EUR 106,21 million
- Canary Islands: EUR 268,42 million

3. The sums allocated for each financial year to finance the measures provided for in Chapter III may not exceed the following amounts:

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

**▼B**

- in the French overseas departments: EUR 26,9 million
- Azores and Madeira: EUR 21,2 million
- Canary Islands: EUR 72,7 million

The Commission shall adopt implementing acts establishing the requirements in accordance with which Member States may amend the allocation of resources allocated each year to the various products benefiting from the specific supply arrangements. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

4. The Commission shall be empowered to adopt delegated acts, in accordance with Article 33, concerning the conditions for determining the annual maximum amount which may be allocated to measures for financing studies, demonstration projects, training and technical assistance, provided that such allocation is reasonable and proportionate.

5. For the financial year 2013, the Union shall grant an additional financing for the banana sector of the outermost regions up to the maximum amounts as follows:

- in the French overseas departments: EUR 18,52 million
- Azores and Madeira: EUR 1,24 million
- Canary Islands: EUR 20,24 million

## CHAPTER VII

**GENERAL AND FINAL PROVISIONS***Article 31***National measures**

Member States shall take the measures necessary to ensure compliance with this Regulation, particularly as regards checks and administrative penalties, and shall inform the Commission thereof.

*Article 32***Communications and reports**

1. Member States shall communicate to the Commission not later than 15 February each year the appropriations made available to them which they intend to spend in the following year on implementation of the forecast supply balance and for each measure promoting local agricultural production included in the POSEI programmes.

2. Member States shall submit to the Commission, not later than 30 September each year, a report on the implementation of the measures provided for in this Regulation over the previous year.

3. By 30 June 2015, and thereafter every five years, the Commission shall submit a general report to the European Parliament and to the Council showing the impact of the action taken under this Regulation, including in the banana and milk sectors, accompanied, if applicable, by appropriate proposals.

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4. The Commission shall include a specific chapter in the analyses, studies and assessments it carries out in the context of trade agreements and the common agricultural policy for any topic in which the outermost regions have a particular interest.

*Article 33***Exercise of the delegation**

1. The power to adopt delegated acts shall be conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in the second subparagraph of Article 12(2), the third subparagraph of Article 19(4), Article 21(3), the first subparagraph of Article 26(4), the second subparagraph of Article 27(2) and Article 30(4) shall be conferred on the Commission for a period of five years from 21 March 2013. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in the second subparagraph of Article 12(2), the third subparagraph of Article 19(4), Article 21(3), the first subparagraph of Article 26(4), the second subparagraph of Article 27(2) and Article 30(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision to revoke in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. The delegated acts adopted pursuant to the second subparagraph of Article 12(2), the third subparagraph of Article 19(4), Article 21(3), the first subparagraph of Article 26(4), the second subparagraph of Article 27(2) and Article 30(4) shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they do not intend to raise any objections. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

*Article 34***Committee procedure**

1. The Commission shall be assisted by the Management Committee for Direct Payments established by Article 141 of Regulation (EC) No 73/2009, except for the implementation of Article 24 of this Regulation, for which the Commission shall be assisted by the Standing Committee on Plant Health established by Council Decision 76/894/EEC <sup>(1)</sup>. Those Committees are committees within the meaning of Regulation (EU) No 182/2011.

<sup>(1)</sup> OJ L 340, 9.12.1976, p. 25.

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

*Article 35***Review**

The Commission shall review these arrangements before the end of 2013, in view of their overall effectiveness and the new CAP policy framework, and if necessary come forward with appropriate proposals for a revised POSEI scheme.

*Article 36***Repeal**

Regulation (EC) No 247/2006 is hereby repealed.

References made to the repealed Regulation shall be construed as being made to this Regulation and shall be read in accordance with the correlation table set out in the Annex.

*Article 37***Entry into force**

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

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



## ANNEX

## Correlation table

Regulation (EC) No 247/2006	This Regulation
Article 1	Article 1
Article 2	Article 9
Article 3(1) and (2)	Article 10(1) and (2)
—	Article 10(3)
—	Article 10(4)
Article 3(3)	Article 11
Article 3(4)	Article 13
Article 4(1) and (2)	Article 14(1) and (2)
—	Article 14(3)
—	Article 14(4)
Article 4(3)	Article 14(5)
Article 5	Article 15
Article 6	Article 16
Article 7	Article 17
Article 8 last sentence	Article 12(3)
Article 9(1) and Article 10	Article 19(1)
Article 9(2) and (3)	Article 3
Article 11	Article 4
Article 12(a), (b) and (c)	Article 19(2)(a), (b) and (c)
Article 12(d), (e), (f), (g)	Article 5
Article 13	Article 8 second paragraph
Article 14	Article 21
Article 15	Article 22
Article 16	Article 23
Article 17	Article 24
Article 18	Article 25
Article 19	Article 26
Article 20	Article 27

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Regulation (EC) No 247/2006	This Regulation
Article 21	Article 28
Article 22	Article 29
Article 23	Article 30
Article 24	Article 6
Article 27	Article 31
Article 28	Article 32
Article 29	Article 36
Article 33	Article 37