

Commission Regulation (EC) No 793/2006 of 12 April 2006 laying down certain detailed rules for applying Council Regulation (EC) 247/2006 laying down specific measures for agriculture in the outermost regions of the Union (repealed)

TITLE II

SPECIFIC SUPPLY ARRANGEMENTS

CHAPTER IV

Common provisions

Article 8

Passing on the advantage to the end#user

- 1 For the purposes of applying this Title:
 - a the ‘advantage’ referred to in Article 3(4) of Regulation (EC) No 247/2006 means either the exemption from customs duties or the grant of Community aid provided for in that Regulation;
 - b ‘end#user’ means
 - (i) in the case of products for direct consumption: the consumer;
 - (ii) in the case of products for the processing or packaging industry which are intended for human consumption:
 - the final processor or packager, for the part of the aid intended to compensate for remoteness, insularity and distant location,
 - the consumer, for the additional part of the aid intended to take account of export prices;
 - (iii) in the case of products for the processing or packaging industry for use as animal feed and products for use as agricultural inputs: the farmer.

2 The competent authorities shall take all appropriate steps to check that the advantage is actually passed on to the end#user. In doing so they may assess the trading margins and prices applied by the various operators concerned.

The measures referred to in the first subparagraph, and in particular the control points used to determine whether the aid has been passed on, and any amendments made, shall be notified to the Commission in the context of the report provided for in Article 48.

Article 9

Register of operators

1 Import licences, exemption certificates and aid certificates shall be issued only to operators entered in a register kept by the competent authorities (hereinafter referred to as the register).

- 2 Any operator established in the Community may apply to be entered in the register. Entry in the register shall be subject to the following conditions:
- a operators shall possess the means, structures and legal authorisations required to carry on their activities and shall, in particular, have duly complied with their obligations regarding business accounting and taxation;
 - b operators shall be able to guarantee that their activities are carried on in the outermost region concerned;
 - c in the context of the specific supply arrangements for the outermost region concerned, and in compliance with the objectives of those arrangements, operators shall undertake to:
 - (i) communicate to the competent authorities, at their request, all relevant information about their commercial activities, particularly regarding the prices and profit margins they practise,
 - (ii) operate exclusively in their own name and on their own account,
 - (iii) submit licence and certificate applications commensurate with their real capacity to dispose of the products concerned, such capacity being proven by reference to objective factors,
 - (iv) refrain from acting in any way likely to create artificial shortages of products and from marketing the available products at artificially low prices,
 - (v) ensure to the satisfaction of the competent authorities that, when the agricultural products are disposed of in the outermost region concerned, the advantage is passed on to the end#user.

3 Operators intending to dispatch or export processed or unprocessed products under the conditions referred to in Article 16 shall, at the time of applying for entry in the register or later, declare their intention to engage in this activity and indicate the location of the packaging plant where applicable.

4 Processors intending to export or dispatch processed products under the conditions referred to in Article 16 or 18 shall, at the time of applying for entry in the register or later, declare their intention to engage in this activity, indicate the location of the processing plant and, where applicable, provide analytical lists of the processed products.

Article 10

Documents to be presented by operators and validity of licences and certificates

1 Subject to Articles 4(5), 5(6), 7(7), 14 and 15, the competent authorities shall accept the import-licence, exemption-certificate or aid-certificate application presented by operators for each consignment, provided that they are accompanied by the original or a certified copy of the purchase invoice and the original or a certified copy of the following documents:

- a the bill of lading or airway bill;
- b the certificate of origin for products originating in third countries or, for products originating in the Community, the T2L document, or the T2LF document under the terms of Article 315(1) and (2) of Commission Regulation (EEC) No 2454/93⁽¹⁾.

The purchase invoice, bill of lading or airway bill must be drawn up in the name of the applicant.

2 The period of validity of licences and certificates shall be fixed on the basis of the transportation time. This time may be extended by the competent authority in special cases where serious and unforeseeable difficulties affect the transportation time, but may not exceed two months from the date on which the licence or certificate was issued.

Article 11

Presentation of licences, certificates and goods; non-transferability of licences and certificates

1 For products covered by the specific supply arrangements, import licences, exemption certificates and aid certificates shall be presented to the customs authorities with a view to completing the customs formalities within no more than 15 working days from the date of unloading the goods. The competent authorities may reduce this maximum time.

In the case of products which have been the subject of inward processing or customs warehousing in the Azores, Madeira and the Canary Islands and subsequently released into free circulation there, the maximum period of 15 days shall start to run on the date on which the licences or certificates referred to in the first subparagraph are applied for.

2 The goods shall be presented in bulk or in separate lots corresponding to the licence or certificate presented.

The licences and certificates shall be used for a single operation only when completing the customs formalities.

3 Licences and certificates shall not be transferable.

Article 12

Quality of products

Only products of sound and fair marketable quality, within the meaning of Article 21(1) of Regulation (EC) No 800/1999, may qualify for the specific supply arrangements.

Conformity of the products with the requirements laid down in the first paragraph shall be examined no later than the stage of first marketing, in accordance with the standards or practices in force in the Community.

Where a product is considered not to meet the requirements laid down in the first paragraph, its entitlement under the specific supply arrangements shall be withdrawn and the corresponding quantity shall be reattributed to the forecast supply balance. Where aid has been granted in accordance with Article 7, the aid shall be reimbursed. Where imports have been made in accordance with Articles 4 or 5, the import duty shall be paid, unless the party concerned supplies proof that the products have been re-exported or destroyed.

Article 13

Lodging of security

No security shall be required when applying for import licences, exemption certificates or aid certificates.

However, in special cases and to the extent necessary to ensure the proper application of this Regulation, the competent authorities may require a security to be lodged equal to the amount of the advantage accorded. In such cases, Article 35(1) and (4) of Regulation (EC) No 1291/2000 shall apply.

Article 14

Significant increases in applications for licences and certificates

1 If the state of execution of a forecast supply balance indicates a significant increase in applications for import licences, exemption certificates or aid certificates for a given product which might jeopardise achievement of one or more of the objectives of the specific supply arrangements, the Member State shall take all necessary steps to ensure that the outermost region concerned is supplied with essential products, taking account of available supply and the requirements of the priority sectors.

2 In the event of restrictions on the issue of licences and certificates, the competent authorities shall apply to all pending applications a uniform reduction percentage.

3 Paragraphs 1 and 2 shall apply after the authorities concerned have been consulted.

Article 15

Fixing a maximum quantity per licence or certificate application

In so far as is strictly necessary to avoid disturbances on the market in the outermost region concerned, or the pursuit of speculative actions likely to be prejudicial to the smooth functioning of the specific supply arrangements, the competent authorities shall fix a maximum quantity per licence or certificate application.

The competent authorities shall notify the Commission immediately of the instances in which this Article is applied.

(1) OJ L 253, 11.10.1993, p. 1.