

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Council Regulation (EC) 247/2006 laying down specific measures for agriculture in the outermost regions of the Union (repealed)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 I

### PURPOSE AND DEFINITIONS

#### *Article 1*

##### **Purpose**

This Regulation lays down detailed rules for implementing Regulation (EC) No 247/2006, particularly as regards the programmes relating to specific supply arrangements for the outermost regions, measures to support local production in those regions and accompanying measures.

#### *Article 2*

##### **Definitions**

For the purposes of this Regulation:

- (a) 'outermost regions' means the regions referred to in Article 299(2) of the Treaty, each of the French overseas departments being considered as a separate outermost region;
- (b) 'competent authorities' means the authorities appointed to implement this Regulation by the Member State of which the outermost region concerned is part;
- (c) 'programme' means the overall programme referred to in Article 24 of Regulation (EC) No 247/2006.

## TITLE II

### SPECIFIC SUPPLY ARRANGEMENTS

#### CHAPTER I

##### **Forecast supply balances**

#### *Article 3*

##### **Purpose of forecast supply balances and amendments thereto**

The forecast supply balances provided for in Article 2 of Regulation (EC) No 247/2006 shall state the quantities needed to meet the supply requirements of each outermost region every calendar year. They may be amended in accordance with Article 49 of this Regulation.

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## CHAPTER II

### Supplies through imports from third countries

#### Section 1

#### Importation of products subject to the presentation of an import licence

##### Article 4

#### Import licence

1 Products subject to the presentation of an import licence shall be exempt from import duties, as provided for in Article 3(1) of Regulation (EC) No 247/2006, on production of that licence.

2 Import licences shall be drawn up in accordance with the specimen set out in Annex I to Regulation (EC) No 1291/2000.

3 Box 20 of import licence applications and import licences themselves shall contain one of the entries listed in Annex I(A) and one of the entries listed in Annex I(B).

4 Box 12 of import licences shall show the last day of validity.

5 The competent authorities shall issue import licences at the request of the parties concerned, subject to the limits of the forecast supply balances.

6 Import duties shall be levied on quantities which exceed those stated on the import licence. The tolerance of 5 % provided for in Article 8(4) of Regulation (EC) No 1291/2000 shall be allowed, provided that the import duties relating thereto are paid.

#### Section 2

#### Importation of products not subject to the presentation of an import licence

##### Article 5

#### Exemption certificate

1 Products not subject to the presentation of an import licence shall be exempt from import duties, as provided for in Article 3(1) of Regulation (EC) No 247/2006, on production of an exemption certificate.

2 Exemption certificates shall be drawn up on the basis of the specimen import licence set out in Annex I to Regulation (EC) No 1291/2000.

Articles 8(5), 13, 15, 17, 18, 21, 23, 26, 27, 29 to 33 and 36 to 41 of Regulation (EC) No 1291/2000 shall apply, *mutatis mutandis*, subject to this Regulation.

3 One of the entries listed in Annex I(C) shall be printed or stamped in the upper left-hand box of the certificate.

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4 Box 20 of exemption certificate applications and of exemption certificates themselves shall contain one of the entries listed in Annex I(D) and one of the entries listed in Annex I(B).

5 Box 12 of exemption certificates shall show the last day of validity.

6 The competent authorities shall issue exemption certificates at the request of the parties concerned, subject to the limits of the forecast supply balances.

## CHAPTER III

### Community supply

#### Article 6

#### Fixing and granting of aid

1 For the purposes of applying Article 3(2) of Regulation (EC) No 247/2006, Member States shall determine within the context of the programme the amount of aid to be granted in order to compensate for remoteness, insularity and distant location, taking into account:

- a as regards specific additional transport costs, the intermediate reloading costs involved in supplying goods to the outermost regions concerned;
- b as regards the specific additional costs involved in local processing, the small size of the market, the need to guarantee security of supply and the specific quality requirements for goods in the outermost regions concerned.

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

No aid shall be granted for the supply of C sugar.

#### Article 7

#### Aid certificate and payment

1 Aid shall be paid on presentation of a certificate, hereinafter referred to as an 'aid certificate', which has been fully utilised.

Presenting an aid certificate to the authorities responsible for making payments shall be tantamount to applying for the aid. Except in cases of *force majeure* or climatic aberrations, certificates must be presented within 30 days of the date on which they are charged. Where that time limit is overrun, the aid shall be reduced by 5 % per day of delay.

The aid shall be paid by the competent authorities not later than 90 days after the date on which the utilised aid certificate is lodged, except in one of the following cases:

- a *force majeure* or climatic aberration;
- b where an administrative enquiry has been opened concerning entitlement to the aid; in such cases, payment shall take place only after entitlement has been recognised.

2 Aid certificates shall be drawn up on the basis of the specimen import licence set out in Annex I to Regulation (EC) No 1291/2000.

Articles 8(5), 13, 15, 17, 18, 21, 23, 26, 27, 29 to 33 and 36 to 41 of Regulation (EC) No 1291/2000 shall apply, *mutatis mutandis*, subject to this Regulation.

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3 One of the entries listed in Annex I(E) shall be printed or stamped in the upper left-hand box of the certificate.

Boxes 7 and 8 of the certificate shall be struck out.

4 Box 20 of aid certificate applications and of aid certificates themselves shall contain one of the entries listed in Annex I(F) and one of the entries listed in Annex I(G).

5 Box 12 of aid certificates shall show the last day of validity.

6 The amount of the aid applicable shall be that in force on the day on which the application for the aid certificate was lodged.

7 The competent authorities shall issue aid certificates at the request of the parties concerned, subject to the limits of the forecast supply balances.

## 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.

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## 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

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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<sup>(1)</sup>.

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

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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.

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## CHAPTER V

### Export and dispatch

#### Article 16

#### Conditions of export or dispatch

1 The export and dispatch of unprocessed products which have benefited from the specific supply arrangements, or packaged or processed products containing products which have benefited from the specific supply arrangements, shall be subject to the requirements laid down in paragraphs 2 to 6.

2 For exported products, box 44 of the export declaration shall contain one of the entries listed in Annex I(H).

3 Quantities of products which have been exempt from import duties and which are exported shall be reattributed to the forecast supply balance.

Such products shall not be eligible for export refunds.

4 Quantities of products which have been exempt from import duties and are dispatched shall be reattributed to the forecast supply balance and the amount of the *erga omnes* import duties applicable on the day of importation shall be paid by the consignor by the time of dispatch at the latest.

Such products may not be dispatched until the payment referred to in the first subparagraph has taken place.

Where it is impossible to establish the day of importation, products shall be considered to have been imported on the day on which the highest *erga omnes* import duties applied during the six-month period preceding the day of dispatch.

5 Quantities of products which have benefited from aid and are exported or dispatched shall be reattributed to the forecast supply balance and the aid granted shall be reimbursed by the exporter or consignor by the time of export or dispatch at the latest.

Those products may not be dispatched or exported until the reimbursement referred to in the first subparagraph has been made.

Where it is impossible to establish the amount of aid granted, the products shall be considered to have received the highest rate of aid fixed by the Community for such products during the six-month period preceding the submission of the application for export or dispatch.

Such products may benefit from an export refund, provided that the criteria for granting such a refund are met.

6 The competent authorities shall authorise the export or dispatch of quantities of processed products other than those referred to in paragraphs 3, 4 and 5 of this Article and in Article 18 only where the processor or exporter certifies that the products concerned do not contain raw materials imported or introduced under the specific supply arrangements.

The competent authorities shall authorise the re-export or redispach of unprocessed products or packaged products other than those referred to in paragraphs 3, 4 and 5 of



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this Article only where the exporter certifies that those products have not benefited from specific supply arrangements.

The competent authorities shall carry out the necessary checks to ensure the accuracy of the certificates referred to in the first and second subparagraphs and shall, if necessary, recover the advantage.

#### Article 17

### Export licence and significant increase in exports

1 Export of the following products shall not be subject to the presentation of an export licence:

- a the products referred to in Article 16(3);
- b the products referred to in Article 16(5) which do not fulfil the conditions for the grant of an export refund.

2 If there is a risk that regular supplies to the outermost regions might be jeopardised by a significant increase in exports of the products referred to in Article 16(1), the competent authorities may restrict quantities in such a way as to ensure that priority needs in the sectors concerned are met. This quantitative restriction shall be applied in a non-discriminatory manner.

#### Article 18

### Traditional exports, exports in the context of regional trade, and traditional dispatches of processed products

1 Processors who have declared, in accordance with Article 9(4), that they intend to export in the context of traditional trade flows or regional trade, or to dispatch in the context of traditional trade flows, as referred to in Article 4(2) of Regulation (EC) No 247/2006, processed products containing raw materials which have benefited from specific supply arrangements may do so within the limits of the annual quantities indicated in Annexes II to V. The competent authorities shall deliver the requisite authorisations in such a way as to ensure that transactions do not exceed those annual quantities.

‘Regional trade’ means the trade carried on by each French overseas department, by the Azores and Madeira and by the Canary Islands in the form of supplies to the third countries referred to in Annex VI.

For exports within the framework of regional trade, exporters shall submit the documents specified in Article 16 of Regulation (EC) No 800/1999 to the competent authorities within the time limits laid down in Article 49 of that Regulation. Where documents have not been submitted within the time limits provided, the competent authorities shall recover the advantage granted under the specific supply arrangements.

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.

2 Processing operations which may give rise to traditional or regional trade exports or traditional dispatches in accordance with paragraph 1 shall meet, *mutatis mutandis*, the processing conditions applicable under inward processing arrangements and the procedure for

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processing under customs control provided for in Council Regulation (EEC) No 2913/92<sup>(2)</sup> and Regulation (EEC) No 2454/93, with the exception of all usual forms of handling.

3 The export of products referred to in this Article shall not be subject to the presentation of an export licence.

4 For exported products referred to in this Article, box 44 of the export declaration shall contain one of the entries listed in Annex I(I).

## CHAPTER VI

### Checks and penalties

#### Article 19

##### Checks

1 The administrative checks carried out on the import, entry, export and dispatch of agricultural products shall be exhaustive and shall involve cross-checks with the documents referred to in Article 10(1).

2 The physical checks carried out in the outermost region concerned on the import, entry, export and dispatch of agricultural products shall involve a representative sample amounting to at least 5 % of the licences and certificates presented in accordance with Article 11.

Physical checks shall be carried out, *mutatis mutandis*, in accordance with the procedures laid down in Council Regulation (EEC) No 386/90<sup>(3)</sup>.

In special cases the Commission may request that physical checks cover different percentages.

#### Article 20

##### Penalties

1 Except in cases of *force majeure* or climatic aberrations, if an operator fails to comply with the undertakings given under Article 9, and without prejudice to any penalties applicable under national law, the competent authorities shall:

- a recover the advantage granted from the holder of the import licence, exemption certificate or aid certificate;
- b temporarily suspend or revoke the operator's registration, depending on the seriousness of the infringement.

The advantage referred to in the first indent shall be equal to the amount of the exemption from import duties or to the amount of the aid determined in accordance with Article 16(4) and (5).

2 Except in cases of *force majeure* or climatic aberrations, where holders of a licence or certificate do not carry out the planned importation or entry, their entitlement to apply for licences and certificates shall be suspended 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 authorities.

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3 The competent authorities 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 licences and certificates issued or recovery of the advantage.

## CHAPTER VII

### National provisions

#### Article 21

#### National management and monitoring rules

The competent authorities shall adopt the additional rules needed to manage and monitor the specific supply arrangements in real time.

They shall notify the Commission of any measures they intend to implement pursuant to the first paragraph, prior to the entry into force of those measures.

## TITLE III

### MEASURES TO ASSIST LOCAL PRODUCTS

#### CHAPTER I

#### Marketing outside the production region

#### Article 22

#### Amount of aid

1 The amount of aid granted under Title III of Regulation (EC) No 247/2006 for marketing products of the outermost regions elsewhere in the Community shall not exceed 10 % of the value of the production marketed, delivered to destination zone, calculated in accordance with paragraph 2.

This limit shall be raised to 13 % of the value of the production marketed where the contractor for the producers is a producer association, union or organisation.

2 For the purpose of calculating the aid, the value of marketed production, delivered to destination zone, shall be evaluated on the basis of the annual contract (where applicable), the particular transport documents and any other supporting documents submitted to justify the application for payment.

The value of the marketed production to be taken into account shall be that of delivery to the first port or airport of unloading.

The competent authorities may request any information or additional supporting documentation appropriate for calculating the aid.

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3 The conditions for granting aid, the products and the amounts concerned shall be specified in the programmes approved in accordance with Article 24(2) of Regulation (EC) No 247/2006.

#### *Article 23*

#### **Tomatoes**

For tomatoes from the Canary Islands falling within CN code 0702 00 the amount of aid granted under Title III of Regulation (EC) No 247/2006 shall be EUR 3,6/100 kg, up to a limit of 250 000 tonnes per year.

#### *Article 24*

#### **Rice**

The maximum quantity of rice harvested in French Guiana which may be eligible for marketing support in Guadeloupe, Martinique and the rest of the Community, in accordance with Title III of Regulation (EC) No 247/2006, shall not exceed 12 000 tonnes per year of milled rice equivalent.

For marketing in the rest of the Community outside Guadeloupe and Martinique, this amount may not exceed 4 000 tonnes per year.

### CHAPTER II

#### **Aid applications**

#### *Article 25*

#### **Submission of applications**

Aid applications for a calendar year shall be submitted to the office designated by the competent authorities of the Member State in accordance with the specimens drawn up by the latter and within the periods they have laid down. Those periods shall be fixed so as to allow time for the necessary on-the-spot checks and shall not run beyond 28 February of the following calendar year.

#### *Article 26*

#### **Correction of manifest errors**

An aid application may be rectified at any time after its submission where a manifest error is recognised by the competent authority.

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## Article 27

### Late submission of applications

Except in cases of *force majeure* and exceptional circumstances, submission of an aid application after the time limit laid down in accordance with Article 25 shall lead to a 1 % reduction per working day in the amounts to which the grower would have been entitled if the aid application had been lodged within the time limit. If the delay amounts to more than 25 calendar days, the application shall be considered inadmissible.

## Article 28

### Withdrawal of aid applications

1 An aid application may be totally or partially withdrawn at any time.

However, where the competent authority has already informed the grower of irregularities in the aid application or has given notice to the grower of its intention to carry out an on-the-spot check and this check reveals irregularities, withdrawal shall not be authorised in respect of the parts of the aid application affected by those irregularities.

2 Withdrawal under paragraph 1 shall return the claimant to the situation prior to submitting the aid application or part of the aid application in question.

## Article 29

### Aid payments

After verifying the aid applications and relevant supporting documents, and calculating the amounts to be granted under the Community support programmes provided for in Article 9 of Regulation (EC) No 247/2006, the competent authorities shall pay the aid for a calendar year as follows:

- in the case of the specific supply arrangements, throughout the year,
- in the case of direct payments, in accordance with Article 28 of Council Regulation (EC) No 1782/2003<sup>(4)</sup>,
- in the case of other payments, during the period beginning on 16 October of the current year and ending on 30 June of the following year.

## CHAPTER III

### Checks

## Article 30

### General principles

Verification shall be by administrative and on-the-spot checks.

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Administrative checks shall be exhaustive and shall include cross-checks with, *inter alia*, data from the integrated administration and control system provided for in Chapter 4 of Title II of Regulation (EC) No 1782/2003.

On the basis of a risk analysis in accordance with Article 32(1) of this Regulation, the competent authorities shall perform on-the-spot checks by sampling at least 5 % of aid applications. The sample must also represent at least 5 % of the amounts covered by the aid.

In all appropriate cases, Member States shall make use of the integrated administration and control system.

### *Article 31*

#### **On-the-spot checks**

1 On-the-spot checks shall be unannounced. However, provided that the purpose of the check is not compromised, advance notice limited to the strict minimum necessary may be given. Such notice shall not exceed 48 hours, except in duly justified cases.

2 Where applicable, the on-the-spot checks provided for in this Chapter shall be carried out in conjunction with any other checks provided for by Community legislation.

3 The aid application or applications concerned shall be rejected if growers or their representatives prevent an on-the-spot check from being carried out.

### *Article 32*

#### **Selection of growers to be subjected to on-the-spot checks**

1 Growers shall be selected to undergo on-the-spot checks by the competent authority on the basis of a risk analysis and the representativeness of the aid applications submitted. The risk analysis shall take account of:

- a the amount of aid;
- b the number of agricultural parcels, the surface area and the number of animals covered by the aid application, or the quantity produced, transported, processed or marketed;
- c changes on the previous year;
- d the findings of checks performed in the preceding years;
- e other parameters to be defined by the Member States.

To provide the element of representativeness, Member States shall randomly select between 20 and 25 % of the minimum number of growers to be subjected to on-the-spot checks.

2 The competent authority shall keep records of the reasons why specific growers were selected for on-the-spot checks. The inspector performing the on-the-spot check shall be informed of those reasons before beginning the check.

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### *Article 33*

#### **Inspection report**

1 Every on-the-spot check shall be the subject of an inspection report relating the details of the checks carried out. Reports shall indicate in particular:

- a the aid schemes and applications checked;
- b the persons present;
- c the agricultural parcels checked, the agricultural parcels measured, the results of the measurements per parcel measured and the measuring methods used;
- d the number and type of animals found and, where applicable, the ear tag numbers, entries in the register and in the computerised database for bovine animals and any supporting documents checked, the results of the checks and, where applicable, particular observations in respect of individual animals or their identification code;
- e the quantities produced, transported, processed or marketed which are covered by the check;
- f whether advance notice was given to the grower of the visit and, if so, how much;
- g any further control measures carried out.

2 Growers or their representatives shall be given the opportunity to sign the report to attest their presence at the check and to add observations. Where irregularities are found the grower shall receive a copy of the inspection report.

Where the on-the-spot check is carried out by remote-sensing, the Member States may decide not to give the growers or their representatives the opportunity to sign the inspection report if no irregularities are revealed during the check by remote-sensing.

## CHAPTER IV

### **Reductions and exclusions, and undue payments**

#### *Article 34*

##### **Reductions and exclusions**

In the event of a discrepancy between the information declared in the context of aid applications and the findings of the inspections referred to in Chapter III, the Member State shall apply reductions and exclusions to the aid. Those reductions and exclusions shall be effective and proportionate and shall act as a deterrent.

#### *Article 35*

##### **Exceptions to the application of reductions and exclusions**

1 The reductions and exclusions provided for in Article 34 shall not apply where the beneficiary submitted factually correct information or can otherwise show that he or she is not at fault.

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2 The reductions and exclusions shall not apply with regard to those parts of the aid application which the beneficiary informs the competent authority in writing are incorrect or have become incorrect since it was lodged, provided that the competent authority has not already informed the beneficiary of its intention to carry out an on-the-spot check or of any irregularity in the application.

On the basis of the information given by the beneficiary as referred to in the first subparagraph, the aid application shall be rectified to reflect the actual situation.

#### *Article 36*

### **Recovery of undue payments and penalties**

1 In the event of undue payment, Article 73 of Commission Regulation (EC) No 796/2004<sup>(5)</sup> shall apply *mutatis mutandis*.

2 Where the undue payment has been made as a result of a false declaration, false documents or serious negligence on the part of the beneficiary, a penalty shall be imposed equal to the amount unduly paid, with interest calculated in accordance with Article 73(3) of Regulation (EC) No 796/2004.

#### *Article 37*

### **Force majeure and exceptional circumstances**

Cases of *force majeure* or exceptional circumstances within the meaning of Article 40(4) of Regulation (EC) No 1782/2003 shall be notified to the authority in accordance with Article 72 of Regulation (EC) No 796/2004.

## TITLE IV

### ACCOMPANYING MEASURES

#### CHAPTER I

### **Graphic symbol**

#### *Article 38*

### **Use of the graphic symbol**

1 The graphic symbol provided for in Article 14 of Regulation (EC) No 247/2006 shall be used only with a view to increasing awareness and consumption of processed or unprocessed agricultural products specific to the outermost regions which satisfy requirements laid down on the initiative of trade organisations representative of operators in the abovementioned regions.

The graphic symbol shall consist of the symbol appearing in Annex VII to this Regulation.



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*Status: Point in time view as at 03/06/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 793/2006 (repealed). (See end of Document for details)*

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2 The requirements referred to in the first subparagraph of paragraph 1 shall concern quality standards or compliance with cultivation, production or manufacturing techniques, and presentation and packaging standards.

These requirements shall be defined by reference to Community rules or, in the absence of such rules, to international standards or, where necessary, shall be adopted specifically in respect of products from the outermost regions on a proposal from the representative trade organisations.

#### *Article 39*

### **Right to use the graphic symbol**

1 The right to use the graphic symbol shall be granted by the competent authorities in the Member States of production, or by a body authorised by them for this purpose, in respect of each product for which the requirements referred to in Article 38 have been adopted, depending on the nature of the product, to operators in one of the following categories:

- a individual producers or producer organisations or groups;
- b traders who package the product with the intention of marketing it;
- c manufacturers of processed products who are established in the territory of their outermost region.

2 The right laid down in paragraph 1 shall be conferred by the grant of approval in respect of one or more marketing years.

#### *Article 40*

### **Approval**

1 The approval provided for in Article 39(2) shall be granted, on request, to the operators referred to in paragraph 1 of that Article who, if need be, have the plant or technical equipment required to produce or manufacture the product in question, in compliance with the requirements laid down in Article 38, and who undertake:

- a as relevant, to produce, package or manufacture products which meet those requirements;
- b to keep accounts which will make it possible to monitor, in particular, the production, packaging or manufacture of the product which is eligible for the graphic symbol,
- c to comply with all checks and verifications requested by the competent authorities.

2 Approval shall be withdrawn where the competent authority establishes that the approved operator has failed to fulfil the requirements relating to the product or an obligation arising from the undertakings provided for in paragraph 1. Withdrawal of approval shall be temporary or permanent depending on the seriousness of the failure established.

#### *Article 41*

### **Checking of conditions for use of graphic symbol**

The competent authorities shall regularly check that the approved operators fulfil the conditions for the use of the graphic symbol and the undertakings provided for in Article 40.

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*Status: Point in time view as at 03/06/2006.*

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The competent authorities may delegate the performance of those checks to qualified bodies possessing the requisite technical competence and impartiality. In such cases, the bodies shall report regularly to them on the performance of their inspections.

#### *Article 42*

##### **National measures**

1 The competent authorities shall adopt any additional administrative measures necessary to manage the graphic symbol scheme. These measures may include, in particular, charging approved operators a fee to cover printing of the graphic symbol, and administrative and inspection costs.

2 The competent authorities shall inform the Commission forthwith of the services or, as appropriate, bodies responsible for granting the approval provided for in Article 39(2) and for carrying out the inspections required under this Chapter. No later than three months after the entry into force of this Regulation, they shall also notify, prior to adopting them, the draft additional measures referred to in paragraph 1 of this Article.

#### *Article 43*

##### **Misuse of and publicity for the graphic symbol**

Member States shall apply the relevant existing national provisions to prevent and, where necessary, penalise cases of misuse of the graphic symbol or adopt the measures required to that end. They shall notify the Commission of the measures applicable within six months of the entry into force of this Regulation.

Member States shall provide appropriate publicity for the graphic symbol and for the products for which it may be used.

#### *Article 44*

##### **Conditions for reproduction and use**

The graphic symbol shall be reproduced and used in compliance with the technical rules laid down in Annex VII.

## CHAPTER II

### **Importation of tobacco into the Canary Islands**

#### *Article 45*

##### **Exemption of tobacco from customs duties**

1 The annual period for calculating the maximum annual quantity referred to in Article 22(1) of Regulation (EC) No 247/2006 shall run from 1 January of any year to 31 December of the same year.

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*Status: Point in time view as at 03/06/2006.*

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2 For the purposes of applying Article 22 of Regulation (EC) No 247/2006, ‘local manufacture of tobacco products’ means any operation carried out in the Canary Islands aimed at processing the products listed in Annex VIII to this Regulation into manufactured products ready to smoke.

3 The quantities of unmanufactured and semi-manufactured tobacco referred to in Article 22(1) of Regulation (EC) No 247/2006 shall be converted into quantities of unmanufactured stemmed/stripped tobacco on the basis of the coefficients of equivalence given in Annex VIII to this Regulation.

#### Article 46

### Conditions for exemption

1 Importation of the products listed in Annex VIII hereto shall be subject to the presentation of a certificate of exemption. Box 20 of applications for certificates and certificates themselves shall contain one of the entries listed in Annex I(J).

Except where otherwise provided in this Regulation, Articles 2, 5, 9 to 13, 15, 19 and 20 shall apply *mutatis mutandis*.

2 The competent authorities shall ensure that the products referred to in Annex VIII to this Regulation are used in compliance with the relevant Community rules, and in particular Articles 291 to 300 of Regulation (EEC) No 2454/93.

## TITLE V

### GENERAL AND FINAL PROVISIONS

#### Article 47

### Communications

1 As regards the specific supply arrangements, the competent authorities shall send to the Commission, no later than the 15th day of the month following the end of each quarter, the following data relating to the previous months of the reference calendar year, by product and CN code and, where applicable, by individual destination:

- a the quantities broken down according to whether they are imported from third countries or dispatched from the Community;
- b the amount of aid and the expenditure actually paid by product and, where applicable, by individual destination;
- c the quantities for which licences and certificates have not been utilised, broken down by category of licence or certificate;
- d any quantities re-exported or redispached under Article 16 and the unit amounts and totals of recovered aid;
- e any quantities re-exported or redispached after processing in accordance with Article 18;
- f transfers within an overall quantity for a category of products and amendments to the forecast supply balances during the period;
- g the available balance and the utilisation rate.

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*Status: Point in time view as at 03/06/2006.*

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The data provided for in the first subparagraph shall be supplied on the basis of the licences and certificates utilised.

2 As regards support for local production, the Member States shall notify the Commission:

- a not later than 31 March of each year, of the aid applications received and the amounts involved for the previous calendar year;
- b not later than 31 July of each year, of the aid applications definitively eligible and the amounts involved for the previous calendar year.

### *Article 48*

#### **Report**

1 The report provided for in Article 28(2) of Regulation (EC) No 247/2006 shall contain *inter alia*;

- a any significant changes in the socio-economic and agricultural environment;
- b a summary of the available physical and financial data on the implementation of each measure, followed by an analysis of the data and, where necessary, a presentation and analysis of the sector to which the measure relates;
- c the progress of the measures and priorities in relation to the specific and general objectives on the date of presentation of the report, using quantified indicators;
- d a brief account of any major problems encountered in managing and implementing the measures;
- e an examination of the results of all the measures, taking account of their reciprocal links;
- f for the specific supply arrangements:
  - data and an analysis relating to price trends and the manner in which the advantage granted was passed on, as well as the measures taken and the checks performed to ensure that it was passed on,
  - taking account of the other aid available, an analysis of the proportionality of the aid in relation to 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 and agricultural inputs, the additional costs of insularity and distant location;
- g an indication, based on objective indicators, of the extent to which the objectives assigned to each of the measures contained in the programme have been achieved;
- h data on the annual supply balance of the region concerned in terms of, *inter alia*, consumption, headage developments, production and trade;
- i data on the amounts actually granted for the implementation of programme measures on the basis of the criteria defined by the Member States, such as the number of eligible producers, the number of animals covered by the payment, the eligible surface area or the number of holdings concerned;
- j information on the financial implementation of each measure under the programme;
- k statistics on the checks carried out by the competent authorities and any penalties applied;
- l the comments of the Member State concerned on the implementation of the programme.

2 For 2006 the report shall contain an assessment of the impact, on stockfarming and on the agricultural economy in the region concerned, of the aid programme for traditional activities relating to the production of beef and veal, sheepmeat and goatmeat.

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*Status: Point in time view as at 03/06/2006.*

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## Article 49

### Amendments to programmes

1 Amendments to programmes approved under Article 24(2) of Regulation (EC) No 247/2006 shall be submitted to the Commission for approval.

However, such approval shall not be necessary for the following amendments:

- a in the case of forecast supply balances, Member States may amend the level of aid and the quantities of products which may be covered by the supply arrangements;
- b in the case of Community support programmes for local production, Member States may adjust by up to 20 % the financial allocation for each measure and the unit amount of aid above or below the amounts in force at the time when the request for amendment is presented.

2 Member States shall notify the Commission once a year of the planned amendments. However, Member States may notify amendments at any time in cases of *force majeure* or exceptional circumstances. If the Commission has no objections to the planned amendments, they shall apply from the first day of the second month following that in which they were notified.

## Article 50

### Financing of studies, demonstration projects, training or technical assistance measures

The amount required to finance studies, demonstration projects, training and technical assistance measures provided for in a programme approved under Article 24(2) of Regulation (EC) No 247/2006 for the purposes of implementing that programme may not exceed 1 % of the total amount of financing for the programme.

## Article 51

### Additional national measures

Member States shall take all the additional measures required to apply this Regulation.

## Article 52

### Reduction of advances

Without prejudice to the general rules on budgetary discipline, where the information transmitted by the Member States to the Commission under Articles 47 and 48 is incomplete or the time limit for transmitting that information has not been complied with, the Commission may reduce advances on entry in the accounts of agricultural expenditure on a temporary and flat-rate basis.

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*Status: Point in time view as at 03/06/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 793/2006 (repealed). (See end of Document for details)*

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## *l<sup>F1</sup> Article 52a*

### **Transitional measures**

1 The measures adopted to implement Regulations (EC) No 1452/2001, (EC) No 1453/2002 and (EC) No 1454/2001 which are valid beyond 31 December 2005 shall remain applicable until the date on which the Commission notifies the Member State concerned of its approval of the overall programme referred to in Article 24(1) of Regulation (EC) No 247/2006.

2 This Regulation shall cover applications which are lodged under the measures adopted to implement, in respect of 2006, Regulations (EC) No 1452/2001, (EC) No 1453/2001 and (EC) No 1454/2001 and are pending on the date of notification referred to in paragraph 1 of this Article, or are lodged after that date.]

#### **Textual Amendments**

- F1** Inserted by [Commission Regulation \(EC\) No 852/2006 of 9 June 2006 amending Regulation \(EC\) No 793/2006 laying down certain detailed rules for applying Council Regulation \(EC\) No 247/2006 laying down specific measures for agriculture in the outermost regions of the Union.](#)

## *Article 53*

### **Repeal**

Regulations (EEC) No 388/92, (EEC) No 2174/92, (EEC) No 2233/92, (EEC) No 2234/92, (EEC) No 2235/92, (EEC) No 2039/93, (EEC) No 2040/93, (EC) No 1418/96, (EC) No 2054/96, (EC) No 20/2002, (EC) No 1195/2002, (EC) No 43/2003, (EC) No 995/2003, (EC) No 14/2004 and (EC) No 188/2005 are hereby repealed.

References to the repealed Regulations shall be construed as references to this Regulation and are to be read in conjunction with the correlation table in Annex IX.

## *Article 54*

### **Entry into force**

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

It shall apply for each Member State concerned as from the date on which the Commission notifies its approval of the relevant Member State's programme, in accordance with Article 24(2) of Regulation (EC) No 247/2006.

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

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**Status:** Point in time view as at 03/06/2006.

**Changes to legislation:** There are currently no known outstanding effects for the  
Commission Regulation (EC) No 793/2006 (repealed). (See end of Document for details)

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- (1) OJ L 253, 11.10.1993, p. 1.
- (2) OJ L 302, 19.10.1992, p. 1.
- (3) OJ L 42, 16.2.1990, p. 6.
- (4) OJ L 270, 21.10.2003, p. 1.
- (5) OJ L 141, 30.4.2004, p. 18.

**Status:**

Point in time view as at 03/06/2006.

**Changes to legislation:**

There are currently no known outstanding effects for the Commission Regulation (EC) No 793/2006 (repealed).