

Commission Regulation (EC) No 408/2009 of 18 May 2009 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Regulation (EC) No 247/2006 laying down specific measures for agriculture in the outermost regions of the Union (repealed)

COMMISSION REGULATION (EC) No 408/2009

of 18 May 2009

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Regulation (EC) No 247/2006 laying down specific measures for agriculture in the outermost regions of the Union (repealed)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 247/2006 of 30 January 2006 laying down specific measures for agriculture in the outermost regions of the Union⁽¹⁾, and in particular the second subparagraph of Article 19(4), Article 20(2) and Article 25 thereof,

Whereas:

- (1) In the light of the experience gained from the application of Commission Regulation (EC) No 793/2006⁽²⁾, certain provisions of that Regulation need to be amended.
- (2) The first subparagraph of Article 19(4) of Regulation (EC) No 247/2006 authorises Madeira to produce, purely for local consumption, UHT milk reconstituted from milk powder originating within the Community within the limits of local consumption requirements, in so far as this measure ensures that locally produced milk is collected and finds outlets. Detailed rules for the application of that provision should be adopted.
- (3) The types of outlet for fresh cow's milk produced in Madeira and the minimum volume which should be incorporated in reconstituted UHT milk for local consumption should be specified. Experience would show that a minimum volume of incorporation of 15 % is appropriate to ensure that locally produced milk is collected and can find outlets.
- (4) In order to ensure adequate consumer information and in view of the exceptional nature of this derogation, the labelling should mention the method by which the product is obtained.
- (5) The authorisation referred to in the first subparagraph of Article 19(4) of Regulation (EC) No 247/2006 is limited to the production of UHT milk for local consumption and the export of the reconstituted milk should therefore be prohibited.
- (6) Article 20(1) of Regulation (EC) No 247/2006 authorises the French overseas departments and Madeira to import bovine animals from third countries, without applying customs duties, for fattening and local consumption purposes, until the local numbers of young male bovines reach a level sufficient to ensure that local beef and

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veal production can be maintained and developed. This supply must be limited to young male bovine animals for fattening.

- (7) The application of Article 20(2) of Regulation (EC) No 247/2006 requires effective checks on the specific destination of imported animals, and in particular compliance with a minimum duration of the fattening period. As a result, provision should be made for the lodging of a security to ensure that animals are fattened during that period in production units indicated for the purpose.
- (8) In view of the technical nature of the aforementioned detailed rules of application, provision should be made for a transitional period for the application of those rules.
- (9) The first subparagraph of Article 47(1) of Regulation (EC) No 793/2006 requires that, as regards the specific supply arrangements, the competent authorities are to send to the Commission, no later than the 15th day of the month following the end of each quarter, the data relating to the previous months. However, the second subparagraph of Article 47(1) states that the data provided for in the first subparagraph are to be supplied on the basis of the licences and certificates utilised. Article 10(2) of the same Regulation also states that the period of validity of licences and certificates are to be fixed on the basis of the transportation time, and that this time may not exceed two months from the date on which the licence or certificate was issued. Finally, in accordance with Article 7 of the same Regulation, the aid certificate must be submitted within 30 days from the date on which it may be charged. Since it is not legitimate for operators to require the transmission of quantities used within a time frame less than that authorised under the regulations, which may be as much as three months from the date on which the certificate was issued, the monthly data for the quarter which must be sent on the 15th day after that quarter, may be only extremely incomplete. As a result, the deadline for sending those data should be extended to the last day of the month following that quarter and it should be indicated that the data to be communicated should be available on that date. The provisional data will be replaced by final data by means of subsequent communications.
- (10) In order to ensure the standardised and harmonised management of data concerning the specific supply arrangements to be sent regularly to the Commission, the relevant authorities must use a single form, which is provided in the annex to this Regulation.
- (11) The procedures for amending programmes provided for in Article 49 of Regulation (EC) No 793/2006 need to be specified. The final date for submitting annual requests to amend general programmes should be brought forward in order to prevent approval decisions being adopted too late. In accordance with budgetary rules, the approved amendments must be implemented as from 1 January of the year following the amendment request. Moreover, further clarification is required of certain rules for minor amendments to be notified to the Commission for information purposes only.
- (12) Regulation (EC) No 793/2006 should therefore be amended accordingly.
- (13) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Direct Payments,

HAS ADOPTED THIS REGULATION:

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Article 1

Regulation (EC) No 793/2006 is amended as follows:

1. under Title IV, Chapter III shall be added:

CHAPTER III

Animal products

Article 46a

Milk

- 1 The reconstituted UHT milk referred to in Article 19(4) of Regulation (EC) No 247/2006 shall incorporate at least 15 % of fresh cow's milk produced locally.
The method by which the UHT milk thus reconstituted has been obtained shall be clearly indicated on the sales labelling.
- 2 The milk referred to in paragraph 1 above must not be exported outside of the Madeira archipelago.

Article 46b

Livestock farming

- 1 The import of young male bovine animals originating from third countries, coming under CN codes 0102 90 05, 0102 90 29 or 0102 90 49 and intended for fattening in the French overseas departments or Madeira shall not be subject to customs duties until the local numbers of young male bovines reach a level sufficient to ensure the maintenance and development of local beef and veal production.
- 2 The exemption from import customs duty provided for in the first paragraph shall apply provided that the imported animals are fattened for at least 120 days in the outermost region which issued the import licence.
- 3 Eligibility for exemption from import duties is subject to:
 - a a written declaration by the importer or applicant, made on the arrival of the animals in the French overseas departments or Madeira, to the effect that the bovines are intended for fattening there for a period of 120 days from their actual date of arrival and will be consumed there afterwards;
 - b a written undertaking by the importer or applicant, made on the arrival of the bovine animals, to inform the competent authorities, within one month of their date of arrival, of the holding or holdings where the animals are to be fattened;
 - c the lodging of a security of an amount as laid down for each eligible CN code in Annex VIIIa to this Regulation with the competent authority of the Member State. The fattening of the imported animals in the French overseas departments or Madeira for at least 120 days from the date of acceptance of the customs declaration of release for free circulation is a primary requirement within the meaning of Article 20(2) of Commission Regulation (EEC) No 2220/85⁽³⁾.

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- 4 Except in cases of *force majeure*, the security referred to in paragraph 3(c) shall be released only if proof is furnished to the competent authority of the Member State that the young bovine animals:
- a have been fattened on the farm or farms indicated pursuant to paragraph 3(b);
 - b have not been slaughtered before a period of 120 days from the date of import has elapsed; or
 - c have been slaughtered for health reasons or have died as a result of sickness or accident before that period has elapsed.
 - d The security shall be released immediately after such proof has been furnished.;
2. Article 47(1) shall be amended as follows:
- (a) in the first subparagraph, the first sentence is replaced by the following:

‘As regards the specific supply arrangements, the competent authorities shall send to the Commission, no later than the last day of the month following the end of each quarter, the following data, available on that date, relating to the previous months of the reference calendar year, broken down by product and CN code and, where applicable, by individual destination.’;
 - (b) the second subparagraph shall be replaced by the following:

The data provided for in the first subparagraph shall be supplied on the basis of the licences and certificates utilised. They are to be communicated to the Commission electronically using the form given in Annex VIIIb. If the data communicated on the last day of January for the previous calendar year are only provisional, they will be replaced by final data in a subsequent communication, which the relevant authorities shall send to the Commission by the following 31 March at the latest.;
3. Article 49 is replaced by the following:

Article 49

Amendments to programmes

- 1 The amendments to be made to the general programmes approved under Article 24(2) of Regulation (EC) No 247/2006 shall be submitted to the Commission for approval and shall be duly substantiated, in particular by giving the following information:
- a the reasons and any implementation problems justifying amendment of the overall programme;
 - b the expected effects of the amendment;
 - c the implications for financing and verification of commitments.

Except in cases of *force majeure* or exceptional circumstances, Member States shall submit requests for amendments to programmes only once per calendar year and per programme. Such requests for amendment must be received by the Commission no later than 1 August each year.

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If the Commission raises no objections to the amendments requested, the amendments envisaged shall apply from 1 January of the year following that in which they were notified.

Such amendments may apply earlier if the Commission confirms in writing to the Member State before the date referred to in the third subparagraph that the notified amendments comply with Community legislation.

If the notified amendment does not comply with Community legislation, the Commission shall inform the Member State thereof and the amendment shall not apply until the Commission receives an amendment that can be declared as compliant.

- 2 By way of derogation from paragraph 1, for the following amendments, the Commission shall evaluate the Member States' proposals and decide on their approval within four months of their submission at the latest in accordance with the procedure referred to in Article 26(2) of Regulation (EC) No 247/2006:
- a the introduction of new measures, actions, products or aid schemes into the general programme; and
 - b the increase of the unit level of support already approved for each existing measure, action, product or aid scheme by more than 50 % of the amount applicable at the time when the request for amendment is presented.

The amendments thus approved shall apply from 1 January of the year following that in which the request for an amendment was made.

- 3 Member States may make the following amendments without recourse to the procedure set out in paragraph 1, provided that the amendments are notified to the Commission:
- a in the case of forecast supply balances, changes in the individual level of aid up to 20 % or changes in the quantities of the products concerned covered by the supply arrangements and, consequently, the global amount of aid allocated to support each line of products;
 - b as regards Community programmes supporting local production, adjustments up to 20 % of the financial allocation for each individual measure; and
 - c amendments following amendments to codes and descriptions laid down in Council Regulation (EEC) No 2658/87⁽⁴⁾ used to identify the products benefiting from aid, as long as those amendments do not entail a change of the products themselves.

The amendments referred to in subparagraph 1 shall not apply before the date on which they are received by the Commission. They shall be duly explained and justified and may be implemented only once per year except in the following cases:

- a *force majeure* or exceptional circumstances;
 - b amendment of the quantities of products covered by the supply arrangements;
 - c amendment of the statistical nomenclature and of the Common Customs Tariff codes as provided for in Regulation (EEC) No 2658/87;
 - d budget transfers within production support measures. These amendments shall, however, be notified no later than 30 April of the year following the calendar year to which the amended financial allocation refers.;
4. Annexes VIIIa and VIIIb shall be inserted, the text of which appears in the Annex to this Regulation.

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Article 2

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

However, point 1 of Article 1 shall apply from 1 January 2010.

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

Done at Brussels, 18 May 2009.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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Name of product	CN code	September		October		November		December		Annual total	
		Quantities re-exported or re-dispatched	Amount covered (tonnes)	Quantities re-exported or re-dispatched	Amount covered (tonnes)	Quantities re-exported or re-dispatched	Amount covered (tonnes)	Quantities re-exported or re-dispatched	Amount covered (tonnes)	Quantities re-exported or re-dispatched	Amount covered (tonnes)

ARTICLE OF REGULATION (EC) No 793/2006
47(1)(e)

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- (1) OJ L 42, 14.2.2006, p. 1.
- (2) OJ L 145, 31.5.2006, p. 1.
- (3) OJ L 205, 3.8.1985, p. 5.';
- (4) OJ L 256, 7.9.1987, p. 1.';

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