

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

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.

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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.

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⁽¹⁾ 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.

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.

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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.

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).

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.

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.

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(1) OJ L 114, 26.4.2008, p. 3.

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