

Commission Implementing Regulation (EU) No 180/2014 of 20 February 2014 laying down rules for the application of Regulation (EU) No 228/2013 of the European Parliament and of the Council laying down specific measures for agriculture in the outermost regions of the Union

CHAPTER I

SPECIFIC SUPPLY ARRANGEMENTS

SECTION 1

Forecast supply balances

Article 1

Purpose of forecast supply balances and amendments thereto

The forecast supply balances to be established by the Member States in accordance with Article 9(2) of Regulation (EU) No 228/2013 shall state the quantities of essential products needed to meet the supply requirements of each outermost region every calendar year.

Member States may amend their forecast supply balance. Article 40 of this Regulation shall apply to such amendments.

SECTION 2

Supplies through imports from third countries

Article 2

Import licence

1 For the purposes of Article 12(1) of Regulation (EU) No 228/2013, products subject to the presentation of an import licence shall be exempt from import duties on production of that licence.

[^{F12} Import licences shall be drawn up in accordance with the specimen set out in Annex I to Commission Implementing Regulation (EU) 2016/1239⁽¹⁾.

Article 4 of Commission Delegated Regulation (EU) 2016/1237⁽²⁾ and Articles 2 and 3, Article 4(1), Article 5 and 7 and 13 to 16 of Implementing Regulation (EU) 2016/1239 shall apply *mutatis mutandis*, without prejudice to this Regulation.

The negative tolerance provided for in Article 5(4) of Delegated Regulation (EU) 2016/1237 and Article 8(1) of Implementing Regulation (EU) 2016/1239 shall apply *mutatis mutandis*.]

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Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 180/2014, CHAPTER I. (See end of Document for details)

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

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.

[^{F16} Import duties shall be levied on quantities which exceed those stated on the import licence. The positive tolerance of 5 % provided for in Article 5(4) of Delegated Regulation (EU) 2016/1237 and Article 8(1) of Implementing Regulation (EU) 2016/1239 shall apply, provided that the import duties relating thereto are paid.]

Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2018/920 of 28 June 2018 amending Implementing Regulation \(EU\) No 180/2014 as regards certain provisions on checks, notifications and annual reporting and on amendments to the POSEI programmes.](#)

Article 3

Exemption certificate

1 For the purposes of Article 12(1) of Regulation (EU) No 228/2013, products not subject to the presentation of an import licence shall be exempt from import duties on production of an exemption certificate.

[^{F12} Exemption certificates shall be drawn up on the basis of the specimen import licence set out in Annex I to Implementing Regulation (EU) 2016/1239.

Article 4 of Delegated Regulation (EU) 2016/1237 and Articles 2 and 3, Article 4(1), Articles 5 and 7 and 13 to 16 of Implementing Regulation (EU) 2016/1239 shall apply *mutatis mutandis*, without prejudice to this Regulation.

The negative tolerance provided for in Article 5(4) of Delegated Regulation (EU) 2016/1237 and Article 8(1) of Implementing Regulation (EU) 2016/1239 shall apply *mutatis mutandis*.]

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

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

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.

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Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 180/2014, CHAPTER I. (See end of Document for details)

Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2018/920 of 28 June 2018 amending Implementing Regulation \(EU\) No 180/2014 as regards certain provisions on checks, notifications and annual reporting and on amendments to the POSEI programmes.](#)

SECTION 3

Supply from the Union

Article 4

Fixing and granting of aid

1 For the purposes of Article 10(2) of Regulation (EU) No 228/2013, 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.

Article 5

Aid certificate and payment

1 Aid shall be granted on presentation of a certificate (hereinafter referred to as ‘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 exceptional climatic conditions, certificates shall 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 certificate is lodged, except in one of the following cases:

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

[^{F12} Aid certificates shall be drawn up on the basis of the specimen import licence set out in Annex I to Implementing Regulation (EU) 2016/1239.

Article 4 of Delegated Regulation (EU) 2016/1237 and Articles 2 and 3, Article 4(1), Articles 5 and 7 and 13 to 16 of Implementing Regulation (EU) 2016/1239 shall apply *mutatis mutandis*, without prejudice to this Regulation.

Status: Point in time view as at 31/01/2020.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 180/2014, CHAPTER I. (See end of Document for details)

The negative tolerance provided for in Article 5(4) of Delegated Regulation (EU) 2016/1237 and Article 8(1) of Implementing Regulation (EU) 2016/1239 shall apply *mutatis mutandis*.]

3 One of the entries listed in Part E of Annex I 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 Part F of Annex I and one of the entries listed in Part G of Annex I.

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

6 The amount of 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.

Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2018/920 of 28 June 2018 amending Implementing Regulation \(EU\) No 180/2014 as regards certain provisions on checks, notifications and annual reporting and on amendments to the POSEI programmes.](#)

SECTION 4

Common provisions

Article 6

Passing on the advantage to the end-user

For the purposes of Article 13(1) of Regulation (EU) No 228/2013, the competent authorities shall take all appropriate measures 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 paragraph, 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 annual implementation report referred to in Article 32(2) of Regulation (EU) No 228/2013.

Article 7

Register of operators

1 In order to be eligible for entry in the register referred to in the second subparagraph of Article 12(1) of Regulation (EU) No 228/2013, operators shall undertake to:

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- a communicate to the competent authorities, at their request, all relevant information about their commercial activities, particularly regarding the prices and profit margins they practice;
 - b operate exclusively in their own name and on their own accounts;
 - c submit licence and certificate applications commensurate with their real capacity to dispose of the products concerned, such capacity being proven with reference to objective factors;
 - d refrain from acting in a way likely to create artificial shortages of products and from marketing the available products at artificially low prices;
 - e 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.
- 2 Operators intending to dispatch or export unprocessed, processed or packaged products under the conditions referred to in Article 13 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.
- 3 Processors intending to export or dispatch processed products under the conditions referred to in Articles 13 or 15 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 8

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

- 1 [F¹Subject to Articles 2(5), 3(6), 5(7) and Articles 11 and 12, the competent authorities shall accept the import licence, exemption certificate or aid certificate application presented by operators for each consignment. Those applications shall be accompanied by the original or a certified copy of the purchase invoice and the original, a certified copy or an authenticated electronic equivalent of the following documents:]
- a regarding the import licence, or the exemption certificate:
 - (i) the bill of lading or airway bill or multimodal transport document;
 - (ii) the certificate of origin for products originating in third countries;
 - [F¹b regarding the aid certificate:
 - (i) the means of proof of the customs status of Union goods referred to in Article 199(1)(b) of Commission Implementing Regulation (EU) 2015/2447⁽³⁾; or
 - (ii) a declaration type CO pursuant to Chapters 2 and 3 of Title VIII of Commission Delegated Regulation (EU) 2015/2446⁽⁴⁾ in accordance with data elements No 1/1, 1/2 and 1/3 referred to in the data requirements table set out in Section 1 of Chapter 3 of Title I of Annex B to that Regulation.]

[F¹Those accompanying documents may take the form of an electronic message. In case the verifying competent authority has no access to the IT system managing and producing such electronic document, it shall be replaced by a duly certified true copy or its authenticated electronic equivalent print-out.]

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

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2 The period of validity of licences and certificates shall be fixed on the basis of transportation time. That 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.

Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2018/920 of 28 June 2018 amending Implementing Regulation \(EU\) No 180/2014 as regards certain provisions on checks, notifications and annual reporting and on amendments to the POSEI programmes.](#)

Article 9

Presentation of licences, certificates and goods

1 For the 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 the authorisation for unloading the goods. The competent authorities may reduce that 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 on the date on which the licences or certificates referred to in 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 customs formalities.

Article 10

Quality of products

Conformity of the products with the requirements laid down in Article 10(4) of Regulation (EU) No 228/2013 shall be examined no later than the stage of first marketing, in accordance with the standards or practices in force in the Union.

Where the product is considered not to meet the requirements laid down in Article 10(4) of Regulation (EU) No 228/2013, 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 5 of this Regulation the aid shall be reimbursed. Where imports have been made in accordance with Articles 2 or 3 of this Regulation, the import duty shall be paid, unless the party concerned supplies proof that the products have been re-exported or destroyed.

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Article 11

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 the achievement of one or more of the objectives of the specific supply arrangements, Member State shall take all necessary measures, after having consulted the authorities concerned, to ensure that the outermost region concerned is supplied with essential products, taking account of available supply and the requirements of priority sectors.

2 Where, after having consulted the authorities concerned, Member States decide to apply restrictions on the issue of licences and certificates, the competent authorities shall apply a uniform reduction percentage to all pending applications.

Article 12

Fixing the maximum quantity per licence or certificate application

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

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

[^{F1}The notification referred to in this Article shall be made in accordance with Commission Delegated Regulation (EU) 2017/1183⁽⁵⁾ and Commission Implementing Regulation (EU) 2017/1185⁽⁶⁾.]

Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2018/920 of 28 June 2018 amending Implementing Regulation \(EU\) No 180/2014 as regards certain provisions on checks, notifications and annual reporting and on amendments to the POSEI programmes.](#)

SECTION 5

Export and dispatch

Article 13

Conditions of export and dispatch

1 The export or 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.

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

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 shall 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 date 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 shall 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 Union 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 aid 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 15 only where the exporter certifies that those products have not benefited from specific supply arrangements.

The competent authorities shall authorise the re-export or re-dispatch of unprocessed products or packaged products other than those referred to in paragraphs 3, 4 and 5 of 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 14

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 13(3);

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- b the products referred to in Article 13(5) which do not fulfil the conditions for a 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 13(1), the competent authorities may restrict quantities in such a way as to ensure that priority needs in the sectors concerned are met. That quantitative restriction shall be applied in a non-discriminatory manner.

Article 15

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

1 Processors who have declared, in accordance with Article 7(3), 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 14(2) of Regulation (EU) No 228/2013, 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 to this Regulation. The competent authorities shall deliver the requisite authorisations in such a way as to ensure that transactions do not exceed those annual quantities.

The list of the countries referred to in Article 14(3) of Regulation (EU) No 228/2013 is set out in Annex VI to this Regulation.

For exports within the framework of regional trade, exporters shall submit the documents specified in Article 17 of Regulation (EC) No 612/2009 to the competent authorities within the time limits laid down in Article 46 of that Regulation. Where documents have not been submitted within those time limits, the competent authorities shall recover the advantage granted under the specific supply arrangements.

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

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

SECTION 6

Management, controls and monitoring

Article 16

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 8(1).

[^{F12} The physical checks carried out in the outermost region concerned on the import or entry of agricultural products shall involve a representative sample amounting to at least 5 % of the licences and certificates presented in accordance with Article 9.

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The physical checks carried out in the outermost region concerned on the export or dispatch provided for in Section 5 shall involve a representative sample of at least 5 % of the operations, based on the risk profiles established by the Member States.

Commission Regulation (EC) No 1276/2008⁽⁷⁾ shall apply *mutatis mutandis* to those physical checks.

In addition, in special cases the Commission may request that physical checks cover different percentages.]

Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2018/920 of 28 June 2018 amending Implementing Regulation \(EU\) No 180/2014 as regards certain provisions on checks, notifications and annual reporting and on amendments to the POSEI programmes.](#)

Article 17

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.

Upon request of the Commission, they shall notify the Commission of any measures they implement pursuant to the first paragraph.

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- (1) [^{F1}Commission Implementing Regulation (EU) 2016/1239 of 18 May 2016 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the system of import and export licences (OJ L 206, 30.7.2016, p. 44).]
- (2) [^{F1}Commission Delegated Regulation (EU) 2016/1237 of 18 May 2016 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the rules for applying the system of import and export licences and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the rules on the release and forfeit of securities lodged for such licences, amending Commission Regulations (EC) No 2535/2001, (EC) No 1342/2003, (EC) No 2336/2003, (EC) No 951/2006, (EC) No 341/2007 and (EC) No 382/2008 and repealing Commission Regulations (EC) No 2390/98, (EC) No 1345/2005, (EC) No 376/2008 and (EC) No 507/2008 (OJ L 206, 30.7.2016, p. 1).]
- (3) [^{F1}Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).]
- (4) [^{F1}Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).]
- (5) [^{F1}Commission Delegated Regulation (EU) 2017/1183 of 20 April 2017 on supplementing Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council with regard to the notifications to the Commission of information and documents (OJ L 171, 4.7.2017, p. 100).]
- (6) [^{F1}Commission Implementing Regulation (EU) 2017/1185 of 20 April 2017 laying down rules for the application of Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards notifications to the Commission of information and documents and amending and repealing several Commission Regulations (OJ L 171, 4.7.2017, p. 113).]
- (7) [^{F1}Commission Regulation (EC) No 1276/2008 of 17 December 2008 on the monitoring by physical checks of exports of agricultural products receiving refunds or other amounts (OJ L 339, 18.12.2008, p. 53).]

Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2018/920 of 28 June 2018 amending Implementing Regulation \(EU\) No 180/2014 as regards certain provisions on checks, notifications and annual reporting and on amendments to the POSEI programmes.](#)

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