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

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

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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[(1)], and in particular Article 6(2), Article 8, Articles 12(3) and 13(2), Article 14, the second subparagraph of Article 18(1) and Articles 19(3), 21(4), 27(1) and 29(2) thereof,

Whereas:

(1) Regulation (EU) No 228/2013 has repealed and replaced Council Regulation (EC) No 247/2006[(2)]. Regulation (EU) No 228/2013 empowers the Commission to adopt delegated and implementing acts. In order to ensure the smooth functioning of the scheme in the new legal framework, rules should be adopted by means of such acts. The new rules should replace the implementing rules of Commission Regulation (EC) No 793/2006[(3)]. That Regulation is repealed by Commission Delegated Regulation (EU) No 179/2014[(4)].

(2) Certain agricultural products which are exempt from import duties already require an import licence. In the interests of administrative simplification, the import licence should be used to support the arrangements for exemption from import duties for those products.

(3) A document should also be adopted to support the arrangements for exemption from import duties for other agricultural products which do not require an import licence. An exemption certificate, drawn up on the import licence form, should be used for this purpose.

(4) Rules should be laid down for fixing the amount of aid for the supply of products under the specific supply arrangements. Such rules should take account of the additional costs of supply to the outermost regions due to their remoteness and insularity, which constitute a burden that severely handicaps them. In order to maintain the competitiveness of Union products, this aid should take account of the prices applied to exports.

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(5) The aid scheme for products supplied from the territory of the Union should be managed by means of a certificate, called an 'aid certificate', using the import licence form.

(6) Management of the specific supply arrangements requires the introduction of rules on the issue of the aid certificate, which derogate from the normal rules applicable to import licences pursuant to Commission Regulation (EC) No 376/2008[(5)].

(7) Management of the specific supply arrangements should allow two objectives to be pursued. First, it should promote the rapid issue of licences and certificates, particularly by no longer requiring a security to be lodged beforehand in all cases, and the rapid payment of aid for supplies of products from the territory of the Union. Second, it should guarantee the control and monitoring of operations and provide the administrative authorities with the instruments they need to ascertain that the objectives of the scheme are being attained. Those objectives are to secure a regular supply of certain agricultural products and to offset the effects of the geographical situation of the outermost regions by ensuring that the advantages of the scheme are actually passed on to the stage at which the products destined for the end-users are placed on the market.

(8) The rules for the administration of the specific supply arrangements should ensure that, within the framework of the quantities laid down in the forecast supply balances, registered operators obtain a licence or certificate for the products and quantities involved in the commercial transactions which they carry out on their own account, on presentation of documents certifying that the operation is genuine and that the application for a licence or certificate is in order.

(9) Monitoring of operations under the specific supply arrangements requires, inter alia, the period of validity of licences and certificates to be suited to the requirements of the air and sea transport, proof to be furnished that the supply operation covered by the licence or certificate has been carried out in a short time-span, and the transfer of the rights and obligations conferred on the holder of the licence or certificate in question to be prohibited.

(10) The benefits granted in the form of exemption from import duties and aid for products supplied from the territory of the Union has to be passed on so that they are reflected in production costs and in the prices paid by the end-users. Checks are therefore needed to ensure that the benefits are actually passed on.

(11) Rules should be laid down on the authorisation and monitoring of exports of products covered by the specific supply arrangements to third countries and their dispatch to the rest of the Union. In particular, it is expedient to lay down the maximum quantities of processed products which may be the subject of traditional exports or consignments, as well as the quantities of products and the destinations of exports of products processed locally, with a view to encouraging regional trade.

(12) In order to protect consumers and the commercial interests of operators, products which are not of sound and fair marketable quality, within the meaning of Article 28 of Commission Regulation (EC) No 612/2009[(6)], should be excluded from the specific supply arrangements no later than the time when they are first placed on the market and appropriate measures should be taken where this requirement is not met.

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(13) In the context of the partnership procedures in force for the outermost regions, the competent authorities of the Member States should lay down the detailed administrative rules needed to ensure the management and monitoring of the specific supply arrangements.

(14) In order to be able to assess how the arrangements are being implemented, the competent authorities of the Member States should be required to report to the Commission at regular intervals.

(15) The coverage of aid applications and the documents to be attached thereto with a view to assessing their justification should be specified for each aid scheme directed at local production.

(16) It should be possible to amend at any time aid applications containing manifest errors.

(17) The deadlines for submitting and amending aid applications have to be complied with to enable the national authorities to programme and subsequently carry out effective checks on the correctness of applications for aid for local production. Time limits should therefore be fixed beyond which submissions can no longer be accepted. Moreover, a reduction should be applied to encourage aid applicants to respect the time limits.

(18) Applicants should be allowed to withdraw their applications for aid for local production or parts thereof at any time, provided that the competent authority has not yet informed the applicant of any errors contained in the aid application or announced an on-the-spot check which reveals errors in the part concerned by the withdrawal.

(19) Compliance with the rules on aid schemes managed under the integrated administration and control system should be effectively monitored. To this end, and to achieve a harmonised level of monitoring in all Member States, the criteria and technical procedures for carrying out administrative and on-the-spot checks should be set out in detail. Where appropriate, the Member States should strive to combine the various checks under this Regulation with those provided for under other Union provisions.

(20) The minimum number of aid applicants to undergo on-the-spot checks under the various aid schemes should be determined.

(21) The sample for the minimum rate of on-the-spot checks should be selected partly on the basis of a risk analysis and partly at random. The main factors to be taken into consideration for the risk analysis should be specified.

(22) Where significant irregularities are found, the rate of on-the-spot checks should be increased during the current and following years in order to attain an acceptable level of assurance that the aid applications concerned are correct.

(23) For on-the-spot checks to be effective, it is important for the inspectors to be informed of the reasons for which the aid applicants concerned have been selected for an on-the-spot check. The Member States should keep records of such information.

(24) In order to enable the national authorities and any competent authority of the Union to follow up on-the-spot checks carried out, the details of checks should be recorded in an inspection report. Aid applicants or their representatives should be given the

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opportunity to sign the report. However, in the case of remote-sensing checks, the Member States should be allowed to provide for this right only in cases where the check reveals irregularities. Moreover, irrespective of the kind of on-the-spot check carried out, the aid applicant should receive a copy of the report if irregularities are found.

(25) In order to protect the financial interests of the Union effectively, adequate measures should be adopted to combat irregularities and fraud.

(26) Reductions and exclusions should be determined having regard to the principle of proportionality and the special problems arising in cases of *force majeure*, exceptional circumstances and natural disasters. Such reductions and exclusions should be graded according to the gravity of the irregularity committed and should go as far as the total exclusion from one or more aid schemes for local production for a specified period.

(27) As a general rule, reductions and exclusions should not be applied where aid applicants have submitted factually correct information or can otherwise show that they are not at fault.

(28) An applicant who notifies the competent national authority at any time of incorrect aid applications should not be the subject of reductions or exclusions, irrespective of the reason for the incorrectness, provided that the applicant has not been informed of the competent authority's intention to carry out an on-the-spot check and provided that the authority has not already informed the applicant of any irregularity in the application. The same should apply to incorrect data contained in the computerised database.

(29) Where various reductions are to be applied to the same aid applicant, they should be applied independently of each other. Moreover, the reductions and exclusions provided for in this Regulation should be applied without prejudice to additional penalties under any other provisions of Union or national law.

(30) Aid applicants who are unable to fulfil the obligations provided for under the detailed rules for implementing the programmes as a consequence of *force majeure* or exceptional circumstances should not lose their entitlement to the aid. It should be specified which cases, in particular, may be recognised by the competent authorities as exceptional circumstances.

(31) In order to ensure uniform application of the principle of good faith throughout the Union, where unduly paid amounts are recovered, the conditions under which that principle may be invoked should be laid down without prejudice to the treatment of the expenditure concerned in the context of the clearance of accounts.

(32) The detailed rules required to apply the logo aimed at ensuring greater awareness and consumption of processed and unprocessed quality agricultural products specific to the outermost regions of the Union should be adopted.

(33) It should be the responsibility of the competent authorities in the regions concerned to adopt the additional administrative requirements needed to ensure the correct operation of the mechanisms put in place for the checks and monitoring of the use of the logo and to guarantee compliance with those obligations.

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(34) For the purposes of exempting tobacco imported into the Canary Islands from customs duties, it is necessary to define the annual period for calculating the maximum quantity of tobacco products referred to in Article 29 of Regulation (EU) No 228/2013. In addition, in order to ensure maximum flexibility, permission should be granted for the overall quantity of unmanufactured stemmed/stripped tobacco to be used for imports of other products, on the basis of a coefficient of equivalence, depending on the requirements of the local industry.

(35) The procedures for amending the programmes need to be simplified in order to ensure a more flexible and smoother adaptation of the programmes to the actual conditions relating to the supply arrangements and the local agricultural productions. For this reason, it is necessary to postpone by two months the deadline for the submission of the annual modifications so that it is aligned to the deadline laid down in Article 32(2) of Regulation (EU) No 228/2013 for the submission of the annual implementation reports. However, major amendments need to be submitted timely to the Commission in order to allow for their thorough evaluation and an approval decision by the date of applicability of those amendments.

(36) Member States should submit to the Commission all information relating to the implementation of the programmes and necessary to ensure their proper monitoring over time. For this reason, it is necessary to establish a minimum set of common performance indicators and the content and the deadlines for the periodical communications and statistics concerning the specific supplies arrangements and the measures to support the local production as well as for the annual implementation reports. In order to allow the notification of more reliable data concerning the aid applications relating to support for local production, the deadline for that notification should be postponed by one month.

(37) All notifications from the Member States to the Commission that are necessary for the good functioning of the scheme should be made in accordance with Commission Regulation (EC) No 792/2009[(7)].

(38) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Direct Payments,

HAS ADOPTED THIS REGULATION: