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

REGULATION (EU) No 228/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first paragraph of Article 42, Article 43(2) and Article 349 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) Specific measures in the agricultural sector to remedy the difficulties caused by the specific situation facing the Union's outermost regions, as referred to in Article 349 of the Treaty on the Functioning of the European Union ('the Treaty'), have been established by Council Regulation (EC) No 247/2006[(3)]. Those measures have been implemented by means of support programmes for each region, which constitute an essential tool for supplying such regions with agricultural products. In view of the need to update the current measures, including as a result of the entry into force of the Treaty of Lisbon, it is necessary to repeal Regulation (EC) No 247/2006 and replace it with a new Regulation.

(2) The fundamental objectives which the scheme promoting the Union's outermost regions will help to achieve need to be specified.

(3) It is also necessary to specify the content of the Programmes of Options Specifically Relating to Remoteness and Insularity ('POSEI programmes') which, in accordance with the principle of subsidiarity, should be established by the Member States concerned at the most appropriate geographical level and submitted by the Member States to the Commission for approval.

(4) In order to achieve more effectively the objectives of the scheme promoting the Union's outermost regions, the POSEI programmes should include measures which ensure the supply of agricultural products and the preservation and development of local agricultural production. The level of programming for the regions concerned needs to

be harmonised and the policy of partnership between the Commission and the Member States needs to become systematic.

(5) In keeping with the principle of subsidiarity and in order to ensure flexibility, the two principles which form the basis of the programming approach adopted for the scheme promoting the Union's outermost regions, the authorities appointed by the Member State may propose amendments to the programme to bring it into line with the reality of the situation in the outermost regions. It should be possible for these authorities to modify the POSEI programmes, in accordance with the principle of administrative simplification, provided that they do not thereby jeopardise the effectiveness of the POSEI programmes and the corresponding financial resources allocated to them. Also in keeping with this approach, the procedure for amending the programmes should be adapted to reflect the level of relevance of each type of amendment.

(6) In order to ensure the supply of essential agricultural products to the outermost regions and to compensate for the additional costs caused by their extreme remoteness, it is appropriate to introduce a specific supply arrangement. In fact, the exceptional geographical situation of the outermost regions results in additional transport costs for supplying products which are essential for human consumption, for processing or as agricultural inputs. In addition, other objective factors linked to these regions' extreme remoteness, and in particular their insularity and small surface areas, lead to further constraints on economic operators and producers in the outermost regions that severely handicap their activities. Those handicaps can be alleviated by lowering the price of those essential products. The specific supply arrangement should, however, under no circumstances damage local products and their development.

(7) To that end, notwithstanding Article 28 of the Treaty, imports of certain agricultural products from third countries should be exempt from the applicable import duties. To take account of their origin and the customs treatment accorded to them under Union law, products which have entered the Union's customs territory under inward-processing or customs-warehousing arrangements should, for the purpose of granting the benefits of the specific supply arrangements, be considered to be direct imports.

(8) In order to achieve in an effective manner the goal of lowering prices in the outermost regions, mitigating the additional costs of their extreme remoteness, aid should be granted for the supply of Union products to the outermost regions. Such aid should take account of the additional cost of transport to these regions and the cost of exports to third countries and, in the case of agricultural inputs and products intended for processing, the additional costs associated with their extreme remoteness, and in particular their insularity and small surface areas, their difficult topography and climate and the fact that they are scattered islands.

(9) Support for traditional sectors is all the more necessary because it enables them to remain competitive on the Union market in the face of competition from third countries. When they draw up their programmes, Member States should, however, also ensure, as far as possible, that agricultural activities in the outermost regions are diversified.

(10) In order to avoid speculation which would be harmful to end users in the outermost regions, it is important to specify that the specific supply arrangements may only apply to products of sound, fair and marketable quality.

(11) Rules should be established concerning the operation of the scheme, particularly those relating to the creation of a register of operators and a system of certificates, based on the licences referred to in Articles 130 and 161 of Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)[(4)].

(12) Given the requirements relating to the monitoring of transactions benefiting from the specific supply arrangements, administrative checks should be conducted on the products concerned at the time of their import or entry into the outermost regions and also at the time of their export or dispatch from the same. In addition, in order to achieve the objectives of the arrangements, the economic advantages of the specific supply arrangements should be reflected in production costs and should reduce prices up to the end user stage. They should therefore be granted only on condition that they are actually passed on, and appropriate checks should be carried out.

(13) Since the quantities covered by the specific supply arrangements are limited to the supply requirements of the outermost regions, those arrangements should not impair the proper functioning of the internal market. Nor should the economic advantages of the specific supply arrangements lead to diversions of trade in the products concerned. The dispatch or export of those products from the outermost regions should therefore be prohibited. However, the dispatch or export of those products should be authorised if the financial advantage resulting from the specific supply arrangements is reimbursed.

(14) With regard to processed products, trade between the outermost regions should be authorised in order to allow commerce between these regions. Account should also be taken of trade flows within the context of regional commerce and traditional exports and dispatching with the rest of the Union or third countries in the outermost regions, and exports of processed products corresponding to traditional trade for all those regions should be authorised. For the sake of clarity, the reference period for defining traditionally exported or dispatched quantities should be specified.

(15) Appropriate measures should be taken to allow for the necessary restructuring of the sugar processing sector in the Azores. These measures should take into account the fact that, in order for the sugar sector on the Azores to be viable, a certain level of production and processing needs to be ensured. Against this background, the Azores should exceptionally, be permitted to dispatch to the rest of the Union quantities of sugar in excess of traditional flows for a limited period of five years, subject to progressively reducing annual limits. Because the quantities that may be re-dispatched will be proportional and limited to those strictly necessary for ensuring the viability of local sugar production and processing, such temporary dispatching of sugar from the Azores will not adversely affect the internal market of the Union.

(16) With regard to out-of-quota sugar to be supplied to the Azores, Madeira and the Canary Islands, the scheme of exemption from import duties will continue to apply.

In particular, the Azores should also be authorised to benefit from the exemption from import duties for raw cane sugar up to their forecast supply balance.

(17) To date, the Canary Islands have been supplied under specific supply arrangements with skimmed milk powder falling within CN code 1901 90 99 (skimmed milk powder containing vegetable fat) for industrial processing. The continued supply of this product, which has become a traditional component of the local diet, should be permitted.

(18) Given that rice constitutes a staple of the diet of Réunion, that rice processing and polishing industries have been established in Réunion for many years and that Réunion does not produce sufficient quantities to meet local requirements, the import of this product to the island should continue to be exempt from any form of import tax.

(19) Union policy to assist local production in the outermost regions has involved a multitude of products and measures for their production, marketing or processing. Those measures have proved effective and have ensured that agriculture continues and develops. The Union should continue to support these lines of production, which are a key element to ensure the environmental, social and economic equilibrium of the outermost regions. Experience has shown that, as in the case of rural development policy, a closer partnership with local authorities can help to address, in a more targeted way, the particular issues affecting the regions concerned. Support to promote local production therefore needs to continue through the POSEI programmes.

(20) In order to support the marketing of products from the outermost regions, aid should be established to assist the commercialisation of these products outside of the region in which they are produced, taking account of the high additional costs they face as a result of their distance from consumer markets and the need for double storage, factors which result in crucial competitive disadvantages for the outermost regions, affecting their ability to compete in the internal market. These factors justify the need to review the POSEI scheme in the near future.

(21) The minimum elements which should be provided under the POSEI programmes in order to establish the measures supporting local agricultural production, specifically the description of the location, of the strategy proposed, of the objectives and of the measures, should be established. The principles underlying the consistency of these measures with other Union policies should also be stated, in order to avoid any incompatibility and overlapping of aid.

(22) For the purposes of applying this Regulation, it should also be possible for the POSEI programmes to contain measures for financing studies, demonstration projects, training and technical assistance.

(23) Farmers in the outermost regions should be encouraged to continue to supply high-quality products and to prioritise their marketing. Use of the logo introduced in this Regulation and of other forms of quality certification introduced by the Union may be useful to this end.

(24) The structures of certain farms or processing and marketing firms in the outermost regions are seriously deficient and face specific difficulties. Articles 26(2) and 28(2) of Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural

development by the European Agricultural Fund for Rural Development (EAFRD)[(5)] therefore provide for more favourable support rates for certain types of investment in the outermost regions.

(25) Article 27(1) of Regulation (EC) No 1698/2005 excludes the outermost regions from the restriction to a grant of forestry support provided for in that Regulation.

(26) Regulation (EC) No 1698/2005 determines the maximum annual amounts eligible for agri-environmental payments. To take into account the specific environmental situation of certain very sensitive pasture areas in the Azores and the preservation of the landscape, the biodiversity and the traditional features of agricultural land, in particular the areas of terrace cultivation in Madeira and the Canary Islands, as well as the conservation of stone walls in the outermost regions, provision should be made for the possibility, in the case of certain specific measures, of increasing those amounts up to twofold.

(27) A derogation may be granted from the Commission's consistent policy of not authorising State operating aid for the production, processing and marketing of agricultural products covered by Annex I to the Treaty, in order to mitigate the specific constraints on farming in the outermost regions linked to their extreme remoteness, specifically their isolation, insularity, small surface areas, mountainous terrain and climate and their economic dependency on a small number of products. Agricultural production plays a vital role in revitalising rural areas and encouraging people to stay in them, and the outermost rural areas are particularly affected by population ageing, low population density and, in some cases, depopulation.

(28) The plant health of agricultural crops in the outermost regions is affected by particular problems such as the arrival of parasites associated with the increase in the amount of imports, the climate and the inadequacy of the control measures previously applied there. Programmes should therefore be implemented to combat harmful organisms, including by sustainable and environmentally sound organic methods. The Union's financial contribution towards such programmes should be defined, taking into account the fact that, under the multiannual financial framework, it is envisaged that, with effect from 2014, the financing of these programmes will fall under a different budgetary heading.

(29) The maintenance of vineyards, which are the most widespread type of cultivation in the regions of Madeira and the Canary Islands and a very important one for the Azores, is an economic, social and environmental imperative. To help support production, the abandonment premiums, the market mechanisms and, in the case of the Canary Islands, the planting rights system, provided for in Regulation (EC) No 1234/2007 should not be applicable in these regions. Nonetheless, in the Canary Islands, it should be possible to apply crisis distillation measures in the event of exceptional market disturbance arising from quality problems. Similarly, technical and socio-economic difficulties have prevented complete conversion, within the time limits established, of the areas in the regions of Madeira and the Azores under vines of hybrid varieties prohibited by Regulation (EC) No 1234/2007. The wine produced by such vineyards is intended solely for traditional local consumption.