Commission Implementing Regulation (EU) No 202/2013 of 8 March 2013 amending Regulation (EC) No 555/2008 as regards the submission of support programmes in the wine sector and trade with third countries

COMMISSION IMPLEMENTING REGULATION (EU) No 202/2013

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THE EUROPEAN COMMISSION,

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

Having regard to 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)[(1)], and in particular Article 103za, in conjunction with Article 4 thereof,

Whereas:

(1) Article 103n(1a) of Regulation (EC) No 1234/2007 foresees that, by 1 August 2013, Member States may decide to reduce, from 2015, the amount available for the support programmes referred to in Annex Xb in order to increase their national ceilings for directs payments referred to in Article 40 of Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers[(2)]. The amount resulting from the decrease is to remain definitively in the national ceilings for direct payments and no longer be available for the measures listed in Articles 103p to 103y of Regulation (EC) No 1234/2007.

(2) Article 103o of Regulation (EC) No 1234/2007 foresees that Member States were to decide by 1 December 2012 whether to provide support to vine-growers for 2014 by allocating payment entitlements within the meaning of Chapter 1 of Title III of Regulation (EC) No 73/2009. In this case, Member States are to make provision for such support in their support programmes and this support for 2014 is to remain in the Single Payment Scheme and no longer be available for the measures in Articles 103p to 103y of Regulation (EC) No 1234/2007. Commission Regulation (EC) No 555/2008[(3)] should provide details on the communications to be made by the Member States concerned in relation to Article 103n(1a) and Article 103o of Regulation (EC) No 1234/2007.

(3) In the light of the experience gained during the implementation of the support programmes and in order to prepare for the submission of draft support programmes for the financial years 2014 to 2018, the framework and specific requirements for the new programming period should be further completed.

(4) Point (d) of the first paragraph of Article 4 of Regulation (EC) No 555/2008 provides that the wines referred to in Article 103p(2) of Regulation (EC) No 1234/2007 shall be

eligible for promotion on third-country markets provided that the support for promotion and information lasts no longer than three years for a given beneficiary in a given third country, if necessary renewed once for a period no longer than two years. This provision has been applied for the first submission of the support programme and it is appropriate to provide a similar rule for the submission of the new support programme; however, it is important to stimulate the opening of new markets in third countries, including by giving preference to beneficiaries who did not receive support in the past, or to those targeting a new third country for which they have not received support in the past within this scheme.

(5) The third paragraph of Article 4 of Regulation (EC) No 555/2008 provides that, when selecting the beneficiaries, preference is to be given to micro, small and medium-sized enterprises in the meaning of Commission Recommendation 2003/361/EC[(4)] and to collective brand names. The preference for collective brand names should be eliminated in order to simplify the implementation of this measure, while leaving the possibility to grant support for the promotion of brand names unaffected.

(6) Articles 6 and 8 of Regulation (EC) No 555/2008 establish rules concerning the definition, the procedure, applications and levels of support for restructuring and conversion of vineyards. Without prejudice to the conditions set out in Article 103q of Regulation (EC) No 1234/2007, in the light of the experience gained during the implementation of this measure, it is necessary to specify certain operations that are considered ineligible. Furthermore, the rules on the calculation of flat rate amounts should, on the one hand, be simplified and, on the other, be made more precise. In particular, in order to avoid overcompensation, it is appropriate to specify that flat rate amounts shall be based on an accurate calculation of the actual costs of each type of operation.

(7) Article 10 of Regulation (EC) No 555/2008 establishes transitional rules concerning restructuring operations already planned in application to Article 11 of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine[(5)]. Those rules are now outdated and that Article should therefore be deleted.

(8) Articles 26 to 34 establish rules for three measures which ended on 31 July 2012, potable alcohol distillation, crisis distillation and use of concentrated grape must. Those Articles should therefore be deleted.

(9) Articles 67 to 73 establish rules for the grubbing-up scheme which ended in 2011. Those Articles should therefore be deleted.

(10) Article 77(5) of Regulation (EC) No 555/2008 foresees that, for investment measures, Articles 26, 27 and 28 of Commission Regulation (EC) No 1975/2006[(6)] should apply *mutatis mutandis*. However, in the light of Article 19(1) and Articles 76 to 80 of Regulation (EC) No 555/2008, the reference to some of those rules, which are now set out in Commission Regulation (EU) No 65/2011[(7)], should be deleted in order to improve clarity.

(11) Article 81(3) and (5) of Regulation (EC) No 555/2008 foresees rules on controls related to the production potential and to the operations of restructuring and conversion of vineyards, for areas receiving a grubbing-up premium in accordance with Articles 85o to 85x of Regulation (EC) No 1234/2007. The grubbing-up scheme ended in 2011. Therefore, those rules should be deleted. However, Article 81(4) foresees an on-the-spot control or a remote sensing control in case of grubbing-up, if its resolution is equal to or higher than 1 m^2 or the grubbing-up covers the entire vineyard parcel. Grubbing-up before replanting can also be an operation carried out in the framework of a restructuring and conversion measure and therefore it is appropriate to foresee the same rule for this measure.

(12) Commission Regulation (EC) No 883/2001[(8)] provided the simplified VI-1 document for wine products, including grape juice originating in a list of countries, including the United States of America, and imported into the Union. Since the entry into force of the Agreement between the European Community and the United States of America on trade in wine[(9)], wine from the United States of America can be imported into the Union accompanied by a certification document as provided for in Article 9 of the Agreement. In consequence, in Regulation (EC) No 555/2008, which replaced Regulation (EC) No 883/2001, the United States of America were not included in the list of countries allowed to use the simplified VI-1 document. However, as grape juice is not covered by that Agreement, the United States of America should be added to that list for the benefit of wine products not covered by the scope of the Agreement.

(13) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 555/2008 is amended as follows:

(1) in Article 2, paragraph 3 is replaced by the following:

3. Member States deciding to reduce, from the 2015 financial year onwards, the amount available for the support programmes in order to increase their national ceilings for direct payments referred to in Article 40 of Council Regulation (EC) No 73/2009[(10)], shall notify these amounts before 1 August 2013. The data submitted in the forms provided in Annexes I, II, III, VII and VIII shall be adapted accordingly if that decrease had not been already foreseen in the draft support programme presented by 1 March 2013.;

(2) Article 4 is amended as follows:

(a) in the first paragraph, point (d) is replaced by the following:

(d) for each programming period, the support for the promotion and information lasts no longer than three years for a given beneficiary in a given third-country; however, if necessary, it may be renewed once, for a period no longer than two years;;

(b) the third paragraph is deleted;

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 202/2013. (See end of Document for details)*

(3) in Article 5, paragraph 3 is replaced by the following:

3. Having examined the applications, Member States shall select those offering the best value for money. Preference shall be given to:

a micro, small and medium-sized enterprises in the meaning of Commission Recommendation 2003/361/EC[11];

b new beneficiaries who did not receive support in the past; and

c beneficiaries targeting a new third country for which they have not received support in the past within this scheme.

Member States shall draw up a list within the limit of available funds and shall communicate that list to the Commission using the form set out in Annex VIII in order to allow the other Member States to be informed and to increase coherence of the measure.;

(4) Article 6 is replaced by the following:

Article 6

Ineligible operations

1 For the purposes of the second subparagraph of Article 103q(3) of Regulation (EC) No 1234/2007, "the normal renewal of vineyards which have come to the end of their natural life" shall mean the replanting of the same parcel of land with the same variety according to the same system of vine cultivation. Member States may establish further specifications, especially as regards to the age of the vineyards replaced.

2 The following operations are not eligible:

a day-to-day management of a vineyard;

b protection against damage by game, birds or hail;

c construction of windbreaks and wind protection walls;

d driveways and elevators.;

(5) Article 8 is replaced by the following:

Article 8

Levels of support

1 Subject to the provisions of Article 103q of Regulation (EC) No 1234/2007 and of this Chapter, Member States shall lay down rules setting out the eligible restructuring and conversion actions and their respective eligible costs. The rules shall be designed to ensure that the objective of the scheme is met.

The rules may provide in particular either for the payment of flat-rate amounts, or for maximum levels of support per hectare. In addition, the rules may provide for the adjustment of the support on the basis of objective criteria.

2 In order to avoid overcompensation, where Member States make use of flat rate amounts, these shall be established on the basis of an accurate calculation of the actual costs of each type of operation. Flat rate amounts may be adapted annually if justified.

3 The support is paid for the area planted, defined in conformity with Article 75(1).;

(6) Article 10 is deleted;

(7) Articles 26 to 34 are deleted;

(8) in Article 35, paragraph 6 is replaced by the following:

6. Member States deciding to transfer, for 2014 and from 2015 onwards, the entire amount of their national envelope for the support programmes in order to increase their national ceilings for direct payments referred to in Article 40 of Regulation (EC) No 73/2009, shall not be required to submit the forms set out in Annexes V to VIIIc to this Regulation.;

(9) in Article 43(2), the introductory phrase of the second subparagraph is replaced by:

In the case of wine put up in labelled containers of a capacity not exceeding 60 litres, fitted with non-reusable closing devices, and provided that the wine originates in a country appearing in Annex XII, part A, which has offered special guarantees accepted by the Community, the analysis report section of the V I 1 form need be completed only in respect of:;

(10) Article 45 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. V I 1 documents made out by wine producers in the third countries listed in Annex XII, Part B, which have offered special guarantees accepted by the Community shall be considered as certificates or analysis reports drawn up by agencies and laboratories included in the list provided for in Article 48 provided that the producers have received individual approval from the competent authorities of those third countries and are subject to inspection by the latter.;

(b) in the first subparagraph of paragraph 2, point (a) is replaced by the following:

(a) in box 1, their names and addresses and their registration numbers in the third countries listed in Annex XII, Part B;;

(11) Articles 67 to 73 are deleted;

(12) in Article 77, paragraph 5 is replaced by the following:

5. Concerning measures foreseen by Article 103u of Regulation (EC) No 1234/2007, Article 24(1) to (3) and (6), and Article 26(1) and (2) of Commission Regulation (EU) No 65/2011[(12)] shall apply *mutatis mutandis*.;

(13) Article 81 is amended as follows:

(a) paragraphs 3 and 5 are deleted;

(b) paragraph 4 is replaced by the following:

4. The control that the grubbing-up, including as an operation of restructuring and conversion of vineyard, has actually taken place, shall be carried out by an on-the-spot check. In the case of grubbing-up of the entire