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Council Regulation (EC) No 2013/2006 of 19 December 2006 amending Regulations (EEC) No 404/93, (EC) No 1782/2003 and (EC) No 247/2006 as regards the banana sector

COUNCIL REGULATION (EC) No 2013/2006

of 19 December 2006

amending Regulations (EEC) No 404/93, (EC) No 1782/2003 and (EC) No 247/2006 as regards the banana sector

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 and Article 299(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament,

After consulting the European Economic and Social Committee,

Whereas:

(1) Currently the regime for the banana sector is set out in Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organisation of the market in bananas[(1)]. Specifically, the aid scheme for banana producers is based on principles which have been substantially reformed for other common market organisations. In order to better ensure a fair standard of living for the agricultural community in regions where bananas are produced, to better direct resources towards market-orientation of producers, to stabilise expenditure, to ensure respect of the international obligations of the Community, to take adequately into account the particularities of the producing regions, to simplify the management of the regime and align it on the principles of the reformed common market organisations, it is necessary to amend this regime.

(2) Changes should take into account developments and potential developments in the regime governing imports into the Community of bananas produced in third countries, in particular the move from a system governed by tariff quotas to one currently governed by a tariff-only system, subject only to a preferential quota for bananas produced in ACP countries.

(3) Bananas are one of the main agricultural crops of certain of the outermost regions of the Union, notably the French overseas departments of Guadeloupe and Martinique, the Azores, Madeira and the Canary Islands. Production of bananas is disadvantaged in particular by the remoteness, insularity, small size, and difficult topography of these regions. Local banana production is an essential element of the environmental, social and economic balance of the rural areas in those regions.

(4) Account should be taken of the socio-economic importance of the banana sector for the outermost regions and the contribution which it makes to achieving social and economic

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cohesion on account of the income and employment which it generates, the economic activities to which it gives rise (both upstream and downstream), and the effect which it has of maintaining a landscape balance which encourages the development of tourism.

(5) The current Community system of compensatory aid for bananas set out in Title III of Regulation (EEC) No 404/93 does not adequately respect the local particularities of production in each of those outermost regions. Provision should therefore be made to cease paying the existing compensatory aid for bananas in respect of those regions, which would allow banana production to be included in the support programmes. It is therefore appropriate to seek a better instrument to support banana production in those regions.

(6) Title III of Council Regulation (EC) No 247/2006 of 30 January 2006 laying down specific measures for agriculture in the outermost regions of the Union[(2)] provides for the establishment of Community support programmes for the outermost regions containing specific measures to assist local lines of agricultural production. That Regulation provides for a review not later than 31 December 2009. If there are substantial changes to the economic conditions affecting livelihoods in the outermost regions, the Commission should submit the report sooner. That instrument seems best adapted to support banana production in each of the regions concerned by providing for flexibility and decentralisation of mechanisms to support banana production. The possibility of including banana support in those support programmes should reinforce the coherence of the strategies for support of agricultural production in those regions.

(7) The budgetary allocation under Title III of Regulation (EC) No 247/2006 should be increased accordingly. Technical amendments should also be made to that Regulation to facilitate the transition from the arrangements under Regulation (EEC) No 404/93 to those laid down by this Regulation. In particular provision should be made for the modification of existing Community support programmes. In order to provide for a smooth transition, those modifications should apply from the date of application of this Regulation.

(8) As regards production of bananas in the Community other than in the outermost regions, it seems no longer necessary to provide for a specific aid scheme for bananas, given the small proportion of the total Community production concerned.

(9) Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers[(3)] provides for a system of decoupled income support for farms (hereinafter referred to as the Single Payment Scheme). This system was intended to allow for the shift from production support to producer support.

(10) Information and infrastructure measures in the context of rural development can play an important role in the shift to producer support, whereby one aim could be to shift banana production and marketing to various quality and production standards such as organic products or local varieties. Bananas can also be marketed as a special local product within the framework of existing tourism in these areas, thereby creating a link between consumers and local bananas as an identifiable product.

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(11) For the sake of consistency it is appropriate to abolish the existing compensatory aid scheme for bananas and to include bananas in the Single Payment Scheme. To this end it is necessary to include the compensatory aid for bananas in the list of direct payments in relation to the Single Payment Scheme referred to in Regulation (EC) No 1782/2003. Provision should also be made for the establishment by Member States of reference amounts and eligible hectares under the Single Payment Scheme on the basis of a representative period appropriate to the banana market and of appropriate objective and non-discriminatory criteria. Areas planted with bananas which are treated as permanent crops should not be excluded. National ceilings should be amended appropriately. Provision should also be made for the Commission to adopt detailed rules and any necessary transitional measures.

(12) Title II of Regulation (EEC) No 404/93 provides for producers' organisations and concentration mechanisms. As regards producers' organisations, the objectives of the existing regime are to form such organisations so that as many producers as possible are members of such organisations and to limit the payment of compensatory aid to producers who are members of recognised producers' organisations.

(13) The regime has succeeded in its first objective since the vast majority of Community producers are now members of producers' organisations. The second objective is obsolete since the compensatory aid scheme is to be abolished. It is therefore no longer necessary to maintain rules at Community level on producer organisations, thus leaving Member States free to adopt such rules, if necessary, targeted at the specific situations in their territories.

(14) The scheme providing for assistance to encourage the establishment and administrative operation of producers' organisations should therefore be abolished. However in the interests of legal certainty and the protection of legitimate expectations, provision should be made for the continued payment of such assistance to recently recognised producers' organisations already benefiting from this assistance.

(15) The provisions of Regulation (EEC) No 404/93 allowing for the recognition and operation of groups encompassing one or more of the economic activities relating to the production, marketing or processing of bananas have not found any practical application. They should therefore be deleted.

(16) In the light of the changes made to the banana regime, it is no longer necessary to have a separate Management Committee for Bananas. The Management Committee for Fresh Fruit and Vegetables established by Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables[(4)] should be used instead, as appropriate.

(17) A number of provisions contained in Regulation (EEC) No 404/93 are obsolete and should therefore be repealed for the sake of clarity.

(18) Regulations (EEC) No 404/93, (EC) No 1782/2003 and (EC) No 247/2006 should therefore be amended accordingly.

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(19) Provision should be made for the Commission to adopt any detailed rules necessary for the implementation of the amendments provided for in this Regulation and transitional measures necessary to facilitate the switch-over from the existing arrangements to those laid down by this Regulation.

(20) The Act of Accession of Bulgaria and Romania (hereinafter referred to as the 2005 Act of Accession), this Regulation and Regulation (EC) No 2011/2006[(5)] (Sugar and Seeds) all amend Regulation (EC) No 1782/2003, and those amendments should come into force on the same day. In the interest of legal certainty, the order in which those amendments are to be applied should be specified.

(21) In order to avoid prolonging unnecessarily the current aid scheme for bananas and in the interests of simple and effective management, the amendments provided for in this Regulation should apply as soon as practicable, namely from the 2007 marketing year for bananas,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EEC) No 404/93

Regulation (EEC) No 404/93 is hereby amended as follows:

1. Titles II and III, Articles 16 to 20, Article 21(2), Article 25 and Articles 30 to 32 shall be deleted;

2. In Article 27, paragraph 1 shall be replaced by the following:

1. The Commission shall be assisted by the Management Committee for Fresh Fruit and Vegetables referred to in Article 46(1) of Regulation (EC) No 2200/96.

References to the Management Committee for Bananas shall be construed as references to the Committee referred to in the first subparagraph.;

3. Article 29 shall be replaced by the following:

Article 29

Member States shall provide the Commission with the information it requires to implement this Regulation.;

4. The following Article shall be inserted:

Article 29a

Detailed rules for the application of this Regulation shall be adopted in accordance with the procedure referred to in Article 27(2).

Article 2

Amendments to Regulation (EC) No 1782/2003

Regulation (EC) No 1782/2003 as amended, including by the 2005 Act of Accession, and Regulation (EC) No 2011/2006 (Sugar and Seeds), is hereby amended as follows:

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1. In Article 33(1), point (a) shall be replaced by the following:

   (a) they have been granted a payment in the reference period referred to in Article 38 under at least one of the support schemes referred to in Annex VI or, in the case of olive oil, in the marketing years referred to in the second subparagraph of Article 37(1), or, in the case of sugar beet, cane and chicory, if they have benefited from market support in the representative period referred to in point K of Annex VII, or, in the case of bananas, if they have benefited from compensation for loss of income in the representative period referred to in point L of Annex VII.;

2. In Article 37(1), the following subparagraph shall be added:

   For bananas the reference amount shall be calculated and adjusted in accordance with point L of Annex VII.;

3. In Article 40, paragraph 2 shall be replaced by the following:

2. If the whole reference period was affected by the case of *force majeure* or exceptional circumstances, the Member State shall calculate the reference amount on the basis of the 1997 to 1999 period or, in case of sugar beet, cane and chicory on the basis of the closest marketing year prior to the representative period chosen in accordance with point K of Annex VII, or, in case of bananas on the basis of the closest marketing year prior to the representative period chosen in accordance with point L of Annex VII. In this case, paragraph 1 shall apply *mutatis mutandis*.;

4. In Article 43(2), point (a) shall be replaced by the following:

   (a) in case of potato starch, dried fodder, seed, olive groves, and tobacco aids listed in Annex VII, the number of hectares whose production has been granted the aid in the reference period, as calculated in points B, D, F, H, I of Annex VII, in case of sugar beet, cane and chicory, the number of hectares as calculated in accordance with point 4 of point K of that Annex and in the case of bananas, the number of hectares as calculated in accordance with point L of that Annex;;

5. In Article 44(2), the second subparagraph, the words ‘or planted with bananas,’ shall be inserted after the words ‘or being under temporary resting obligation,’;

6. In Article 51, point (a), the words ‘or bananas’ shall be added after the word ‘hops’ at the end;

7. In Article 145, the following point shall be inserted after point (d)b):

   (d)c) detailed rules relating to the inclusion of banana support into the Single Payment Scheme.;

8. Article 155 shall be replaced by the following:

Article 155

Other transitional rules

Further measures required to facilitate the transition from the arrangements provided for in the Regulations referred to in Articles 152 and 153, in Regulation (EC) No 1260/2001 and in Council Regulation (EEC) No 404/93[(6)] to those established by this