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from: General Secretariat
to: Special Committee on Agriculture

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Subject: Proposal for a Regulation of the European Parliament and of the Council laying down specific measures for agriculture in the outermost regions of the Union (2010/0256/COD)

1. On 24 September 2010, the Commission submitted the above proposal to the Council and to the European Parliament.
2. On 17 February 2011, the European Economic and Social Committee adopted its opinion on the proposal.
3. On 4 October 2011, the European Parliament's Committee on Agriculture and Rural Development voted on proposed amendments to the Commission proposal.

4. On 27 February 2012, the Special Committee on Agriculture examined the above proposal on the basis of a Presidency revised text, considered the amendments of the European Parliament's Committee on Agriculture and Rural Development and provided the Presidency with a negotiating mandate for an informal trilogue which was held on 22 March 2012.
5. On 8 October 2012 and 12 November 2012, the Special Committee on Agriculture examined further the above proposal on the basis of updated Presidency revised texts, and provided the Presidency with negotiating mandates for a second and a third informal trilogue respectively. The second informal trilogue was held on 16 October 2012 and the third on 14 November 2012.
6. On 14 November 2012, an agreement on a compromise text was reached during the third informal trilogue with the European Parliament.
7. On 19 November 2012, the Special Committee on Agriculture is invited to authorise the Presidency to send a letter to the Chairman of the European Parliament's Committee on Agriculture and Rural Development, confirming that, should the European Parliament adopt its position at first reading, in accordance with Article 294(3) of the Treaty on the functioning of the European Union and in the exact form as set out in the Annex to this note, the Council would, in accordance with Article 294(4) of this Treaty, approve the European Parliament's position, subject to revision by the legal-linguistic experts of both institutions.

Draft

REGULATION (EU) OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

laying down specific measures for agriculture in the outermost regions of the Union

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 subparagraph of Article 42, ~~and~~ Article 43(2) **and Article 349** thereof,

Having regard to the proposal from the European Commission¹,

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

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the ordinary legislative procedure⁴,

Whereas:

- (1) Specific measures in the agricultural sector in order to remedy the difficulties caused by the specific situation facing the European Union's outermost regions, as referred to in Article 349 of the Treaty, have been established by Council Regulation (EC) No 247/2006 of 30 January 2006 laying down specific measures for agriculture in the outermost regions of the Union¹. These 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 new amendments which have become necessary and following the entry into force of the Lisbon Treaty, it is necessary to repeal Regulation (EC) No 247/2006 and replace it with a new text.

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ C , , p. .

⁴ OJ C , , p. .

- (2) The fundamental objectives which the scheme promoting the Union's outermost regions will help to meet, need to be specified.
- (3) The content of the Programmes of Options Specifically Relating to Remoteness and Insularity ('POSEI programmes') which, in accordance with the principle of subsidiarity, must be established by the Member States concerned at the most appropriate geographical level and submitted by the Member States to the Commission for approval, must also be specified.
- (4) In order to achieve the objectives of the scheme promoting the Union's outermost regions more effectively, the POSEI programmes must 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 more systematic.
- (5) In keeping with the principle of subsidiarity and in order to ensure flexibility, 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. **These authorities may modify the POSEI programmes taking account of the principle of fostering administrative simplification, without ever jeopardising effectiveness and the corresponding financial resources allocated to the POSEI programmes.** Also in keeping with this approach, the procedure for amending the programmes must be adapted to reflect the level of relevance of each type of amendment.

¹ OJ L 42, 14.2.2006, p. 1.

- (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 imposes additional transport costs in 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, namely their insularity and small surface areas, lead to further constraints on economic operators and producers in the outermost regions that severely handicap their activities. These handicaps can be alleviated by lowering the price of these essential products. **The specific supply arrangement should not, however, under any 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 European Union law, products which have entered the Union's customs territory under inward processing or customs warehousing arrangements should be considered as direct imports, for the purpose of granting the benefits of the specific supply arrangements.
- (8) In order to achieve in an effective manner the lowering of prices in the outermost regions, ~~and mitigating the additional costs of their extreme remoteness, all the while maintaining the competitiveness of EU products,~~ aid should be granted for the supply of Community 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 of their extreme remoteness, specifically insularity and small surface areas, **difficult topography and climate and scattered islands.**
- (8a) Support for traditional sectors is all the more necessary because it enables them to remain competitive on the EU market in the face of competition from third countries. The Member States should, however, also ensure, as far as possible, the diversification of agricultural activities in the outermost regions when they draw up their programmes.**

- (9) 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.
- (10) Rules should be established concerning the operation of the scheme, particularly relating to the creation of a register of operators and a system of certificates, based on the certificates 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)¹.
- (11) Given the requirements relating to the monitoring of transactions benefiting from the specific supply arrangements, administrative checks must 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 must be in terms of production costs and must 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 must be carried out.
- (12) Since the quantities covered by the specific supply arrangements are limited to the supply requirements of the outermost regions, this system does not impair the proper functioning of the internal market. Nor should the economic advantages of the specific supply arrangements provoke diversions of trade in the products concerned. Dispatching or exportation of those products from the outermost regions should therefore be prohibited. Nevertheless, the dispatch or export of these products must be authorised if the financial advantage resulting from the specific supply arrangements is reimbursed.

¹ OJ L 299, 16.11.2007, p. 1.

- (13) 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. For the sake of clarity, the reference period for defining traditionally exported or dispatched quantities should be specified.
- (14) However, 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 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, dispatches of sugar from the Azores to the rest of the Union should be allowed exceptionally to exceed traditional flows for a limited period of five years, subject to progressively reduced annual limits. Given that the quantities that may be re-dispatched will be proportional and limited to the extent 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.
- (15) 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 be also authorised to benefit from the exemption from import duties for raw cane sugar within the limit of their forecast supply balance.
- (16) To date the Canary Islands have been supplied under the specific supply arrangements for skimmed milk powder containing vegetable fat with CN code 1901 90 99 for industrial processing. The continued supply of this product, which has become a traditional component of the local diet, should be permitted.

- (17) 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 ~~since the island~~ **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.
- (18) European Union policy to assist local production in the outermost regions has involved a multitude of products and measures for their production, marketing or processing. These measures have proved effective and ensured that agriculture continues and develops. The EU 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 the particular issues affecting the regions concerned in a more targeted way. Support to promote local production therefore needs to continue by means of the POSEI programmes.
- (19) In order to support the marketing of products from the outermost regions, aid should be established to assist 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, which create crucial competitive disadvantages affecting their ability to compete in the internal market. These factors justify the need to review the POSEI scheme in the near future.**
- (20) The minimum elements which must be provided under the POSEI programmes in order to establish the measures supporting local agricultural production, specifically the description of location, the strategy proposed, the objectives and measures, should be established. The principles where these measures are consistent with other EU policies should also be stipulated, in order to avoid any incompatibility and overlapping of aid.
- (21) In order to ensure that it can be implemented, the POSEI programme may also contain measures for financing studies, demonstration projects, training and technical assistance.

- (22) Farmers in the outermost regions should be encouraged to **continue to** supply high-quality products and to prioritise their marketing. Use of the logo **and of other forms of quality certification** introduced by the Union may be useful to this end.
- (23) The structures of certain farms or processing and marketing firms in the outermost regions are seriously defective 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)¹ therefore provide for more favourable support rates for certain types of investment in the outermost regions.
- (24) 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 Article 20(b)(ii) of that Regulation.
- (25) ~~Article 39(4) of Regulation (EC) No 1698/2005 and Annex I thereto~~ 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 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.
- (26) 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.**

¹ OJ L 277, 21.10.2005, p. 1.

- (27) The plant health of agricultural crops in the outermost regions is subject to particular problems ~~associated with~~ **of arrival of parasites associated with the increase in imports from other countries**, the climate and the inadequacy of the control measures hitherto 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 that under the multiannual financial framework it is envisaged that as from 2014 the financing of these programmes is to be moved so as to fall under a different heading.**
- (28) 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, ~~neither~~ the abandonment premiums, ~~nor~~ the market mechanisms ***and, in the case of the Canary Islands, the planting rights system***, provided for in Regulation (EC) No 1234/2007 should be applicable in these regions, but 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.
- (29) The restructuring of the milk sector is not yet complete in the Azores. In line with the high dependence of the Azores on milk production, combined with other handicaps connected with their extreme remoteness and the absence of profitable alternative lines of production, the derogation from certain provisions of Regulation (EC) No 1234/2007 concerning surplus levies on milk and milk products should be maintained.
- (29a) Given the irreplaceable nature of milk production in the Azores, where it is one of the main driving forces for the economy, social stability, the quality of the environment and occupation of the land, the POSEI programmes are the best instrument with which to lay down any necessary measures to maintain this production.**

- (30) Support for the production of cow's milk in Madeira and Réunion has not been sufficient to maintain the balance between domestic and external supply, chiefly because of the serious structural difficulties affecting the sector and its **problems in ~~poor capacity to adapting~~** to new economic environments. Consequently, authorisation to produce UHT milk reconstituted from milk powder of EU origin should continue, in order to cover local consumption more fully- **, provided that this does not pose an obstacle to the collection and marketing of all locally produced milk, or hamper efforts to promote the expansion of local production.** In order to inform the consumer correctly, it should be made compulsory to indicate the method by which UHT milk is reconstituted using milk powder on the sales labelling. **This provision should also be applicable in Martinique, French Guiana and Guadeloupe, should France make such a request citing the wish of local stakeholders to be covered by it and their ability to develop the milk sector.**
- (31) The need to maintain local milk production by means of incentives justifies not applying Regulation (EC) No 1234/2007 in the French overseas departments and Madeira. This exemption should apply to Madeira subject to a limit of 4 000 tonnes.
- (31a) The trade dynamic among outermost regions should be fostered with a view to meeting local consumption needs. The export of surplus production from each of the outermost regions – for example, the export of milk, beef and young male bovine animals from the Azores – to those regions with shortages should be encouraged with a view to strengthening the trade dynamic, while avoiding harming the growth of local production. The conditions necessary for fair and equitable trade should also be guaranteed.**
- (32) Traditional livestock farming activities should be supported. In order to meet the local consumption needs of the French overseas departments and Madeira, duty-free imports from third countries of male bovine animals intended for fattening should be authorised subject to certain conditions and up to a maximum annual limit.

- (33) The possibility opened under Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers¹ to enable Portugal to transfer rights to the suckler cow premium from the mainland to the Azores should be renewed and that instrument should be adjusted in the light of the support arrangements for the outermost regions.
- (34) Tobacco growing is of historical importance in the Canary Islands. Economically speaking, tobacco preparation continues to be one of the chief industrial activities in the region. In social terms, tobacco cultivation is very labour-intensive and carried out by small farms. Since the crop is not sufficiently profitable, however, it is in danger of dying out. Tobacco is currently cultivated on only a small area on the island of La Palma, for the small-scale manufacture of cigars. Spain should therefore be authorised to continue to grant aid, in addition to EU aid, so that this traditional crop can be maintained with a view to supporting the artisanal activity associated with it. In addition, to maintain the manufacture of tobacco products, imports into the Canary Islands of raw and semi-manufactured tobacco should continue to be exempt from customs duty, up to an annual limit of 20 000 tonnes of stripped raw tobacco equivalent.
- (35) Implementation of this Regulation must not jeopardise the level of special support from which the outermost regions have benefited up to now. For that reason, so that they can implement the appropriate measures, the Member States should have at their disposal sums equivalent to the support already granted by the Community under Regulation (EC) No 247/2006.

(35a) Given the potential effects that negotiations of future trade agreements and modifications on the common agricultural policy may have on the outermost regions, specific regard should be given to the specificities of these regions in the context of the analyses, studies and assessments done in relation to assessments done in relation to these negotiations and modifications.

¹ OJ L 30, 31.1.2009, p. 16.

(36) Since 2006, requirements in essential products have increased in some outermost regions, particularly in the Azores and in the French overseas departments, as a result of the increasing livestock population and demographic pressure. The proportion of the budget which Member States may use for the specific supply arrangements for the regions concerned should therefore be increased.

(36a) The socio-economic tissue of the outermost regions remains very fragile, and for some of them is often highly dependent on the banana sector which itself clearly suffers from a lack of competitiveness and difficulties in responding to changing market conditions. The POSEI budget allocated to the banana sector shall therefore be increased by a one off, limited amount to be paid to banana producers during the financial year 2013.

(37) ~~The Commission should therefore be able~~ **In order to ensure the proper functioning of the regime established by this Regulation, the power to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the supplementing or modification of,** in order to supplement or modify certain non-essential elements of the present Regulation. ~~The areas with regard to which this ability can be exercised, and the conditions to which this delegation should be subject should be set out.~~ **It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.**

(38) In order to ensure that the POSEI programme is implemented in the Member States in a uniform manner and to avoid unfair competition or discrimination between operators, implementing powers should be conferred on the Commission. ~~able to adopt implementing acts in accordance with Article 291(2) of the Treaty. The Commission should~~ **Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers¹.**

¹ OJ L 55, 28.02.2011, p. 13.

(44) In order to allow for the prompt application of the measures envisaged, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

~~(39) [Recital concerning control of implementing measures. To be completed following the adoption of the regulation on control mechanisms, as referred to in Article 291(2) of the TFEU, currently the subject of discussion by the European Parliament and the Council];~~

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SCOPE

Article 1

Subject

This Regulation lays down specific measures for agriculture to mitigate the difficulties caused by extreme remoteness, specifically remoteness, isolation, small surface areas, terrain, difficult climate and economic dependence on a limited number of products of the regions of the Union referred to in Article 349 of the Treaty, hereinafter referred to as ‘outermost regions’.

Article 2

Objectives

1. The specific measures referred to in Article 1 shall help to meet the following objectives:
 - a) guaranteed supply to the outermost regions of products essential for human consumption or for processing and as agricultural inputs by mitigating the additional costs due to extreme remoteness, **without harming local production and the growth thereof**;

- b) ~~preservation~~ **securing the long-term future** and development of agricultural activities **the so-called livestock and crop diversification sectors** in the outermost regions, including the production, processing and the sale of local products;

ba) maintaining the development and strengthening the competitiveness of traditional agricultural activities in the outermost regions, including the production, processing and marketing of local crops and products.

2. The objectives set out in paragraph 1 shall be implemented by means of the measures referred to in Chapters III, IV and V.

CHAPTER II

POSEI PROGRAMMES

Article 3

Establishing the POSEI programmes

1. The measures provided for in Article 1 are defined for each outermost region by a Programme of Options Specifically Relating to Remoteness and Insularity (POSEI), hereinafter referred to as the 'POSEI programme', which shall comprise:
- a) specific supply arrangements as provided for in Chapter III, and
 - b) specific measures to assist local agricultural production as provided for in Chapter IV.

2. The POSEI programme shall be established at the geographical level which the Member State concerned deems most appropriate. It shall be prepared by the competent authorities designated by the said Member State, which shall submit it to the Commission for approval in accordance with Article 6 after the competent authorities and organisations at the appropriate regional level have been consulted.
3. A single POSEI programme may be submitted for each Member State in respect of its outermost regions.

Article 4

Compatibility and consistency

1. Measures taken under POSEI programmes must comply with European Union law and be consistent with other EU policies and with the measures taken under such policies.
2. Consistency of the measures taken under POSEI programmes with measures implemented under other instruments of the common agricultural policy, and in particular the common organisations of markets, rural development, product quality, animal welfare and protection of the environment, must be ensured.

In particular, no measure under this Regulation may be financed as:

- a) additional support for premium or aid schemes under a common organisation of the market save in exceptional cases justified by objective criteria;
- b) support for research projects, measures to support research projects or measures eligible for European Union financing under Council Decision 2009/470/EC¹;
- c) support for measures within the scope of Regulation (EC) No 1698/2005.

¹ OJ L 155, 18.6.2009, p. 30.

Article 5

Content of programmes

A POSEI programme shall comprise:

- a) a schedule for the implementation of the measures and a general annual indicative financing table showing the resources to be deployed;
- b) proof of the compatibility and consistency between the various measures under the programmes and the criteria and quantitative indicators to be used for monitoring and evaluation;
- c) the steps taken to ensure the programmes are implemented effectively and appropriately, including the arrangements for publicity, monitoring and evaluation, and a specified set of quantified indicators for use in programme evaluation.
- d) the designation of the competent authorities and bodies responsible for implementing the programme and the designation at the appropriate levels of authorities or associated bodies and socio-economic partners, and the results of consultations held.

Article 6

Approval and amendments of programmes

1. ~~Member States shall submit a draft~~ **The** POSEI programme to the Commission in the light of **programmes have been established by Regulation (EC) No 247/2006 and are financed under** the financial allocation referred to in Article 29(2) and (3).

~~The draft~~ **Each** programme shall comprise ~~a draft~~ forecast supply balance indicating the products, the quantities thereof and the amount of aid for supply from the Union together with a ~~draft~~ programme of support for local production.

~~The Commission shall evaluate the POSEI programme proposed and decide whether or not to approve it by means of an implementing act.~~

2. Depending on the annual evaluation of the implementation of measures included in the POSEI programmes, the Member States may, **after consulting the socioeconomic operators concerned**, submit to the Commission **duly substantiated** proposals for amendments thereto within the context of the financial allocation referred to in Article 29(2) and (3), to bring them more into line with the requirements of the outermost regions and the strategy proposed. The Commission shall ~~adopt by means of an implementing act~~ **assess the compliance with Union law of the amendments proposed and decide on whether to approve them following the procedures determined by way of an implementing act adopted by the Commission.**
3. ~~In order to take into account the different types of amendments proposed and the time frame within which they must be implemented, the Commission shall determine by delegated act the procedure for approving amendments.~~
The procedures determined in line with Paragraph 2 may be differentiated on the basis of the importance of the modifications proposed by the Member States with reference to the introduction of new measures, substantial changes to the budget allocated to the measures, changes in the quantities and in the level of aid for products in the forecast supply balances, amendments to codes and descriptions laid down in Council Regulation (EEC) No 2658/87.
4. **The implementing acts adopted pursuant to Paragraph 2 shall also determine, for each procedure, the frequency of requests for amendments as well as the time frames within which the approved amendments are to be implemented.**
5. **The implementing acts referred to in this Article shall be adopted in accordance with the examination procedure referred to in Article 34(2).**

Article 6a

Member States shall submit to the Commission the draft amendments to their POSEI programmes to reflect the changes introduced by Article 29.4 not later than one month following the entry into force of the present Regulation.

These amendments shall become applicable one month after their submission if during this period the Commission raises no objections. The competent authorities shall pay the concerned aid not later than 30 June 2013.

Article 7

Monitoring and follow-up

The Member States shall conduct verifications by means of administrative and on-the-spot checks. ~~In order to ensure uniform application, t~~**The Commission shall adopt implementing acts regarding the minimum characteristics of the checks to be carried out by the Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).**

By the same type of act, the Commission shall adopt the procedures and physical and financial indicators in order to ensure that the implementation of the programmes is monitored in an effective manner.

CHAPTER III

SPECIFIC SUPPLY ARRANGEMENTS

Article 8

Forecast supply balance

1. Specific supply arrangements are hereby established for the agricultural products listed in Annex I to the Treaty, which are essential in the outermost regions for human consumption, for the manufacture of other products or as agricultural inputs.
2. The Member State concerned shall establish, at the geographical level which it deems most appropriate, a forecast supply balance so as to quantify the annual supply requirements for each outermost region with regard to the products listed in Annex I to the Treaty.

A separate forecast balance may be drawn up for the requirements of undertakings packaging and processing products intended for the local market for traditional consignment to the rest of the EU or for export as part of regional trade, in accordance with Article 13(3), or within the context of traditional trade flows.

Article 9

Operation of the arrangements

1. Within the limit of the quantities determined in the forecast supply balance, no duties shall apply to direct imports from third countries into the outermost regions of products covered by the specific supply arrangements.

Products which have entered the Union's customs territory under inward processing or customs warehousing arrangements shall be considered as direct imports from third countries for the purposes of this chapter.

2. In order to ensure coverage of the requirements established in accordance with Article 8(2) in terms of price and quality, while taking care to maintain the Union's share in supplies, aid shall be granted to supply the outermost regions with EU products held in public intervention storage or available on the EU market.

Such aid shall be determined for each type of product concerned to take account of the additional cost of transport to the outermost regions and the prices applied to exports to third countries and, in the case of products intended for processing or agricultural inputs, other additional costs of extreme remoteness, specifically insularity and small surface areas.

3. No aid shall be granted for the supply of products which have already benefited from the specific supply arrangements in another outermost region.
4. Only products of sound, fair and marketable quality may benefit from the specific supply arrangements. **Products from third countries shall provide an equivalent level of guarantees as those produced under the European Union's veterinary and plant health standards.**

Article 10

Implementation

In implementing the specific supply arrangements, account shall be taken, in particular, of the following:

- a) the specific requirements of the outermost regions and, in the case of products intended for processing and agricultural inputs, the quality requirements;
- b) trade flows with the rest of the Union;
- c) the economic aspect of the proposed aid;
- d) ~~where applicable,~~ the need **neither to destabilise the existing local production, nor not to obstruct the their potential development of local products.**

Article 11

Certificates

1. Exemption from import duties or access to aid within the framework of the specific supply arrangements is granted upon the presentation of a certificate.

Certificates shall be issued only to operators entered in a register held by the competent authorities.

Licences and certificates shall not be transferable.

2. **No security shall be required when applying for import licences, exemption certificates or aid certificates. However, to the extent necessary to ensure the proper application of this Regulation, the competent authority may require a security to be lodged equal to the amount of the advantage accorded. In such cases, Article 34(1) and from (4) to (8) of Regulation (EC) No 376/2008 shall apply.**

In order to ensure that operators fully exercise their rights to participate in the specific supply arrangements, the Commission shall **be empowered to adopt delegated acts in accordance with Article 33** determining the conditions for recording operators in the register.

3. The Commission shall **adopt implementing acts** regarding the measures necessary to ensure the uniform application by the Member States of this Article, specifically relating to the introduction of the system of certificates, ~~not including the establishment of the security certificates,~~ and the commitment of operators at the time of registration. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

Article 12

Impact of advantage

1. Benefiting from the specific supply arrangements resulting from the exemption of import duty or the awarding of aid shall be subject to the condition that the impact of the economic advantage is passed on up to the end user who, as appropriate, may be the consumer in the case of products meant for direct consumption, the end processor or packager in the case of products meant for the processing or packaging industries, or farmers in the case of products used for animal feed or as agricultural inputs.

The advantage referred to in the first indent shall be equal to the amount of the exemption from import duties or to the amount of the aid.

2. In order to ensure that paragraph 1 above is applied in a uniform manner, the Commission shall **adopt implementing acts regarding** detailed rules for **the application of rules set out in paragraph 1** and more specifically conditions for governing monitoring by Member States that the advantage has in fact been passed on up to the end user. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).**

Article 13

Export to third countries and dispatch to the rest of the European Union

1. **The Commission shall adopt implementing acts to establish the requirements in accordance with which products covered by the specific supply arrangements may be exported to third countries or dispatched to the rest of the Union,** which shall include the payment of import duty or the reimbursement of the aid received, as indicated in Article 9. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).**

Exports to third countries of products covered by the specific supply arrangements shall not be subject to the presentation of a certificate.

The first subparagraph above shall not apply to trade flows between French overseas departments.

2. The first subparagraph of paragraph 1 above shall not apply to products processed in the outermost regions from products having benefited from the specific supply arrangements which are:

a) exported to third countries or dispatched to the rest of the Union within the established limits of traditional exports and traditional dispatches. These amounts are established by the Commission, **by means of implementing acts**, on the basis of dispatches or export average figures, taking as a reference the verified average figures for the three best years **between** ~~since 1989~~ **2005 and 2012**, ~~1990 and 1991~~. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).**

b) exported to third countries as part of regional trade ~~in accordance with the destinations and conditions determined by the Commission by means of an implementing act~~;

e) ~~dispatched from the Azores to Madeira or vice versa~~;

ca) dispatched between the regions of the Azores, Madeira and the Canary Islands;

d) ~~dispatched from Madeira to the Canary Islands or vice versa~~;

e) dispatched between French overseas departments.

No refunds shall be granted in respect of products exported as referred to in the first subparagraph, points a) and b).

Exports to third countries of products referred to in the first subparagraph, points a) and b) shall not be subject to the presentation of a certificate.

3. For the purpose of this chapter, 'regional trade' shall be understood as trade, for each ~~French overseas department, the Azores and Madeira and the Canary Islands~~ **outermost region**, with third countries belonging to the same geographical area as those outermost regions, and with countries with which there are historical trade links. The list of these countries shall be established by the Commission, **by means of implementing acts**, taking into account objective requests made by the Member States following consultation with the sectors concerned. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).
4. Products delivered to the French overseas departments, the Azores, Madeira or the Canary Islands which have benefited from the specific supply arrangements and are used to supply ships and aircraft shall be deemed to have been consumed locally.
5. By way of derogation from paragraph 2, first subparagraph, point (a), the following maximum quantities of sugar (CN code 1701) may be dispatched annually from the Azores to the rest of the Union for a five-year period:
- in 2011: 3 000 tonnes,
 - in 2012: 2 500 tonnes,
 - in 2013: 2 000 tonnes,
 - in 2014: 1 500 tonnes,
 - in 2015: 1 000 tonnes.
6. ~~In order to target the benefit resulting from the application of the specific supply arrangements to regional and traditional trade, the Commission shall establish by means of delegated act, the conditions that processing operations which may give rise to traditional exports or regional trade must comply with.~~

Processing operations which may give rise to traditional or regional trade exports or traditional dispatches shall meet, mutatis mutandis, the processing conditions applicable under inward processing arrangements and the procedure for processing under customs control provided for in the relevant EU legislation, with the exception of all usual forms of handling.

Article 14

Sugar

1. During the period established in Article 204(2) and (3) of Council Regulation (EC) No 1234/2007, the non-quota production referred to in Article 61 of that Regulation shall be exempt from import duties subject to the forecast supply balance referred to in Article 8 of this Regulation in respect of:
 - a) sugar brought for consumption to Madeira or the Canary Islands in the form of white sugar falling within CN code 1701;
 - b) sugar refined and consumed in the Azores in the form of raw sugar falling within CN code 1701 12 10 (raw beet sugar).
2. In the Azores, for the purpose of refining, the quantities referred to in paragraph 1 may be supplemented, subject to the limit of the forecast supply balance, by raw sugar falling within code 1701 11 10 (raw cane sugar).

When determining the Azores' raw sugar requirements, account shall be taken of the development of local production of sugar beet. The quantities covered by the supply arrangements shall be determined so as to ensure that the total volume of sugar refined in the Azores each year does not exceed 10 000 tonnes.

Article 15

Skimmed milk powder

By way of derogation from Article 8 above, the Canary Islands may continue to receive supplies of skimmed milk powder falling within CN code 1901 90 99 (skimmed milk powder containing vegetable fat) meant for industrial processing, subject to a limit of 800 tonnes per year. Aid granted for supplies of this product from the Union may not exceed EUR 210 per tonne and shall be included in the limit laid down in Article 29. This product shall be used for local consumption only.

Article 16

Imports of ~~r~~Rice into Réunion

No customs duties shall be charged in the French overseas department of Réunion on products falling within CN codes 1006 10, 1006 20 and 1006 40 00 imported for consumption there.

Article 17

Controls and penalties

1. Products which are the subject of specific supply arrangements are to be subject to administrative checks at the time that they are imported into or enter the outermost regions, as well as when they are exported or leave.

~~In order to ensure uniform application of this provision, t~~**The** Commission shall adopt implementing acts **regarding** the minimum characteristics of the checks to be carried out by the Member States. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).**

2. ~~Unless in the event of force majeure or exceptional climatic accident, non-compliance by the operator with the commitments made in accordance with Article 11, the advantage granted to the holder of the certificate shall be recovered and its registration suspended or deleted depending on the severity of the non-compliance.~~

~~In order to ensure that the operators participating in the scheme comply with their obligations, the Commission shall establish by means of delegated act the conditions necessary for the implementation of the first subparagraph above and the processing of new applications for certificates by the operator.~~

Except in cases of force majeure or exceptional climatic conditions, if an operator, as referred to in Article 11 of this Regulation, fails to comply with the commitments made in accordance with Article 11, and without prejudice to any penalties applicable under national law, the competent authority shall:

(a) recover the advantage granted to the operator;

(b) temporarily suspend or revoke the operator's registration, depending on the severity of the non-compliance.

3. **Except in cases of force majeure or exceptional climatic conditions, where operators, as referred to in Article 11 of this Regulation, do not carry out the planned importation or entry, their entitlement to apply for licences or certificates shall be suspended by the competent authority for a period of 60 days following expiry of that licence or certificate. After the suspension period, the issue of subsequent licences or certificates shall be subject to the lodging of a security equal to the amount of the advantage to be granted during a period to be determined by the competent authority.**

The competent authority shall adopt the measures required to reutilise any quantities of products made available as a result of non-execution, partial execution or cancellation of the licenses and certificates issued or recovery of the advantage.

CHAPTER IV

MEASURES TO ASSIST LOCAL AGRICULTURAL PRODUCTS

Article 18

Measures

1. The POSEI programmes consist of specific measures designed to promote local agricultural production under the scope of Part 3, Title III of the Treaty, necessary in order to ensure the continuity and development of local agricultural production in each outermost region.
2. The parts of the programme which includes measures to assist local agricultural production **and which correspond to the objectives set out in Article 2** shall comprise at least the following elements:
 - a) a quantified description of the current situation of the agricultural production in question taking into account the results of available evaluations, showing disparities, gaps and potential for development, the financial resources that have been mobilised and the primary results of measures taken previously;
 - b) a description of the strategy proposed, the priorities selected, its quantified general and operational objectives, and an appraisal showing the expected economic, environmental and social impact, including employment effects;
 - c) a description of the measures envisaged, and in particular aid schemes for implementing them, and, where appropriate, information on the need for any studies, demonstration projects, training or technical assistance operations relating to the preparation, implementation or adaptation of the measures concerned;
 - d) a list of the aid constituting direct payments in accordance with Article 2(d) of Regulation (EC) No 73/2009;

- e) ~~conditions for the granting of aid, the products and volumes concerned;~~
- f) the aid amount established for each measure ~~or~~ **and the provisional amount for each** action in order to achieve one or more objectives for the programme.

3. The Commission shall adopt ~~by means of an implementing acts~~ **the uniform conditions concerning requirements** for the provision of the aid described in paragraph 2. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).**

4. The programme may include measures to support production, processing or sale of agricultural products in the outermost regions.

Each measure may include a variety of actions. For each action, the programme shall define at least the following elements:

- a) beneficiaries;
- b) eligibility conditions;
- c) individual **the unit amount of** aid;
- d) ~~ceiling.~~

In order to support the marketing of products outside a region in which they are produced, the Commission shall adopt by means of a delegated act the conditions for establishing the amount of aid awarded in respect of such marketing and, where appropriate, ~~the maximum amounts which form the subject of this aid~~ **the conditions for establishing the quantities of products subject to this aid.**

Article 19

Controls and wrongful payments

1. Verification of measures provided for in this chapter shall be conducted by administrative and on-the-spot checks.
2. In the event of wrongful payments, the beneficiary concerned shall be obliged to reimburse the amounts in question. Article 80 of Commission Regulation (EC) No 1122/2009¹ shall apply *mutatis mutandis*.

CHAPTER V

ACCOMPANYING MEASURES

Article 20

Logo

1. A logo shall be introduced with a view to improving awareness and the consumption of quality agricultural products, whether processed or not, specific to the outermost regions.
2. The conditions for using the logo referred to in paragraph 1 shall be proposed by the trade organisations concerned. The national authorities shall forward such proposals, with their opinion, to the Commission.

Use of the symbol shall be monitored by a public authority or a body approved by the competent national authorities.

¹ OJ L 316, 2.12.2009, p. 65.

3. In order to improve awareness of high-quality agricultural products from the outermost regions and to increase the consumption thereof, whether processed or non-processed, the Commission shall establish, by means of a delegated act, the conditions for exercising the right to use the logo and for reproducing and using it. **The Commission shall be empowered to adopt those delegated acts in accordance with Article 33.**
4. ~~In order to ensure that this Article is applied in a uniform way, t~~**The Commission shall adopt, by means of a implementing acts, regarding the detailed rules concerning the use of the logo and the minimum characteristics for the checks and monitoring which the Member States shall perform. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).**

Article 21

Rural development

1. Notwithstanding Article 39(4) of Regulation (EC) No 1698/2005, the maximum annual amounts eligible for European Union aid, as set out in Annex I to that Regulation, may be increased up to twofold in the case of the measure to protect lakes in the Azores and the measure to preserve the landscape, **biodiversity** and traditional features of agricultural land and the conservation of stone walls ~~supporting terraces in Madeira~~ **in the outermost regions**.
2. A description of the measures planned under paragraph 1 of this Article shall be included, where appropriate, in the programmes for these regions referred to in Article 16 of Regulation (EC) No 1698/2005.

Article 22

State aid

1. For the agricultural products covered by Annex I to the Treaty, to which Articles 107, 108 and 109 thereof apply, the Commission may authorise, in accordance with Article 108 of the Treaty, operating aid in the sectors producing, processing and marketing those products, with a view to mitigating the specific constraints on farming in the outermost regions as a result of their isolation, insularity and extreme remoteness.
2. Member States may agree additional financing for the implementation of POSEI programmes. In such cases the State aid must be notified by the Member States to the Commission and approved in accordance with this Regulation as part of those programmes. Aid thus notified shall be regarded as notified within the meaning of the first sentence of Article 108(3) of the Treaty.
3. France may grant the sugar sector in the French outermost regions aid of up to EUR 90 million per marketing year.

France shall inform the Commission within 30 days of the end of each marketing year of the amount of aid actually granted.

4. Without prejudice to paragraphs 1 and 2 of this Article and by way of derogation from the first subparagraph of Article 180 of Regulation (EC) No 1234/2007 and Article 3 of Council Regulation (EC) No 1184/2006¹, Articles 107, 108 and 109 of the Treaty shall not apply to payments made under Title IV, paragraph 3 of this Article and Articles 23 and 27 of this Regulation by Member States in conformity with this Regulation.

¹ OJ L 214, 4.8.2006, p. 7.

Plant health programmes

1. ~~The Member States France and Portugal~~ shall submit programmes to the Commission for the control of organisms harmful to plants or plant products in the ~~French overseas departments and the Azores and Madeira respectively~~ **outermost regions**. The programmes shall specify in particular the objectives to be achieved, the measures to be carried out, their duration and their cost. ~~The programmes submitted pursuant to this Article shall not concern the protection of bananas.~~

The Commission shall evaluate the programmes submitted and shall decide, by means of implementing acts, on their approval in accordance with the examination procedure referred to in Article 34.

2. The Union shall contribute to the financing of the programmes provided for in paragraph 1 on the basis of a technical analysis of the regional situations.

Such contribution may cover up to 75% of eligible expenditure. Payment shall be made on the basis of documentation provided by the Member States. If necessary, checks may be organised by the Commission and conducted on its behalf by the experts referred to in Article 21 of Council Directive 2000/29/EC¹.

3. ~~In order to implement these programmes, the Commission shall be empowered to adopt delegated acts in accordance with Article 33 concerning the definition of measures eligible for Union financing~~

The Commission shall adopt implementing acts to establish, for each region and programme, on the basis of the criteria fixed in paragraph 2 and of the programme presented in accordance paragraph 1:

- a) the financial participation of the Union as well as the amount of the aid;**
b) the measures eligible for the EU financing.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34.

¹ OJ L 4, 7.1.2000, p. 11.

~~Such contribution may cover up to 60% of eligible expenditure in the French overseas departments and up to 75% of eligible expenditure in the Azores and Madeira. Payment shall be made on the basis of documentation provided by the French and Portuguese authorities. If necessary, checks may be organised by the Commission and conducted on its behalf by the experts referred to in Article 21 of Council Directive 2000/29/EC¹.~~

Article 24

Wine

1. Measures referred to in Articles 103v, 103w, 103x and 182a of Regulation (EC) No 1234/2007 shall not apply to the Azores and Madeira.
2. Notwithstanding the second subparagraph of Article 120a(2) of Regulation (EC) No 1234/2007, grapes from the vine varieties referred to in point b) of that subparagraph, and harvested in the Azores and Madeira, may be used for the production of wine which must remain within those regions.

Portugal shall gradually cease harvesting the parcels planted using the vine varieties referred to in Article 120a(2), second subparagraph, point b) of Regulation (EC) No 1234/2007 with, if necessary, the supports provided for in Article 103q of that Regulation.

3. ~~The measures referred to in Articles 103v, 103w and 103y of Regulation (EC) No 1234/2007 shall not apply to the Canary Islands.~~ **By way of derogation from Article 85f of Regulation (EC) No 1234/2007, the transitional planting rights regime shall apply to the Canary Islands until 31 December 2012.**

¹ OJ L 4, 7.1.2000, p. 11.

Milk

1. For the purposes of distributing the surplus levy referred to in Article 79 of Regulation (EC) No 1234/2007, only producers who, within the meaning of Article 65(c) of that Regulation, established and producing in the Azores, market quantities exceeding their reference quantity increased by the percentage referred to in the third subparagraph of this paragraph shall be deemed to have contributed to the overrun.

The surplus levy shall be due on quantities exceeding the quota thus increased by the percentage referred to in the third subparagraph, after reallocation of the unused quantities within the margin resulting from this increase among all the producers within the meaning of Article 65(c) of Regulation (EC) No 1234/2007 established and producing in the Azores, and in proportion to the reference quantity available to each producer.

The percentage referred to in the first subparagraph shall be equal to the ratio between the quantity of 23 000 tonnes from the 2005/2006 year onwards and the total of the reference quantities available on each holding on 31 March 2010. It shall apply only to the quota available on 31 March 2010.

2. The quantities of milk or milk equivalent marketed which exceed the quota but which comply with the percentage referred to in the third subparagraph of paragraph 1, after the reallocation referred to in that same paragraph, shall not be taken into account in establishing any overrun by Portugal as calculated in accordance with Article 66 of Regulation (EC) No 1234/2007.
3. The surplus levy scheme applicable to producers of milk provided for in Regulation (EC) No 1234/2007 shall not apply in the French overseas departments or, within the limit of local production of 4 000 tonnes of milk, in Madeira.

4. Notwithstanding Article 114(2) of Regulation (EC) No 1234/2007, the production in Madeira and in the French overseas department of Réunion of UHT milk reconstituted from milk powder originating in the Union shall be authorised within the limits of local consumption requirements, in so far as this measure does not hinder that locally produced milk is collected and finds outlets. **Should the Member State in question demonstrate the expediency of such a measure for the French overseas departments of Martinique, Guadeloupe and French Guiana, the Commission shall be empowered, in accordance with Article 33, to adopt the necessary delegated acts in order to extend this measure to the aforementioned departments.** This product shall be used for local consumption only.

The method by which the UHT milk thus reconstituted has been obtained shall be clearly indicated on the sales labelling.

Article 26

Cattle farming

1. Until the local numbers of young male bovines reach a level sufficient to ensure the maintenance and development of local beef production in the French overseas departments and Madeira, the possibility shall be introduced of importing bovine animals from third countries for fattening and consumption in the French overseas departments and Madeira, without applying import duties under the Common Customs Tariff. The Commission shall adopt, ~~by means of an implementing acts,~~ **regarding** the measures necessary to implement this subparagraph and more specifically the means for introducing the exemption from import duties in respect of the young male bovines introduced into the French overseas departments and Madeira. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).**

Article 12 and 13(1) shall apply to animals qualifying for the exemption referred to in the first subparagraph of this paragraph.

2. The numbers of animals qualifying for the exemption referred to in paragraph 1 shall be determined in the POSEI programmes, if the need to import is justified, in view of developments in local production. Priority for such animals shall be given to producers keeping animals for fattening at least 50% of which are of local origin.

In order to take into account the specific local features of the beef sector and industry, the Commission shall establish by means of a delegated act the conditions to which the exemption from import duties is subject. **The Commission shall be empowered to adopt those delegated acts in accordance with Article 33.**

3. Where Article 52 and Article 53(1) of Regulation (EC) No 73/2009 are applied, Portugal may reduce the national ceiling for sheep and goat payment and suckler cow premium rights. In this case, by means of an implementing act by the Commission, the relevant amount shall be transferred from the ceilings established in accordance with Article 52 and Article 53(1) of Regulation (EC) No 73/2009 to the financial allocation referred to in the second indent of Article 29(2) of this Regulation. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).**

Article 27

State aid for tobacco production

Spain is authorised to award aid concerning the production of tobacco in the Canary Islands. The granting of this aid may not result in discrimination between producers in the islands.

The amount of the aid may not exceed EUR 2 980.62 per tonne. The additional aid shall be granted for up to 10 tonnes each year.

Article 28

Exemption of tobacco from customs duties

1. No customs duties shall be applied to direct imports into the Canary Islands of raw and semi-manufactured tobacco falling, respectively, within:
 - (a) CN code 2401; and
 - (b) the following subheadings:
 - 2401 10 Tobacco, not stemmed/stripped,
 - 2401 20 Tobacco, partly or wholly stemmed/stripped,
 - ex 2401 20 Outer coverings for cigars presented on supports, in reels for the manufacture of tobacco,
 - 2401 30 Tobacco waste,
 - ex 2402 10 Unfinished cigars without wrapping,
 - ex 2403 10 Cigarette rag (finished mixtures of tobacco for the manufacture of cigarettes, cigars, cheroots and cigarillos),
 - ex 2403 91 Homogenised or reconstituted tobacco, whether or not put up in sheets or strips,
 - ex 2403 99 Expanded tobacco.

The exemption provided for in the first subparagraph is granted by means of the certificates referred to in Article 11.

This exemption applies to the products referred to in the first subparagraph, meant to be processed in the Canary Islands in order to produce manufactured products ready for smoking, subject to an annual import limit of 20 000 tonnes of raw stripped tobacco equivalent.

2. The Commission shall adopt ~~by means of an~~ implementing acts **regarding** the measures necessary to implement paragraph 1 and more specifically the measures for introducing the exemption from import duties in respect of tobacco in the Canary Islands. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).**

CHAPTER VI

FINANCIAL PROVISIONS

Article 29

Financial resources

1. The measures provided for in this Regulation, ~~with the exception of Article 21,~~ shall constitute intervention intended to stabilise the agricultural markets within the meaning of Article 3(1)(b) of Council Regulation (EC) No 1290/2005¹ **with the exceptions of the measures provided for in:**

(a) Article 21, and,

(b) Article 23 from the date of application of the multiannual financial framework for the years 2014-2020.

¹ OJ L 209, 11.8.2005, p. 1.

2. In respect of each financial year, the Union shall finance the measures provided for in Chapters III and IV, up to an annual sum equivalent to:

- in the Overseas Departments of France: EUR 278.41 million
- Azores and Madeira: EUR 106.21 million
- Canary Islands: EUR 268.42 million

3. The sums allocated for each financial year to finance the measures provided for in Chapter III may not exceed the following amounts:

- in the Overseas Departments of France: EUR ~~24.8~~ **26.9** million
- Azores and Madeira: EUR 21.2 million
- Canary Islands: EUR 72.7 million

The Commission shall ~~establish by~~ **adopt** implementing acts ~~the uniform conditions under~~ **to establish the requirements in accordance with** which Member States may amend the allocation of resources allocated each year to the various products benefiting from the specific supply arrangements. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).**

4. In order to ensure a reasonable and proportional allocation of the finance measures with regard to studies, demonstration projects, training and technical assistance measures, the Commission shall establish by delegated act **the conditions for determining** ~~an~~ **the** annual maximum amount which may be allocated to these measures.

4a. For the financial year 2013, the Union shall grant an additional financing for the banana sector of the outermost regions up to the maximum amounts as follows:

- in the overseas departments of France: EUR 18,52 million**
- Azores and Madeira: EUR 1,24 million**
- Canary Islands: EUR 20,24 million**

CHAPTER VII

GENERAL AND FINAL PROVISIONS

Article 30

National measures

Member States shall take the measures necessary to ensure compliance with this Regulation, particularly as regards checks and administrative penalties, and shall inform the Commission thereof.

Article 31

Communications and reports

1. Member States shall communicate to the Commission not later than 15 February each year the appropriations made available to them which they intend to spend in the following year on implementation of the forecast supply balance and for each measure promoting local agricultural production included in the POSEI programmes.
2. Member States shall submit to the Commission, not later than ~~31 July~~ **30 September** each year, a report on the implementation of the measures provided for in this Regulation over the previous year.
3. Not later than 30 June 2015, and thereafter every five years, the Commission shall submit a general report to the European Parliament and the Council showing the impact of the action taken under this Regulation, including in the banana **and milk** sectors, accompanied if applicable by appropriate proposals.

- 3d. The Commission shall include a specific chapter in the analyses, studies and assessments it carries out in the context of trade agreements and the common agricultural policy for any topic in which the outermost regions have a particular interest.**

Article 32

Commission powers

When powers are granted to the Commission, it shall act in accordance with the procedure referred to in Article 33, in the case of delegated acts, and in accordance with the procedure referred to in Article 34, in the case of implementing acts.

Article 33

~~*Delegated acts*~~ **Exercise of the delegation**

1. The power to adopt the delegated acts referred to in this Regulation shall be **is** conferred on the Commission for an indeterminate period of time **subject to the conditions laid down in this Article.**

As soon as it adopts a delegated act, the Commission shall provide simultaneous notification thereof to the European Parliament and to the Council.

2. ~~The delegation of power referred to in paragraph 1 may be revoked at any time by the European Parliament or by the Council.~~ **The power to adopt delegated acts referred to in Articles (...) shall be conferred on the Commission for a period of five years from the date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.**

The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall inform the other legislator and the Commission at the latest one month before the final decision is taken, stating the delegated powers which could be subject to revocation and the reasons for a revocation.

The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the *Official Journal of the European Union*.

3. ~~The European Parliament and the Council may object to the delegated act within a period of two months from the date of notification. At the initiative of the European Parliament or the Council this period shall be extended by one month.~~ **The delegation of power referred to in Articles (...) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision to revoke in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.**

If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, or if, before that date, the European Parliament and the Council have both informed the Commission that they have decided not to raise objections, the delegated act shall enter into force at the date stated in its provisions.

If the European Parliament or the Council objects to a delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.

- 3a. As soon as it adopts a delegated act, the Commission shall notify it to the European Parliament and to the Council simultaneously.**

3b. The delegated acts adopted pursuant to Article (...) shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they do not intend to raise any objections. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Article 34

Implementing acts – Committee

- 1. The Commission shall be assisted by the Management Committee for Direct Payments established by Article 141 of Regulation (EC) No 73/2009, except for the implementation of Article 23 of the present regulation, for which the Commission shall be assisted by the Standing Committee on Plant Health established by Council Decision 76/894/EEC¹. Those Committees are committees within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011².**
- 2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.**

¹ OJ L 340, 9.12.1976, p. 25.

² OJ L 55, 28.2.2011, p. 13.

Article 35

Repeal

Regulation (EC) No 247/2006 is hereby repealed.

References made to the repealed Regulation shall be construed as being made to this Regulation and shall be read in accordance with the correlation table set out in the Annex.

Article 35a

The Commission shall review these arrangements by mid 2013, in view of their overall effectiveness and the new CAP policy framework, and if necessary come forward with appropriate proposals for a revised POSEI scheme.

Article 36

Entry into force

This Regulation shall enter into force on the [...] day following that of its publication in the *Official Journal of the European Union*.

~~[It shall apply from 1 January 2012.]~~

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at [], [date]

For the European Parliament

The President

For the Council

The President
