

**REGULATION (EU) No 641/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL****of 7 July 2010****amending Council Regulation (EC) No 247/2006 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 Articles 42, 43(2) and 349 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Acting in accordance with the ordinary legislative procedure <sup>(2)</sup>,

Whereas:

(1) Article 4(3) of Council Regulation (EC) No 247/2006 <sup>(3)</sup> allowed, for a period of four years, the dispatching of sugar from the Azores to the rest of the Union in quantities exceeding the traditional flows. Acknowledging that the diversification of agriculture in the Azores could be advantageous and with a view, consequently, to facilitating such diversification, in particular with regard to the phasing out of the milk quota system, it is necessary to take appropriate measures to support the restructuring of the sugar sector in that region. To this end, to allow the local sugar processing industry to be viable, it is appropriate to allow the redispaching of sugar in quantities exceeding the traditional flows for a limited period of five years and subject to progressively reduced annual quantities.

(2) Article 5(1) of Regulation (EC) No 247/2006 provides for an exemption, within the limit of the forecast supply balance, from import duties for the supply of C sugar to the Azores, Madeira and the Canary Islands for the period laid down in Article 10(1) of Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector <sup>(4)</sup>. Following the sugar reform and the incorporation of the sugar sector in 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) <sup>(5)</sup>, the provisions of Article 5(1) of Regulation (EC) No 247/2006 should be adapted. In particular, the Azores should be authorised to benefit from the exemption from import duties for raw cane sugar within the limit of their forecast supply balance.

(3) Article 6 of Regulation (EC) No 247/2006 provides for a transitional period during which the Canary Islands may continue to receive supplies of predetermined quantities of milk-based preparations falling within CN codes 1901 90 99 and 2106 90 92 intended for industrial processing. This transitional period expired on 31 December 2009. However, the product falling within CN code 1901 90 99 – skimmed milk powder with vegetable fat – has become a traditional product for the local consumers, including the most deprived. Its supply has generated a specific local industry ensuring employment and added value. Therefore, it is appropriate to maintain the supply of this specific product, which is used for local consumption only.

(4) Article 12(f) of Regulation (EC) No 247/2006 refers to provisions for checks and penalties in the Community support programmes for the outermost regions that are to be submitted by Member States to the Commission for approval. In light of the experience gained by the Commission and in order to ensure that such support programmes are implemented effectively and appropriately, it is necessary to remove references in Article 12(f) of that Regulation to checks and penalties. However, such national measures will continue to be communicated to the Commission in accordance with Article 27 of that Regulation.

(5) Article 18 of Regulation (EC) No 247/2006 determines rules concerning the applicability of special rules for the wine sector in the outermost regions of the Union. The common organisation of the market in wine has been amended by Council Regulation (EC) No 479/2008 of 29 April 2008 on the common organisation of the market in wine <sup>(6)</sup> and subsequently incorporated into Regulation (EC) No 1234/2007. References to these measures need therefore to be updated. Furthermore, Article 85u(7) of Regulation (EC) No 1234/2007 contains an explicit exemption for the Azores, Madeira and the Canary Islands from the grubbing-up scheme. Therefore, such an exemption need no longer be mentioned in Regulation (EC) No 247/2006.

<sup>(1)</sup> Opinion of 17 March 2010 (not yet published in the Official Journal).

<sup>(2)</sup> Position of the European Parliament of 18 of May 2010 (not yet published in the Official Journal) and decision of the Council of 29 June 2010.

<sup>(3)</sup> OJ L 42, 14.2.2006, p. 1.

<sup>(4)</sup> OJ L 178, 30.6.2001, p. 1.

<sup>(5)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(6)</sup> OJ L 148, 6.6.2008, p. 1.

- (6) The second subparagraph of Article 18(2) of Regulation (EC) No 247/2006 provides for the gradual elimination, by 31 December 2013, of vineyards planted with prohibited direct-producer hybrid vine varieties in the Azores and Madeira. The third subparagraph of Article 18(2) of that Regulation obliges Portugal to notify each year progress made in converting and restructuring areas planted with such vine varieties. These provisions are stricter than the rules laid down in Article 120a(5) of Regulation (EC) No 1234/2007, namely that prohibited direct-producer hybrid vine varieties shall be grubbed up except when the resulting wine is intended exclusively for the wine producers' families. Therefore the date of 31 December 2013 in Article 18(2) of Regulation (EC) No 247/2006 should be deleted in order to eliminate the disparity of treatment between the regions of the Azores and Madeira on one hand and the rest of the Union on the other.
- (7) Despite the recent development of the local milk production in the French overseas department of Réunion, the current need for drinking-milk for consumption on the island is not sufficiently covered. Moreover, the remoteness and insularity of this region do not allow other sources of raw milk. Consequently, the authorisation to produce reconstituted UHT milk from milk powder of Union origin, granted to Madeira by the first subparagraph of Article 19(4) of Regulation (EC) No 247/2006, should be extended to Réunion.
- (8) The conditions for further extension of the local milk production of the outermost regions, which benefit from the waiver provided for in the first subparagraph of Article 19(4) of Regulation (EC) No 247/2006, are very limited due to the topography of the islands concerned. Though the obligation to ensure the collection of and outlets for the local milk production is maintained, it is appropriate to delete the Commission's obligation, provided for in the second subparagraph of that Article, to determine an incorporation rate for fresh milk produced locally.
- (9) The retroactive application of the provisions of this Regulation as from 1 January 2010 should ensure continuity in the specific measures for agriculture in the outermost regions of the Union and should also meet the legitimate expectations of the operators concerned.
- (10) Regulation (EC) No 247/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

#### Article 1

Regulation (EC) No 247/2006 is amended as follows:

- (1) Article 4(3) is replaced by the following:

'3. By way of derogation from paragraph 2(a), the following maximum quantities of sugar (CN code 1701) may be dispatched each year from the Azores to the rest of the Union for a period of five years:

— 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.'

- (2) Article 5 is replaced by the following:

'Article 5

#### Sugar

1. During the period laid down in Article 204(2) and (3) 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) (\*), the following sugar produced in excess of the quota referred to in Article 61 of that Regulation shall be exempted from import duties within the limit of the forecast supply balance referred to in Article 2 of this Regulation:

(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, within the limit of the forecast supply balance, by raw sugar falling within CN code 1701 11 10 (raw cane sugar). When determining raw sugar requirements of the Azores, 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.

(\*) OJ L 299, 16.11.2007, p. 1.;

(3) Article 6 is replaced by the following:

*'Article 6*

**Milk-based preparations**

By way of derogation from Article 2, the Canary Islands may continue to receive a supply of milk-based preparations falling within CN code 1901 90 99 (skimmed milk powder with vegetable fat) intended for industrial processing of up to 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 23. This product shall be used for local consumption only.;

(4) in Article 12, point (f) is replaced by the following:

'(f) 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.;

(5) Article 18 is replaced by the following:

*'Article 18*

**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 Article 120a(2) of Regulation (EC) No 1234/2007, grapes from prohibited direct-producer hybrid vine varieties (Noah, Othello, Isabelle, Jacquez, Clinton and Herbemont) harvested in the Azores and

Madeira may be used for the production of wine which must remain within those regions.

Portugal shall gradually eliminate vineyards planted with prohibited direct-producer hybrid vine varieties, with, where appropriate, the support provided for in Article 103q of Regulation (EC) No 1234/2007.

3. Measures referred to in Articles 103v, 103w and 103y of Regulation (EC) No 1234/2007 shall not apply to the Canary Islands.;

(6) Article 19(4) is replaced by the following:

'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, insofar as this measure does not hinder locally produced milk from being collected and finding outlets. 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 2*

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

It shall apply from 1 January 2010.

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

Done at Strasbourg, 7 July 2010.

*For the European Parliament*

*The President*

J. BUZEK

*For the Council*

*The President*

O. CHASTEL