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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 2.10.2009  
COM(2009) 510 final

2009/0138 (CNS)

Proposal for a

**COUNCIL REGULATION**

**amending Regulation (EC) No 247/2006 laying down specific measures for agriculture in the outermost regions of the Union**

## **EXPLANATORY MEMORANDUM**

On 30 January 2006 the Council adopted Regulation (EC) No 247/2006 laying down specific measures for agriculture in the outermost regions of the Union.

The development in Community legislation and the practical implementation of this Regulation occurred in the meantime require the amendment of some of its provisions.

Following the reform of the common organisation of the market of sugar, incorporated in the single CMO by Council Regulation (EC) No 1234/2007, Article 5 should be updated so that it reflects these new provisions and allows the Azores to integrate raw cane sugar in its forecast supply balance. In the past marketing years, the sugar beet production in the Azores was not sufficient to allow its sugar industry to fulfil their allocated quota and no significant quantities of raw beet sugar were available on the market. This amendment will improve their situation by allowing them to import raw cane sugar (within the limit of the forecast supply balance).

In the context of the current economic crisis, it seems appropriate to allow for the prolongation of the derogation set for the Canary islands for the supply within the specific supply arrangements of milk-based preparations falling within CN code 1901 90 99. In fact, this product is a basic element of the traditional local alimentation and the viability of a local industry processing depends on its availability at competitive prices.

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

Following the wine reform of 2008 and the recent integration of the wine CMO into the single CMO, Article 18 needs to be updated to reflect the new provisions of Council Regulation (EC) No 1234/2007 as amended by Regulation (EC) No 491/2009.

Finally, the specific conditions of the French overseas department of Reunion, where milk production is made very difficult by its topography and small size while the supply of fresh milk is impossible due to its insularity and distance from other producing regions, allow for an extension of the derogation already granted for similar reasons to Madeira to reconstitute milk powder in order to obtain UHT milk for human consumption [1<sup>st</sup> paragraph of Article 19(4)]. Moreover, due to the low level of production of fresh milk in these outermost regions, to the difficulties to increase it and to the fact that the locally produced milk already finds sufficient outlet in the local dairy industry, which is equally to be supported, it is appropriate to delete the obligation for the Commission to adopt detailed rules determining the quantity of locally produced fresh milk to be incorporated into the reconstituted UHT milk referred to above [2<sup>nd</sup> paragraph of Article 19(4)].

In this respect, please find enclosed a proposal for a Council Regulation amending Regulation (EC) No 247/2006 and all necessary documents for the initiation of the respective procedure.

The Regulation does not affect the sources of financing or the intensity of Community support.

Proposal for a

## COUNCIL REGULATION

### amending Regulation (EC) No 247/2006 laying down specific measures for agriculture in the outermost regions of the Union

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 36, 37 and 299(2) thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the European Parliament<sup>2</sup>,

Whereas:

- (1) Article 5(1) of Council Regulation (EC) No 247/2006<sup>3</sup> ensures 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 integration 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.
- (2) Article 6 of Regulation (EC) No 247/2006 provides for a transitional period during which the Canary Islands may continue to receive supplies of determined quantities of milk-based preparations falling within CN codes 1901 90 99 and 2106 90 92 intended for industrial processing. This transitional period expires on 31 December 2009. The product falling within CN code 1901 90 99 – skimmed milk powder with vegetable fat – is a traditional product for the local consumers, including the most deprived, and has been sold in the Canary Islands during the last 40 years. The supply of this product has generated a specific local industry ensuring employment and added value. In the current situation of economic crisis it is appropriate to maintain the supply of this

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<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.

specific product and to extend the transitional period set by Article 6 of that Regulation to 31 December 2013.

- (3) 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 the light of the experience gained by the Commission and in order to ensure that the Community support programmes are implemented effectively and appropriately, it is necessary to remove references in point (f) of Article 12 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.
- (4) 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 modified by Council Regulation (EC) No 479/2008<sup>6</sup> and successively integrated into Regulation (EC) No 1234/2007 as amended by Regulation (EC) No 491/2009<sup>7</sup>. References to these measures need therefore to be updated. Furthermore, Article 85u(7) of Regulation (EC) No 1234/2007 includes an explicit exemption for the Azores, Madeira and the Canary Islands from the grubbing-up scheme. Therefore, such an exemption needs no longer to be mentioned in Regulation (EC) No 247/2006.
- (5) The second subparagraph of Article 18(2) of Regulation (EC) No 247/2006 foresees 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' family. Therefore Article 18(2) and 18(3) 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 Community on the other.
- (6) Despite the recent development of the local milk production in Reunion, the current need for drinking milk 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 Community origin, granted to Madeira by the first subparagraph of Article 19(4) of Regulation (EC) No 247/2006, should be extended to the French overseas department of Reunion.
- (7) The conditions for further extension of the local milk production of the outermost regions, which benefit from the waiver foreseen by 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 and outlet of the local milk production is maintained, it is appropriate to delete the Commission's

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

<sup>7</sup> OJ L 154, 17.6.2009, p. 1.

obligation, foreseen by the second subparagraph of that Article, to determine an incorporation rate for fresh milk produced locally.

(8) Regulation (EC) No 247/2006 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

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

(1) 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\*, 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) brought for consumption to Madeira or the Canary Islands in the form of white sugar falling within CN code 1701;
  - (b) 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 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."

(2) Article 6 is replaced by the following:

#### *"Article 6*

#### **Milk-based preparations**

By way of derogation from Article 2, for the period from 1 January 2010 to 31 December 2013 the Canary Islands may continue to receive 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 Community 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."

(3) 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."

(4) 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.
3. Measures referred to in Articles 103v, 103w and 103y of Regulation (EC) No 1234/2007 shall not apply to the Canary Islands."

(5) 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 Reunion of UHT milk reconstituted from milk powder originating in the Community shall be authorised within the limits of local consumption requirements, insofar as this measure does not hinder that locally produced milk is collected and finds outlets. This product shall be used for local consumption only.

Detailed rules for the application of this paragraph shall be adopted in accordance with the procedure referred to in Article 26(2) of this Regulation."

#### *Article 2*

This Regulation shall enter into force on the seventh day following that 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 Brussels,

*For the Council  
The President*

<b>FINANCIAL STATEMENT</b>		Fiche Fin n° 199728 RVE/dz 6.13.2009.1		
		DATE: 17/7/2009		
1.	BUDGET HEADING: 05 02 11 04 & 05 03 02 50	APPROPRIATIONS: EUR 235 Mio & EUR 377 Mio		
2.	TITLE: Proposal for a Council Regulation amending Regulation (EC) No 247/2006 laying down specific measures for agriculture in the outermost regions of the Union			
3.	LEGAL BASIS: Art. 36, 37 and 299(2) of the Treaty			
4.	AIMS: Update and adaptation of certain provisions of Regulation (EC) No 247/2006			
5.	FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR 2009 (EUR million)	FOLLOWING FINANCIAL YEAR 2010 (EUR million)
5.0	EXPENDITURE	(1)	-	-
	- CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS)			
	- NATIONAL AUTHORITIES			
	- OTHER			
5.1	REVENUE	-	-	-
	- OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES)			
	- NATIONAL			
		2011	2012	2013
5.0.1	ESTIMATED EXPENDITURE	(1)	(1)	(1)
5.1.1	ESTIMATED REVENUE	(1)	(1)	(1)
5.2	METHOD OF CALCULATION: -			
6.0	CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?			YES <del>NO</del>
6.1	CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?			<del>YES</del> NO
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?			<del>YES</del> NO
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?			YES <del>NO</del>
OBSERVATIONS: (1) These programs have a high level of execution. As the proposed modifications to Council Regulation (EC) No 247/2006 do not change the annual ceiling amounts for the financing of the specific supply arrangements and of the measures in favour of local production, there is no budgetary impact.				