



20.11.2017

PROVISIONAL AGREEMENT RESULTING FROM INTERINSTITUTIONAL NEGOTIATIONS

Subject: Proposal for a regulation of the European Parliament and the Council on the financial rules applicable to the general budget of the Union and amending (EU) No 1305/2013, (EU) No 1306/2013, (EU) No 1307/2013, (EU) No 1308/2013 and (EU) No 652/2014 of the European Parliament and of the Council (COM(2016)0605 – C8-0372/2016/ – 2016/0282B(COD))

The interinstitutional negotiations on the aforementioned proposal for a regulation have led to a compromise. In accordance with Rule 69f(4) of the Rules of Procedure, the provisional agreement, reproduced below, is submitted as a whole to the Committee on Agriculture and Rural Development for decision by way of a single vote.

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 42, Article 43(2) and point (b) of Article 168(4), thereof

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Having regard to the opinion of the Court of Auditors³

Acting in accordance with the ordinary legislative procedure,

¹ ***Opinion of 14 December 2016. Not yet published in the Official Journal.***

² ***OJ C 306, 15.9.2017, p. 64.***

³ ***OJ C 091, 23.03.2017, p. 1.***

Whereas:

- (1) In order to ensure legal certainty and harmonised and non-discriminatory implementation of support to young farmers, it is necessary to provide that in the context of Rural Development the "date of setting up", referred to in the relevant rules, is the date when ***the applicant performs or completes an action related to*** the setting up ***for the first time*** and that the application for support is to be submitted ***at the latest*** 24 months ***after*** that date. Moreover, experience from the negotiations of the programmes has shown that rules for joint setting up of young farmers and thresholds for access to support required in Article 19(4) of Regulation (EU) No 1305/2013 should be clarified, and that provisions on duration of the business plan should be streamlined.
- (2) ***In order to facilitate implementation of advisory and training services by Member States' Managing Authorities, the status of beneficiary of support under this measure should be extended to these authorities, while at the same time ensuring that the provider of the service is chosen by a body functionally independent from the Managing Authority and that checks are carried out at the level of the provider of advice or training.***
- (3) ***With a view to incentivizing the participation in quality schemes, farmers or groups of farmers taking part in these schemes in the five years preceding the application for support should be eligible for a maximum duration of five years, while duly taking into account the time of the initial participation.***

- (4) *In order to decrease administrative burden in relation to the implementation of the principle of no double funding in relation to greening, Member States should be given the possibility of applying a fixed, average deduction to all beneficiaries concerned carrying out the type of operation or sub-measure concerned.*
- (5) In order to be sufficiently attractive to the private sector, it is essential that financial instruments are designed and implemented in a flexible **and transparent** manner. However, experience has shown that certain measure-specific eligibility rules limit the uptake of financial instruments in the rural development programmes, as well as the flexible use of financial instruments by fund managers. Therefore, it is appropriate to provide that certain measure-specific eligibility rules do not apply to financial instruments. For the same reason, it is also appropriate to provide that start-up support to young farmers under Article 19 of Regulation (EU) No 1305/2013 may also be provided in the form of financial instruments. In view of these changes, it should be provided that, where support for investments under Article 17 of Regulation (EU) No 1305/2013 is granted in the form of financial instruments, the investment must contribute to one or more Union priorities for rural development.

- (6) Nowadays farmers are exposed to increasing economic risks as a consequence of market developments. However, those economic risks do not affect all agricultural sectors equally. Consequently, Member States should have the possibility, in duly justified cases, to help farmers *by means of* with *a* sector-specific income stabilisation *tool where the drop of income exceeds a threshold of at least 20 %* in particular for sectors affected by a severe income drops, which would have a significant economic impact for a specific rural area provided that the international obligations of the Union are respected. *In order to ensure that the sector-specific income stabilisation tool is effective and adapted to Member States' specific circumstances, it should be possible for them to define, in their rural development programmes, the income to be taken into account for the activation of the tool, in a flexible manner.*

At the same time, and in order to promote the use of insurance tools by farmers, the threshold for the drop in production applicable for these schemes should be reduced to 20 %. In addition, in order to monitor the expenditure made in relation to this **■** tool *both under the sector- specific income stabilisation tool and the insurance schemes*, the content of the financial plan of the programme should be adapted. **■**

- (7) *The* specific reporting requirement for the risk management measure in 2018 referred to in Article 36(5) of Regulation (EU) No 1305/2013 is already covered by the report to the European Parliament and the Council on the monitoring and evaluation of the CAP referred to in Article 110(5) of Regulation (EU) No 1306/2013. Therefore, the second subparagraph of Article 36(5) *of Regulation (EU) No 1305/2013* should be deleted.
- (8) Concerning mutual funds *for farmers of all sectors*, it appears that the prohibition of any contribution by public funds to initial capital stock laid down in Articles 38(3) and 39(4) of Regulation (EU) No 1305/2013 hinders the effective functioning of these funds. *That* prohibition should therefore be deleted. *It is also considered appropriate to expand the areas that can be covered by financial contributions to mutual funds, so that they can supplement the annual payments into the fund, as well as relate to the initial capital stock of the mutual fund. This possibility is therefore foreseen.*
- (9) Support for investments for the restoration of production potential after natural disasters and catastrophic events under Articles 18(1)(b) and 24(1)(d) of Regulation (EU) No 1305/2013 is usually granted to all eligible applicants. Therefore, Member States should not be obliged to define selection criteria for restoration operations. Moreover, in duly justified cases, where it is not possible to define selection criteria due to the nature of the operations, *Member* States should be allowed to define alternative selection methods.

- (10) Article 59 of Regulation (EU) No 1305/2013 defines the maximum EAFRD contribution rates. In order to ease the pressure on the national budget of some Member States and to accelerate much-needed investments in Cyprus, the maximum contribution rate of 100 % referred to in Article 59(4)(f) should be extended until the programme closure. In addition, a reference to the specific contribution rate introduced in Regulation (EU) No 1303/2013 for the new financial instrument referred to in point (c) of Article 38(1) of the same Regulation should be mentioned in Article 59(4).
- (11) Pursuant to Article 60(1) of Regulation (EU) No 1305/2013, in cases of emergency measures due to natural disasters, eligibility of expenditure relating to programme changes may start from the date when the natural disaster occurred. This possibility to make eligible expenditure made before the submission of a programme amendment should be extended to other circumstances, such as catastrophic events or a significant and sudden change in the socio-economic conditions of the Member State or region ■ .

- (12) According to the second subparagraph of Article 60(2) of Regulation (EU) No 1305/2013, in respect of investments in the agricultural sector, only expenditure incurred after the submission of an application is eligible. In cases, however, where the investment is related to emergency measures due to natural disasters, catastrophic events or adverse climatic events or a significant and sudden change in the socio-economic conditions of the Member State or region, Member States should be given the possibility to provide in their programmes that expenditure incurred after the occurrence of event is eligible, in order to ensure their flexible and timely reaction to such events. In order to provide efficient support to emergency operations undertaken by the Member States in response to events which occurred in recent years, this possibility should take effect as from 1 January 2016.
- (13) In order to increase the use of the simplified cost options referred to in points (b) to (d) of Article 67(1) of Regulation (EU) No 1303/2013, it is necessary to limit the EAFRD specific rules laid down in Article 62(2) of Regulation (EU) No 1305/2013 to aid granted in accordance with points (a) and (b) of Article 21(1), concerning income forgone and maintenance costs, and Articles 28 to 31, 33 and 34 of Regulation (EU) No 1305/2013.

- (14) Article 74 of Regulation (EU) No 1305/2013 requires the Member States to consult the Monitoring Committee of the rural development programme on the selection criteria within four months from the approval of the programme. This creates an indirect obligation for the Member States to have defined all the selection criteria by that date even for the calls for applications which will be launched subsequently. In order to reduce unnecessary administrative burden, whilst ensuring that financial resources are used in the best possible way, ■ Member States should be allowed to define the selection criteria and to ask for the opinion of the Monitoring Committee at any time before the publication of the calls for applications.
- (15) *With a view to increasing the use of crop, animal and plant insurance, mutual funds and income stabilization tool in Articles 37(5), 38(5) and 39(5) of Annex II of Regulation (EU) No 1305/2013, the maximum percentage of initial public support should be slightly increased from 65 to 70 %.*

- (16) *Financial* discipline is used to ensure that the budget for the European Agricultural Guarantee Fund complies with the respective annual ceilings and to establish the reserve for crises in the agricultural sector. Given the technical character of the determination of the adjustment rate and its inherent links with the Commission's estimates of expenditure set out in its annual Draft Budget, the procedure for setting the adjustment rate should be simplified by authorising the Commission to adopt it in accordance with the advisory procedure. █
- (17) In order to harmonise the rules on automatic decommitment of Article 87 of Regulation (EU) No 1303/2013 and Article 38 of Regulation (EU) No 1306/2013, the date by which Member States have to send to the Commission information on exceptions to the decommitment, referred to in Article 38(3), should be adapted.
- (18) In order to provide for █ legal clarity as regards the treatment of the recoveries generated from the temporary reductions under Article 41(2) of Regulation (EU) No 1306/2013, the latter should be included in the list of sources of the assigned revenue under Article 43 of that Regulation.

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- (19) *In the interests of administrative simplification, it is appropriate to increase the threshold below which Member States may decide not to pursue recovery of undue payments from 150 to 250 EUR provided that the Member State applies an equal or higher threshold for not pursuing national debts.*
- (20) *It is appropriate to ensure that the refusal or recovery of payments affected by non-compliance with public procurement rules reflects the gravity of such non-compliance and respects the principle of proportionality, such as, for example, expressed in the relevant guidelines established by the Commission for financial corrections to be made to expenditure financed by the Union under shared implementation for non-compliance with such rules. It is further appropriate to clarify that such non-compliance affects the legality and regularity of the transactions only by the same level.*
- (21) *In order to reduce administrative burden for small farmers, a further derogation from point (a) of Article 72(1) should be introduced, exempting small farmers from declaring parcels on which a payment application is not made.*

- (22) *Having regard to practical and specific difficulties that the harmonisation of the payment deadlines for area-related payments between the EAGF and the EAFRD has given rise to, the transitional period should be extended by one more year. However, as regards area-related rural development measures, in order to maintain farmers' cash-flow, payments of advances before 16 October should remain possible.*
- (23) *Certain Member States operate national fiscal or social security registers in which farmers are registered for their agricultural activities. Those Member States should be able to exclude from eligibility for direct payments farmers who are not registered accordingly.*

- (24) *As experience acquired in the past showed that support was in a number of cases granted to natural or legal persons whose business purpose was not, or was only marginally, targeted at an agricultural activity, the previous reform introduced the active farmer clause. Thereby, Member States should refrain from granting direct payments to certain natural and legal persons unless such persons can demonstrate that their agricultural activity is not marginal. However, experience gained since the reform shows that ■ implementing the three criteria for being regarded an active farmer, listed in the third subparagraph of Article 9(2) of Regulation (EU) No 1307/2013 of the European Parliament and of the Council■, has proven difficult for many Member States. In order to reduce the administrative burden associated with the implementation of the three criteria, Member States should have the possibility of making available only one or two of them. ■*
- (25) *Moreover, some Member States experienced that the difficulties and the administrative costs of implementing the active farmer clause, in particular the elements relating to the list of negative activities as provided for in Article 9(2) of Regulation (EU) No 1307/2013, outweighed the benefit of excluding a very limited number of non-active beneficiaries from the direct support schemes. When a Member State considers this to be the case, it should be able to discontinue the application of Article 9 in relation to the list of negative activities in Article 9(2) of Regulation (EU) No 1307/2013.*

- (26) *In order to accommodate the diversity of agricultural systems across the Union, it is justified to allow Member States to consider ploughing up, which is relevant for the agronomic and environmental aspects, as a criterion to be used for the classification of permanent grassland.*
- (27) *Certain shrubs or trees which are not directly grazed by animals may nevertheless produce animal feed. Member States should be allowed to include those shrubs or trees in permanent grassland where the grasses and other herbaceous forage remain predominant, in the whole or in part of their territory.*
- (28) *In order to clarify the classification prior to 2018 of land lying fallow as arable land, where it had been in place five years or more, and provide certainty to the farmers concerned, it is justified that Member States be enabled to maintain its classification as arable land in 2018.*
- (29) *Land which can be grazed, where grasses and other herbaceous forage are not predominant or are absent, and where the grazing practices are neither traditional in character, nor important for the conservation of biotopes and habitats may nevertheless have relevant grazing value in certain areas. Member States should be allowed to consider those areas as permanent grassland in the whole or in part of their territory.*

- (30) The experience gained in the first *years* of implementation of Regulation (EU) No 1307/2013 has shown that certain Member States applying the single area payment scheme did not use the entire amount of the funds available under the budgetary ceilings laid down in the Commission Implementing Regulation (EU) No 2015/1089. Member States applying the basic payment scheme have already the possibility, within certain limits, of distributing payment entitlements for a higher value than the amount available for their basic payment scheme in order to ensure a more efficient use of the funds. Member States applying the single area payment scheme should also be allowed, within the same common limits and without prejudice to the respect of the net ceilings for direct payments, to calculate the necessary amount by which their single area payment scheme ceiling may be increased.

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- (31) *Article 11 of Regulation (EU) No 1307/2013 allows Member States to review, on an annual basis, their decisions on the reduction of the part of the basic payment to be granted to farmers which exceeds EUR 150 000, provided that such review does not lead to a reduction of the amounts available for rural development. It is therefore appropriate that this possibility be reflected in the relevant provisions.*

- (32) *To allow Member States to adapt support under the CAP to their specific needs they should be given appropriate opportunities to review their decision on transferring funds from their direct payments ceiling to their rural development programmes and vice versa. They should therefore be given the possibility to review their decision also with effect from calendar year 2019, provided that any such decision does not entail any decrease in the amounts assigned to rural development.*
- (33) *In addition to using a linear reduction of the value of payment entitlements under the basic payment scheme to replenish national or regional reserves to facilitate the participation of young farmers and farmers commencing their agricultural activity in the support scheme, Member States should also be allowed to use the same mechanism to finance measures taken to prevent land from being abandoned and to compensate farmers for specific disadvantages.*
- (34) *To simplify and improve consistency between the rules applicable to greening measures, the exemption from ecological focus area obligation applicable to holdings cultivating leguminous crops as a sole crop or in combination with grasses or other herbaceous forage or land lying fallow on more than 75 % of arable land pursuant to Article 46(4)(a) of Regulation (EU) No 1307/2013 should be extended to the obligation of crop diversification.*

- (35) *To ensure consistency in the way several types of crops are considered, on account of their substantial share in areas, in relation to the crop diversification requirement, the flexibility in applying the rules of crop diversification under Article 44(2) of Regulation (EU) No 1307/2013 should be extended to include the cultivation of crops under water for a significant part of the year or for a significant part of the crop cycle.***
- (36) *In order to streamline the existing exemptions from the crop diversification obligation set out in Article 44(3)(a) and (b) of Regulation (EU) No 1307/2013, land predominantly used for the production of grasses or other herbaceous forage, for cultivation of leguminous crops or the cultivation of crops under water, or which is predominantly land lying fallow or permanent grassland, and so as to provide for equal treatment of all farmers with the same land use proportions, the condition linked to the upper limit of 30 hectares of arable land should no longer be applicable.***

- (37) *For the same reasons as mentioned in recital (229e), as regards the existing exemptions from the ecological focus area obligation set in Article 46(4)(a) and (b) of Regulation (EU) No 1307/2013, applicable to land predominantly used for the production of grasses or other herbaceous forage, for cultivation of leguminous crops or the cultivation of crops under water, or which is predominantly land lying fallow or permanent grassland, the condition linked to the upper limit of 30 hectares of arable land should no longer be applicable.*
- (38) *In order to take account of the agronomic specificity of *Triticum spelta*, it should be considered as a distinct crop for the purpose of Article 44 of Regulation (EU) No 1307/2013.*
- (39) *Given the potential for indirect environmental benefits for biodiversity that may be provided by certain permanent crops, the list of ecological focus area types set in Article 46 of Regulation EU) No 1307/2013 should be extended to include *Miscanthus* and *Silphium perfoliatum*.*
- (40) *Considering that the type of vegetation coverage may positively affect the biodiversity contribution of land lying fallow, land lying fallow for melliferous plants should be recognised as a distinct ecological focus area type.*

- (41) *Weighting factors need to be established for the newly created ecological focus area types of Miscanthus, Silphium perfoliatum and land lying fallow for melliferous plants. Weighting factors should be established in such a way as to reflect their different importance for biodiversity. The introduction of additional ecological focus area types requires the existing weighting factors for areas with nitrogen-fixing crops and for areas with short rotation coppice to be adapted so as to reflect the new balance between all ecological focus area types.*
- (42) *Experience gained with the application of the support scheme for young farmers under Article 50 has shown that in some cases young farmers cannot benefit from the full five years of support. While the focus of this support remains on new economic activity by young people starting their farming activities, Member States should facilitate the access of young farmers to the full five years of young farmer payment also in cases where the young farmers have not applied for support immediately after setting up.*

- (43) *Some Member States have assessed that the payment provided to young farmers under Article 50 is insufficient to adequately respond to the financial challenges of the initial establishment and the structural adjustment of agricultural holdings set up by young farmers. To further enhance the prospects for participation of young farmers in farming, Member States should have the possibility to decide to increase the percentage applied to calculate the amount of the payment for young farmers in the range of 25 % to 50 % and irrespective of the calculation method applied. Such decision is without prejudice to the 2 % limit of their national ceiling for direct payments to finance the payment for young farmers.*
- (44) *In order to enhance clarity with regard to the responsibilities of Member States as far as the production limiting character of voluntary coupled support is concerned, it appears appropriate to reformulate Article 52(5) and (6) of Regulation (EU) No 1307/2013. As this reformulation reflects the current practice since 1 January 2015 with regard to the provisions concerned, it is appropriate that it should apply from claim year 2015.*

- (45) ***In order to ensure the largest possible consistency between EU schemes targeting sectors that, in certain years, are marked by structural market imbalances, the Commission should be empowered to adopt delegated acts allowing that voluntary coupled support can continue to be paid until 2020 on the basis of the production units for which such support was granted in a past reference period. ■***
- (46) ***In order to enhance the flexibility with regard to voluntary coupled support, annual review by the Member States of their support decisions should be allowed with effect from claim year 2019. Article 53(6) of Regulation (EU) No 1307/2013 should therefore be amended accordingly.***
- (47) One of the major obstacles to the formation of producer organisations, mainly in Member States which are lagging behind as regards the degree of organisation, appears to be the lack of mutual trust and past experiences. In this context, coaching, whereby producer organisations which are functioning show the way to other producer organisations, producer groups or individual producers of fruit and vegetables, could offset that obstacle and should thus be included among the objectives of producer organisations in the fruit and vegetables sector.

- (48) In addition to withdrawals for free distribution, it is also appropriate to grant coaching actions intended to encourage producers to set up organisations meeting the criteria to be recognised ***in order to benefit from*** full Union financing within the operational programmes of existing producer organisations.
- (49) Crisis prevention and management measures should be extended to cover refilling of mutual funds which could as new instruments help to combat crises, ***and to promotion and communication in order to diversify and consolidate the fruit and vegetables markets.***
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- (50) In order to simplify the current procedure of first authorising Member States to grant additional national financial assistance to producer organisations in regions of the Union where the organisation degree is particularly low and second reimbursing a part of the national financial assistance if further conditions are complied with, a new system ***should*** be established ***for*** Member States where the organisation rate is ***significantly below the EU average.*** ■
- (51) ***In order to ensure protection for wine spirits with a geographical indication produced from wine against risks of misappropriation of reputation, Member States should be allowed to apply the scheme of authorisations for vine plantings to wines suitable for producing wine spirits with a geographical indication.***

(52) *Producer organisations and their associations can play useful roles in concentrating supply, in improving the marketing, planning and adjusting of production to demand, optimising production costs and stabilising producer prices, carrying out research, promoting best practices and providing technical assistance, managing by-products and risk management tools available to their members, thereby contributing to strengthening the position of producers in the food chain. Their activities, including the contractual negotiations for the supply of agricultural products by such producer organisations and their associations when concentrating supply and placing the products of their members on the market, therefore contribute to the fulfilment of the objectives of the common agricultural policy laid down in Article 39 TFEU, since they strengthen the position of farmers in the food supply chain and can contribute to a better functioning of the food supply chain. The reform of the common agricultural policy in 2013 reinforced the role of producer organisations. The possibility to carry out activities such as production planning, cost optimisation, placing producer members' products on the market and conducting contractual negotiations by derogation from Article 101 TFEU should therefore be explicitly regulated as a right of recognised producer organisations in all sectors for which this Regulation establishes a common organisation of the markets.*

This derogation should only cover producer organisations which genuinely exercise an activity aimed at economic integration and which concentrate supply and place products of their members on the market. However, in addition to the application of Article 102 TFEU to such producer organisations, safeguards should be put in place in order to ensure that such activities do not exclude competition or jeopardise the objectives referred to in Article 39 TFEU.

Competition authorities should have the right to intervene in such cases for the future and decide that such activities should be modified, discontinued or not take place at all. Until the adoption of the decision of the competition authority, the activities carried out by the producer organisation should be considered legal.

Associations of producer organisations recognised under Article 156(1) of Regulation (EU) No 1308/2013 should be able to rely, for the activities that they carry out themselves, on the derogation provided for in Article 152(1a) of Regulation (EU) No 1308/2013 to the same extent and under the same conditions as producer organisations.

- (53) *The use of contracts in the milk and milk products sector may help to reinforce the responsibility of operators and to increase their awareness of the need to better take into account the signals of the market, to improve price transmission and to adapt supply to demand, as well as to help to avoid certain unfair commercial practices. In order to incentivise the use of such contracts in the milk and milk products sector as well as in other sectors, producers, producer organisations or association of producer organisations should have the right to request for a written contract, even if the Member State has not made the use of such contracts compulsory.*
- (54) *While the parties to a contract for the delivery of raw milk are free to negotiate the elements of such contracts, Member States who make the use of contracts compulsory have been granted the opportunity to impose certain contract clauses, in particular their minimum duration. With a view to enabling the parties to achieve contractual clarity on the delivered quantities and prices, Member States should now also have the possibility of imposing on the parties the obligation to agree on a relationship between a delivered quantity and the price payable for that delivery.*

- (55) *Producer organisations are recognised in a specific sector listed in Article 1(2) of Regulation (EU) No 1308/2013. However, as producer organisations may operate in more than one sector and in the interest of avoiding administrative burden by obliging them to create several producer organisations for recognition purposes, it should be clarified that a producer organisation may obtain more than one recognition. However, in such cases, the producer organisation in question should fulfil the conditions of recognition for each of the sectors.*
- (56) *In order to facilitate better transmission of market signals and strengthen linkages between producer prices and value-added throughout the supply chain, farmers, including associations of farmers should be allowed to agree with their first purchaser on value-sharing clauses, including market gains and losses. As interbranch organisations can play an important part in allowing dialogue between actors in the supply chain and in promoting best practices and market transparency, they should be allowed to establish standard value-sharing clauses. However, the use of value-sharing clauses by farmers, associations of farmers and their first purchaser should remain voluntary.*

- (57) *Taking note of the role which interbranch organisations can play for the better functioning of the food supply chain, the list of possible objectives which such interbranch organisations may pursue should be extended to cover also measures to prevent and manage risks related to animal health, plant-protection and the environment.*
- (58) *Interbranch organisations are recognised in a specific sector listed in Article 1(2) of Regulation (EU) No 1308/2013. However, as interbranch organisations may operate in more than one sector and in the interest of avoiding administrative burden by obliging them to create several interbranch organisations for recognition purposes, it should be clarified that an interbranch organisation may obtain more than one recognition. However, in such cases, the interbranch organisation should fulfil the conditions of recognition for each of the sectors.*

- (59) The experience gained through the application of Article 188 of Regulation (EU) No 1308/2013 ¹ has proven that the need to adopt implementing acts for the management of simple, mathematical processes linked to the way quotas are allocated is cumbersome and resource intense without any specific advantage linked to such an approach. The Commission has in fact no margin of discretion in this context considering that the related formula is already fixed by the provisions of Article 7(2) of Commission Regulation (EC) No 1301/2006¹. In order to reduce the related administrative burden and streamline the process it should be provided that the Commission makes the results of the allocation of the ¹ tariff quotas public through an appropriate web-publication. Moreover a specific provision should be included providing that Member States should only issue licences following the publication of the allocation results by the Commission.

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¹ *Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences (OJ L 238, 1.9.2006, p. 13).*

- (60) *A special approach should be allowed in the case of farmers' or producer organisations or their associations, the objective of which is the joint production or marketing of agricultural products or the use of joint facilities, unless such joint action excludes competition or jeopardises the attainment of the objectives of Article 39 TFEU. In order to ensure the effective use by farmers' or producer organisations or their associations of such provisions, the possibility to request the opinion of the European Commission on the compatibility of these agreements, decisions and concerted practices with the objectives of Article 39 TFEU should be introduced.*
- (61) *In order to ensure that the provisions allowing collective agreements and decisions to temporarily stabilise the sectors concerned in times of serious imbalances can be implemented in an effective and timely manner, the possibilities for such collective actions should be extended to farmers and associations of farmers. Furthermore, these temporary measures should no longer be authorised as a means of last resort but could complement Union action in the context of public intervention, private storage and the exceptional measures envisaged by Regulation (EU) No 1308/2013 of the European Parliament and of the Council¹.*

¹ *Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 374, 20.12.2013, p. 671).*

- (62) *As it is appropriate to continue to help the milk and milk products sector in its transition as a result of the end of the quota system and to encourage it to respond more effectively to market and price fluctuations, the provisions reinforcing the contractual arrangements in the milk and milk products sector should no longer have an end date.*
- (63) *Agricultural markets should be transparent and information about prices should be accessible and useful to all those involved.*
- (64) *The experience gained through the application of Section A of Part II of Annex VIII to Regulation (EU) No 1308/2013 has proven that the need to adopt implementing acts for the approval of limited increases in wine enrichment limits, which are technical and uncontroversial in nature, is cumbersome and resource-intensive without any specific advantage resulting from such an approach. In order to reduce the related administrative burden and streamline the process it should be provided that Member States that choose to make use of that derogation notify the Commission of any such decisions.*
- (65) Regulation (EU) No 652/2014 of the European Parliament and of the Council¹ provides for the possibility to divide budgetary commitments into annual instalments only in the case of approval of multiannual programmes for the eradication, control and surveillance of animal diseases and zoonoses, for survey programmes concerning the presence of pests and for programmes concerning the control of pests in outermost regions of the Union. In the interest of simplification and in order to reduce the administrative burden that possibility should be extended to the other actions provided for in Regulation (EU) No 652/2014.

¹ Regulation (EU) No 652/2014 of the European Parliament and of the Council of 15 May 2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005 of the European Parliament and of the Council, Directive 2009/128/EC of the European Parliament and of the Council and Regulation (EC) No 1107/2009 of the European Parliament and of the Council and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC (OJ L 189, 27.6.2014, p. 1).

- (66) *The amendments to agricultural legislation were included in the proposal from the Commission for a regulation of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union and amending various sectoral regulations (Omnibus proposal). To avoid a delay in the implementation of the amendments to agricultural legislation, the institutions have agreed to adopt them as a separate regulation.*
- (67) *Regulations (EU) No 1305/2013, (EU) No 1306/2013, (EU) No 1307/2013, (EU) No 1308/2013 and (EU) No 652/2014 should therefore be amended accordingly,*

HAVE ADOPTED THIS REGULATION:



Article 1
Amendments to Regulation (EU) No 1305/2013

Regulation (EU) No 1305/2013 is amended as follows:

1. *in* Article 2, in paragraph 1, the second subparagraph is amended as follows:
 - (a) point (n) is replaced by the following:

"(n) "young farmer" means a person who is no more than 40 years of age at the moment of submitting the application, possesses adequate occupational skills and competence and is setting up for the first time in an agricultural holding as head of that holding; *the* setting up may be done solely or jointly, *irrespective of its legal form*, with other farmers.";
 - (b) point (r) is replaced by the following:

"(r) "forest" means an area of land spanning more than 0,5 hectares with trees higher than 5 meters and a canopy cover of more than 10 percent, or trees able to reach these thresholds in situ; and does not include land that is predominantly under agricultural or urban land use, subject to paragraph 2;"

(c) *the* following point (s) is added:

"(s) "date of setting up" means the date when the *applicant performs or completes* (an) action(s) *related to the setting up referred to in point (n)*";

2. in Article 8, in paragraph 1, in point (h), point (ii) is replaced by the following:

"(ii) a table setting out, for each measure, for each type of operation with a specific EAFRD contribution rate, for the type of operation referred to in *Articles 37.1 and 39a* and for technical assistance, the total Union contribution planned and the applicable EAFRD contribution rate. Where applicable, this table shall indicate separately the EAFRD contribution rate for less developed regions and for other regions;" ■ ;

3. *in Article 14, paragraph 4 is replaced by the following:*

"4. Eligible costs under this measure shall be the costs of organising and delivering the knowledge transfer or information action. Infrastructure installed as a result of demonstration may be used after the operation is completed. In the case of demonstration projects, support may also cover relevant investment costs. Costs for travel, accommodation and per diem expenses of participants as well as the cost of the replacement of farmers shall also be eligible for support. All costs identified under this paragraph shall be paid to the beneficiary."

4. *in Article 15, paragraph 2 is replaced by the following:*

"2. The beneficiary of support provided in paragraph 1(a) and (c) shall be either the provider of advice or training or the Managing Authority. In case the Managing Authority is the beneficiary, the provider of the advice or training shall be selected by a body that is functionally independent from the Managing Authority. Support under paragraph 1(b) shall be granted to the authority or body selected to set up the farm management, farm relief, farm advisory or forestry advisory service.";

5. *in Article 15(3), the first subparagraph is replaced by the following:*

"The authorities or bodies selected to provide advice shall have appropriate resources in the form of regularly trained and qualified staff and advisory experience and reliability with respect to the fields in which they advise. The providers under this measure shall be chosen through a selection procedure open to both public and private bodies. It shall be objective and shall exclude candidates with conflicts of interest.";

6. *in Article 15, a new paragraph 3a is inserted:*

"3a. For the purpose of this Article, Member States shall, in accordance with Article 65(1), carry out all checks at the level of the provider of advice or training."

7. *in Article 16(1), the introductory part is replaced by the following:*

"1. Support under this measure shall cover new participation by farmers and groups of farmers, or participation by farmers or groups of farmers in the five preceding years, in:"

8. in Article 16, *paragraphs 2 and 3 are* replaced by the following:

"2. Support under this measure may also cover costs arising from information and promotion activities implemented by groups of producers, concerning products covered by a quality scheme receiving support in accordance with paragraph 1. By way of derogation from Article 70(3) of Regulation (EU) No 1303/2013, these activities may only be implemented in the internal market.

3. *Support under paragraph 1 shall be granted as an annual incentive payment, the level of which shall be determined according to the level of the fixed costs arising from participation in supported schemes, for a maximum duration of five years.*

In the case of initial participation prior to the application for support under paragraph 1, the maximum duration of five years shall be reduced by the number of years which have elapsed between the initial participation in a quality scheme and the time of the application for the support.

For the purposes of this paragraph, "fixed costs" means the costs incurred for entering a supported quality scheme and the annual contribution for participating in that scheme, including, where necessary, expenditure on checks required to verify compliance with the specifications of the scheme.

For the purposes of this Article, "farmer" means active farmer within the meaning of Article 9 of Regulation (EU) No 1307/2013, as applicable in the Member State concerned.";

9. *in Article 17:*

(a) in paragraph 1, point (b) is replaced by the following:

"(b) concern the processing, marketing and/or development of agricultural products covered by Annex I to the TFEU or cotton, except fishery products; the output of the production process may be a product not covered by that Annex; where support is provided in the form of financial instruments, the input may also be a product not covered by Annex I to the TFEU on condition that the investment contributes to one or more of the Union priorities for rural development;"

(b) *paragraph 5 is replaced by the following:*

"5. Support may be granted to young farmers setting up for the first time in an agricultural holding as head of the holding in respect of investments to comply with Union standards applying to agricultural production, including occupational safety. Such support may be provided for a maximum of 24 months from the date of setting up as defined in the rural development programme or for the completion of the actions defined in the business plan referred to in Article 19(4)";

10. Article 19 is amended as follows:

(a) paragraph 4 is replaced by the following:

"4. The application for support under point (a)(i) of paragraph 1 shall be submitted **at the latest** 24 months **after** the date of setting up.

Support under point (a) of paragraph 1 shall be conditional on the submission of a business plan. Implementation of the business plan shall start at the latest within nine months from the date of the decision granting the aid. The business plan shall have a maximum duration of five years.

▮ The business plan shall provide that the young farmer complies with Article 9 of Regulation (EU) No 1307/2013, **as applicable in the Member State concerned**, regarding active farmers within 18 months from the date of the decision granting the aid.

Member States shall define the action(s) referred to in Article 2(1)(s) in the rural development programmes.

Member States shall define upper and lower thresholds per beneficiary *or holding* for allowing access to support under points (a)(i) and (a)(iii) of paragraph 1. The lower threshold for support under point (a)(i) of paragraph 1 shall be higher than the upper threshold for support under point (a)(iii) of paragraph 1. Support shall be limited to holdings coming under the definition of micro and small enterprises.";

(b) the following paragraph 4a is inserted:

"4a. By way of derogation from Article 37(1) of Regulation (EU) No 1303/2013, support under point (a)(i) of paragraph 1 may also be provided in the form of financial instruments, or as a combination of grants and financial instruments.";

(c) paragraph 5 is replaced by the following:

"5. Support under point (a) of paragraph 1 shall be paid in at least two instalments. Instalments may be degressive. The payment of the last instalment under points (a)(i) and (a)(ii) of paragraph 1 shall be conditional upon the correct implementation of the business plan.";

11. **in** Article 20, the following paragraph 4 is added:

"4. Paragraphs 2 and 3 shall not apply where support is provided in the form of financial instruments.";
12. **the title of Article 23 is replaced by the following:**

"Establishment, regeneration or renovation of agroforestry systems";
13. **in Article 23, paragraph 1 is replaced by the following:**

"1. Support under point (b) of Article 21(1) shall be granted to private landholders, municipalities and their associations and shall cover the costs of establishment, regeneration and/or renovation and an annual premium per hectare to cover the costs of maintenance for a maximum period of five years.";

14. *in Article 28:*

(a) *paragraph 6, second subparagraph is replaced by the following:*

"6. When calculating the payments referred to in the first sub-paragraph, Member States shall deduct the amount necessary in order to exclude double funding of the practices referred to in Article 43 of Regulation (EU) No 1307/2013. Member States may calculate the deduction as a fixed, average amount applied to all beneficiaries concerned carrying out the type of operation concerned";

(b) *paragraph 9 is replaced by the following:*

"9. Support may be provided for the conservation and for the sustainable use and development of genetic resources in agriculture, including non-indigenous resources, for operations not covered by the provisions under paragraphs 1 to 8. Such commitments may be carried out by beneficiaries other than those referred to in paragraph 2.";

15. *in Article 29:*

(a) paragraph 1 is replaced by the following:

"1. Support under this measure shall be granted, per hectare of agricultural area, to farmers or groups of farmers who undertake, on a voluntary basis, to convert to or maintain organic farming practices and methods as defined in Regulation (EC) No 834/2007 and who are active farmers within the meaning of Article 9 of Regulation (EU) No 1307/2013, as applicable in the Member State concerned.";

(b) paragraph 4, second subparagraph is replaced by the following:

"4. When calculating the payments referred to in the first sub-paragraph, Member States shall deduct the amount necessary in order to exclude double funding of the practices referred to in Article 43 of Regulation (EU) No 1307/2013. Member States may calculate the deduction as a fixed, average amount applied to all beneficiaries concerned carrying out the sub-measures concerned.";

16. *in Article 30, paragraph 1, the second subparagraph is replaced by the following:*
- "1. When calculating the payments referred to in the first sub-paragraph, Member States shall deduct the amount necessary in order to exclude double funding of the practices referred to in Article 43 of Regulation (EU) No 1307/2013. Member States may calculate the deduction as a fixed, average amount applied to all beneficiaries concerned carrying out the sub-measures concerned";*
17. *in Article 31:*
- (a) paragraph 2 is replaced by the following:*
- "2. Payments shall be granted to farmers who undertake to pursue their farming activity in the areas designated pursuant to Article 32 and are active farmers within the meaning of Article 9 of Regulation (EU) No 1307/2013, as applicable in the Member State concerned.";*

18. *in Article 31, paragraph 5, first subparagraph is replaced by the following:*

"5. In addition to the payments provided for in paragraph 2, Member States may grant payments under this measure between 2014 and 2020 to beneficiaries in areas which were eligible under Article 36(a)(ii) of Regulation (EC) No 1698/2005 during the 2007-2013 programming period. For beneficiaries in areas that are no longer eligible following the new delimitation referred to in Article 32(3), those payments shall be degressive over a maximum period of four years. That period shall start on the date that the delimitation in accordance with Article 32(3) is completed and at the latest in 2019. Those payments shall start at no more than 80 % of the average payment fixed in the programme for the programming period 2007-2013 in accordance with Article 36(a)(ii) of Regulation (EC) No 1698/2005, and shall end in 2020 at the latest at no more than 20 %. When the application of degressivity results in the level of the payment reaching EUR 25, the Member State can continue payments at this level until the phasing out period is completed.";

19. *in Article 33, paragraph 1 is replaced by the following:*

"1. Animal welfare payments under this measure shall be granted to farmers who undertake, on a voluntary basis, to carry out operations consisting of one or more animal welfare commitments and who are active farmers within the meaning of Article 9 of Regulation (EU) No 1307/2013, as applicable in the Member State concerned."

20. Article 36 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (c) is replaced by the following:

"(c) an income stabilisation tool, in the form of financial contributions to mutual funds, providing compensation to farmers of all sectors for a severe drop in their income.";

(ii) the following point (d) is added:

"(d) *a sector-specific* income stabilisation tool, in the form of financial contributions to mutual funds, providing compensation to farmers of a specific sector for a severe drop in their income.";

(b) *paragraph 2 is replaced by the following:*

"2. For the purposes of this article, "farmer" means active farmer within the meaning of Article 9 of Regulation EU) No 1307/2013, as applicable in the Member State concerned.";

(c) paragraph 3 is replaced by the following:

"3. For the purpose of points (b), (c) and (d) of paragraph 1, 'mutual fund' means a scheme accredited by the Member State in accordance with its national law for affiliated farmers to insure themselves, whereby compensation payments are made to affiliated farmers for economic losses caused by the outbreak of adverse climatic events or an animal or plant disease or pest infestation or an environmental incident, or for a severe drop in their income.";

(d) in paragraph 5, the second subparagraph is deleted.

21. *Article 37(1) is amended as follows:*

"1. Support under point (a) of Article 36(1) shall only be granted for insurance contracts which cover for loss caused by an adverse climatic event, or by an animal or plant disease, or a pest infestation, or an environmental incident or a measure adopted in accordance with Directive 2000/29/EC to eradicate or contain a plant disease, or pest which destroys more than 20 % of the average annual production of the farmer in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and lowest entry. Indexes may be used in order to calculate the annual production of the farmer. The calculation method used shall permit the determination of the actual loss of an individual farmer in a given year";

22. in Article 38:

(a) paragraph 3 is replaced by the following:

"3. The financial contributions referred to in Article 36(1)(b) may only relate to:

(a) the administrative costs of setting up the mutual fund, spread over a maximum of three years in a degressive manner;

- (b) the amounts paid by the mutual fund as financial compensation to farmers. In addition, the financial contribution may relate to interest on commercial loans taken out by the mutual fund for the purpose of paying the financial compensation to farmers in case of crisis;**
- (c) supplementing the annual payments into the fund;**
- (d) the initial capital stock of the mutual fund.**

Support under point (b) of Article 36(1) shall only be granted to cover for loss caused by the outbreak of adverse climatic events, an animal or plant disease, a pest infestation, or a measure adopted in accordance with Directive 2000/29/EC to eradicate or contain a plant disease or pest or an environmental incident, which destroy more than 30 % of the average annual production of the farmer in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and lowest entry. Indexes may be used in order to calculate the annual production of the farmer. The calculation method used shall permit the determination of the actual loss of an individual farmer in a given year."

(b) the first subparagraph of paragraph 5 is replaced by the following:

"5. Support shall be limited to the maximum support rate laid down in Annex II. Support under paragraph 3(b) shall take into account any support already provided under paragraph 3(c) and 3(d)".

23. Article 39 is amended as follows:

(a) The heading of Article 39 is replaced by the following:

"Article 39
Income stabilisation tool for farmers of all sectors"

(b) In Article 39, paragraph 1 is replaced by the following:

"1. Support under point (c) of Article 36(1) shall only be granted where the drop of income exceeds 30 % of the average annual income of the individual farmer in the preceding three-year period or a three-year average based on the preceding five-year period excluding the highest and lowest entry. Income for the purposes of point (c) of Article 36(1) shall refer to the sum of revenues the farmer receives from the market, including any form of public support, deducting input costs. Payments by the mutual fund to farmers shall compensate for less than 70 % of the income lost in the year the producer becomes eligible to receive this assistance. Indexes may be used to calculate the annual loss of income of the farmer.";

24. *in Article 39:*

(a) paragraph 4 is replaced by the following:

"4. The financial contributions referred to in point (c) of Article 36(1) may only relate to:

- (a) the administrative costs of setting up the mutual fund, spread over a maximum of three years in a degressive manner;*
- (b) the amounts paid by the mutual fund as financial compensation to farmers. In addition, the financial contribution may relate to interest on commercial loans taken out by the mutual fund for the purpose of paying the financial compensation to farmers in case of crisis.*
- (c) supplementing the annual payments into the fund;*
- (d) the initial capital stock of the mutual fund."*

(b) paragraph 5 is replaced by the following:

"5. Support shall be limited to the maximum rate laid down in Annex II. Support under paragraph 4(b) shall take into account any support already provided under paragraph 4(c) and 4(d)."

25. *the* following Article 39a is inserted:

"Article 39a

Income stabilisation tool for farmers of a specific sector

1. Support under point (d) of Article 36(1) shall only be granted in duly justified cases and where the drop of income exceeds ***a threshold of at least 20 %*** of the average annual income of the individual farmer in the preceding three-year period or a three-year average based on the preceding five-year period excluding the highest and lowest entry. ***Indexes may be used in order to calculate the annual income of the farmer.*** Income for the purposes of point (d) of Article 36(1) shall refer to the sum of revenues the farmer receives from the market, including any form of public support, deducting input costs. Payments by the mutual fund to farmers shall compensate for less than 70 % of the income lost in the year the producer becomes eligible to receive this assistance.
2. Paragraphs 2 to 5 of Article 39 shall apply for the purpose of support under point (d) of Article 36(1).";

26. Article 45 is amended as follows:

(a) paragraph 5 is replaced by the following:

"5. *Where support is provided* through a financial instrument established in accordance with Article 37 of Regulation (EU) No 1303/2013, *working capital* may be eligible expenditure. Such eligible expenditure shall not exceed **EUR 200 000 or 30 %** of the total amount of the eligible expenditure for the investment **■**, *whichever is the higher.*";

(b) the following paragraph 7 is added:

"7. Paragraphs 1, 2 and 3 shall not apply where support is provided in the form of financial instruments.";

27. Article 49 is amended as follows:

(a) in Paragraph 1, the following subparagraph is added:

"By way of derogation, in exceptional and duly justified cases where it is not possible to establish selection criteria due to the nature of the type of operations concerned, the Managing Authority may define another selection method to be described in the rural development programme following consultation with the Monitoring committee.";

(b) paragraph 2 is replaced by the following:

"2. The Member State authority responsible for the selection of operations shall ensure that operations, with the exception of operations under Articles 18(1)(b), 24(1)(d), 28 to 31, 33 to 34 and 36 to 39a, are selected in accordance with the selection criteria referred to in paragraph 1 and according to a transparent and well documented procedure.";

(c) *paragraph 3 is replaced by the following:*

"3. Beneficiaries may be selected on the basis of calls for proposals, applying economic, social and environmental efficiency criteria.";

(d) the following paragraph 4 is added:

"4. Paragraphs 1 and 2 shall not apply where support is provided in the form of financial instruments.";

28. *in* Article 59, paragraph 4 is amended as follows:

(a) point (f) is replaced by the following:

"(f) 100 % for an amount of EUR 100 million, in 2011 prices, allocated to Ireland, for an amount of EUR 500 million, in 2011 prices, allocated to Portugal and for an amount of EUR 7 million, in 2011 prices, allocated to Cyprus.";

(b) in point (g), the last sentence is replaced by the following:

"The EAFRD contribution rate which would be applicable without this derogation shall, however, be respected for the total public expenditure made during the programming period;"

(c) the following point (h) is added:

"(h) the contribution rate referred to in Article Article 39a(13) of Regulation (EU) No 1303/2013 for the financial instrument referred to in point (c) of Article 38(1) of the same Regulation.";

29. Article 60 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. By way of derogation from Article 65(9) of Regulation (EU) No 1303/2013, in cases of emergency measures due to natural disasters, catastrophic events or adverse climatic events or a significant and sudden change in the socio-economic conditions of the Member State or region, ■ the rural development programmes may provide that eligibility of expenditure relating to programme changes may start from the date when the event occurred.";

(b) in paragraph 2, the second subparagraph is replaced by the following:

"With the exception of general costs as defined in Article 45(2)(c), in respect of investment operations under measures falling within the scope of Article 42 TFEU, only expenditure which has been incurred after an application has been submitted to the competent authority shall be considered eligible. However, Member States may provide in their programme that expenditure which is related to emergency measures due to natural disasters, catastrophic events or adverse climatic events or a significant and sudden change in the socio-economic conditions of the Member State or region, ■ and which has been incurred by the beneficiary after the event occurs, is also eligible";

(c) *paragraph 4 is replaced by the following:*

"4. Payments by beneficiaries shall be supported by invoices and documents proving payment. Where this cannot be done, payments shall be supported by documents of equivalent probative value, except for forms of support under points (b), (c), (d) and (e) of Article 67(1) of Regulation (EU) No 1303/2013."

30. in Article 62, paragraph 2 is replaced by the following:

"2. Where aid is granted on the basis of standard costs or additional costs and income foregone in accordance with in points (a) and (b) of Article 21(1) of this Regulation **as regards** income forgone and maintenance costs ■ and Articles 28 to 31, 33, and 34 of Regulation (EU) No 1305/2013, Member States shall ensure that the relevant calculations are adequate and accurate and established in advance on the basis of a fair, equitable and verifiable calculation method. To this end, a body that is functionally independent from the authorities responsible for the programme implementation and possesses the appropriate expertise shall perform the calculations or confirm the adequacy and accuracy of the calculations. A statement confirming the adequacy and accuracy of the calculations shall be included in the rural development programme.";

31. *in Article 66(1), point (b) is deleted.*

32. in Article 74, point (a) is replaced by the following:

"(a) be consulted and shall issue an opinion, before publication of the relevant call for proposals, on the selection criteria for financed operations, which shall be revised according to programming needs;"

33. *in Annex II, Article 17(3), Investments in physical assets, 40 % maximum rate first indent is replaced by the following:*

"Of the amount of eligible investment in other regions

The above rates may be increased by an additional 20 percentage points, provided that maximum combined support does not exceed 90 %, for:

- *Young farmers as defined in this Regulation for a maximum of 5 years from the date of setting up as defined in the rural development programme or for the completion of the actions defined in the business plan referred to in Article 19(4);"*

34. *in Annex II, Article 17(3), column 4, Processing and marketing of products listed in Annex I to the TFEU, line 4 is replaced by the following:*

"Of the amount of eligible investment in other regions

The above rates may be increased by an additional 20 percentage points, provided that maximum combined support does not exceed 90 %, for operations supported in the framework of the EIP, for collective investments and integrated projects or those linked to a merger of producer organisations”;

35. *in Annex II, Article 37(5) is replaced by the following:*

"Crop, animal and plant insurance

Maximum amount in EUR or rate: 70 % of the insurance premium due”;

36. *in Annex II, Article 38(5) is replaced by the following:*

"Mutual funds for adverse climatic events, animal and plant diseases, pest infestations and environmental incidents

Maximum amount in EUR or rate: 70 % of the eligible costs”;

37. *In Annex II, Article 39(5) is replaced by the following:*

"Income stabilisation tool

Maximum amount in EUR or rate: 70 % of the eligible costs”.

Article 2
Amendments to Regulation (EU) No 1306/2013

Regulation (EU) No 1306/2013 is amended as follows:

1. Article 26 is amended as follows:

(a) paragraph 2 is deleted.

(b) paragraphs 3 *and* 4 ■ are replaced by the following:

"3. The Commission shall, by 30 June of the calendar year in respect of which the adjustment rate applies, adopt implementing acts fixing the adjustment rate. Such implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 116(2).

4. Until 1 December of the calendar year in respect of which the adjustment rate applies, the Commission may, on the basis of new information, adopt implementing acts adapting the adjustment rate set in accordance with paragraph 3. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 116(2).";

■

2. in Article 38, paragraph 3 is replaced by the following:

"3. In the event of legal proceedings or of an administrative appeal having suspensory effect, the period for automatic decommitment referred to in paragraph 1 or paragraph 2 shall, in respect of the amount relating to the operations concerned, be interrupted for the duration of those proceedings or that administrative appeal, provided that the Commission receives a substantiated notification from the Member State by 31 January of year N + 4. ";

3. *in* Article 43, in paragraph 1, point (a) is replaced by the following:

"(a) sums which under Articles 40, **52** and **54 and**, as regards expenditure under *the* EAGF, **■** under Articles **41(2)** and **51** must be paid to the Union's budget, including interest thereon;"

■

4. *in Article 54(3), point (a)(ii) is replaced by the following:*

"(ii) the amount to be recovered from the beneficiary in the context of an individual payment for an aid scheme or support measure, not including interest, falls between EUR 100 and EUR 250 and the Member State concerned applies a threshold equal to or higher than the amount to be recovered under its national law for not pursuing national debts.";

5. in Article 63, in paragraph 1, the following subparagraph is added:

"Where the non-compliance concerns national or Union rules on public procurement, the part of the aid not to be paid or to be withdrawn shall be determined on the basis of the gravity of the non-compliance and in accordance with the principle of proportionality **■** . The legality and regularity of the transaction shall only be affected up to the level of the part of the aid not to be made or withdrawn.";

6. *in Article 72, paragraph 2 is replaced by the following:*

"2. By way of derogation from point (a) of paragraph 1, Member States may decide that:

- (a) agricultural parcels of an area of up to 0,1 ha on which an application for payment is not made, do not need to be declared, provided that the sum of such parcels does not exceed 1 ha, and/or may decide that a farmer who does not apply for any area-based direct payment does not have to declare his agricultural parcels in the case where the total area does not exceed 1 ha. In all cases, the farmer shall indicate in his application that he has agricultural parcels at his disposal and, at the request of the competent authorities, shall indicate their location;*
- (b) farmers participating in the small farmer scheme do not need to declare the agricultural parcels on which an application for payment is not made, unless such a declaration is required for the purpose of other aid or support."*

7. *Article 75 is replaced by the following:*

"1. The payments under the support schemes and the measures referred to in Article 67(2) shall be made within the period from 1 December to 30 June of the following calendar year.

Payments shall be made in a maximum of two instalments within that period.

Notwithstanding the first and second subparagraphs, Member States may:

- (a) prior to 1 December but not before 16 October, pay advances of up to 50 % for direct payments;*
- (b) prior to 1 December, pay advances of up to 75 % for the support granted under rural development as referred to in Article 67(2).*

With regard to support granted under rural development, as referred to in Article 67(2), the first and second subparagraphs shall apply in respect of the aid applications or payment claims submitted from claim year 2019.

2. *Payments referred to in the paragraph 1 shall not be made before the verification of eligibility conditions, to be carried out by the Member States pursuant to Article 74, has been finalised.*

By way of derogation from the first subparagraph, advances for support granted under rural development as referred to in Article 67(2) may be paid after the administrative checks pursuant to Article 59(1) have been finalised.

3. *In the event of an emergency, the Commission shall adopt implementing acts which are both necessary and justifiable, in order to resolve specific problems in relation to the application of this Article. Such implementing acts may derogate from paragraphs 1 and 2, but only to the extent that, and for such a period, as is strictly necessary.*

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3)."

Article 3
Amendments to Regulation (EU) No 1307/2013

Regulation (EU) No 1307/2013 is amended as follows:

1. in Article 4:

(a) paragraph 1(h) is modified as follows:

"(h) permanent grassland and permanent pasture" (together referred to as "permanent grassland") means land used to grow grasses or other herbaceous forage naturally (self-seeded) or through cultivation (sown) and that has not been included in the crop rotation of the holding for five years or more, as well as, where Member States so decide, that has not been ploughed up for five years or more; it may include other species such as shrubs and/or trees which can be grazed and, where Member States so decide, other species such as shrubs and/or trees which produce animal feed, provided that the grasses and other herbaceous forage remain predominant. Member States may also decide to consider as permanent grassland:

- (i) land which can be grazed and which forms part of established local practices where grasses and other herbaceous forage are traditionally not predominant in grazing areas, and/or***

(ii) land which can be grazed where grasses and other herbaceous forage are not predominant or are absent in grazing areas;";

(b) the following subparagraph is added at the end of paragraph 1:

"Notwithstanding the definitions in points (f) and (h) of paragraph 1, Member States which, prior to 1 January 2018, have accepted parcels of land lying fallow as arable land may continue to accept them as such after that date. From 1 January 2018 parcels of land lying fallow which have been accepted as arable land under this paragraph in 2018 shall become permanent grassland in 2023 or thereafter if the conditions set out in the definition in point (h) are met.";

(c) the following subparagraphs are added at the end of paragraph 2:

"Member States may decide that:

(i) land that has not been ploughed up for five years or more shall be considered permanent grassland as referred to in point (h) of paragraph 1, provided that the land is used to grow grasses or other herbaceous forages naturally (self-seeded) or through cultivation (sown) and that it has not been included in the crop rotation of the holding for five years or more;

(ii) permanent grassland may include other species such as shrubs and/or trees which produce animal feed, in areas where grasses and other herbaceous forage are predominant; and/or

(iii) land which can be grazed where grasses and other herbaceous forage are not predominant or are absent in grazing areas be considered permanent grassland as referred to in point (h) of paragraph 1.

Member States may decide, on the basis of objective and non-discriminatory criteria, to apply their decision in accordance to points (ii) and/or (iii) of the third subparagraph to the whole or a part of their territory.

Member States shall notify the Commission by 31 March 2018 of any decision taken pursuant to the third and fourth subparagraphs."

2. in Article 6(2), **■** the following subparagraph is added:

"Where a Member State makes use of the option provided for in the second subparagraph of Article 36(4), the national ceiling set out in Annex II for that Member State for the respective year may be exceeded by the amount calculated in accordance with that subparagraph.";

3. in Article 9:

(a) the following paragraph 3a is added:

"3a. In addition to paragraphs 1, 2 and 3, Member States may decide that no direct payments are to be granted to farmers who are not registered, for their agricultural activities, in a national fiscal or social security register.";

(b) paragraph 4 is replaced by the following:

"4. Paragraphs 2, 3 and 3a shall not apply to farmers who only received direct payments not exceeding a certain amount for the previous year. Such amount shall be decided by Member States on the basis of objective criteria such as their national or regional characteristics, and shall not be higher than EUR 5 000.";

(c) paragraph 6 is replaced by the following:

"6. Member States shall notify the Commission by 1 August 2014 of any decision referred to in paragraphs 2, 3 or 4, and by 31 March 2018 of any decision referred to in paragraph 3a. In the case of amendments thereto, Member States shall notify the Commission within two weeks of the date on which any decision to amend was taken.";

(d) the following paragraphs 7 and 8 are added:

- "7. Member States may decide from 2018 *or from any subsequent year* that only one or two of the three criteria listed in the third subparagraph of paragraph 2 may be invoked by persons or groups of persons falling within the scope of the first and second subparagraphs of paragraph 2, in order to demonstrate that they are active farmers. Member States shall notify the Commission of such a decision, *if applied from 2018, by 31 March 2018 or, if applied from a subsequent year, by 1 August of the year preceding its application.*
8. Member States may decide to stop applying *paragraph 2 from 2018 or any subsequent year*. They shall notify the Commission of such a decision, *if applied from 2018, by 31 March 2018 or, if applied from a subsequent year, by 1 August of the year preceding its application.*";

4. *in Article 11, paragraph 6 is replaced by the following:*

"6. Member States may review their decisions on a reduction of payments in accordance with this Article on an annual basis, provided that such review does not lead to a reduction of the amounts available to rural development.

Member States shall notify the Commission of the decisions taken in accordance with this Article and of any estimated product of reductions for the years until 2019 by 1 August of the year preceding the application of such decisions, the last possible date for such notification being 1 August 2018."

5. *in Article 14:*

(a) the following subparagraph is added to paragraph 1:

"Member States may decide to review the decisions referred to in this paragraph with effect from calendar year 2019 and shall notify the Commission of any decision based on such review by 1 August 2018. Any decisions based on such review shall not result in a decrease of the percentage notified to the Commission in accordance with the first, second, third and fourth subparagraphs."

(b) the following subparagraph is added to paragraph 2:

"Member States may decide to review the decisions referred to in this paragraph with effect from calendar year 2019 and shall notify the Commission of any decision based on such review by 1 August 2018. Any decisions based on such review shall not result in an increase of the percentage notified to the Commission in accordance with the first, second, third and fourth subparagraphs."

6. in Article 31, paragraph 1(g) is replaced by the following:

"(g) where Member States consider it necessary, a linear reduction of the value of payment entitlements under the basic payment scheme at national or regional level to cover cases referred to in Article 30(6) of this Regulation. In addition, Member States already making use of this possibility may in the same year also apply a linear reduction of the value of payment entitlements under the basic payment scheme at national or regional level to cover cases referred to and in Article 30(7) letter (a) and (b) of this Regulation;"

7. in Article 36, in paragraph 4, the following subparagraphs are added:

"For each Member State, the amount calculated in accordance with the first subparagraph of this paragraph may be increased by a maximum of 3 % of the relevant annual national ceiling set out in Annex II after deduction of the amount resulting from the application of Article 47(1) for the relevant year. When a Member State applies such an increase, that increase shall be taken into account by the Commission when setting the annual national ceiling for the single area payment scheme pursuant to the first subparagraph of this paragraph. For that purpose, Member States shall notify the Commission by **31 January 2018** of the annual percentages by which the amount calculated pursuant to paragraph 1 of this Article is to be increased each calendar year from 2018.

Member States may review their decision referred to in the second subparagraph on an annual basis and shall notify the Commission of any decision based on such review by 1 August of the year preceding its application.";

8. *in Article 44:*

(a) *paragraph 2 is replaced by the following:*

"2. Without prejudice to the number of crops required pursuant to paragraph 1, the maximum thresholds set out therein shall not apply to holdings where grasses or other herbaceous forage or land lying fallow or cultivated with crops under water for a significant part of the year or for a significant part of the crop cycle cover more than 75 % of the arable land. In such cases, the main crop on the remaining arable area shall not cover more than 75 % of that remaining arable land, except where this remaining area is covered by grasses or other herbaceous forage or land lying fallow.";

(b) *in paragraph 3, points (a) and (b) are replaced by the following:*

"(a) where more than 75 % of the arable land is used for the production of grasses or other herbaceous forage, is used for cultivation of leguminous crops, is land lying fallow or is subject to a combination of these uses;

(b) where more than 75 % of the eligible agricultural area is permanent grassland, is used for the production of grasses or other herbaceous forage or for the cultivation of crops under water for a significant part of the year or for a significant part of the crop cycle, or is subject to a combination of these uses;"

(c) in paragraph 4, the second subparagraph is replaced by the following:

"Winter crop and spring crop shall be considered to be distinct crops even if they belong to the same genus. Triticum spelta shall be considered to be a distinct crop from crops belonging to the same genus.";

9. in Article 46:

(a) in paragraph 2, the following points are added:

"(ja) areas with Miscanthus;"

"(jb) areas with Silphium perfoliatum;"

"(jc) land lying fallow for melliferous plants (pollen and nectar rich species);"

(b) the last subparagraph of paragraph 2 is replaced by the following:

"With the exception of the areas of the holding referred to in points (g), (h), (ja) and (jb) of the first subparagraph of this paragraph, the ecological focus area shall be located on the arable land of the holding. In the case of areas mentioned in points (c) and (d) of the first subparagraph of this paragraph, the ecological focus area may also be adjacent to the arable land of the holding the farmer declared in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013."

(c) in paragraph 4, points (a) and (b) are replaced by the following:

"(a) where more than 75 % of the arable land is used for the production of grasses or other herbaceous forage, is land lying fallow, is used for cultivation of leguminous crops, or is subject to a combination of those uses;

(b) where more than 75 % of the eligible agricultural area is permanent grassland, is used for the production of grasses or other herbaceous forage or for the cultivation of crops under water either for a significant part of the year or for a significant part of the crop cycle, or is subject to a combination of those uses;"

10. in Article 50:

(a) *paragraph 5 is replaced by the following:*

"5. The payment for young farmers shall be granted per farmer for a period of five years, starting from the first submission of the application for the payment for young farmers as long as this submission takes place within the five years following the setting up referred to in point (a) of paragraph 2. This period of five years shall also apply for farmers who have received payment for young farmers in respect of claims before claim year 2018.

By way of derogation from the second sentence of the first subparagraph, Member States may decide that, for those young farmers who set up in accordance with point (a) of paragraph 2 in the period 2010-2013, the five-year period shall be reduced by the number of years elapsed between the setting up referred to in point (a) of paragraph 2 and the first submission of the application for the payment for young farmers.";

(b) in paragraph 6, points (a) and (b) are replaced by the following:

"(a) between 25 % and 50 % of the average value of the owned or leased-in payment entitlements held by the farmer; or

(b) between 25 % and 50 % of an amount calculated by dividing a fixed percentage of the national ceiling for the calendar year 2019 set out in Annex II by the number of all eligible hectares declared in 2015 in accordance with Article 33(1). That fixed percentage shall be equal to the share of the national ceiling remaining for the basic payment scheme in accordance with Article 22(1) for 2015";

(c) paragraph 7 is replaced by the following:

"7. Member States applying Article 36 shall each year calculate the amount of the payment for young farmers by multiplying a figure corresponding to a value between 25 % and 50 % of the single area payment calculated in accordance with Article 36 by the number of eligible hectares that the farmer has declared in accordance with Article 36(2).";

(d) *in paragraph 8, the first subparagraph is replaced by the following:*

"By way of derogation from the paragraphs 6 and 7, Member States may calculate each year the amount of the payment for young farmers by multiplying a figure corresponding to a value between 25 % and 50 % of the national average payment per hectare by the number of entitlements that the farmer has activated in accordance with Article 32(1), or by the number of eligible hectares that the farmer has declared in accordance with Article 36(2).";

(e) *in paragraph 10, the first paragraph is replaced by the following:*

"Instead of applying paragraphs 6 to 9, Member States may allocate an annual lump sum amount per farmer calculated by multiplying a fixed number of hectares by a figure corresponding to a value between 25 % and 50 % of the national average payment per hectare, as established in accordance with paragraph 8.";

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11. *in* Article 52:

(a) *paragraph 5 is deleted;*

(b) *paragraph 6 is replaced by the following:*

"6. Coupled support is a production-limiting scheme that shall take the form of an annual payment based on fixed areas and yields or on a fixed number of animals and shall respect financial ceilings to be determined by Member States for each measure and notified to the Commission."

(c) the following paragraph 10 is added:

"10. The Commission is empowered to adopt delegated acts in accordance with Article 70. Such delegated acts may supplement this Regulation as regards measures to avoid that beneficiaries of voluntary coupled support suffer from structural market imbalances in a sector by allowing Member States to decide that such support may continue to be paid until 2020 on the basis of the production units for which voluntary coupled support was granted in a past reference period."

12. *in Article 53, paragraph 6 is replaced by the following:*

"6. Member States may, by 1 August of any given year, review their decision pursuant to this Chapter and decide, with effect from the following year:

- (a) to leave unchanged, increase or decrease the percentage fixed pursuant to paragraphs 1, 2 and 3, within the limits laid down therein where applicable, or to leave unchanged or decrease the percentage fixed pursuant to paragraph 4;*
- (b) to modify the conditions for granting the support;*
- (c) to cease granting the support under this Chapter.*

Member States shall notify the Commission of any such decision by the date referred to in the first subparagraph."

13. *in Annex X:*

(a) *the line "Areas with short rotation coppice" is replaced by the following:*

"Features: Areas with short rotation coppice (per 1 m²)

Conversion factor: n.a.

Weighting factor: 0.5

Ecological focus area: 0.5 m²"

(b) *the line "Areas with nitrogen fixing crops" is replaced by the following:*

"Features: Areas with nitrogen fixing crops (per 1 m²)

Conversion factor: n.a.

Weighting factor: 1

Ecological focus area: 1 m²"

(c) *the following lines are added:*

"Features: Areas with Miscanthus

Conversion factor: n/a

Weighting factor: 0.7

Ecological focus area: 0.7 m²"

(d) *"Features: Areas with Silphium perfoliatum*

Conversion factor: n/a

Weighting factor: 0.7

Ecological focus area: 0.7 m²"

(e) *"Features: Land lying fallow for melliferous plants (pollen and nectar rich species)*

Conversion factor: n/a

Weighting factor: 1.5

Ecological focus area: 1.5 m²".

Article 4
Amendments to Regulation (EU) No 1308/2013

Regulation (EU) No 1308/2013 is amended as follows:

1. Article 33 is amended as follows:

(a) *in* paragraph 1, point (f) is replaced by the following:

"(f) crisis prevention and management, including providing coaching to other producer organisations, associations of producer organisations, producer groups or individual producers;"

(b) *in* paragraph 3:

(i) *point (c) is replaced by the following:*

"(c) promotion and communication, including actions and activities aimed at diversification and consolidation on the fruit and vegetable markets, whether for prevention or during a crisis period;"

(ii) point (d) is replaced by the following:

"(d) support for the administrative costs of setting up mutual funds and financial contribution to replenish mutual funds, following the compensation paid to producer members who experience a severe drop in their income as a result of adverse market conditions;"

(iii) the following point (i) is inserted:

"(i) coaching to other producer organisations, associations of producer organisations, producer groups or individual producers";

(c) paragraph 5 is replaced by the following:

"5. Member States shall ensure that:

(a) operational programmes include two or more environmental actions; or

(b) at least 10 % of the expenditure under operational programmes covers environmental actions.

Environmental actions shall respect the requirements for agri-environment-climate or organic farming commitments laid down in Articles 28(3), 29(2) and 29(3) of Regulation (EU) No 1305/2013.

Where at least 80 % of the producer members of a producer organisation are subject to one or more identical agri-environment-climate or organic farming commitments provided for in Articles 28(3), 29(2) and 29(3) of Regulation (EU) No 1305/2013, then each one of those commitments shall count as an environmental action as referred to in point (a) of the first subparagraph of this paragraph.

Support for the environmental actions referred to in the first subparagraph of this paragraph shall cover additional costs and income foregone resulting from the action."

2. *in* Article 34, paragraph 4 is replaced by the following:

"4. The 50 % limit provided for in paragraph 1 shall be increased to 100 % in the following cases:

- (a) market withdrawals of fruit and vegetables which do not exceed 5 % of the volume of marketed production of each producer organisation and which are disposed of by way of:
 - (i) free distribution to charitable organisations and foundations, approved to that effect by the Member States, for use in their activities to assist persons whose right to public assistance is recognised in national law, in particular because they lack the necessary means of subsistence;
 - (ii) free distribution to penal institutions, schools and public education institutions, *establishments referred to in Article 22* and to children's holiday camps as well as to hospitals and old people's homes designated by the Member States, which shall take all necessary steps to ensure that the quantities thus distributed are additional to the quantities normally bought in by such establishments.

- (b) actions related to coaching of other producer organisations, *or* producer groups ***recognised in accordance with either Article 125e of Regulation (EC) No 1234/2007 or Article 27 of Regulation (EU) 1305/2013, from regions of Member States referred to in Article 35(1) or individual producers.***;

3. Article 35 is replaced by the following:

"Article 35

National financial assistance

- 1. ***In regions of Member States in which the degree of organisation of producers in the fruit and vegetables sector is significantly below the EU average, Member States may grant producer organisations national financial assistance equal to a maximum of 80 % of the financial contributions referred to in point (a) of Article 32(1) and up to 10 % of the value of the marketed production of any such producer organisation.*** That assistance shall be additional to the operational fund.

2. *The degree of organisation of producers in a region of a Member State shall be considered as significantly below the EU average where the average degree of organisation has been less than 20 % for three consecutive years preceding the implementation of the operational programme. Such degree of organisation shall be calculated as the value of fruit and vegetable production that was obtained in the region concerned and marketed by producer organisations, associations of producer organisations and producer groups recognised in accordance with either Article 125e of Regulation (EC) No 1234/2007 or Article 27 of Regulation (EU) 1305/2013, divided by the total value of the fruit and vegetable production that was obtained in that region.*

3. *Member States that grant financial assistance in accordance with paragraph 1 shall inform the Commission of the regions that meet the criteria referred to in paragraph 2 and of the national financial assistance granted to producer organisations in those regions.";*

4. *in Article 37, point (d)(ii) is replaced by the following:*

"(ii) conditions relating to points (a), (b), (c) and (i) of the first subparagraph of Article 33(3);";

5. *in Article 38, point (i) is replaced by the following:*

"(i) promotion, communication, training and coaching measures in cases of crisis prevention and management;";

6. *in Article 62, the following paragraph is added:*

"4a. Member states may apply this Chapter to areas producing wine suitable for producing wine spirits with a geographical indication as registered in accordance with Annex III of Regulation (EC) No 110/2008 of the European Parliament and of the Council. For the purposes of this Chapter, those areas may be treated as areas where wines with a protected designation of origin or protected geographical indication may be produced.";

7. *Article 64 is replaced by the following:*

"Article 64

Granting of authorisations for new plantings

1. *If the total area covered by the eligible applications in a given year does not exceed the area made available by the Member State, all such applications shall be accepted.*

Member States may, for the purpose of this Article, apply one or more of the following objective and non-discriminatory eligibility criteria:

- (a) *the applicant shall have an agricultural area which is not smaller than the area for which he requests the authorisation;*
- (b) *the applicant shall possess adequate occupational skills and competence;*
- (c) *the application shall not pose a significant risk of misappropriation of the reputation of specific protected designations of origin, which shall be presumed unless the existence of such risk is demonstrated by the public authorities;*

- (d) the applicant does not have vines planted without authorisation as referred to in Article 71 of Regulation (EU) No 1308/2013 or without a planting right as referred to in Articles 85a and 85b of Regulation (EC) No 1234/2007;*
 - (e) where duly justified, one or more of the criteria referred to in paragraph 2, provided that they are applied in an objective and non-discriminatory manner.*
- 2. If the total area covered by the eligible applications referred to in paragraph 1 in a given year exceeds the area made available by the Member State, authorisations shall be granted according to a pro-rata distribution of hectares to all applicants on the basis of the area for which they have requested the authorisation. Such granting may establish a minimum and/or a maximum area by applicant and also be partially or completely made according to one or more of the following objective and non-discriminatory priority criteria:*
- (a) producers who are setting up vine plantings for the first time, and who are established as the head of the holding (new entrants);*
 - (b) areas where vineyards contribute to the preservation of the environment;*

- (c) areas to be newly planted in the framework of land consolidation projects;*
 - (d) areas facing natural or other specific constraints;*
 - (e) the sustainability of projects of development or replantations on the basis of an economic evaluation;*
 - (f) areas to be newly planted which contribute to increasing the competitiveness at farm holding and regional level;*
 - (g) projects with the potential to improve the quality of products with geographical indications;*
 - (h) areas to be newly planted in the framework of increasing the size of small and medium-sized holdings.*
- 3. *If the Member State decides to apply one or more of the criteria referred to in paragraph 2, the Member State may decide to add the additional condition that the applicant shall be a natural person who is no more than 40 years of age in the year of submission of the application.***
- 4. *Member States shall make public the criteria referred to in paragraphs 1, 2 and 3 that they apply and shall notify them forthwith to the Commission.***”;

8. *in Article 148:*

(a) the following paragraph is inserted:

"1a. If Member States do not make use of the possibilities provided for in paragraph 1 of this Article, a producer, producer organisation, or their associations may require that any delivery in raw milk to a processor of raw milk be the subject of a written contract between the parties and/or be the subject of a written offer of a contract from the first purchasers, under the conditions laid down in the first subparagraph of paragraph 4 of this Article.

If the first purchaser is a micro, small or medium-sized enterprise within the meaning of Recommendation 2003/361/EC, the contract and/or the contract offer is not compulsory, without prejudice to the possibility for the parties to make use of a standard contract drawn up by an interbranch organisation."

(b) in paragraph 2, the introductory part is replaced by the following:

"2. The contract and/or the offer for a contract referred to in paragraphs 1 and 1a shall:"

(c) paragraph 3 is replaced by the following:

“3. By way of derogation from paragraphs 1 and 1a, a contract and/or an offer for a contract shall not be required where raw milk is delivered by a member of a cooperative to the cooperative of which he is a member if the statutes of that cooperative or the rules and decisions provided for in or derived from these statutes contain provisions having similar effects to the provisions set out in points (a), (b) and (c) of paragraph 2.”;

(d) in paragraph 4, the second subparagraph is replaced by the following:

"Notwithstanding the first subparagraph, one or more of the following shall apply:

(a) where a Member State decides to make a written contract for the delivery of raw milk compulsory in accordance with paragraph 1, it may establish:

(i) the obligation to agree on a relationship between a certain quantity delivered and the price payable for this delivery;

(ii) a minimum duration, applicable only to written contracts between a farmer and the first purchaser of raw milk; such a minimum duration shall be at least six months, and shall not impair the proper functioning of the internal market;

(b) where a Member State decides that the first purchaser of raw milk must make a written offer for a contract to the farmer in accordance with paragraph 1, it may provide that the offer must include a minimum duration for the contract, set by national law for this purpose; such a minimum duration shall be at least six months, and shall not impair the proper functioning of the internal market.";

9. *in Article 149, paragraph 1 is replaced with the following:*

"1. A producer organisation in the milk and milk products sector which is recognised under Article 161(1) may negotiate on behalf of its farmer members, in respect of part or all of their joint production, contracts for the delivery of raw milk by a farmer to a processor of raw milk, or to a collector within the meaning of the third subparagraph of Article 148(1).";

10. *Article 152 is replaced by the following:*

*"Article 152
Producer organisations*

1. *Member States may, on request, recognise producer organisations, which:*

(a) *are constituted, and controlled in accordance with point (c) of Article 153(2), by producers in a specific sector listed in Article 1(2);*

(b) *are formed on the initiative of the producers and which carry out at least one of the following activities:*

(i) *joint processing;*

(ii) *joint distribution, including joint selling platform or joint transportation;*

(iii) *joint packaging, labelling or promotion;*

- (iv) joint organising of quality control;*
- (v) joint use of equipment or storage facilities;*
- (vi) joint management of waste directly related to the production;*
- (vii) joint procurement of inputs;*
- (viii) any other joint activities of services pursuing one of the objectives listed in point (c) of this paragraph;*
- (c) pursue a specific aim which may include at least one of the following objectives:*
 - (i) ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity;*
 - (ii) concentration of supply and the placing on the market of the products produced by its members, including through direct marketing;*
 - (iii) optimising production costs and returns on investments in response to environmental and animal welfare standards, and stabilising producer prices;*

- (iv) carrying out research and developing initiatives on sustainable production methods, innovative practices, economic competitiveness and market developments;*
- (v) promoting, and providing technical assistance for, the use of environmentally sound cultivation practices and production techniques, and sound animal welfare practices and techniques;*
- (vi) promoting, and providing technical assistance for, the use of production standards, improving product quality and developing products with a protected designation of origin, with a protected geographical indication or covered by a national quality label;*
- (vii) the management of by-products and of waste in particular to protect the quality of water, soil and landscape and preserving or encouraging biodiversity;*
- (viii) contributing to a sustainable use of natural resources and to climate change mitigation;*

- (ix) developing initiatives in the area of promotion and marketing;*
- (x) managing of the mutual funds referred to in operational programmes in the fruit and vegetables sector referred to in Article 31(2) of this Regulation and under Article 36 of Regulation (EU) No 1305/2013.*
- (xi) providing the necessary technical assistance for the use of the futures markets and of insurance schemes.*

1a. By way of derogation from Article 101(1) TFEU, a producer organisation recognised under paragraph 1 of this Article may plan production, optimise the production costs, place on the market and negotiate contracts for the supply of the agricultural products, on behalf of its members for all or part of their total production.

The activities referred to in the first subparagraph may take place:

- (a) provided that one or more of the activities referred to in point (b)(i–vii) of paragraph 1 is genuinely exercised, thus contributing to the fulfilment of the objectives of Article 39 TFEU;*

- (b) provided that the producer organisation concentrates supply and places the products of its members on the market, whether or not there is a transfer of ownership of agricultural products by the producers to the producer organisation;***
- (c) whether or not the price negotiated is the same as regards the aggregate production of some or all of the members;***
- (d) provided that the producers concerned are not members of any other producer organisation as regards the products covered by the activities referred to in the first subparagraph; however, Member States may derogate from this condition in duly justified cases where producer members hold two distinct production units located in different geographic areas;***
- (e) provided that the agricultural product is not covered by an obligation to deliver arising from the farmer's membership of a cooperative, which is not itself a member of the producer organisations concerned, in accordance with the conditions set out in the cooperative's statutes or the rules and decisions provided for in or derived from those statutes;***

- 1b. For the purposes of this Article, references to producer organisations shall also include associations of producer organisations recognised under Article 156(1) if such associations of producer organisations meet the requirements set out in paragraph 1 of this Article.**
- 1c. The national competition authority referred to in Article 5 of Council Regulation (EC) No 1/2003 may decide in individual cases that, for the future, one or more of the activities referred to in the first subparagraph of paragraph 1a shall be modified, discontinued or not take place at all if it considers that this is necessary in order to prevent competition from being excluded or if it considers that the objectives referred to in Article 39 TFEU are jeopardised.**

For negotiations covering more than one Member State, the decision referred to in the first subparagraph shall be taken by the Commission without applying the procedure referred to in Article 229(2) or (3).

When acting under the first subparagraph, the national competition authority shall inform the Commission in writing before or without delay after initiating the first formal measure of the investigation and shall notify the Commission of the decisions adopted without delay after their adoption.

The decisions referred to in this paragraph shall not apply earlier than the date of their notification to the undertakings concerned.

2. *A producer organisation recognised under paragraph 1 may continue to be recognised if it engages in the marketing of products falling within CN code ex 2208 other than those referred to in Annex I to the Treaties, provided that the proportion of such products does not exceed 49 % of the total value of marketed production of the producer organisation and that such products do not benefit from Union support. Those products do not count, for producer organisations in the fruit and vegetables sector, towards the calculation of the value of marketed production for the purposes of Article 34(2).";*

11. *in Article 154, paragraphs 2 and 3 are replaced by the following:*

- "2. *Member States may, on request, decide to grant more than one recognition to a producer organisation operating in several sectors referred to in Article 1(2) provided the producer organisation fulfils the conditions referred to in paragraph 1 for each sector for which it is recognised.*

3. Member States may decide that producer organisations which have been recognised before [the date of application of this Regulation] and which fulfil the conditions laid down in paragraph 1 of this Article shall be deemed to be recognised as producer organisations pursuant to Article 152.

3a. For producer organisations which have been recognised before [the date of application of this Regulation] but do not fulfil the conditions set out in paragraph 1 of this Article, Member States shall withdraw their recognition no later than ... [three years after the date of application of this Regulation].";

12. in Article 157:

(a) in point (c) of paragraph 1, the following points are added:

"(xv) establishing standard value sharing clauses within the meaning of Article 172a including market bonuses and losses, determining how any evolution of relevant market prices or other commodity markets is to be allocated between them;

(xvi) implementing measures to prevent and manage animal health, plant-protection and environmental risks.”;

(b) after paragraph 1, the following paragraph is inserted:

"1a. Member States may, on request, decide to grant more than one recognition to an interbranch organisation operating in several sectors referred to in Article 1(2) provided the interbranch organisation fulfils the conditions referred to in paragraph 1 and, where applicable, paragraph 3 for each sector for which it is recognised.”;

(c) in point (c) of paragraph 3, the following points are added:

"(xii) establishing standard value sharing clauses within the meaning of Article 172a including market bonuses and losses, determining how any evolution of relevant market prices or other commodity markets is to be allocated between them;

(xiii) implementing measures to prevent and manage animal health, plant-protection and environmental risks.”;

13. *in Article 159, the title is replaced by the following:*

"Mandatory recognition";

14. *in Article 161, paragraphs 1 and 2 are replaced with the following:*

"1. Member States shall, on request, recognise as producer organisations in the milk and milk products sector all legal entities or clearly defined parts of such entities, provided that:

(a) they are constituted by producers in the milk and milk products sector and are formed on their initiative;

(b) they pursue a specific aim which may include one or more of the following objectives:

(i) ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity;

- (ii) concentration of supply and the placing on the market of the products produced by its members;*
 - (iii) optimising production costs and stabilising producer prices;*
 - (c) they have a minimum number of members and/or cover a minimum volume of marketable production, to be laid down by the Member State concerned, in the area where they operate;*
 - (d) there is sufficient evidence that they can carry out their activities properly, both over time and in terms of effectiveness and concentration of supply;*
 - (e) they have statutes that are consistent with points (a) to (d) of this paragraph.*
- 2. Member States may decide that producer organisations which have been recognised before 2 April 2012 on the basis of national law and which fulfil the conditions laid down in paragraph 1 of this Article are to be considered as recognised producer organisations."**

15. *in Article 168:*

(a) *the following paragraph is inserted:*

"1a. If Member States do not make use of the possibilities provided for in paragraph 1 of this Article, a producer, producer organisation or their associations, in respect of agricultural products in a sector listed in Article 1(2) other than the milk, milk products and sugar sector may require that any delivery of its products to a processor or distributor be the subject of a written contract between the parties and/or be the subject of a written offer of a contract from the first purchasers, under the conditions laid down in paragraph 4 and in the first subparagraph of paragraph 6 of this Article.

If the first purchaser is a micro, small or medium-sized enterprise within the meaning of Recommendation 2003/361/EC, the contract and/or the contract offer is not compulsory without prejudice to the possibility for the parties to make use of a standard contract drawn up by an interbranch organisation."

(b) in paragraph 4, the introductory part is replaced by the following:

"4. Any contract or offer for a contract referred to in paragraphs 1 and 1a shall:";

(c) paragraph 5 is replaced by the following:

"5. By way of derogation from paragraphs 1 and 1a, a contract or an offer for a contract shall not be required where the products concerned are delivered by a member of a cooperative to the cooperative of which he is a member if the statutes of that cooperative or the rules and decisions provided for in, or derived from, these statutes contain provisions having similar effects to the provisions set out in points (a), (b) and (c) of paragraph 4.";

16. Articles 169, 170 and 171 are deleted.

17. *the following Section and Article are inserted:*

*"Section 5a
Value-sharing clauses*

*Article 172a
Value-sharing*

Without prejudice to any specific value sharing clauses in the sugar sector, farmers, including associations of farmers, and their first purchaser may agree on value sharing clauses, including market bonuses and losses, determining how any evolution of relevant market prices or other commodity markets is to be allocated between them.";

18. Article 188 is replaced by the following:

"Article 188

Allocation process of tariff quotas

1. The Commission shall make public, via an appropriate web-publication, the results of tariff quota allocation for the applications notified taking into account the tariff quotas available and the applications notified.
2. The publication referred to in paragraph 1 shall also make reference, when appropriate, to the need of rejecting pending applications, suspending the submission of applications or allocating unused quantities.
3. Member States shall issue import licences *and export licences* for the quantities applied for within the import tariff quotas *and export tariff quotas*, subject to the respective allocation coefficients and after they are made public by the Commission in accordance with paragraph 1.";

19. *the second subparagraph of Article 209(1) is replaced by the following:*

"Article 101(1) TFEU shall not apply to agreements, decisions and concerted practices of farmers, farmers' associations, or associations of such associations, or producer organisations recognised under Article 152 or Article 161 of this Regulation, or associations of producer organisations recognised under Article 156 of this Regulation, which concern the production or sale of agricultural products or the use of joint facilities for the storage, treatment or processing of agricultural products, unless the objectives of Article 39 TFEU are jeopardised.";

20. *in Article 209(2), the following subparagraph is inserted after the first subparagraph:*

"However, farmers, farmers' associations, or associations of such associations, or producer organisations recognised under Article 152 or Article 161 of this Regulation, or their associations recognised under Article 156 of this Regulation, may request an opinion from the Commission on the compatibility of those agreements, decisions and concerted practices with the objectives set out in Article 39 TFEU."

Requests for opinions shall be dealt with promptly and the Commission shall send the applicant its opinion within four months of receipt of a complete request. The Commission may, at its own initiative or at the request of a Member State, change the content of opinion, in particular if the applicant has provided inaccurate information or abused the opinion.”;

21. *in Article 222(1), the introductory part is replaced by the following:*

“1. During periods of severe imbalance in markets, the Commission may adopt implementing acts to the effect that Article 101(1) TFEU is not to apply to agreements and decisions of farmers, farmers’ associations, or associations of such associations or recognised producer organisations, their associations and recognised interbranch organisations in any of the sectors referred to in Article 1(2) of this Regulation, provided that such agreements and decisions do not undermine the proper functioning of the internal market, strictly aim to stabilise the sector concerned and fall under one or more of the following categories:”

22. *in Article 222, paragraph 2 is deleted;*

23. *in Article 232, paragraph 2 is deleted.*

24. *Point 1(c) of Part II of Annex VII is replaced by the following:*

"(c) have a total alcoholic strength of not more than 15 % volume. However, by way of derogation:

- the upper limit for the total alcoholic strength may reach up to 20 % volume for wines which have been produced without any enrichment from certain wine-growing areas of the Union, to be determined by the Commission by means of delegated acts pursuant to Article 75(2),*
- the upper limit for the total alcoholic strength may exceed 15 % volume for wines with a protected designation of origin which have been produced without enrichment, except by partial concentration processes listed in paragraph 1 of Section B of Part I of Annex VIII, provided that the product specification in the technical file of the protected designation of origin concerned allows for that possibility;"*

25. *Point 3 of Section A of Part I of Annex VIII is replaced by the following:*

"3. In years when climatic conditions have been exceptionally unfavourable, the limit(s) laid down in point 2 may be raised by 0,5 % by the Member States as an exception for the regions concerned. Member States shall notify the Commission of any such increase".

Article 5
Amendments to Regulation (EU) No 652/2014

Regulation (EU) No 652/2014 is amended as follows:

- (1) In Article 4, the following paragraph 4 is added:

"4. In the case of approval of multiannual actions, budgetary commitments may be divided into annual instalments. Where budgetary commitments are so divided, the Commission shall commit the annual instalments taking into account the progress of the actions, the estimated needs and the budget available.";
- (2) In Article 13, paragraph 5 is deleted;
- (3) In Article 22, paragraph 5 is deleted;
- (4) In Article 27, paragraph 5 is deleted.

Article 6
Entry into force and application

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

It shall apply from 1 January **2018**.

By *way of* derogation from the second paragraph, *points (a) and (b) of Article 3(11) shall apply from 1 January 2015, point (b) of Article 1(29) shall apply from 1 January 2016, and Article 4(3) shall apply from 1 January 2019.*

■

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

Done at ...,

For the European Parliament

The President

For the Council

The President