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Subject: Proposal 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 Regulation (EC) No 2012/2002, Regulations (EU) No 1296/2013, (EU) 1301/2013, (EU) No 1303/2013, EU No 1304/2013, (EU) No 1305/2013, (EU) No 1306/2013, (EU) No 1307/2013, (EU) No 1308/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, (EU) No 652/2014 of the European Parliament and of the Council and Decision No 541/2014/EU of the European Parliament and of the Council (Omnibus Proposal)
- Agricultural provisions - approval of the compromise text

Annex A to this document contains the Council position on the agricultural provisions of the above-mentioned Regulation, as agreed within the Special Committee of Agriculture on 10 April 2017, subject to some minor changes in the light of the discussion. Those minor changes are:

- some rewording of recitals 226 and 232;
- amendments to Article 14 of Regulation (EU) 1307/2013 (consequential to the one made to Article 31(5) of Regulation (EU) 1305/2013);

- specifying in the footnote to Article 35 of Regulation (EU) 1308/2013 that application will be deferred to 2019;
- amendments to Articles 37 and 38 of Regulation (EU) 1308/2013 consequential to the addition of coaching to Article 33 of that Regulation.

For the sake of completeness, the compromise text also includes the Commission's statement on regional crises (in Annex B).

Unless delegations indicate to the contrary in writing **by 20 April 2017**, the Presidency will conclude that they accept those minor changes to the compromise package.

ANNEX A

[DRAFT]

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the financial rules applicable to the general budget of the Union and amending Regulation (EC) No 2012/2002, Regulations (EU) No 1296/2013, (EU) 1301/2013, (EU) No 1303/2013, EU No 1304/2013, (EU) No 1305/2013, (EU) No 1306/2013, (EU) No 1307/2013, (EU) No 1308/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, (EU) No 652/2014 of the European Parliament and of the Council and Decision No 541/2014/EU of the European Parliament and of the Council

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 42, 43(2), 46(d), 149, 153(2)(a), 164, 168(4)(b), 172, 175, 177, 178, 189(2), 209(1), 212(2), 322(2) and 349 thereof, in conjunction with the Treaty establishing the European Atomic Energy Community, and in particular Articles 106a thereof,

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 OJ C , , p. .

² OJ C , , p. .

³ OJ C , , p. .

Whereas:

...

(212) 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*, ~~setting up process begins by means of an action to be performed by the applicant~~, and that the application for support is to be submitted ~~within 24 at the latest 24 months from~~ 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.

(212a) 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.

(213) In order to be sufficiently attractive to the private sector, it is essential that financial instruments are designed and implemented in a flexible 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.

(214) 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 with sector-specific income stabilisation tools, 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 addition, in order to monitor the expenditure made in relation to this new tool, the content of the financial plan of the programme should be adapted. Moreover, 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) should be deleted.

(215) Concerning mutual funds, 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.

(216) 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.

(217) 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).

(218) 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, including sudden and significant demographic changes resulting from migration or reception of refugees.

(219) 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. Members States should be given the possibility to provide in their programmes that, 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, expenditure incurred after the occurrence of event is eligible.

(220) 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.

(221) 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.

(222) 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. The new Financial Regulation does not define the population of beneficiaries eligible for reimbursement of financial discipline. The present regulation should be adapted to that, while maintaining the current definition of eligible beneficiaries.

(223) 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.

(224) 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.

(225) ~~Experience has shown that the rule, first introduced with Regulation (EU) No 1290/2005, of equally sharing between the budget and the Member States the risk of the lack of recovery of sums due for irregularities when these sums had not been recovered within reasonable deadlines (so-called 50/50 rule), has worked well for the safeguarding of the budget. However, such a system entails a heavy administrative and book-keeping burden for both the European Commission and the Member States. It is therefore considered appropriate to further change this approach and charge the related sums entirely to the Member States concerned after the expiry of the related deadlines allowing them, on the other side, to keep in their national budgets the sums subsequently recovered at the end of the related recovery procedures.~~

(226) In order 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 to the levels laid down* 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.

(226a) *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.*

(227) The experience gained so far shows that through 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 Council⁴, 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. The experience further shows that in some Member States the administrative costs of implementing the active farmer clause as a whole outweighs the benefit of excluding a very limited number of non-active beneficiaries from the direct support schemes. In order to allow Member States to address such situations in future claim years, the application of Article 9 as a whole should become optional for them. *For reasons of consistency, where a Member State decides not to apply Article 9, the condition of being an active farmer within the meaning of that Article should also cease to apply in the context of Regulation (EU) No 1305/2013. Member States should also be able to exclude from eligibility for direct payments any person who is not registered in a national fiscal or social security register for their agricultural activities.*

(227a) *It is appropriate to give Member States the option of revising the designation of certain arable land as permanent grassland to provide additional flexibility, particularly as regards non-herbaceous forage and crop rotation.*

⁴ Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ L 347 20.12.2013, p. 608)

(228) The experience gained in the first year 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.

(229) ~~In order to ensure a maximum outreach of the young farmer payment under Regulation (EU) No 1307/2013, it is appropriate for Member States to limit the number of payment entitlements or eligible hectares but only in cases where this limitation serves to ensure respecting the relevant provisions on financing the young farmer payment.~~

(229a) *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 150000, 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.*

(230) Pursuant to Article 52 of Regulation (EU) No 1307/2013, Member States may grant, under certain conditions, coupled support to farmers in specific agricultural sectors or types of farming, to the extent necessary to create an incentive to maintain current levels of production in the sectors or regions concerned. In order to avoid that the levels of production are to be maintained where this is not appropriate due to 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. In the context of the current crisis this temporary derogation aims at attaining in the long term the objective of voluntary coupled support of maintaining the level of production in the areas concerned. ***In addition, Member States should be able to review their decisions concerning voluntary coupled support annually.***

(231) 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.

(232) 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.

(233) Crisis prevention and management measures should be extended to cover refilling of mutual funds which could as new instruments help to combat crises.

~~(234) In Member States where the organisation of production in the fruit and vegetables sector is weak, granting of additional national financial contributions should be allowed.~~

~~(235) In order to ensure an efficient, targeted and sustainable support of producer organisations and their associations in the fruit and vegetables sector, the power to adopt certain acts should be delegated to the Commission in respect of the list of Member States that may grant national financial assistance to producer organisations.~~

(236) 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 particularly low was below 20% at national level in 2013 could grant an additional percentage of the value of the marketed production as national aid with a result similar to the current scheme of prior authorisation and subsequent Union reimbursement. The Commission should regularly review the list of Member States that may grant additional national assistance to keep it updated.*

(237) The experience gained through the application of Article 188 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council⁵ 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) 1301/2006⁶. 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 **import** 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.

⁵ Full title, OJ.

⁶ Full title, OJ.

...

Article 267

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; setting up may be done solely or jointly 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 **setting up process begins by means of (an) action(s) to be performed by the applicant; 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 Article 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;

2a. 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. ";

2b. in Article 15, the first subparagraph of paragraph 3 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 beneficiaries 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. ";

3. 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.*

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. This subparagraph shall not apply where the Member State decided not to apply Article 9 of Regulation (EU) No 1307/2013 from 2018 in accordance with paragraph 8 of that Article.";

4. 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:*

"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).";

5. 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 **within at the latest** 24 months **from** **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.

~~For young farmers receiving support under point (a)(i) of paragraph 1, implementation of the business plan shall start after the date of setting up.~~ The business plan shall provide that the young farmer complies with Article 9 of Regulation (EU) No 1307/2013, regarding active farmers within 18 months from the date of the decision granting the aid. *Where the Member State decided not to apply Article 9 of Regulation (EU) No 1307/2013 from 2018 in accordance with paragraph 8 of that Article, the previous sentence shall not apply.*

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~~ 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.";

6. 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.";

6a. 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 decide to calculate and deduct this amount as a fixed, average deduction applying to all beneficiaries on each measure or type of operation.;"

(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.;"

6b. 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. The condition of being an active farmer shall not apply where the Member State decided not to apply Article 9 of Regulation (EU) No 1307/2013 from 2018 in accordance with paragraph 8 of that Article.;"

(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 decide to calculate and deduct this amount as a fixed, average deduction applying to all beneficiaries on each measure or type of operation.;"

6c. 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 decide to calculate and deduct this amount as a fixed, average deduction applying to all beneficiaries on each measure or type of operation.";

6d. 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. The condition of being an active farmer shall not apply where the Member State decided not to apply Article 9 of Regulation (EU) No 1307/2013 from 2018 in accordance with paragraph 8 of that Article.";

(b) 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 2018-2019. 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.";

6e. *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. The condition of being an active farmer shall not apply where the Member State decided not to apply Article 9 of Regulation (EU) No 1307/2013 from 2018 in accordance with paragraph 8 of that Article.";

7. 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) an 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.";

(aa) *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. This paragraph shall not apply where the Member State decided not to apply Article 9 of Regulation (EU) No 1307/2013 from 2018 in accordance with paragraph 8 of that Article.";

(b) 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. ";

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

8. in Article 38, in paragraph 3, the third subparagraph is deleted;

9. 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 point (b) of paragraph 4, the last sentence is deleted.

10. 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).";

11. Article 45 is amended as follows:

(a) paragraph 5 is replaced by the following:

"5. Working capital that is ancillary to, and linked to a new investment, which receives EAFRD support through a financial instrument established in accordance with Article 37 of Regulation (EU) No 1303/2013, may be eligible expenditure. Such eligible expenditure shall not exceed 30 % of the total amount of the eligible expenditure for the investment. The relevant request shall be duly substantiated.";

(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.";

11a. in Article 46, paragraph 5 is replaced by the following:

" 5. An investment resulting in a net increase of the irrigated area directly affecting a given body of ground or surface water shall be eligible only if:

(a) the status of the water body from which the water is abstracted has not been identified as less than good in the relevant river basin management plan for reasons related to water quantity; and

(b) an environmental analysis shows that there will be no significant negative environmental impact from the investment; such an environmental impact analysis shall be either carried out by or approved by the competent authority and may also refer to groups of holdings.

Areas which are not irrigated but in which an irrigation installation was active in the recent past, to be established and justified in the programme, may be considered as irrigated areas for the purpose of determining the net increase of the irrigated area. ";

12. 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.";

13. 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."

14. 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, including significant and sudden demographic changes resulting from migration or reception of refugees, 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, including significant and sudden demographic changes resulting from migration or reception of refugees, 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) and (d) and (e) of Article 67(1) of Regulation (EU) No 1303/2013.";

15. 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 (concerning 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.";

16. 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;".

17. *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 or who have already set up during the five years preceding the application for support 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);*

Article 268

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, 4 and 5 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).

5. Member States shall reimburse the appropriations carried over in accordance with Article 12(2)(d) of the Financial Regulation to the final recipients who are subject, in the financial year to which the appropriations are carried over, to the adjustment rate.

The reimbursement referred to in the first subparagraph shall only apply to final beneficiaries in those Member States where financial discipline applied in the preceding financial year."

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

4. in Article 54 **paragraph 2 is replaced by the following:**

~~"2. If recovery has not taken place within four years from the date of the recovery request, or within eight years where recovery is taken in the national courts, the financial consequences of the non-recovery shall be borne by the Member State concerned, without prejudice to the requirement that the Member State concerned must pursue recovery procedures in compliance with Article 58.~~

~~Where, in the context of the recovery procedure, the absence of any irregularity is recorded by an administrative or legal instrument of a final nature, the Member State concerned shall declare as expenditure to the Funds the financial burden borne by it under the first subparagraph.~~

~~However, if for reasons not attributable to the Member State concerned, it is not possible for recovery to take place within the time limit specified in the first subparagraph, and the amount to be recovered exceeds EUR 1 million, the Commission may, at the request of the Member State, extend the time limit by a period of up to half of the original period.;~~

paragraph 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, taking into account the relevant guidelines established by the Commission on financial corrections to be made to expenditure financed by the Union under shared implementation for non-compliance with the rules on public procurement. 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 64, paragraph 7, the second subparagraph is replaced by the following:*

"The implementing acts shall take into due account the prospects of ensuring a uniform administration of the LEADER approach across the EMFF, ERDF, ESF and EAFRD. The implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).";

7. *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.".*

Article 269

Amendments to Regulation (EU) No 1307/2013

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

0. *in Article 4(1), points (f) and (h) are replaced by the following:*

"(f) "arable land" means land cultivated for crop production or areas available for crop production but lying fallow including areas set aside in accordance with Articles 22, 23 and 24 of Regulation (EC) No 1257/1999, with Article 39 of Regulation (EC) No 1698/2005 and with Article 28 of Regulation (EU) No 1305/2013, irrespective of whether or not that land is under greenhouses or under fixed or mobile cover; it may include, where Member States so decide, all areas lying fallow and covered by grasses or other herbaceous forage that were agricultural areas but not permanent grassland at the time of being left to lie fallow for the first time;";

"(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; it may include other species such as shrubs and/or trees which can be grazed and, where Member States so decide, other sources of non-forage animal feed provided that the grasses and other herbaceous forage remain predominant; as well as, where Member States so decide:

- (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 absent, in grazing areas;***

In this regard, crop rotation may include, where Member States so decide:

- (i) the seeding of grasses or other herbaceous forage on an area after removal of a prior cover of grass or other herbaceous forage, if the new cover is established by species or a mix of species other than the prior cover, or***
- (ii) the seeding of grasses or other herbaceous forage on an area directly or after removal of a prior cover of grass or other herbaceous forage;";***

1. in Article 6(2), in 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.";

2. in Article 9:

(a) paragraph 3 is replaced by the following:

"3. In addition to paragraphs 1 and 2, Member States may decide, on the basis of objective and non-discriminatory criteria, that no direct payments are to be granted to natural or legal persons, or to groups of natural or legal persons:

- (a) *whose agricultural activities form only an insignificant part of their overall economic activities; and/or*
- (b) *whose principal activity or company objects do not consist of exercising an agricultural activity; and/or*
- (c) *who are not registered, for their agricultural activities, in a national fiscal or social security register. ";*

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

"7. Member States may decide from 2018 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 by 1 August 2017.

8. Member States may decide to stop applying the provisions of this Article from 2018. They shall notify the Commission of such a decision by 1 August 2017.";

2a. *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. ";

2b. *in Article 14, paragraph 1, the following subparagraph is added:*

"Member States which complete the delimitation of areas facing natural constraints under Article 32(3) of Regulation (EU) No 1305/2013 in 2019 may take the decision referred to in the fourth subparagraph with effect from calendar year 2019 and shall notify the Commission of any such decision by 1 August 2018. ";

2c. *in Article 14, paragraph 2, the following subparagraph is added:*

"Member States which complete the delimitation of areas facing natural constraints under Article 32(3) of Regulation (EU) No 1305/2013 in 2019 may take the decision referred to in the fourth subparagraph with effect from financial year 2020 and shall notify the Commission of any such decision by 1 August 2018. ";

3. 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 1 August 2017 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.";

3a. *in Article 45(3), the following subparagraph is added:*

"Where Member States so decide, the obligation set out in the first subparagraph shall not apply to:

(a) farmers who converted production mainly based on grass production to another type of production on a long-term basis after 1 January 2015;

(b) agricultural areas which have been sold or leased on a long-term basis since 1 January 2015 to a farmer who does not have production based on grass. ";

4. ~~in Article 50, paragraph 9 is deleted;~~

5. ~~in Article 51, paragraph 3 is replaced by the following:~~

~~"3. Where the total amount of the payment for young farmers applied for in a Member State in a particular year exceeds the maximum of 2% laid down in paragraph 1 of this Article, Member States shall set a maximum limit applicable to the number of payment entitlements activated by the farmer or to the number of eligible hectares declared by the farmer in order to comply with the maximum of 2% laid down in the paragraph 1 of this Article. Member States shall respect that limit when applying Article 50(6), (7) and (8).~~

~~Member States shall notify the Commission of any limits applied pursuant to the first subparagraph at the latest by 15 September of the year following the year in which the aid applications in respect of which the limits were applied were lodged."~~

6. in Article 52 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 maintain the level of production despite 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. ";

7. *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.".

Article 270

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 (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;"

(ii) 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, or individual producers* 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 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.;"*

* Language will be included in Article 280 of the Omnibus Regulation providing for the date of application for Article 35 to be deferred to 2019, so as to provide Member States with a transitional period.

3a. 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);";

3b. in Article 38, point (i) is replaced by the following:

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

3c. 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.;"*

4. 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.";

5. *in Annex VII , point 1(c) of Part II 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;".***

COMMISSION STATEMENT

The Commission confirms that Regulation (EU) 1308/2013 establishing a common organisation of the markets in agricultural products already contains, in Articles 219 and 221, the necessary legal base allowing it, subject to the availability of budgetary resources, to address market disturbances and other specific problems, including at regional level, with the possibility of granting direct financial assistance to farmers⁷. Moreover, the Commission's proposal to add a sector-specific income stabilisation tool to Regulation (EU) No 1305/2013 on support for rural development will allow Member States to include in their rural development programmes the possibility of compensating farmers in a specific sector in the event of a significant drop in their income.

⁷ Examples: Regulation (EC) No 1263/2014 (Baltics) and Regulation (EC) No 1370/2014 (Finland).