Commission Implementing Regulation (EU) 2020/1988 of 11 November 2020 laying down rules for the application of Regulations (EU) No 1308/2013 and (EU) No 510/2014 of the European Parliament and of the Council as regards the administration of import tariff quotas in accordance with the 'first come, first served' principle

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1988

of 11 November 2020

laying down rules for the application of Regulations (EU) No 1308/2013 and (EU) No 510/2014 of the European Parliament and of the Council as regards the administration of import tariff quotas in accordance with the 'first come, first served' principle

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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[(1)], and in particular Article 187 and Article 223(3) thereof,

Having regard to Regulation (EU) No 510/2014 of the European Parliament and of the Council of 16 April 2014 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products and repealing Council Regulations (EC) No 1216/2009 and (EC) No 614/2009[(2)], and in particular Article 16(1) thereof,

Whereas:

(1) Regulation (EU) No 1308/2013 lays down rules regarding tariff quota management and special treatment of imports by third countries. It also empowers the Commission to adopt delegated and implementing acts in that respect. In order to ensure the smooth functioning of the management of tariff quotas in the new legal framework, certain rules have to be adopted by means of such acts. Those acts should replace a certain number of acts laying down common rules or specific sectoral rules, based on acts adopted pursuant to Article 43(2) or Article 207 of the Treaty on the Functioning of the European Union ('TFEU'), which are repealed by Commission Delegated Regulation (EU) 2020/1987[(3)].

(2) The Union has undertaken in international agreements and in acts adopted pursuant to Article 43(2) and Article 207 TFEU to open tariff quotas for certain agricultural products and in some cases to administer those quotas according to the 'first come, first served' principle. Commission Regulations and Commission Implementing Regulations which have opened those quotas and provide for specific rules are repealed by Delegated Regulation (EU) 2020/1987 It is appropriate to maintain those rules, at the same time replacing outdated provisions and streamlining the administration of the tariff quotas.

(3) In the interest of administrative simplification and of transparency, it is appropriate to lay down all the rules for the administration of those tariff quotas in a single Regulation.

(4) Commission Regulations (EC) No 2535/2001[(4)] and (EC) No 442/2009[(5)], and Commission Implementing Regulation (EU) No 1273/2011[(6)] opened and managed certain tariff quotas managed by applying the simultaneous examination method of import licence applications and other tariff quotas managed under the 'first come, first served' principle. Those regulations were repealed by Commission Delegated Regulation (EU) 2020/760[(7)] that established new rules for the administration of import and export tariff quotas subject to licences. To ensure that also the tariff quotas managed under the 'first come, first served' principle in accordance with the repealed Regulations remain operable, it is necessary to provide for management rules for those tariff quotas.

(5) Commission Regulations (EC) No 2535/2001, (EC) No 2305/2003[(8)], (EC) No 1964/2006[(9)], (EC) No 539/2007[(10)], (EC) No 616/2007[(11)], (EC) No 1384/2007[(12)], (EC) No 1385/2007[(13)], (EC) No 412/2008[(14)], (EC) No 748/2008[(15)], and Commission Implementing Regulations (EU) No 1273/2011, (EU) No 480/2012[(16)] and (EU) No 1223/2012[(17)] providing for the administration of certain import tariff quotas by applying the simultaneous examination method of import licence applications, as referred to in Article 184(2)(b) of Regulation (EU) No 1308/2013 were repealed by Delegated Regulation (EU) 2020/760. Those tariff quotas should remain open and their management method should be adjusted. The use of the 'first come, first served' principle has proved positive in several agricultural sectors for tariff quotas not considered to be sensitive and characterised by limited demand. In the interest of administrative simplification, those import quotas should henceforth be administered in accordance with this principle.

(6) The tariff quotas covered by the repealed Regulations should be managed in accordance with Articles 49 to 54 of Commission Implementing Regulation (EU) 2015/2447[(18)] which regulate the management of tariff quotas designed to be used following the chronological order of dates of acceptance of customs declarations ('first come, first served' principle).

(7) In order to ensure consistent imports over time for certain tariff quotas, it is appropriate to sub-divide their annual tariff quota period into sub-periods.

(8) Specific provisions should ensure that certain requirements as to the use or quality of imported products are complied with. Imports at reduced or zero in-quota import duty should therefore be made conditional on the submission of a proof by the importer as to the use or quality of the product or on the lodging of a security equal to the difference between the in-quota duty and the conventional (MFN) duty. Where applicable, a reasonable time should be allowed for the processing of the product.

(9) Specific provisions should be laid down to provide for a degree of flexibility in relation to the documentary requirements in case of *force majeure*, such as a pandemic.

(10) The United Kingdom left the Union on 31 January 2020. The Withdrawal Agreement concluded between the Union and the United Kingdom, which established a transitional period until 31 December 2020, entered into force on 1 February 2020. On the basis

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/1988. (See end of Document for details)*

of that Agreement, as of 1 July 2020 the United Kingdom has no possibility to request an extension of this transition period beyond 2020. Regulation (EU) 2019/216 of the European Parliament and of the Council[19] provides that from the day following that on which Council Regulation (EC) No 32/2000[20] ceases to apply to and in the United Kingdom, the tariff rate quotas included in the Union's schedule of concessions and commitments annexed to the General Agreement on Tariffs and Trade 1994 are to be apportioned between the Union and the United Kingdom based on the EU-27 share in the quota usage set out in the Annex to Regulation (EU) 2019/216. Therefore, this Regulation should include the new EU-27 quantities resulting from the apportionment, as laid down in Regulation (EU) 2019/216 and Commission Implementing Regulation (EU) 2019/386[21].

(11) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SCOPE AND COMMON RULES

Article 1

Scope

This Regulation lays down common rules for the administration of the tariff quotas set out in Annex I for agricultural products, in particular as regards:

(a) the management method;

(b) the tariff quota periods and sub-periods where applicable;

(c) the requirements as to processing, end-use and quality which certain products must fulfil in order to be eligible for import within a tariff quota;

(d) the procedures and the amount of the security to be lodged for the products referred to in point (c);

(e) the supporting documents where applicable.

It also lays down specific rules for the administration of certain of those tariff quotas.

Article 2

Management of tariff quotas

1 The tariff quotas set out in Annex I shall be administered by the Union in accordance with the chronological order of dates of acceptance of customs declarations for release for free circulation as laid down in Articles 49 to 54 of Implementing Regulation (EU) 2015/2447.

2 Article 53(2)(b) and (c) and Article 53(3) of Implementing Regulation (EU) 2015/2447 shall not apply to tariff quotas and sub-tariff quotas under order numbers 09.0138,

09.0139, 09.0140, 09.0141, 09.0142, 09.0143, 09.0144, 09.0161, 09.0162, 09.0145, 09.0163, 09.0164, 09.0146, 09.0147, 09.0148, 09.0149, 09.0150, 09.0151, 09.0152, 09.0153, 09.0159, 09.0160, 09.0154, 09.0155, 09.0156, 09.0157 and 09.0158.

Article 3

Tariff quota sub-periods

1 When a tariff quota period is divided into sub-periods, as set out in Annex I, the available tariff quota quantity for a sub-period shall include any quantity unused during the previous tariff quota sub-period. However, quantities unused at the end of a tariff quota period shall not be transferred to the following tariff quota period.

2 When a tariff quota period is divided in sub-periods, the drawings for each sub-period, with the exception of the last one, shall be stopped respectively on the fifth working day of the Commission of the second month following the end of the relevant sub-period.

Article 4

Supporting documents

1 Where a proof of origin is required by Annex I, operators shall present a specific document to the customs authorities of the Union together with the lodging of a customs declaration for release for free circulation for the products concerned. The supporting documents required are set out for each tariff quota in Annex I.

2 Where the proof of origin consists of a certificate of origin for products subject to special non-preferential import arrangements it shall comply with the requirements laid down in Article 57 of Implementing Regulation (EU) 2015/2447.

3 Where the tariff quota is set out as a preferential tariff measure referred to in points (d) and (e) of Article 56(2) of Regulation (EU) No 952/2013 of the European Parliament and of the Council[(22)], the proof of origin shall be issued or made in accordance with the rules on preferential origin referred to in Article 64 of that Regulation.

4 Where a certificate of authenticity is required, it shall comply with the requirements laid down in Chapter II and Annex II to this Regulation.

5 If necessary, customs authorities may require the declarant or importer to provide any additional evidence needed to prove the origin of the products in accordance with Article 61(2) of Regulation (EU) No 952/2013 or relevant provisions of the trade arrangement concerned.

Article 5

Electronic documents

Where the competent authority of a Member State recognises that, due to *force majeure*, the required official document is not available:

(a) that Member State’s competent authority may issue a scanned copy of the original document (paper or electronic), provided that such copy is sent by electronic message from a mailbox belonging to that Member State's competent authorities;

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/1988. (See end of Document for details)*

(b) the competent authority of a Member State to which the required official document is to be submitted may accept a scanned copy of the original (paper or electronic) document from the operator, accompanied by a written commitment of the operator to submit the original document as soon as feasible.

The more flexible requirements set out in the first paragraph shall not exempt the customs authorities of the Member States from their duty of due diligence. They shall be reasonably assured of the authenticity and of the validity of the documents.

Article 6

Checks in third countries

The Commission may request the third country to authorise representatives of the Commission to carry out, where required, checks in that third country to verify compliance with requirements or conditions which are a precondition for issuing certificates or other official documents to be presented to the customs authorities of the Union for the release into free circulation of the product in the Union. Those checks shall be performed jointly with the competent authorities of the third country concerned.

CHAPTER II

SPECIFIC SECTORAL RULES

SECTION 1

CEREALS

Article 7

Definitions for tariff quotas under order numbers 09.0124, 09.0131, 09.0127, 09.0128, 09.0129 and 09.0130

1 For tariff quotas under order numbers 09.0124 and 09.0131, for the purposes of the definition of ‘sweet potatoes other than those intended for human consumption’, sweet potatoes shall be deemed to be for human consumption within the meaning of CN code 0714 20 10 if they are fresh, whole and put up in immediate packings of 28 kg or less at the time of the customs formalities for release for free circulation.

2 For tariff quotas under order numbers 09.0127, 09.0128 and 09.0129, the products falling within CN code ex 0714 10 00 shall mean products other than pellets obtained from flours and meals falling within CN code 0714 10 00.

3 For the tariff quota under order number 09.0130, the products falling within CN code ex 0714 10 00, ex 0714 30 00, ex 0714 40 00, ex 0714 50 00 and ex 0714 90 20 shall mean products of a kind used for human consumption, in immediate packings of a net content not exceeding 28 kg, either fresh and whole or without skin and frozen, whether or not sliced.