Commission Implementing Regulation (EU) 2020/761 of 17 December 2019 laying down rules for the application of Regulations (EU) No 1306/2013, (EU) No 1308/2013 and (EU) No 510/2014 of the European Parliament and of the Council as regards the management system of tariff quotas with licences

COMMISSION IMPLEMENTING REGULATION (EU) 2020/761

of 17 December 2019

laying down rules for the application of Regulations (EU) No 1306/2013, (EU) No 1308/2013 and (EU) No 510/2014 of the European Parliament and of the Council as regards the management system of tariff quotas with licences

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 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008[(2)], and in particular Article 66(4) 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[(3)] and in particular points (a) to (d) of Article 9 and point (a) of 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pursuant to Article 43(2) or Article 207 of the Treaty on the Functioning of the European Union ('TFEU'), which are repealed by Commission Delegated Regulation (EU) 2020/760[(4)]

(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. In some cases imports

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/761. (See end of Document for details)*

of products under such tariff quotas are subject to an import licence obligation. Commission Regulations and Commission Implementing Regulations which have opened those quotas and provide for specific rules are repealed by Delegated Regulation (EU) 2020/760. It is appropriate to maintain those rules in this Regulation.

(3) An annual tariff quota period of 12 consecutive months should be established for all the tariff quotas for agricultural and other products falling within the scope of this Regulation. In some cases, it is appropriate to provide for tariff quota sub-periods within the annual tariff quota period, particularly where this is provided for in an international agreement.

(4) In order to guarantee a sound administration of tariff quotas, minimum or maximum quantities to be applied for under tariff quotas should be set out.

(5) In order to simplify and improve the effectiveness and efficacy of the administration and control mechanisms, common conditions should be laid down for the administration of import tariff quotas subject to import licences. Those tariff quotas should be administered by allocation of licences in proportion to the overall quantities requested (hereinafter the 'simultaneous examination method'). Rules should also be laid down on the submission of applications and issue of licences, which should apply in addition to those of Commission Delegated Regulation (EU) 2016/1237[(5)] and Commission Implementing Regulation (EU) 2016/1239[(6)].

(6) Some international agreements require that tariff quotas are administered through a method based on documents issued by third countries. This method requires that the allocation of licences corresponds to the quantities set out in the documents issued by third countries. It is therefore necessary to lay down specific rules for that method of administration. The documents should be issued by an authority recognised by the third country and should comply with certain conditions.

(7) In order to ensure transparency when administering tariff quotas subject to import licences, the competent authorities should provide relevant information, upon request, to any operator having an interest in the trade in the product concerned. To enable operators to apply for the available quantities under a tariff quota, the Commission should publish the overall tariff quota quantity available for application, and the opening and closing dates of application. Any derogations from or changes to the rules concerning licensing procedures or the list of products subject to import licensing should also be published in accordance with the principles of the World Trade Organization Import Licence Agreement[(7)] and the Bali Ministerial Decision[(8)].

(8) It is necessary to establish an appropriate amount of security for the licences to be issued under tariff quotas, to guarantee that the products will be released for free circulation in the Union or exported from the Union during the period of validity of the licence.

(9) In order to ease the management of certain sensitive and highly demanded tariff quotas, and certain tariff quotas where there has been circumvention in the past, a dedicated electronic system is established by Delegated Regulation (EU) 2020/760. Rules concerning procedures and time limits for submission of documents and declarations through this electronic system should be laid down.

(10) Rules concerning the issuing of licences should be laid down. In particular, it is appropriate to provide for the application of an allocation coefficient where the quantities covered by the licence applications exceed the quantities available for the import tariff quota period concerned.

(11) It is necessary to lay down the periods of validity of licences issued under the tariff quotas in order to define when the obligation to import or export is fulfilled.

(12) In the interest of existing garlic importers, who normally import substantial quantities of garlic, and to ensure that new importers can enter the market, a distinction should be drawn between traditional and new garlic importers for garlic originated in Argentina. A definition of those two categories of importers should be provided and certain criteria relating to the applicants and the use of the import licences should be laid down. As a part of the simplification of the management of the import tariff quotas for garlic, the quota order numbers for import tariff quotas for garlic originating in China and in other third countries (except China and Argentina) have been replaced by new numbers. The modification of order numbers should not affect the continuity of these tariff quotas as regards among others the calculation of the reference quantity, where applicable, in particular for the purposes of the transitional provisions referred to in Article 26 of Delegated Regulation (EU) 2020/760. The same is the case for the import tariff quotas for mushrooms originating in China and in other third countries (except China) to which new order numbers have been assigned.

(13) The quantities to be allocated to those categories of importers should be determined on the basis of the quantities actually imported rather than on the basis of the import licences issued. Applications for import licences to import garlic from Argentina submitted by both categories of importers should be subjected to certain restrictions, such as a reference quantity for traditional importers. Such restrictions are necessary to ensure not only that competition between importers is safeguarded but also that importers genuinely engaged in commercial activity in the fruit and vegetable market are given the opportunity to defend their legitimate trading positions vis-à-vis other importers and that no single importer is able to control the market.

(14) To improve controls and to prevent the risk of aberration of trade based on inaccurate certificates of origin and other documents, the existing system of certificates of origin for garlic and the requirement for garlic to be transported directly from the third country of origin to the Union should be maintained. The list of third countries should be extended in light of the additional information. Such certificates of origin should be issued by the competent national authorities in accordance with Articles 57, 58 and 59 of Commission Implementing Regulation (EU) 2015/2447.[(9)]

(15) In order to verify the compliance with the tariff quota conditions, imports under the tariff quotas of ‘baby beef’, high-quality fresh, chilled and frozen beef and for frozen buffalo meat and frozen thin skirt of bovine animals should be subject to the presentation of a certificate of authenticity certifying that the goods originate from the issuing country and that they correspond exactly to the definition established in the international agreement. A template for the certificates of authenticity should be established and

detailed rules should be laid down for the use of certificates of authenticity issued based on this template.

(16) The Union has the option of designating which importers may import cheese originating in the European Union into the United States of America under specific quota. To allow the Union to maximise the value of the quota, a procedure should therefore be laid down for designating importers on the basis of the allocation of export licences for the products concerned.

(17) Taking into account the particularities of the duty free import period for maize applicable for Spain and Portugal as well as for sorghum for Spain, specific provisions should be laid down as regards the licence application period, the submission of the licence applications and licences for maize and sorghum for the Member States concerned.

(18) In order to ensure a smooth transition to the rules provided for in this Regulation and to fulfil the obligation to notify the new rules to the World Trade Organisation prior to their application and to grant operators sufficient time to adapt to the obligation to register in a dedicated electronic system and to submit a declaration of independence through that electronic system for certain over-demanded tariff quotas, it is appropriate to provide for deferred entry into application of this Regulation.

(19) 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:

TITLE I

INTRODUCTORY PROVISIONS

Article 1

Scope

This Regulation lays down common rules for the administration of the tariff quotas listed in Annex I for agricultural products managed by a system of import and export licences, in particular as regards:

(a) the tariff quota periods;

(b) the maximum quantities that can be applied for;

(c) the submission of applications for import and export licences;

(d) the details to be entered in certain sections of import and export licence applications and of import and export licences;

(e) the inadmissibility of applications for import and export licences;

(f) the security to be lodged upon submission of an application for an import or export licence;

(g) the allocation coefficient and the suspension of the submission of licence applications;

(h) the issue of import and export licences;

(i) the period of validity of import and export licences;

(j) the proof of release for free circulation;

(k) the proof of origin;

(l) the notification of quantities to the Commission;

(m) the notification to the Commission of information related to the LORI electronic system, certificates of authenticity (CA) and Inward Monitoring Arrangement (IMA 1) certificates.

It also opens import and export tariff quotas for specific agricultural products and lays down specific rules for the administration of those tariff quotas.

Article 2

Other applicable rules

Regulation (EU) No 952/2013 of the European Parliament and of the Council[(10)], Commission Implementing Regulation (EU) No 908/2014[(11)] and Implementing Regulations (EU) 2015/2447 and (EU) 2016/1239 shall apply, unless otherwise provided for in this Regulation.

TITLE II

COMMON RULES

Article 3

Tariff quotas listed in Annex I

1 Each import tariff quota shall be identified by an order number.

2 The import and export tariff quotas are set out in Annex I together with the following information:

a the order number of the import tariff quota and description for export tariff quotas;

b the product sector;

c the type of tariff quota, import or export;

d the management method;

e where applicable, the obligation for operators to prove the reference quantity in accordance with Article 10 of Delegated Regulation (EU) 2020/760;

f where applicable, the obligation for operators to provide proof of trade in accordance with Article 8 of Delegated Regulation (EU) 2020/760;

g where applicable, the licence expiry date;

h where applicable, the obligation for operators to register in the Licence Operator Registration and Identification (LORI) electronic system referred to in Article 13 of Delegated Regulation (EU) 2020/760 prior to submitting a licence application.