Commission Implementing Regulation (EU) 2016/623 of 21 April 2016 amending Implementing Regulation (EU) No 498/2012 on the allocation of tariff-rate quotas applying to exports of wood from the Russian Federation to the European Union

COMMISSION IMPLEMENTING REGULATION (EU) 2016/623

of 21 April 2016

amending Implementing Regulation (EU) No 498/2012 on the allocation of tariff-rate quotas applying to exports of wood from the Russian Federation to the European Union

THE EUROPEAN COMMISSION,

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

Having regard to Council Decision 2012/105/EU of 14 December 2011 on the signing, on behalf of the European Union, and provisional application of the Agreement in the form of an Exchange of Letters between the European Union and the Russian Federation relating to the administration of tariff-rate quotas applying to exports of wood from the Russian Federation to the European Union and the Protocol between the European Union and the Government of the Russian Federation on technical modalities pursuant to that Agreement[(1)], and in particular Article 4 thereof,

Whereas:

(1) On 22 August 2012, the Russian Federation acceded to the World Trade Organization. The commitments of the Russian Federation include tariff-rate quotas for the export of specified types of coniferous wood, a share of which has been allocated for exports to the Union. The modalities for the administration of those tariff-rate quotas are laid down in the Agreement in the form of an Exchange of Letters between the European Union and the Russian Federation relating to the administration of tariff-rate quotas applying to exports of wood from the Russian Federation to the European Union ('the Agreement') and in the Protocol between the European Union and the Government of the Russian Federation on technical modalities pursuant to the Agreement ('the Protocol'). The Agreement and the Protocol were signed on 16 December 2011. They have been applied provisionally from the date of the accession of the Russian Federation to the World Trade Organization.

(2) Pursuant to Article 4 of Decision 2012/105/EU, Commission Implementing Regulation (EU) No 498/2012[(2)] laid down the rules on the allocation of tariff-rate quotas applying to exports of wood from the Russian Federation to the European Union. That Regulation will cease to apply on the date on which the Protocol ceases to apply provisionally.

(3) While the Agreement and the Protocol continue to be applied provisionally, pending the completion of the procedures for their conclusion, the experience gained with the implementation of Implementing Regulation (EU) No 498/2012 has revealed the need to amend several provisions of that Regulation.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/623. (See end of Document for details)*

(4) In particular, Article 3 should be modified in order to reduce the length of the first part of each quota period while at the same time extending the length of its second part. Thus the first part of each quota period will now run from 1 January to 31 May and the second part of each quota period will start on 1 June and run until the end of the respective calendar year. This is an important modification, given that the start of the second part of each quota period now takes place 2 months earlier than before. This change is necessary to enable EU importers of spruce and pine to access remaining quantities of the tariff-rate quotas as early as possible during a given quota period.

(5) Article 6 paragraph 2 of Implementing Regulation (EU) No 498/2012 should be modified to clarify that the calculation of ceilings of traditional importers for a given quota period is made on the basis of relevant historical imports of the product group concerned.

(6) Article 7 of Implementing Regulation (EU) No 498/2012 should be amended in order to ensure that in the first part of each quota period, maximum import rights of traditional importers, for any of the product groups, are not lower than those granted to new importers.

(7) In Article 11 paragraph 1, a third sentence should be added to formalise trimestral reporting obligations of Member States Licence Offices regarding actual imports of covered products.

(8) Article 12 should be changed to allow importers who are unable to return unused quota authorisations to the relevant Member State Licence Office to present instead a ‘sworn declaration’ to the Licence Office, in which the importer confirms that despite his best efforts he was unable to retrieve the unused quota authorisation from the authorities of the Russian Federation. To that effect, a new form should be introduced in Annex IV to Implementing Regulation (EU) No 498/2012.

(9) Moreover, Articles 13 and 14 of Implementing Regulation (EU) No 498/2012 should be modified to reflect the need to update the rules pertaining to the reduction of traditional importers' ceilings in case of underuse or non-return of granted quota authorisations.

(10) Article 15 paragraph 2 should be changed to allow the suspension of the application of Articles 13 and 14 for another, third quota period. This further suspension is justified in view of the currently still low utilisation rate of the tariff-rate quotas and the need to encourage increased usage in the upcoming quota period.

(11) The measures provided for in this Regulation are in accordance with the opinion of the Wood Committee established by Decision 2012/105/EU,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 498/2012 is amended as follows:

(1) Article 3 is replaced by the following:

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/623. (See end of Document for details)*

Article 3

The method for allocating the tariff quota shall depend on the date of submission of the application by the importer, as follows:

(a) for any application submitted by 31 May of each year (hereinafter referred to as "first part of the quota period"), the Commission shall allocate tariff quotas in accordance with the "traditional" or "new" categories of importers, pursuant to Article 5(2)(b) of the Protocol; and

(b) for any application submitted from 1 June (hereinafter referred to as "second part of the quota period"), the Commission shall allocate the remaining quantities of the tariff quotas in accordance with the chronological order of receipt by the Commission of notifications from the competent authorities of Member States (hereinafter referred to as "Licence Office(s)") of applications submitted by individual importers, pursuant to Article 5(2)(a) of the Protocol.;

(2) in Article 6, paragraph 2 is replaced by the following:

2. The ceiling for each product group of a traditional importer applicable in the following quota period ("quota period n+1") shall be calculated in accordance with the average of such importer's actual imports of the product group concerned during the two quota periods preceding the year of calculation of such ceiling, on the basis of the following formula:

$$C_i = T * (\bar{I}_i/\Sigma\bar{I}_i)$$

where:

"Ci" represents the ceiling for the product group concerned (spruce or pine) for importer i during quota period n+1;

"T" represents the quota for traditional importers available for the product group concerned during the year of calculation of the ceiling ("quota period n");

"$\bar{I}i$" represents the average of the actual imports by the traditional importer i of the product group concerned, in the two quota periods preceding the calculation ("quota period n-2" and "quota period n-1", respectively), as follows:

[(actual imports of importer i in quota period n-2) + (actual imports of importer i in quota period n-1)]/2

"$\Sigma\bar{I}_i$" represents the sum of all traditional importers' average imports $\bar{I}_i$ for the product group concerned.;

(3) Article 7 is replaced by the following:

Article 7

1 Every year, the Commission shall calculate ceilings applicable to each traditional importer for the following quota period in accordance with the method established in Article 6(2). If the calculated ceiling of a traditional importer for a given product group is higher than 0 %, but lower than the maximum of 1,5 % of the tariff quota granted to new importers in accordance with Article 4(3), the ceiling of the traditional importer concerned shall be established at a level of 1,5 % of the tariff quota for the respective product group.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/623. (See end of Document for details)*

2 Licence Offices shall provide the Commission, by 31 March of quota period n at the latest, with information on actual imports of covered products in quota period n-1 notified to them in accordance with Article 11(1). Such summary shall be submitted in an electronic format, in conformity with the information technology system established by the Commission.

3 The Commission shall inform the Licence Offices of ceilings resulting from the calculations made in accordance with Articles 6(2) and 7(1) by 30 April of quota period n at the latest.;

(4) in Article 11, paragraph 1 is replaced by the following:

1. Not later than 15 calendar days after the end of each third month, the importers shall inform the Licence Office of the Member State from which they received a quota authorisation of their actual imports of covered products into the European Union during the last 3 months. For that purpose, the importer shall provide the Licence Office with a copy of the customs declarations of the imports concerned. The Licence Offices shall provide the Commission, not later than 30 calendar days after the end of each third month, with a summary of actual imports of covered products into the European Union during the last 3 months notified by importers.;

(5) Articles 12, 13 and 14 are replaced by the following:

Article 12

1 Where a quota authorisation remains unused after 6 months of its issuing, the importer shall either notify the Licence Office of its intention to use it within the remainder of the quota period or return the quota authorisation to the relevant Licence Office. Should the importer be unable to retrieve the unused quota authorisation from the authorities of the Russian Federation, it can present instead a corresponding sworn declaration to the Licence Office in the form set out in Annex IV stating its inability to reclaim the unused quota authorisation despite its best efforts. In any case, by the end of quota period n at the latest, the importer shall return any unused quota authorisation or present, if applicable, the corresponding sworn declaration(s) using the form set out in Annex IV. Where a quota authorisation has been issued before the beginning of the quota period in accordance with Article 4 of the Protocol, the 6-month time limit shall be counted as from 1 January of the year corresponding to the quota period.

2 The Licence Offices shall immediately notify the Commission of any quota authorisation or any sworn declaration returned by importers in accordance with paragraph 1. The balance of traditional importers' ceilings available for the product group concerned shall be modified for the corresponding amount.

Article 13

1 Where the actual imports by a traditional importer during quota period n-1 are less than 75 % of the quantities covered by all quota authorisations for a product group granted to such importer during the same quota period, the importer's import ceilings for the product group concerned during quota period n+1 shall be reduced by an amount proportional to the size of missing actual imports.

2 The reduction referred to in paragraph 1 shall be calculated as follows:

$r_i = (0,75*\Sigma A_i - I_i)/\Sigma A_i$

where:

"ri" represents the reduction applicable to the import ceiling of importer i, for the product group concerned, during the quota period n+1;