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

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

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 Article 43(2) and Article 207(2) 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 Committee[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) Council Regulation (EC) No 1216/2009[(3)] and Council Regulation (EC) No 614/2009[(4)] need to be adapted as a consequence of the entry into force of the Lisbon Treaty, and in particular its introduction of a distinction between delegated and implementing acts. Further adaptations are needed to improve the clarity and transparency of the existing texts.

(2) Until 31 December 2013, the main instrument of the common agricultural policy ('the CAP') for which the Treaty on the Functioning of the European Union (TFEU) provides was Council Regulation (EC) No 1234/2007[(5)].

(3) In the framework of the reform of the CAP, Regulation (EC) No 1234/2007 was replaced, with effect from 1 January 2014, by Regulation (EU) No 1308/2013 of the European Parliament and of the Council[(6)]. Regulations (EC) No 1216/2009 and (EC) No 614/2009 should be adapted to take account of that Regulation in order to maintain the coherence of the trade arrangements with third countries, on the one hand, for agricultural products, and, on the other hand, for goods resulting from the processing of agricultural products.

(4) Certain agricultural products are used for manufacturing both processed agricultural products and goods not listed in Annex I to the TFEU. It is necessary to take measures both under the CAP and under the common commercial policy in order to take account of the impact which trade in such products and goods has on the achievement of the

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objectives of Article 39 TFEU and of the effects which measures adopted to implement Article 43 TFEU have on the economic position of those products and goods, given the differences between the cost of procuring agricultural products in the Union and on the world market.

(5) In order to take account of the different situations of agriculture and the food industry in the Union, a distinction is drawn, in the Union, between agricultural products listed in Annex I to the TFEU and processed agricultural products not listed in that Annex. The same distinction may not be drawn in certain third countries with which the Union concludes agreements. Provision should therefore be made for extending the general rules applicable to processed agricultural products not listed in Annex I to the TFEU to certain agricultural products listed in that Annex where an international agreement provides for the assimilation of those two types of products.

(6) Where reference is made in this Regulation to international agreements concluded or provisionally applied by the Union in accordance with the TFEU, it is Article 218 TFEU which is being referred to.

(7) In order to prevent or counteract the adverse effects which imports of certain processed agricultural products could have on the Union market and on the efficiency of the CAP, it should be possible to subject imports of such products to payment of an additional duty if certain conditions are fulfilled.

(8) Ovalbumin and lactalbumin are processed agricultural products which are not included in Annex I to the TFEU. For reasons of harmonisation and simplification, the common system of trade for ovalbumin and lactalbumin laid down in Regulation (EC) No 614/2009 should be integrated in the trade arrangements applicable to certain goods resulting from the processing of agricultural products. In view of the fact that eggs can, to a large extent, be substituted by ovalbumin and, to a certain extent, by lactalbumin, the trade arrangements for ovalbumin and lactalbumin should correspond to those established for eggs.

(9) Without prejudice to specific provisions concerning preferential trade arrangements under Regulation (EU) No 978/2012 of the European Parliament and of the Council[7] as well as other autonomous trade arrangements of the Union, it is necessary to lay down the main rules governing the trade arrangements applicable to processed agricultural products and non-Annex I goods resulting from the processing of agricultural products. It is also necessary to provide for the fixing of reduced import duties and tariff quotas and the granting of export refunds in accordance with those main rules. Those rules and provisions should take account of the constraints on import duties and export subsidies arising from the commitments accepted by the Union under the WTO agreements and bilateral agreements.

(10) Due to the close links between the markets for ovalbumin and lactalbumin and the market for eggs, it should be possible to require the presentation of an import licence for imports of ovalbumin and lactalbumin and suspend the inward processing arrangements for ovalbumin and lactalbumin where the Union market for those products or the market for eggs is disturbed or is liable to be disturbed by inward processing arrangements of ovalbumin and lactalbumin. It should be possible to make the issuing of import licences

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for ovalbumin and lactalbumin, and their release into free circulation covered by a licence, subject to requirements as to their origin, provenance, authenticity and quality characteristics.

(11) In order to take into account the evolution of trade and market developments, the needs of the markets for ovalbumin and lactalbumin or the market for eggs and the results of the monitoring of the imports of ovalbumin and lactalbumin, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules making the import of ovalbumin and lactalbumin for release into free circulation subject to the presentation of an import licence, rules on the rights and obligations deriving from that import licence and its legal effects, the cases in which a tolerance applies as regards the obligation mentioned in the licence, rules making the issuing of an import licence and the release into free circulation subject to the presentation of a document issued by a third country or an entity certifying, inter alia, the origin, the provenance, the authenticity and the quality characteristics of the products, rules on the transfer of the import licences or restrictions on that transfer, the cases where the presentation of an import licence is not required and the cases where the lodging of the security guaranteeing that the products are imported within the period of validity of the licence is or is not required.

(12) Certain processed agricultural products not listed in Annex I to the TFEU are obtained using agricultural products subject to the CAP. The duties applied to imports of those processed agricultural products should counterbalance the difference between the world market prices and the prices on the Union market for the agricultural products used in their production while ensuring the competitiveness of the processing industry concerned.

(13) Under certain international agreements, the reduction or the phasing out of import duties for processed agricultural products is granted in respect of the agricultural component, the additional duties on sugar and flour and the ad valorem duty, within the framework of the commercial policy of the Union. It should be possible for those reductions to be established by reference to the agricultural components applicable to non-preferential trade.

(14) The agricultural component of the import duty should counterbalance the difference between prices for the agricultural products used in the production of the processed agricultural products in question on the world market and on the Union market. Therefore, it is necessary to maintain a close link between the calculation of the agricultural component of the import duty applicable to processed agricultural products and that applicable to agricultural products imported in an unaltered state.

(15) In order to implement the international agreements providing for the reduction or phasing out of import duties on processed agricultural products on the basis of specific agricultural products used or considered to have been used in the manufacturing of the processed agricultural products, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the establishment of a list of those agricultural products which are to be considered to have been used in the manufacture of the processed agricultural products, the establishment of the

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equivalent quantities and the rules for the conversion of other agricultural products to equivalent quantities of the specific agricultural products considered to have been used, the elements necessary for the calculation of the reduced agricultural component and the reduced additional duties and the methods of that calculation, and the negligible amounts for which the reduced agricultural components and the additional duties on sugar and flour are to be fixed at zero.

(16) It is possible for import tariff concessions to be granted for unlimited quantities of the goods concerned or to be granted for limited quantities falling under a tariff quota. Where, under certain international agreements, tariff concessions are granted within tariff quotas, the quotas should be opened and managed by the Commission. For practical reasons, it is essential that the management of the non-agricultural part of the import duties of the goods for which tariff preferences have been agreed are subject to the same rules as the management of the agricultural component.

(17) Due to the close links between the markets for ovalbumin and lactalbumin and the market for eggs, tariff quotas for ovalbumin and lactalbumin should be opened and managed in the same way as those for eggs under Regulation (EU) No 1308/2013. Where necessary, the method of management should take account of the supply needs of the Union market and of the need to preserve its equilibrium and should be based on methods used in the past, taking into account the rights arising under the WTO agreements.

(18) In order to ensure equitable market access for operators and equal treatment of operators, to take account of the supply requirements of the Union market and to preserve the equilibrium of that market, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the conditions to be fulfilled in order to submit an application within the tariff quota and the rules on the transfer of rights within the tariff quota, the making of participation in the tariff quota subject to the lodging of a security and the specific characteristics, requirements or restrictions applicable to the tariff quotas.

(19) In order to ensure that it is possible for exported products to benefit from special treatment on importation into a third country under certain conditions, pursuant to international agreements concluded by the Union in accordance with the TFEU, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules requiring the competent authorities of Member States to issue, on request and after appropriate checks, a document certifying that the conditions are met for products which, if exported, may benefit from a special treatment on importation into a third country if certain conditions are complied with.

(20) It is possible that demand by the processing industries for agricultural raw materials cannot be covered completely by Union raw materials under competitive conditions. Council Regulation (EEC) No 2913/92[(8)] admits such goods under the inward processing arrangements subject to the fulfilment of the economic conditions defined by Commission Regulation (EEC) No 2454/93[(9)]. Regulation (EEC) No 2913/1992 is to be replaced by Regulation (EU) No 952/2013 of the European Parliament and of the Council[(10)], but only with effect from 1 June 2016. It is therefore appropriate to

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make reference to Regulation (EEC) No 2913/1992 in this Regulation, in particular in view of the fact that in the future, references to Regulation (EEC) No 2913/1992 are to be considered as references to Regulation (EU) No 952/2013. In clearly defined circumstances, economic conditions should be considered to be fulfilled for the admission of certain quantities of agricultural products under the inward processing arrangements. Those quantities should be determined on the basis of a supply balance. Fair access to the quantities available, equal treatment of operators and clarity should be assured by a system of inward processing certificates issued by Member States.

(21) In order to ensure the prudent and efficient management of the inward processing arrangements, taking account of the situation on the Union market for the commodities concerned and of the needs and practices of the processing industries, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the list of those agricultural products for which inward processing certificates may be issued, the rights derived from the inward processing certificates and its legal effects, the transfer of rights between operators and the rules necessary for the reliability and the efficiency of the inward processing certificate system as regards the authenticity of the certificate, its transfer or restrictions on that transfer.

(22) Arrangements should be made for granting export refunds, within the limit set by the Union's WTO commitments, on certain agricultural products used in the manufacturing of goods not listed in Annex I to the TFEU in order not to penalise producers of those goods in view of the prices at which they are obliged to procure their supplies as a result of the CAP. Those refunds should only cover the difference between the price of an agricultural product on the Union market and on the world market. Those arrangements should therefore be established as part of the trade arrangements for certain goods resulting from the processing of agricultural products.

(23) The list of non-Annex I goods qualifying for export refunds should be established taking account of the impact of the difference between the prices of the agricultural products used in their production on the Union market and on the world market and the need to counterbalance this difference in whole or in part in order to facilitate the exportation of the agricultural products used in the non-Annex I goods concerned.

(24) It is necessary to ensure that no export refund is granted for imported non-Annex I goods released into free circulation which are re-exported, exported after processing or incorporated in other non-Annex I goods. As regards imported cereals, rice, milk and milk products or eggs released into free circulation it is necessary to ensure that no refund is granted where the goods are exported after processing or incorporated in non-Annex I goods.

(25) The export refund rates for agricultural products exported in the form of non-Annex I goods should be fixed in accordance with the same rules and practical arrangements and in accordance with the same procedure as the export refund rates for agricultural products exported in the unaltered state pursuant to Regulation (EU) No 1308/2013 and Council Regulation (EU) No 1370/2013[(11)].

(26) Given, on the one hand, the close relationship between non-Annex I goods and the agricultural products which are used in the manufacturing of those non-Annex I goods