Commission Implementing Regulation (EU) No 265/2014 of 14 March 2014 amending Regulation (EU) No 642/2010 on rules of application (cereal sector import duties) for Council Regulation (EC) No 1234/2007

COMMISSION IMPLEMENTING REGULATION (EU) No 265/2014

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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 180 thereof,

Whereas:

(1) In accordance with the list of concessions annexed to the General Agreement on Tariffs and Trade 1994, as concluded by the Council by Decision 94/800/EC[(2)], the European Union is committed to establishing import duty for certain cereals at a level so that the duty-paid import price will not be greater than the effective intervention price increased by 55 %.

(2) With a view to acting on that commitment, Article 136 of Council Regulation (EC) No 1234/2007[(3)] requires in particular for import duty on certain cereals to be equal to the intervention price valid for those cereals on importation increased by 55 %, minus the cif import price applicable to the consignment in question. Commission Regulation (EU) No 642/2010[(4)] establishes detailed rules for the implementation of that Article.

(3) Regulation (EU) No 1308/2013, which repeals and replaces Regulation (EC) No 1234/2007, does not contain a provision similar to Article 136 of Regulation (EC) No 1234/2007. As regards the calculation of import duties for agricultural products, Article 180 of Regulation (EU) No 1308/2013 enables the Commission to adopt implementing acts setting out measures to comply with requirements laid down, inter alia, in international agreements which have been concluded in accordance with the TFEU.

(4) In order to respect the Union's international commitments, a method for calculating import duty which is consistent with the list of concessions by the European Union should be included in Regulation (EU) No 642/2010.

(5) Article 2(1) of Regulation (EU) No 642/2010 provides for the fixing of import duties on the 15th and last working days of each month, to apply to the following 15-day period and also for a possible adjustment during each of the periods of application. In order to simplify the current method, the principle of the automatic fixing of duties applicable

to the start of each 15-day period should be abandoned and only take place if the result of the calculation differs from a specific amount compared to the result which gave rise to the previous fixing or if the result of the fixing is once again nil.

(6) In order to avoid speculation and to ensure that the measure is managed efficiently, it should be stipulated that the fixing of import duties should apply from the date of publication in the *Official Journal of the European Union*.

(7) The first subparagraph of Article 2(2) of Regulation (EU) No 642/2010 states that for fixing and adjustments, the daily import duties used for the previous period must not be taken into account. The number of days used therefore varies gradually in line with trends in the 15-day period of application. In order to provide that a constant number of days is chosen equal to 10 working days, this provision should be removed.

(8) The second subparagraph of Article 2(2) of Regulation (EU) No 642/2010 provides that the intervention price to be used for calculating duties must be the price applicable during the month in which the import duty applies. Given that monthly increases in the intervention price have not applied since the 2009/10 marketing year for durum wheat and since the 2010/11 marketing year for common wheat, barley, maize and sorghum and the intervention price to be used is fixed, this provision should be amended.

(9) The second subparagraph of Article 2(3) of Regulation (EU) No 642/2010 states that import duties must be published in the *Official Journal of the European Union* on the occasion of each fixing or adjustment. Given that adjustments are to be discontinued, this provision should be amended.

(10) Article 5 of Regulation (EU) No 642/2010 requires the representative cif import prices for durum wheat to be based in particular on the reference exchange stipulated under Annex III to the Regulation, namely the Minneapolis Grain Exchange. Due to the change in United States durum wheat production on the world market, this exchange no longer provides a representative and reliable estimate of the durum wheat market. Furthermore, the other sources of information on the world durum wheat market are now too few or too unreliable to provide a basis for setting import duties for this product. Finally, the available sources indicate that prices for high quality durum wheat and high quality common wheat exported to the United States are following similar trends. Consequently, the duty calculated for high quality common wheat should be applied to high quality durum wheat. Moreover, for medium and low quality durum wheat, discounts linked to meal quality should also be applied.

(11) Commission Implementing Regulation (EU) No 1006/2011[(5)] provided for amendments to be made to the CN codes for cereals with effect from 1 January 2012. The references to the CN codes contained in Regulation (EU) No 642/2010 must therefore be changed in line with those amendments.

(12) Regulation (EU) No 642/2010 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 642/2010 is amended as follows:

(1) Article 1 is replaced by the following:

Article 1

1 Notwithstanding the rates of import duty in the Common Customs Tariff, the import duty on products falling within CN codes 1001 11 00, 1001 19 00, ex 1001 91 20 (common wheat seed), ex 1001 99 00 (high-quality common wheat other than seed), 1002 10 00, 1002 90 00, 1005 10 90, 1005 90 00, 1007 10 90 and 1007 90 00 shall be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the conventional rate of duty as determined on the basis of the Combined Nomenclature.

2 For the purposes of calculating the import duty referred to in paragraph 1, representative cif import prices shall be established on a regular basis for the products referred to in that paragraph.

3 The Common Customs Tariff duty rates referred to in paragraph 1 shall be those applicable on the date stipulated under Article 112 of Regulation (EC) No 450/2008 of the European Parliament and of the Council[6].;

(2) Article 2 is amended as follows:

(a) paragraphs 1 and 2 shall be replaced by the following:

1. The import duty referred to in Article 1(1) shall be calculated daily by the Commission.

The intervention price to be used for the calculation of import duty shall be EUR 101,31 per tonne.

The import price to be used for the calculation of the import duty shall be the daily cif representative import price determined using the method provided for in Article 5 of this Regulation.

2 The import duty fixed by the Commission shall be equal to the average of the import duties calculated during the previous 10 working days.

The Commission shall fix the import duty if the average of the import duties calculated during the previous 10 working days differs by more than EUR 5 per tonne compared to the duty fixed or if the average is once again nil.

On the occasion of each fixing, the import duty and the factors used for their calculation shall be published in the *Official Journal of the European Union*[7].

The import duty fixed shall apply from the date of publication.

The import duty fixed under this Regulation shall apply until a new import duty is fixed and enters into force.;

(b) paragraph 3 is deleted;

(3) Article 5 is amended as follows:

(a) paragraph 1 is replaced by the following:

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 265/2014. (See end of Document for details)*

1. For high quality soft wheat and maize other than seed, as referred to in Article 1(1) of this Regulation, the components determining the representative cif import prices referred to in Article 1(2) shall be:

a the representative exchange quotation on the market of the United States of America;

b the known commercial premiums and discounts attached to that quotation in the United States of America market on the quotation day;

c sea freight and associated costs between the United States of America (Gulf of Mexico or Duluth) and the port of Rotterdam for a vessel of at least 25 000 tonnes.;

(b) paragraphs 3 and 4 shall be replaced by the following:

3. With a view to calculating the component referred to in paragraph 1(b) or the relevant fob quotation, a premium of EUR 14 per tonne of high quality soft wheat shall apply.

4 The representative cif import prices for high quality common wheat and maize other than seed shall be the sum of the components referred to in points (a), (b) and (c) of paragraph 1.

The representative cif import prices for high quality durum wheat, durum wheat seed and common wheat seed shall be the price calculated for high quality common wheat.

The representative cif import price for medium quality durum wheat and low quality durum wheat shall be the price calculated for high quality common wheat, to which a discount of EUR 10 per tonne shall apply for medium quality durum wheat, and a discount of EUR 30 per tonne for low quality durum wheat.

The representative cif import price for sorghum other than seed, sorghum seed falling within CN code 1007 10 90, rye other than seed, rye seed and maize seed falling within CN code 1005 10 90 shall be the price calculated for maize other than seed.;

(c) paragraph 5 is deleted;

(4) Annexes II and III shall be replaced by the text in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.