Commission Implementing Regulation (EU) No 789/2011 of 5 August 2011 opening the procedure for the allocation of export licences for cheese to be exported to the United States of America in 2012 under certain GATT quotas

COMMISSION IMPLEMENTING REGULATION (EU) No 789/2011

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opening the procedure for the allocation of export licences for cheese to be exported to the United States of America in 2012 under certain GATT quotas

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)[(1)], and in particular Article 171(1), in conjunction with Article 4 thereof,

Whereas:

(1) Section 2 of Chapter III of Commission Regulation (EC) No 1187/2009 of 27 November 2009 laying down special detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards export licences and export refunds for milk and milk products[(2)] provides that export licences for cheese exported to the United States of America as part of the quotas under the agreements concluded during multilateral trade negotiations may be allocated according to a special procedure by which preferred importers in the USA may be designated.

(2) That procedure should be opened for exports during 2012 and the additional rules relating to it should be determined.

(3) In administering imports the competent authorities in the USA make a distinction between the additional quota granted to the European Union under the Uruguay Round and the quotas resulting from the Tokyo Round. Export licences should be allocated taking into account the eligibility of those products for the USA quota in question as described in the Harmonised Tariff Schedule of the United States of America.

(4) With a view to exporting the maximum quantity under the quotas for which there is moderate interest, applications covering the whole quota quantity should be allowed.

(5) The Commission has developed an information system that allows managing documents and procedures electronically in its own internal working procedures and in its relations with the authorities involved in the common agricultural policy. It is considered that the notifications provided for in Section 2 of Chapter III of Regulation (EC) No 1187/2009 and in this Regulation can be fulfilled via that system in accordance with Commission Regulation (EC) No 792/2009 of 31 August 2009 laying down detailed rules for the Member States' notification to the Commission of information and documents in implementation of the common organisation of markets, the direct

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 789/2011. (See end of Document for details)*

payments' regime, the promotion of agricultural products and the regimes applicable to the outermost regions and the smaller Aegean islands[(3)]. In the interests of efficient administration, Member States should use that information system, in accordance with Regulation (EC) No 792/2009.

(6) For reasons of legal certainty and clarity, it should be laid down that the measures provided for in this Regulation cease to apply at the end of 2012.

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

HAS ADOPTED THIS REGULATION:

Article 1

Export licences for products falling within CN code 0406 and listed in Annex I to this Regulation to be exported to the United States of America in 2012 under the quotas referred to in Article 21 of Regulation (EC) No 1187/2009 shall be issued in accordance with Section 2 of Chapter III of that Regulation and with the provisions of this Regulation.

Article 2

1 Applications for licences referred to in Article 22 of Regulation (EC) No 1187/2009 (hereinafter referred to as 'applications') shall be lodged with the competent authorities from 1 to 9 September 2011 at the latest.

2 Applications shall be admissible only if they contain all the information referred to in Article 22 of Regulation (EC) No 1187/2009 and if they are accompanied by the documents referred to therein.

Where, for the same group of products referred to in column 2 of Annex I to this Regulation the available quantity is divided between the Uruguay Round quota and the Tokyo Round quota, licence applications may cover only one of those quotas and shall indicate the quota concerned, specifying the identification of the group and of the quota indicated in column 3 of that Annex.

Information referred to in Article 22 of Regulation (EC) No 1187/2009 shall be presented in accordance with the model set out in Annex II to this Regulation.

3 As regards the quotas identified by 22-Tokyo, 22-Uruguay, 25-Tokyo and 25-Uruguay in column 3 of Annex I, applications shall cover at least 10 tonnes and shall not exceed the quantity available under the quota concerned as set out in column 4 of that Annex.

As regards the other quotas indicated in column 3 of Annex I, applications shall cover at least 10 tonnes and no more than 40 % of the quantity available under the quota concerned as set out in column 4 of that Annex.

4 Applications shall be admissible only if applicants declare in writing that they have not lodged other applications for the same group of products and the same quota and undertake not to do so.

If an applicant lodges several applications for the same group of products and the same quota in one or more Member States, all his applications shall be deemed inadmissible.

Article 3

1 Member States shall notify the Commission, by 16 September at the latest, of the applications lodged for each of the groups of products and, where applicable, the quotas indicated in Annex I.

All notifications, including 'nil' notifications, shall be made in accordance with Regulation (EC) No 792/2009.

2 Notification shall comprise for each group and, where applicable, for each quota:

a a list of applicants, their name, address and reference (number);

b the quantities applied for by each applicant broken down by the product code of the Combined Nomenclature and by their code in accordance with the Harmonised Tariff Schedule of the United States of America (2011);

c the name, address and reference (number) of the importer designated by the applicant.

Article 4

The Commission shall, pursuant to Article 23(1) of Regulation (EC) No 1187/2009, determine the allocation of licences without delay and shall notify the Member States thereof by 31 October 2011 at the latest.

Member States shall notify the Commission, within five working days after publication of the allocation coefficients, for each group and, where applicable, for each quota, the quantities allocated by applicant, the product code, the applicant reference (number) and the designated importer reference (number) in accordance with Article 23(2) of Regulation (EC) No 1187/2009.

Quantities allocated by drawing lots in accordance with Article 23(2) of Regulation (EC) No 1187/2009 shall be distributed among the individual CN codes in proportion to the quantities of product by CN code applied for.

The notification shall be made in accordance with Regulation (EC) No 792/2009.

Article 5

The information notified under Article 3 of this Regulation and under Article 22 of Regulation (EC) No 1187/2009 shall be verified by the Member States before the licences are issued and by 15 December 2011 at the latest.

Where it is found that incorrect information has been supplied by an operator to whom a licence has been issued, the licence shall be cancelled and the security forfeited. The Member States shall notify the Commission without any delay. The notification shall be made in accordance with Regulation (EC) No 792/2009 and shall comprise for each group and, where applicable, for each quota:

(a) the applicant reference (number);

(b) the quantities applied for by each applicant broken down by the product code of the Combined Nomenclature and by their code in accordance with the Harmonised Tariff Schedule of the United States of America (2011);

(c) the designated importer reference (number).

Article 6

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

It shall expire on 31 December 2012.

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

Done at Brussels, 5 August 2011.

For the Commission

The President

José Manuel BARROSO