Commission Regulation (EU) No 257/2011 of 16 March 2011 amending Regulation (EC) No 616/2007 opening and providing for the administration of Community tariff quotas in the sector of poultrymeat originating in Brazil, Thailand and other third countries

COMMISSION REGULATION (EU) No 257/2011

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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 144(1) and Article 148, in conjunction with Article 4, thereof,

Having regard to Council Decision 2007/360/EC of 29 May 2007 on the conclusion of Agreements in the form of Agreed Minutes between the European Community and the Federal Republic of Brazil, and between the European Community and the Kingdom of Thailand pursuant to Article XXVIII of the General Agreement on Tariffs and Trade 1994 (GATT 1994) relating to the modification of concessions with respect to poultry meat[(2)], and in particular Article 2 thereof,

Whereas:

(1) Pursuant to Article 130(2) of Regulation (EC) No 1234/2007, imports into the Union should be managed using import licences. However, in order to avoid speculative actions distorting the imports flow, it is appropriate to manage the quota opened by Commission Regulation (EC) No 616/2007[(3)] under order number 09.4215 and Group No 5 allocated to Thailand, by attributing import rights as a first step and issuing import licences as a second, as provided for in Article 6(3) of Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences[(4)].

(2) The new conditions for attributing the import rights and issuing the subsequent import licences for the quota at issue should be established, as regards the eligibility of the applicants and the repartition of the imported volumes for the quota period as set out in Article 1(1) of Regulation (EC) No 616/2007.

(3) In order to avoid speculative activity and ensure that import rights are attributed to genuine importers, it is essential to set the historical reference quantity of poultrymeat imported established as a condition for the application for import rights at an appropriate level.

Changes to legislation: *Commission Regulation (EU) No 257/2011 is up to date with all changes known to be in force on or before 22 February 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(4) In view of the new conditions applicable to imports of products originating in Thailand, the amount of the security relating to the import rights and licences should be set at an appropriate level to ensure proper management of the tariff quotas and satisfactory access to them for operators.

(5) To oblige operators to apply for import licences for all the import rights allocated, it should be established that such obligation constitutes a primary requirement within the meaning of Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products[(5)].

(6) The notification period established in Regulation (EC) No 616/2007 for the national authorities to notify the Commission of the quantities covered by issued licences is scheduled at a late stage compared to the moment of issuing. For a good management of the quota, it is therefore advisable to advance this notification period in time.

(7) To allow operators and competent authorities to get used to the new management of Group No 5, it is appropriate to postpone the time period for submission of applications for import rights for the first subperiod commencing on 1 July 2011, from April 2011 to May 2011.

(8) Regulation (EC) No 616/2007 should therefore be amended accordingly.

(9) Since the next quota period begins on 1 July 2011, this Regulation should apply as from that period.

(10) The Management Committee for the Common Organisation of the Agricultural Markets has not delivered an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 616/2007 is amended as follows:

1. in Article 3, the following paragraph is added:

3. The annual quantities established for Group No 5 shall be managed by attributing import rights as a first step and issuing import licences as a second.;

2. Articles 4, 5 and 6 are replaced by the following:

Article 4

1 For the purposes of applying Article 5 of Regulation (EC) No 1301/2006 as regards groups other than Group No 5, import licence applicants shall, when presenting their first application as regards a given quota period, furnish proof that they imported, during each of the two periods referred to in Article 5 of Regulation (EC) 1301/2006, at least 50 tonnes of products covered by Annex I Part XX to Council Regulation (EC) No 1234/2007[(6)] or preparation of CN code 0210 99 39.

For the purposes of applying Article 5 of Regulation (EC) No 1301/2006 as regards Group No 5, import rights applicants shall, when presenting their first application for a given quota year, furnish proof that they imported a quantity of at least 250 tonnes of products covered by Annex I Part XX to Regulation (EC) No 1234/2007

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or preparations of CN code 0210 99 39 during each of the two periods referred to in Article 5 of Regulation (EC) No 1301/2006.

Licence applications shall mention only one of the order-numbers indicated in Annex I to this Regulation.

2 By way of derogation from Article 5 of Regulation (EC) No 1301/2006 and from the first sub-paragraph of paragraph 1 of this Article, import licences applicants may, when presenting their first application as regards a given quota period furnish proof that they processed, during each of the two periods referred to in Article 5 of Regulation (EC) No 1301/2006, at least 1 000 tonnes of poultrymeat of CN codes 0207 or 0210 to produce preparations of poultrymeat of CN code 1602 covered by Regulation (EC) No 1234/2007 or homogenised preparations of CN code 1602 10 00 containing no other meat than poultrymeat.

For the purposes of this paragraph, a "processor" shall be any person entered on the national VAT register of the Member State in which he is established, who provides proof of processing activity, in the form of any commercial document, to the satisfaction of the Member State concerned.

3 A company formed by a merger of companies each having imported reference quantities may use those reference quantities as basis for its applications.

4 By way of derogation from Article 6(1) of Regulation (EC) No 1301/2006, as regards Groups Nos 3, 6 and 8, each applicant may lodge more than one application for import licences for products in one group where such products originate in more than one country. Separate applications for each country of origin must be submitted simultaneously to the competent authority of a Member State. They shall be regarded as a single application, for the purposes of the maximum quantity referred to in paragraph 5 of this Article.

5 For groups other than Group No 5, licence applications must be for a minimum of 100 tonnes and a maximum of 10 % of the quantity available for the quota concerned in the period or subperiod in question.

However:

a for Groups Nos 2 and 3, the maximum quantity for licence or import rights applications shall be 5 % of the quantity available for the quota concerned in the period or subperiod in question;

b for Groups Nos 3, 6 and 8 the minimum quantity for licence applications shall be reduced to 10 tonnes.

For Group No 5 import rights applications must be for a minimum of 100 tonnes and a maximum of 10 % of the quantity available for the quota concerned in the subperiod in question.

6 Except for Groups Nos 3, 6 and 8, licences carry an obligation to import from the country that is specified. For the groups concerned by this obligation, the country of origin shall be entered in box 8 of the application and of the licence itself, and the word "yes" shall be marked with a cross.

7 Box 20 of the licence application and the licence shall contain one of the entries given in Annex II, Part A.

Box 24 of the licences shall contain one of the entries listed in Annex II, Part B.

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For Groups Nos 3 and 6 products, box 24 of the licence shall contain one of the entries given in Annex II, Part C.

For Group No 8 products, box 24 of the licence shall contain one of the entries given in Annex II, Part D.

Article 5

1 Applications for import rights for Group No 5 and for import licences for the other groups may be submitted only in the first seven days of the third month preceding each subperiod or, for Group No 3, in the first seven days of the third month preceding the quota period.

However, applications for import rights for Group No 5 for the subperiod commencing on 1 July 2011 may be submitted only in the first seven days of May 2011.

2 A security of EUR 50 per 100 kilograms shall be lodged at the time of submission of the licence application for groups other than Group No 5. However, for licence applications concerning Groups Nos 1, 4 and 7, the security shall be set at EUR 10 per 100 kilograms and for import rights applications for Group No 5 the security shall be set at EUR 6 per 100 kilograms.

3 Member States shall notify the Commission, by the 14th day of the month in which applications are submitted, of the total quantities in kilograms requested, broken down by group and origin.

4 Import rights shall be awarded and licences shall be issued from the 23rd day of the month in which applications are submitted and at the latest by the last day of that month. Import rights shall be valid from the first day of the subperiod for which the application has been lodged, and until 30 June of the same import period and they are not transferable.

5 For Group No 5, import licence applications may be lodged solely in the Member State where the applicant has applied and obtained the import rights. For this group, licences shall be issued on application by and in the name of the operator who has obtained the import rights.

For Group No 5 a security of EUR 75 per 100 kilograms shall be lodged by the operator at the issuing of the import licence. Each issuing of import licence shall result in a corresponding reduction of the import rights obtained and the security lodged for import rights in accordance with paragraph 2 shall be released proportionally without delay.

6 Import licences applications shall cover the total quantity of import rights allocated. This obligation shall constitute a primary requirement within the meaning of Article 20(2) of Commission Regulation (EEC) No 2220/85[(7)].

Article 6

1 By way of derogation from the second subparagraph of Article 11(1) of Regulation (EC) No 1301/2006, Member States shall notify the Commission:

a for all Groups except No 5 and not later than the 10th day of the month following the month in which applications were submitted, of the quantities covered by licences they have issued;

b for Group No 5 and not later than the 10th day of the month following each subperiod, of the quantities covered by licences they have issued during that subperiod.