Commission Regulation (EU) No 328/2010 of 21 April 2010 amending Regulation (EC) No 341/2007 opening and providing for the administration of tariff quotas and introducing a system of import licences and certificates of origin for garlic and certain other agricultural products imported from third countries

COMMISSION REGULATION (EU) No 328/2010

of 21 April 2010

amending Regulation (EC) No 341/2007 opening and providing for the administration of tariff quotas and introducing a system of import licences and certificates of origin for garlic and certain other agricultural products imported from third countries

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 Articles 134 and 148 in conjunction with Article 4 thereof,

Whereas:

(1) Article 4 of Commission Regulation (EC) No 341/2007[(2)] draws a distinction between traditional and new importers in respect of traders that may apply for import licences for garlic under the tariff quotas that are opened and administered under that Regulation.

(2) In order to ensure fair opportunities to all traders concerned, it is appropriate to enlarge the category of importers to include certain exporters of garlic to third countries within the categories of traders who may apply for import licences under the tariff quota system.

(3) The amount of the security referred to in the second subparagraph of Article 1(3) of Commission Regulation (EC) No 376/2008 of 23 April 2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products[(3)] should be fixed at an appropriate level of 5 % of the additional duty applicable to importers of garlic, namely EUR 60 per tonne.

(4) Article 8 of Regulation (EC) No 341/2007 provides that the reference quantities of traditional importers are calculated on the basis of maximum quantities of garlic imported during previous calendar years or import tariff quota periods. In order to avoid that these reference quantities are calculated on the basis of historic data which no longer reflect a genuine economic activity, it is appropriate to provide that the reference quantity should be the average of the quantities of garlic actually imported by a traditional importer during the three years which preceded the related import tariff quota period.

Changes to legislation: *Commission Regulation (EU) No 328/2010 is up to date with all changes known to be in force on or before 30 March 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*

(5) In order to ensure efficient market management, it is appropriate to provide for a time period during which applications for 'A' licences may be lodged which would be chronologically close to the subperiod for which the applications are lodged.

(6) For the purpose of improving control and in order to allow a rapid reaction from the competent authorities in case of errors or malfunctioning of the system, the Member States should notify the Commission of the quantities for which licence applications have been lodged for the relevant subperiod.

(7) The reference to working days when calculating the time periods could lead to different situations among the Member States. It is therefore appropriate to use calendar days instead.

(8) Regulation (EC) No 341/2007 should therefore be amended accordingly.

(9) This Regulation should apply from 1 May 2010. However, in order to ensure that importers have sufficient time to adapt themselves to the new legal framework, the new provisions concerning the calculation of the reference period and the submission of proof of the actually imported garlic should only apply from 1 February 2011.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 341/2007 is amended as follows:

1. In Article 4(2), point (b) of the first subparagraph is replaced by the following:

   (b) imported into the Union at least 50 tonnes of fruits and vegetables as referred to in Article 1(1)(i) of Council Regulation (EC) No 1234/2007[(4)] or exported to third countries at least 50 tonnes of garlic during the last completed import tariff quota period preceding the submission of their application.

2. In Article 4(3), the first subparagraph is replaced by the following:

   New importers shall mean operators other than those referred to in paragraph 2, who have imported into the Union at least 50 tonnes of fruit and vegetables as referred to in Article 1(1)(i) of Regulation (EC) No 1234/2007 or have exported to third countries at least 50 tonnes of garlic in each of the previous two completed import tariff quota periods, or in each of the previous two calendar years preceding the submission of their application.

3. Article 4(4) is amended as follows:

   (a) the second subparagraph is replaced by the following:

   Proof of trade with third countries shall be furnished exclusively either by means of the customs documents of release for free circulation, duly endorsed by the customs authorities and containing a reference to the applicant concerned as being the consignee, or by means of the customs document of exportation duly endorsed by the customs authorities.

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(b) the following third subparagraph is added:

Customs agents or their representatives shall not apply for import licences under the quotas falling within the scope of this Regulation.

4. Article 6 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. "A" licences shall be valid only for the subperiod for which they have been issued. Box 24 thereof shall show one of the entries listed in Annex III.

(b) the following paragraph 2 is inserted:

2. The security referred to in the second subparagraph of Article 14(2) of Regulation (EC) No 376/2008 shall amount to EUR 60 per tonne.

5. Article 8 is replaced by the following:

Article 8

Reference quantity of traditional importers

For the purposes of this Chapter, the "reference quantity" shall be the average of the quantities of garlic actually imported by a traditional importer, within the meaning of Article 4, during the three calendar years preceding the related import tariff quota period.

6. In Article 10, paragraph 1 is replaced by the following:

1. Importers shall lodge their applications for "A" licences during the first seven calendar days of April for the first subperiod, during the first seven calendar days of July for the second subperiod, during the first seven calendar days of October for the third subperiod and during the first seven calendar days of January for the fourth subperiod.

7. In Article 10(1), the following second subparagraph is added:

At the time of their first application for import licences for a given import tariff quota period under this Regulation, importers shall submit the proof of the actually imported quantities of garlic for the years referred to in Article 8.

8. Article 11 is replaced by the following:

Article 11

Issuing of "A" licences

"A" licences shall be issued by the competent authorities starting from the 23rd day of the month in which the applications were submitted and not later than the end of that month.

9. In Article 12(1), the first and second subparagraphs are replaced by the following: