Commission Regulation (EC) No 1064/2009 of 4 November 2009 opening and providing for the administration of a Community import tariff quota for malting barley from third countries

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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,

Whereas:

(1) Under the Agreement in the form of an Exchange of Letters between the European Community and the United States of America in accordance with Article XXIV:6 and Article XXVIII of the 1994 General Agreement on Tariffs and Trade (GATT) relating to the modification of concessions in the schedules of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic as part of their accession to the European Union[(2)], approved by Council Decision 2006/333/EC[(3)], and the Agreement between the European Community and the Government of Canada on the conclusion of GATT Article XXIV:6 Negotiations[(4)], approved by Council Decision 2007/444/EC[(5)], the Community has undertaken to open, on an annual basis, an import tariff for malting barley of 50 000 tonnes.

(2) The implementation rules relating to the administration of this quota are currently laid down by Commission Regulation (EC) No 1215/2008 of 5 December 2008 on opening and providing for the administration of a Community tariff quota for malting barley from third countries and derogating from Council Regulation (EC) No 1234/2007[(6)].

(3) The use of the first-come, first-served principle has proved to have been successful in other agricultural sectors, and in the interest of administrative simplification, this quota should now be administered using the method indicated in Article 144(2)(a) of Regulation (EC) No 1234/2007. This should be done in accordance with Articles 308a, 308b and 308c(1) of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code[(7)].

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EC) No 1064/2009. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(4) Due to the particularities involved in the transfer from one management system to another, Article 308c(2) and (3) of Regulation (EEC) No 2454/93 should not apply to the tariff period from 1 January 2010 to 31 December 2010.

(5) Article 166 of Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (Modernised Customs Code)[8] provides for the customs supervision of goods released for free circulation at a reduced rate of duty on account of their specific use. It should be ensured that malting barley imported under this tariff quota is designed to be used for producing beer aged in vats containing beechwood, in accordance with the Community's international commitments.

(6) Provision needs to be made for a high level of security in order to ensure the sound management of the tariff and to maintain such security throughout processing.

(7) Taking into account the specific nature of the barley imported from the United States of America under this quota, the amount of the security in respect of imports which are accompanied by a compliance certificate agreed upon with the United States Government, in accordance with the administrative co-operation procedure provided for in Articles 63, 64 and 65 of Regulation (EEC) No 2454/93, should be reduced.

(8) Regulation (EC) No 1215/2008 should therefore be repealed and replaced by a new Regulation. However, it would be expedient to continue to apply Regulation (EC) No 1215/2008 to the import licences issued for the import quota periods prior to those covered by this Regulation.

(9) 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

1 This Regulation opens a tariff import quota of 50 000 tonnes for malting barley falling under CN code 1003 00 to be used for the production of beer aged in vats containing beechwood. The order number for the quota shall be 09.0076.

2 The quota referred to in paragraph 1 above shall be administered in accordance with Articles 308a, 308b and 308c(1) of Regulation (EEC) No 2454/93. Article 308c(2) and (3) of that Regulation shall not apply to the tariff period from 1 January 2010 to 31 December 2010.

3 The tariff quota referred to in paragraph 1 above shall be opened on an annual basis from 1 January to 31 December ('import quota period'). Duties on imports within the tariff quota shall be levied at a rate of EUR 8 per tonne.

Article 2

For the purposes of the application of this Regulation:

(a) 'damaged grains' shall mean grains of barley, other cereals or wild oats that display damage, including deterioration caused by disease, frost, heat, insects or fungus, bad weather and all other forms of physical damage;

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(b) 'sound and fair merchantable barley' shall mean barley grains or pieces of grain that are not damaged, as defined in a), except grains damaged by frost or fungus.

Article 3

1 The tariff quota referred to in Article 1 may only apply if the barley imported meets the following criteria:

a specific weight: minimum 60,5 kg/hl;

b damaged grains: maximum 1 %;

c moisture content: maximum 13,5 %;

d sound and fair merchantable barley grains: minimum 96 %.

2 Compliance with the quality criteria set out in paragraph 1 above shall be certified by one of the following documents:

a a certificate of analysis carried out at the importer's request by the customs office of release for free circulation; or

b a certificate of conformity for the imported barley issued by a government authority of the country of origin and recognised by the Commission.

Article 4

1 **[**[F1]In accordance with Article 82 of Council Regulation (EEC) No 2913/92[(9)], the barley imported under this tariff quota shall be subject to customs supervision, to ensure that:**]**

a it is malted within six months from the date of release for free circulation; and

b the resulting malt must be used in the manufacture of beer aged in vats containing beechwood within no more than 150 days following the date on which the barley is processed into malt.

Processing of the imported barley into malt shall be deemed to have taken place when the malting barley has undergone steeping.

2 Importers shall lodge a security with the competent customs authorities to ensure that the requirement referred to in paragraph 1 above is complied with and that unpaid duties are collected where that requirement is not met. The security shall be EUR 85 per tonne. If the malting barley consignments are accompanied by a certificate of conformity issued by the Federal Grain Inspection Service (FGIS), the security is reduced to EUR 10 per tonne.

3 The securities provided for in paragraph 2 shall be released immediately where proof is presented to the customs authorities concerned that:

a the quality of the barley, established on the basis of the certificate of conformity or the analysis certificate, meets the criteria laid down in Article 3(1),

b the processing obligation referred to in paragraph 1 has been complied with within the timeframe specified.

Textual Amendments

F1 Substituted by Commission Regulation (EU) No 291/2010 of 31 March 2010 correcting Regulations (EC) No 437/2009, (EC) No 438/2009 and (EC) No 1064/2009 as regards the end-use procedure laid down for imports of certain agricultural products under tariff quotas.

Article 5

Certificates issued by the Federal Grain Inspection Service (FGIS) for malting barley to be used in the production of beer aged in vats containing beechwood, a model version