Commission Regulation (EC) No 1296/2008 of 18 December 2008 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal (Codified version)

COMMISSION REGULATION (EC) No 1296/2008

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(Codified version)

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) in conjunction with Article 4 thereof,

Whereas:

(1) Commission Regulation (EC) No 1839/95 of 26 July 1995 on laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal[(2)] has been substantially amended several times[(3)]. In the interests of clarity and rationality the said Regulation should be codified.

(2) Under the agreements concluded during the Uruguay Round of multilateral trade negotiations, the Community has undertaken, as from the 1995/96 marketing year, to open reduced-tariff quotas for imports into Portugal of 500 000 tonnes of maize and into Spain of two million tonnes of maize and 300 000 tonnes of sorghum respectively. In the case of the quota for imports into Spain, the quantities of certain grain substitutes imported into Spain are to be deducted in proportion to the total quantities imported. In the case of the quota opened for imports of maize into Portugal, the import duty actually paid should not exceed EUR 50 per tonne.

(3) In order to ensure the sound management of these quotas, provision should be made for similar methods for booking imports of maize and sorghum effected in Spain and in Portugal.

(4) In order to attain this objective and to guarantee effective monitoring by the Commission of the arrangements and of the Community's international obligations, it is appropriate to determine with precision the imports to be booked pursuant to these quotas and to provide for Spain and Portugal to communicate to the Commission, each month, all imports of the products concerned actually carried out, specifying the calculation method applied.

(5) The period laid down for the import of import quotas of maize into Portugal and of maize and sorghum into Spain and for the taking account of any imports of substitute products must be based on the calendar year.

(6) The quantity of maize to be imported into Portugal and of maize and sorghum to be imported into Spain in a given year, reduced by the quantities of certain grain substitutes imported into Spain during that same year, does not allow, at the end of the year, the balance of maize and sorghum which remains to be imported in the year concerned to be determined. Consequently, the period during which imports may be booked against a year must be extended, in cases of necessity, to the month of May of the following year.

(7) It is in the interest of Community operators to ensure an adequate supply of the products concerned on the Community market at stable prices whilst avoiding unnecessary and excessive risks or even market disruptions in the form of severe price fluctuations. The Commission, taking account of the evolving international markets, the supply conditions in Spain and Portugal, and the Community's international commitments, should decide whether a reduction to the applicable import duties fixed in accordance with Commission Regulation (EC) No 1249/96 of 28 June 1996 on rules of application (cereal sector import duties) for Council Regulation (EEC) No 1766/92[(4)] are required to ensure that the import quotas for the products concerned are fully used.

(8) In order to ensure that these quotas are applied, provision should be made for direct purchase on the world market or application of an import duty reduction system established pursuant to Regulation (EC) No 1249/96.

(9) The combination of the advantages provided for under the arrangements established by Council Regulation (EC) No 1528/2007[(5)], applicable to imports into the Community of sorghum and maize originating in certain States which are part of the the African, Caribbean and Pacific Group of States ('ACP States') and under this Regulation is liable to create disturbances on the Spanish and Portuguese markets in cereals. That difficulty can be overcome by setting a special reduction of the levy on maize and sorghum imported under this Regulation.

(10) In the case of direct purchase on the world market, and with a view to enabling the operation to be carried out under optimum conditions and in particular at the lowest purchase and transport costs, an invitation to tender should be organised for the supply and delivery to warehouses designated by the paying agency or intervention agency concerned. Provision should be made for tenders to be lodged for individual lots in line with storage capacities available in certain areas of the Member State concerned and published in the notice of invitation to tender.

(11) Detailed rules should be adopted on the organisation of the invitations to tender for the import duty reduction and for direct purchase on the world market, and conditions should be defined for submitting tenders and lodging and releasing securities guaranteeing compliance with the successful tenderer's obligations.

(12) With a view to sound economic and financial management of the purchasing operations in question and in particular to avoid disproportionate and excessive risks for operators in view of foreseeable prices on the Spanish and Portuguese markets, provision should

be made for importing onto the market, subject to a reduced duty, cereals which do not meet the quality requirements laid down in the invitation to tender. In that case, however, the duty reduction may not be greater than the last amount fixed for the reduction in question.

(13) Provision should be made to cover the operations arising from this Regulation according to the mechanisms laid down by Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy[6].

(14) 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:

CHAPTER I

GENERAL PROVISIONS

Article 1

[[F1]1 Two quotas for imports from third countries, for release for free circulation in Spain, of a maximum quantity each year of 2 000 000 tonnes of maize and 300 000 tonnes of sorghum shall be deemed to be opened on 1 January of each year. Imports under those quotas shall be effected as provided for in this Regulation.

2 One quota for imports from third countries, for free circulation in Portugal, of a maximum quantity each year of 500 000 tonnes of maize shall be deemed to be opened on 1 January of each year. Imports under that quota shall be made under the conditions laid down in this Regulation.**]**

3 In the event of technical difficulties duly noted by the Commission a period of importation exceeding that time limit may be laid down in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007.

4 The reduction in the import duty on flint maize provided for in Article 2(5) of Regulation (EC) No 1249/96 shall not apply under the quotas provided for in paragraphs 1 and 2 of this Article.

Textual Amendments

F1 Substituted by Commission Regulation (EC) No 742/2009 of 13 August 2009 amending Regulation (EC) No 1296/2008 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal.

Article 2

1 The quantities for import into Spain referred to in Article 1(1) shall be reduced in each year in proportion to any quantities of residues of starch manufacture from maize falling within CN codes 2303 10 19 and 2309 90 20, brewing and distilling dregs and waste falling within CN code 2303 30 00 and citrus pulp residues falling within CN code ex 2308 00 40 imported into Spain from third countries during the year concerned.

2 The Commission shall book for the quotas referred to in Article 1(1) and (2):

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1296/2008. (See end of Document for details)*

a the quantities of maize (CN code 1005 90 00) and sorghum (CN code 1007 00 90) imported into Spain and the quantities of maize (CN code 1005 90 00) imported into Portugal during each calendar year and, where necessary, until the end of May of the following year;

b the quantities of residues of starch manufacture from maize, brewing and distilling dregs and waste and residues of citrus pulp, referred to in paragraph 1 of this Article, imported into Spain during each calendar year.

Where quantities are booked in respect of the months following the reference calendar year in accordance with point (a) of the first subparagraph, these quantities may no longer be booked in respect of the following calendar year.

3 For the purposes of booking quantities as provided for in paragraph 2, imports of maize into Spain and Portugal carried out under the following acts shall not be taken into account:

a Council Regulation (EC) No 2007/2000[(7)];

b Council and Commission Decision 2005/40/EC, Euratom[(8)];

c Council Decision 2006/580/EC[(9)];

d Commission Regulation (EC) No 969/2006[(10)].

Article 3

The competent authorities of Spain and of Portugal shall notify the Commission, by electronic means, not later than the fifteenth day of each month, of the quantities of the products referred to in Article 2(2) imported in the course of the penultimate month, on the basis of the model in Annex I.

Article 4

1 The quantities of maize and sorghum referred to in Article 1(1) shall be allocated to processing or use in Spain.

2 The quantities of maize referred to in Article 1(2) shall be allocated to processing or use in Portugal.

Article 5

Imports shall be effected, as part of the quotas referred to in Article 1(1) and (2) and within the quantitative limits set out in Article 1(1) and (2), to Spain and Portugal by applying an import duty reduction system as provided for in Article 6, or by direct purchase on the world market.

CHAPTER II

IMPORTATION WITH IMPORT DUTY REDUCTION

Article 6

1 Without prejudice to Article 15, for imports of maize and sorghum into Spain and imports of maize into Portugal, within the quantitative limits set in Article 1(1) and (2), a reduction may be applied to the import duty fixed in accordance with Regulation (EC) No 1249/96.

2 The Commission, taking account of the existing market conditions, shall decide whether the reduction provided for in paragraph 1 shall be applied, so as to ensure that the import quotas are fully used.

3 If the Commission decides to apply the reduction referred to in paragraph 1, the amount of the reduction shall be fixed on a flat-rate basis or by tendering procedure, at a level enabling, firstly, disturbance of the Spanish and Portuguese markets as a result of imports into those Member States to be avoided and, secondly, the quantities referred to in Article 1(1) and (2) to be actually imported.

4 The amount of the flat-rate reduction and, if the reduction is fixed in accordance with the tendering procedure referred to in Article 8(1), the amount of the latter reduction, shall be fixed in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007.

In the case of imports into Portugal, the amount of the reduction referred to in paragraph 3 shall be fixed in such a way that the duty actually paid does not exceed EUR 50 per tonne.

The reduction may be differentiated for imports of maize and/or sorghum under Regulation (EC) No 1528/2007.

5 The import duty reduction provided for in paragraph 1 shall be applied on importation into Spain of maize falling within CN code 1005 90 00 and sorghum falling within CN code 1007 00 90 and on importation into Portugal of maize falling within CN code 1005 90 00, covered by licences issued by the Spanish and Portuguese competent authorities as provided for in this Regulation and with the consent of the Commission. These licences shall be valid only in the Member State in which they are issued.

Article 7

1 A tendering procedure may be organised for the reduction in the import duty. In such cases, interested parties shall reply to the invitation to tender either by lodging a written tender in exchange for an acknowledgement of receipt with the competent body specified in the invitation to tender or by forwarding that tender to the latter by registered letter, telex, fax or telegram.

2 Tenders must give:

- a the reference of the invitation to tender;
- b the tenderer's name and exact addresses, together with the telex or telefax number;
- c the nature and quantity of the product to be imported;
- d the amount per tonne of the import duty reduction proposed in euros;
- e the country of origin of the cereals to be imported.

3 Tenders must be accompanied:

- a by evidence that the tenderer has lodged a security of EUR 20 per tonne; and
- b by a written undertaking by the tenderer that, within two days of receipt of notification of the award of contract, he will lodge with the competent body concerned an application for an import licence for the quantity awarded, and that he will import from the country of origin specified in the tender.

4 Tenders must specify only one country of origin; they may not exceed the maximum quantity available for each tendering deadline.

5 Tenders not submitted in accordance with paragraphs 1 to 4 or containing conditions other than those laid down in the invitation to tender shall not be considered.

6 Tenders may not be withdrawn.