# Commission Regulation (EC) No 854/2008 of 29 August 2008 providing for exceptional measures regarding export licences for pigmeat

## COMMISSION REGULATION (EC) No 854/2008

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## providing for exceptional measures regarding export licences for pigmeat

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 161(3) in conjunction with Article 4 thereof,

Whereas:

(1) Article 2(1) of Commission Regulation (EC) No 1518/2003 of 28 August 2003 laying down detailed rules for implementing the system of export licences in the pigmeat sector[(2)] provides that export licences shall be valid for 90 days from their actual day of issue.

(2) Article 7(1) 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)] provides that the import or export licence shall constitute authorisation and give rise to an obligation respectively to import or to export under the licence, and, except in cases of *force majeure*, during its period of validity, the specified quantity of the products or goods concerned.

(3) In accordance with Articles 31 and 34(2) of Regulation (EC) No 376/2008, where the obligation to import or export has not been met, the security shall be forfeit in an amount equal to the difference between 95 % of the quantity indicated in the licence or certificate and the quantity actually imported or exported.

(4) As of 25 April 2008 the Russian veterinary authorities have notified the Commission about health measures they have taken as regards exports of products from certain meat establishments in the Community. These health measures were introduced following findings of certain residues of antibiotics in the meat products that, according to the Russian competent authorities, are not permissible.

(5) The health measures have negatively affected the possibilities for exportation of pigmeat under the terms of Regulation (EC) No 1518/2003 and consequently the measures have seriously affected the activity of the exporters concerned and the possibilities in due time to fulfil their obligations as regard the Community rules.

(6) Therefore, in order to limit the adverse impact on exporters, it is necessary to provide that, under certain conditions, derogation should be made from Regulation (EC)

**Changes to legislation:** Commission Regulation (EC) No 854/2008 is up to date with all changes known to be in force on or before 15 December 2020. 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

No 1518/2003 and the validity of export licences should be prolonged by 120 days and that, at the request of interested parties, and pursuant to Article 40 of Regulation (EC) No 376/2008, the security should be released by the Member States on a case-by-case basis.

(7) The exceptional measures proposed in this Regulation should apply only to export licences that were valid at least one of the days from 25 April 2008 to 7 May 2008. All exporters of pigmeat should have become aware, by 2 May 2008, of the practical difficulties that exports to Russia were facing.

(8) On the date of entering into force of this Regulation, part of licences that were valid at least one of the days from 25 April 2008 to 7 May 2008 has already expired. In order to ensure an equal treatment of the interested parties, it should be provided for the retroactive application to all licences valid in this period.

(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 For export licences issued in accordance with Article 3(3) of Regulation (EC) No 1518/2003 that were valid at least one of the days from 25 April 2008 to 7 May 2008:

a by way of derogation from Article 2(1) of Regulation (EC) No 1518/2003, the period of validity shall be prolonged by 120 days;

b pursuant to Article 40 of Regulation (EC) No 376/2008, at the request of interested parties made no later than 30 November 2008, the export licences shall be cancelled and the securities released proportionally by the competent authorities of the Member States.

2 The measure provided for in paragraph 1(b) shall only apply in cases where the exporter invokes rules imposed by a third country that are considered by the competent authorities of the Member State to constitute *force majeure* in accordance with Articles 39 and 40 of Regulation (EC) No 376/2008. The exporter shall demonstrate, to the satisfaction of the competent authorities, that he was unable to export owing to the introduction of health measures by the Russian authorities, and that a reasonably prudent trader could not have anticipated the introduction of these measures at the time of applying for the export licence.

*Article 2*

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

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