Council Regulation (EC) No 717/2008 of 17 July 2008 establishing a Community procedure for administering quantitative quotas (Codified version)

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(Codified version)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) Council Regulation (EC) No 520/94 of 7 March 1994 establishing a Community procedure for administering quantitative quotas[(1)] has been substantially amended several times[(2)]. In the interests of clarity and rationality the said Regulation should be codified.

(2) Under Article 14 of the Treaty, the internal market comprises, since 1 January 1993, an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured.

(3) A system for administering quantitative quotas should therefore be established in line with that objective and based on the principle of a uniform common commercial policy, in accordance with the guidelines laid down by the Court of Justice of the European Communities.

(4) There should be a choice between several allocation methods, depending on criteria such as the situation of the Community market, the type of product concerned, specific characteristics of the supplier countries and the Community's international obligations, particularly those which undertake to allow for traditional trade flows.

(5) Flexibility should be allowed in the redistribution of the quantities that are not allocated, assigned or used. However, to avoid possible excessive accumulation of imports, the question of whether such a redistribution after the end of the quota period is appropriate should be examined on a case-by-case basis and the relevant arrangements decided on, notably with regard to the period of validity of licences, taking into account the type of product in question and the purpose for which the quotas concerned were introduced.

(6) The administration of import and export quotas should be based on a system of licences issued by the Member States in line with quantitative criteria established at Community level.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 717/2008. (See end of Document for details)*

(7) The administrative procedure should ensure that all applicants have fair access to quotas, and the documents issued should be such that they can be used throughout the Community.

(8) If unused quantities are to be redistributed as efficiently as possible, reliable and full information is needed on the actual use made of import licences issued. For that purpose, all import licences, whether used or unused, should have to be returned to the competent national authorities within 10 working days of their expiry date at the latest.

(9) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(3)].

(10) The provisions of this Regulation and those governing its implementation should not prejudice existing national and Community rules concerning professional secrecy.

(11) The products listed in Annex I to the Treaty, together with textiles and other products that are subject to specific common import arrangements laying down specific provisions as regards quota administration should be excluded from the scope of this Regulation,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL ADMINISTRATIVE PRINCIPLES

Article 1

1 This Regulation establishes the rules governing the administration of quantitative import and export quotas, hereinafter referred to as ‘quotas’, whether autonomous or conventional, established by the Community.

2 This Regulation shall not apply to products listed in Annex I to the Treaty, nor to other products that are subject to specific common import or export arrangements laying down special provisions for quota administration.

Article 2

1 Quotas shall be allocated among applicants as soon as possible after they have been opened. It may be decided, in accordance with the procedure referred to in Article 22(2), to allocate them in several tranches.

2 Quotas may, *inter alia*, be administered using one of the following methods, or a combination of those methods:

a a method based on traditional trade flows, in accordance with Articles 6 to 11;

b a method based on the order in which applications are submitted (on a ‘first come, first served’ basis), in accordance with Article 12;

c a method allocating quotas in proportion to the quantities requested when the applications are submitted (using the ‘simultaneous examination’ procedure), in accordance with Article 13.

3 The allocation method to be used shall be determined in accordance with the procedure referred to in Article 22(2).

4 If it is apparent that none of the methods indicated in paragraph 2 of this Article is appropriate to the specific requirements of a quota which has been opened, any other appropriate method shall be determined in accordance with the procedure referred to in Article 22(2).

5 Quantities that are not allocated, assigned or used shall be redistributed in accordance with Article 14 in time to allow them to be used before the end of the period covered by the quota.

If it is found that it has not been possible to redistribute such quantities in time, their possible redistribution during the following quota period shall be decided on a case-by-case-basis, in accordance with the procedure referred to in Article 22(2).

6 Save where other provisions are adopted when the quota is set, the release for free circulation or export of products subject to quotas shall be conditional on the presentation of an import or export licence issued by the Member States in accordance with this Regulation.

7 Member States shall designate the administrative authorities competent to carry out implementing measures for which they are responsible under this Regulation. They shall notify the Commission of the authority thus designated.

Article 3

The Commission shall publish a notice announcing the opening of quotas in the *Official Journal of the European Union*, setting out the allocation method chosen, the conditions to be met by licence applications, time limits for submitting them and a list of the competent national authorities to which they must be sent.

Article 4

1 All Community importers and exporters, no matter where they are established in the Community, may submit a single licence application for each quota or tranche of a quota to the competent authority of the Member State of their choice, drawn up in the official language or languages of the Member State concerned.

Where a quota is limited to one or several regions of the Community, the application shall be made to the competent authorities in the Member State(s) of the region(s) in question.

2 Applications for licences shall be submitted in accordance with the arrangements determined in accordance with the procedure referred to in Article 22(2).

Article 5

The Commission shall ensure that the licences to be issued are for economically significant quantities, having regard to the nature of the product covered by the quota.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 717/2008. (See end of Document for details)*

CHAPTER II

SPECIFIC RULES FOR THE DIFFERENT ADMINISTRATIVE METHODS

SECTION A

Method based on traditional trade flows

Article 6

1 Where quota allocation takes account of traditional trade flows, one portion of the quota shall be reserved for traditional importers or exporters while the other shall be set aside for other importers or exporters.

2 Importers or exporters shall be deemed to be traditional if they are able to demonstrate that in the course of a previous period, to be known as 'the reference period' they have imported into the Community or exported from it the product or products covered by the quota.

3 The portion set aside for traditional importers or exporters, the reference period and the portion allocated to other applicants shall be determined in accordance with the procedure referred to in Article 22(2).

4 The allocation shall be carried out in accordance with the principles set out in Articles 7 to 11.

Article 7

To qualify for the allocation of the part of the quota set aside for them, and to provide evidence of the imports or exports carried out during the reference period, traditional importers or exporters shall enclose with their licence applications:

— a certified copy of the original of the entry for free circulation or export declaration made out in the name of the importer or exporter concerned or, where applicable, that of the operator whose activities they have taken over,

— any equivalent evidence, as determined in accordance with the procedure referred to in Article 22(2).

Article 8

Member States shall, within the period laid down in the notice opening the quota concerned, inform the Commission of the number and the aggregate amount of the import or export applications, broken down into those from traditional importers or exporters and other importers or exporters, and of the amount of the previous imports or exports carried out by the applicants during the reference period.

Article 9

The Commission shall examine the information provided by the Member States at the same time and shall establish the quantitative criteria according to which traditional importers' or exporters' applications are to be met as follows:

(a) where aggregate applications are equal to or less than the amount set aside for traditional importers or exporters, applications shall be met in full;

(b) where aggregate applications exceed the amount set aside for traditional importers or exporters, applications shall be met on a pro rata basis, calculated in accordance with each applicant's share of the total reference imports or exports;

(c) where the use of this quantitative criterion would entail allocating amounts greater than those applied for, the excess quantities shall be reassigned following the procedure laid down in Article 14.

Article 10

The portion of the quota set aside for non-traditional importers or exporters shall be allocated in accordance with Article 12.

Article 11

Where no applications are received from traditional importers or exporters, the importers or exporters that do apply shall have access to the whole quota or tranche concerned.

In such cases, the allocation shall be carried out following the procedure laid down in Article 12.

SECTION B

Method based on the order in which applications are submitted

Article 12

1 Where a quota or tranche of a quota is allocated on a 'first come, first served' basis the quantity to which operators are entitled until the quota is exhausted shall be determined in accordance with the procedure referred to in Article 22(2).

In setting that quantity, the same for all operators, allowance shall be made for the need to assign economically significant quantities having regard to the nature of the product concerned.

2 When the competent authorities have checked the Community balance still available, they shall assign to each importer or exporter the quantity determined in accordance with paragraph 1 of this Article.

3 When licence-holders can prove that they have indeed imported or exported the total quantity for which they were issued a licence or a portion to be determined in accordance with the procedure referred to in Article 22(2), they may submit a new licence application. This application shall be processed in accordance with the same conditions as previously. This procedure may be repeated until the quota is exhausted.

4 To ensure that all applicants have equal access to the quota, the Commission shall specify the dates and times of access to the Community balance available in the notice opening the quota.

SECTION C

Method allocating quotas in proportion to the quantities requested

Article 13

1 Where a quota is allocated in proportion to the quantities applied for, the competent authorities of the Member States shall inform the Commission of the licence applications they