Commission Regulation (EC) No 514/2008 of 9 June 2008 amending Regulation (EC) No 376/2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products, as well as Regulations (EC) No 1439/95, (EC) No 245/2001, (EC) No 2535/2001, (EC) No 1342/2003, (EC) No 2336/2003, (EC) No 1345/2005, (EC) No 2014/2005, (EC) No 951/2006, (EC) No 1918/2006, (EC) No 341/2007 (EC) No 1002/2007, (EC) No 1580/2007 and (EC) No 382/2008 and repealing Regulation (EEC) No 1119/79

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amending Regulation (EC) No 376/2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products, as well as Regulations (EC) No 1439/95, (EC) No 245/2001, (EC) No 2535/2001, (EC) No 1342/2003, (EC) No 2336/2003, (EC) No 1345/2005, (EC) No 2014/2005, (EC) No 951/2006, (EC) No 1918/2006, (EC) No 341/2007 (EC) No 1002/2007, (EC) No 1580/2007 and (EC) No 382/2008 and repealing Regulation (EEC) No 1119/79

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine[(1)], and in particular Articles 59(3) and 62(1) thereof,

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)[(2)], and in particular Article 134 and Article 161(3) in conjunction with Article 4 thereof,

Whereas:

(1) As from 1 July 2008 Regulation (EC) No 1234/2007 will apply to main sectors of the common organisation of agricultural markets, as provided for in Article 204 thereof. Consequently, the Commission should adopt the necessary measures to amend or repeal the sectoral Regulations concerned, in order to ensure proper implementation from that date.

(2) Article 130 of Regulation (EC) No 1234/2007 provides that without prejudice to cases where import licences are required in accordance with that Regulation, the Commission may make imports of one or more products covered by the common organisation of agricultural markets subject to presentation of an import licence. Regulation (EC) No 1234/2007 requires import licences on the one hand for the management of the import regime for husked and milled rice, to take into account the quantities to be imported, and on the other hand for the management of the import regime for sugar under preferential arrangements.

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(3) As regards exports, Article 167 of Regulation (EC) No 1234/2007 states that export refunds shall only be granted for products listed in Article 162(1) of that Regulation on presentation of an export licence. In accordance with Article 161 of that Regulation, the Commission may make exports of one or more products subject to presentation of an export licence.

(4) For the purposes of the management of imports and exports, the Commission has been given the power to determine the products for which import and/or export will be subject to presentation of a licence. When assessing the needs of a licence system, the Commission should take account of the appropriate instruments for the management of the markets and in particular for monitoring the imports.

(5) This situation offers the opportunity to examine in depth the existing rules in the different market sectors and to reconsider current practices for licencing with a view to simplification and to alleviating the administrative burden for Member States and operators. For reasons of clarity, the rules should be included in 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)].

(6) A licence system is the appropriate mechanism for the management of tariff quotas for imports and exports to be administered by a method other than the method based on the chronological order of the lodging of applications, according to the first come first served principle, given the limited volume in question and the huge number of quantities applied for.

(7) A licence system is deemed to be the most appropriate mechanism to monitor certain agricultural products imported under preferential conditions, when considering the valuable advantage offered by the reduced rate of duty applicable and the imperative need to forecast market movements.

(8) Taking account of the wide range of detailed rules and technical provisions implemented in the market sectors to administer exports with the benefit of refunds it is deemed more appropriate to maintain those provisions in the sectoral Regulations, at this stage.

(9) In the cereals sector, import and export licences have to be considered as an indicator of medium-term movements and of the foreseeable evolution of the market. They represent a key instrument to set up a balance sheet of the market, to be used when assessing the conditions of resale of intervention stocks in the internal market or for exports, or to determine if an export tax has to be applied. In that respect import should be subject to presentation of a licence for spelt, common wheat and meslin, barley, maize, sorghum, durum wheat, flour of common wheat and spelt, and manioc, and export should be subject to presentation of a licence for spelt, common wheat and meslin, barley, maize, durum wheat, rye, oats and flour of common wheat and spelt in the light of their prevailing importance on the trade flows and the domestic market.

(10) In the rice sector the information on foreseeable imports and exports provided by licences is the basis for the surveillance of the market, in particular because of the important position of rice in domestic consumption. It is also used to monitor the respect

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of tariff lines for like products. In addition, licences issued are to be taken into account for the calculation of import duties for husked and milled rice pursuant to Articles 137 and 139 of Regulation (EC) No 1234/2007. For these reasons, import licence should be required for husked rice, milled rice, semi-milled rice and for broken rice, and export licence should be required for husked, milled and semi-milled rice.

(11) For sugar, the monitoring of the market is of high importance and a precise knowledge of exports is necessary. As a consequence, sugar exports should be monitored and be subject to presentation of licences. As regards imports, the licence requirement should be limited to imports benefiting from preferential import duties, without prejudice to imports subject to tariff quotas.

(12) In order to prevent illicit hemp crops from disturbing the common organisation of the market in hemp for fibre, provision should be made for checks on imports of hemp and hemp seed to ensure that such products offer certain guarantees with regard to the tetrahydrocannabinol content. The issue of licences for such import should therefore be provided for.

(13) For fruit and vegetables, the information gained from import licences should be used to monitor the respect of tariff lines for like products such as dried or frozen garlic or to administer tariff-rate quotas.

(14) Apple producers in the Community have recently found themselves in a difficult situation, due, amongst others, to a significant increase in imports of apples from certain third countries of the Southern hemisphere. The monitoring of the import of apples should therefore be improved. The appropriate instrument for achieving that objective is a mechanism based on issuing import licences, as provided in Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector[(4)]. As regards bananas, import licences are required pursuant to Commission Regulation (EC) No 2014/2005 of 9 December 2005 on licences under the arrangements for importing bananas into the Community in respect of bananas released into free circulation at the common customs tariff rate of duty.[(5)] In order to give a complete view of the products subject to licences, the relevant requirements should also be included in Regulation (EC) No 376/2008.

(15) For dairy products, the information on foreseeable imports at reduced duty provided by licences is important for the surveillance of the market. As regards imports at reduced rate of duty of beef, in order to monitor the volume of trade with third countries, provision should be made for a system of licences for certain products.

(16) Ethyl alcohol of agricultural origin imports should be subject to presentation of licences given the needs for market surveillance in case of a sensitive industry.

(17) In order to present a clear and complete view of the obligations in respect of licences for trade in agricultural products, the list of imports and exports subject to the requirements concerned should be set out in Commission Regulation (EC) No 376/2008.

(18) For the application of Article 4(1)(d) of Regulation (EC) No 376/2008, the maximum quantities of products for which import or export or advance fixing certificates need

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not to be presented should be set out, provided import or export does not take place under preferential arrangements. The list of products concerned should be amended in the light of the amendments made to the licencing obligations.

(19) Regulation (EC) No 376/2008 and the following Regulations should therefore be amended accordingly:

— Commission Regulation (EC) No 1439/95 of 26 June 1995 laying down detailed rules for the application of Council Regulation (EEC) No 3013/89 as regards the import and export of products in the sheepmeat and goatmeat sector[(6)],

— Commission Regulation (EC) No 245/2001 of 5 February 2001 laying down detailed rules for the application of Council Regulation (EC) No 1673/2000 on the common organisation of the markets in flax and hemp grown for fibre[(7)],

— Commission Regulation (EC) No 2535/2001 of 14 December 2001 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the import arrangements for milk and milk products and opening tariff quotas[(8)],

— Commission Regulation (EC) No 1342/2003 of 28 July 2003 laying down detailed rules for the application of the system of import and export licences for cereals and rice[(9)],

— Commission Regulation (EC) No 2336/2003 of 30 December 2003 introducing certain detailed rules for applying Council Regulation (EC) No 670/2003 laying down specific measures concerning the market in ethyl alcohol of agricultural origin[(10)],

— Commission Regulation (EC) No 1345/2005 of 16 August 2005 laying down detailed rules for the application of the system of import licences for olive oil[(11)],

— Regulation (EC) No 2014/2005,

— Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector[(12)],

— Commission Regulation (EC) No 1918/2006 of 20 December 2006 opening and providing for the administration of tariff quota for olive oil originating in Tunisia[(13)],

— Commission Regulation (EC) No 341/2007 of 29 March 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[(14)],

— Commission Regulation (EC) No 1002/2007 of 29 August 2007 laying down detailed rules for the application of Council Regulation (EC) No 2184/96 concerning imports into the Community of rice originating in and coming from Egypt[(15)],

— Regulation (EC) No 1580/2007,

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— Commission Regulation (EC) No 382/2008 of 21 April 2008 on rules of application for import and export licences in the beef and veal sector (Recast)[16].

(20) Commission Regulation (EEC) No 1119/79 of 6 June 1979 laying down special provisions for the implementation of the system of import licences for seeds[17] should therefore be repealed accordingly.

(21) 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

Regulation (EC) No 376/2008 is amended as follows:

1. Article 1 is replaced by the following:

Article 1

1 Subject to certain exceptions laid down in Community rules specific to certain products, in particular for products referred to in Council Regulation (EC) No 3448/93[18] and its implementing rules, this Regulation lays down common rules for implementing the system of import and export licences and advance fixing certificates (hereinafter referred to respectively as "licences" and "certificates") provided for in Part III, Chapters II and III, of Council Regulation (EC) No 1234/2007[19] and in Council Regulation (EC) No 1493/1999[20] or established in this Regulation.

2 A licence or a certificate shall be presented for the following products:

a in case of import, when the products are declared for free circulation:

(i) products listed in Annex II, Part I, imported under all conditions, other than tariff quotas, save as otherwise provided therein;

(ii) products imported under tariff quotas administered by other methods than a method based on the chronological order of the lodging of applications, according to "first come first served" principle, in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93[21];

(iii) products imported under tariff quotas administered by a method based on the chronological order of the lodging of applications in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93, specifically mentioned in Annex II, Part I, to this Regulation;

b in case of export:

(i) products listed in Annex II, Part II;

(ii) products referred to in Article 162(1) of Regulation (EC) No 1234/2007 for which an export refund has been fixed, including at an amount of zero or an export tax has been fixed;

(iii) products exported under quotas or for which an export licence needs to be presented for admission under a quota administered by a third country opened in that country for Community products imported.