Commission Regulation (EC) No 1818/2006 of 11 December 2006 on the implementation of the management system of the quantitative ceiling of potassium chloride in relation to the anti-dumping measures applicable on imports of potassium chloride originating in Belarus

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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 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community[(1)] (the basic Regulation),

Having regard to Council Regulation (EC) No 1050/2006 imposing a definitive anti-dumping duty on imports of potassium chloride originating in Belarus and Russia[(2)], and in particular Article 2(1) thereof,

After consulting the Advisory Committee,

Whereas:

(1) By Regulation (EC) No 1050/2006, the Council imposed anti-dumping measures on imports of potassium chloride originating, *inter alia*, in Belarus. In view of the special market conditions prevailing on the potassium chloride market, it was considered appropriate to impose measures in the form of a minimum import price (MIP) for product types falling under CN codes 3104 20 50 and 3104 20 90 (TARIC codes 3104 20 50 10, 3104 20 50 90 and 3104 20 90 00), up to a quantitative ceiling, beyond which an *ad valorem* duty of 27,5 % should apply (product concerned).

(2) The Council, in Regulation (EC) No 1050/2006 of 11 July 2006, acknowledged that the introduction of a quantitative ceiling requires a management system which could not be put in place prior to the entry into force of that Regulation. Therefore, the Council in Article 2(1) of Regulation (EC) No 1050/2006 empowered the Commission to set out by a Regulation the modalities for implementing the management system of the quantitative ceiling as soon as it was technically possible.

(3) The effective management of the quantitative ceiling calls for the introduction of a requirement for a Community import authorisation for the release for free circulation in the Community of the product concerned until the quantitative ceiling is exhausted. In order to minimise interference in the market and to provide fair access to the quantitative ceiling to all economic operators it is considered appropriate to issue the

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1818/2006. (See end of Document for details)*

import authorisation in a chronological order in which the notifications of Member States are received.

(4) In order to ensure that the quantitative ceiling is not exceeded, it is necessary to establish a procedure whereby the competent authorities of Member States do not issue import authorisations before obtaining confirmation from the Commission that appropriate amounts remain available within the quantitative ceiling.

(5) In order to combat speculative or artificial practices in relation to issue of import authorisation, it is considered appropriate to limit individual applications to the amount stated in the relevant contract entered into between the importer and exporter; as well as to limit the validity of the import authorisations to three months. In this context, the Commission also recalls that Article 5(3) of Council Regulation (EEC) No 2913/92[(3)] provides that save in exceptional circumstances, the customs representative designated by the importer must be established within the Community. Moreover, for the same purpose (i.e. to combat speculative and artificial practices) it is considered appropriate to define the exporter, as an economic operator having its registered office, central headquarters or a permanent business establishment in Belarus.

(6) The use of computerised procedures is gradually replacing the manual input of data in different areas of administrative activity. It should therefore also be possible to use computerised and electronic procedures when applying for import authorisation as well as for the issue of such import authorisations.

(7) In the interest of good administration the Commission considers it appropriate to provide sufficient time for the Member States for the implementation of the management system for the quantitative ceiling established by this Regulation, as well as for the economic operators to become accustomed to the new system of import authorisations. Therefore it is considered appropriate that the regulation enters into force on 1 January 2007,

HAS ADOPTED THIS REGULATION:

General provisions

Article 1

1 This Regulation lays down detailed rules for the management system of the quantitative ceiling of potassium chloride originating in Belarus, as provided for in Article 2(1) of Regulation (EC) No 1050/2006.

2 All products released for free circulation under the quantitative ceiling referred to in paragraph (1) shall be subject to the presentation of an import authorisation issued in accordance with the Articles below.

Article 2

For the purpose of this Regulation:

1. ‘contract’ means the contract agreed and signed between the exporter and importer;

2. ‘exporter’ means an economic operator having its registered office, central headquarters or a permanent business establishment in Belarus;

3. ‘import authorisation’ means the import authorisation which is issued by the national authorities for the release for free circulation of the product concerned in the Community in accordance with this Regulation;

4. ‘importer’ means any economic operator, which carries out itself, or through a representative acting on its behalf, the formalities for the release for free circulation of the product concerned;

5. ‘national authorities’ means the national authorities of the Member States competent to issue the import authorisation in accordance with this Regulation, as listed in Annex I;

6. ‘product concerned’ means potassium chloride originating in Belarus, falling under CN codes 3104 20 50 and 3104 20 90 (TARIC codes 3104 20 50 10, 3104 20 50 90 and 3104 20 90 00).

Modalities applicable to the management of the quantitative ceiling

Article 3

1 Only importers may lodge a request or declaration for import authorisations. Such request or declaration may be lodged with the national authorities, as listed in Annex I, in each of the Member States. The quantities requested in individual applications cannot exceed the quantities agreed for in the corresponding contract.

2 The declaration or request made by the importer in order to obtain the import authorisation shall contain at least the information listed in Annex II.

3 The importer shall present the original of the contract at the time when the request or declaration for the import authorisation is submitted to the national authorities.

4 The national authorities shall refuse declarations or requests for import authorisations that are not lodged in accordance with this Regulation.

Article 4

1 In order to ensure that quantities for which import authorisations are issued do not exceed at any moment the total quantitative ceiling for the product concerned, the national authorities shall issue import authorisations only upon confirmation by the Commission that there are still quantities available within the quantitative ceiling for the product concerned.

2 The authorised imports shall be counted against the quantitative ceiling laid down for the year in which the request for import authorisation was submitted to the national authorities.

3 For the purpose of applying paragraph 1, before issuing import authorisations, the national authorities shall notify the Commission of the amounts of the requests for import authorisations, supported by the contract, which they have received. By return, the Commission shall notify whether the requested amount(s) of quantities are available for release for free circulation in the chronological order in which notifications of the national authorities are received (first come first served).

4 The requests included in the notifications to the Commission shall be valid if they establish clearly in each case the exporting country, the applicable TARIC code, the quantities to be imported, the number of the contract, the CIF or DAF (as applicable and as defined in

Incoterms 2000) value of the product concerned at Community frontier by TARIC code and the applicable year of the quantitative ceiling.

5 The notifications referred to in paragraphs 3 to 4 shall be communicated electronically within the integrated network set up for this purpose, unless for imperative technical reasons it is necessary to use other means of communication temporarily.

Article 5

1 To the extent that the Commission, pursuant to Article 4, has confirmed that the amount requested is available within the quantitative ceiling, the national authorities shall issue an import authorisation within a maximum of ten working days from the presentation by the importer of the original corresponding contract. Import authorisations shall be issued by the national authorities of any Member State irrespective of the Member State indicated as destination in the contract to the extent that the Commission has confirmed the availability of the amount within the quantitative ceiling.

2 Import authorisations shall be drawn up in accordance with the model set out in Annex III.

3 The validity of import authorisations issued by the national authorities shall be valid for three months. If a request or declaration for import authorisation is submitted after 1 October of a given year, the validity of the import authorisation issued on the basis of such declaration or request shall not exceed 31 December of the same year.

4 The quantities for which the import authorisation is issued shall not exceed the quantity indicated in the contract on the basis of which the import authorisation is issued.

5 Importers shall not be obliged to import the total quantity covered by an import authorisation in one single consignment.

6 Obligations and rights deriving from import authorisations or extracts shall not be transferable.

7 The import authorisations may be issued by electronic means as long as the customs offices involved have access to the import authorisation via a computer network.

8 Importers shall return the expired import authorisations to the issuing national authorities within 10 working days after the date of their expiry. Importers shall not apply for a new import authorisation as long as 85 % of the quantity of the valid import authorisation has not been imported.

Article 6

Import authorisations shall be issued by national authorities in accordance with Article 4 without discrimination to any importer in the Community wherever the place of his establishment may be in the Community.

Article 7

1 The national authorities shall notify the Commission immediately after being informed of any quantity that is not used during the duration of validity of the import authorisation. Such quantities shall automatically be transferred into the unused quantities of the quantitative ceiling as soon as possible.

2 National authorities shall notify the Commission of any cancellation of import authorisation or any equivalent documents already issued, in case where the corresponding contract has been terminated by either the exporter or the importer. However, if the Commission

or the national authorities have been informed by the importer of the termination of the contract after some quantities of the product concerned agreed in the contract have been imported into the Community, the quantities in question shall be counted against the quantitative ceiling for the year in which the declaration or request for the import authorisation was submitted to the national authorities.

Article 8

If the Commission finds that the total quantities of the product concerned covered by the contracts in any year reaches the quantitative ceiling, the national authorities shall be informed immediately in order to suspend the further issue of import authorisations.

Community import authorisation — common form

Article 9

1 The forms to be used by the national authorities for issuing the import authorisations referred to in Articles 4 to 7 shall conform to the model of the import authorisation set out in Annex III.

2 Import authorisation forms and extracts thereof shall be drawn up in duplicate, one copy, marked ‘Holder's copy’ and bearing the number 1 to be issued to the applicant, and the other, marked ‘Copy for the issuing authority’ and bearing the No 2, to be kept by the authority issuing the import authorisations. For administrative purposes the national authorities may add additional copies to form 2.

3 Forms shall be printed on white paper free of mechanical pulp, dressed for writing and weighing between 55 and 65 g/m^2. Their size shall be 210 × 297 mm; the type space between the lines shall be 4,24 mm (one sixth of an inch); the layout of the forms shall be followed precisely. Both sides of copy No 1, which is the import authorisation itself, shall in addition have a red printed guilloche-pattern background making any falsification by mechanical or chemical means apparent to the eye.

4 Member States shall be responsible for having the forms printed. The forms may also be printed by printers appointed by the Member State in which they are established. In the latter case, reference to the appointment by the Member State must appear on each form. Each form shall bear the printer's name and address or a mark enabling the printer to be identified.

5 At the time of their issue the import authorisations or extracts shall be given an issue number determined by the national authority. The import authorisation number shall be notified to the Commission electronically within the integrated network set up under Article 4.

6 Import authorisations and extracts shall be completed in the official language, or one of the official languages, of the Member State of issue.

7 The marks of the issuing national authorities and the customs offices or competent administrative authorities shall be applied by means of a stamp. However, an embossing press combined with letters or figures obtained by means of perforation, or printing on the import authorisation may be substituted for the issuing national authority's stamp. The issuing national authorities shall use any tamper-proof method to record the quantity allocated in such a way as to make it impossible to insert figures or references.

8 The reverse of copy No 1 and copy No 2 shall bear a box in which quantities may be entered, either by the customs authorities when import formalities are completed, or by the competent administrative authorities when an extract is issued. If the space set aside for debits on an import authorisation or extract thereof is insufficient, the competent authorities of Member