Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences

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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 1784/2003 of 29 September 2003 on the common organisation of the market in cereals[(1)], and in particular Articles 9(2) and 12(1) thereof, and the corresponding articles of the other Regulations on the common organisation of the markets in agricultural products,

Whereas:

(1) The Community has undertaken to open import tariff quotas for certain agricultural products. In some cases imports of products under such import tariff quotas are subject to an import licensing system.

(2) Council Regulation (EC) No 3290/94 of 22 December 1994 on the adjustments and transitional arrangements required in the agriculture sector in order to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations[(2)], as well as various agreements concluded between the Community and certain third countries and Council Decisions opening import tariff quotas on an autonomous basis provide for different management methods in respect of import tariff quotas subject to an import licensing system.

(3) In order to simplify and improve the effectiveness and usefulness of the administration and control mechanisms, common conditions should be laid down for the administration of import tariff quotas subject to an import licensing system and which have to be managed by a method according to which licences are allocated in proportion to the overall quantities requested (hereinafter the 'simultaneous examination method'), or a method of import based on documents to be issued by third countries. Such provisions should also contain rules on the submission of applications and licences which should apply where necessary in addition to or by way of derogation from certain provisions of Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products[(3)].

(4) A single annual import quota period should be opened in respect of all the import tariff quotas falling within the scope of this Regulation. However, in some cases, there may be a need to provide for subperiods within the annual import quota period.

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(5) Experience shows that provisions need to be laid down to deter inaccurate documents from being presented. A suitable penalty system should therefore be established and the cases where no penalties are to be applied should be determined.

(6) Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code[(4)] applies for the management of tariff measures. Pursuant to Article 1 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code[(5)], Regulation (EEC) No 2454/93 is applicable without prejudice to specific provisions laid down in other fields. Such specific provisions exist for the management of import tariff quotas for agricultural products managed by a system of import licences. However, the rules on Community surveillance as set out in Article 308d of Regulation (EEC) No 2454/93 should apply to improve controls.

(7) As regards the simultaneous examination method, detailed rules covering the submission of licence applications and the necessary information should be laid down. In that connection, in order to improve controls, provision should be made for applicants to be able to submit not more than one import licence application for the same quota order number in respect of a given import tariff quota period or subperiod, as the case may be. Moreover, such applications should be lodged only in a Member State in which the applicant is established and registered for VAT purposes.

(8) Provisions governing the issuing of import licences should be laid down. Licences should be issued after an adequate period for evaluating the licence applications submitted. However, if the quantities covered by the licence applications exceed the quantities available for the import tariff quota period concerned, allocation should be subject, where appropriate, to the application of an allocation coefficient. After that coefficient has been applied, the result may nevertheless need to be adapted as regards the decimals in order to ensure that the available quantity will not be exceeded.

(9) Provision should be made for the period of validity of import licences to be fixed by the Commission Regulations governing the import tariff quota concerned. However, experience shows that to ensure the best efficiency of Community surveillance as set out in Article 308d of Regulation (EEC) No 2454/93, in the interest of sound management of import tariff quotas, provision should be made for import licences not to be valid after the last day of the import tariff quota period, even if that day is a Saturday, Sunday or public holiday, by way of derogation from Article 3(4) of Council Regulation (EEC, Euratom) No 1182/71 of 3 June 1971 determining the rules applicable to periods, dates and time limits[(6)]. If a titular holder or a transferee of an import licence has been unable to use the licence owing to a case of *force majeure*, he should only be entitled to apply to the competent body of the Member State of issue for the licence to be cancelled and, by way of derogation from Article 41 of Regulation (EC) No 1291/2000, not to apply for the period of validity of the licence to be extended after the last day of the import tariff quota period.

(10) The rules applicable to the time limit within which proof has to be furnished that licences have been used should also be laid down.

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(11) For the sake of the sound management of import tariff quotas, the Commission should receive the relevant information in good time.

(12) Common conditions based on documents issued by third countries, such as export licences, should be established for the management system.

(13) The measures provided for in this Regulation are in accordance with the opinion of the management committees concerned,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PRINCIPLES

Article 1

Scope and definition

1 Without prejudice to derogations laid down in Commission Regulations specific to certain quotas, this Regulation lays down common rules for the administration of import tariff quotas managed by a system of import licences and the management of which falls within the scope of the common organisation of a market.

This Regulation shall not apply to the import tariff quotas listed in Annex I.

2 Commission Regulations governing a given import tariff quota managed by a system of import licences and the management of which does not fall within the scope of the common organisation of a market may provide that this Regulation shall apply to that import tariff quota.

3 Regulation (EC) No 1291/2000 shall apply to import licences, save as otherwise provided for in this Regulation.

4 For the purposes of this Regulation, ‘import tariff quota’ means a specified quantity of goods that can be imported during a limited period subject to the total (total suspension) or partial waiver (partial suspension) of the normal duties applicable.

Article 2

Import tariff quota period

1 Import tariff quotas shall be opened for a period of 12 consecutive months, hereinafter referred to as ‘import tariff quota period’.

2 The import tariff quota period may be divided into several subperiods.

Article 3

Penalties

1 Where it is found that a document presented by an applicant for the attribution of the rights deriving from Commission Regulations governing a given import quota provides

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with incorrect information and where the incorrect information concerned is decisive for the attribution of that right, the competent authorities of the Member State shall:

a bar the applicant from importing any goods under the import tariff quota concerned for the entire import tariff quota period during which the finding was made and;

b exclude the applicant from the licence application system for the import tariff quota concerned during the following import tariff quota period.

However, points (a) and (b) of the first subparagraph shall not apply if the applicant proves, to the satisfaction of the competent authority, that the situation referred to in the first subparagraph is not due to his gross negligence or that it is due to *force majeure* or to obvious error.

2 If an applicant presents an incorrect document as referred to in paragraph 1 deliberately, that applicant shall:

a be barred from importing any goods under the import tariff quota concerned for the entire import tariff quota period during which the finding was made and;

b be excluded from the licence application system for the import tariff quota concerned during the following two import tariff quota periods.

3 Where imports have already been carried out prior to the finding referred to in paragraphs 1 or 2, any undue financial advantages resulting therefrom shall be recovered.

4 Subject to Article 6 of Council Regulation (EC, Euratom) No 2988/95[7], the penalties referred to in paragraphs 1 and 2 of this Article shall be without prejudice to any additional penalties pursuant to other provisions of Community or national law.

Article 4

Surveillance of goods

At the request of the Commission, the Member States shall forward to the Commission details of the quantities of products put into free circulation under the import tariff quotas during the months specified by the Commission, in accordance with Article 308d of Regulation (EEC) No 2454/93.

Article 5

Applicants

Applicants shall submit, at the time of their first application for a given import tariff quota period to the competent authorities of the Member State in which they are established and in which they are registered for VAT purposes the application referred to in Article 6(1) accompanied by proof that at the time their application is submitted, they have been engaged in trade with third countries in products covered by the relevant common market organisation:

— during the 12 month period immediately prior to the time of that application, and

— during the 12 month period immediately prior to the 12 month period referred to in the first indent.

Proof of trade with third countries shall be furnished exclusively either by means of the customs documents of release for free circulation, duly endorsed by the customs authorities and containing a reference to the applicant concerned as being the consignee,

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or by means of the customs document of exportation duly endorsed by the customs authorities.

Customs agents or representatives shall not apply for import licences under the quotas falling within the scope of this Regulation.

CHAPTER II

SIMULTANEOUS EXAMINATION METHOD

Article 6

Import licence applications and import licences

1 Applicants for import licences shall not lodge more than one import licence application for the same quota order number in respect of an import tariff quota period or subperiod. Where an applicant lodges more than one application, none of his applications shall be admissible.

2 In accordance with Article 15(2) of Regulation (EC) No 1291/2000 a security shall be lodged. The security shall be released in respect of quantities covered by applications for which no licence could be issued further to the application of the allocation coefficient referred to in Article 7(2) of this Regulation.

3 Where this is deemed necessary for the management of a given import tariff quota, the Commission Regulations governing that quota may provide for additional conditions. They may, in particular, provide for the application of a system according to which the quotas are managed by attributing import rights as a first step and issuing import licences as a second.

Paragraphs 1, 2 and 5 of this Article, Article 5, Article 7(1) second subparagraph, Article 7(2) and (4) and Article 11(1)(a) shall apply *mutatis mutandis* where a system of attribution of import rights is applied.

4 Box 20 of import licence applications and import licences shall contain the import tariff quota order number referred to in paragraph 1.

5 An import licence application may not relate, by import tariff quota period or subperiod, to a quantity exceeding the quantity or, as the case may be, the limit fixed by the Commission Regulations governing the import tariff quota for that import tariff quota period or subperiod.

6 Import licence applications shall be lodged during a period fixed by the Commission Regulations governing the import tariff quota in question. That period may precede the import tariff quota period or subperiod.

7 Quantities shall be indicated by weight, volume in whole units or pieces, not fractions thereof, on the import licence applications.