COMMISSION IMPLEMENTING REGULATION (EU) 2023/254

of 6 February 2023

amending Implementing Regulation (EU) 2020/761 as regards certain technical rules on the management of tariff rate quotas

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ([1]), and in particular Article 187 thereof,

Whereas:

(1) Commission Implementing Regulation (EU) 2020/761 ([2]) lays down the rules for the management of import and export tariff quotas for agricultural products managed by a system of import and export licences and provides for specific rules.

(2) Article 6(4) of Implementing Regulation (EU) 2020/761 provides, that if an applicant submits more applications for a tariff quota than the maximum number set out in Article 6(3) of that Implementing Regulation, all his applications are inadmissible and the securities lodged forfeited. To avoid excessive punishment the possibility to forfeit the security should be eliminated.

(3) According to Article 9 of Implementing Regulation (EU) 2020/761, operators applying for licences for tariff rate quotas referred to in Article 4 of Commission Delegated Regulation (EU) 2020/760 ([3]) are bound to lodge the relevant securities before the end of the application period. For licences not related to tariff quotas, instead, operators are to lodge the security on the day of application for a licence. This situation can create difficulties in the management of licences. To avoid any risks of mismanagement and abuse, national licence issuing authorities should be given the possibility to set the deadline for lodging the securities for tariff quota licences.

(4) Article 3(4) of Regulation (EEC, Euratom) No 1182/71 of the Council ([4]) provides that when a period ends on a public holiday, Saturday, or Sunday, its end is to be postponed to the end of the following working day. Article 13(1) of Implementing Regulation (EU) 2020/761 provides that this rule does not apply to the period of validity of licences for tariff rate quotas. Article 12(1), point (e), of Implementing Regulation (EU) 2020/761 provides that this rule is to be indicated in a specific section of licences for tariff rate quotas where the period of validity of the licence expires on the last day of the tariff quota period. Therefore, Article 12(1) of Implementing Regulation (EU) 2020/761 should be aligned to Article 13(1) of that Implementing Regulation to avoid misinterpretation.

(5) Article 16(5) of Implementing Regulation (EU) 2020/761 requires Member States to notify to the Commission the unused quantities covered by licences. To improve the quality of the data provided, the Member States should also notify the quantities of products covered by import licences and released into free circulation during the preceding import tariff quota period.

([1]) OJ L 347, 20.12.2013, p. 671.

([2]) Commission Implementing Regulation (EU) 2020/761 of 17 December 2019 laying down rules for the application of Regulations (EU) No 1306/2013, (EU) No 1308/2013 and (EU) No 510/2014 of the European Parliament and of the Council as regards the management system of tariff quotas with licences (OJ L 185, 12.6.2020, p. 24).

([3]) Commission Delegated Regulation (EU) 2020/760 of 17 December 2019 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the rules for the administration of import and export tariff quotas subject to licences and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the lodging of securities in the administration of tariff quotas (OJ L 185, 12.6.2020, p. 1).

([4]) Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).

(6) Since the tariff quota with order number 09.4264 lacks volume, its table and the reference to it should be deleted from Annexes I and XII to Implementing Regulation (EU) 2020/761.

(7) Due to an excessive demand for volumes under the tariff quotas with order numbers 09.4268 and 09.4269, the rules on the registration in the Licence Operator Registration and Identification electronic system (LORI) and on the reference quantity should also apply to those tariff quotas. Moreover, the rules on proof of trade shall apply only if the reference quantity requirement is suspended in accordance with Article 9(9) of Delegated Regulation (EU) 2020/760.

(8) Tariff quotas with order numbers 09.4281 and 09.4282 are open for beef and pigmeat, respectively, from Canada. According to Articles 46 and 66 of Implementing Regulation (EU) 2020/761 the quantity is expressed in carcass equivalent. To avoid any confusion, this should be clarified also in the relevant tables in Annexes VIII and X to Implementing Regulation (EU) 2020/761. Moreover for the reasons of clarity, the total quantity available in the past years should be removed.

(9) Tariff quota with order number 09.4226 is open to imports from Iceland of Skyr, whereas tariff quota with order number 09.4227 is open to imports from Iceland of cheeses excluding 'Skyr'. Following the latest update of the TARIC code for Skyr, this code should be integrated in the tables of those tariff quotas in Annex IX to Implementing Regulation (EU) 2020/761.

(10) Due to difficulties with the full use of tariff quotas with order numbers 09.4225, 09.4226 and 09.4227, the requirement of a proof of trade in case of those quotas should be lifted.

(11) For clarity reasons the templates for IMA 1 certificates set out in Annex XIV.5 to Implementing Regulation (EU) 2020/761, Parts A.1 and A.2, should indicate – in box 16 – the number of the tariff rate quota to which the certificate refers. Moreover, to avoid any confusion with box 4, box 3 of the template of IMA 1 certificate for tariff quotas with order numbers 09.4195 and 09.4182 set out in Annex XIV.5, Part A.2, to that Implementing Regulation should contain the name of the buyer instead of the number and the date of invoice.

(12) Implementing Regulation (EU) 2020/761 should therefore be amended accordingly.

(13) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Implementing Regulation (EU) 2020/761

Implementing Regulation (EU) 2020/761 is amended as follows:

(1) in Article 6, paragraph 4 is replaced by the following:

'4. If an applicant submits more applications for a tariff quota than the maximum number set out in paragraph 3, none of the applications submitted for the tariff quota shall be admissible.';

(2) Article 9 is replaced by the following:

'*Article 9*

Security to be lodged upon submission of an application for an import or export licence

Where the issue of a licence is subject to the lodging of a security pursuant to Article 4 of Delegated Regulation (EU) 2020/760, the applicant shall lodge the security with the licence issuing authority before the end of the application period in the amount set out for each tariff quota in Annexes II to XIII to this Regulation.

However, the licence issuing authority may oblige operators to lodge the security pursuant to Article 4 of Delegated Regulation (EU) 2020/760 on the day of application for licences, in accordance with Article 4(2) of Delegated Regulation (EU) 2016/1237.';

(3) in Article 12(1), point (e) is replaced by the following:

'(e) Section 24 of the import licence or Section 22 of the export licence shall contain the statement that "Article 3(4) of Regulation (EEC, Euratom) No 1182/71 shall not apply" (*).

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(*)
— In Bulgarian: Член 3, параграф 4 от Регламент (ЕИО, Евратом) № 1182/71 не се прилага
— In Spanish: No es de aplicación el artículo 3, apartado 4, del Reglamento (CEE, Euratom) n o 1182/71
— In Czech: Ustanovení čl. 3 odst. 4 nařízení (EHS, Euratom) č. 1182/71 se nepoužije
— In Danish: Artikel 3, stk. 4, i forordning (EØF, Euratom) nr. 1182/71 finder ikke anvendelse
— In German: Artikel 3 Absatz 4 der Verordnung (EWG, Euratom) Nr. 1182/71 kommt nicht zur Anwendung
— In Estonian: Määruse (EMÜ, Euratom) nr 1182/71 artikli 3 lõiget 4 ei kohaldata
— In Greek: Το άρθρο 3 παράγραφος 4 του κανονισμού (ΕΟΚ, Ευρατόμ) αριθ. 1182/71 δεν εφαρμόζεται
— In English: Article 3(4) of Regulation (EEC, Euratom) No 1182/71 shall not apply
— In French: L'article 3, paragraphe 4, du règlement (CEE, Euratom) n o 1182/71 ne s'applique pas
— In Croatian: Članak 3. stavak 4. Uredbe (EEZ, Euratom) br. 1182/71 se ne primjenjuje
— In Italian: L'articolo 3, paragrafo 4, del regolamento (CEE, Euratom) n. 1182/71 non si applica
— In Latvian: Regulas (EEK, Euratom) Nr. 1182/71 3. panta 4. punktu nepiemēro
— In Lithuanian: Reglamento (EEB, Euratomas) Nr. 1182/71 3 straipsnio 4 dalis netaikoma
— In Hungarian: Az 1182/71/EGK, Euratom rendelet 3. cikkének (4) bekezdését nem kell alkalmazni
— In Maltese: L-Artikolu 3(4) tar-Regolament (KEE, Euratom) Nru 1182/71 ma għandux japplika
— In Dutch: Artikel 3, lid 4, van Verordening (EEG, Euratom) nr. 1182/71 is niet van toepassing
— In Polish: Artykuł 3 ust. 4 rozporządzenia (EWG, Euratom) nr 1182/71 nie ma zastosowania
— In Portuguese: O artigo 3. o, n. o 4, do Regulamento (CEE, Euratom) n. o 1182/71 não é aplicável
— In Romanian: Articolul 3 alineatul 4 din Regulamentul (CEE, Euratom) nr. 1182/71 nu se aplică
— In Slovak: Článok 3 ods. 4 nariadenia (EHS, Euratom) č. 1182/71 sa neuplatňuje
— In Slovenian: Člen 3(4) Uredbe (EGS, Euratom) št. 1182/71 se ne uporablja
— In Finnish: Asetuksen (ETY, Euratom) N:o 1182/71 3 artiklan 4 kohtaa ei sovelleta
— In Swedish: Artikel 3.4 i förordning (EEG, Euartom) nr 1182/71 skall inte tillämpas.';

(4) in Article 16, paragraph 5 is replaced by the following:

'5. Within 4 months or 210 calendar days respectively, following the expiry of the period of validity of the licences concerned, Member States shall notify to the Commission:

(a) the unused quantities covered by import or export licences; and

(b) the quantities of products covered by import licences and released into free circulation during the preceding import tariff quota period.';

(5) Annexes I, VIII, IX, X, XII and XIV.5 are amended in accordance with the Annex to this Regulation.

Article 2

Entry into force and application

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

Article 1 shall apply to the licence application periods starting after the entry into force of this Regulation.

However:

(a) Article 1(2), points (3)(b)(i) and (ii), and (3)(c)(i) and (ii), and point (6) of the Annex shall apply as from the first day of 90-day period after the publication of this Regulation in the *Official Journal of the European Union* or, where applicable, to the first application period opening after that period;

(b) point (1)(b) and point (5)(b) of the Annex shall apply to the tariff rate quota period starting in July 2023.

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

Done at Brussels, 6 February 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Annexes I, VIII, IX, X, XII and XIV.5 to Implementing Regulation (EU) 2020/761 are amended as follows:

(1) Annex I is amended as follows:

(a) the row relating to tariff quota with order number 09.4264 is deleted;

(b) the rows relating to tariff quotas with order numbers 09.4268 and 09.4269 are replaced by the following:

'09.4268	Poultry meat	Import	EU: simultaneous examination	Yes	Only when Article 9(9) of Delegated Regulation (EU) 2020/760 applies	Till end of TRQ period	Yes
09.4269	Poultry meat	Import	EU: simultaneous examination	Yes	Only when Article 9(9) of Delegated Regulation (EU) 2020/760 applies	Till end of TRQ period	Yes'

(2) in Annex VIII, in the table relating to tariff quota with order number 09.4281, the row 'Quantity in kg' is replaced by the following:

'**Quantity in kg**	15 000 000 kg (carcass weight equivalent) divided as follows: 25 % for sub-period 1 January to 31 March 25 % for sub-period 1 April to 30 June 25 % for sub-period 1 July to 30 September 25 % for sub-period 1 October to 31 December'

(3) Annex IX is amended as follows:

(a) in the table relating to tariff quota with order number 09.4225, the row 'Proof of trade' is replaced by the following:

'**Proof of trade**	No'

(b) the table relating to tariff quota with order number 09.4226 is amended as follows:

(i) the row 'Product description' is replaced by the following:

'**Product description** (*)	Skyr

(*) *Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential arrangements being determined, within the context of this Annex, by the coverage of the CN codes. Where ex CN codes are referred to, the applicability of the preferential arrangements is determined to the basis of the CN code and the corresponding description taken jointly.*';

(ii) the row 'CN codes' is replaced by the following:

'**CN codes**	Ex 0406 10 50 (TARIC code 0406 10 50 10)'

(iii) the row 'Proof of trade' is replaced by the following:

'**Proof of trade**	No'

(c) the table relating to tariff quota with order number 09.4227 is amended as follows:

(i) the row 'Product description' is replaced by the following:

'**Product description** (*)	Cheeses, excluding "Skyr" of TARIC code 0406 10 50 10

(*) *Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential arrangements being determined, within the context of this Annex, by the coverage of the CN codes. Where ex CN codes are referred to, the applicability of the preferential arrangements is determined to the basis of the CN code and the corresponding description taken jointly.*';

(ii) the row 'CN codes' is replaced by the following:

'**CN codes**	Ex 0406 excluding "Skyr" of TARIC code 0406 10 50 10'

(iii) the row 'Proof of trade' is replaced by the following:

'**Proof of trade**	No'

(4) in Annex X, in the table relating to tariff quota with order number 09.4282, the row 'Quantity in kg' is replaced by the following:

'**Quantity in kg**	80 548 000 kg (carcass weight equivalent), divided as follows: 25 % for each sub-period'

(5) Annex XII is amended as follows:

(a) the table relating to tariff quota with order number 09.4264 is deleted;

(b) the tables relating to tariff quotas with order numbers 09.4268 and 09.4269 are amended as follows:

(i) the row 'Proof of trade' is replaced by the following:

'**Proof of trade**	Yes. Proof of trade required only when Article 9(9) of Delegated Regulation (EU) 2020/760 applies. 25 tonnes'

(ii) the row 'Reference quantity' is replaced by the following:

'**Reference quantity**	Yes'

(iii) the row 'Operator registered in LORI database' is replaced by the following:

'**Operator registered in LORI database**	Yes'

(6) Annex XIV.5 is amended as follows:

(a) in Part A1, box 16 is replaced by the following:

'16. Observations: (a) tariff quota with order number 09.4… (b) intended for processing ([1])
([1]) Delete as appropriate';

(b) Part A2 is amended as follows:

(i) in box 3, the entry '3. Number and date of invoice' is replaced by '3. Buyer';

(ii) box 16 is replaced by the following:

'16. Observations: (a) tariff quota with order number 09.4… (b) intended for processing ([1])
([1]) Delete as appropriate';