



Council of the
European Union

Brussels, 14 July 2020
(OR. en)

9654/20

AGRI 210
AGRIORG 55
AGRIFIN 61
DELECT 87

COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 14 July 2020

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: C(2020) 4688 final

Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 14.7.2020
supplementing Regulation (EU) No 1308/2013 of the European Parliament
and of the Council and Regulation (EU) No 1306/2013 of the European
Parliament and of the Council as regards the lodging and release of
securities in the administration of tariff quotas based on the chronological
order of the submission of applications

Delegations will find attached document C(2020) 4688 final.

Encl.: C(2020) 4688 final



Brussels, 14.7.2020
C(2020) 4688 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 14.7.2020

supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council and Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the lodging and release of securities in the administration of tariff quotas based on the chronological order of the submission of applications

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED REGULATION

The 2013 reform of the Common Agricultural Policy (CAP) confirmed that the management system of agricultural tariff quotas by the chronological order of the submission of applications ("first come, first served" principle), should continue to apply.

The tariff quotas derive either from international agreements or from autonomous acts based on Article 207 TFEU. The Union internal management of these quotas requires rules which are specific and complementary to the existing rules, in particular Delegated Regulations (EU) No 907/2014 and (EU) 2015/2446 (supplementing the Union Customs Code).

The delegated regulation complements the rules set out in Article 184 and is based on Article 186 of Regulation (EU) No 1308/2013 (CMO). It covers items that were previously laid down in 31 Commission Regulations.

Some of the general tariff quota rules laid down before the 2013 reform have not been updated. Therefore, some of these provisions need to be replaced by simpler or updated rules that are aligned with Regulation (EU) No 1308/2013.

In addition, this regulation implements the transfer, already laid down by Commission Delegated Regulation (EU) 2020/760, of the management of the following, under-used tariff quotas from the current system with licences to the "first come, first served" quota management: 09.4020, 09.4057, 09.4058, 09.4203, 09.4460, 09.4015, 09.4091, 09.4261, 09.4262, 09.4421, 09.4079, 09.4152, 09.4517, 09.4126, 09.4590, 09.4591, 09.4592, 09.4593, 09.4594, 09.4596, 09.4599.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE REGULATION

The Commission discussed the draft delegated regulation with experts nominated by the Member States in the framework of the CMO Expert Group and took account of their views. In parallel, the Commission had hearings with stakeholders and the feedback mechanism under the Commission's Better Regulation Framework took place from 11 May to 8 June 2020.

During the feedback mechanism, one contribution was received which concerned the beef and veal sector and asked why some agricultural "first come, first served" tariff quotas were not covered by the draft regulation. As laid down in subparagraph 3 of point 1 of the Explanatory Memorandum, this delegated regulation complements the rules set out in Article 184 and is based on Article 186 of Regulation (EU) No 1308/2013 (CMO). Therefore, it covers "first come, first served" tariff quotas that have their legal basis in the CMO Regulation (EU) No 1308/2013; it is Commission regulations containing provisions on such tariff quotas that will be repealed; the repeal does not concern tariff quotas with legal basis elsewhere, e. g. in the Union Customs Code Regulation (EU) No 952/2013.

The experts of the European Parliament were informed about the discussions and invited to all the meetings of the CMO Expert Group.

3. LEGAL ELEMENTS OF THE DELEGATED REGULATION

The delegated regulation supplements Regulation (EU) No 1308/2013 as regards the tariff quota management. The delegated regulation is based on Regulation (EU) No 1308/2013, in particular on its Article 186 and on Regulation (EU) No 1306/2013, in particular on its Article 66.

This delegated regulation contains provisions on securities, to be required from operators to ensure that certain products are imported and are not diverted from their prescribed use, or deviate from certain quality standards.

As securities covered by this regulation have a wider scope (i. e. to ensure that certain requirements relating to processing, end-use, quality standards of products as well as slaughtering and fattening of animals are complied with) and their legal basis differs, the Member States' competent authority to deal with them is not specified in the delegated regulation. It is left with the Member States to designate the competent authority to deal with them.

In addition, the delegated regulation repeals the existing Commission Regulations on tariff quotas on agricultural products managed with "first come, first served" principle.

COMMISSION DELEGATED REGULATION (EU) .../...

of 14.7.2020

supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council and Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the lodging and release of securities in the administration of tariff quotas based on the chronological order of the submission of applications

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 1234/2007¹, and in particular Article 186 thereof,

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008², and in particular Article 66(3) thereof,

Whereas:

- (1) Regulation (EU) No 1308/2013 lays down rules regarding the management of tariff quotas and special treatment of imports by third countries. It also empowers the Commission to adopt related delegated and implementing acts, in order to ensure smooth management of tariff quotas.
- (2) In the interest of administrative simplification, under-used tariff quotas for agricultural products are managed using the “first come, first served” principle in accordance with Articles 49 to 54 of Commission Implementing Regulation (EU) 2015/2447³, which regulate the management of tariff quotas designed to be used following the chronological order of dates of acceptance of customs declarations.
- (3) It should be provided that participation in those tariff quotas may be subject to the lodging of a security to ensure that certain requirements relating to processing, end-use, quality standards of products as well as slaughtering and fattening of animals are complied with. Those requirements are set out in detail for each of the tariff quotas

¹ OJ L 347, 20.12.2013, p. 671.

² OJ L 347, 20.12.2013, p. 549.

³ Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

concerned in an implementing act adopted pursuant to Article 187 of Regulation (EU) No 1308/2013.

- (4) With the aim of simplification of the procedure and of the legislation, it is appropriate to replace existing rules for the management of tariff quotas administered by applying the method based on the “first come, first served” principle contained in several Union acts by one act. Commission Regulations (EC) No 440/96⁴, (EC) No 1831/96⁵, (EC) No 2133/2001⁶, (EC) No 2094/2004⁷, (EC) No 937/2006⁸, (EC) No 437/2009⁹, (EC) No 438/2009¹⁰, (EC) No 933/2009¹¹, (EC) No 1064/2009¹², (EU) No 1085/2010¹³ and (EU) No 59/2011¹⁴ and Commission Implementing Regulations (EU) No 1354/2011¹⁵, (EU) No 481/2012¹⁶, (EU) No 988/2014¹⁷, (EU) No 989/2014¹⁸, (EU) No

⁴ Commission Regulation (EC) No 440/96 of 11 March 1996 opening and providing for the administration of Community tariff quotas for certain mixtures of malt sprouts and barley screenings (OJ L 61, 12.3.1996, p. 2).

⁵ Commission Regulation (EC) No 1831/96 of 23 September 1996 opening and providing for the administration of Community tariff quotas bound under GATT for certain fruit and vegetables and processed fruit and vegetable products from 1996 (OJ L 243, 24.9.1996, p. 5).

⁶ Commission Regulation (EC) No 2133/2001 of 30 October 2001 opening and providing for the administration of certain Community tariff quotas and tariff ceilings in the cereals sector and repealing Regulations (EC) No 1897/94, (EC) No 306/96, (EC) No 1827/96, (EC) No 1970/96, (EC) No 1405/97, (EC) No 1406/97, (EC) No 2492/98, (EC) No 2809/98 and (EC) No 778/1999 (OJ L 287, 31.10.2001, p. 12).

⁷ Commission Regulation (EC) No 2094/2004 of 8 December 2004 opening and providing for the administration of a tariff quota of 10000 tonnes of oat grains otherwise worked falling within CN code 11042298 (OJ L 362, 9.12.2004, p. 12).

⁸ Commission Regulation (EC) No 937/2006 of 23 June 2006 opening and providing for the administration of a Community tariff quota of corn gluten originating in the United States of America (OJ L 172, 24.6.2006, p. 9).

⁹ Commission Regulation (EC) No 437/2009 of 26 May 2009 opening and providing for the administration of a Community import tariff quota for young male bovine animals for fattening (OJ L 128, 27.5.2009, p. 54).

¹⁰ Commission Regulation (EC) No 438/2009 of 26 May 2009 opening and providing for the administration of Community tariff quotas for bulls, cows and heifers other than for slaughter of certain Alpine and mountain breeds (OJ L 128, 27.5.2009, p. 57).

¹¹ Commission Regulation (EC) No 933/2009 of 6 October 2009 laying down detailed rules for the application of Council Regulation (EC) No 779/98 as regards opening and providing for the administration of certain quotas for imports into the Community of poultrymeat products originating in Turkey (OJ L 263, 7.10.2009, p. 9).

¹² Commission Regulation (EC) No 1064/2009 of 4 November 2009 opening and providing for the administration of a Community import tariff quota for malting barley from third countries (OJ L 291, 7.11.2009, p. 14).

¹³ Commission Regulation (EU) No 1085/2010 of 25 November 2010 opening and providing for the administration of certain annual tariff quotas for importing sweet potatoes, manioc, manioc starch and other products falling within CN codes 07149011 and 07149019 and amending Regulation (EU) No 1000/2010 (OJ L 310, 26.11.2010, p. 3).

¹⁴ Commission Regulation (EU) No 59/2011 of 25 January 2011 opening and providing for the administration of Union tariff quotas for wines originating in the Republic of Serbia (OJ L 22, 26.1.2011, p. 1).

¹⁵ Commission Implementing Regulation (EU) No 1354/2011 of 20 December 2011 opening annual Union tariff quotas for sheep, goats, sheepmeat and goatmeat (OJ L 338, 21.12.2011, p. 36).

¹⁶ Commission Implementing Regulation (EU) No 481/2012 of 7 June 2012 laying down rules for the management of a tariff quota for high-quality beef (OJ L 148, 8.6.2012, p. 9).

¹⁷ Commission Implementing Regulation (EU) No 988/2014 of 18 September 2014 opening and providing for the management of Union tariff quotas for agricultural products originating in the Republic of Moldova (OJ L 278, 20.9.2014, p. 12).

¹⁸ Commission Implementing Regulation (EU) No 989/2014 of 19 September 2014 opening and providing for the management of Union tariff quotas for agricultural products originating in Georgia (OJ L 278, 20.9.2014, p. 16).

1233/2014¹⁹, (EU) 2015/2405²⁰, (EU) 2017/1466²¹ and (EU) 2018/567²² should therefore be repealed.

- (5) In order to ensure a smooth transition to the rules provided for in this Regulation and to fulfil the obligation to notify the new rules to the World Trade Organisation prior to their applications, it is appropriate to defer the application of this Regulation to the tariff quota periods starting from 1 January 2021 onwards,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation lays down rules supplementing Regulations (EU) No 1308/2013 and (EU) No 1306/2013 as regards the lodging and release of securities in the administration of tariff quotas based on the chronological order of the submission of applications.

Article 2

Lodging of a security

Eligibility for the reduced import duty under a tariff quota based on the chronological order of the submission of applications may be subject to the lodging of a security with the competent authorities.

Operators shall lodge the security at the moment when they submit an application for an authorisation for end-use in accordance with Article 211 of Regulation (EU) No 952/2013 of the European Parliament and of the Council²³, or when they lodge the customs declaration for release for free circulation of the goods, as the case may be.

The exchange rate shall be established in accordance with Article 106 of Regulation (EU) No 1306/2013.

Article 3

Release and forfeiture of securities

¹⁹ Commission Implementing Regulation (EU) No 1233/2014 of 18 November 2014 amending Regulation (EC) No 2597/2001 opening and providing for the management of Community tariff quotas for certain wines originating in the Republic of Croatia and in the former Yugoslav Republic of Macedonia (OJ L 332, 19.11.2014, p. 11).

²⁰ Commission Implementing Regulation (EU) 2015/2405 of 18 December 2015 opening and providing for the management of EU tariff quotas for agricultural products originating in Ukraine (OJ L 333, 19.12.2015, p. 89).

²¹ Commission Implementing Regulation (EU) 2017/1466 of 11 August 2017 on opening and providing for the administration of Union tariff quotas for wines originating in Kosovo (OJ L 209, 12.8.2017, p. 8).

²² Commission Implementing Regulation (EU) 2018/567 of 12 April 2018 opening and providing for the administration of import tariff quotas of sausages and pig meat originating in Iceland (OJ L 95, 13.4.2018, p. 11).

²³ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

1. The security shall be released immediately once the competent authority has received the satisfactory proof that the requirements linked to that security are met.
2. Where the relevant requirements are not entirely met, the security shall be released in proportion to the quantity for which the requirements are met. The amount of the security which is not released shall be forfeited in accordance with Article 24 of Commission Delegated Regulation (EU) No 907/2014²⁴.

Article 4

Repeals

Regulations (EC) No 440/96, (EC) No 1831/96, (EC) No 2133/2001, (EC) No 2094/2004, (EC) No 937/2006, (EC) No 437/2009, (EC) No 438/2009, (EC) No 933/2009, (EC) No 1064/2009, (EU) No 1085/2010 and (EU) No 59/2011 and Implementing Regulations (EU) No 1354/2011, (EU) No 481/2012, (EU) No 988/2014, (EU) No 989/2014, (EU) No 1233/2014, (EU) 2015/2405, (EU) 2017/1466 and (EU) 2018/567 are repealed with effect from 1 January 2021.

However, they shall continue to apply to tariff quota periods that have not yet ended on that date.

Article 5

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*.

This Regulation shall apply to the tariff quota periods starting from 1 January 2021 onwards. This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14.7.2020

For the Commission
The President
Ursula VON DER LEYEN

²⁴ Commission Delegated Regulation (EU) No 907/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro (OJ L 255, 28.8.2014, p. 18).