

Regulation (EU) No 510/2014 of the European Parliament and of the Council of 16 April 2014 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products and repealing Council Regulations (EC) No 1216/2009 and (EC) No 614/2009

CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter and scope

This Regulation lays down the trade arrangements applicable to imports of processed agricultural products and exports of non-Annex I goods and agricultural products incorporated in those non-Annex I goods.

This Regulation also applies to imports of agricultural products covered by an international agreement concluded, or provisionally applied, by the Union in accordance with the TFEU and which provides for the assimilation of those products to processed agricultural products subject to preferential trade.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

- (a) ‘agricultural products’ means those products referred to in Article 1 of Regulation (EU) No 1308/2013;
- (b) ‘processed agricultural products’ means those products listed in Annex I to this Regulation;
- (c) ‘non-Annex I goods’ means those products not listed in Annex I to the TFEU which are listed in the first and second column of Annex II to this Regulation;
- (d) ‘basic products’ means those agricultural products listed in Annex III to this Regulation;
- (e) ‘agricultural component’ means either that part of the import duty applicable to processed agricultural products corresponding to the import duties applicable to agricultural products listed in Annex V to this Regulation or, where relevant, the reduced duties applicable to those agricultural products originating in the countries concerned, for the quantities of the agricultural products used or considered to have been used;
- (f) ‘non-agricultural component’ means the part of the charge corresponding to the Common Customs Tariff duties, reduced by the agricultural component defined in point (e);

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- (g) ‘additional duties on sugar and flour’ means the additional duty on sugar (AD S/Z) and the additional duty on flour (AD F/M) referred to in point B.6 of Section 1 of Part One, of Annex I to Regulation (EEC) No 2658/87 and laid down in Table 2 of Annex I of Section I of Part Three of Annex I to that Regulation;
- (h) ‘ad valorem duty’ means the part of the import duty that is expressed as a percentage rate of the customs value;
- (i) ‘Product Group 1’ means whey in powder, granules or other solid forms, not containing added sugar or other sweetening matter, of CN code ex 0404 10 02 to CN code ex 0404 10 16;
- (j) ‘Product Group 2’ means milk in powder, granules or other solid forms, not containing added sugar or other sweetening matter, of a fat content, by weight, not exceeding 1,5 %, other than in immediate packings of a net content not exceeding 2,5 kg, of CN code ex 0402 10 19;
- (k) ‘Product Group 3’ means milk in powder, granules or other solid forms, not containing added sugar or other sweetening matter, of a fat content, by weight, of 26 %, other than in immediate packings of a net content not exceeding 2,5 kg, of CN code ex 0402 21 18;
- (l) ‘Product Group 6’ means butter, of a fat content by weight of 82 %, of CN code ex 0405 10;

CHAPTER II

IMPORTS OF PROCESSED AGRICULTURAL PRODUCTS

SECTION I

General Provisions For Imports

Subsection I

import duties on processed agricultural products

Article 3

Components of import duties

1 For processed agricultural products listed in Table 1 of Annex I, the import duties fixed in the Common Customs Tariff shall consist of an agricultural component which is not part of an ad valorem duty and a non-agricultural component which is an ad valorem duty.

2 For processed agricultural products listed in Table 2 of Annex I, the import duties fixed in the Common Customs Tariff shall consist of an ad valorem duty and an agricultural component which is part of the ad valorem duty. Where, for processed agricultural products listed in Table 2 of Annex I, no ad valorem duty exists, the agricultural component for such products shall be deemed to be a part of the specific duty on those products.

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Article 4

Maximum rate of import duty

1 Where a maximum rate of duty is to be applied, the calculation method for determining that maximum rate of duty shall be fixed in the Common Customs Tariff pursuant to Article 31 TFEU.

2 Where, for processed agricultural products listed in Table 1 of Annex I, the maximum rate of duty consists of an additional duty on sugar and flour, the calculation method for determining that additional duty shall be fixed in the Common Customs Tariff pursuant to Article 31 TFEU.

Article 5

Additional import duties intended to prevent or counteract adverse effects on the Union market

1 The Commission may adopt implementing acts, determining the processed agricultural products listed in Annex IV to which, when imported subject to the rate of duty laid down in the Common Customs Tariff, an additional import duty is to apply. Those implementing acts shall only be adopted in order to prevent or counteract adverse effects on the Union market which may result from such imports and if:

- a the imports are made at a price below the level notified by the Union to the WTO ('the trigger price'); or
- b the volume of imports in any year exceeds a certain level ('the trigger volume').

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

2 Additional import duties shall not be imposed in accordance with paragraph 1 where the imports are unlikely to disturb the Union market, or where the effects of such additional import duties would, in view of the intended objective, be disproportionate.

3 For the purposes of paragraph 1(a), import prices shall be determined on the basis of the c.i.f. import prices of the consignment under consideration.

C.i.f. import prices shall be checked against the representative prices for the product on the world market or on the Union import market for that product.

The representative prices shall be determined at regular intervals on the basis of data collected under the Community surveillance system established pursuant to Article 308d of Commission Regulation (EEC) No 2454/1993⁽¹⁾.

4 The trigger volume shall be based on market access opportunities defined as imports as a percentage of the corresponding domestic consumption during the three years preceding the year in which the adverse effects referred to in paragraph 1 arise or seem likely to arise.

5 The Commission may adopt implementing acts containing measures necessary for the application of this Article, in particular those concerning the time limits for proving the import price and for submitting documentary evidence. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

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6 The Commission may adopt implementing acts without applying the procedure referred to in Article 44(2) or (3), as regards the products identified in accordance with paragraph 1:

- a fixing the representative prices and trigger volumes for the purposes of applying additional import duties;
- b fixing the level of the additional import duties in accordance with the rules set out in international agreements concluded or provisionally applied by the Union in accordance with the TFEU.

7 The Commission shall publish the trigger prices referred to in paragraph 1(a) in the *Official Journal of the European Union*.

Subsection II

import of ovalbumin and lactalbumin

Article 6

Imports licences for ovalbumin and lactalbumin

1 The import for release into free circulation of ovalbumin and lactalbumin may be made subject to presentation of an import licence, where such licence is necessary for the management of the markets concerned and, in particular, for the monitoring of trade in those products.

2 Without prejudice to measures taken in accordance with Article 14, Member States shall issue the import licences referred to in paragraph 1 to any applicant established in the Union, irrespective of that applicant's place of establishment, unless an act adopted in accordance with Article 43(2) TFEU provides otherwise.

3 The import licences referred to in paragraph 1 shall be valid throughout the Union.

4 The issuing of the import licences referred to in paragraph 1 and the release into free circulation of the goods covered by the licence may be made subject to requirements as to the origin and provenance of the products concerned and to the presentation of a document issued by a third country or an entity that certifies, inter alia, the origin, the provenance, the authenticity and the quality characteristics of the products.

Article 7

Security in respect of import licences

1 The issuing of the import licences referred to in Article 6 may be made subject to the lodging of a security guaranteeing that the economic operator will import the products within the period of validity of the import licence.

2 The security shall be forfeited in whole or in part if the products are not imported within the period of validity of the import licence.

3 However, the security shall not be forfeited if the products were not imported within that period due to force majeure or if the quantity which was not imported within that period is within the level of tolerance.

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Article 8

Delegated powers

The Commission shall be empowered to adopt delegated acts, in accordance with Article 42, concerning:

- (a) rules making the import of ovalbumin and lactalbumin for release into free circulation subject to presentation of an import licence;
- (b) rules on the rights and obligations deriving from the import licence and its legal effects;
- (c) the cases in which a tolerance applies as regards compliance with the obligation to import the quantity mentioned in the licence or in which the origin is to be indicated in the licence;
- (d) rules on the issuing of the import licence or rules making the release into free circulation of the goods covered by the licence subject to the presentation of a document issued by a third country or an entity certifying, inter alia, the origin, the provenance, the authenticity and the quality characteristics of the products;
- (e) rules on the transfer of the import licence or restrictions on such transfer;
- (f) the cases in which the presentation of an import licence is not required;
- (g) rules making the issuing of the import licences referred to in Article 6 subject to the lodging of a security.

Article 9

Implementing powers

The Commission shall, where necessary, adopt implementing acts, concerning:

- (a) the format and the content of the import licence;
- (b) the submission of applications for import licences, the issuing of those licences and their use;
- (c) the period of validity of the import licence, the amount of security to be lodged and the procedure for lodging it;
- (d) the evidence needed to prove that the requirements for the use of import licences have been fulfilled;
- (e) the level of tolerance as regards compliance with the obligation to import the quantity mentioned in the import licence;
- (f) the issuing of replacement import licences and duplicate import licences;
- (g) the treatment of import licences by Member States and the exchange of information needed for the management of the system, including the procedures relating to the specific administrative assistance between Member States.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

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SECTION II

Preferential Trade

Subsection I

reduction of import duties

Article 10

Reduction and phasing out of agricultural components, ad valorem duties and additional duties

1 Where an international agreement concluded or provisionally applied by the Union in accordance with the TFEU:

- a provides for a reduction or consecutive reductions leading to a phasing out of import duties for processed agricultural products; and
- b sets out the products eligible for these reductions, the quantities of goods, the value of any quotas to which these reductions apply, the method of calculating such quantities or values or the factors determining the reduction in the agricultural component, in the additional duties on sugar and flour, or in the ad valorem duty,

the agricultural component, the additional duties on sugar and flour, or the ad valorem duty may be subject to the reduction or consecutive reductions leading to a phasing out that are provided for in the case of import duties for processed agricultural products.

For the purpose of this Article, the agricultural component may also include the agricultural element as referred to in point B 1 of Section I of Part One of Annex I to Regulation (EEC) No 2658/87 and laid down in Table 2 of Annex 1 to Section I of Part Three of Annex I to that Regulation.

2 Where an international agreement concluded or provisionally applied by the Union in accordance with the TFEU provides for a reduction or phasing out of the agricultural components with regard to the products listed in Table 2 of Annex I to this Regulation, the duty consisting of the agricultural component, which is part of the ad valorem duty, shall be replaced by a non-ad valorem agricultural component.

Article 11

Quantities actually used or considered to have been used

1 The reductions or phasing out of agricultural components or of additional duties on sugar and flour in accordance with Article 10(1) shall be determined on the basis of the following:

- a the quantities of the agricultural products listed in Annex V which have been actually used or are considered to have been used in the manufacturing of the processed agricultural product;
- b the duties that apply to the agricultural products referred to in point (a) and which are used for calculating the reduced agricultural component and additional duties on sugar and flour in the case of certain preferential trade arrangements.

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2 The agricultural products which are to be considered to have been used in the manufacture of the processed agricultural product shall be selected, from agricultural products actually used in the manufacture of the processed agricultural product, on the basis of their importance in international trade and of the extent to which their price levels are representative of the price levels of all the other agricultural products used in the manufacture of that processed agricultural product.

3 The quantities of agricultural products listed in Annex V and actually used, shall be converted to equivalent quantities of the specific agricultural products considered to have been used.

Article 12

Delegated powers

The Commission shall be empowered to adopt delegated acts, in accordance with Article 42, concerning:

- (a) the establishment of a list of those agricultural products listed in Annex V which are to be considered to have been used in the manufacture of the processed agricultural products on the basis of the selection criteria laid down in Article 11(2);
- (b) the establishment of the equivalent quantities and the rules for the conversion provided for in Article 11(3);
- (c) the elements necessary for the calculation of the reduced agricultural component and the reduced additional duties on sugar and flour and the establishing of the methods of that calculation;
- (d) the negligible amounts for which the reduced agricultural components and additional duties on sugar and flour shall be fixed at zero.

Article 13

Implementing powers

1 The Commission shall, where appropriate, adopt implementing acts, containing measures to implement international agreements concluded or provisionally applied by the Union in accordance with the TFEU concerning the calculation of import duties for processed agricultural products which are subject to reduction in accordance with Article 10(1) and (2) of this Regulation.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

- 2 The Commission may, where necessary, adopt implementing acts laying down:
- a the fixed quantities of the agricultural products, referred to in Article 12(a), which are considered to have been used in the manufacturing of the processed agricultural products;
 - b the quantities of the agricultural products, referred to in Article 12(a), which are considered to have been used in the manufacturing of the processed agricultural products, for each possible composition of those processed agricultural products for which fixed quantities of the specific agricultural products cannot be established in accordance with point (a) of this subparagraph;

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c documentary requirements.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

3 The Commission may adopt implementing acts, without applying the procedure referred to in Article 44(2) or (3), fixing, in accordance with the rules set out in an international agreement concluded or provisionally applied by the Union in accordance with the TFEU and those rules adopted pursuant to paragraph 1 of this Article, the level of the import duty to be applied.

Subsection II

tariff quotas and special treatment of imports by third countries

Article 14

Opening and management of tariff quotas

1 Tariff quotas for the import of processed agricultural products and of agricultural products referred to in the second paragraph of Article 1, for their release into free circulation in the Union, resulting from international agreements concluded or provisionally applied by the Union in accordance with the TFEU shall be opened and managed by the Commission in accordance with Articles 15 and 16.

2 The tariff quotas referred to in paragraph 1 shall be managed in a manner which avoids any discrimination between operators and which gives due weight to the supply requirements of the Union market and the need to preserve the equilibrium of that market.

3 The tariff quotas referred to in paragraph 1 shall be managed by applying one of the following methods, another appropriate method, or a combination of any of them:

- a a method of allocation based on the chronological order of the submission of applications ('first come, first served principle');
- b a method of allocation of quotas in proportion to the quantities requested in the applications ('simultaneous examination method');
- c a method of allocation based on traditional trade patterns ('traditional/newcomers method').

Article 15

Delegated powers

1 The Commission shall be empowered to adopt delegated acts, in accordance with Article 42, concerning:

- a the conditions and eligibility requirements that an operator is required to fulfil in order to submit an application within the tariff quota set out in an international agreement, as referred to in Article 14(1);
- b the rules on the transfer of rights between operators and, where necessary, the limitations on that transfer within the management of the tariff quota, set out in an international agreement, as referred to in Article 14(1);

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- c the provisions making the participation in the tariff quota set out in an international agreement, as referred to in Article 14(1), subject to the presentation of an import licence and to the lodging of a security;
- d the specific characteristics, the requirements or the restrictions applicable to the tariff quota set out in the international agreement, as referred to in Article 14(1).

2 The Commission shall be empowered to adopt delegated acts, in accordance with Article 42, requiring the competent authorities of Member States, on request and after carrying out appropriate checks, to issue a document certifying that a product fulfils the conditions for benefitting from special treatment on importation into a third country.

Article 16

Implementing powers

- 1 The Commission shall adopt implementing acts, laying down:
- a the annual tariff quotas, which shall, if necessary, be suitably phased in over the year, and the method of administration to be used;
 - b procedures for the application of the specific provisions laid down in the international agreement or legal act adopting the import or export regime, in particular those concerning:
 - (i) guarantees covering the nature, provenance and origin of the product;
 - (ii) the recognition of any document used to verify the guarantees referred to in point (i);
 - (iii) the presentation of a document issued by the exporting country;
 - (iv) the destination and use of the products;
 - c the period of validity of the import licences to be presented in accordance with Article 15(1)(c);
 - d the procedure for lodging a security in accordance with Article 15(1)(c), and its amount;
 - e the use of import licences to be presented in accordance with Article 15(1)(c) and where necessary, specific measures relating, in particular, to the conditions under which applications for importation shall be submitted and authorisation granted within the tariff quota;
 - f documentary requirements;
 - g necessary measures concerning the content, form, issuing and use of the document referred to in Article 15(2).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

- 2 The Commission shall adopt implementing acts, without applying the procedure referred to in Article 44(2) or (3):
- a managing the process guaranteeing that the quantities available within the tariff quota are not exceeded, in particular by fixing an allocation coefficient to each application when the available quantities are reached, rejecting pending applications and, where necessary, suspending the submission of applications;
 - b reallocating unused quantities of the tariff quota.

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SECTION III

Safeguard Measures

Article 17

Safeguard measures

1 The Commission shall, subject to paragraph 3 of this Article, adopt implementing acts containing safeguard measures against imports of processed agricultural products into the Union. In order to ensure the uniformity of the common commercial policy, those implementing acts shall be consistent with Regulations (EC) No 260/2009 and (EC) No 625/2009. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

2 Save as otherwise provided for in any other legal act of the European Parliament and the Council and any other legal act of the Council, the Commission shall, subject to paragraph 3 of this Article, adopt implementing acts containing safeguard measures against imports of processed agricultural products into the Union provided for in international agreements concluded or provisionally applied by the Union in accordance with the TFEU. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

3 The Commission may take the measures referred to in paragraphs 1 and 2 at the request of a Member State or on its own initiative.

Where the Commission receives a request from a Member State for the adoption of the implementing acts referred to in paragraphs 1 or 2, or both, it shall adopt implementing acts containing its decision thereon within five working days following receipt of the request. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

4 On duly justified imperative grounds of urgency, relating to the safeguard measures provided for in paragraphs 1 and 2, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 44(3).

5 If the Commission wishes to revoke or to amend safeguard measures adopted pursuant to paragraphs 1 to 4, it shall adopt implementing acts in order to do so. Those implementing acts shall be adopted in accordance with Article 44(2), except where there are duly justified imperative grounds of urgency, in which case those implementing acts shall be adopted in accordance with Article 44(3).

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SECTION IV

Inward Processing

Subsection I

inward processing without examination of the economic conditions

Article 18

Inward processing of agricultural products without examination of the economic conditions

1 Where non-Annex I goods are obtained from agricultural products listed in Annex III to this Regulation under inward processing, the economic conditions referred to in Article 117(c) of Regulation (EEC) No 2913/92 shall be deemed to have been fulfilled on presentation of an inward processing certificate for those agricultural products.

2 Inward processing certificates shall be issued for agricultural products used in the manufacturing of the non-Annex I goods within the limits of quantities determined by the Commission.

Those quantities shall be determined by balancing, on the one hand, the compulsory budgetary limits for export refunds for non-Annex I goods and, on the other hand, the expected expenditure requirements for export refunds for non-Annex I goods, and in particular, by taking account of:

- a the estimated volume of exports of the non-Annex I goods concerned;
- b the Union market and world market situation of the relevant basic products, where applicable;
- c economic and regulatory factors.

The quantities shall be reviewed at regular intervals in order to take account of developments in economic and regulatory factors.

3 Member States shall issue the inward processing certificates referred to in paragraph 1 to any applicant for a certificate who is established in the Union, irrespective of that applicant's place of establishment.

Inward processing certificates shall be valid throughout the Union.

Article 19

Delegated powers

The Commission shall be empowered to adopt delegated acts in accordance with Article 42 concerning:

- (a) a list of those agricultural products used in the manufacturing of non-Annex I goods, for which inward processing certificates may be issued;
- (b) the rights derived from the inward processing certificate and its legal effects;
- (c) the transfer of rights derived from inward processing certificates between operators;

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- (d) the rules necessary for the reliability and the efficiency of the inward processing certificate system, concerning the authenticity of the certificate, its transfer or restrictions on its transfer.

Article 20

Implementing powers

- 1 The Commission shall, where necessary, adopt implementing acts, concerning:
- a the determination, pursuant to Article 18(2), of the quantity of agricultural products for which inward processing certificates may be issued;
 - b the format and the content of applications for inward processing certificates;
 - c the format, the content and the period of validity of the inward processing certificates;
 - d the documents required and the procedure for lodging applications and for issuing inward processing certificates;
 - e the management of the inward processing certificates by the Member States;
 - f the procedures relating to administrative assistance between Member States;

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

- 2 Where quantities that exceed those determined in accordance with paragraph 1(a), are applied for, the Commission may adopt implementing acts, without applying the procedure referred to in Article 44(2) or (3), limiting the quantities in respect of which inward processing certificates may be issued, rejecting quantities applied for in respect of inward processing certificates and suspending the lodging of applications for inward processing certificates for the product concerned.

Subsection II

suspension of inward processing arrangements

Article 21

Suspension of inward processing arrangements for ovalbumin and lactalbumin

- 1 Where the Union market is disturbed or is liable to be disturbed by inward processing arrangements, the Commission may, at the request of a Member State or on its own initiative, adopt implementing acts, fully or partially suspending the use of inward processing arrangements for ovalbumin and lactalbumin. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2)

Where the Commission receives a request from a Member State for the adoption of the implementing acts referred to in the first subparagraph, it shall adopt implementing acts, containing its decision thereon within five working days following the receipt of the request. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

- 2 On duly justified imperative grounds of urgency, the Commission shall adopt immediately applicable implementing acts relating to suspension referred to in paragraph 1 in accordance with the procedure referred to in Article 44(3).

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CHAPTER III

EXPORTS

SECTION I

Export Refunds

Article 22

Eligible goods and products

1 Where non-Annex I goods are exported, the agricultural products listed in points (i), (ii), (iii), (v) and (vii) of Article 196(1)(a) of Regulation (EU) No 1308/2013 which have been used in the manufacturing of those non-Annex I goods shall qualify for export refunds pursuant to Article 196 of that Regulation, as set out in Annex II to this Regulation, and Article 196(1) (b), (2) and (3) of Regulation (EU) No 1308/2013 shall apply.

2 The export refunds referred to in paragraph 1 shall not be granted in respect of the following:

- a imported non-Annex I goods which are considered to be in free circulation in accordance with Article 29 TFEU and which are re-exported;
- b imported non-Annex I goods which are considered to be in free circulation in accordance with Article 29 TFEU and which are exported after processing or incorporated in other non-Annex I goods;
- c imported cereals, rice, milk and milk products or eggs which are considered to be in free circulation in accordance with Article 29 TFEU and which are exported after processing or incorporated in non-Annex I goods.

Article 23

Determination of the export refunds

1 The export refunds referred to in Article 22 shall be determined, by the competent authorities of the Member States, on the basis of the composition of the exported goods and the export refund rates fixed for each basic product of which the exported goods consist.

2 For the determination of the export refunds, products listed in points (i), (ii), (iii), (v) and (vii) of Article 196(1)(a) of Regulation (EU) No 1308/2013 which are not listed in Annex III to this Regulation shall be assimilated to basic products or to products derived from the processing of basic products.

Article 24

Horizontal rules and export refund rates

1 The horizontal rules on export refunds for agricultural products laid down in Article 199(3) of Regulation (EU) No 1308/2013 shall apply to non-Annex I goods.

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2 Measures shall be taken in accordance with Article 198 of Regulation (EU) No 1308/2013 and Article 13 of Regulation (EU) No 1370/2013 to fix export refund rates for the basic products.

3 For the calculation of the export refunds, agricultural products which are listed in points (i), (ii), (iii), (v) and (vii) of Article 196(1)(a) of Regulation (EU) No 1308/2013 and not listed in Annex III to this Regulation, and which are derived from or assimilated to basic products or to products derived from the processing of basic products, in accordance with Article 23(2) shall be converted into basic products.

Article 25

Certificates regarding exports of specific non-Annex I goods to specific destinations

Where an international agreement concluded or provisionally applied by the Union in accordance with the TFEU so requires, the competent authorities of the Member State concerned shall, at the request of the party concerned, issue a certificate stating whether export refunds have been paid in respect of specific non-Annex I goods exported to specific destinations.

Article 26

Delegated powers

The Commission shall be empowered to adopt delegated acts in accordance with Article 42 concerning:

- (a) rules on the characteristics of the non-Annex I goods to be exported and of the agricultural products used for their manufacture;
- (b) rules on the determination of the export refunds for agricultural products that are exported after processing into non-Annex I goods;
- (c) rules on the evidence needed to prove the composition of the exported non-Annex I goods;
- (d) rules requiring a declaration of the use of certain imported agricultural products;
- (e) rules on the assimilation of agricultural products which are listed in points (i), (ii), (iii), (v) and (vii) of Article 196(1)(a) of Regulation (EU) No 1308/2013, and which are not listed in Annex III to this Regulation, to basic products and on the determination of the reference quantity of each of the basic products;
- (f) the application of horizontal rules on export refunds for agricultural products, adopted pursuant to Article 202 of Regulation (EU) No 1308/2013, to non-Annex I goods.

Article 27

Implementing powers

The Commission shall, where necessary, adopt implementing acts, concerning:

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- (a) the application of the refund rates where the characteristics of the components of the products referred to in point (c) of this Article and of the non-Annex I goods need to be taken into account when calculating the export refunds;
- (b) the calculation of the export refunds for:
 - (i) basic products;
 - (ii) products derived from the processing of basic products;
 - (iii) products assimilated to the products referred to in point (i) or (ii);
- (c) the assimilation of the products referred to in point (b)(ii) and (iii), which are listed in points (i), (ii), (iii), (v) and (vii) of Article 196(1)(a) of Regulation (EU) No 1308/2013, and which are not listed in Annex III to this Regulation, to basic products;
- (d) the determination, for each of the basic products, of the reference quantity that serves as a basis for the determination of export refunds, on the basis of the quantity of the product actually used in the manufacturing of the goods exported or on a fixed basis, as set out in Annex II;
- (e) the application for, the issuing of and the management of certificates referred to in Article 25;
- (f) the treatment of disappearances of products and quantity losses during the manufacturing process and the treatment of by-products;
- (g) the procedure for declaring and the evidence needed to prove the composition of the exported non-Annex I goods necessary for the implementation of the export refund system;
- (h) the simplified evidence needed to prove arrival at destination, in the case of refunds differentiated according to destination;
- (i) the application of horizontal provisions on export refunds for agricultural products adopted pursuant to Article 203 of Regulation (EU) No 1308/2013 to export refunds for non-Annex I goods;

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

SECTION II

Refund Certificates

Article 28

Refund certificates

1 Export refunds on agricultural products incorporated in non-Annex I goods shall be granted where an application for export refunds has been submitted and a refund certificate which was valid at the time of export, is presented.

Small exporters, including refund certificate holders, applying for limited amounts of export refunds that are too small to be covered by refund certificates, which do not endanger compliance with the budgetary constraints, shall be exempted from the

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presentation of a refund certificate. Those exemptions shall not exceed a global amount allocated to small exporters.

2 Member States shall issue a refund certificate to any applicant for a refund certificate established in the Union, irrespective of the applicant's place of establishment. Refund certificates shall be valid throughout the Union.

Article 29

Applicable refund rates

1 The rate of the refund to be applied shall be that which applies on the day on which the export declaration for the non-Annex I goods is accepted by the customs authorities, unless an application has been made in accordance with paragraph 2 for the refund rate to be fixed in advance.

2 An application for the fixing in advance of the rate of refund may be submitted at the time of the application for a refund certificate, on the day on which the refund certificate is granted or at any time after that day but before the end of the validity period of the refund certificate.

3 The rate shall be fixed in advance at the rate applicable on the day of the application for advance fixing. The refund rates that have been fixed in advance shall apply from that day on to all the refund rates covered by the refund certificate.

4 Export refunds on non-Annex I goods shall be granted on the basis of:

- a the refund rates to be applied in accordance with paragraph 1 for the basic products incorporated in those non-Annex I goods where the refund rates have not been fixed in advance; or
- b the refund rates, fixed in advance in accordance with paragraph 3, for the basic products incorporated in those non-Annex I goods.

Article 30

Security in respect of refund certificates

1 Refund certificates shall be issued subject to the lodging of a security guaranteeing that the economic operator will submit an application for export refunds to the competent authorities of the Member State concerned in respect of exports of non-Annex I goods carried out within the period of validity of the refund certificate.

2 The security shall be forfeited in whole or in part if the export refund was not applied for or was applied for only partially in respect of exports carried out within the period of validity of the refund certificate.

Notwithstanding the first subparagraph, the security shall not be forfeited:

- a if it was due to force majeure that the goods were not exported, or were only partially exported, or that an export refund was not applied for or was applied for only partially;
- b if the amounts of export refund which were not applied for are within the level of tolerance.

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Article 31

Delegated powers

The Commission shall be empowered to adopt delegated acts in accordance with Article 42 concerning:

- (a) rules on the rights and obligations deriving from the refund certificate, including the guarantee, subject to fulfilment of all conditions, that the export refunds will be paid and the obligation to apply for export refunds for agricultural products exported after processing into non-Annex I goods;
- (b) rules on the transfer of the refund certificate or restrictions on such transfer;
- (c) the cases and situations where the presentation of a refund certificate is not required under Article 28(1), taking into account the purpose of the operation, the amounts involved and the global amount that may be granted to small exporters;
- (d) the cases and situations where, by way of derogation from Article 30, the lodging of a security is not required;
- (e) rules on the tolerance referred to in point (b) of the second subparagraph of Article 30(2) having regard to the need to comply with budgetary constraints.

Article 32

Implementing powers

- 1 The Commission shall, where necessary, adopt implementing acts, concerning:
 - a the submission, the format and the content of the application for the refund certificate;
 - b the format, the content and the period of validity of the refund certificate;
 - c the procedure for lodging applications, as well as the procedure for issuing refund certificates and for their use;
 - d the procedure for the lodging of a security and its amount;
 - e the level of tolerance referred to in point (b) of the second subparagraph of Article 30(2), having regard to the need to comply with budgetary constraints;
 - f the means of proving that the obligations derived from refund certificates have been fulfilled;
 - g the treatment of refund certificates by Member States and the exchange of information needed for the management of the system, including the procedures relating to specific administrative assistance between Member States;
 - h the fixing of the global amount allocated to small exporters and the individual threshold of exemption from the presentation of refund certificates in accordance with the second subparagraph of Article 28(1);
 - i the issuing of replacement refund certificates and duplicate refund certificates.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

- 2 Where amounts are applied for that exceed available amounts fixed on the basis of the commitments resulting from the international agreements concluded in accordance with the TFEU, the Commission may adopt implementing acts, without applying the procedure referred

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to in Article 44(2) or (3), limiting the amounts for which refund certificates may be issued, rejecting amounts applied for in respect of refund certificates and suspending the lodging of applications for refund certificates.

SECTION III

Other Measures With Regard To Exports

Article 33

Other measures with regard to exports

1 Where pursuant to Regulation (EU) No 1308/2013 measures with regard to export of an agricultural product listed in Annex III are adopted in the form of levies or charges, and where the export of non-Annex I goods with a high content of that agricultural product is likely to hinder the achievement of the objectives of those measures, the Commission shall be empowered to adopt delegated acts, in accordance with Article 42 of this Regulation, concerning equivalent measures with regard to those non-Annex I goods, provided that those delegated acts comply with any obligations resulting from international agreements concluded in accordance with the TFEU. Those delegated acts shall be adopted only if existing measures available under Regulation (EU) No 1308/2013 appear to be insufficient.

Where, in the cases referred to in the first subparagraph, imperative grounds of urgency so require, the procedure provided for in Article 43 shall apply to delegated acts adopted pursuant to this paragraph.

Those imperative grounds of urgency may include the need to take immediate action to address or to prevent market disturbance, where threats of market disturbance occur so swiftly or unexpectedly that immediate action is necessary to efficiently and effectively address the situation, or where action would prevent such threats of market disturbance from materialising, continuing or turning into a more severe or prolonged disturbance, or where delaying immediate action would threaten to cause or aggravate the disturbance or would increase the extent of the measures which would later be necessary to address the threat or disturbance or be detrimental to production or market conditions.

2 The Commission shall, where necessary, adopt implementing acts, laying down the procedures and technical criteria for the application of paragraph 1.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

CHAPTER IV

MEASURES APPLYING TO BOTH IMPORTS AND EXPORTS

Article 34

Direct offsetting in preferential trade

1 Where an international agreement concluded or provisionally applied by the Union in accordance with the TFEU so provides, the duty applicable on importation of agricultural

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products may be replaced by an amount established on the basis of the difference between agricultural prices in the Union and those in the country or the region concerned, or by an amount offsetting a jointly established price for the country or the region concerned.

In that case, the amounts payable on exports to the country or region concerned shall be determined jointly and on the same basis as the agricultural component of the import duty under the conditions laid down in the agreement.

- 2 The Commission shall, where necessary, adopt implementing acts:
 - a fixing the applicable duty referred to in paragraph 1 and the related amounts payable on exports to the country or region concerned;
 - b ensure that processed agricultural products declared for export under a preferential arrangement are not actually exported under a non-preferential arrangement or vice versa.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

Article 35

Methods of analysis

1 For the purposes of trade arrangements under this Regulation, where the processed agricultural products or non-Annex I goods so require, the characteristics and the composition of these products and goods shall be determined by analysis of their composing elements.

- 2 The Commission shall, where necessary, adopt implementing acts, in relation to the products and goods referred to in paragraph 1, concerning:
 - a the methods of qualitative and quantitative analysis;
 - b the technical provisions necessary for their identification;
 - c the procedures for their CN classification.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

Article 36

Adaptation of this Regulation

The Commission shall be empowered to adopt delegated acts, in accordance with Article 42, concerning:

- (a) the adaptations of Annexes I to V including deletion of processed agricultural products and non-Annex I goods and inclusion of new processed agricultural products and non-Annex I goods, to international agreements concluded or provisionally applied by the Union in accordance with the TFEU;
- (b) the adaptations of Article 2(i) to (l), Article 25 and Annexes I to V to amendments to Annex I to Regulation (EEC) No 2658/87.

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Article 37

Exchange of information

1 Where necessary for the implementation of this Regulation, the Member States shall provide, on request, the Commission with the following information:

- a imports of processed agricultural products;
- b exports of non-Annex I goods;
- c applications for, the issuing and the use of inward processing certificates for agricultural products referred to in Article 18;
- d applications for the issuing and the use of refund certificates referred to in Article 28(1);
- e payments and reimbursements of export refunds for non-Annex I goods referred to in Article 22(1);
- f the administrative implementing measures adopted;
- g other relevant information.

Where export refunds are applied for in another Member State than that in which the non-Annex I goods were produced, information on the production and the composition of the non-Annex I goods referred to in point (e) shall be notified to that other Member State on its request.

2 The Commission may forward the information submitted to it in accordance with paragraph 1, points (a) to (g), to all Member States.

3 In order to ensure the integrity of information systems and the authenticity and legibility of documents and associated data transmitted, the Commission shall be empowered to adopt delegated acts, in accordance with Article 42, establishing:

- a the nature and type of the information to be notified in accordance with paragraph 1;
- b the categories of data to be processed, maximum retention periods and the purpose of processing, in particular in the event of the publication of such data and their transfer to third countries;
- c the access rights to the information or information systems made available, having due regard to professional secrecy and confidentiality;
- d the conditions subject to which the information is to be published.

4 The Commission may adopt implementing acts necessary for the application of this Article, concerning:

- a the methods of notification;
- b the details regarding the information that is to be notified;
- c arrangements for the management of the information to be notified, as well as for the content, form, timing, frequency and deadlines of the notifications;
- d the arrangements for transmitting or making information and documents available to the Member States, the European Parliament, the Council, international organisations, the competent authorities in third countries, or the public, while guaranteeing the protection of personal data and the legitimate interest of undertakings in the protection of their business secrets.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

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Article 38

Processing and protection of personal data

1 Member States and the Commission shall collect personal data for the purposes set out in Article 37(1) and shall not process that data in a way that goes beyond those purposes.

2 Where personal data are processed for the purposes referred to in Article 37(1), they shall be made anonymous and processed in aggregated form only.

3 Personal data shall be processed in accordance with the rules of Directive 95/46/EC and Regulation (EC) No 45/2001. In particular, such data shall not be stored in a form which permits identification of data subjects for longer than is necessary for the purposes for which they were collected or for which they are further processed, taking into account the minimum retention periods laid down in the applicable national and Union law.

4 Member States shall inform the data subjects that their personal data may be processed by national and Union bodies in accordance with paragraph 1 and that, in that respect, they enjoy the rights set out in the data protection rules of, respectively, Directive 95/46/EC and Regulation (EC) No 45/2001.

Article 39

Negligible amounts

The Commission shall be empowered to adopt delegated acts, in accordance with Article 42, concerning the thresholds below which Member States may refrain from applying amounts to be levied or granted pursuant to Articles 3, 5, 10, 22 and 34. The threshold shall be set at a level below which the administrative costs of applying the amounts would be disproportionate to the amounts levied or granted.

Article 40

Securities, checks, verification, scrutiny and penalties

1 When relevant, the horizontal rules on securities, checks, verification, scrutiny and penalties and on the use of the EURO laid down in Articles 58 to 66, 79 to 88 and 105 to 108 of Regulation (EU) No 1306/2013 and legal acts adopted on the basis thereof shall apply *mutatis mutandis* to import licences and tariff quotas for processed agricultural products and to export refunds and refund certificates for non-Annex I goods.

2 The Commission shall be empowered to adopt delegated acts, in accordance with Article 42, concerning rules adapting, as necessary, the provisions adopted on the basis of the Articles referred to in paragraph 1 for the purpose of this Regulation.

3 The Commission shall, where necessary, adopt implementing acts, concerning the application of the provisions adopted on the basis of the Articles referred to in paragraph 1 for the purpose of this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

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Article 41

International obligations and applicable standards

When adopting delegated acts and implementing acts, the Commission shall consider international obligations of the Union and the applicable Union social, environmental and animal welfare standards, the need to monitor evolution of trade and market developments, the need for sound market management and the need to reduce the administrative burden.

CHAPTER V

DELEGATION OF POWER AND COMMITTEE PROCEDURE

Article 42

Exercise of the delegation

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt the delegated acts referred to in Articles 8, 12, 15, 19, 26, 31, Article 33(1), Article 36, Article 37(3), Article 39 and Article 40(2) shall be conferred on the Commission for a period of seven years from the date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3 The delegation of powers referred to in Articles 8, 12, 15, 19, 26, 31, Article 33(1), Article 36, Article 37(3), Article 39 and Article 40(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5 A delegated act adopted pursuant to Articles 8, 12, 15, 19, 26, 31, Article 33(1), Article 36, Article 37(3), Article 39 and Article 40(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

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Article 43

Urgency procedure

1 Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act adopted under this Article to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2 Either the European Parliament or the Council may object to a delegated act adopted under this Article in accordance with the procedure referred to in Article 42(5). In such a case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or by the Council.

Article 44

Committee procedure

1 For the purposes of Article 13, Article 17(1), (2), (4) and (5), Article 20(1), Article 27, Article 32(1), Article 33(2), Article 34(2) and Article 37(4) and, as regards processed agricultural products other than ovalbumin and lactalbumin, for the purposes of Article 5(1) and (5), and Article 16(1) and, as regards import licences and tariff quotas for processed agricultural products other than ovalbumine and lactalbumine and export refunds and refund certificates for non-Annex I goods, for the purpose of Article 40(3), the Commission shall be assisted by a committee called the Committee on horizontal questions concerning trade in processed agricultural products not listed in Annex I. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

For the purposes of Article 9(1) and Article 21(1) and (2), as regards ovalbumin and lactalbumin, for the purposes of Article 5(1) and (5), and Article 16(1) and, as regards import licences and tariff quotas for ovalbumine and lactalbumine, for the purpose of Article 40(3), the Commission shall be assisted by the Committee for the Common Organisation of the Agricultural Markets, established by Article 229(1) of Regulation (EU) No 1308/2013. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

For the purposes of Article 35(2), the Commission shall be assisted by the Customs Code Committee established by Article 247a of Regulation (EEC) No 2913/92. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

3 Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

4 Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or at least a quarter of committee members so request.

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CHAPTER VI

FINAL PROVISIONS

Article 45

Repeals

Regulations (EC) No 614/2009 and (EC) No 1216/2009 are repealed.

References to the repealed Regulations shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex VI.

Article 46

Entry into force

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

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

Done at Strasbourg, 16 April 2014.

For the European Parliament

The President

M. SCHULZ

For the Council

The President

D. KOURKOULAS

Status: Point in time view as at 31/01/2020.

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- (1) 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 ([OJ L 253, 11.10.1993, p. 1](#)).

Status:

Point in time view as at 31/01/2020.

Changes to legislation:

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