

Commission Delegated Regulation (EU) 2016/1237 of 18 May 2016 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the rules for applying the system of import and export licences and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the rules on the release and forfeit of securities lodged for such licences, amending Commission Regulations (EC) No 2535/2001, (EC) No 1342/2003, (EC) No 2336/2003, (EC) No 951/2006, (EC) No 341/2007 and (EC) No 382/2008 and repealing Commission Regulations (EC) No 2390/98, (EC) No 1345/2005, (EC) No 376/2008 and (EC) No 507/2008 (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2016/1237

of 18 May 2016

supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the rules for applying the system of import and export licences and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the rules on the release and forfeit of securities lodged for such licences, amending Commission Regulations (EC) No 2535/2001, (EC) No 1342/2003, (EC) No 2336/2003, (EC) No 951/2006, (EC) No 341/2007 and (EC) No 382/2008 and repealing Commission Regulations (EC) No 2390/98, (EC) No 1345/2005, (EC) No 376/2008 and (EC) No 507/2008

(Text with EEA relevance)

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<sup>(1)</sup>, and in particular Article 177 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 485/2008<sup>(2)</sup>, and in particular Article 66(3) (c) and (e) thereof,

Whereas:

- (1) Regulation (EU) No 1308/2013 repealed and replaced Council Regulation (EC) No 1234/2007<sup>(3)</sup> and lays down rules regarding import and export licences for agricultural products. It also empowers the Commission to adopt delegated and implementing acts in that respect. In order to ensure the smooth functioning of the system of import and export licences in the new legal framework, certain rules have to be adopted by means of such acts.

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*Status: Point in time view as at 31/01/2020.*

*Changes to legislation: There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2016/1237. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

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- (2) Article 176 of Regulation (EU) No 1308/2013 provides that the import for release for free circulation or the export of one or more products of the sectors laid down in that Article may be made subject to the presentation of a licence. The list of the products of those sectors subject to the presentation of an import or export licence should be laid down.
- (3) Monitoring trade flows by means of licences should be addressed in a flexible way. When defining the cases where a licence is required, account should be taken of other possible sources of information, such as the customs surveillance system, and the need for licences or the time needed to gather information by means of licences. The specific cases where a licence is not required should be defined.
- (4) It is necessary to provide that the licences are to be issued subject to the lodging of a security, so as to guarantee that the products will be imported or exported during the period of validity of the licence. It is also necessary to lay down when the obligation to import or export is fulfilled.
- (5) An import or export licence confers the right to import or export and, therefore, in order to make this right effective a licence should be presented at the time when the import or export declaration is submitted.
- (6) Since the person using a licence may not be the titular holder or transferee, it should be specified, in the interests of legal certainty and administrative efficiency, which persons are authorised to use the licence, including a customs representative acting on behalf of the titular holder or transferee.
- (7) In view of international trade practice in respect of the agricultural products concerned, certain tolerances should be allowed with regard to the quantity of products imported or exported as compared with the quantity indicated on the licence.
- (8) Where an import licence is also used to administer a tariff quota to which preferential arrangements apply, such preferential arrangements are to apply to importers by virtue of the licence which must, in some cases, be accompanied by a document from a third country. To avoid any overrun in the quota, the preferential arrangement is to apply up to the quantity for which the licence was issued. In such cases a tolerance should be permitted, provided that the part of the quantity exceeding the quantity shown on the licence but within the tolerance does not benefit from the preferential arrangement and the conventional customs duty is payable.
- (9) It is appropriate to lay down specific rules as regards the transferability of a licence.
- (10) Provisions should be laid down on the release and forfeiture of the security lodged for import and export licences.
- (11) Due to the specificity of the sector, it is necessary to lay down some additional conditions for import licences for hemp and for garlic.
- (12) For the sake of clarity it is appropriate to lay down the rules concerning the import and export licences issued for products for which the import or export licence obligation

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is abolished or affected by this Regulation and which are still valid on the date of application of this Regulation.

- (13) As the aim of this Regulation and Commission Implementing Regulation (EU) 2016/1239<sup>(4)</sup> is to simplify and adapt the provisions applicable to the system of import and export licences to the new legal framework established by Regulation (EU) No 1308/2013, the currently applicable provisions should be replaced. For the sake of clarity, certain provisions of Commission Regulations (EC) No 2535/2001<sup>(5)</sup>, (EC) No 1342/2003<sup>(6)</sup>, (EC) No 2336/2003<sup>(7)</sup>, (EC) No 951/2006<sup>(8)</sup>, (EC) No 341/2007<sup>(9)</sup> and (EC) No 382/2008<sup>(10)</sup> should be deleted and Commission Regulations (EC) No 2390/98<sup>(11)</sup>, (EC) No 1345/2005<sup>(12)</sup>, (EC) No 376/2008<sup>(13)</sup> and (EC) No 507/2008<sup>(14)</sup> should be repealed.
- (14) The transition from the arrangements provided for in the deleted provisions and repealed Regulations to those provided for in this Regulation might have some practical consequences. Therefore, it is appropriate to defer the application of this Regulation,

HAS ADOPTED THIS REGULATION:

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- (1) [OJ L 347, 20.12.2013, p. 671.](#)
- (2) [OJ L 347, 20.12.2013, p. 549.](#)
- (3) Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ([OJ L 299, 16.11.2007, p. 1.](#))
- (4) Commission Implementing Regulation (EU) 2016/1239 of 18 May 2016 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the system of import and export licences (see page 44 of this Official Journal).
- (5) Commission Regulation (EC) No 2535/2001 of 14 December 2001 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the import arrangements for milk and milk products and opening tariff quotas ([OJ L 341, 22.12.2001, p. 29.](#))
- (6) Commission Regulation (EC) No 1342/2003 of 28 July 2003 laying down special detailed rules for the application of the system of import and export licences for cereals and rice ([OJ L 189, 29.7.2003, p. 12.](#))
- (7) Commission Regulation (EC) No 2336/2003 of 30 December 2003 introducing certain detailed rules for applying Council Regulation (EC) No 670/2003 laying down specific measures concerning the market in ethyl alcohol of agricultural origin ([OJ L 346, 31.12.2003, p. 19.](#))
- (8) Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector ([OJ L 178, 1.7.2006, p. 24.](#))
- (9) Commission Regulation (EC) No 341/2007 of 29 March 2007 opening and providing for the administration of tariff quotas and introducing a system of import licences and certificates of origin for garlic and certain other agricultural products imported from third countries ([OJ L 90, 30.3.2007, p. 12.](#))
- (10) Commission Regulation (EC) No 382/2008 of 21 April 2008 on rules of application for import and export licences in the beef and veal sector ([OJ L 115, 29.4.2008, p. 10.](#))
- (11) Commission Regulation (EC) No 2390/98 of 5 November 1998 laying down detailed rules for the application of Council Regulation (EC) No 1706/98 as regards the arrangements for importing certain cereal substitute products and processed cereal and rice products originating in the African, Caribbean and Pacific States or in the overseas countries and territories and repealing Regulation (EEC) No 2245/90 ([OJ L 297, 6.11.1998, p. 7.](#))
- (12) Commission Regulation (EC) No 1345/2005 of 16 August 2005 laying down detailed rules for the application of the system of import licences for olive oil ([OJ L 212, 17.8.2005, p. 13.](#))
- (13) Commission Regulation (EC) No 376/2008 of 23 April 2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products ([OJ L 114, 26.4.2008, p. 3.](#))
- (14) Commission Regulation (EC) No 507/2008 of 6 June 2008 laying down detailed rules for the application of Council Regulation (EC) No 1673/2000 on the common organisation of the markets in flax and hemp grown for fibre ([OJ L 149, 7.6.2008, p. 38.](#))

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