

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

## *CHAPTER I*

### *Introductory provisions*

#### *Article 1*

##### **Scope**

This Regulation lays down rules supplementing Regulations (EU) No 1306/2013 and (EU) No 1308/2013, respectively, as regards:

- (a) the conditions and eligibility requirements that an operator has to fulfil to submit an application within the tariff quotas listed in Annex I to Implementing Regulation (EU) 2020/761;
- (b) rules on the transfer of rights between operators;
- (c) the lodging and release of securities;
- (d) providing, where necessary, for any particular specific characteristics, requirements or restrictions applicable to the tariff quota;
- (e) the specific tariff quotas provided for in Article 185 of Regulation (EU) No 1308/2013.

#### *Article 2*

##### **Other applicable rules**

Regulation (EU) No 952/2013 of the European Parliament and of the Council<sup>(1)</sup> and Commission Delegated Regulations (EU) No 907/2014<sup>(2)</sup>, (EU) 2015/2446<sup>(3)</sup> and (EU) 2016/1237<sup>(4)</sup> and Commission Implementing Regulation (EU) 2016/1239<sup>(5)</sup> shall apply, unless otherwise provided for in this Regulation.

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## CHAPTER II

### Common rules

#### Article 3

#### Conditions and eligibility requirements

1 Operators applying for an import or export licence within a tariff quota shall be established and registered for VAT purposes in the Union. They shall submit their application for licence to the licence issuing authority of the Member State of their establishment and their VAT registration (hereinafter the ‘licence issuing authority’).

2 Where an operator applies for a licence within a tariff quota that is subject to the proof of trade requirement set out in Annex I to Implementing Regulation (EU) 2020/761, it shall submit, together with the first licence application within each tariff quota period, proof of trade in accordance with Article 8 of this Regulation.

3 Where an operator applies for an import licence within a tariff quota that is subject to the reference quantity requirement set out in Annex I to Implementing Regulation (EU) 2020/761, it shall submit, together with the first licence application, the documents required in Article 10 of this Regulation for establishing the reference quantity.

4 Where an operator applies for an import licence within a tariff quota for which prior registration of operators is required pursuant to Annex I to Implementing Regulation (EU) 2020/761, it shall be registered in accordance with Article 13 of this Regulation prior to submitting that application.

5 Only operators that fulfil the requirement of independence set out in Article 11 and submit a declaration of independence in accordance with Article 12 may apply for tariff quotas for which prior registration of operators is required.

By way of derogation from the first subparagraph, prior registration of operators shall not be required where the reference quantity requirement referred to in paragraph 3 was suspended in accordance with Article 9(9).

#### Article 4

#### Lodging of a security

Issuing of the following licences shall be subject to the lodging of a security:

- (a) import licences;
- (b) export licences for the cheese quota opened by the United States of America set out in Section 2 of Chapter 7 of Implementing Regulation (EU) 2020/761;
- (c) export licences for the milk powder quota opened by the Dominican Republic set out in Section 2 of Chapter 7 of Implementing Regulation (EU) 2020/761.

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## Article 5

### Release and forfeiture of securities

1 Article 7 of Delegated Regulation (EU) 2016/1237 shall apply to the release and forfeiture of securities for a licence for a tariff quota.

2 By way of derogation from Article 23(4) of Delegated Regulation (EU) No 907/2014, where the release for free circulation in the Union or export from the Union took place within the period of validity of the licence, but the time limit for submission of the proof of that release or export is exceeded, the security shall be forfeited by 3 % for each calendar day by which the time limit is exceeded.

3 The security shall be released for the quantities for which a licence has not been issued following the application of an allocation coefficient pursuant to Article 10 of Implementing Regulation (EU) 2020/761.

## Article 6

### Publication of names of operators that hold licences for tariff quotas for which prior registration of operators is required

1 By way of derogation from Article 4(4) of Commission Implementing Regulation (EU) 2017/1185<sup>(6)</sup>, at the end of each tariff quota period, the Commission shall publish on its official website the names, Economic Operators Registration and Identification ('EORI') numbers and addresses of the operators that, during the preceding tariff quota period, received licences for tariff quotas requiring compulsory registration of operators pursuant to Annex I to Implementing Regulation (EU) 2020/761, whether as titular holders or transferees.

2 The data referred to in paragraph 1 shall be removed from the Commission official website 12 months after publication.

## Article 7

### Transfer of licences

1 Import licences shall be transferable, except for the import licences within the tariff quotas for fresh and frozen beef and veal and pigmeat originating in Canada.

2 Export licences shall not be transferable.

3 In addition to the requirements laid down in Article 6 of Delegated Regulation (EU) 2016/1237, the transferee shall be established and registered for VAT purposes in the Union.

4 Where the licence transfer concerns tariff quotas subject to the proof of trade requirement, the transferee shall provide proof of trade in accordance with Article 8.

5 Where the licence transfer concerns tariff quotas subject to the requirement of reference quantity, the transferee shall not be obliged to provide such proof.

6 Where the licence transfer concerns tariff quotas for which prior registration of operators is required, the transferee shall fulfil the following requirements prior to the licence transfer:

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- a it shall be registered in the LORI electronic system referred to in Article 13;
- b it shall have submitted the declaration of independence referred to in Article 12 for the tariff quotas concerned by the licence transfer,

except where these requirements are suspended in connection with the suspension of the reference quantity requirement pursuant to Article 9(9) of this Regulation.

7 The transferee shall provide evidence that it meets the eligibility requirements set out in paragraph 3, paragraphs 4 and 6 to the licence issuing authority which issued the licence to be transferred.

Provision of the evidence may be simplified where the transferee is the titular holder of another, valid import licence issued under this Regulation, for the tariff quota order number and the tariff quota period concerned. In such case, the transferee may request its licence issuing authority, to submit a copy or reference to the electronic equivalent of the licence to the licence issuing authority of the transferor. Such copy shall constitute sufficient evidence of the fulfilment of the conditions and eligibility requirements set out in paragraph 3, 4 and 6, irrespective of whether it is in paper or electronic format.

8 Once the licence transfer is made, the quantity released for free circulation in the Union under the licence shall be attributed to the transferee for the purposes of establishing proof of trade and the reference quantity.

#### *Article 8*

#### **Proof of trade**

1 When applying for a specific tariff quota, operators shall prove that they exported from the Union or released for free circulation in the Union a minimum quantity of products of the sector concerned, as listed in points (a) to (w) of Article 1(2) of Regulation (EU) No 1308/2013.

The minimum quantity of products to be exported from the Union or released for free circulation in the Union in each of the two consecutive 12-month periods ending 2 months before the first application may be submitted for the tariff quota period is set out in Annexes II to XIII to Implementing Regulation (EU) 2020/761.

For the purposes of the first subparagraph, the following shall apply:

- a for the garlic tariff quotas listed in Annex VI to Implementing Regulation (EU) 2020/761, the sector concerned shall be the fruit and vegetables sector as listed in point (i) of Article 1(2) of Regulation (EU) No 1308/2013;
- b for the mushrooms tariff quotas listed in Annex VII to Implementing Regulation (EU) 2020/761, the sector concerned shall be the processed fruit and vegetables products sector as listed in point (j) of Article 1(2) of Regulation (EU) No 1308/2013.

2 By way of derogation from paragraph 1, the proof of trade shall cover:

- a for the beef and veal tariff quotas listed in Annex VIII to Implementing Regulation (EU) 2020/761: the period of 12 months ending 2 months before the first application may be submitted for the tariff quota;
- b for the Canada pigmeat import quota opened under order number 09.4282: in addition to products from the pigmeat sector as defined in point (q) of Article 1(2) of Regulation (EU) No 1308/2013, products falling under CN codes 0201, 0202, 0206 10 95 or 0206 29 91;
- c for milk powder export quota opened by the Dominican Republic, referred to in Articles 55 to 57 of Implementing Regulation (EU) 2020/761 products of the tariff quota in

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- question, exported to the Dominican Republic during one of three calendar years prior to lodging a licence application;
- d for the cheese export quota opened by the United States of America, referred to in Articles 58 to 63 of Implementing Regulation (EU) 2020/761 products falling under CN code 0406, exported to the United States of America in at least one of the three calendar years prior to the month of September preceding the start of the tariff quota period;
- e for the New Zealand butter tariff quota under order number 09.4195: products imported under tariff quota order numbers 09.4195 and 09.4182 during 24 months prior to the month of November preceding the start of the tariff quota period;
- f for the New Zealand butter tariff quota under order number 09.4182: the period of 12 months prior to the month of November preceding the start of the tariff quota period.
- 3 Operators shall provide the proof of trade to the licence issuing authority by means of any of the following:
- a customs data showing release for free circulation in the Union and containing, as required by the Member State concerned a reference to the operator as declarant referred to in Article 5(15) of Regulation (EU) No 952/2013 or as importer referred to in Group 3 of Chapter 3 of Title I of Annex B to Delegated Regulation (EU) 2015/2446 and in Group 3 of Title II of that Annex;
- b customs data showing release for export from the Union and containing, as required by the Member State concerned, a reference to the operator as declarant referred to in Article 5(15) of Regulation (EU) No 952/2013 or as exporter referred to Article 1(19) of Delegated Regulation (EU) 2015/2446;
- c a used licence duly endorsed by customs authorities showing the products' release for free circulation in the Union or export from the Union and containing a reference to the operator as a licence titular holder, or in case of transfer of licence, containing a reference to the operator as a transferee.
- 4 Where customs data can only be generated or submitted in paper format, the print out of the customs declarations shall be certified as true copy by stamp and signature by the customs authorities of the Member State concerned.
- 5 Licence issuing authorities and customs authorities may provide for simplified electronic formats for the documents and procedures referred to in this Article.
- 6 Proof of trade shall not be required for quotas subject to the requirement of reference quantity, unless that requirement is suspended, pursuant to Article 9(9).

## Article 9

### Reference quantity

1 The reference quantity shall be the average annual quantity of products released for free circulation in the Union during two consecutive 12-month periods ending 2 months before the first application may be submitted for the tariff quota period.

The reference quantity of merged operators shall be established by adding up the quantities of products released for free circulation in the Union by each of the operators involved in that merger.

The reference quantity of an operator shall not exceed 15 % of the quantity available for the tariff quota concerned in the relevant tariff quota period.

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2 The reference quantity shall cover products released for free circulation in the Union which fall within the same tariff quota order number and have the same origin.

3 The total quantity of products covered by applications for licences for one tariff quota submitted in a tariff quota period shall not exceed the applicant's reference quantity for that tariff quota.

Where the tariff quota period is divided in sub-periods, the reference quantity shall be split among the sub-periods. The share of the total reference quantity for a tariff quota sub-period shall be equal to the share of the total quantity of the import tariff quota available for that sub-period.

Applications, which do not comply with the rules set out in the first and second subparagraphs shall be declared inadmissible by the competent licence issuing authority.

4 By way of derogation from paragraphs 1 and 2, for garlic originating in Argentina under order number 09.4104, the reference quantity shall be the average of the quantities of fresh garlic, falling within CN code 0703 20 00, released for free circulation during the three calendar years preceding the tariff quota period.

5 By way of derogation from paragraph 1, for the beef and veal tariff quotas, listed in Annex VIII to Implementing Regulation (EU) 2020/761, the reference quantity shall be the quantity of products released for free circulation in the Union during 12 months ending 2 months before the first application may be submitted for the tariff quota period.

6 By way of derogation from paragraph 2, the reference quantity shall be calculated by cumulating the quantities of products released for free circulation in the Union, which fall within each of the following three consecutive quota order numbers set out in Annex I to Implementing Regulation (EU) 2020/761:

09.4211, 09.4212 and 09.4213;

09.4214, 09.4215 and 09.4216;

09.4410, 09.4411 and 09.4412.

7 By way of derogation from paragraph 3, for the tariff quotas under order numbers 09.4211, 09.4212 and 09.4213, the total quantity of products covered by licence applications submitted in the tariff quota period for those three tariff quotas shall not exceed the applicant's total reference quantity for those three tariff quotas. The applicant may choose how to subdivide the total reference quantity among the tariff quotas for which applications are submitted. This rule shall also apply to tariff quotas under order numbers 09.4214, 09.4215 and 09.4216 and order numbers 09.4410, 09.4411 and 09.4412.

8 The Commission shall suspend the reference quantity requirement where, by the end of the ninth month of a tariff quota period, the quantities applied for under a tariff quota are lower than the quantity available under that tariff quota for that tariff quota period.

9 The Commission may suspend the reference quantity requirement for any tariff quota set out in Annex I to Implementing Regulation (EU) 2020/761 where unforeseeable and exceptional circumstances threaten to cause underutilisation of that tariff quota.

10 The duration of the suspension shall not exceed the tariff quota period.

11 The Commission shall notify the suspension of the reference quantity requirement in accordance with Article 188 of Regulation (EU) No 1308/2013.

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## Article 10

### Proof of the reference quantity

1 The reference quantity shall be established on the basis of a certified print out of the customs declaration finalized for release for free circulation. The customs declaration shall refer to the products mentioned on the invoice referred to in Article 145 of Commission Implementing Regulation (EU) 2015/2447<sup>(7)</sup>, and shall indicate, depending on the requirements of each Member State, whether the licence applicant is a declarant as referred to in Article 5(15) of Regulation (EU) No 952/2013 or an importer as referred to in Group 3 of Chapter 3 of Title I of Annex B to Delegated Regulation (EU) 2015/2446 and in Group 3 of Title II of that Annex.

2 The operator shall ensure that the customs declaration for free circulation in the Union that it uses to establish the reference quantity contains the number of the invoice referred to in Article 145 of Implementing Regulation (EU) 2015/2447. Operators shall also present the invoice to the licence issuing authorities for establishing its reference quantity. The invoice shall include at least:

- a the name of the importer or declarant;
- b product description associated with its 8-digit CN Code;
- c the invoice number.

3 Licence issuing authorities shall compare the information on invoices, import licences and customs declarations. The documents shall not contain discrepancies as regards the importer's or declarant's identity, product description and invoice number. The verifications of those documents shall be made based on Member States' risk analysis.

4 The licence issuing authority may decide that the invoices be submitted in electronic format.

5 The certified print out of the customs declaration referred to in paragraph 1 may be replaced by electronic submission of customs data by the customs authority to the licence issuing authority, according to the procedures and methods set out in Article 14 of Implementing Regulation (EU) 2016/1239. Licence issuing authorities and customs authorities may provide for simplified electronic formats for the documents and procedures referred to in this paragraph.

6 Where an operator proves, to the satisfaction of the Member State competent authority that the quantity of products it released for free circulation in any of the 12-month periods referred to in Article 9 was affected by sanitary or phytosanitary measures put in place by the exporting country or by the Union, it shall be allowed to use the previous 12-month period not affected by those measures to establish the reference quantity.

## Article 11

### Requirement of independence of operators applying for tariff quotas for which prior registration of operators is required

1 Operators may apply for tariff quotas for which prior registration of operators is required only where:

- a they are not linked with other legal or natural persons applying for the same tariff quota order number; or
- b they are linked with other legal or natural persons applying for the same tariff quota order number but regularly perform substantial economic activities.

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- 2 An operator is linked with other legal or natural persons in the following cases:
- a where it owns or controls another legal person; or
  - b where it has family links to another natural person; or
  - c where it has an important business relationship with another legal or natural person.
- 3 For the purposes of this Article, the following definitions shall apply:
- a ‘owns another legal person’ means being in possession of at least 25 % of the proprietary rights in another legal person;
  - b ‘controls another legal person’ means any of the following:
    - (i) having the right to appoint or remove a majority of the members of the administrative, management or supervisory body of such legal person, group or entity;
    - (ii) having appointed solely as a result of the exercise of one’s voting rights a majority of the members of the administrative, management or supervisory bodies of a legal person who have held office during the present and previous financial year;
    - (iii) controlling alone, pursuant to an agreement with other shareholders in or members of a legal person, group or entity, a majority of shareholders’ or members’ voting rights in that legal person, group or entity;
    - (iv) having the right to exercise a dominant influence over a legal person, group or entity, pursuant to an agreement entered into with that legal person, group or entity, or to a provision in its memorandum or articles of association, where the law governing that legal person, group or entity permits its being subject to such agreement or provision;
    - (v) having the power to exercise the right to exercise a dominant influence referred to in point (iv), without being the holder of that right;
    - (vi) having the right to use all or part of the assets of a legal person, group or entity;
    - (vii) managing the business of a legal person, group or entity on a unified basis, while publishing consolidated accounts;
    - (viii) sharing jointly and severally the financial liabilities of a legal person, group or entity, or guaranteeing them;
  - c ‘has family links’ means any of the following:
    - (i) the operator is the spouse, brother, sister, parent, child or grandchild of another operator applying for the same tariff quota order number;
    - (ii) the operator is the spouse, brother, sister, parent, child or grandchild of the natural person who owns or controls another operator applying for the same tariff quota order number;
  - d ‘important business relationship’ means any of the following:
    - (i) the other person owns directly or indirectly at least 25 % of the shares in the operator;
    - (ii) the operator and the other person, directly or indirectly, jointly control a third person;
    - (iii) the operator and the other person are employer and employee respectively;



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- (iv) the operator and the other person are legally recognised partners in business or are officers or directors in the same legal person;
- e ‘substantial economic activities’ means actions or activities carried out by a person with the objective to ensure production, distribution or consumption of goods and services.

For the purposes of point (e), activities carried out with the sole purpose of applying for tariff quotas shall not be considered as substantial economic activities.

4 Where the operator is linked with other legal or natural persons applying for the same tariff quota order number, it shall fulfil the following obligations when registering in the LORI electronic system:

- a it shall prove that it regularly performs substantial economic activities by submitting at least one of the documents referred to in the section ‘Economic operator proof of substantial economic activity’ of Annex II;
- b it shall disclose the identity of the natural or legal persons to which it is linked by filling the relevant section of Annex II.

5 The Commission may suspend the declaration of independence requirement where the reference quantity requirement is suspended pursuant to Article 9(9).

The duration of the suspension shall not exceed the tariff quota period.

6 The Commission shall notify the suspension of the declaration of independence requirement in accordance with Article 188 of Regulation (EU) No 1308/2013.

## Article 12

### Declaration of independence

1 The applicant for tariff quotas for which prior registration of operators is required shall submit a declaration of independence through the LORI electronic system, using the model declaration set out in Annex I.

2 In its declaration of independence, the applicant shall make one of the following statements, depending on its situation:

- a a declaration that the applicant is not linked with other legal or natural persons applying for the same tariff quota order number;
- b a declaration that the applicant is linked with other legal or natural persons applying for the same tariff quota order number but regularly performs substantial economic activities.

3 The applicant shall ensure that all information contained in its declaration of independence is at all times accurate and up to date.

4 When determining whether the applicant regularly performs substantial economic activities, the licence issuing authority shall take into account the type of economic activity carried out by the applicant, the expenditure made, the sales and turnover of the applicant in the Member State of its VAT registration.

At the request of the competent licence issuing authority, the applicant shall make available all documents and evidence necessary for the verification of the information provided for in the declaration of independence.

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5 The competent licence issuing authority shall accept the declaration of independence only if it is satisfied that the documents submitted in the LORI system are correct and up to date.

6 The applicant shall notify the competent licence issuing authority of any changes affecting the declaration of independence within 10 calendar days from the date on which such changes take effect. The competent licence issuing authority shall record those changes in the LORI electronic system after having validated them.

7 The declaration of independence shall remain valid as long as the operator fulfils the requirements set out in Article 11(1).

### Article 13

#### **Prior compulsory registration of operators**

1 The Commission shall set up a Licence Operator Registration and Identification (LORI) electronic system, in accordance with Commission Delegated Regulation (EU) 2017/1183<sup>(8)</sup> and Implementing Regulation (EU) 2017/1185.

2 Applications for registration in the LORI electronic system shall be made using an electronic form made available by the licence issuing authority to operators. This form shall include the information set out in Annex II.

3 Only operators established in the customs territory of the Union and having an EORI number may apply for registration in the LORI electronic system. They shall apply to the licence issuing authority of the Member State in which they are established and registered for VAT purposes.

4 The application for registration shall be submitted at least two months before the month in which the operator intends to submit its licence application. The operator shall provide a valid email address for correspondence, and shall maintain a valid email address in the LORI electronic system for communication with the licence issuing authority.

5 Where the competent licence issuing authority finds that the information submitted by an operator for registration in the LORI electronic system or for a change in its LORI record is correct and up to date and complies with this Regulation and with Implementing Regulation (EU) 2020/761, it shall validate the registration or the change and notify the Commission of the validation through the LORI electronic system.

6 The licence issuing authority shall reject the application for registration where the applicant fails to prove to its satisfaction that the information provided as set out in Annex II is correct and up to date. The licence issuing authority shall record the date of rejection of the application and shall notify the rejection to the applicant together with the reasons for rejection.

7 Based on the notification of the licence issuing authority, the Commission shall register the applicant in the LORI electronic system and inform the licence issuing authority of the registration. The licence issuing authority shall notify the registration to the applicant.

8 Once the operator is registered in the LORI electronic system, the registration is valid until its withdrawal.

9 Data concerning the registered operator stored in the LORI electronic system shall constitute its LORI record. This data shall be stored throughout the registration of the operator and for seven years following the withdrawal of the operator's registration from the LORI electronic system.

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- 10 The licence issuing authority shall withdraw the registration in the following cases:
- a upon request by the registered operator;
  - b where the licence issuing authority becomes aware that the registered operator no longer meets the conditions and eligibility requirements for applying for tariff quotas requiring compulsory registration for operators.

11 The licence issuing authority shall record the date of withdrawal of the registration and shall notify it to the operator concerned together with the reasons for the withdrawal.

12 The operator shall notify the competent licence issuing authority of any changes affecting its LORI record within 10 calendar days from the date of effectiveness of such changes. The Commission shall record those changes in the LORI electronic system after their validation by the competent licence issuing authority.

13 The Commission may suspend the requirement of prior registration of operators in the LORI electronic system where the reference quantity requirement has been suspended pursuant to Article 9(9).

The duration of the suspension shall not exceed the tariff quota period.

14 The Commission shall notify the suspension of the requirement of prior registration of operators in the LORI system in accordance with Article 188 of Regulation (EU) No 1308/2013.

#### *Article 14*

### **Complaints for undue registration of an operator**

1 Operators registered in the LORI electronic system, which suspect that another registered operator does not meet the conditions and eligibility requirements for applying for tariff quotas for which prior registration is required, may submit complaints to the licence issuing authority of the Member State where they are established and registered for VAT purposes. Such complaints must be substantiated. Each licence issuing authority shall make available to the operators a system for the submission of such complaints and shall inform the operators of that system when they apply for registration in the LORI electronic system.

2 If the licence issuing authority of the Member State where the complainant is established finds the complaint to be founded, it shall follow it up with the controls that it deems appropriate. Where the controlled operator is established and registered for VAT purposes in another Member State, the licence issuing authority of that Member State shall provide the necessary assistance in a timely manner. The result of the control shall be recorded by the licence issuing authority of the Member State where the operator concerned is established and registered for VAT purposes, in the LORI electronic system, as part of its LORI record.

#### *Article 15*

### **Penalties**

1 Where the competent licence issuing authority finds that an operator applying for an import or export licence for tariff quota or its transfer has presented an incorrect document or has submitted incorrect data or data that is not up to date in the context of the registration into the LORI electronic system, and where that document is essential for issuing that import or export licence, it shall take the following measures:

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- a bar the operator from releasing for free circulation in the Union or exporting from the Union any products under the import or export tariff quota concerned for the entire tariff quota period during which such finding was made;
- b exclude the operator from the licence application system for the import or export tariff quota concerned for a tariff quota period following the tariff quota period during which such finding was made.

Where the licence issuing authority finds that an operator applying for an import or export licence for tariff quota or its transfer has deliberately presented an incorrect document or has deliberately omitted to update data in its LORI record in the context of the registration into the LORI electronic system, and where that document or data is essential for issuing that import or export licence, the exclusion of the operator referred to in point (b) of the first subparagraph shall apply for two tariff quota periods following the tariff quota period during which such finding was made.

2 Where release for free circulation under an import licence has been made prior to the findings referred to in paragraph 1 any undue financial advantages resulting therefrom shall be recovered.

3 The penalties referred to in paragraph 1 shall be without prejudice to any additional penalties under national law or Union law, and without prejudice to the rules on the protection of the Union's financial interests.

#### *Article 16*

#### **Special treatment on importation into a third country**

Whenever exported products benefit from a special treatment on importation into a third country, pursuant to Article 186(2) of Regulation (EU) No 1308/2013, exporters shall be allowed to request an export licence certifying that such conditions for a special treatment on importation into a third country are met. The competent authorities of Member States shall issue such licence once they are satisfied, by means they find appropriate, that such conditions are met.

#### *Article 17*

#### **Notifications to the Commission**

Member States shall notify the Commission for each tariff quota period of the following information using the notification system established by Delegated Regulation (EU) 2017/1183 and Implementing Regulation (EU) 2017/1185:

- (a) the quantities covered by import or export licence applications;
- (b) the quantities covered by import or export licences issued;
- (c) the non-used quantities covered by unused or partly used import or export licences;
- (d) the quantities allocated to operators within a tariff quota for which import or export licences were not issued;
- (e) the quantities released for free circulation or exported under the import or export licences issued;
- (f) for tariff quotas for which prior registration of operators is required:

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- (i) the names, the EORI numbers and addresses of operators having received import licences or of the transferees of an import licence;
  - (ii) for each operator, the quantities applied for;
  - (iii) applications for registration in the LORI electronic system which have been validated and rejected, registrations which have been withdrawn, and validations and rejections of changes in the LORI record;
- (g) for import tariff quotas administered with documents issued by third countries, for each certificate of authenticity or Inward Monitoring Arrangement ('IMA 1') certificate referred to in Annex XIV to Implementing Regulation (EU) 2020/761 lodged by an operator, the number of the corresponding licence issued and the quantities covered.

### CHAPTER III

#### **Specific tariff quotas pursuant to Article 185 of Regulation (EU) No 1308/2013**

##### *Article 18*

#### **Opening of the quotas**

1 Two quotas for imports of a maximum quantity of 2 000 000 tonnes of maize falling under CN code 1005 90 00 and 300 000 tonnes of sorghum falling under CN code 1007 90 00 from third countries, for release for free circulation in Spain, shall be opened each year from 1 January.

2 One tariff quota for imports of a maximum quantity of 500 000 tonnes of maize falling under CN code 1005 90 00 from third countries, for release for free circulation in Portugal, shall be opened each year from 1 January.

##### *Article 19*

#### **Administration of the quotas**

1 The quantities for import into Spain referred to in Article 18(1) shall be reduced in proportion to any quantities of residues of starch manufacture from maize falling within CN codes 2303 10 19 and 2309 90 20, brewing and distilling dregs and waste falling within CN code 2303 30 00 and citrus pulp residues falling within CN code ex 2308 00 40 imported into Spain from third countries during the year concerned.

- 2 The Commission shall book for the quotas referred to in Article 18(1) and (2):
- a the quantities of maize falling under CN code 1005 90 00 and sorghum falling under CN code 1007 90 00 imported into Spain and the quantities of maize falling under CN code 1005 90 00 imported into Portugal during each calendar year;
  - b the quantities of residues of starch manufacture from maize, brewing and distilling dregs and waste and residues of citrus pulp, referred to in paragraph 1, imported into Spain during each calendar year.

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3 For the purposes of booking quantities for the quotas referred to in Article 18(1) and (2), imports in Spain and Portugal carried out under acts by which the Union granted specific trade concessions shall not be taken into account.

#### *Article 20*

### **Use of imported products and surveillance**

1 The quantities of maize and sorghum referred to in Article 18(1) shall be allocated to processing or use in Spain. The quantities of maize referred to in Article 18(2) shall be allocated to processing or use in Portugal.

2 Maize and sorghum released for free circulation at zero duty in accordance with Article 21 shall remain under the customs surveillance or under administrative control of equivalent effect until they are used or processed.

3 The Member State concerned shall, if need be, take all necessary measures to ensure that the surveillance referred to in paragraph 2 is carried out. These measures shall include requiring importers to submit to any check considered necessary by the competent authorities and to keep specific records enabling the authorities to make such checks.

4 The Member State concerned shall immediately notify the Commission of the measures adopted pursuant to paragraph 3.

#### *Article 21*

### **Duty free imports**

1 A zero import duty shall be applied from 1 April of each calendar year for imports of maize and sorghum into Spain and for imports of maize into Portugal, within the quantitative limits laid down in Article 18(1) and (2).

2 The imports referred to in paragraph 1:

- a shall be managed according to the method referred to in Article 184(2)(b) of Regulation (EU) No 1308/2013;
- b shall be covered by licences issued by the Spanish and Portuguese competent authorities.

The licences referred to in point (b) shall be valid only in the Member State in which they are issued.

3 From the date of application of the zero import duty defined in paragraph 1, the Commission shall publish on the sixth day of each month at the latest, by appropriate means, the quantities of the quotas referred to in Article 18(1) and (2) which are available on the first day of each month.

#### *Article 22*

### **Security at application and performance security**

1 The security referred to in Article 4, the rate of which is set out in Annex II to Implementing Regulation (EU) 2020/761 shall be lodged by the applicant with the licence issuing authority before the end of the application period.

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2 In addition to the security referred to in paragraph 1, the issue of the licence shall be subject to a performance security being available by the date of release for free circulation at the latest.

3 The rate of the performance security referred to in paragraph 2 shall be equal to the import duty for maize and sorghum, fixed in accordance with Commission Regulation (EU) No 642/2010<sup>(9)</sup> and applicable on the day of licence application.

#### Article 23

### Specific rules on transfer of licences

By way of derogation from Article 6 of Delegated Regulation (EU) 2016/1237, the rights arising from import licences shall not be transferable.

#### Article 24

### Release and forfeiture of the performance security

1 Without prejudice to the surveillance measures adopted pursuant Article 20(2), the performance security referred to in Article 22(2) shall be released where the importer provides proof that:

- a the imported product has been processed or used in the Member State of release for free circulation; that proof may be provided in the form of a sale invoice to a processor established in the Member State of release for free circulation;
- b the product could not be imported, processed or used for reasons of *force majeure*;
- c the imported product has become unsuitable for any use whatsoever.

2 The proof referred to in paragraph 1 shall be provided within 18 months of the date of acceptance of the declaration of release for free circulation, failing which the security shall be forfeited.

3 For the purposes of this Article, the processing or utilisation of the imported product shall be considered to have been effected if 95 % of the quantity released for free circulation has been processed or used.

## CHAPTER IV

### Transitional and final provisions

#### Article 25

### Repeals

Commission Regulations (EC) No 2307/98<sup>(10)</sup>, (EC) No 2535/2001<sup>(11)</sup>, (EC) No 1342/2003<sup>(12)</sup>, (EC) No 2305/2003<sup>(13)</sup>, (EC) No 969/2006<sup>(14)</sup>, (EC) No 1301/2006<sup>(15)</sup>, (EC) No 1918/2006<sup>(16)</sup>, (EC) No 1964/2006<sup>(17)</sup>, (EC) No 1979/2006<sup>(18)</sup>, (EC) No 341/2007<sup>(19)</sup>, (EC) No 533/2007<sup>(20)</sup>, (EC) No 536/2007<sup>(21)</sup>, (EC) No 539/2007<sup>(22)</sup>, (EC) No 616/2007<sup>(23)</sup>, (EC) No 964/2007<sup>(24)</sup>, (EC) No 1384/2007<sup>(25)</sup>, (EC) No 1385/2007<sup>(26)</sup>, (EC) No 382/2008<sup>(27)</sup>, (EC) No 412/2008<sup>(28)</sup>, (EC) No 431/2008<sup>(29)</sup>, (EC) No 748/2008<sup>(30)</sup>, (EC) No 1067/2008<sup>(31)</sup>, (EC) No 1296/2008<sup>(32)</sup>, (EC) No 442/2009<sup>(33)</sup>,

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(EC) No 610/2009<sup>(34)</sup>, (EC) No 891/2009<sup>(35)</sup>, (EC) No 1187/2009<sup>(36)</sup> and (EU) No 1255/2010<sup>(37)</sup> and Commission Implementing Regulations (EU) No 1273/2011<sup>(38)</sup>, (EU) No 480/2012<sup>(39)</sup>, (EU) No 1223/2012<sup>(40)</sup>, (EU) No 82/2013<sup>(41)</sup>, (EU) No 593/2013<sup>(42)</sup>, (EU) 2015/2076<sup>(43)</sup>, (EU) 2015/2077<sup>(44)</sup>, (EU) 2015/2078<sup>(45)</sup>, (EU) 2015/2079<sup>(46)</sup>, (EU) 2015/2081<sup>(47)</sup> and (EU) 2017/1585<sup>(48)</sup> are repealed.

However, those Regulations and Implementing Regulations shall continue to apply to import and export licences that were issued on their basis until the expiry of those import and export licences.

#### Article 26

### Transitional provisions

In the first two tariff quota periods following the entry into force of this Regulation, the licence issuing authority may establish the reference quantity referred to in Article 9 in accordance with the relevant repealed Regulations listed in Article 25.

Where in one or both of the two tariff quota periods before the entry into application of this Regulation, a tariff quota that is subject to the reference quantity requirement referred to in Article 9 has not been fully used, operators may choose to establish their reference quantity either in accordance with Article 9(1) of this Regulation, or using the two last preceding 12-months periods where the tariff quota was fully used.

#### Article 27

### Entry into force and application

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

2 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, 17 December 2019.

*For the Commission*

*The President*

Ursula VON DER LEYEN



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- (1) 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](#)).
- (2) 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](#)).
- (3) Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code ([OJ L 343, 29.12.2015, p. 1](#)).
- (4) 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 ([OJ L 206, 30.7.2016, p. 1](#)).
- (5) 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 ([OJ L 206, 30.7.2016, p. 44](#)).
- (6) Commission Implementing Regulation (EU) 2017/1185 of 20 April 2017 laying down rules for the application of Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards notifications to the Commission of information and documents and amending and repealing several Commission Regulations ([OJ L 171, 4.7.2017, p. 113](#)).
- (7) 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](#)).
- (8) Commission Delegated Regulation (EU) 2017/1183 of 20 April 2017 supplementing Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council with regard to the notifications to the Commission of information and documents ([OJ L 171, 4.7.2017, p. 100](#)).
- (9) Commission Regulation (EU) No 642/2010 of 20 July 2010 on rules of application (cereal sector import duties) for Council Regulation (EC) No 1234/2007 ([OJ L 187, 21.7.2010, p. 5](#)).
- (10) Commission Regulation (EC) No 2307/98 of 26 October 1998 on the issue of export licences for dog and cat food falling within CN code 2309 10 90 qualifying for special import treatment in Switzerland ([OJ L 288, 27.10.1998, p. 8](#)).
- (11) 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](#)).
- (12) 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](#)).
- (13) Commission Regulation (EC) No 2305/2003 of 29 December 2003 opening and providing for the administration of a Community tariff quota for imports of barley from third countries ([OJ L 342, 30.12.2003, p. 7](#)).
- (14) Commission Regulation (EC) No 969/2006 of 29 June 2006 opening and providing for the administration of a Community tariff quota for imports of maize from third countries ([OJ L 176, 30.6.2006, p. 44](#)).
- (15) Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ([OJ L 238, 1.9.2006, p. 13](#)).
- (16) Commission Regulation (EC) No 1918/2006 of 20 December 2006 opening and providing for the administration of tariff quota for olive oil originating in Tunisia ([OJ L 365, 21.12.2006, p. 84](#)).
- (17) Commission Regulation (EC) No 1964/2006 of 22 December 2006 laying down detailed rules for the opening and administration of an import quota for rice originating in Bangladesh, pursuant to Council Regulation (EEC) No 3491/90 ([OJ L 408, 30.12.2006, p. 20](#)).

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- (18) Commission Regulation (EC) No 1979/2006 of 22 December 2006 opening and providing for the administration of tariff quotas for preserved mushrooms imported from third countries ([OJ L 368, 23.12.2006, p. 91](#)).
- (19) 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](#)).
- (20) Commission Regulation (EC) No 533/2007 of 14 May 2007 opening and providing for the administration of tariff quotas in the poultrymeat sector ([OJ L 125, 15.5.2007, p. 9](#)).
- (21) Commission Regulation (EC) No 536/2007 of 15 May 2007 opening and providing for the administration of a tariff quota for poultrymeat allocated to the United States of America ([OJ L 128, 16.5.2007, p. 6](#)).
- (22) Commission Regulation (EC) No 539/2007 of 15 May 2007 opening and providing for the administration of tariff quotas in the egg sector and for egg albumin ([OJ L 128, 16.5.2007, p. 19](#)).
- (23) Commission Regulation (EC) No 616/2007 of 4 June 2007 opening and providing for the administration of Community tariff quotas in the sector of poultrymeat originating in Brazil, Thailand and other third countries ([OJ L 142, 5.6.2007, p. 3](#)).
- (24) Commission Regulation (EC) No 964/2007 of 14 August 2007 laying down detailed rules for the opening and administration of the tariff quotas for rice originating in the least developed countries for the marketing years 2007/2008 and 2008/2009 ([OJ L 213, 15.8.2007, p. 26](#)).
- (25) Commission Regulation (EC) No 1384/2007 of 26 November 2007 laying down detailed rules for the application of Council Regulation (EC) No 2398/96 as regards opening and providing for the administration of certain quotas for imports into the Community of poultrymeat products originating in Israel ([OJ L 309, 27.11.2007, p. 40](#)).
- (26) Commission Regulation (EC) No 1385/2007 of 26 November 2007 laying down detailed rules for the application of Council Regulation (EC) No 774/94 as regards opening and providing for the administration of certain Community tariff quotas for poultrymeat ([OJ L 309, 27.11.2007, p. 47](#)).
- (27) 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](#)).
- (28) Commission Regulation (EC) No 412/2008 of 8 May 2008 opening and providing for the administration of an import tariff quota for frozen beef intended for processing ([OJ L 125, 9.5.2008, p. 7](#)).
- (29) Commission Regulation (EC) No 431/2008 of 19 May 2008 opening and providing for the administration of an import tariff quota for frozen meat of bovine animals covered by CN code 0202 and products covered by CN code 02062991 ([OJ L 130, 20.5.2008, p. 3](#)).
- (30) Commission Regulation (EC) No 748/2008 of 30 July 2008 on the opening and administration of an import tariff quota for frozen thin skirt of bovine animals falling within CN code 02062991 ([OJ L 202, 31.7.2008, p. 28](#)).
- (31) Commission Regulation (EC) No 1067/2008 of 30 October 2008 opening and providing for the administration of Community tariff quotas for common wheat of a quality other than high quality from third countries and derogating from Council Regulation (EC) No 1234/2007 ([OJ L 290, 31.10.2008, p. 3](#)).
- (32) Commission Regulation (EC) No 1296/2008 of 18 December 2008 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal ([OJ L 340, 19.12.2008, p. 57](#)).
- (33) Commission Regulation (EC) No 442/2009 of 27 May 2009 opening and providing for the administration of Community tariff quotas in the pigmeat sector ([OJ L 129, 28.5.2009, p. 13](#)).
- (34) Commission Regulation (EC) No 610/2009 of 10 July 2009 laying down detailed rules for the application of the tariff quota for beef and veal originating in Chile ([OJ L 180, 11.7.2009, p. 5](#)).
- (35) Commission Regulation (EC) No 891/2009 of 25 September 2009 opening and providing for the administration of certain Community tariff quotas in the sugar sector ([OJ L 254, 26.9.2009, p. 82](#)).

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- (36) Commission Regulation (EC) No 1187/2009 of 27 November 2009 laying down special detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards export licences and export refunds for milk and milk products ([OJ L 318, 4.12.2009, p. 1](#)).
- (37) Commission Regulation (EU) No 1255/2010 of 22 December 2010 laying down detailed rules for the application of the import tariff quotas for ‘baby beef’ products originating in Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Serbia ([OJ L 342, 28.12.2010, p. 1](#)).
- (38) Commission Implementing Regulation (EU) No 1273/2011 of 7 December 2011 opening and providing for the administration of certain tariff quotas for imports of rice and broken rice ([OJ L 325, 8.12.2011, p. 6](#)).
- (39) Commission Implementing Regulation (EU) No 480/2012 of 7 June 2012 opening and providing for the management of a tariff quota for broken rice of CN code 10064000 for production of food preparations of CN code 19011000 ([OJ L 148, 8.6.2012, p. 1](#)).
- (40) Commission Implementing Regulation (EU) No 1223/2012 of 18 December 2012 laying down detailed rules for the application of an import tariff quota for live bovine animals of a weight exceeding 160 kg and originating in Switzerland provided for in the Agreement between the European Community and the Swiss Confederation on trade in agricultural products ([OJ L 349, 19.12.2012, p. 39](#)).
- (41) Commission Implementing Regulation (EU) No 82/2013 of 29 January 2013 laying down detailed rules for the application of an import tariff quota of dried boneless beef originating in Switzerland ([OJ L 28, 30.1.2013, p. 3](#)).
- (42) Commission Implementing Regulation (EU) No 593/2013 of 21 June 2013 opening and providing for the administration of tariff quotas for high-quality fresh, chilled and frozen beef and for frozen buffalo meat ([OJ L 170, 22.6.2013, p. 32](#)).
- (43) Commission Implementing Regulation (EU) 2015/2076 of 18 November 2015 opening and providing for the administration of Union import tariff quotas for fresh and frozen pigmeat originating in Ukraine ([OJ L 302, 19.11.2015, p. 51](#)).
- (44) Commission Implementing Regulation (EU) 2015/2077 of 18 November 2015 opening and providing for the administration of Union import tariff quotas for eggs, egg products and albumins originating in Ukraine ([OJ L 302, 19.11.2015, p. 57](#)).
- (45) Commission Implementing Regulation (EU) 2015/2078 of 18 November 2015 opening and providing for the administration of Union import tariff quotas for poultrymeat originating in Ukraine ([OJ L 302, 19.11.2015, p. 63](#)).
- (46) Commission Implementing Regulation (EU) 2015/2079 of 18 November 2015 opening and providing for the administration of a Union import tariff quota for fresh and frozen beef and veal originating in Ukraine ([OJ L 302, 19.11.2015, p. 71](#)).
- (47) Commission Implementing Regulation (EU) 2015/2081 of 18 November 2015 opening and providing for the administration of import tariff quotas for certain cereals originating in Ukraine ([OJ L 302, 19.11.2015, p. 81](#)).
- (48) Commission Implementing Regulation (EU) 2017/1585 of 19 September 2017 opening and providing for the administration of Union tariff quotas for fresh and frozen beef and veal and pigmeat originating in Canada and amending Regulation (EC) No 442/2009 and Implementing Regulations (EU) No 481/2012 and (EU) No 593/2013 ([OJ L 241, 20.9.2017, p. 1](#)).

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**Changes and effects yet to be applied to :**

- Regulation revoked by [2023 c. 28 Sch. 1 Pt. 2](#)