

REGULATIONS

COUNCIL REGULATION (EU) 2022/2563

of 19 December 2022

amending Regulation (EU) 2021/2283 opening and providing for the management of autonomous tariff quotas of the Union for certain agricultural and industrial products

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 31 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) In order to ensure a sufficient and uninterrupted supply of certain agricultural and industrial products which are produced in insufficient quantities in the Union and thereby avoid any disturbances on the market for those products, autonomous tariff quotas of the Union ('quotas') were opened by Council Regulation (EU) 2021/2283⁽¹⁾. Within those quotas, products can be imported into the Union at reduced or zero duty rates.
- (2) As it is in the Union's interest to ensure an adequate supply of certain industrial products, and having regard to the fact that identical, equivalent or substitute products are not produced in sufficient quantities within the Union, it is necessary to open new tariff quotas with order numbers 09.2921, 09.2922, 09.2923, 09.2924, 09.2925, 09.2926, 09.2927 and 09.2931 at zero duty rates for appropriate quantities of those products.
- (3) As the scope of the tariff quotas with order numbers 09.2723 and 09.2763 has become inadequate to fulfil the needs of the economic operators in the Union, the description of the products covered by those quotas should be amended. The indication of the applicable TARIC code for those products should therefore be amended.
- (4) As it is in the Union's interest to ensure an adequate supply of certain industrial products, the volumes of quotas with order numbers 09.2563, 09.2682, 09.2828 and 09.2854 should be increased.
- (5) As the Union production capacity for certain industrial products has been increased the volumes of quotas with order numbers 09.2575 and 09.2913 should be decreased.
- (6) For the quotas with order numbers 09.2583, 09.2819, 09.2839 and 09.2855, the quota period should be extended and the quota volume should be adapted on a yearly basis, as the quotas were opened for a period of six months only and it is still in the Union's interest to maintain them.
- (7) As it is no longer in the Union's interest to maintain the quotas with order numbers 09.2003, 09.2576, 09.2577, 09.2592, 09.2650, 09.2673, 09.2688, 09.2694, 09.2708, 09.2710, 09.2734, 09.2799, 09.2829, 09.2866 and 09.2880, they should be closed with effect from 1 January 2023.
- (8) Relations between the Union and Russia have deteriorated over the past years, particularly due to Russia's disregard for international law and its unprovoked and unjustified war of aggression against Ukraine. On 6 October 2022, the Council adopted an eighth package of sanctions against Russia over its continued war of aggression against Ukraine and the reported atrocities committed by Russian armed forces in Ukraine.

⁽¹⁾ Council Regulation (EU) 2021/2283 of 20 December 2021 opening and providing for the management of autonomous tariff quotas of the Union for certain agricultural and industrial products, and repealing Regulation (EU) No 1388/2013 (OJ L 458, 22.12.2021, p. 33).

- (9) While Russia is a member of the World Trade Organization (WTO), the Union can rely on the exceptions that apply under the Agreement Establishing the World Trade Organization (the 'WTO Agreement'), and in particular Article XXI of the General Agreement on Tariffs and Trade (GATT) 1994, in particular with regard to the obligation to accord to products imported from Russia the advantages granted to like products imported from other countries (most-favoured-nation treatment).
- (10) In light of the deterioration of the relations between the Union and Russia, in order to ensure coherence with the Union's actions and principles in the field of the Union's external action, it would therefore not be appropriate to allow products originating from Russia to enjoy duty-free treatment and most-favoured-nation treatment with regard to the products covered by this Regulation. Therefore, it is necessary to remove the respective quotas for those products.
- (11) Relations between the Union and Belarus have deteriorated over the past years, because of the Belarusian regime's disregard for international law, fundamental rights and human rights. In addition, Belarus has provided extensive support to the Russian war of aggression against Ukraine from its very beginning.
- (12) Since October 2020, the Union has progressively imposed restrictive measures against Belarus over continued human rights abuses, the instrumentalisation of migrants and the involvement of Belarus in the Russian war of aggression against Ukraine. As Belarus is not a member of WTO, the Union is not obliged, by virtue of the WTO Agreement, to accord the most-favoured-nation treatment to products from Belarus. In addition, trade agreements allow for certain actions to be taken that are justified on the basis of applicable exception clauses, in particular security exceptions.
- (13) In light of the deterioration of the relations between the Union and Belarus, in order to ensure coherence with the Union's actions and principles in the field of the Union's external action, it would therefore not be appropriate to allow products originating from Belarus to enjoy duty-free treatment and most-favoured-nation treatment with regard to the products covered by this Regulation. Therefore, it is necessary to remove the respective quotas for those products.
- (14) However, in order to ensure an appropriate supply and avoid serious disturbances in some Union markets, it is necessary to retain the quotas with order numbers 09.2600, 09.2742, 09.2698 and 09.2835 for certain products originating in Russia, falling under TARIC codes 2712 90 39 10, 2926 10 00 10, 3204 17 00 30 and 7604 29 10 30, respectively. Those products represented more than 50 % of the total value of imports into the Union in the years 2019 to 2021 with no or limited alternative suppliers from other third countries. The value of those imports would indicate that the Union industry operators are dependent to a very large extent on those imports and that the removal of the quotas would cause disproportionate hardship to those operators.
- (15) Therefore, the removal of the suspension of the Common Customs Tariff ('CCT') duties on certain products originating from Russia or Belarus is appropriate and permitted, in application of Article XXI of GATT 1994 and the General Rules concerning duties set out in Annex I to Council Regulation (EEC) No 2658/87 ⁽²⁾, and in particular Part One, Section I, Part B, point 1, thereof.
- (16) As indicated by the Commission in its communication of 13 December 2011 concerning autonomous tariff suspensions and quotas (the 'communication'), the granting of quotas constitutes an exception to the application of the CCT duties. The re-introduction of such CCT duties to the imports originating in Russia or Belarus therefore constitutes a return to the normal state of affairs. Thus, the limited removal of quotas for certain products originating from Russia or Belarus is not a restrictive or prohibitive measure, but its purpose is to prevent those countries from indirectly benefiting from a unilateral Union measure, and to ensure the overall coherence of the Union's actions.
- (17) Regulation (EU) 2021/2283 should therefore be amended accordingly.

⁽²⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

- (18) In order to avoid any interruption in the application of the quota scheme and to comply with the guidelines set out in the communication, the changes provided for in this Regulation regarding the quotas for the products concerned should apply from 1 January 2023. This Regulation should therefore enter into force as a matter of urgency,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2021/2283 is amended as follows:

- (1) in Article 1, the following paragraph is added:

'4. The suspension laid down in paragraph 2 does not apply to products originating in Russia, with the exception of quota order numbers 09.2600, 09.2742, 09.2698 and 09.2835, or in Belarus.;

- (2) the Annex is replaced by the text set out in the Annex to this Regulation.

Article 2

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

It shall apply from 1 January 2023.

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

Done at Brussels, 19 December 2022.

For the Council
The President
J. SÍKELA