



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Deputy Director-General, in charge of Directorates E, G and H

Brussels
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NOTE TO THE ATTENTION OF MEMBER STATES

Subject: Application of Article 44(2) of Regulation (EU) 2020/761

Implementing Regulation (EU) 2020/761 (hereafter ‘the TRQ Regulation’) provides that for certain tariff rate quotas Member States can issue import licences only after applicants submit to them a document issued by the third country where the goods originate.

Article 44 of the TRQ Regulation provides rules on the applications and issuing of licences for this kind of tariff quotas.

In particular, Article 44(2), first sub-paragraph of the TRQ Regulation provides that operators shall submit an application for a licence to the competent authorities of a Member State accompanied by a certificate of authenticity issued by a third country authority and a copy of it. The second sentence of that subparagraph states that the competent authorities may issue import licences only where they are satisfied that all the information on the certificate of authenticity corresponds to that received each week from the Commission.

This ‘information received from the Commission’ mentioned in Article 44(2) relates to Article 72(8) of the TRQ Regulation, which reads as follows:

‘Once the exporting country has issued one or more certificates of authenticity or IMA 1 certificates, it shall immediately communicate the issue of these documents to the Commission. Exchange of documents and information between the Commission and an exporting country shall take place by means of an information system set up by the Commission in accordance with Implementing Regulation (EU) 2017/1185.’

The information system where the competent authorities of third countries should upload the certificates – mentioned in Article 72(8) of the TRQ Regulation – is called ISAMM CA/IMA1. Hence, Member States must consult it to check if the information available in it corresponds to the one on the certificate of authenticity submitted by the applicant. If it corresponds, then the authorities can issue the licence, and the applicant will have to lodge the security required for the given tariff quota.

If, on the opposite, the information on the certificate does not correspond to the one available in the Commission database, or if applicants submit only a copy and not the original of the certificate, the second sub-paragraph of Article 44(2) of the TRQ Regulation

provides that the competent authorities of Member States shall request them to lodge an additional security ⁽¹⁾.

This provision does not apply where the issuing authorities of the third country did not send the relevant information to the Commission or where, for any other reason, the relevant information is not available in ISAMM CA/IMA1.

In those cases, it follows from the wording of the first subparagraph, second sentence, of Article 44(2) that the competent authorities of Member States may not issue a licence until the information corresponding to the certificate of origin submitted by the applicant is available in ISAMM CA/IMA1.

The present opinion is provided on the basis of the facts as set out above and expresses the view of the Commission services and does not commit the European Commission. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the Court of Justice of the European Union to provide a definitive interpretation of the applicable Union law.

E-signed
Pierre BASCOU
Acting Deputy Director-General

⁽¹⁾ Article 44(2), second sub-paragraph, of Implementing Regulation (EU) 2020/761 reads as follows: *“Where only a copy of the certificate of authenticity has been presented or where the original of the certificate of authenticity has been presented but the information in that document is not in conformity with the information provided by the Commission, the competent authorities shall request the licence applicant to lodge an additional security pursuant to Article 45.”*