

Formation of reference quantities - Amendment of reference quantities - Amendment to Regulation 2020/760 published (Annex)

(40/01) With EPEGA Newsletter No. 17 on 2 May, we informed members about the draft amendment of Delegated Regulation (EU) 2020/760 submitted by the EU Commission in connection with the effects of the Autonomous Trade Measures (ATMs) to liberalise trade with Ukraine. According to this draft, Article 9 of paragraphs 6 and 7 is to be amended so that the erga omnes quotas for the three quota groups with the possibility of cumulation can no longer be used to form reference quantities in the groups concerned. Thus, in the future, imports of Ukrainian goods can no longer be used to build up reference quantities for other import quotas for which there is the possibility of cumulation. The corresponding Delegated Regulation (EU) 2024/2637, which is attached to this Newsletter, has now been published in the Official Journal L on 4 October. It will enter into force on 11 October and will apply from the tariff quota periods starting after the entry into force of the Regulation.

In accordance with Article 1 of the draft, Article 9 of Delegated Regulation (EU) 2020/760 is amended as follows:

Paragraph 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 groups of three or four quota order numbers set out in Annex I to Implementing Regulation (EU) 2020/761:

09.4211, 09.4212 and 09.4290;

09.4214 and 09.4215;

09.4410, 09.4411 and 09.4289.”

Paragraph 7: “By way of derogation from paragraph 3, for the tariff quotas under order numbers 09.4211, 09.4212, and 09.4290, the total quantity of products covered by licence applications submitted in the tariff quota period for those four tariff quotas shall not exceed the applicant’s total reference quantity for those four tariff quotas. The applicant may choose how to sub-divide 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 order numbers 09.4410, 09.4411 and 09.4289.”

No emergency brake yet for poultry meat from Ukraine

(40/02) The EU Commission has not yet pulled the emergency brake on imports of poultry meat from Ukraine and reintroduced import duties, as the threshold provided for under the autonomous trade measures has not yet been exceeded. Of the 137,042.8 tonnes of poultry meat available in the second half of 2024, 110,001.4 tonnes had been imported from Ukraine by 8 October. This means that 80.3% of the duty-free FCFS quota with the No. 09.6740 for poultry meat from Ukraine was exhausted on 8 October. By the end of the year, around 27,041 tonnes will still be available under this quota.

Current information on highly pathogenic avian influenza

(40/03) An outbreak of highly pathogenic avian influenza (HPAI) of subtype H5N1 was officially confirmed in **Poland** on 7 October 2024. The outbreak occurred on a farm with 60,440 fattening ducks in Pierwoszków, Wisznia Mała commune. The municipality is located in the Lower Silesian Voivodeship in southwestern Poland, about 200 kilometres from the German border. Already on 30 September, the out-

break of Newcastle disease was confirmed in a poultry farm in northeastern Poland, in the Podlaskie Voivodeship. A herd of 51,900 animals was affected. The last outbreak of Newcastle disease in Poland occurred in the summer of 2023. At that time, four poultry flocks with a total of 78,315 animals were affected.

The HPAI virus can potentially enter the barn via the air supply. **Researchers** at Utrecht University detected DNA from waterfowl in the air supply of poultry houses, which explains why chickens in poultry houses contract bird flu, even though strict hygiene measures are designed to prevent infection. As direct detection of the spreading virus is difficult, it remains unclear how the virus can get into the stables. Researchers at the Faculty of Veterinary Medicine therefore did not look for the bird flu virus itself, but for genetic material from wild waterfowl, the possible carriers of bird flu. As it turned out, tiny particles originating from wild waterfowl, such as feathers and faeces, can enter poultry houses via the air supply. According to Professor Alex Bossers, it is possible that these tiny particles are contaminated with the bird flu virus. They enter the barn via the air and thus infect the poultry. Using a new technique, the researchers were able to analyse the air samples for the presence of DNA from wild animals such as waterfowl. Since DNA from wild waterfowl could be detected in the poultry house, it is plausible that the bird flu virus can also enter the barn via this route of air supply.

The study was recently published in the journal *Eurosurveillance*. The innovative measurement method can also be used for other pathogens or animal species.

California, the largest milk-producing state in **the USA**, recently confirmed two cases of bird flu in people who have had contact with infected dairy cows. With these cases, the number of bird flu infections in people who have come into contact with dairy cows and poultry rises to 15 this year, according to Reuters. Another person in Missouri who had no direct contact with animals also tested positive. The spread of the virus to cattle in 14 states and the contagion of farm workers have worried scientists and federal officials, as they see the danger of further spread to humans. There is no link or contact between the two human cases in California, indicating that the virus only spreads from animal to human in this state, the California Department of Public Health said in a statement. An infected person works in a dairy in the Central Valley, where there has been an outbreak of bird flu in cattle, it continues. The second person was also described as a person from the Central Valley.

Cows on dairy farms in California have tested positive for bird flu since late August. The consumption of pasteurised milk and dairy products is still safe, according to the Ministry. Thus, the risk to the general public is still low, although people who deal with infected animals are exposed to a higher risk of becoming infected with bird flu. Scientists are watching closely to see if there are signs that the virus spreads more easily in humans. The U.S. Food and Drug Administration (FDA) says it will begin testing raw cow's milk destined for pasteurisation in dairies to better understand the presence of the bird flu virus in milk. Previous FDA tests of retail milk samples were negative.

Amendment to the lists of third countries for imports of poultry commodities from the United States

(40/04) Annexes V and XIV to Implementing Regulation (EU) 2021/404 as regards the entries for the United States in the lists of third countries authorised for the entry into the Union of consignments of poultry, germinal products of poultry, and fresh meat and meat products from poultry and game birds has been amended again in relation to highly pathogenic avian influenza (HPAI). The corresponding Implementing Regulation (EU) 2024/2677 has been published in the Official Journal L on 10 October 2024.

The **United States** have notified the Commission of an outbreak of HPAI in poultry in the state of Idaho, which was confirmed on 27 September 2024. With the implementing regulation that has now been published, the EU Commission has suspended the entry into the Union of consignments of poultry, germinal

products of poultry, and fresh meat of poultry and game birds from this area mentioned in the United States.

Annexes V and XIV to Implementing Regulation (EU) 2021/404 were amended accordingly to take account of the current epidemiological situation as regards HPAI in the United States. Implementing Regulation (EU) 2024/2677 entered into force on 11 October 2024 and is available at the following link: http://data.europa.eu/eli/reg_impl/2024/2677/oj

Current situation on African swine fever

(40/05) The number of cases of African swine fever (ASF) in wild boar continues to fall in Europe. As the Friedrich Loeffler Institute (FLI) currently reports, this is also reflected in the number of ASF cases in Germany in September. This month, 43 cases were reported in Brandenburg, 38 cases in Hesse and 10 cases in Rhineland-Palatinate. No ASF cases were detected in wild boar in Saxony in September. The number of cases in Poland (107), Latvia (56) and Lithuania (22) has also more than halved compared to the previous month. There have been 10 cases in Italy, with the majority of cases again being reported from the north and one case from Campania. After Sardinia, Sweden was also declared ASF-free again. Sweden was able to provide sound evidence that the measures were implemented quickly and, above all, successfully and that the risk of a re-emergence of ASF in the area due to residual viable virus in the environment is negligible. The decline in ASF cases in September is in line with observations in previous years.

The total number of ASF outbreaks in domestic pigs also fell significantly in Europe in September. In Germany, there were no further outbreaks in domestic pig holdings in September. Most outbreaks were again reported from Romania (13), Italy (Piedmont 3, Lombardy 2), Serbia (4) and Ukraine (10). Only two cases were reported from Poland and one from Moldova. In contrast to Serbia, Ukraine and Romania, where most of the affected farms kept fewer than 100 animals, the outbreak farms in Italy were large farms with more than 1,000 pigs.

On 7 October, Implementing Regulation (EU) 2024/2656 laying down specific control measures for African swine fever (ASF) and amending Annex I to Implementing Regulation (EU) 2023/594 was published in the Official Journal L. Previously, there have been new outbreaks of African swine fever in wild porcine animals in **Germany** and in kept porcine animals in **Lithuania**.

Implementing Regulation (EU) 2024/2656 is available at the following link: http://data.europa.eu/eli/reg_impl/2024/2656/oj

Lambda-Cyhalothrin - Planned amendment of Maximum Levels for Pesticide Residues

(40/06) Lambda-cyhalothrin is authorised in the EU as an active ingredient in plant protection products and as an active ingredient in biocides (PT 18) (as well as cyhalothrin as an active ingredient in veterinary medicine for cattle). To date, the general standard level of 0.01 mg/kg has been the Maximum Residue Level (MRL) for lambda-cyhalothrin in poultry products and eggs in accordance with Regulation (EC) No 396/2005. Content data have shown that biocidal applications require a moderate increase in the MRL, to 0.03 mg/kg for poultry products and 0.02 mg/kg for eggs. The European Food Safety Authority (EFSA) has examined the proposals to amend the MRL with the conclusion that they are safe for consumers in the EU and should therefore be accepted.

ECJ ruling: Veggie sausage may continue to be called "sausage" (annex)

(40/07) The "veggie burger" or the "vegan sausage" may continue to be called that in the EU Member States. This has now been decided by the European Court of Justice (ECJ) in Luxembourg. "Where a

Member State has not adopted any legal name, a Member State cannot, by means of a general and abstract prohibition, prevent producers of vegetable protein-based foods from fulfilling the obligation to indicate the name of those foods through the use of customary names or descriptive names”, the Court writes in a statement. However, where a national authority considers that the specific arrangements for the sale or promotion of a food mislead the consumer, it may prosecute the food business operator concerned and demonstrate that the abovementioned presumption has been rebutted.

The ECJ based its opinion on the fact that the provisions in Article 17 (5) in conjunction with Annex VI No. 4 of the Food Information to Consumers Regulation (EU) No. 1169/2011 (FICR) were sufficient to prevent confusion among consumers and to prevent misleading. This regulation states that information must be present on the product packaging, in the immediate vicinity of the product name and in a font size whose height is at least 75 percent of the height of the product name. As long as a Member State has not defined what a 'sausage', a 'steak' or the like is, it should not be prohibited to use those names in relation to vegetable products. Intervention by the national side is only permitted if "the specific modalities of the sale or promotion of a food mislead the consumer," the Court said in its official communication. The Court emphasised that although Article 38 of the FICR allows Member States to adopt national provisions on administrative sanctions, this article is to be interpreted as meaning that it is not permissible within the meaning of Article 38 of the FICR to establish a national regulation on a threshold value for vegetable proteins, below which the use of the above-mentioned terms is possible (hinders the free movement of goods).

According to the Court, a Member State may introduce a legally prescribed name in order to establish a link between a particular expression and a particular foodstuff. However, a measure limited to prohibiting the use of certain terms for the purpose of designating foods with certain characteristics (composition, etc.) does not amount to a measure under which foods must satisfy certain conditions in order to be designated by terms used as a legal name. Only the latter measure makes it possible to ensure the protection of the consumer, who must be able to proceed on the assumption that a food designated by a given legal name is in compliance with the conditions specifically laid down regarding the use of that name.

Incidentally, the 2017 ruling on dairy products - TofuTown (C-422/16) - cannot be applied to this specific case, as dairy products are legally defined in the Common Market Organisation.

We have attached the Press Release on this ECJ ruling to this circular.

EU Commission proposes postponement of regulation for deforestation-free supply chains

(40/08) The European Commission has given in to pressure from numerous business representatives, EU Member States and third countries: the entry into force of the Regulation on Deforestation-Free Supply Chains (EUDR) is to be postponed by twelve months, i.e. to 30 December 2025, according to the Commission proposal of 2 October. For micro and small enterprises, the law would then come into force on June 30, 2026. The proposal is available at the following link:

https://ec.europa.eu/commission/presscorner/detail/en/ip_24_5009

The Federal Association of Wholesale, Foreign Trade and Services (BGA) had also pointed out several times in recent weeks and months that it would not be possible to apply the EUDR on 30 December 2024 due to a lack of information from the EU Commission.

Now the Council and the European Parliament will decide whether they want to follow the Commission's proposal. As things stand at present, this can be assumed. With this step, Brussels wants to support the "global stakeholders, Member States and third countries" in their preparations for the implementation of the EU Deforestation Regulation. Global partners in particular have repeatedly raised concerns, most recently during the week of the United Nations (UN) General Assembly in New York. The state of preparations within the EU is also highly inconsistent. As all transposition instruments are technically ready, ac-

According to the Commission, the additional year could serve as a transitional period to ensure proper and effective implementation. However, the EU authority also emphatically emphasises that the postponement “in no way calls into question the goals or content of the law”. The content of the law remains unchanged, as decided by the Council and the European Parliament.

In addition, the Commission has presented new guidelines to ensure a harmonised interpretation of the EUDR. This includes the principles of the methodology to be used for the benchmarking system. As is well known, countries worldwide are to be divided into three risk categories: low, normal or high risk of deforestation. Depending on the classification, the due diligence procedures of market participants can be facilitated, and the competent authorities can be enabled to effectively monitor and enforce compliance. The Commission underlines that according to the methodology to be applied, "a large majority" of countries are classified as having a low risk of deforestation. In this way, Brussels hopes that collective efforts will be concentrated where the deforestation challenges are more acute.

According to the Commission, the system for registering companies' due diligence declarations is operational. The acceptance of registrations could begin at the beginning of November and full operation in December. Operators and traders could register and submit due diligence declarations even before the law comes into force. According to its own information, the Commission carried out pilot tests with 100 companies in January and has taken additional measures since then. Among other things, the establishment of a one-stop-shop for IT support for individual actors and support in the verification of stakeholders' geolocation files are mentioned.

Many MEPs are open to the postponement of the EUDR by twelve months. Now that the EU Commission has presented its proposal for a start on 30 December 2025, there are calls from the EPP for an adjustment of the rules. However, this is precisely what the Greens are warning against.

The EU Commission has now published the long-awaited guidance on the EUDR, which is available at: https://green-business.ec.europa.eu/publications/guidance-eu-deforestation-regulation_en

The guide covers a total of eleven topics. Among other things, clarifications are made under "7. Product Scope" with regard to packaging and packaging material.

Furthermore, a revised version of the FAQs on the EUDR has been published, which can be found here: https://green-business.ec.europa.eu/deforestation-regulation-implementation_en

Under 2.5 and 2.6, the new FAQs (version of October 2024) address questions about packaging material. Under 2.10., the question of "self-consumption" is discussed.

South Africa reopens for UK chicken post bird flu

(40/09) South Africa has lifted restrictions on UK poultry imports as a result of the UK being declared free from avian influenza earlier this year, overturning an almost eight-year ban. UK exports to South Africa had previously been worth more than £37m to the poultry sector in 2016, before the restrictions were introduced. The market access for poultry meat to South Africa that is now possible again could be worth £160 million to the UK poultry sector over the next five years.

Annexes:

- Regulation (EU) 2024/2637 – Amendment to the proof of reference
- ECJ press release – Judgement on veggie sausage

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