

Via Email on 09/01/21

TO: All Current Holders of EU-27 Historical Licenses under Tariff Rate Quotas (TRQs) in Additional U.S. Notes 6, 16, 17, and 18 of Chapter 4 of the Harmonized Tariff Schedule of the United States (HTSUS)

SUBJECT: Changes to EU-27 Historical Licenses under TRQs in Additional U.S. Notes 6, 16, 17, and 18 in Chapter 4 of the HTSUS, Effective with the 2022 TRQ Year

NOTICE: This document serves as actual and timely notice to all recipients of the terms herein, in accordance with 5 U.S.C. 552.

BACKGROUND: On October 17, 2019, the United Kingdom (UK) and the European Union (EU) agreed to the withdrawal of the UK from the EU and the European Atomic Energy Community (Withdrawal Agreement). As part of the Withdrawal Agreement, the UK and EU agreed to a transition period, which ended on December 31, 2020.

On July 6, 2021, the U.S. Trade Representative (USTR) announced, *inter alia*, that it had divided the dairy TRQs allocated to the EU under Additional U.S. Notes 6, 16, 17, and 18 to Chapter 4 of the HTSUS between the EU and the UK according to the average percentage of in-quota imports for the 2013-2015 period and that the UK would have access to a specific in-quota quantity under these notes. Further, to recognize the departure of the UK from the EU, as well as the 2013 accession of Croatia to the EU, USTR modified the definition of the “EU-27” as set out in Note 2 to Chapter 4 to exclude the UK and to include Croatia. Accordingly, effective January 1, 2022, imports from the UK will not be permitted under EU-27 licenses and imports from Croatia will be permitted, whether the license is historical, lottery or designated.

Specifically, USTR announced that, effective with respect to articles entered for consumption, or withdrawn from warehouse for consumption, on or after January 1, 2022:

- The list of countries defining the “EU-27” in Additional U.S. Note 2 to Chapter 4 of the HTSUS includes Croatia and does not include the UK.
- For Additional U.S. Note 6, the EU-27 shall have access to an in-quota quantity of not less than 82,099 kilograms and the UK shall have access to an in-quota quantity of not less than 14,062 kilograms.
- For Additional U.S. Note 16, the EU-27 shall have access to an in-quota quantity of not less than 25,632,850 kilograms and the UK shall have access to an in-quota quantity of not less than 2,213,374 kilograms.¹
- For Additional U.S. Note 17, the EU-27 shall have access to an in-quota quantity of not less than 2,805,383 kilograms and the UK shall have access to an in-quota quantity of not less than 23,617 kilograms.

¹ The Foreign Agricultural Service notes that of the quantitative limitations provided for in this note for the EU 27, Portugal shall have access to a quantity of not less than 353,000 kilograms.

- For Additional U.S. Note 18, the EU-27 shall have access to an in-quota quantity of not less than 417,052 kilograms and the UK shall have access to an in-quota quantity of not less than 895,948 kilograms.

See Modification of U.S. Tariff-Rate Quotas and the Harmonized Tariff Schedule of the United States (86 FR 35560 (July 6, 2021))

The Foreign Agricultural Service (FAS) consequently revised the Appendices under the dairy import licensing regulation and divided the amounts allocated to the EU under Additional U.S. Notes 6, 16, 17, and 18 in Appendices 1, 2, 3 and 4, as applicable, between the EU and the UK by directly applying the percentages used by USTR to divide the overall TRQs under those notes. *See* Adjustment of Appendices under the Dairy Tariff-Rate Quota Import Licensing Regulation (FR Document Number 2021-19106, filed for public inspection on 09/01/2021)

NEW RULE FOR EU-27 HISTORICAL LICENSE HOLDERS UNDER ADDITIONAL U.S. NOTES 6, 16, 17, AND 18 FOR THE 2022 TRQ YEAR: An entity that currently holds an EU-27 historical license for a TRQ in Additional U.S. Notes 6, 16, 17, or 18 that wishes to retain its EU-27 historical license and/or obtain a UK historical license under this TRQ for the 2022 TRQ year and otherwise qualifies for carry over of the EU-27 historical license must apply to carry over the EU-27 historical license and/or to obtain a UK historical license. Upon such entity's successful application under the Dairy Tariff-Rate Quota Import Licensing regulation codified at 7 CFR 6.20-6.36 ("the regulation"), FAS will issue to the entity the EU-27 and/or UK historical licenses the entity has applied for. The quantities of the new EU-27 license and/or UK license for the 2022 TRQ year that will be issued under these TRQs will be determined by dividing the original EU-27 license quantity between the two new licenses applying the same ratio that USTR used to split the applicable overall TRQ.² For example, a 2021 EU-27 historical license of 100,000 kg under Additional Note 16 will be split into a 2022 EU-27 historical license of 91,949 kg and a 2022 UK historical license of 8,051 kg. The applicant may apply to obtain the EU-27 historical license of 91,949 kg, the UK historical license of 8,051 kg, or both historical licenses. Imports from Croatia may be entered under the EU-27 license, but not imports from the UK, starting in the 2022 TRQ year.

Entities that currently hold EU-27 historical licenses for TRQs under Additional Notes 6, 16, 17, and 18 that wish to carry over their EU-27 historical licenses and/or obtain a UK historical license under these TRQs must follow the instructions below for the 2022 TRQ year:

Using FAS's Dairy Import Licensing Program's online application system, Agricultural Trade License Administration System (ATLAS), an applicant with 2021 EU-27 historical licenses for one or more of these four TRQs will have the option to choose the EU-27 historical licenses and UK historical licenses they wish to carry over to the 2022 TRQ year. These licenses will be made available in the divided amounts, as stated above.

Upon logging into ATLAS, applicants will be presented with a list of all their historical licenses that they may apply to carry over, including the new EU-27 historical licenses and the new UK historical licenses in the divided amounts as stated above, that are available to them for the 2022 TRQ year.

Applicants must check the EU-27 and UK historical licenses they wish to carry over as part of submitting a complete application for the 2022 TRQ year per the procedures outlined in the ATLAS user guide.

² Any discrepancies in quantities at the individual license level are due to rounding.

Applicants must successfully satisfy all requirements for carrying over the historical license as required by the regulation.

If an application for carry over of an EU-27 historical license is not completed and submitted by the application deadline, that historical license will be revoked.

If an applicant does not apply for a new UK historical license that is available to them for the 2022 TRQ year, that UK historical license will not be available to them in the future.

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Licensing Authority

Date