Commission Regulation (EC) No 438/2009 of 26 May 2009 opening and providing for the administration of Community tariff quotas for bulls, cows and heifers other than for slaughter of certain Alpine and mountain breeds

COMMISSION REGULATION (EC) No 438/2009

of 26 May 2009

opening and providing for the administration of Community tariff quotas for bulls, cows and heifers other than for slaughter of certain Alpine and mountain breeds

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)[(1)], and in particular Article 144(1) and Article 148 in conjunction with Article 4 thereof,

Whereas:

(1) In the framework of the World Trade Organisation, the Community has undertaken to open annual import tariff quotas for bulls, cows and heifers other than for slaughter of certain Alpine and mountain breeds. Detailed rules for the administration of these quotas are laid down in Commission Regulation (EC) No 659/2007 of 14 June 2007 opening and providing for the administration of import tariff quotas for bulls, cows and heifers other than for slaughter of certain Alpine and mountain breeds[(2)].

(2) The use of the first-come, first-served principle has proved positive in other agricultural sectors, and in the interest of administrative simplification, these quotas should henceforth be administered in accordance with the method indicated in Article 144(2)(a) of Regulation (EC) No 1234/2007. This should be done in accordance with Articles 308a, 308b and 308c(1) of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code[(3)].

(3) Due to the particularities of the transfer from one administrative system to the other, the quotas to which this Regulation refers should be regarded as non-critical within the meaning of Article 308c of Regulation (EEC) No 2454/93.

(4) Article 166 of Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code[(4)] provides for customs supervision of goods released for free circulation at a reduced rate of duty on account of their specific use. Animals imported under the tariff quotas provided for in this Regulation should be supervised for a sufficient period to ensure that they are not slaughtered during that period.

Changes to legislation: *Commission Regulation (EC) No 438/2009 is up to date with all changes known to be in force on or before 08 April 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5) To that end, a security should be lodged, the amount of which should cover the difference between the Common Customs Tariff duty and the reduced duty applicable on the date of release for free circulation of the animals concerned.

(6) Regulation (EC) No 659/2007 should therefore be repealed and replaced by a new Regulation.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

1 This Regulation opens import tariff quotas for bulls, cows and heifers other than for slaughter of certain Alpine and mountain breeds as given in the Annex.

2 The quotas given in the Annex to this Regulation shall be administered in accordance with Articles 308a, 308b and 308c(1) of Regulation (EEC) No 2454/93. Article 308c(2) and (3) of that Regulation shall not apply.

3 The quotas referred to in paragraph 1 shall be opened on an annual basis, from 1 July of every year to 30 June of the following year (import quota periods).

Article 2

1 For the purposes of this Regulation, animals as referred to in Article 1(1) shall be other than for slaughter where they are not slaughtered within four months of the date of acceptance of the declaration of release for free circulation.

Derogations may be granted in duly proven cases of *force majeure*.

2 To qualify under the import tariff quota covered by order number **[**[X1]09.0115**]**, the following documents must be presented:

a for bulls: a pedigree certificate;

b for cows and heifers: a pedigree certificate or a certificate of registration in a herdbook certifying the purity of the breed.

Editorial Information

X1 Substituted by Corrigendum to Commission Regulation (EC) No 438/2009 of 26 May 2009 opening and providing for the administration of Community tariff quotas for bulls, cows and heifers other than for slaughter of certain Alpine and mountain breeds (Official Journal of the European Union L 128 of 27 May 2009).

Article 3

[[F1]1 In accordance with Article 82 of Council Regulation (EEC) No 2913/92[(5)], imported animals shall be subject to customs supervision to ensure that they are not slaughtered within four months of their release for free circulation.**]**

2 Importers shall lodge a security with the competent customs authorities to ensure that the non-slaughter requirement referred to in paragraph 1 is complied with and that unpaid duties are collected where that requirement is not met. The amount of that security shall be the

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difference between the Common Customs Tariff duty and the duty given in the Annex applicable on the date of release for free circulation of the animals concerned.

3 The security provided for in paragraph 2 shall be released immediately where proof is presented to the customs authorities concerned that the animals:

a have not been slaughtered within the four months following the date of their release for free circulation; or

b they have been slaughtered within that period for reasons of force majeure or for health reasons or have died of disease or as a result of an accident.

Textual Amendments

F1 Substituted by Commission Regulation (EU) No 291/2010 of 31 March 2010 correcting Regulations (EC) No 437/2009, (EC) No 438/2009 and (EC) No 1064/2009 as regards the end-use procedure laid down for imports of certain agricultural products under tariff quotas.

Article 4

Regulation (EC) No 659/2007 is repealed. However, it shall continue to apply to duties arising from licences issued before 1 July 2009 up to the time they expire.

Article 5

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

It shall apply from 1 July 2009.

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