Commission Regulation (EC) No 412/2008 of 8 May 2008 opening and providing for the administration of an import tariff quota for frozen beef intended for processing

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal[(1)], and in particular Article 32(1) thereof,

Whereas:

(1) The WTO schedule CXL requires the Community to open an annual import tariff quota of 50 700 tonnes of frozen beef intended for processing. Moreover, as a result of the negotiations which led to the Agreement in the form of an Exchange of Letters between the European Community and Australia pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedules of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the course of their accession to the European Union[(2)], approved by Council Decision 2006/106/EC[(3)], the Community undertook to incorporate in its schedule for all Member States an increase of 4 003 tonnes of that import tariff quota as of 1 July 2006.

(2) Implementing rules should be laid down for the opening and administration of this quota every year for the period from 1 July to 30 June of the following year.

(3) The import of frozen beef under the tariff quota is subject to customs import duties and to the conditions laid down under order number 12 of Annex 7 to Part three of Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff[(4)].

(4) Imports into the Community under the tariff quota are subject to presentation of an import licence in accordance with the first subparagraph of Article 29(1) of Regulation (EC) No 1254/1999. The provisions of Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products[(5)] and of Commission Regulation (EC) No 382/2008 of 21 April 2008 on rules of application for import and export licences in the beef and veal sector[(6)] should apply to import licences issued under this Regulation, without prejudice to additional conditions laid down in this Regulation.

(5) Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences[7] lays down in particular detailed provisions on applications for import rights, the status of applicants and the issue of import licences. The provisions of Regulation (EC) No 1301/2006 should apply to imports licences issued pursuant to this Regulation, without prejudice to additional conditions laid down in this Regulation.

(6) It is appropriate to manage this import tariff quota by attributing import rights as a first step and issuing import licences as a second, as provided for in Article 6(3) of Regulation (EC) No 1301/2006. In this way, operators that have obtained import rights should be able to decide, during the course of the quota period, the moment when they wish to apply for import licences, in view of their actual trade flows. It should be possible to issue licences following allocations of import rights on the basis of applications from eligible processors. In any case, the Regulation (EC) No 1301/2006 limits the period of validity of licences to the last day of the import tariff quota period.

(7) So as to avoid speculation, access to the quota should be allowed only to active processors carrying out processing in a processing establishment approved in accordance with Article 4 of Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin[8].

(8) In order to prevent speculation, import licences should be issued to processors solely for the quantities for which they have been allocated import rights. Moreover, for the same reason, security should be lodged together with the application for import rights. The application for import licences corresponding to the allocated rights should be a primary requirement within the meaning of Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products[9].

(9) The application of the tariff quota requires strict surveillance of imports and effective checks as to their use and destination. The processing should therefore be authorised only in the establishment referred to in the import licence.

(10) A security should be lodged in order to ensure that the imported meat is used according to the tariff quota specifications. The amount of that security should be fixed taking into account the difference between the customs duties applicable within and outside the quota.

(11) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

I[F1] Article 1

1 An import tariff quota of 63 703 tonnes bone-in equivalent of frozen beef falling within CN code 0202 20 30, 0202 30 10, 0202 30 50, 0202 30 90 or 0206 29 91 and intended for processing in the Union (hereinafter ‘the quota’) is hereby opened every year for the period

from 1 July to 30 June of the following year (hereafter 'import tariff quota period') subject to the conditions laid down in this Regulation.

2 The import tariff quota period referred to in paragraph 1 shall be divided in the following four subperiods:

a from 1 July to 30 September;

b from 1 October to 31 December;

c from 1 January to 31 March;

d from 1 April to 30 June.**]**

Textual Amendments

F1 Substituted by Commission Implementing Regulation (EU) No 1059/2012 of 12 November 2012 amending Regulation (EC) No 412/2008 as regards dividing the import tariff quota period for frozen beef intended for processing into subperiods.

Article 2

1 For the purposes of this Regulation, an A-product shall mean a processed product falling within CN code 1602 10, 1602 50 31 or 1602 50 95, not containing meat other than that of animals of the bovine species, with a collagen/protein ratio of no more than 0,45 and containing by weight at least 20 % of lean meat excluding offal and fat with meat and jelly accounting for at least 85 % of the total net weight.

The collagen content shall be considered to be the hydroxyproline content multiplied by the factor 8. The hydroxyproline content shall be determined according to ISO method 3496-1994.

The lean bovine meat content excluding fat shall be determined in accordance with the procedure laid down in the Annex to Commission Regulation (EEC) No 2429/86[(10)].

Offal includes the following: heads and cuts thereof (including ears), feet, tails, hearts, udders, livers, kidneys, sweetbreads (thymus glands), pancreas, brains, lungs, throats, thick skirts, spleens, tongues, caul, spinal cords, edible skin, reproductive organs (i.e. uteri, ovaries and testes), thyroid glands, pituitary glands.

The product shall be subjected to a heat treatment sufficient to ensure the coagulation of meat proteins in the whole of the product which may not show any traces of a pinkish liquid on the cut surface when the product is cut along a line passing through its thickest part.

2 For the purposes of this Regulation, a B-product shall mean a processed product containing beef, other than:

a the products specified in Article 1(1)(a) of Regulation (EC) No 1254/1999; or

b the products referred to under paragraph 1 of this Article.

However, a processed product falling within CN code 0210 20 90 which has been dried or smoked so that the colour and consistency of the fresh meat has totally disappeared and with a water/protein ratio not exceeding 3:2 shall be considered to be a B-product.

Article 3

[[F2]1 The overall quantity referred to in Article 1 shall be divided into two quantities:

a 50 000 tonnes of frozen beef intended for the manufacture of A-products;

b 13 703 tonnes of frozen beef intended for the manufacture of B-products.**]**

2 The quota shall bear the following order numbers:

a 09.4057 for the quantities referred to in paragraph 1(a);

b 09.4058 for the quantities referred to in paragraph 1(b).

3 The customs import duties to apply on frozen beef under the quota are set out in Annex I.

Textual Amendments

F2 Substituted by Commission Regulation (EC) No 882/2009 of 21 September 2009 amending Regulation (EC) No 412/2008 opening and providing for the administration of an import tariff quota for frozen beef intended for processing and derogating from that Regulation.

Article 4

1 The quota shall be managed by attributing import rights as a first step and issuing import licences as a second.

2 Regulations (EC) No 1291/2000, (EC) No 1301/2006 and (EC) No 382/2008 shall apply, save as otherwise provided for in this Regulation.

Article 5

1 By way of derogation from Article 5 of Regulation (EC) No 1301/2006, instead of providing proof of their engagement in trade with third countries, the applicants for import rights shall prove that they are approved as processing establishments under Article 4 of Regulation (EC) No 853/2004 and shall demonstrate that they have been active in production of processed products containing beef during each of the two reference periods referred to in Article 5 of Regulation (EC) No 1301/2006.

An application for import rights may not exceed 10 % of each quantity referred to in Article 3(1) of this Regulation.

2 The evidence of compliance with the conditions laid down in paragraph 1 shall be submitted together with the application for import rights.

By way of derogation from the second paragraph of Article 5 of Regulation (EC) No 1301/2006, the competent national authority shall decide what documents shall be furnished as proof of compliance with those conditions.

Article 6

1 Each application for import rights for production of A-products or B-products shall be expressed in bone-in equivalence.

For the purpose of this paragraph 100 kilograms of bone-in beef equals 77 kilograms of boneless beef.

[F1 2 Applications for import rights for production of either A-products or B-products shall be submitted in the first seven days of the month preceding each subperiod, referred to in Article 1(2), and in any case no later than 13.00, Brussels time, of the relevant seventh day.**]**

3 A security of EUR 6 per 100 kg shall be lodged together with the application for import rights.

[[F1]4 No later than 13.00, Brussels time, on the 14th day of the month in which applications are submitted in accordance with paragraph 1, Member States shall notify the Commission of the total quantities applied for under each of the two categories of products, expressed in kilograms bone-in equivalence, in respect of the subperiod concerned.**]**

Textual Amendments

F1 Substituted by Commission Implementing Regulation (EU) No 1059/2012 of 12 November 2012 amending Regulation (EC) No 412/2008 as regards dividing the import tariff quota period for frozen beef intended for processing into subperiods.

[F1Article 7

1 Import rights shall be awarded from the 23rd day of the month in which applications are submitted in accordance with Article 6(1) and at the latest on the last day of that month. Import rights shall be valid from the first day of the subperiod for which the application has been submitted and until 30 June of the import tariff quota period concerned.

2 If application of the allocation coefficient referred to in Article 7(2) of Regulation (EC) No 1301/2006 results in fewer import rights to be allocated than had been applied for, the security lodged in accordance with Article 6(3) of this Regulation shall be released proportionally without delay.

3 The Commission shall suspend the submission of applications for import rights until the end of the import tariff quota period for the order numbers for which the available quantities are exhausted.**]**

Textual Amendments

F1 Substituted by Commission Implementing Regulation (EU) No 1059/2012 of 12 November 2012 amending Regulation (EC) No 412/2008 as regards dividing the import tariff quota period for frozen beef intended for processing into subperiods.

Article 8

1 The release into free circulation of the quantities awarded under the quota is subject to the presentation of an import licence.

2 Import licence applications shall cover the total quantity allocated. This obligation shall constitute a primary requirement within the meaning of Article 20(2) of Regulation (EEC) No 2220/85.

Article 9

1 Licence applications may be lodged solely in the Member State where the applicant has applied and obtained import rights under the quota.

Each issuing of import licence shall result in a corresponding reduction of the import rights obtained and the security lodged in accordance with Article 6(3) shall be released proportionally without delay.

2 Import licences shall be issued in the name of the operator who has obtained the import rights.

3 The licence application and the licence shall contain the following information: