Commission Regulation (EC) No 545/2007 of 16 May 2007 opening and providing for the administration of an import tariff quota for frozen beef intended for processing (1 July 2007 to 30 June 2008)

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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 quota year 2007/2008, starting on 1 July 2007.

(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 13 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 1445/95 of 26 June 1995 on rules of application for import and export licences in the beef and veal sector and repealing Regulation (EEC) No 2377/80[(5)] and 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[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, from 1 July 2007, 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], or to processing establishments in Bulgaria and Romania who had been approved for export into the Community of processed meat products in accordance with Article 12 of Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption[9] prior to the accession of those countries to the European Union on 1 January 2007.

(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[10].

(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:

Article 1

An import tariff quota of 54 703 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 Community (hereinafter referred to as 'the quota') is hereby opened for the period from 1 July 2007 to 30 June 2008 subject to the conditions laid down in this Regulation.

Article 2

1 **[**[F1]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[(11)].

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.

Textual Amendments

F1 Substituted by Commission Regulation (EC) No 98/2008 of 1 February 2008 amending several regulations as regards the combined nomenclature codes for certain beef and veal products.

Article 3

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

a 43 000 tonnes of frozen beef intended for the manufacture of A-products;
b 11 703 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.

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 1445/95, (EC) No 1291/2000 and (EC) No 1301/2006 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 engagement in trade with third countries as referred to in that Article, 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.

Processing establishments in Bulgaria and Romania that were approved under Article 12 of Regulation (EC) No 854/2004 to export to the Community before 31 December 2006 and which 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 may apply for import rights under the quota.

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

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 is acceptable documentary evidence 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.

2 Applications for import rights for production of either A-products or B-products shall be lodged no later than 13.00, Brussels time, on 8 June 2007.

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

4 No later than 13.00, Brussels time, on the second Friday following the end of the period for the submission of applications referred to in paragraph 2, Member States shall notify the Commission of the total quantities applied for under each of the two categories of products.

Article 7

1 Import rights shall be awarded as from the 7th and no later than the 16th working day following the end of the period for the notifications referred to in Article 6(4).

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.

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:

a in box 8, the country of origin;

b in box 16, one of the eligible CN codes referred to in Article 1;

c in box 20, the order number of the quota, at least one of the entries listed in Annex II and the name and address of the processing establishment.

4 Import licences shall be valid for 120 days from the actual date of issue within the meaning of Article 23(2) of Regulation (EC) No 1291/2000.

Article 10

Member States shall set up a system of physical and documentary checks to ensure that, within three months of the date of import, all meat is processed in the processing establishment and into the category of product specified on the import licence concerned.

The system shall include physical checks of quantity and quality at the start of the processing, during the processing and after the processing operation is completed. To this end, processors shall at any time be able to demonstrate the identity and use of the imported meat through appropriate production records.

Technical verification of the production method by the competent authority may, to the extent necessary, make allowance for drip losses and trimmings.