Commission Regulation (EC) No 1217/2005 of 28 July 2005 laying down detailed rules for the application of a tariff quota for certain live bovine animals originating in Bulgaria, provided for in Council Decision 2003/286/EC

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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 the first subparagraph of Article 32(1) thereof,

Whereas,

(1) Council Decision 2003/286/EC of 8 April 2003 on the conclusion of a Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Bulgaria, of the other part, to take account of the outcome of negotiations between the Parties on new mutual agricultural concessions[(2)], provided for concessions as regards the opening of tariff import quotas of certain live bovine animals originating from Bulgaria.

(2) Council and Commission Decision 2005/430/EC of 18 April 2005 on the conclusion of the Additional Protocol to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part, to take account of the accession 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 to the European Union[(3)] provides for additional concessions as regards imports of certain live bovine animals originating from Bulgaria.

(3) Detailed rules should be adopted for the opening and administration of the tariff quota concerning live bovine animals, on a multi-annual basis beginning on 1 July 2005.

(4) With a view to preventing speculation, the quantities available within the quota should be made accessible to operators able to show that they are genuinely engaged in trade of a significant scale with third countries. In consideration of this and in order to ensure efficient management, the traders concerned should be required to have imported a certain minimum number of animals during the year previous to the annual quota period in question which, at the same time, should guarantee a fair access to the concessions. Given that the present concessions only apply to imports of animals from Bulgaria and considering the imports which are carried out from this country, a consignment of 50

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animals may be considered to be a normal load. Experience shows that the purchase of a single consignment is a minimum requirement for a transaction to be considered real and viable.

(5) If such criteria are to be checked, applications should be presented in the Member State where the importer is entered in a VAT register.

(6) Furthermore, in order to prevent speculation, importers no longer involved in trade in live bovine animals at 1 January previous to the beginning of the annual quota period in question should be denied access to the quota. Moreover, a security relating to import rights should be submitted in the Member States where the operator is entered in the national VAT register. Import licences should not be transferable and should be issued to traders solely for the quantities for which they have been allocated import rights.

(7) To provide a more equal access to the quota while ensuring a commercially viable number of animals per application, maximum and minimum limits should be fixed for the number of animals covered in each application.

(8) It should be established that import rights are to be allocated after a reflection period and where necessary with a fixed percentage reduction applied.

(9) Pursuant to Article 29(1) of Regulation (EC) No 1254/1999, the arrangements should be managed using import licences. To this end, rules should be laid down on the submission of applications and the information to be given on applications and licences, where necessary in addition to or by way of derogation from certain 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[(4)] 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[(5)].

(10) To oblige operators to apply for import licences for all import rights allocated, it should be established that the application should constitute, with regard to the import rights security, 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[(6)].

(11) A proper management of the quota also requires that the titular holder of the licence is a genuine importer. Therefore, such importer should actively participate in the purchase, transport and import of the animals concerned. Presentation of proof of those activities should thus also be a primary requirement with regard to the licence security.

(12) With a view to ensuring a strict statistical control of the animals imported under the quota, the tolerance referred to in Article 8(4) of Regulation (EC) No 1291/2000 should not apply.

(13) 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:

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Article 1

6 600 live bovine animals weighing not more than 300 kilograms falling within CN codes 0102 90 05, 0102 90 21, 0102 90 29, 0102 90 41 or 0102 90 49 and originating in Bulgaria may be imported into the Community free of duty in each 12-month period as from 1 July 2005.

The quota referred to in the first sub-paragraph shall have the order number 09.4783.

The quota referred to in the first sub-paragraph shall be increased each year by 600 head.

Article 2

1 Applications for import rights under the quota provided for in Article 1 may only be submitted by applicants which are natural or legal persons. Applicants must prove to the satisfaction of the competent authorities of the Member State concerned, at the time they submit their applications, that they have imported at least 50 animals covered by CN code 0102 90 during the year previous to the annual quota period in question.

Applicants must be listed in a national VAT register.

2 Proof of import shall be furnished exclusively by means of the customs document of release for free circulation, duly endorsed by the customs authorities and containing a reference to the applicant concerned as being the consignee.

Member States may accept copies of the documents referred to in the first subparagraph, duly certified by the competent authority. Where such copies are accepted, notification hereof shall be made in the communication from Member States referred to in Article 3(5) in respect of each applicant concerned.

3 Operators who at 1 January previous to the annual quota period in question have ceased their activities in trade with third countries in the beef and veal sector shall not qualify for any allocation.

4 A company formed by the merger of companies each having reference imports complying with the minimum quantity referred to in paragraph 1 may use those reference imports as a basis for its application.

Article 3

1 Applications for import rights may be presented only in the Member State in which the applicant is registered for VAT purposes.

2 Applications for import rights must cover at least 50 animals and may not cover more than 5 % of the quantity available.

Where applications exceed the percentage referred to in the first subparagraph, the excess shall be disregarded.

3 Applications for import rights shall be lodged before 13:00, Brussels time, on 15 June preceding the annual quota period in question.

However, for the quota period from 1 July 2005 to 30 June 2006, applications for import rights shall be lodged before 13:00, Brussels time, on the 10th working day following the date of publication of this Regulation in the *Official Journal of the European Union*.

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4 Applicants may lodge no more than one application each for the quota referred to in Article 1. Where the same applicant lodges more than one application, all applications from that applicant shall be inadmissible.

5 After verification of the documents presented, Member States shall forward to the Commission, by the 10th working day following the end of the period for the submission of applications at the latest, the list of applicants and their addresses as well as the quantities applied for.

All notifications, including 'nil' returns, shall be forwarded by fax or e-mail using the model form in Annex I or in another form communicated by the Commission to the Member States.

Article 4

1 Following the notification referred to in Article 3(5), the Commission shall decide as soon as possible to which extent the applications can be met.

2 If the quantities covered by applications as referred to in Article 3 exceed those available, the Commission shall fix a single reduction coefficient to be applied to the quantities applied for.

Where application of the reduction coefficient provided for in the first subparagraph gives a figure of less than 50 head per application, the quantity available shall be awarded by the Member States concerned by drawing lots for import rights covering 50 head each. Where the remainder is less than 50 head, a single import right shall be awarded for that quantity.

Article 5

1 The security relating to the import rights shall be EUR 3 per head. It shall be deposited with the competent authority together with the application for import rights.

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

3 Where the application of the reduction coefficient referred to in Article 4(2) causes less import rights to be allocated than had been applied for, the security lodged shall be released proportionally without delay.

Article 6

1 The quantities awarded shall be imported subject to presentation of one or more import licences.

2 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.

3 Import licences shall be issued on application by and in the name of the operator who have obtained the import rights.

4 Licence applications and licences shall show the following:

a in box 8, the country of origin;

b in box 16, one or several of the following CN codes:

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0102 90 05, 0102 90 21, 0102 90 29, 0102 90 41 or 0102 90 49;

c in box 20, the order number of the quota concerned and at least one of the entries listed in Annex II.

Licences shall carry with them an obligation to import from the country indicated in box 8.

Article 7

1 By way of derogation from Article 9(1) of Regulation (EC) No 1291/2000, import licences issued pursuant to this Regulation shall not be transferable and shall confer rights under the tariff quota only if made out in the same name and address as the one entered as consignee in the customs declaration of release for free circulation accompanying them.

2 By way of derogation from Article 3 of Regulation (EC) No 1445/95 import licences shall be valid for 150 days from their actual day of issue within the meaning of Article 6(3) of this Regulation. No import licences shall be valid after 30 June of each annual quota period.

3 The grant of the import licence shall be conditional on the lodging of a security of EUR 20 per head which shall be composed of:

a the security of EUR 3 referred to in Article 5(1) and

b an amount of EUR 17 which the applicant shall lodge together with the licence application.

4 Licences issued shall be valid throughout the Community.

5 Article 8(4) of Regulation (EC) No 1291/2000 shall not apply. To that end, the figure ‘0’ (zero) shall be entered in box 19 of licences.

6 Notwithstanding the provisions of Section 4 of Title III of Regulation (EC) No 1291/2000 concerning the release of securities, the security referred to in paragraph 3 shall not be released until proof has been produced that the titular holder of the licence has been commercially and logistically responsible for the purchase, transport and clearance for free circulation of the animals concerned. Such proof shall at least consist of:

a the original commercial invoice or authenticated copy made out in the name of the titular holder by the seller or his representative, both established in the third country of export, and proof of payment by the titular holder or the opening by the titular holder of an irrevocable documentary credit in favour of the seller,

b the bill of lading or, where applicable, the road or air transport document, drawn up in the name of the titular holder, for the animals concerned,

c a document according to which the goods have been declared for release for free circulation with the indication of the name and address of the titular holder as consignee.

Article 8

Imported animals shall qualify for the exemption from duties in accordance with Article 1 on presentation of either an EUR 1 movement certificate issued by the exporting country in accordance with Protocol 4 annexed to the Europe Agreement with Bulgaria, or a invoice-declaration drawn up by the exporter in accordance with this Protocol.

Article 9

Regulations (EC) No 1445/95 and (EC) No 1291/2000 shall apply, subject to this Regulation.