Commission Regulation (EC) No 1206/2004 of 29 June 2004 opening and providing for the administration of an import tariff quota for frozen beef intended for processing (1 July 2004 to 30 June 2005)

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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. Implementing rules should be laid down for the quota year 2004/2005, starting on 1 July 2004.

(2) The import of frozen beef under the tariff quota is subject to customs import duties and to the conditions laid down under serial 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[(2)]. The breakdown of the tariff quota into each of the arrangements referred to above should be made taking into account the experience gained in respect of similar imports in the past.

(3) 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 8 of Council Directive 77/99/EEC of 21 December 1976 on health problems affecting intra-Community trade in meat products[(3)], or, in respect of processors in the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, to those who have been approved for export into the Community of processed meat products in accordance with Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine animals and swine and fresh meat from third countries[(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. It should be possible to issue licences following allocations of import rights on the basis of applications from eligible processors. 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 1445/95 of 26 June 1995 on rules of application for import and export licences

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1206/2004. (See end of Document for details)*

in the beef and veal sector and repealing Regulation (EEC) No 2377/80[6] should apply to import licences issued under this Regulation.

(5) 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[7].

(6) With a view to using up quota quantities completely, a closing date should be set for the submission of import licence applications and provision should be made for a further allocation of quantities not covered by licence application submitted by that date. In the light of the experience obtained, that allocation should be limited to processors who have converted all their import rights initially allocated into import licences.

(7) 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.

(8) 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.

(9) 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 50 700 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 2004 to 30 June 2005 subject to the conditions laid down in this Regulation.

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, 1602 50 39 or 1602 50 80, 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[8].

Offal includes the following: heads and cuts thereof (including ears), feet, tails, hearts, udders, livers, kidneys, sweetbreads (thymus glands and 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.

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

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

a) 40 000 tonnes of frozen beef intended for the manufacture of A-products;
b) 10 700 tonnes of frozen beef intended for the manufacture of B-products.

2 The quota shall bear the following order numbers:

— 09.4057 for the quantity referred to in paragraph 1(a),
— 09.4058 for the quantity referred to in paragraph 1(b).

3 The customs import duties to apply on frozen beef under the quota are fixed under serial number 13 of Annex 7 to Part three of Annex I to Regulation (EEC) No 2658/87.

Article 4

1 The application for import rights under the quota may only be lodged by, or on behalf of, one of the following processing establishments:

a) processing establishments approved under Article 8 of Directive 77/99/EEC and which have been active in production of processed products containing beef at least once since 1 July 2003;
b) processing establishments in the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia or Slovakia approved under Chapters 4 and 5 of Directive 72/462/EEC to export to the Community and which have been active in production of processed products containing beef at least once since 1 July 2003.

For each quantity referred to in Article 3(1) only one application for import rights which shall not exceed 10% of each quantity available may be accepted in respect of each approved processing establishment.

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

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

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

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The competent national authority shall decide what is acceptable documentary evidence of compliance with those conditions.

Article 5

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 Each application for import rights for production of either A-products or B-products shall reach the competent authority no later than the second Friday following the date of publication of the present regulation in the *Official Journal of the European Union* by 13.00 Brussels time at the latest.

3 Member States shall forward to the Commission no later than the fourth Friday following the date of publication in the *Official Journal of the European Union* a list of applicants and quantities applied for under each of the two categories together with the approval numbers of the processing establishments concerned.

All communications, including nil returns, shall be sent by fax or e-mail using the forms set out in Annexes I and II.

4 The Commission shall decide as soon as possible to what extent applications are accepted, where necessary as a percentage of the quantity applied for.

Article 6

1 Any import of frozen beef for which import rights have been allocated pursuant to Article 5(4) shall be subject to presentation of an import licence.

2 As to the security referred to in Article 4(2) the application for import licences corresponding to the allocated import rights shall be a primary requirement within the meaning of Article 20(2) of Regulation (EEC) No 2220/85.

Where in application of Article 5(4) the Commission fixes a reduction coefficient the security lodged shall be released in respect of the import rights applied for which exceed the allocated import rights.

3 Within the allocated import rights a processor may apply for import licences until 18 February 2005 at the latest.

4 Import rights allocated to processors entitle them to import licences for quantities equivalent to the rights allocated.

Licence applications may be lodged solely:

a) in the Member State in which the application for import rights has been lodged;

b) by processors or on behalf of processors to whom import rights have been allocated.

5 A security shall be lodged with the competent authority at the time of import ensuring that the processor having been allocated import rights processes the entire quantity of meat imported into the required finished products in his establishment specified in the licence application, within three months of the day of import.

The amounts of the security are fixed in Annex III.

Article 7

Regulations (EC) No 1291/2000 and (EC) No 1445/95 shall apply, except otherwise provided in this Regulation.

Article 8

1 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, at least one of the entries listed in Annex IV.

2 Import licences shall be valid for 120 days from the actual date of issue within the meaning of Article 23(1) of Regulation (EC) No 1291/2000. However, no licence shall be valid after 30 June 2005.

3 In application of Article 50(1) of Regulation (EC) No 1291/2000, the full Common Customs Tariff duty applicable on the date of release for free circulation shall be collected in respect of all quantities imported in excess of those shown on the import licence.

Article 9

1 Quantities for which applications for import rights have not been lodged by the deadline referred to in Article 5(2) and quantities for which import licence applications have not been lodged by 18 February 2005 shall be subject to a new allocation of import rights.

To that end, by 25 February 2005 at the latest, Member States shall forward to the Commission details of the quantities for which no applications have been received.

2 The Commission shall decide as soon as possible on the breakdown of the quantities referred to in paragraph 1 into A-products and B-products. In doing so, the actual utilisation of the import rights allocated pursuant to Article 5(4) under each of the two categories may be taken into account.

3 The allocation of the remaining quantities shall be limited to processors who have applied for import licences in respect of all the import rights granted to them in application of Article 5(4).

4 Articles 4 to 8 shall apply to the import of the remaining quantities.

However, in this case the date for application referred to in Article 5(2) shall be 18 March 2005 and the date for communication referred to in Article 5(3) shall be 25 March 2005.

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.