COMMISSION REGULATION (EC) No 1126/2002

of 27 June 2002

opening and providing for the administration of an import tariff quota for young male bovine animals for fattening (1 July 2002 to 30 June 2003)

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], as last amended by Commission Regulation (EC) No 2345/2001 [2] and in particular Article 32(1) thereof,

Whereas:

(1) The WTO schedule CXL requires the Community to open an annual import tariff quota for 169 000 head of young male bovine animals for fattening. Implementing rules should be laid down for the period 1 July 2002 to 30 June 2003.

(2) There should be a guarantee in particular of equal and continuing access to the said quota for all interested traders within the Community. However, pursuant to Article 32(3) of Regulation (EC) No 1254/1999, the method of administration may give due weight to the supply requirements on the Community market.

(3) The requirements of certain Member States which have a shortfall of bovine animals for fattening may therefore be taken into account. As those requirements are particularly evident in Italy and Greece, priority should be given to satisfying demand in those two Member States.

(4) For the allocation of the tariff quota methods which have been applied in the past to this quota should be applied again. Consequently, in Italy and Greece the method referred to in the third indent of Article 32(2) should be applied while the method referred to in the second indent of that paragraph shall be used for applications in other Member States.

(5) Importers who can show that they have been involved in trade with live animals with third countries should be able to apply for import rights. Proof of that involvement calls for evidence to be presented of recent import or export of some significance.

(6) Checks of criteria for participation in the quota allocation call for applications to be submitted in the Member State where the trader is entered in the value added tax (VAT) register. Italy and Greece are an exception to this rule: traders entered in the VAT register of another Member State may submit their applications in these two countries.

(7) In order to prevent speculation:

— importers no longer involved in trade in live bovine animals at 1 January 2002 should be denied access to the quota,

— a security should be fixed for import rights,

— licences should not be transferable,

— import licences should be issued to traders solely for the quantities for which they have been allocated import rights.

(8) In order to provide for more equal access to the quota while ensuring a commercially viable number of animal per application, each application should respect a maximum and a minimum number of heads.

(9) To oblige traders to apply for import licences for all import rights allocated, it should be established that this obligation is 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 [3], as last amended by Regulation (EC) No 1932/1999 [4].

(10) 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 applications submitted by that date. In the light of experience it should also be laid down that this final allocation is open only to importers who have applied for import licences for the total quantity to which they are entitled.

[1] OJ L 160, 26.6.1999, p. 21.
[2] OJ L 315, 1.12.2001, p. 29.
[3] OJ L 205, 3.8.1985, p. 5.
[4] OJ L 240, 10.9.1999, p. 11.

(11) A proper management of the quota requires the use of import licences. To that end, rules should be laid down in particular on the way applications are to be submitted and the information to be shown in applications and licences, where applicable by waiving or supplementing certain 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 certain agricultural products [1] and 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 [2], as last amended by Regulation (EC) No 2442/2001 [3].

(12) 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.

(13) With a view of 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 shall not apply.

(14) The application of this tariff quota requires effective checks on the specific destination of the imported animals. The animals should therefore be fattened in the Member State which has issued the import licence.

(15) A security must be lodged to ensure that the animals are fattened for at least 120 days in designated production units. The amount of the security should cover the difference between the common customs tariff (CCT) duty and the reduced duty applicable on the date of release for home use of the animals in question.

(16) The Management Committee for Beef and Veal has not given an opinion within the time limit set by its President,

HAS ADOPTED THIS REGULATION:

Article 1

1. A tariff quota for 169 000 young male bovine animals covered by CN codes 0102 90 05, 0102 90 29 or 0102 90 49 and intended for fattening in the Community is hereby opened for the period 1 July 2002 to 30 June 2003.

The serial number of the quota shall be 09.4005.

2. The customs import duty applicable under the tariff quota referred to in paragraph 1 shall be 16 % *ad valorem* plus EUR 582 per tonne net.

That rate of duty shall apply on condition that the imported animals are fattened for at least 120 days in the Member State which has issued the import licence.

Article 2

1. Import rights for the quantity referred to in Article 1(1) shall be allocated to the Member States as follows:

(a) Italy: 118 300 head,

(b) Greece: 18 100 head,

(c) other Member States: 32 600 head.

2. Within each of the quantities referred to in paragraph 1(a) and (b), import rights relating to:

— 50 % of the quantity shall be allocated upon application directly by the Member State concerned to importers who furnish proof of having imported animals under the Regulations referred to in Annex I. All quantities presented as reference quantity shall constitute the import rights applied for,

— 50 % of the quantity shall be allocated upon application directly by the Member State concerned to operators who furnish proof that, in the period 1 January 2001 to 31 December 2001, they have exported to or imported from third countries at least 75 live animals covered by CN code 0102 90, excluding imports under Regulations referred to in Annex I.

3. Applicants must be entered in a national value added tax (VAT) register.

Applications for import rights shall be presented:

— in Italy for the quantities referred to in paragraph 1(a),

— in Greece for the quantities referred to in paragraph 1(b),

— in the Member States of registration for the quantities referred to in paragraph 1(c).

[1] OJ L 152, 24.6.2000, p. 1.
[2] OJ L 143, 27.6.1995, p. 35.
[3] OJ L 337, 20.12.2001, p. 18.

4. The quantities referred to in paragraph 1(c) shall be allocated upon application to operators who furnish proof that in the period from 1 January 2001 to 31 December 2001 they have exported to or imported from third countries at least 75 live animals covered by CN code 0102 90.

5. The quantities referred to in the first and second indent of paragraph 2 and in paragraph 4 shall be allocated to eligible operators in proportion to the quantities respectively applied for. Each application under the second indent of paragraph 2 and under paragraph 4 shall relate to a minimum of 50 head and a maximum of 10 % of the available number of head.

6. Proof of import and/or export shall be provided solely by means of customs documents of release for home use.

Member States may accept copies of those documents duly certified by the competent authorities.

Article 3

1. Operators who are no longer engaged in trade in live bovine animals on 1 January 2002 shall not qualify under the arrangements provided for in this Regulation.

2. A company formed by the merger of companies each having rights to apply pursuant to the first indent of Article 2(2) shall enjoy the same rights as the companies from which they were formed.

Article 4

1. Where, under any one category referred to respectively in the first indent of Article 2(2), the second indent of Article 2(2) and Article 2(4) an applicant submits more than one application, all such applications shall be rejected.

2. For the purposes of Article 2(2) and (4), applications accompanied by the necessary proofs must reach the competent authorities not later than 8 July 2002.

3. As regards applications under Article 2(2), after verification of the documents presented, Italy and Greece shall forward to the Commission by 19 July 2002 at the latest a list of applicants and quantities applied for using the forms set out in Annex II for applications under the first indent of Article 2(2) and in Annex III for applications under the second indent of Article 2(2).

4. As regards applications under Article 2(4), after verification of the documents presented, Member States shall forward to the Commission by 19 July 2002 at the latest a list of applicants and quantities applied for using the form set out in Annex III.

The Commission shall decide as soon as possible to what extent applications under Article 2(4) may be accepted. Where the quantities applied for exceed the quantities available, the Commission shall fix a reduction coefficient to be applied to the quantities applied for.

5. Where in application of the coefficient referred to in paragraph 4 the allocation under Article 2(4) would result in less than 50 head being allocated per application, the allocation shall be made by the Member States concerned by drawing lots for batches of 50 head for those applications. Where the remainder is fewer than 50 head, that number shall constitute a single batch.

Article 5

1. A security for import rights is fixed at EUR 3 per head. It must be lodged with the competent authority together with the application for import rights.

2. Import licence applications must be submitted for the import rights allocated. This obligation is a primary requirement within the meaning of Article 20(2) of Regulation (EEC) No 2220/85.

3. Where the allocations for Italy and Greece referred to in Article 2(2) and that made by the Commission under Article 4(4) result in import right applications exceeding the rights allocated, the security lodged shall be released immediately for that overrun.

Article 6

1. Any import of animals for which import rights have been allocated shall be subject to presentation of an import licence.

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

3. Licence applications may be lodged solely:

— in the Member State in which the application for import rights has been lodged, and

— by operators to whom import rights have been allocated in accordance with Articles 2 and 4. Each issuing of an import licence shall result in a corresponding reduction of the import rights.

4. Licences shall be issued up to 29 November 2002 for a maximum of 50 % of the allocated import rights. Import licences for the remaining quantities shall be issued from 1 December 2002.

5. An import license shall be issued on application by and in the name of the operators who have obtained the import rights.

6. Licence applications and licences shall show:

(a) the country of origin in box 8;

(b) one of the eligible CN codes in box 16;

(c) the figure '0' (zero) in box 19;

(d) the following endorsement in box 20:

'Live male bovine animals of a live weight not exceeding 300 kg per head (Regulation (EC) No 1126/2002).'

Article 7

1. Notwithstanding 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 quotas only if made out in the same name and address as the one entered as consignee in the customs declaration of release for home use accompanying them.

2. Import licences shall be valid for 90 days from their date of issue within the meaning of Article 23(1) of Regulation (EC) No 1291/2000. However, no licences shall be valid after 30 June 2003.

3. The security relating to the import licence shall be EUR 20 per head and shall be lodged by the applicant together with the licence application.

4. Licences shall be valid throughout the Community.

5. Article 8(4) of Regulation (EC) No 1291/2000 shall not apply.

6. Notwithstanding the provisions of Section 4 of Title III of Regulation (EC) No 1291/2000, the security 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 home use of the animals concerned. Such proof shall at least consist of:

— the original commercial invoice 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,

— 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,

— the copy No 8 of form IM 4 with the name and address of the titular holder being the only indication in box 8,

— the proof of the payment of the customs duties by, or on behalf of, the titular holder.

Article 8

1. At the time of import, the importer shall provide proof that he has:

— given a written undertaking to inform within one month the competent authority of the Member State that issued the licence, of the farm or farms where the young bovine animals are to be fattened,

— lodged a security of an amount as laid down for each eligible CN code in Annex IV with the competent authority of the Member State that issued the licence. The fattening of the imported animals in that Member State for at least 120 days from the date of acceptance of the customs declaration of release for home use is a primary requirement within the meaning of Article 20(2) of Regulation (EEC) No 2220/85.

2. Except in cases of *force majeure*, the security referred to in the second indent of paragraph 1 shall be released only if proof is furnished to the competent authority of the Member State that issued the licence that the young bovine animals:

(a) have been fattened on the farm or farms indicated pursuant to paragraph 1;

(b) have not been slaughtered before a period of 120 days from the date of import has elapsed; or

(c) have been slaughtered for health reasons or have died as a result of sickness or accident before that period has elapsed.

The security shall be released immediately after such proof has been furnished.

However, where the time limit referred to in the first indent of paragraph 1 has not been observed, the security to be released shall be reduced by:

— 15 %, and by

— 2 % of the remaining amount for each day by which it has been exceeded.

The amounts not released shall be forfeited and retained as customs duties.

3. If the proof referred to in paragraph 2 is not furnished within 180 days from the date of import, the security shall be forfeited and retained as customs duty.

However, if such proof is not furnished within 180 days but is produced within six months following the said period of 180 days, the amount forfeited, less 15 % of the security, shall be repaid.

Article 9

1. Animals not covered by import licence applications at 21 February 2003 shall be the subject of a further allocation of import rights, irrespective of the allocation of import rights between Member States referred to in Article 2(1) and of the two different schemes provided for in the first and second indents of Article 2(2).