COMMISSION REGULATION (EC) No 1940/97

of 3 October 1997

laying down detailed rules for a tariff quota for cows and heifers of specified mountain breeds originating in various third countries, other than for slaughter, in the period 1 July 1997 to 30 June 1998 and amending Regulation (EC) No 2514/96

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3066/95 of 22 December 1995 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreements to take account of the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations [1], as last amended by Regulation (EC) No 1595/97 [2], and in particular Article 8 thereof,

Having regard to Council Regulation (EC) No 1926/96 of 7 October 1996 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the agreements on free trade and trade-related matters with Estonia, Latvia and Lithuania, to take account of the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations [3], and in particular Article 5 thereof,

Whereas Regulation (EC) No 3066/95 provides for the opening, for the period 1 July 1997 to 30 June 1998, of a tariff quota of 7 000 cows and heifers of specified mountain breeds originating in Hungary, Poland, the Czech Republic, Slovakia, Bulgaria, Romania, Lithuania, Latvia and Estonia at a customs duty of 6 % *ad valorem;*

Whereas, pursuant to the rules laid down in Commission Regulation (EC) No 2514/96 of 23 December 1996 laying down for 1997 detailed rules for the application of a tariff quota for cows and heifers other than for slaughter of certain mountain breeds orginating in certain third countries [4], Commission Regulation (EC) No 247/97 [5] lays down to what extent applications for the right to import logded pursuant to Regulation (EC) No 2514/96 may be accepted; whereas, consequently, rights to import have already been allocated out of the total number of animals available with a view to their importation in 1997; whereas, pursuant to Regulation (EC) No 3066/95, that number must be fully counted against the number of animals specified, for 1997, in the Annexes to the said Regulation; whereas the quota set out in the Annexes to Regulation (EC) No 3066/95 for the period 1 July 1997 to 30 June 1998 should consequently be adjusted and the detailed rules relating to those quantities should be laid down;

Whereas experience has shown that limiting imports may lead to speculative import licence applications; whereas, in order to ensure that the planned measures function properly, the greater part of the quantities available should be allocated to 'traditional' importers of cows and heifers of specified mountan breeds; whereas, in order to avoid forcing trade relations in this product group into an excessively rigid mould, a second tranche should be made available to traders who are able to show that they are engaged in genuine trade of some scale with third countries; whereas, in this connection and in order to ensure efficient management, the trader concerned must be required to have imported at least 15 head in 1996; whereas a batch of 15 animals in principle constitutes a normal load; whereas experience shows that the sale or purchase of a single batch is a minimum requirement for a transaction to be considered genuine and viable; whereas verification of these criteria requires all applications from the same trader to be submitted in the same Member State;

Whereas, for purposes of checking that these criteria are met, applications should be submitted in the Member State where the importer is listed in the VAT register;

Whereas in order to prevent speculation, traders no longer engaged in trade in beef and veal at 1 July 1997 should be denied access to the quota;

Whereas provision should be made for the system to be administered by means of import licences; whereas to that end detailed rules for the submission of applications and the information which should appear in applications and licences should be laid down, if necessary by way of derogation from certain provisions of Commission Regulation (EEC) No 3719/88 of 16 November 1988 laying down common detailed rules for the application of the system

[1] OJ L 328, 30. 12. 1995, p. 31.
[2] OJ L 216, 8. 8. 1997, p. 1.
[3] OJ L 254, 8. 10. 1996, p. 1.
[4] OJ L 345, 31. 12. 1996, p. 39.
[5] OJ L 41, 12. 2. 1997, p. 2.

of import and export licences and advance fixing certificates for agricultural products (1), as last amended by Regulation (EC) No 1404/97 (2), and 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 (3), as last amended by Regulation (EC) No 1572/97 (4); whereas, moreover, provision should be made for the licences to be issued after a period of consideration and subject where necessary to a uniform percentage reduction;

Whereas experience has shown that importers do not always inform the competent authorities which have issued their import licences about the number and origin of animals imported as part of a quota; whereas this information is important for assessing the market situation; whereas a security against communication of that information should be provided for;

Whereas Article 82 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (5), as last amended by Regulation (EC) No 82/97 (6), provides for customs supervision of goods released for free circulation at a reduced rate on account of their end-use; whereas the animals imported should be monitored to ensure they are not slaughtered during a certain period; whereas a security should be required to ensure compliance with the requirement for the animals not to be slaughtered;

Whereas Protocol 4 to the Europe Agreements and Protocol 3 to the Free Trade Agreements have been amended; whereas the new Protocols provide that proof of origin of products imported into the Community may be established by means of a declaration by the exporter, on certain conditions, or by presentation of an EUR.1 movement certificate; whereas, therefore, the new provisions on release for free circulation of imported products should be included in this Regulation and the relevant provisions of Regulation (EC) No 2514/96 should be adjusted;

Whereas 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

1. For the period 1 July 1997 to 30 June 1998, the following tariff quota is hereby opened for animals originating in the third countries listed in Annex I:

Order No	CN code (1)	Description	Quota volume (head)	Customs duty
09.4563	ex 0102 90 05 ex 0102 90 29 ex 0102 90 49 ex 0102 90 59 ex 0102 90 69	Cows and heifers other than for slaughter of the following mountain breeds: grey, brown, yellow and mottled Simmental breed and Pinzgau breed	4 500	6 % *ad valorem*

(1) For Taric codes: see Annex II

2. For the purposes of this Regulation, the animals referred to in paragraph 1 shall be deemed to be not for slaughter where they are not slaughtered within four months of the date of acceptance of the declaration of release for free circulation.

Derogations may, however, be granted in duly proven cases of *force majeure*.

Article 2

1. The quota referred to in Article 1 (1) shall be divided into two parts of 80 %, i.e. 3 600 head, and 20 %, i.e. 900 head, respectively.

(a) The first part, equal to 80 %, shall be allocated among:

— importers in the Community as constituted on 31 December 1994 who can furnish proof of having imported animals covered by the import quotas governed by the Regulations listed in Annex III in the period 1 July 1993 to 30 June 1996, and

— importers in the new Member States who can furnish proof of having imported, into the Member State where they are established, animals falling within the CN codes referred to in Annex II and CN code 0102 90 79 during the period 1 July 1993 to 31 December 1994 from countries which were for them third countries on 31

(1) OJ L 331, 2. 12. 1988, p. 1.
(2) OJ L 194, 23. 7. 1997, p. 5.
(3) OJ L 143, 27. 6. 1995, p. 35.
(4) OJ L 211, 5. 8. 1997, p. 5.
(5) OJ L 302, 19. 10. 1992, p. 1.
(6) OJ L 17, 21. 1. 1997, p. 1.

December 1994, or animals covered by import quotas governed by the Regulations listed in point (b) of Annex III during the period 1 January 1995 to 30 June 1996.

(b) The second part, equal to 20 %, shall be allocated among importers who can furnish proof of having imported from third countries during 1996 at least 15 live bovine animals falling within CN code 0102.

Importers must be registered for VAT purposes in a Member State.

2. The first part of the quota shall be allocated among importers on the basis of their applications for import rights in proportion to their imports of animals within the meaning of paragraph 1 (a) during the period 1 July 1993 to 30 June 1996.

3. The second part of the quota shall be allocated among importers as referred to in paragraph 1 (b) on the basis of their applications for import rights in proportion to the quantities applied for.

Import right applications must relate to:

— at least 15 head, and

— no more than 50 head.

Where licence applications relate to larger quantities, they shall only be given consideration subject to those ceilings.

4. Proof of import shall be provided exclusively by means of the customs document of release for free circulation duly stamped by the customs authorities.

Member States may accept copies of the above documents, duly certified by the issuing authority, if applicants can prove to the satisfaction of the competent authority that they were not able to obtain the original document.

Article 3

1. Importers who on 1 July 1997 were no longer engaged in any activity in the beef and veal sector shall not qualify for an allocation pursuant to Article 2 (1) (a).

2. Any company formed by the merger of companies each having rights pursuant to Article 2 (2) shall benefit from the same rights as the companies from which it has been formed.

Article 4

1. Applications for rights to import may be submitted only in the Member State in which the applicant is registered in the national VAT register.

2. Only one application may be lodged by each applicant and applications shall relate to one part of the quota only.

Where an applicant lodges more than one application, all applications from that person shall be inadmissible.

3. For the purposes of Article 2 (1) (a), importers shall present the applications for the right to import to the competent authorities together with the proof referred to in Article 2 (4) by 10 October 1997 at the latest.

After verification of the documents presented, Member States shall forward to the Commission, by 21 October 1997 at the latest, the list of importers who meet the acceptance conditions, showing in particular their names and addresses and the number of eligible animals imported during the period referred to in Article 2 (2).

4. For the purposes of Article 2 (1) (b), applications for rights to import must be lodged by importers by 10 October 1997 at the latest, together with the proof referred to in Article 2 (4).

After verification of the documents presented, Member States shall forward to the Commission, by 21 October at the latest, the list of applicants and the quantities requested.

5. All notifications, including notifications of nil applications, shall be made by telex or fax, drawn up on the basis of the specimens in Annexes IV and V in the case where applications have indeed been lodged.

Article 5

1. The Commission shall decide to what extent applications may be accepted.

2. As regards applications referred to in Article 4 (4), if the quantities in respect of which applications are made exceed the quantities available, the Commission shall reduce the quantities applied for by a fixed percentage.

If the reduction referred to in the preceding subparagraph results in a quantity of less than 15 head per application, the allocation shall be made by drawing lots, by batches of 15 head, by the Member States concerned. If the remaining quantity is less than 15 head, that quantity shall constitute a single batch.

Article 6

1. Imports of the quantities allocated shall be subject to presentation of an import licence.

2. Licence applications may be lodged only with the competent authorities in the Member State where the applicant is registered in the VAT register.

3. Upon notification of allocation from the Commission, import licences shall be issued at the earliest opportunity at the request and in the name of importers who have obtained rights to import.

4. Import licences shall be valid for 90 days from their date of issue. However, they shall expire on 30 June 1998 at the latest.

5. Licences issued shall be valid throughout the Community.

6. Without prejudice to this Regulation, Regulations (EEC) No 3719/88 and (EC) No 1445/95 shall apply.

However, Article 8 (4) and the second subparagraph of Article 14 (3) of Regulation (EEC) No 3719/88 shall not apply.

Article 7

1. Checks to ensure that the animals imported are not slaughtered in the four months following their release into free circulation shall be conducted in accordance with Article 82 of Regulation (EEC) No 2913/92.

2. Without prejudice to Regulation (EEC) No 2913/92, importers shall lodge a security of ECU 1 193 per tonne with the competent customs authorities to ensure compliance with the obligation not to slaughter the animals.

Such securities shall be released immediately where proof is furnished to the customs authorities concerned to the effect that the animals:

(a) have not been slaughtered within four months of the date of their release for free circulation; or

(b) have been slaughtered within that time for reasons of *force majeure* or for health reasons or have died as a result of disease or an accident.

Article 8

Licence applications and licences shall contain the following entries:

(a) in box 8, the name of one or more of the countries listed in Annex I; licences shall carry an obligation to import from one or more of the countries indicated;

(b) in box 16, the CN codes set out in Annex II;

(c) in box 20, one of the following:

— Razas de montaña [Reglamento (CE) nº 1940/97]

— Bjergracer (forordning (EF) nr. 1940/97)

— Höhenrassen (Verordnung (EG) Nr. 1940/97)

— Ορεσίβιες φυλές [Κανονισμός (ΕΚ) αριθ. 1940/97]

— Mountain breeds (Regulation (EC) No 1940/97)

— Races de montagne [règlement (CE) nº 1940/97]

— Razze di montagna [regolamento (CE) n. 1940/97]

— Bergrassen (Verordening (EG) nr. 1940/97)

— Raças de montanha [Regulamento (CE) nº 1940/97]

— Vuoristorotuja [Asetus (EY) N:o 1940/97]

— Bergraser (förordning (EG) nr 1940/97).

Article 9

No later than three weeks after the importation of the animals specified in this Regulation, the importer shall inform the competent authority which issued the import licence about the number and origin of the animals imported. That authority shall communicate the information in question to the Commission at the beginning of each month.

Article 10

1. When submitting their licence application, importers shall lodge a security in respect of the import licence of ECU 25 per head, by way of derogation from Article 4 of Regulation (EC) No 1445/95, and a security of ECU 2 per head against communication of the information referred to in Article 9 of this Regulation.

2. The security relating to the communication shall be released if the information is communicated to the competent authority within the period specified in Article 9 for animals covered by that communication. If no communication is made, the security shall be forfeited.

A decision to release this security shall be taken simultaneously with the decision to release the security covering the import licence.

Article 11

The imported animals shall qualify for the duties referred to in Article 1 on presentation of an EUR.1 movement certificate issued by the exporting country in accordance with Protocol 4 annexed to the Europe Agreements and Protocol 3 annexed to the Free Trade Agreements or a declaration by the exporter in accordance with the said Protocols.

Article 12

Article 11 of Regulation (EC) No 2514/96 is replaced by the following:

'*Article 11*

Animals imported shall qualify for the duties referred to in Article 1 on presentation of either an EUR.1 movement certificate issued by the exporting country in accordance with Protocol 4 to the Europe Agreements and Protocol 3 to the Free Trade Agreements or a declaration by the exporter in accordance with the said Protocols.'

Article 13

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities.*

It shall apply with effect from 1 July 1997.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 3 October 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

List of third countries

— Hungary
— Poland
— Czech Republic
— Slovakia
— Romania
— Bulgaria
— Lithuania
— Latvia
— Estonia

ANNEX II

Taric codes

CN codes	Taric codes
ex 0102 90 05	0102 90 05*20
	*40
ex 0102 90 29	0102 90 29*20
	*40
ex 0102 90 49	0102 90 49*20
	*40
ex 0102 90 59	0102 90 59*11
	*19
	*31
	*39
ex 0102 90 69	0102 90 69*10
	*30

ANNEX III

Regulations referred to in Article 2 (1)

(a) Council Regulations: (EEC) No 1918/93 (OJ L 174, 17. 7. 1993, p. 3)
(EEC) No 1919/93 (OJ L 174, 17. 7. 1993, p. 10)

(b) Council Regulation: (EC) No 1800/94 (OJ L 184, 23. 7. 1994, p. 20)

Commission Regulations: (EC) No 1485/95 (OJ L 145, 29. 6. 1995, p. 52)
(EC) No 2483/95 (OJ L 256, 26. 10. 1995, p. 13)
(EC) No 207/96 (OJ L 27, 3. 2. 1996, p. 9)

ANNEX IV

EC Fax No (32 2) 296 60 27/(32 2) 295 36 13

Application of Article 4 (3) of Regulation (EC) No 1940/97

COMMISSION OF THE EUROPEAN COMMUNITIES DG VI/D/2 — BEEF AND VEAL SECTOR

IMPORT RIGHTS APPLICATION

Date: ..... Period: .....

Member State: .....

Order number	Applicant (name and address)	Quantity (head) imported from 1 July 1993 to 30 June 1996
	Total	

Member State: Fax No: .....

Tel.: .....

ANNEX V

EC Fax No (32 2) 296 60 27/(32 2) 295 36 13

Application of Article 4 (4) of Regulation (EC) No 1940/97

COMMISSION OF THE EUROPEAN COMMUNITIES DG VI/D/2 — BEEF AND VEAL SECTOR

IMPORT RIGHTS APPLICATION

Date: ..... Period: .....

Member State: .....

Order number	Applicant (name and address)	Quantity (head)
	Total	

Member State: Fax No: .....

Tel.: .....