COMMISSION REGULATION (EC) No 1012/98

of 14 May 1998

opening and providing for the administration of tariff quotas for the import of bulls, cows and heifers, other than those intended for slaughter, of certain Alpine and mountain breeds

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1095/96 of 18 June 1996 on the implementation of the concessions set out in Schedule CXL drawn up in the wake of the conclusion of the GATT Article XXIV.6 negotiations [1], and in particular Article 1(1) thereof,

Whereas for bulls, cows and heifers, other than those intended for slaughter, of the mottled Simmental breed and the Schwyz and Fribourg breeds and for cows and heifers, other than those intended for slaughter, of the grey, brown, yellow and mottled Simmental breed and the Pinzgau breed, the Community has undertaken, in the framework of the World Trade Organisation (WTO), to open two annual tariff quotas each of 5 000 head at rates of duty of 6 and 4 % respectively; whereas those quotas should therefore be opened on a multiannual basis for 12-month periods starting from 1 July, hereinafter referred to as the 'year of import', and detailed rules adopted for their application;

Whereas there should be a guarantee in particular of equal and continuing access to the said quotas for all interested traders within the Community and of uninterrupted application of the customs duties laid down for those quotas to all imports of the animals in question until the quotas are exhausted;

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 mountain 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 the year preceding the year of import; 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 trade to be submitted in the same 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 of the year of import should be denied access to the quota;

Whereas, subject to the provisions of this Regulation, Commission Regulations (EEC) No 3719/88 of 16 November 1988 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products [2], as last amended by Regulation (EC) No 1404/97 [3], and (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], as last amended by Regulation (EC) No 759/98 [5], are applicable;

Whereas Article 82 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code [6], as last amended by Regulation (EC) No 82/97 [7], provides for customs supervision of goods put into free circulation at a reduced rate of duty on account of their end-use; whereas imported animals should be monitored for a certain period to ensure they are not slaughtered; whereas, in order to ensure that the animals concerned are not slaughtered, a security should be required;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

[1] OJ L 146, 20. 6. 1996, p. 1.

[2] OJ L 331, 2. 12. 1988, p. 1.
[3] OJ L 194, 23. 7. 1997, p. 5.
[4] OJ L 143, 27. 6. 1995, p. 35.
[5] OJ L 105, 4. 4. 1998, p. 7.
[6] OJ L 302, 19. 10. 1992, p. 1.
[7] OJ L 17, 21. 1. 1997, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

1. The following tariff quotas are opened on a multiannual basis for periods from 1 July to 30 June of the following year, hereinafter referred to as the 'year of import':

Order No	CN code (1)	Description	Quota volume (head of cattle)	Customs duty
09.0001	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 those intended for slaughter, of the following mountain breeds: grey, brown, yellow and mottled Simmental breed and Pinzgau breed	5 000	6 %
09.0003	ex 0102 90 05 ex 0102 90 29 ex 0102 90 49 ex 0102 90 59 ex 0102 90 69 ex 0102 90 79	Bulls, cows and heifers, other than those intended for slaughter, of the following breeds: mottled Simmental breed and Schwyz and Fribourg breeds	5 000	4 %

(1) TARIC code: see Annex I.

2. For the purposes of this Regulation, the animals referred to in paragraph 1 shall be considered not to be intended for slaughter if 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 the event of duly proven cases of *force majeure.*

3. To benefit from the tariff quota covered by order No 09.0003, the following must be presented:

— for bulls: a pedigree certificate,

— for female animals: a pedigree certificate or a certificate of registration in a herdbook certifying the purity of the breed.

Article 2

1. The two quota volumes referred to in Article 1(1) shall each be divided into two parts of 80 %, i.e. 4 000 head, and 20 %, i.e. 1 000 head:

(a) The first part, equal to 80 % of the quota volume, shall be allocated to importers from the Community who are able to furnish proof of having imported animals covered by the quotas during the 36 months preceding the year of import in question.

(b) The second part, equal to 20 % of the quota volume, shall be reserved for applicants who can furnish proof of having imported from third countries, during the 12 months preceding the year of import in question, at least 15 live bovine animals covered by CN code 0102.

Importers must be entered in a national VAT register.

2. Upon application for the right to import, the first part shall be allocated among importers in proportion to their imports of animals as referred to in paragraph 1(a) during the period referred to in that point.

3. Upon application for the right to import, the second part shall be allocated in proportion to the quantities applied for by importers as referred to in paragraph 1(b).

Applications for the right to import:

— must cover 15 head or more,

and

— may not exceed 50 head.

Applications for the right to import more than 50 head shall be reduced automatically to that number.

4. Any quantities of one of the two parts of the same tariff quota referred to in paragraph 1 not applied for shall be transferred automatically to the other part of the quota in question.

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

Member States may accept a copy of the above document, 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 of the year of import in question 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. An application for the right to import may only be submitted in the Member State in which the applicant is entered in a national VAT register.

2. An applicant may submit only one application per quota and that application shall refer to only one part of the quota.

Where an applicant submits more than one application for a quota, all applications from that person shall be considered invalid.

3. For the purposes of Article 2(2) and (3), all applications, accompanied by the proof referred to in Article 2(5), must reach the competent authorities not later than 15 July of each year of import.

After verifying the documents submitted, the Member States shall communicate to the Commission, not later than 1 August of each year of import:

— as regards the importers referred to in Article 2(1)(a), their names and addresses and the number of animals imported during the period referred to in Article 2(2),

— as regards the importers referred to in Article 2(1)(b), their names and addresses and the quantities applied for.

4. All notifications, including nil notifications, shall be made to the address given in Annex II.

Article 5

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

2. As regards the applications referred to in the second indent of the second subparagraph of Article 3(3), 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 by drawing lots, by batches of 15 head. If the remaining quantity is less than 15 head, a single licence shall be issued for that quantity.

Article 6

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

2. Import licence applications may only be submitted to the competent authority of the Member State in which the applicant is entered in a national VAT register.

3. After the notification of allocations from the Commission, in accordance with Article 5(1) import licences shall be issued as soon as possible on application by and in the names of the traders who have obtained rights to import.

4. Import licences shall be valid for 90 days from the date of issue within the meaning of Article 21(1) of Regulation (EEC) No 3719/88. They shall expire, however, on 30 June following their date of issue.

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

6. Notwithstanding Article 9(1) of Regulation (EEC) No 3719/88, import licences issued pursuant to this Regulation shall not be transferable and shall confer the right to use the tariff quota only if made out in the name entered on the declaration of release for free circulation accompanying them.

7. Article 8(4) of Regulation (EEC) No 3719/88 shall not apply.

Article 7

1. Checks to ensure that imported animals are not slaughtered within four months of release for free circulation shall be carried out in accordance with Article 82 of Regulation (EEC) No 2913/92.

2. Without prejudice to the provisions of Regulation (EEC) No 2913/92, to ensure compliance with the above obligation not to slaughter the imported animals importers must lodge a security with the competent customs authorities. This security shall equal the sum of customs duties laid down for the categories of animal in question under the common customs tariff.

The security shall be released immediately if proof is supplied to the customs authorities concerned that the animals:

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

or

(b) have been slaughtered within that period for reasons constituting a case of *force majeure* or for health reasons or have died as a result of sickness or an accident.

Article 8

On the licence application and the licence itself shall be entered:

(a) in Section 8, the country of origin;

(b) in Section 16, the CN codes given in Annex I;

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

— Razas alpinas y de montaña [Reglamento (CE) nº 1012/98], año de importación: ...

— Alpine racer og bjergracer (forordning (EF) nr. 1012/98), importår: ...

— Höhenrassen (Verordnung (EG) Nr. 1012/98); Einfuhrjahr: ...

— Αλπικές και ορεσίβιες φυλές [κανονισμός (ΕΚ) αριθ. 1012/98], έτος εισαγωγής: ...

— Alpine and mountain breeds (Regulation (EC) No 1012/98), year of import: ...

— Races alpines et de montagne [règlement (CE) nº 1012/98], année d'importation: ...

— Razze alpine e di montagna [regolamento (CE) n. 1012/98], anno d'importazione: ...

— Bergrassen (Verordening (EG) nr. 1012/98), jaar van invoer: ...

— Raças alpinas e de montanha [Regulamento (CE) nº 1012/98], ano de importação: ...

— Alppi- ja vuoristorotuja (asetus (EY) N:o 1012/98), tuontivuosi: ...

— Alp- och bergraser (förordning (EG) nr 1012/98), importår: ...

Article 9

1. Quantities for which import licence applications have not been received by 31 March of the year of import shall be allocated to importers who have applied for import licences for the total quantity to which they are entitled, irrespective of the provisions of Article 2(1).

2. To that end, not later than 10 April of the year of import, Member States shall forward to the address given in Annex II details of the quantities for which no application has been received and the information referred to in the second subparagraph of Article 3(3). The Commission shall make the allocation by drawing lots by batches of 15 head. If the remaining quantity is less than 15 head, a single licence shall be issued for that quantity. It shall notify the Member States of the result not later than 17 April of the year of import.

3. For the purposes of this Article, Articles 6, 7 and 8 shall apply.

Article 10

This Regulation shall enter into force on 1 July 1998.

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

Done at Brussels, 14 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

TARIC codes

Order No	CN code	Taric code
09.0001	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
09.0003	ex 0102 90 05	0102 90 05*30
		*40
		*50
	ex 0102 90 29	0102 90 29*30
		*40
		*50
	ex 0102 90 49	0102 90 49*30
		*40
		*50
	ex 0102 90 59	0102 90 59*21
		*29
		*31
		*39
	ex 0102 90 69	0102 90 69*20
		*30
	ex 0102 90 79	0102 90 79*21
		*29

ANNEX II

COMMISSION OF THE EUROPEAN COMMUNITIES,
DG XXI-B.6 — Economic tariff questions;

fax: (32 2) 296 33 06.