COMMISSION REGULATION (EC) No 970/2000

of 8 May 2000

amending Regulation (EC) No 1374/98 laying down detailed rules for the application of the import arrangements and opening tariff quotas for milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products [1], and in particular Articles 26(3) and 29(1) thereof,

Whereas:

(1) Commission Regulation (EC) No 1374/98 [2], as last amended by Regulation (EC) No 249/2000 [3], provides for a number of different import systems. Where the detailed description of goods complicates the import procedure, that procedure is considerably simplified by the exporting country giving an assurance that the product exported meets the description of the goods in question. A product may only qualify for the specific duty when it is accompanied by a certificate known as the inward monitoring arrangements (IMA 1) certificate, issued in a prescribed form on the responsibility of the exporting country and providing the said assurance. This system of certificates is also used by non-member countries to monitor compliance with tariff quotas.

(2) While additional verification and monitoring by the Community was initially considered unnecessary experiences has shown the need for a verification of declarations at Community level based on random sampling of lots and the use of internationally recognised testing and statistical methods.

(3) In application of Articles 26 and 29 of Regulation (EC) No 1255/1999, the Commission shall ensure that import licences are issued to any applicant irrespective of his place of establishment in the Community and shall, taking into account all the relevant provisions, avoid any discrimination between importers.

(4) Additional precision is necessary for the implementation of the IMA 1 certificate system notably with regard to the completion, issue, cancellation, amendment and replacement of certificates by the IMA 1 issuing agency, their validity period and the conditions for their use with a corresponding import licence. The monitoring of all such imports and an end of year audit to ensure respect of the quota should be provided for.

(5) In the light of experience additional conditions are appropriate for the import of New Zealand butter under the current access quota notably linking the quantity covered by a single IMA 1 certificate to that covered by a corresponding single import licence and requiring that they both be used only once together with one declaration for release for free circulation by way of derogation from Commission Regulation (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 [4], as last amended by Regulation (EC) No 1127/1999 [5].

(6) New Zealand butter entered under the current access quota must be identified to avoid the grant of full export refund and the payment of certain aid amounts.

(7) Certain features of the IMA 1 certificate system must be modified to take account of new rules for completing certificates, for monitoring the issue of certificates and for monitoring authorised amendments to those certificates and to introduce precision with regard to control and verification of imports under Regulation (EC) No 1374/98.

(8) Regulation (EC) No 1374/98 provides that operators who intend to import certain cheeses originating in Switzerland must undertake to respect a minimum free-at-frontier value in order to benefit from preferential treatment for those cheeses. In the past this undertaking was given in box 17 of the obligatory IMA 1 certificate which is no longer the case. It is appropriate, for reasons of clarity, to specify the notion of the free-at-frontier value and the conditions to ensure its respect.

(9) Modifications to Annexes I and VII to Regulation (EC) No 1374/98 are appropriate in light of the special provisions for completing the IMA 1 certificate for imports of

[1] OJ L 160, 26.6.1999, p. 48.
[2] OJ L 185, 30.6.1998, p. 21.
[3] OJ L 26, 2.2.2000, p. 4.
[4] OJ L 331, 2.12.1988, p. 1.
[5] OJ L 135, 29.5.1999, p. 48.

New Zealand butter under the current access quota and of the types of butter eligible under that quota. A new specimen IMA 1 should be used for the import of New Zealand butter under the current access quota.

(10) Commission Regulation (EC) No 2204/1999 [1] amended Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on tariff and statistical nomenclature and on the Common Customs Tariff [2], as last amended by Regulation (EC) No 254/2000 [3]. The WTO tariff quotas to be opened by the competent Community authority from 1 July 2000 are indicated in Annex 7 to Part Three, Section III, of the abovementioned Annex I together with new quota order numbers as far as milk product quotas are concerned. The quota order numbers in Annexes I and II to Regulation (EC) No 1374/98 should be aligned to those in Annex 7 of Regulation (EEC) No 2658/87 and the WTO quotas to be opened from 1 July 2000 must also be fixed in Annex II to Regulation (EC) No 1374/98 in conformity with that same Annex 7.

(11) Canadian cheddar is now the only product covered by the IMA 1 certificate system for which a minimum free at frontier value must be respected and for this purpose the buyer and the Member State of destination must be indicated on the IMA 1 certificate. The rules for completing IMA 1 certificates in Annex VI should therefore be modified.

(12) Annex XI is added to provide certain definitions and specify how the IMA 1 certificate for the import of New Zealand butter under the current access quota should be completed, how the weight and fat content controls are to be carried out and the procedure to follow in any case where a dispute arises on the composition of the butter.

(13) Annex XII is added to assist Member States in reporting the results of physical checks carried out. Annex XIII sets out the conditions for cancelling, replacing and amending IMA 1 certificates as well as certain end of year provisions, linked to normal shipping times, for releasing into free circulation product covered by an IMA 1 certificate and intended for import in the following year.

(14) Commission Regulation (EC) No 2508/97 [4], as last amended by Regulation (EC) No 2631/1999 [5], lays down detailed rules for the application to milk and milk products of the schemes provided for in the Europe Agreements between the Community and the Republic of Hungary, the Republic of Poland, the Czech Republic, the Slovak Republic, Bulgaria and Romania and Slovenia and the Agreements on free trade between the Community and the Baltic States. In the light of experience further precision with regard to import controls is necessary to improve the protection of own resources. It is therefore appropriate to apply the import controls provided for in Regulation (EC) No 1374/98 to these import regimes also.

(15) For the purposes of Chapter IVa of this Regulation, Articles 239 to 250 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs code [6], as last amended by Regulation (EC) No 1662/1999 [7], will apply. However, the procedure to be followed in certain cases where the lot covered by a declaration for release for free circulation does not conform to that declaration, should be specified in order to ensure adequate surveillance of quantities actually released into free circulation against quotas.

(16) In order to ensure a secure and transparent transition from the IMA 1 certificate system in Regulation (EC) No 1374/98 and applicable until 30 June 2000 with regard to the issue of certificates and until 31 August 2000 with regard to the use of these certificates for release for free circulation in the Community (hereinafter referred to as 'the old IMA 1 certificate/system') to the IMA 1 certificate system in Regulation (EC) No 1374/98 as amended herein and applicable from 1 July 2000 with regard to the issue of certificates and from 1 September 2000 with regard to the use of these certificates for release into free circulation in the Community (hereinafter referred to as 'the new IMA 1 certificate/system'), a separate deadline must be fixed for the issue of IMA 1s under the old IMA 1 certificate system, for their use and for the use of any import licence issued on their presentation. In addition import licences applied for on presentation of new IMA 1 certificates issued in accordance with the rules laid down in this regulation may only be issued on the working day following the deadline of 31 August 2000 for releasing product into free circulation using an IMA 1 certificate issued before the deadline of 30 June 2000 for issuing an old IMA 1 certificate.

[1] OJ L 278, 28.10.1999, p. 1.
[2] OJ L 256, 7.9.1987, p. 1.
[3] OJ L 28, 3.2.2000, p. 16.
[4] OJ L 345, 16.12.1997, p. 31.
[5] OJ L 321, 14.12.1999, p. 13.
[6] OJ L 253, 11.10.1993, p. 1.
[7] OJ L 197, 29.7.1999, p. 25.

(17) Member State import licence issuing authorities must request from the IMA 1 issuing agency an inventory of old IMA 1 certificates issued for the 1 January until 31 December 2000 quota period before 1 July 2000 and of their use for release into free circulation in the Community up to 31 August 2000 which must be approved by the New Zealand Ministry of Agriculture and Forestry's Food Assurance Authority in order to establish the quantities in respect of which the latter may issue new IMA 1 certificates for the period from 1 July 2000 for that same quota period but which may only be used for release into free circulation in the Community from 1 September 2000.

(18) The Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1374/98 is amended as follows:

1. Article 7 shall be replaced by the following:

'*Article 7*

1. An import licence for the products listed in Annex I at the rate of duty indicated shall only be issued on presentation of a corresponding IMA 1 certificate, for the total net quantity indicated therein fulfilling the conditions laid down in Article 9(9) or in Chapter IV as appropriate; it shall bear the number and date of issue of that corresponding certificate.

Except in the case of butter referred to in Article 5 and reduced duty imports referred to in Annex IV, the import licence may only be issued following verification by the competent authority that the provisions in Article 28(1)(f) have been respected. The licence issuing authority shall send to the Commission by fax a copy of the IMA 1 certificate lodged with each import licence application on the day it is lodged and by 18.00 at the latest. The licence issuing authority shall issue the import licence on the fourth working day following provided the Commission has not taken any special measures before that date.

The competent import licence issuing authority shall retain a copy of each IMA 1 presented.

2. The period of validity of the IMA 1 certificate shall be from its date of issue up to the end of the eighth month following, but in no case may it extend beyond the validity of its corresponding import licence nor the 31 December of the year of import for which it is issued.

3. From 1 November of each year IMA 1 certificates valid from the following 1 January may be issued for quantities covered by the quota for the year of import. However import licence applications shall only be lodged from the first working day of the year of import.

4. The circumstances under which an IMA 1 certificate may be cancelled, amended, replaced or corrected are indicated in Annex XIII.

5. By way of derogation from Article 8(4) of Regulation (EEC) No 3719/88, the quantity imported may not exceed that shown in boxes 17 and 18 of the import licence. To that end, the figure "0" shall be entered in box 19 of the licence.'

2. In Article 8(1) subparagraph (d) shall be replaced by the following subparagraphs (d) and (e):

'(d) in box 19 the figure "0" shall be indicated;

(e) in box 20 the serial number of the IMA 1 certificate and its date of issue in one of the following ways:

— Válido si va acompañado del certificado IMA 1 nº … expedido el …

— Kun gyldig ledsaget af IMA 1-certifikat nr. …, udstedt den …

— Nur gültig in Verbindung mit der Bescheinigung IMA 1 Nr. …, ausgestellt am …

— Έγκυρο μόνο εφόσον συνοδεύεται από το πιστοποιητικό ΙΜΑ 1 αριθ. … που εξεδόθη στις …

— Valid if accompanied by the IMA 1 certificate No … issued on …

— Valable si accompagné du certificat IMA 1 nº …, délivré le …

— Valido se accompagnato da un certificato IMA 1

— Geldig indien vergezeld van een certificaat IMA 1 nr. … dat is afgegeven op …

— Válido quando acompanhado do certificado IMA 1 com o número … emitido …

— Voimassa vain … myönnetyn IMA 1 -todistuksen N:o … kanssa

— Gäller endast tillsammans med IMA 1-intyg nr … utfärdat den …'

3. Article 9 shall be replaced by the following

'*Article 9*

1. The special rules set out in this Article shall apply to New Zealand butter subject to the tariff quota referred to in Article 5.

For the purpose of implementing the tariff quota referred to in the first subparagraph, "at least six weeks old" shall be interpreted as meaning at least six weeks old on the date a declaration for release for free circulation is presented to customs.

2. By way of derogation from Article 2(2), the security shall be EUR 5 per 100 kilograms net of product.

3. Import licence applications may be submitted only in the United Kingdom.

The United Kingdom shall monitor all IMA 1 certificates issued, cancelled, amended, corrected, or in respect of which copies were issued. It shall ensure that the total quantity in respect of which import licences are issued does not exceed the quota for any year of import.

4. An import licence, for endorsement in accordance with Article 22 of Regulation (EEC) No 3719/88, shall be used for a single customs declaration for release for free circulation and shall cover a single lot. If the quantity released into free circulation is lower than the quantity indicated in boxes 17 and 18 of the import licence, the security relating to the unreleased part shall be forfeited, and the licence in question may not be used to import any further quantity.

5. Where the compositional requirements are not met for the butter subject to the tariff quota referred to in Article 5 no preferential treatment shall be given for the whole lot. Where a declaration for release into free circulation has been accepted, customs shall, on determining non-conformity, collect the import duty set in Annex I to Council Regulation (EEC) No 2658/87 (*), attribute the quantity in box 29 of the import licence and send it to the import licence issuing authority which shall amend it with a view to converting it into a full duty import licence.

By way of derogation from Article 24 of Regulation (EEC) No 3719/88, the competent licence issuing authority shall endorse the licence in box 20 with one of the following:

— Certificado de importación con tipo reducido para el producto con el número de orden … que se ha convertido en un certificado de importación con tipo pleno para el que se adeudaba, y se ha abonado, el tipo de derecho de …/100 kg; certificado ya anotado

— Ændret fra en importlicens med nedsat toldsats for et produkt under nr. … til en importlicens med fuld toldsats, hvor den skyldige importtold på …/100 kg er betalt; licensen er allerede afskrevet

— Umwandlung einer Einfuhrlizenz zum ermäßigten Zollsatz für das Erzeugnis mit der lfd. Nr. … in eine Einfuhrlizenz zum vollen Zollsatz von …/100 kg, der entrichtet wurde; Lizenz abgeschrieben

— Μετατροπή από πιστοποιητικό εισαγωγής με μειωμένο δασμό για προϊόν βάσει του αύξοντος αριθμού … σε πιστοποιητικό εισαγωγής με πλήρη δασμό για το οποίο το ποσοστό δασμού ποσού …/100 kg οφείλετο και πληρώθηκε· το πιστοποιητικό ήδη χορηγήθηκε

— Converted from a reduced duty import licence for product under order No … to a full duty import licence on which the rate of duty of …/100 kg was due and has been paid; licence already attributed

— Certificat d'importation à droit réduit pour le produit correspondant au nº d'ordre …, converti en un certificat d'importation à taux plein, pour lequel le taux du droit applicable de …/100 kg a été acquitté; certificat déjà imputé

— Conversione da un titolo d'importazione a dazio ridotto per il prodotto del n. d'ordine … ad un titolo d'importazione a dazio pieno, per il quale è stata pagata l'aliquota di …/100 kg; titolo già attribuito

— Invoercertificaat met verlaagd recht voor onder volgnummer … vallend product omgezet in een invoercertificaat met volledig recht waarvoor het recht van …/100 kg verschuldigd was en is betaald; hoeveelheid reeds op het certificaat afgeschreven

— Obtido por conversão de um certificado de importação com direito reduzido para o produto com o número de ordem … num certificado de importação com direito pleno, relativamente ao qual a taxa de direito aplicável de …/100 kg foi paga; certificado já imputado

— Muutettu etuuskohteluun oikeuttavasta kiintiötuontitodistuksesta vakiotuontitodistukseksi tavaralle, joka kuuluu järjestysnumeroon … ja josta on kannettu tariffin mukainen tulli …/100 kg; vähennysmerkinnät tehty

— Omvandlad från importlicens med sänkt tull för produkt med löpnummer … till importlicens med hel tullavgift för vilken gällande tullsats …/100 kg har betalats. Redan avskriven licens.

The licence authority shall modify all counting data to take this amendment into account. The customs authority shall ensure the appropriate modifications are carried out to the trade and the own resources accounting.

6. For the purposes of monitoring the quantities of the tariff quota referred to in paragraph 1, account shall be taken of all quantities for which declarations for release for free circulation have been accepted during the quota period concerned.

7. Member States shall notify the Commission, by 31 January following the end of a given quota year, of the definitive monthly quantities and the total quantity for that quota year of butter for which declarations for release for free circulation have been accepted under the tariff quota referred to in paragraph 1 during the previous quota year. The monthly notification shall be made by the 10th of the month following that during which the declarations for release for free circulation have been accepted.

By 28 February of each year, the United Kingdom shall communicate to the Commission, in respect of the tariff quota referred to in paragraph 1 for the previous quota year, the quantity of butter for which a security has been lodged and the quantity of butter released into free circulation in respect of which the security has been released. In the case where the complete data is not available on 28 February it shall be completed without undue delay.

8. The United Kingdom shall communicate to the Commission by 31 January following the end of each quota year on the basis of the data referred to in Article 28(1)(g) a detailed inventory for the quota year of each IMA 1 issued, its identification number and the quantity covered by it together with the total number of certificates and the total quantity covered by them for the year. It shall include all the relevant details of any cancellation, correction or amendment to any IMA 1 and of any copy of an IMA 1 issued.

9. The rules to be followed concerning the completion of the IMA 1 certificate, the monitoring of the weight and fat content of the butter, and the consequences of such monitoring are set out in Annex XI.

The typical process standard deviation of the fat content referred to in point 1(e) of Annex XI notified in accordance with Article 28(1)(e) shall be approved by the Commission and the list shall be communicated to the Member States together with their date of entry into force for the purpose of issuing IMA 1 certificates. The typical process standard deviation shall be valid for at least one year unless exceptional circumstances, brought to the attention of the Commission by the New Zealand issuing agency, justify a modification, which must be approved by the Commission. Each modified or additional typical process standard deviation approved by the Commission shall be communicated to the Member States together with the entry into force date for the purpose of issuing IMA 1 certificates.

10. Member States shall communicate the results of the monitoring carried out under Annex XI to the Commission using the standard form set out in Annex XII for each quarter by the 10th of the following month.

(*) OJ L 256, 7.9.1987, p. 1.'

4. Article 10 is replaced by the following:

'*Article 10*

At all stages of marketing New Zealand butter imported into the Community pursuant to this section shall state its New Zealand origin on its packaging and on the corresponding invoice or invoices.

By way of derogation from the first subparagraph, where New Zealand butter is blended with Community butter and where the blended butter is intended for direct consumption and is put up in packages of 500 grams or less, the blended butter need only state its New Zealand origin on the corresponding invoice.

In either case, the invoice shall also state: "Butter imported under Article 5 of Commission Regulation (EC) No 1374/98: not eligible for the grant of aid for butter referred to in Article 1(1) of Commission Regulation (EEC) No 429/90 nor for aid for butter referred to in Article 1(2)(a) of Commission Regulation (EC) No 2571/97 nor for the grant of export refund in conformity with Article 31(10) and (11) of Council Regulation (EC) No 1255/1999 except where provided for in paragraph 12 thereof and in Article 7(a) of Commission Regulation (EC) No 1222/94".'

5. In Article 18 paragraph 3 shall be replaced by the following:

'3. Articles 7 and 8 shall apply *mutatis mutandis*.'

6. In Article 21 the following paragraph is added:

'Article 7 shall apply *mutatis mutandis*.'

7. Article 22 is deleted.

8. Article 23 is amended as follows:

(a) The introductory phrase of Article 23(1) is modified as follows:

'By way of derogation from Article 7:'

(b) Article 23(3) is replaced by the following:

'3. For products falling within CN codes 0406 90 02 to 0406 90 06 and for those listed in Annex IV under order numbers 3, 4 and 5, import licences shall be issued only where the applications are accompanied by a written declaration by the applicant that the minimum free at frontier value referred to in the Combined Nomenclature or in Annex IV have been complied with.

The applicant shall supply, at the request of the competent authorities, any information and additional supporting documentation which they may judge necessary with regard to compliance with the minimum free-at-frontier value and to allow any auditing of accounts required by those authorities. He shall not accept any discount, refund, or any other rebate which may lead to the product in question having a value less than the minimum import value fixed for such a product.

In cases of non-compliance with the minimum free-at-frontier value, in addition to the import duty set in Annex I to Regulation (EEC) No 2658/87, a penalty shall be paid equal to 25 % of the amount of the duty.'

9. Article 24 is replaced by the following:

'*Article 24*

1. The IMA 1 certificate shall be drawn up according to the specimen in Annex V, except for butter subject to the tariff quota referred to in Article 5, in accordance with the conditions laid down in this chapter.

2. The IMA 1 certificate for butter subject to the tariff quota referred to in Article 5 shall be drawn up according to the specimen in Annex Va in accordance with the conditions laid down in this chapter and in Article 9(9) of this Regulation.

3. By way of derogation from the conditions laid down in this chapter for drawing up IMA 1 certificates referred to in paragraph 1 and 2, box 3 of the IMA 1 relating to the buyer and box 6 relating to the country of destination shall not be completed except in the case of Cheddar cheese provided for under order No 43 of Annex I.'

10. Article 26(2) is replaced by the following:

'2. The certificate must contain, for each type and each form of presentation, except for butter subject to the tariff quota referred to in Article 5, the particulars set out in Annex VI.'

11. Article 27(1) is replaced by the following:

'1. The original of the certificate shall be presented, along with the corresponding import licence and the products to which they relate, to the custom authorities of the importing Member State at the time of lodging the declaration for release for free circulation. Without prejudice to Article 7(2) it shall be presented during the period of validity of the certificate, except in the case of *force majeure*.

However, a copy duly authenticated and appropriately identified by the issuing agency may be presented to the licensing authority and to the competent customs authority in the case where the original is lost or rendered unsuitable for use.'

12. In Article 28(1) the following subparagraphs (d), (e), (f), (g) and (h) are added:

'(d) it undertakes for the products listed in Annex I, Annex IIIA and Annex IV to issue the IMA 1 certificate for the total quantity covered by it before the product covered by it leaves the territory of the country issuing it;

(e) it undertakes to notify the Commission by 1 June 2000 at the latest of the typical process standard deviation of the fat content, referred to in Annex XI(1)(e), of the butter subject to the tariff quota referred to in Article 5, manufactured by each producer referred to in Annex XI(1)(a) according to each product purchasing specification;

(f) it undertakes to send to the Commission, and in the case of butter referred to in Article 5 to the United Kingdom competent licence issuing authority also, by fax a copy of each authenticated IMA 1 certificate for the total quantity covered by it on the date of issue but within seven days of that date at the latest and, where appropriate, notification of any cancellation, correction or amendment;

(g) as far as New Zealand butter referred to in Article 5 is concerned it undertakes to communicate to the United Kingdom licence issuing authority the following information before the 10th of the following month for each month in the period January to October, and before Friday of the following week for each week or part thereof in the months of November and December, separately for IMA 1 certificates issued for the current and following quota year:

(i) the number of IMA 1 certificates issued in the month or week concerned, as the case may be, with their identification numbers and the quantities covered by those certificates, together with the total number of certificates issued and the quantities covered by them for the quota year in question, and

(ii) notification of the cancellation, correction or amendment of those IMA 1 certificates or the issuing of copies of IMA 1 certificates, as provided for in Annex XIII, paragraphs 1, 2, 4 and 5, and in Article 27(1), and all relevant details thereof.

(h) As far as products falling under CN code 0406 are concerned it undertakes to communicate to the Commission by 15 January for each order number separately:

(i) the number of IMA 1 certificates issued for the previous quota year with the identification number of each and the quantity covered by it together with the total number of certificates issued and the total quantity covered by them for the quota year in question, and

(ii) notification of the cancellation, correction or amendment of those IMA 1 certificates or the issuing of copies of IMA 1 certificates, as provided for in Annex XIII, paragraphs 1 to 5, and in Article 27(1), and all the relevant details thereof.'

13. The following Chapter IVa is added:

'CHAPTER IVa

Control provisions applicable to imports under Chapter II and Chapter III of this Regulation and to imports pursuant to Commission Regulation (EC) No 2508/97 (*).

Article 29a

1. The Community customs offices where the products are declared for release for free circulation into the Community shall carry out:

(a) scrutiny of the documents submitted in support of a declaration for release for free circulation claiming reduced tariff treatment, and

(b) physical checks on the products, on the basis of documents referred to under point (a).

2. Member States shall take the necessary measures to establish a system to carry out the physical checks under paragraph 1(b) without prior warning, according to a risk analysis assessment.

However, up to the end of the third calendar year following entry into force of this Regulation the system shall ensure that at least 3 % of the declarations for release for free circulation by Member State per calendar year are physically checked. However, for the period 1 July to 31 December 2000 this percentage shall be replaced by 1,5 %.

When calculating the minimum rate of physical controls to be carried out Member States may opt to disregard import declarations involving quantities not exceeding 500 kg.

3. Commission Regulation (EC) No 1854/96 (**) shall apply as regards reference methods to be applied for the analysis of the products provided for in this regulation to determine their conformity as regards composition with the declaration for release for free circulation.

4. Each customs office shall produce a detailed examination account on each physical check carried out. The examination account shall bear the examination date and shall be retained for at least three calendar years.

5. Where a physical check has been carried out box 32 of the import licence or the message box in the case of an electronic licence shall be endorsed with one of the following entries:

— Se ha realizado el control material (Reglamento (CE) nº 1374/98)

— Fysisk kontrol (forordning (EF) nr. 1374/98)

— Warenkontrolle durchgeführt [Verordnung (EG) Nr. 1374/98]

— Πραγματοποιήθηκε φυσικός έλεγχος [Κανονισμός (ΕΚ) αριθ. 1374/98]

— Physical check carried out (Regulation (EC) No 1374/98)

— Contrôle physique effectué [règlement (CE) nº 1374/98]

— Controllo físico effettuato [regolamento (CE) n. 1374/98]

— Fysieke controle uitgevoerd (Verordening (EG) nr. 1374/98)

— Controlo fisico em conformidade com [Regulamento (CE) n.º 1374/98]

— Fyysinen tarkastus suoritettu (asetus (EY) N:o 1374/98)

— Fysisk kontroll utförd (förordning (EG) Nr 1374/98)

Within 20 working days from the date of carrying out the physical check, the results of the first analysis shall be determined by customs. Within 10 working days from the date of establishing the definitive non-conforming results, these results, and where appropriate, the licence shall be sent to the competent licence issuing authority.

Without prejudice to Article 248 of Commission Regulation (EEC) No 2454/93 (***) in the case where a physical check for composition has been carried out prior to the presentation of the endorsed import licence pursuant to Article 31(1)(a) of Regulation (EEC) No 3719/88 the security shall be released.

6. Each case of non-conformity with the declaration for release for free circulation shall be notified to the Commission within 10 working days of such non-conformity being determined by customs.

Article 29b

1. For the purpose of monitoring the quantities of the tariff quotas to which this chapter applies, account shall be taken of all quantities for which declarations for release for free circulation have been accepted during the quota period concerned.

2. Member States shall notify the Commission by 15 March following each quota year ending on 31 December and by 15 September following each quota year ending on 30 June, separately for each quota, and country of origin, except for butter referred to in Article 5, of the definitive total quantity for the quota year for which declarations for release for free circulation have been accepted in that Member State.

(*) OJ L 345, 16.12.1997, p. 31.
(**) OJ L 246, 27.9.1996, p. 5.
(***) OJ L 253, 11.10.1993, p. 1.'

14. The following Article 30a is added to Chapter V:

'*Article 30a*

1. The provisions of this Article shall apply to provide for the transition to the system established by this Regulation following its amendment by Regulation (EC) No 970/2000.

2. From 1 July 2000 until 31 August 2000, IMA 1 certificates issued before 1 July 2000 may be used for the purpose of presenting New Zealand butter and cheese for release into free circulation in the Community.

3. The validity of IMA 1 certificates issued before 1 July 2000 and the validity of import licences issued on presentation of such IMA 1 certificates for the products under order Nos 35, 40 and 42 of Annex I originating in New Zealand shall not extend beyond 31 August 2000.

4. The issue of an import licence on presentation of an IMA 1 certificate issued by the New Zealand Ministry of Agriculture and Forestry's Food Assurance Authority from 1 July 2000 onwards for the products under order Nos 35, 40 and 42 of Annex I originating in New Zealand, may only take place from 1 September 2000 on the basis of licence applications lodged from that date.

5. The import licence issuing authority of each Member State which has issued import licences for the products under order Nos 35, 40 and 42 in Annex I originating in New Zealand for the quota period 1 January to 31 December 2000 shall request the New Zealand Dairy Board to provide a detailed inventory of IMA 1 certificates issued before 1 July 2000, of their use for obtaining an import licence and of their use for releasing products into free circulation in the Community before 1 September 2000. The IMA 1 issuing agency and the import licence issuing authority shall use this information to determine the quantity in respect of which IMA 1 certificates may be issued for the period from 1 July to 31 December 2000 which may be used to obtain import licences which may be used for release into free circulation in the Community from 1 September to 31 December 2000.

6. Each Member State's import licence issuing authority shall, before issuing import licences from 1 September 2000, confirm with the New Zealand Ministry of Agriculture and Forestry's Food Assurance Authority separately for each of the products under order Nos 35, 40 and 42, in respect of the quota period 1 January to 31 December 2000:

— the quantity in respect of which IMA 1 certificates have been issued before 1 July 2000,

— the quantity covered by those IMA 1 certificates which has been released into free circulation in the Community before 1 September 2000,

— the quantity for which it may issue IMA 1 certificates for the period from 1 July to 31 December 2000.

7. Member States shall communicate to the Commission for the quota period from 1 January to 31 December 2000:

— by 5 July 2000 the quantity in respect of which IMA 1 certificates have been issued before 1 July 2000 for products under order Nos 35, 40 and 42 separately,

— by 5 September 2000 the quantity in respect of which import licences have been issued up to 31 August 2000 on presentation of the IMA 1s referred to in the first indent, separately for each order number,

— by 15 September 2000 the quantity in respect of which a declaration for release for free circulation in the Community has been accepted before 1 September 2000 using IMA 1s and import licences referred to in the first and second indents respectively, separately for each order number,

— by 15 September 2000 the details of the confirmation referred to in paragraph 6.'

15. Annexes I and II shall be replaced by Annexes I and II to this Regulation.

16. Annex VI shall be replaced by Annex III to this Regulation.

17. In Annex VII, the information relating to New Zealand shall be replaced by the information in Annex IV to this Regulation.

18. Annex V to this Regulation shall be added as Annexes Va, XI, XII and XIII.

Article 2

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

It shall apply from 1 July 2000.

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

Done at Brussels, 8 May 2000.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

'ANNEX I

TARIFF QUOTAS PURSUANT TO THE GATT/WTO AGREEMENTS SPECIFIED BY COUNTRY OF ORIGIN

(Calendar year)

Order number in Annex 7 to the Combined Nomenclature (TARIC order number)	CN code	Description	Country of origin	Quota quantity (annual) (tonnes)	Import duty (EUR/100 kg net weight)	Rules for completing IMA 1 certificates
35 (09.4589)	ex 0405 10 11 ex 0405 10 19 ex 0405 10 30	Butter, at least six weeks old, of a fat content by weight of not less than 80 % but less than 82 %, manufactured directly from milk or cream without the use of stored materials, in a single, self-contained and uninterrupted process Butter, at least six weeks old, of a fat content by weight of not less than 80 % but less than 82 %, manufactured directly from milk or cream without the use of stored materials, in a single, self-contained and uninterrupted process which may involve the cream passing through a stage of concentrated milkfat and/or the fractionation of such milkfat (the processes referred to as "Ammix" and "Spreadable")	New Zealand	76 667	86,88	see Annex XI
40 (09.4515)	0406 90 01	Cheese for processing (1)	New Zealand Australia	4 000 500	17,06 17,06	see Annex VI(C) and (D)
42 (09.4514)	ex 0406 90 21	Whole Cheddar cheeses (of the conventional flat cylindrical shape of a net weight of not less than 33 kg but not more than 44 kg and cheeses in cubic blocks or in parallelepiped shape, of a net weight of 10 kg or more) of a fat content of 50 % or more by weight in the dry matter, matured for at least three months	New Zealand Australia	7 000 3 250	17,06 17,06	see Annex VI(B)
43 (09.4513)	ex 0406 90 21	Cheddar made from unpasteurised milk, of a fat content of 50 % or more, by weight, in the dry matter, matured for at least nine months, with a free-at-frontier (2) value per 100 kg net, of not less than: — EUR 334,20 in whole cheeses — EUR 354,83 for cheeses of a net weight of not less than 500 g — EUR 368,58 for cheeses of a net weight less than 500 g The expression "whole cheeses" means cheeses of the: — Conventional flat cylindrical shape of a net weight of not less than 33 kg but not more than 44 kg — Cubic blocks or parallelepipeds, of a net weight of 10 kg or more	Canada	4 000	13,75	see Annex VI(A)

(1) Utilisation for this particular purpose will be monitored by applying the Community provisions laid down on the subject.
(2) "Free-at-frontier value" means the free-at-frontier price or fob price in the country of export, plus an amount, where appropriate, for delivery and insurance costs to the customs territory of the Community.'

ANNEX II

'ANNEX II

TARIFF QUOTAS PURSUANT TO THE GATT/WTO AGREEMENTS, NOT SPECIFIED BY COUNTRY OF ORIGIN

(GATT/WTO year)

Order number in Annex 7 to the Combined Nomenclature (TARIC order number)	CN code	Description	Country of origin	Quota quantity (tonnes)		Import duty (EUR/100 kg net weight)
				Annual	Quarterly	
33 (09.4590)	0402 10 19	Skimmed milk powder	all third countries	68 000	17 000	47,50
34 (09.4599)	0405 10 11 0405 10 19 0405 10 30 0405 10 50 0405 10 90 0405 90 10 (*) 0405 90 90 (*)	Butter and other fats and oils derived from milk	all third countries	10 000 in butter equivalent	2 500	94,80
36 (09.4591)	ex 0406 10 20 ex 0406 10 80	Pizza cheese, frozen, cut into pieces each weighing not more than 1 gram, in containers of a net content of 5 kg or more, of a water content, by weight, of 52 % or more, and of a fat content by weight in the dry matter of 38 % or more	all third countries	5 300	1 325	13,00
37 (09.4592)	ex 0406 30 10 0406 90 13	Processed Emmental Emmental	all third countries	18 400	4 600	71,90 85,80
38 (09.4593)	ex 0406 30 10 0406 90 15	Processed Gruyère Gruyère, Sbrinz	all third countries	5 200	1 300	71,90 85,80
39 (09.4594)	0406 90 01	Cheese for processing [1]	all third countries	20 000	5 000	83,50
41 (09.4595)	0406 90 21	Cheddar	all third countries	15 000	3 750	21,00
44 (09.4596)	ex 0406 10 20	Fresh (unripened or uncured) cheese, including whey cheese, and curd, other than pizza cheese of order No 40	all third countries	19 500	4 875	92,60
	ex 0406 10 80					106,40
	0406 20 90	Other grated or powdered cheese				94,10
	0406 30 31	Other processed cheese				69,00
	0406 30 39					71,90
	0406 30 90					102,90
	0406 40 10 0406 40 50 0406 40 90	Blue-veined cheese				70,40

Order number in Annex 7 to the Combined Nomenclature (TARIC order number)	CN code	Description	Country of origin	Quota quantity (tonnes)		Import duty (EUR/100 kg net weight)
				Annual	Quarterly	
	0406 90 17	Bergkäse and Appenzell				85,80
	0406 90 18	Fromage fribourgeois, Vacherin Mont d'Or and Tête de Moine				75,50
	0406 90 23	Edam				
	0406 90 25	Tilsit				
	0406 90 27	Butterkäse				
	0406 90 29	Kashkaval				
	0406 90 31	Feta, of sheep's milk or buffalo milk				
	0406 90 33	Feta, other				
	0406 90 35	Kefalo-Tyri				
	0406 90 37	Finlandia				
	0406 90 39	Jarlsberg				
	0406 90 50	Cheese of sheep's milk or buffalo milk				
	ex 0406 90 63	Pecorino				94,10
	0406 90 69	Other				
	0406 90 73	Provolone				75,50
	ex 0406 90 75	Caciocavallo				
	ex 0406 90 76	Danbo, Fontal, Fynbo, Havarti, Maribo, Samsø				
	0406 90 78	Gouda				
	ex 0406 90 79	Esrom, Italico, Kernhem, Saint-Paulin				
	ex 0406 90 81	Cheshire, Wensleydale, Lancashire, Double Gloucester, Blarney, Colby, Monterey				
	0406 90 82	Camembert				
	0406 90 84	Brie				
	0406 90 86	Exceeding 47 % but not exceeding 52 %				
	0406 90 87	Exceeding 52 % but not exceeding 62 %				
	0406 90 88	Exceeding 62 % but not exceeding 72 %				
	0406 90 93	Exceeding 72 %				92,60
	0406 90 99	Other				106,40

(*) 1 kg product = 1,22 kg butter.
(1) Utilisation for this particular purpose will be monitored by applying the Community provisions laid down on the subject.'

ANNEX III

'ANNEX VI

RULES FOR COMPLETING CERTIFICATES

The following must be completed, in addition to boxes 1, 2, 4, 5, 9, 17 and 18 of the IMA 1 certificate:

A. As regards Cheddar listed under order No 43 in Annex I and covered by CN code ex 0406 90 21:

1. box 3 by specifying the buyer;
2. box 6 by specifying the country of destination;
3. box 7 by specifying, as appropriate:
   — "whole Cheddar cheeses",
   — "Cheddar cheese other than whole cheeses, of a net weight of not less than 500 g",
   — "Cheddar cheese other than whole cheeses, of a net weight of less than 500 g";
4. box 10 by specifying "exclusively unpasteurised home-produced cows' milk";
5. box 11 by specifying "at least 50 %";
6. box 14 by specifying "at least nine months";
7. boxes 15 and 16 by specifying the period for which the quota is valid.

B. As regards Cheddar cheese listed under No 42 in Annex I and covered by CN code ex 0406 90 21:

1. box 7 by specifying "whole Cheddar cheeses";
2. box 10 by specifying "exclusively home-produced cows' milk";
3. box 11 by specifying "at least 50 %";
4. box 14 by specifying "at least three months";
5. box 16 by specifying the period for which the quota is valid.

C. As regards Cheddar cheese intended for processing listed under No 40 in Annex I and covered by CN code ex 0406 90 01:

1. box 7 by specifying "whole Cheddar cheeses";
2. box 10 by specifying "exclusively home-produced cows' milk";
3. box 16 by specifying the period for which the quota is valid.

D. As regards cheese other than Cheddar, intended for processing listed under No 40 in Annex I and covered by CN code ex 0406 90 01:

1. box 7 by specifying "exclusively home-produced cows' milk";
2. box 16 by specifying the period for which the quota is valid.

E. As regards Tilsit listed under Nos 6 and 7 in Annex IV and covered by CN code ex 0406 90 25:

1. box 7 by specifying "Tilsit cheese";
2. box 10 by specifying "exclusively home-produced cows' milk";
3. box 11 and 12.

F. As regards Kashkaval cheeses listed under No 8 in Annex IV and covered by CN code ex 0406 90 29:

1. box 7 by specifying "Kashkaval cheese, made from sheep's milk, matured for at least two months, of a minimum dry matter content of 58 %, in whole cheeses not exceeding 10 kg net, whether wrapped in plastic or not";
2. box 10 by specifying "exclusively home-produced sheep's milk";
3. box 11.

G. As regards cheeses of sheep's milk or buffalo milk in containers containing brine, or in sheep or goatskin bottles, and "Halloumi" cheese listed under Nos 9, 10 and 11 in Annex IV and covered by CN codes ex 0406 90 31, ex 0406 90 50, ex 0406 90 86, ex 0406 90 87 and ex 0406 90 88:

1. box 7 by specifying, as appropriate, "cheese of sheep's milk" or "cheese of buffalo milk" and "in containers containing brine" or "in sheep or goatskin bottles" or "Halloumi" cheese is to be presented in individual plastic packings of a net content not exceeding 1 kg or in metal or plastic containers of a net content not exceeding 12 kg;
2. box 10 by specifying, as appropriate "exclusively home-produced sheep's milk" or "exclusive home-produced buffalo milk" or, in the case of "Halloumi" cheese, "home-produced milk";
3. box 11 and 12.

H. As regards Jarlsberg and Ridder cheeses listed under No 12 in Annex IIIA and covered by CN codes ex 0406 90 39, ex 0406 90 86, ex 0406 90 87 and ex 0406 90 88:

1. box 7 by specifying either "Jarlsberg cheese" and as appropriate:
   — "Whole cheeses, with rind, of a net weight of 8 to 12 kg inclusive",
   — "Rectangular blocks of a net weight of not more than 7 kg",
   or
   — "Pieces packed in vacuum or inert gas, of a net weight of at least 150 g and not more than 1 kg",
   or "Ridder cheese", and as appropriate:
   — "Whole cheeses, with rind, of 1 kg to 2 kg",
   or
   — "Pieces packed in vacuum or inert gas, with rind on at least one side, of a net weight of at least 150 g";
2. box 11 by specifying, as appropriate "at least 45 %" or "at least 60 %";
3. box 14 by specifying as appropriate "at least three months" or "at least four months".

I. As regards whey cheese listed under No 12 in Annex IIIA and covered by CN codes ex 0406 10 20 and ex 0406 10 80:

1. box 7 by specifying "whey cheese".'

ANNEX IV

Third country	CN code and description		Issuing agency	
			Name	Location
'New Zealand	ex 0405 10 11	Butter	MAF Food Assurance Authority Ministry of Agriculture and Forestry	ASB Bank House 101-103 The Terrace PO Box 2526 Wellington New Zealand Tel. (64-4) 474 41 00 Fax (64-4) 474 42 40'
	ex 0405 10 19	Butter		
	ex 0405 10 30	Butter		
	ex 0406 90 01	Cheese for processing		
	ex 0406 90 21	Cheddar		

ANNEX V

'ANNEX Va

IMA 1 CERTIFICATE

1. Seller	2. Serial No of issue	**ORIGINAL**
	CERTIFICATE for the entry of certain New Zealand butter subject to the tariff quota referred to under order No 35 in Annex 7 of the Combined Nomenclature	
4. Number and date of invoice	5. Country of origin	

IMPORTANT

A. A separate certificate must be made out for each form of presentation of each product.
B. The certificate must be in an official language of the European Community. It may also contain a translation into the official language or one official language of the exporting country.
C. The certificate must be made out in accordance with the Community provisions in force.
D. The original, and where appropriate, a copy of the certificate together with its corresponding import licence and a declaration for release for free circulation must be presented to the customs office in the Community at the time when the product is being released into free circulation.

7. Marks, numbers, number and kind of packages, detailed CN description and eight-digit CN code of the product preceeded by "ex" and particulars of its form of presentation.	8. Gross weight (kg)	9. Net weight (kg)
— See product identification list attached reference: — CN code: ex 0405 10 — Butter, at least six weeks old, of a fat content by weight not less than 80 %, but less than 82 %, manufactured directly from milk or cream — Product purchasing specification — Factory registration No — Date of manufacture — Arithmetic mean of the tare weight of plastic wrapping		***μ*** ***s***

10. Raw material used

13. Fat content by weight (%)
Typical process standard deviation of the fat content of the butter made in the factory according to the product purchasing specifications which are indicated in box 7 and its date of entry into force for the purpose of issuing IMA 1 certificates

16. Observations: (a) tariff quota (1)
(b) intended for processing (1)

17. IT IS HEREBY CERTIFIED:

— that the most recently manufactured butter covered by this certificate is/will be (1) at least six weeks old since/on (1): ____ | ____ | ____ (Year Month Day)
— that the particulars set out above are accurate and comply with the Community provisions in force.
— that the total quota for the year 200_ ..... kg.

..... Place

____ | ____ | ____ (Year Month Day)

Valid up to: ____ | ____ | ____ (Year Month Day)

18. Issuing agency

(Signature and stamp of issuing agency)

(1) Delete where not applicable.'

'ANNEX XI

CONTROL OF WEIGHT AND FAT CONTENT OF BUTTER ORIGINATING IN NEW ZEALAND IMPORTED PURSUANT TO ARTICLE 5 OF REGULATION (EC) No 1374/98

1. **Definitions**

For the purpose of this Annex the definitions set out below shall be applicable:

(a) "producer": a single production plant or factory in which butter is produced for export to the Community under the tariff quota referred to in Article 5;

(b) "cypher": the quantity of butter produced according to one product purchasing specification in one production plant during a single manufacturing run;

(c) "lot": a quantity of butter covered by a single IMA 1 and by a single corresponding import licence, which has been issued for the identical product and quantity as the IMA 1 presented to the competent customs authority for release into free circulation under the tariff quota referred to in Article 5;

(d) "competent authorities": the authorities in the Member States responsible for the control of imported products;

(e) "typical process standard deviation of the fat content": the standard deviation of the fat content of butter recorded by the IMA 1 issuing agency;

(f) "product identification list": a list which identifies in respect of each lot the serial number of its corresponding IMA 1 certificate, the single production plant or factory, the cypher or cyphers and which also provides a description of the butter. It may also identify the specification to which the butter was manufactured, the production season, the number of boxes corresponding to each cypher, the total number of boxes, the nominal weight of the boxes, the exporter's order number, the means of transport from New Zealand to the European Community and the voyage number.

2. **Completion and verification of the IMA 1 certificate**

2.1. An IMA 1 certificate shall cover butter manufactured according to one product purchasing specification in one plant. It may cover more than one cypher of the same product purchasing specification from the same plant.

2.2. The IMA 1 certificate shall be considered to be duly completed within the meaning of Article 27(2) only if it contains all of the following information:

(a) in box 1 the name and address of the seller;

(b) in box 2 the serial number of issue identifying the country of origin, the import regime, the product, the quota year and individual certificate number starting with one each year;

(c) in box 4 the number and date of the invoice;

(d) in box 5 "New Zealand";

(e) in box 7:

— reference to the product identification list (product ID list) which must be attached,

— the CN code preceded by "ex" and the detailed description in Annex 7 to the Combined Nomenclature,

— identification of the product purchasing specification and the date of the last modification,

— the factory registration number,

— the date of manufacture of the butter, and

— the arithmetic mean of the tare weight of the wrapper;

(f) in box 8 the gross weight in kilograms;

(g) in box 9:

— the net nominal weight per box,

— the total net weight in kilograms,

— the number of boxes,

— the arithmetic mean of the net weight of the boxes designated by the symbol "μ",

— the standard deviation of the net weight of the boxes designated by the symbol "σ";

(h) in box 10: from milk or cream;

(i) in box 13:

— not less than 80 but less than 82 % fat,

— the typical process standard deviation of the fat content of the butter, made to the product purchasing specification and in the factory indicated in box 7, and its entry into force date for the purpose of issuing IMA 1 certificates;

(j) in box 16: "New Zealand butter quota for … (year) in accordance with Regulation (EC) No 1374/98";

(k) in box 17:

— the date on which the most recently manufactured butter covered by the IMA 1 was or will be six weeks old,

— the total quota for the year in question,

— the date of issue and, where appropriate, the last day of validity,

— signature and stamp of the issuing agency;

(l) in box 18, details of the coordinates of the issuing agency.

2.3. Verification of the percentage fat content in box 13, undertaken by the IMA 1 issuing agency pursuant to Article 28(1)(b), shall be taken to entail the checking of the arithmetic mean of the percentage fat content found by the producer by the analysis of between 10 and 25 samples per cypher.

Verification shall require that the arithmetic mean shall not exceed $\bar{M}$ (the maximum mean milk fat content of the sample) where:

$$\bar{M} = 81{,}99 - 1{,}645\ \sigma$$

where σ is the typical process standard deviation.

3. **Monitoring of weight**

3.1. *Community monitoring*

Monitoring by the competent authorities shall be carried out on a lot.

The competent authorities shall take a random sample from the lot. The sample size shall be determined according to the following formula:

$$n = \sqrt[3]{N}$$

where:

n is the sample size; and

N is the number of boxes in the lot.

However, the minimum sample size, n, shall be fixed at 10.

The competent authority shall calculate the arithmetic mean and standard deviation of the net weights obtained from the sample.

The competent authority shall make appropriate checks to verify the information on tare weight given on the IMA 1 certificate, which may include a comparison with weight of plastic wrappers used in the Community or examination of a certificate from the manufacturer of the plastic wrappers used on the lot.

3.2. *Interpretation of monitoring results — standard deviation*

The standard deviation of the net weight of the boxes specified in the IMA 1 certificate shall be checked according to the following procedure.

The ratio s/σ shall be compared with the minimum ratio specified for a given sample size in the following table, where s is the sample standard deviation and σ is the standard deviation of the net weight of the boxes specified in the IMA 1 certificate.

Where the ratio s/σ is lower than the appropriate minimum ratio in the reference data table then s shall be used when the control results are interpreted under point 3.3 rather than σ.

Minimum ratio (*) s/σ for a given sample size (n)

n	s/σ
10 (**)	0,608
11	0,628
12	0,645
13	0,660
14	0,673
15	0,685
16	0,696
17	0,705
18	0,714
19	0,722
20	0,730
21	0,737
22	0,743
23	0,749
24	0,754
25	0,760
26	0,764
27	0,769
28	0,773
29	0,778
30	0,781
31	0,785
32	0,789
33	0,792
34	0,795
35	0,798
36	0,801
37	0,804
38	0,807
39	0,809
40	0,812
41	0,814
42	0,816
43	0,819

(*) The minimum ratios have been calculated using tabulated Chi^2 values (5 % quantile; $n - 1$ degrees of freedom).
(**) The minimum sample size, n, shall be fixed at 10.

3.3. *Interpretation of monitoring results — arithmetic mean*

The competent authority shall compare the results of sampling with the information on the IMA 1 certificate using the following formula:

$$w \leqslant W + \frac{2{,}326\ \sigma}{\sqrt{n}}$$

where:

w is the arithmetic mean of the net weight of the sample boxes,

W is the mean net weight per box specified on the IMA 1 certificate,

σ is the standard deviation of the net weight per box specified on the IMA 1 certificate, however the sample standard deviation of the net weight per box (s) shall be used instead of σ where required according to point 3(2), and

n is the sample size.

Where w satisfies the above formula, the mean net weight specified on the IMA 1 certificate (W) shall be used to determine the net weight of the lot imported into the Community.

Where *w* does not satisfy the above formula, *w* shall be used to determine the net weight of the lot imported into the Community. The declared weight shall be attributed in part 2 of box 29 of the import licence and the excess over the declared weight shall be imported in accordance with Article 26 of Council Regulation (EC) No 1255/1999 (OJ L 160, 26.6.1999, p. 48).

4. **Control of the fat content**

4.1. *Community monitoring*

The competent authorities shall carry out monitoring of the percentage fat content on half of the boxes which are sampled under point 3. However, the minimum sample size, *n*, shall be fixed at 5.

The sampling method to be used shall be International Dairy Federation (IDF) Standard 50C/1995.

The method for determining the fat content to be used shall be that laid down in Commission Regulation (EC) No 880/98, Annexes I, II and III (OJ L 124, 25.4.1998, p. 16).

4.2. *Interpretation of monitoring results — standard deviation*

The standard deviation of the fat content of the butter specified in the IMA 1 certificate shall be checked according to the following procedure.

The ratio s/σ shall be compared with the maximum ratio specified for a given sample size in the following table where s is the sample standard deviation and σ is the standard deviation of the fat content of the butter specified in the IMA 1 certificate.

Where the ratio s/σ is higher than the appropriate reference value in the reference data table then s shall be used when the control results are interpreted under point 4.3 rather than σ.

Maximum ratio (*) s/σ for a given sample size (n)

n	s/σ
5 (**)	1,540
6	1,488
7	1,448
8	1,417
9	1,392
10	1,371
11	1,353
12	1,337
13	1,324
14	1,311
15	1,301
16	1,291
17	1,282
18	1,274
19	1,266
20	1,259
21	1,253
22	1,247

(*) The maximum ratios have been calculated using tabulated Chi^2 values (95 % quantile; $n - 1$ degrees of freedom).
(**) The maximum sample size, *n*, shall be fixed at 5.

4.3. *Interpretation of monitoring results — arithmetic mean*

Compliance with the fat content requirements shall be assumed, if the arithmetic mean of the sample results ($\bar{x}$) does not exceed $\bar{M}$ where:

$$\bar{M} = 81{,}99 - 1{,}645\ \sigma$$

where σ is the typical process standard deviation for the fat content specified on the IMA 1 certificate, however the sample standard deviation of the fat content (s) shall be used instead of σ where required according to point 4.2.

4.4. *Further monitoring*

Where the arithmetic mean of the sample results does exceed $\bar{M}$ in point 4.3, then a further calculation shall be carried out to establish the conditions of the import of the lot concerned.

In this calculation, the arithmetic mean of the test results ($\bar{x}$) shall be compared with $\bar{M}$ using the following formula:

$$\bar{x} \leqslant \bar{M} + 1{,}645\ \sigma_{\bar{x}}$$

where $\sigma_{\bar{x}}$ is obtained using the following formula:

$$\sigma_{\bar{x}} = \sqrt{\frac{\sigma^2}{n} + \sigma_L^2 + \frac{\sigma_r^2}{n}}$$

where:

σ is the typical process standard deviation for the fat content specified on the IMA 1 certificate,

σ_L is the between-laboratory standard deviation calculated as:

$$\sigma_L = \sqrt{\sigma_R^2 - \sigma_r^2} = 0{,}102\ \%$$

σ_r is the repeatability standard deviation = 0,079 %,

σ_R is the reproducibility standard deviation = 0,129 %, and

n is the sample size.

If $\bar{x}$ satisfies the above formula, then the lot may be imported under the quota referred to in Article 5.

If $\bar{x}$ does not satisfy the above equation then non-compliance with the fat content requirements shall be established. In this case the lot shall be imported in accordance with Article 9(5).

The competent authority shall notify the Commission without delay of each case dealt with under this point.

4.5. *Disputed results*

The importer concerned may challenge the results of the analysis obtained by a competent authority's laboratory within seven working days of receiving these results, undertaking to pay for the costs of testing the duplicate samples. In this case the competent authority shall send sealed duplicates of the samples analysed by its laboratory to a second laboratory. This second laboratory shall be authorised by a Member State to carry out official analyses and be recognised by that Member State as having competence in applying the method referred to in point 4.1, as demonstrated by meeting the repeatability criterion when analysing blind duplicates and by successful participation in proficiency tests.

This second laboratory shall communicate the results of its analysis to the competent authority promptly.

The procedure laid down in point 4.6 shall apply for the evaluation of the results obtained by the two laboratories.

The result of this evaluation shall be communicated by the competent authority to the operator promptly.

4.6. *Procedure applicable when the results of an analysis are disputed:*

(a) where the reproducibility requirement is respected for each sample unit:

for each sample unit the arithmetic mean of the test results obtained by both laboratories is reported as the final result. The final results obtained in this way are used to test compliance as described in sections 4.2, 4.3 and 4.4. One non-compliance with the reproducibility limit per 10 sample units is accepted.

$\bar{y}$: arithmetic mean of all results obtained by both laboratories

R: reproducibility limit (R = 0,36 %).

(b) where the reproducibility requirement is not respected in more than one case (more than one sample unit per 10 sample units analysed):

the consignment is finally rejected, if the results of both laboratories lead to this conclusion. Otherwise, the consignment is accepted.'

'ANNEX XII

Application of Article 9(10) of Commission Regulation (EC) No 1374/98

COMMISSION OF EUROPEAN COMMUNITIES
DG AGRI/D/1 — 'Milk unit'

		Description of the field *(Column 1)*	Box No *(Column 2)*	Value *(Column 3)*	Unit or format
General information		Name of the butter manufacturer:	1		—
		Lot identification code:	2		—
		Size of the lot:	3		kg
		Date of control:	4		day/month/year
Weight control		Size of the random sample:	5		No of boxes
	Mean	Arithmetic mean of the net weight per box: *(as specified on the IMA 1 certificate — box 9)*	6		kg
		Arithmetic mean of the net weight of the sample boxes:	7		kg
		The arithmetic mean of the net weight determined in the EU shows a significant difference to the declared value:	8		N = No Y = Yes
	Standard deviation	Standard deviation of the net weight per box: *(as specified on the IMA 1 certificate — box 9)*	9		kg
		Standard deviation of the net weight of the sample boxes:	10		kg
		The standard deviation of the net weight determined in the EU shows a significant difference to the declared value:	11		N = No Y = Yes
Control of the fat content		Size of the random sample:	12		No of boxes
	Mean	Maximum mean fat content resulting from the reported typical standard deviation:	13		% fat
		Arithmetic mean of the fat content of the sample boxes:	14		% fat
		The arithmetic mean of the fat content determined in the EU shows a significant difference to the maximum mean fat content:	15		N = No Y = Yes
	Standard deviation	Typical standard deviation of the fat content: *(as specified on the IMA 1 certificate — box 13)*	16		% fat
		Standard deviation of the fat content of the sample boxes:	17		% fat
		The standard deviation of the fat content determined in the EU shows a significant difference to the declared value:	18		N = No Y = Yes

To be sent to the European Commission by e-mail (DGAGRI-D1-Milk@cec.eu.int) or by fax ((32-2) 295 55 03)'

'ANNEX XIII

CIRCUMSTANCES UNDER WHICH AN IMA 1 CERTIFICATE OR PART THEREOF MAY BE CANCELLED, AMENDED, REPLACED OR CORRECTED

1. **Cancellation of IMA 1 when full duty is due and paid for non-respect of compositional requirements**

   Where full duty is paid on a lot because the maximum fat content requirement is not respected the corresponding IMA 1 certificate may be cancelled and the IMA 1 issuing agency may add these quantities to those in respect of which IMA 1 certificates may be issued for the same quota year. The customs authority shall retain the corresponding import licence, send it to the import licence issuing authority, which shall amend it to convert it into a full duty import licence for the quantity in question in accordance with Article 9(5).

2. **Produce destroyed or rendered unfit for sale**

   The IMA 1 issuing agency may cancel an IMA 1 or part thereof for a quantity covered by it which is destroyed or rendered unfit for sale in circumstances beyond the control of the exporter. Where part of the quantity covered by an IMA 1 is destroyed or rendered unfit for sale, a replacement IMA 1 may be issued for the remaining quantity. In the case of New Zealand butter referred to in Article 5, the original product identification list shall be used for this purpose. The replacement certificate shall be valid only up to the same date as the original. In this case, box 17 of the replacement IMA 1 shall contain the terms "valid up to 00.00.0000".

   In the case where the total quantity covered by an IMA 1 or part thereof is destroyed or rendered unfit for sale due to circumstances beyond the exporters' control, the IMA 1 issuing agency may add these quantities to those in respect of which IMA 1 certificates may be issued for the same quota year.

3. **Change of Member State of destination**

   When the exporter is obliged to change the Member State of destination indicated on an IMA 1, before a corresponding import licence is issued, the original IMA 1 may be amended by the IMA 1 issuing agency. Such an amended original IMA 1 certificate, duly authenticated and appropriately identified by the issuing agency may be presented to the licensing authority and to the customs authorities.

4. When a clerical or technical error is discovered on an IMA 1 certificate before a corresponding import licence is issued the original IMA 1 may be corrected by the issuing agency. Such a corrected original IMA 1 may be presented to the licensing authority and to the customs authorities.

5. When, for exceptional reasons and in circumstances beyond the control of the exporter, product destined for import in a given year becomes unavailable and the only means, in the light of normal shipping time from the country of origin, of filling the quota is to replace it with product originally intended for import for the following year, the issuing agency may, on the sixth working day after giving due notification to the Commission of the details of the IMA 1 certificate or part thereof to be cancelled for the year in question and of the first IMA 1 certificate or part thereof issued for the following year to be cancelled, issue a new IMA 1 certificate for the replacement quantity.

   If the Commission considers that the circumstances of the case concerned do not fall within this provision it may object, within five working days, stating the reason for this objection. Where the quantity to be replaced is greater than that covered by the first IMA 1 certificate issued for the following year the required quantity may be obtained by cancelling an additional IMA 1 certificate, in sequence, or part thereof as necessary.

   All quantities in respect of which IMA 1 certificates or part thereof have been cancelled for the year in question shall be added to the quantities for which an IMA 1 certificate may be issued for that quota year. All quantities brought forward from the following quota year, in respect of which an IMA 1 certificate or certificates have been cancelled, shall be added back to the quantities for which IMA 1 certificates may be issued for that quota year.'