COMMISSION REGULATION (EC) No 886/2002

of 27 May 2002

derogating from Regulation (EC) No 2535/2001 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the import arrangements for milk and milk products and opening tariff quotas, and amending that Regulation

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], as last amended by Commission Regulation (EC) No 509/2002 [2], and in particular Article 26(3), Article 29(1) and Article 40 thereof,

Whereas:

(1) The bilateral agreement concluded between the European Community and the Swiss Confederation concerning trade in agricultural products, signed in Luxembourg on 21 June 1999 and approved by Decision 2002/309/EC, Euratom of the Council and of the Commission [3] (hereinafter called the 'Agreement with Switzerland'), concerns in particular the opening of quotas and reductions in customs duties on certain milk products originating in Switzerland. Commission Regulation (EC) No 2535/2001 [4] should therefore be amended.

(2) The Agreement with Switzerland enters into force on 1 June 2002. Regulation (EC) No 2535/2001 provides for the management of tariff quotas on the basis of six-month periods commencing on 1 January and 1 July each year. In the interests of coordination and in compliance with the annual quantities provided for in the Agreement with Switzerland, the quotas provided for in that Agreement should be managed on the basis of the same intervals.

(3) Under Article 23 of Regulation (EC) No 2535/2001, in order to qualify for reduced customs duty on imports of certain cheeses from Switzerland, a minimum free-at-frontier value must be observed and a penalty is provided for in the event of failure to comply. Since the Agreement with Switzerland no longer provides for compliance with a minimum free-at-frontier value, that Article should be deleted.

(4) In order to enable importers who are intending to participate in the allocation of quotas opened under the Agreement with Switzerland to comply with the approval arrangements laid down in Article 7 of Regulation (EC) No 2535/2001, the deadline for the submission of requests for approval should be extended.

(5) The Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, signed in Brussels on 24 November 1997 and approved by Decision 2002/357/EC, CECA of the Council and of the Commission [5] (hereinafter called the 'Agreement with Jordan') concerns in particular tariff concessions for certain types of cheese originating in Jordan. This quota should be managed in accordance with the rules laid down in Title 2, Chapter I, of Regulation (EC) No 2535/2001 by including the necessary provisions.

(6) Article 13(2) of Regulation (EC) No 2535/2001 provides for the fixing of the maximum quantities for which importers may lodge licence applications. Under Article 16(2), where the quantity allocated in the first period is less than the quantity available, the Commission will determine the quantity which will be added to that available for the second period of the quota year. It should be made clear that in that case the quantities referred to in Article 13 will be adjusted accordingly.

(7) Article 10 of Regulation (EC) No 2535/2001 provides that the competent authorities of the Member States will send the Commission their lists of approved importers. In order to enable each applicant to be identified more easily, the data to be forwarded for each importer should be specified.

(8) In a spirit of cooperation with the candidate countries and in order to facilitate maximum use of the quotas and tariff concessions granted to those countries, it should be made possible also, at the request of the country concerned, to forward the lists of approved importers, in compliance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data [6].

(9) Article 18 of Regulation (EC) No 2535/2001 requires licence applicants to specify the products which are to be imported, indicating on the licence application and the licence the exact fat content and dry matter content. Tariff quotas managed in accordance with Title 2, Chapter I, are frequently the subject of import licence applications which far exceed the available quotas and result therefore in the application of minimum allocation coefficients and the allocation to individual

[1] OJ L 160, 26.6.1999, p. 48.
[2] OJ L 79, 22.3.2002, p. 15.
[3] OJ L 114, 30.4.2002, p. 1.
[4] OJ L 341, 22.12.2001, p. 29.
[5] OJ L 129, 15.5.2002, p. 1.
[6] OJ L 8, 12.1.2001, p. 1.

applicants of quantities representing a fraction only of those applied for. For that reason, when applications are lodged, these importers are unable to conclude contracts and consequently the exact composition of the products they are intending to import under the codes shown in the licence application is not available to them. Given that the exact composition of the product is available to importers when the import declaration is made, the provisions concerned should be replaced therefore by a requirement that the importer indicate the content of the products on the import declaration when completing the customs formalities.

(10) In order to monitor the trend of the contents of certain of these products, provision should be made also for this information to be forwarded to the Commission. However, in order not to further encumber the national administrations, the competent authorities should be requested to forward only data concerning contents that exceed representative reference values. To that end, these values should be established on the basis of the contents defined in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff [1], as last amended by Commission Regulation (EC) No 796/2002 [2], and the contents defined in Sector 9 of Annex I to Commission Regulation (EEC) No 3846/87 of 17 December 1987 establishing an agricultural products nomenclature for export refunds [3], as last amended by Regulation (EEC) No 749/2002 [4].

(11) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2535/2001 is hereby amended as follows:

1. The following points are added to Article 5:

'(f) the quotas provided for in Annex 2 and Appendix 1 of Annex 3 to the Agreement on trade in agricultural products concluded between the European Community and Switzerland on 21 June 1999 (*);

(g) the quota provided for in the Annex to Protocol 1 to the Agreement with Jordan (**).

(*) OJ L 114, 30.4.2002, p. 132.
(**) OJ L 129, 15.5.2002, p. 3.'

2. The second paragraph of Article 6 is replaced by the following:

'The quantities set out in Annex I, Parts B, D and F, for each import year shall be divided into two equal parts for the six-month periods commencing on 1 July and 1 January of each year.'

3. Article 10 is replaced by the following:

'*Article 10*

1. Before 20 June each year, the Member States shall send their lists of approved importers, in accordance with paragraph 3 below, to the Commission, which shall forward them to the competent authorities of the other Member States.

Only importers included on a list shall be authorised to apply for licences during the period from 1 July to 30 June following, in accordance with Articles 11 to 14.

2. The Commission may, at the request of the countries applying for membership for which an import quota is opened, forward a list of approved importers on condition that it obtains the consent to the proposed forwarding of the importers appearing on the list. The Member States shall take the necessary steps to seek the consent of the importers.

3. The Member States shall forward their lists of approved importers in accordance with the model at Annex XIV, showing in Part A of that Annex the approved importers who have given their consent in accordance with paragraph 2, and in Part B of that Annex the other approved importers.'

4. Article 13(2) is replaced by the following:

'2. Licence applications shall relate to at least 10 tonnes and to no more than 10 % of the quantity fixed for the quota for the six-month period referred to in Article 6.

However, in the case of the quotas referred to in Article 5(c), (d), (e) and (g), licence applications shall relate to at least 10 tonnes and to no more than the quantity fixed for each period in accordance with Article 6.

3. The quantity for which licence applications may be lodged referred to in paragraph 2 shall be increased by the quantity arising from the application of the second subparagraph of Article 16(2).'

5. Article 18(1)(b) is replaced by the following:

'(b) in box 15, the description of the product given in Annex I or, failing that, the Combined Nomenclature description for the CN code indicated for the quota concerned;'.

[1] OJ L 256, 7.9.1987, p. 1.
[2] OJ L 128, 15.5.2002, p. 8.
[3] OJ L 366, 24.12.1987, p. 1.
[4] OJ L 115, 1.5.2002, p. 20.

6. Article 19 is amended as follows:

(a) the following points (f) and (g) are added to paragraph 1:

'(f) Protocol 3 to the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972 (*);

(g) Protocol 3 to the Agreement with Jordan.

(*) OJ L 300, 31.12.1972, p. 189.';

(b) the following paragraph 3 is added:

'3. When completing the customs formalities, importers shall be required to indicate, for imports of cheese as referred to in Annex XIII and covered by the quotas referred to in Article 5, in box 31 of the import declaration, the dry matter content by weight (%), the fat content by weight (%) in the dry matter and, where appropriate, the fat content by weight (%). Where the contents shown exceed those given in Annex XIII, the competent authorities shall notify the Commission thereof at the earliest opportunity by forwarding to it a copy of the import declaration and a copy of the relevant import licence.'

7. Article 20(1)(d) is replaced by the following:

'(d) the Agreement concerning trade in agricultural products concluded between the European Community and Switzerland, Annex 2 and Appendix 1 of Annex 3.'

8. Article 23 is deleted.

9. Annex I to this Regulation is added as Annex I, Parts F and G.

10. Annex II, Part D, is replaced by Annex II to this Regulation.

11. Annex III to this Regulation is added as Annex XIV.

12. Annex IV to this Regulation is added as Annex XIII.

Article 2

Notwithstanding Article 8(1) of Regulation (EC) No 2535/2001, requests for approval relating to quotas which will be opened on 1 July 2002 may be submitted up to 10 June 2002.

Article 3

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

However, Article 1, points 1, 2, 6(a) and 7 to 10 shall apply from 1 June 2002 excluding the provisions concerning the Agreement with Jordan. Points 4, 5, 6(b) and 12 shall apply from 1 July 2002.

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

Done at Brussels, 27 May 2002.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

'I. F

TARIFF QUOTAS UNDER ANNEXES II AND III TO THE AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND SWITZERLAND ON TRADE IN AGRICULTURAL PRODUCTS

Quota number	CN code	Description	Customs duty	Quantity (tonnes)					
				FIXED QUOTA					
				2002 from 1 July 2002 to 30 June 2003	2003 et seq. from 1 July to 30 June				
09.4155	ex 0401 30 ex 0403 10	Cream, of a fat content by weight exceeding 6 % Yoghurt, not flavoured, not containing added fruit or cocoa	exemption	2 167 (2 000 + 167)	2 000				
				PROGRESSIVE QUOTA					
				2002	2003	2004	2005	2006 from 1 July to 31 May	from 1.6.2007
09.4156	ex 0406	Cheeses other than those referred to in Annex II. D	exemption	3 354 (3 000 + 354)	4 250	5 500	6 750	7 646 (8 000 – 354)	unlimited

I. G

TARIFF QUOTA UNDER THE ANNEX TO PROTOCOL 1 TO THE ASSOCIATION AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND JORDAN

Quota number	CN code	Description	Customs duty	Quantity (tonnes)		
				2002 from 1 July to 31 December	2003 et seq. from 1 January to 31 December	
					annual	half-yearly
09.4159	ex 0406 90 33 ex 0406 90 50	Sheep's milk cheese	exemption	100	100	50'

ANNEX II

'II. D

REDUCED DUTY UNDER ANNEX III TO THE AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND SWITZERLAND ON TRADE IN AGRICULTURAL PRODUCTS

CN code	Description	Customs duty (EUR/100 kg net weight) from 1 June					
		2002	2003	2004	2005	2006	2007 et seq.
0402 29 11 ex 0404 90 83	Special milk, for infants (1), in hermetically sealed containers of a net content not exceeding 500 g, of a fat content by weight exceeding 10 %	43,80	43,80	43,80	43,80	43,80	43,80
ex 0406 20	Grated or powdered cheese of a water content not exceeding 400 g/kg of cheese	exemption					
0406 30	Processed cheese	exemption					
ex 0406 90 13	Emmentaler of a fat content by weight of 45 % or more in the dry matter and matured for three months or more	6,58	5,26	3,95	2,63	1,32	0
ex 0406 90 15	Gruyère, Sbrinz, of a fat content by weight of 45 % or more in the dry matter and matured for three months or more	6,58	5,26	3,95	2,63	1,32	0
ex 0406 90 17	Bergkäse (2), Appenzell, of a fat content by weight of 45 % or more in the dry matter and matured for three months or more	6,58	5,26	3,95	2,63	1,32	0
ex 0406 90 18	Fromage fribourgeois (3), Vacherin Mont d'Or, Tête de Moine, of a fat content by weight of 45 % or more in the dry matter and matured: — for a least two months in the case of fromage fribourgeois, — for a least 18 days in the case of Vacherin Mont d'Or, — for a least three months in the case of Tête de Moine	exemption					
0406 90 19	Glaris herb cheese (known as Schabziger) made from skimmed milk and mixed with finely ground herbs	exemption					
ex 0406 90 87	Grisons cheese	exemption					
0406 90 25	Tilsit	exemption					

(1) "Special milk for infants" means products free from pathogenic germs and which have fewer than 10 000 revivifiable aerobic bacteria and fewer than two coliform bacteria per gram.

(2) Bergkäse includes the following names: Gaiser Bergkäse, Berner Bergkäse, Gstaader Bergkäse, Luzerner Bergkäse, Nidwaldner Bergkäse, Obwaldner Bergkäse, Schwyzer Bergkäse, St. Galler Bergkäse, Untervazer Bergkäse, Urner Bergkäse, Walliser Bergkäse, Zürcher Bergkäse, Glarner Bergkäse, Etivaz cheese.

(3) Synonym: Vacherin fribourgeois.'

ANNEX III

'ANNEX XIV

Member State:

COMMISSION OF THE EUROPEAN COMMUNITIES
DG AGRI/D/1 — MILK AND MILK PRODUCTS
(Fax: (32-2) 295 33 10; e-mail: Agri-d1-milk@cec.eu.int)

APPLICATION OF ARTICLE 10 OF REGULATION (EC) No 2535/2001

Part A. Importers referred to in Article 10(2)

Member State (*)	Approval No	Name	Address	Telephone No	Fax No	E-mail

(*) B, DK, D, EL, E, F, IRL, I, L, NL, A, P, FIN, S, UK.

Part B. Other importers

Member State (*)	Approval No	Name	Address	Telephone No	Fax No	E-mail

(*) B, DK, D, EL, E, F, IRL, I, L, NL, A, P, FIN, S, UK.'

ANNEX IV

'ANNEX XIII

CN code	Description (1)	Dry matter content by weight (%)	Fat content by weight (%) in the dry matter	Fat content by weight (%)
0406 10 20	Fresh cheese	47	71	
0406 30	Processed cheese		56	
0406 90 01	Cheese for processing	63	50	
0406 90 13	Emmental	62	47	
0406 90 21	Cheddar	63	50	
0406 90 23	Edam	55	42	
0406 90 69	Hard cheeses	64	32	
0406 90 78	Gouda	57	50	
0406 90 81	Cantal, Cheshire, Wensleydale, etc.	58	47	
0406 90 86	Other cheeses	62	41	
0406 90 87	Other cheeses	63	62	
0406 90 99	Other cheeses			42

(1) Despite the rules for the interpretation of the Combined Nomenclature, the description of the products is to be regarded as being for guidance only.'