COMMISSION REGULATION (EC) No 1146/2003

of 27 June 2003

opening and providing for the administration of an import tariff quota for frozen beef intended for processing (1 July 2003 to 30 June 2004)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal [1], as last amended by Regulation (EC) No 806/2003 [2], and in particular Article 32(1) thereof,

Whereas:

(1) The WTO schedule CXL requires the Community to open an annual import tariff quota of 50 700 tonnes of frozen beef intended for processing. Implementing rules should be laid down for the quota year 2003/04, starting 1 July 2003.

(2) The import of frozen beef under the tariff quota is subject to customs import duties and to the conditions laid down under serial number 13 of Annex 7 to the third part of Annex I to Council Regulation (EEC) No 2658/87 [3], as last amended by Commission Regulation (EC) No 2176/2002 [4]. The breakdown of the tariff quota into each of the arrangements referred to above should be made taking into account the experience gained in respect of similar imports in the past.

(3) So as to avoid speculation, access to the quota should be allowed only to active processors carrying out processing in a processing establishment approved in accordance with Article 8 of Council Directive 77/99/EEC of 21 December 1976 on health problems affecting intra-Community trade in meat products [5], as last amended by Regulation 807/2003/EC [6].

(4) Imports into the Community under the tariff quota are subject to presentation of an import licence in accordance with the first subparagraph of Article 29(1) of Regulation (EC) No 1254/1999. It must be possible to issue licences following allocations of import rights on the basis of applications from eligible processors. The provisions of Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products [7], as last amended by Regulation (EC) No 325/2003 [8], and Commission Regulation (EC) No 1445/95 of 26 June 1995 on rules of application for import and export licences in the beef and veal sector and repealing Regulation (EEC) No 2377/80 [9], as last amended by Regulation (EC) No 852/2003 [10], shall apply to import licences issued under this Regulation.

(5) In order to prevent speculation, import licences should be issued to processors solely for the quantities for which they have been allocated import rights. Moreover, for the same reason, security should be lodged together with the application for import rights. The application for import licences corresponding to the allocated rights must be a primary requirement within the meaning of Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products [11], as last amended by Regulation (EC) No 1932/1999 [12].

(6) With a view to using up quota quantities completely, a closing date should be set for the submission of import licence applications and provision should be made for a further allocation of quantities not covered by licence application submitted by that date. In the light of the experience obtained, that allocation should be limited to processors who have converted all their import rights initially allocated into import licences.

(7) The application of the present tariff quota requires strict surveillance of imports and effective checks as to their use and destination. The processing should therefore be authorised only in the establishment referred to in the import licence.

(8) A security shall be lodged in order to ensure that the imported meat is used according to the tariff quota specifications. The amount of security should be fixed taking into account the difference between the customs duties applicable within and outside the quota.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

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[1] OJ L 160, 26.6.1999, p. 21.
[2] OJ L 122, 16.5.2003, p. 1.
[3] OJ L 256, 7.9.1987, p. 1.
[4] OJ L 331, 7.12.2002, p. 3.
[5] OJ L 26, 31.1.1977, p. 85.
[6] OJ L 122, 16.5.2003, p. 36.
[7] OJ L 152, 24.6.2000, p. 1.
[8] OJ L 47, 21.2.2003, p. 21.
[9] OJ L 143, 27.6.1995, p. 35.
[10] OJ L 123, 17.5.2003, p. 9.
[11] OJ L 205, 3.8.1985, p. 5.
[12] OJ L 240, 10.9.1999, p. 11.

HAS ADOPTED THIS REGULATION:

Article 1

An import tariff quota of 50 700 tonnes, bone-in equivalent of frozen beef falling within CN code 0202 20 30, 0202 30 10, 0202 30 50, 0202 30 90 or 0206 29 91 and intended for processing in the Community (the quota) is hereby opened for the period 1 July 2003 to 30 June 2004 subject to the conditions laid down in this Regulation.

Article 2

1. For the purposes of this Regulation, an A-product shall be defined as a processed product falling within CN code 1602 10, 1602 50 31, 1602 50 39 or 1602 50 80, not containing meat other than that of animals of the bovine species, with a collagen/protein ratio of no more than 0,45 and containing by weight at least 20 % of lean meat excluding offal and fat with meat and jelly accounting for at least 85 % of the total net weight.

The collagen content shall be taken to mean the hydroxyproline content multiplied by the factor 8. The hydroxyproline content shall be determined according to ISO method 3496-1994.

The lean bovine meat content excluding fat shall be determined in accordance with the procedure laid down in the Annex to Commission Regulation (EEC) No 2429/86 ([1]).

Offal includes the following: heads and cuts thereof (including ears), feet, tails, hearts, udders, livers, kidneys, sweetbreads (thymus glands and pancreas), brains, lungs, throats, thick skirts, spleens, tongues, caul, spinal cords, edible skin, reproductive organs (i.e. uteri, ovaries and testes), thyroid glands, pituitary glands.

The product shall be subjected to a heat treatment sufficient to ensure the coagulation of meat proteins in the whole of the product which may not show any traces of a pinkish liquid on the cut surface when the product is cut along a line passing through its thickest part.

2. For the purposes of this Regulation, a B-product shall be defined as a processed product containing beef, other than:

(a) the products specified in Article 1(1)(a) of Regulation (EC) No 1254/1999, or

(b) the products referred to under paragraph 1.

However, a processed product falling within CN code 0210 20 90 which has been dried or smoked so that the colour and consistency of the fresh meat has totally disappeared and with a water/protein ratio not exceeding 3.2 shall be considered to be a B-product.

Article 3

1. The overall quantity referred to in Article 1 shall be divided into two quantities:

(a) 40 000 tonnes of frozen beef intended for the manufacture of A-products;

(b) 10 700 tonnes of frozen beef intended for the manufacture of B-products;

2. The quota shall bear the following serial numbers:

— 09.4057 for the quantity referred to in paragraph 1(a),

— 09.4058 for the quantity referred to in paragraph 1(b).

3. The customs import duties to apply on frozen beef under the quota are fixed under serial number 13 of Annex 7 to Part Three of Annex I to Regulation (EEC) No 2658/87.

Article 4

1. Only those processing establishments approved under Article 8 of Directive 77/99/EEC which have been active in production of processed products containing beef at least once since 1 July 2002 may qualify for the quota.

The application for import rights must be lodged by, or on behalf of, an establishment meeting these conditions.

For each quantity referred to in Article 3(1) only one application for import rights which shall not exceed 10 % of each quantity available may be accepted in respect of each approved processing establishment.

Applications for import rights may be presented only in the Member State in which the processor is registered for VAT purposes.

2. A security of EUR 6 per 100 kg shall be lodged together with the application for import rights.

3. The competent national authority shall decide what is acceptable documentary evidence of compliance with the conditions laid down in paragraphs 1 and 2.

This evidence shall be submitted together with the application for import rights.

Article 5

1. Each application for import rights for production of A-products or B-products shall be expressed in bone-in equivalence.

For the purpose of this paragraph 100 kilograms of bone-in beef equals 77 kilograms of boneless beef.

2. Each application referring to either A-products or B-products shall reach the competent authority by 13.00 Brussels time on 4 July 2003.

3. Member States shall forward to the Commission by 11 July 2003 a list of applicants and quantities applied for under each of the two categories together with the approval numbers of the processing establishments concerned.

All communications, including nil returns, shall be sent by fax using the forms set out in Annexes I and II.

([1]) OJ L 210, 1.8.1986, p. 39.

4. The Commission shall decide as soon as possible to what extent applications are accepted, where necessary as a percentage of the quantity applied for.

Article 6

1. Any import of frozen beef for which import rights have been allocated pursuant to Article 5(4) shall be subject to presentation of an import licence.

2. As to the security referred to in Article 4(2) the application for import licences corresponding to the allocated import rights shall be a primary requirement within the meaning of Article 20(2) of Regulation (EEC) No 2220/85.

Where in application of Article 5(4) the Commission fixes a reduction coefficient the security lodged shall be released in respect of the import rights applied for which exceed the allocated import rights.

3. Within the allocated import rights a processor may apply for import licences until 20 February 2004 at the latest.

4. Import rights allocated to processors entitle them to import licences for quantities equivalent to the rights allocated.

Licence applications may be lodged solely:

(a) in the Member State in which the application for import rights has been lodged, and

(b) by processors or on behalf of processors to whom import rights have been allocated.

5. A security shall be lodged with the competent authority at the time of import ensuring that the processor having been allocated import rights processes the entire quantity of meat imported into the required finished products in his establishment specified in the licence application, within three months of the day of import.

The amounts of the security are fixed in Annex III.

Article 7

Regulations (EC) No 1291/2000 and (EC) No 1445/95 shall apply, without prejudice to the provisions of this Regulation.

Article 8

1. The licence application and the licence shall contain the following information:

(a) in box 8, the country of origin,

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

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

— Certificado válido en … (Estado miembro expedidor)/carne destinada a la transformación... [productos A] [productos B] (táchese lo que no proceda) en … (designación exacta y número de registro del establecimiento en el que vaya a procederse a la transformación)/Reglamento (CE) nº 1146/2003.

— Licens gyldig i … (udstedende medlemsstat)/Kød bestemt til forarbejdning til [A-produkter] [B-produkter] (det ikke gældende overstreges) i … (nøjagtig betegnelse for den virksomhed, hvor forarbejdningen sker)/Forordning (EF) nr. 1146/2003.

— In … (ausstellender Mitgliedstaat) gültige Lizenz/Fleisch für die Verarbeitung zu [A-Erzeugnissen] [B-Erzeugnissen] (Nichtzutreffendes bitte streichen) in … (genaue Bezeichnung des Betriebs, in dem die Verarbeitung erfolgen soll)/Verordnung (EG) Nr. 1146/2003.

— Η άδεια ισχύει … (κράτος μέλος έκδοσης)/Κρέας που προορίζεται για μεταποίηση …[προϊόντα Α] [προϊόντα Β] (διαγράφεται η περιττή ένδειξη) … (ακριβής περιγραφή και αριθμός έγκρισης της εγκατάστασης όπου πρόκειται να πραγματοποιηθεί η μεταποίηση)/Κανονισμός (ΕΚ) αριθ. 1146/2003.

— Licence valid in … (issuing Member State)/Meat intended for processing … [A-products] [B-products] (delete as appropriate) at … (exact designation and approval No of the establishment where the processing is to take place)/Regulation (EC) No 1146/2003.

— Certificat valable … (État membre émetteur)/Viande destinée à la transformation de … [produits A] [produits B] (rayer la mention inutile) dans … (désignation exacte et numéro d'agrément de l'établissement dans lequel la transformation doit avoir lieu)/Règlement (CE) nº 1146/2003.

— Titolo valido in … (Stato membro di rilascio)/Carni destinate alla trasformazione … [prodotti A] [prodotti B] (depennare la voce inutile) presso … (esatta designazione e numero di riconoscimento dello stabilimento nel quale è prevista la trasformazione)/Regolamento (CE) n. 1146/2003.

— Certificaat geldig in … (lidstaat van afgifte)/Vlees bestemd voor verwerking tot [A-producten] [B-producten] (doorhalen wat niet van toepassing is) in … (nauwkeurige aanduiding en toelatingsnummer van het bedrijf waar de verwerking zal plaatsvinden)/Verordening (EG) nr. 1146/2003.

— Certificado válido em … (Estado-Membro emissor)/carne destinada à transformação … [produtos A] [produtos B] (riscar o que não interessa) em … (designação exacta e número de aprovação do estabelecimento em que a transformação será efectuada)/Regulamento (CE) n.º 1146/2003.

— Todistus on voimassa … (myöntäjäjäsenvaltio) / Liha on tarkoitettu [A-luokan tuotteet] [B-luokan tuotteet] (tarpeeton poistettava) jalostukseen …:ssa (tarkka ilmoitus laitoksesta, jossa jalostus suoritetaan, hyväksyntänumero mukaan lukien)/Asetus (EY) N:o 1146/2003.

— Licensen är giltig i … (utfärdande medlemsstat)/Kött avsett för bearbetning … [A-produkter] [B-produkter] (stryk det som inte gäller) vid … (exakt angivelse av och godkännandenummer för anläggningen där bearbetningen skall ske)/Förordning (EG) nr. 1146/2003.

2. Import licences shall be valid for 120 days from the date of issue within the meaning of Article 23(1) of Regulation (EC) No 1291/2000. However, no licence shall be valid after 30 June 2004.

3. In application of Article 50(1) of Regulation (EC) No 1291/2000, the full Common Customs Tariff duty applicable on the date of release for free circulation shall be collected in respect of all quantities imported in excess of those shown on the import licence.

Article 9

1. Quantities for which applications for import rights have not been lodged by the deadline referred to in Article 5(2) and the quantities for which import licence applications have not been lodged by 20 February 2004 shall be subject to a new allocation of import rights.

To that end, by 27 February 2004, Member States shall forward to the Commission details of the quantities for which no applications have been received.

2. The Commission shall decide as soon as possible on the breakdown of the quantities referred to in paragraph 1 into A-products and B-products. In doing so, the actual utilisation of the import rights allocated pursuant to Article 5(4) under each of the two categories may be taken into account.

3. The allocation of the remaining quantities shall be limited to processors who have applied for import licences in respect of all the import rights granted to him in application of Article 5(4).

4. Articles 4 to 8 shall apply to the import of the remaining quantities.

However, in this case the date for application referred to in Article 5(2) shall be 19 March 2004 and the date for communication referred to in Article 5(3) shall be 26 March 2004.

Article 10

Member States shall set up a system of physical and documentary checks to ensure that, within three months of the date of import, all meat is processed in the processing establishment and into the category of product specified on the import licence concerned.

The system must include physical checks of quantity and quality at the start of the processing, during the processing and after the processing operation is completed. To this end, processors shall at any time be able to demonstrate the identity and use of the imported meat through appropriate production records.

Technical verification of the production method by the competent authority may, to the extent necessary, make allowance for drip losses and trimmings.

In order to verify the quality of the finished product and establish its conformity with the processor's formula for the composition of the product, Member States shall take representative samples and analyse those products. The costs of such operations shall be borne by the processor concerned.

Article 11

1. The security referred to in Article 6(5) shall be released in proportion to the quantity for which, within seven months, proof has been furnished to the satisfaction of the competent authority that all or part of the imported meat has been processed into the relevant products within three months following the day of import in the designated establishment.

However, if processing took place after the above three-month time limit, the security shall be released minus a 15 % reduction plus 2 % of the remaining amount for each day by which the time limit has been exceeded.

If proof of processing is established within the above seven-month time limit and produced within 18 months following those seven months the amount forfeited, less 15 % of the security amount, shall be repaid.

2. The amount of security not released, as referred to in Article 6(5), shall be forfeited and retained as a customs duty.

Article 12

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

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

Done at Brussels, 27 June 2003.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

Form (*)

Application of Article 5(1) and (2) of Regulation (EC) No 1146/2003

A-product — Serial No 09.4057

COMMISSION OF THE EUROPEAN COMMUNITIES — DG AGRI D.2 — BEEF AND VEAL SECTOR

APPLICATION FOR IMPORT RIGHTS

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

Member State: .....

Number of applicant (1)	Applicant (name and address)	Approval number	Quantity (in tonnes bone-in)
		Total	

Member State: ..... Fax: .....

Tel: .....

(1) Continuous numbering.

(*) Send to EC Fax: (32-2) 296 60 27/(32-2) 295 36 13.

ANNEX II

Form (*)

Application of Article 5(1) and (2) of Regulation (EC) No 1146/2003

B-product — Serial No 09.4058

COMMISSION OF THE EUROPEAN COMMUNITIES — DG AGRI D.2 — BEEF AND VEAL SECTOR

APPLICATION FOR IMPORT RIGHTS

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

Member State: .....

Number of applicant (1)	Applicant (name and address)	Approval number	Quantity (in tonnes bone-in)
		Total	

Member State: ..... Fax: .....

Tel: .....

(1) Continuous numbering.

(*) Send to EC Fax: (32-2) 296 60 27/(32-2) 295 36 13.

ANNEX III

AMOUNTS OF SECURITY [1]

(in EUR/1 000 kg net)

Product (CN code)	For manufacture of A products	For manufacture of B products
0202 20 30	1 414	420
0202 30 10	2 211	657
0202 30 50	2 211	657
0202 30 90	3 041	903
0206 29 91	3 041	903

[1] The exchange rate to be applied shall be the exchange rate on the day preceding the lodging of the security.