COMMISSION REGULATION (EC) No 1988/2003

of 12 November 2003

establishing the allocation of export licences for cheeses to be exported in 2004 to the United States of America under certain quotas resulting from the GATT Agreements

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 Regulation (EC) No 1787/2003 [2], and in particular Article 30 thereof,

Whereas:

(1) Commission Regulation (EC) No 1471/2003 [3] opens the procedure for the allocation of export licences for cheeses to be exported in 2004 to the United States of America under certain quotas resulting from the GATT Agreements.

(2) Commission Regulation (EC) No 174/1999 of 26 January 1999 laying down special detailed rules for the application of Council Regulation (EEC) No 804/68 as regards export licences and export refunds in the case of milk and milk products [4], as last amended by Regulation (EC) No 1948/2003 [5], lays down in Article 20(3) the criteria to be applied for allocating provisional licences where applications for those licences are submitted in respect of a quantity of products in excess of one of the relevant quotas for the year in question.

(3) The demand for export licences for some quotas and product groups has shown a significant increase and exceeds, sometimes by far, the quantities available. This may lead to a substantial reduction in the quantities allocated per applicant, thereby reducing the efficiency and effectiveness of the scheme. In addition, where the quantities allocated to each operator are very small, experience has shown that there is a risk of an operator in such circumstances being unable to fulfil his obligation to export with the consequent loss of the security.

(4) In order to deal with that situation, it is appropriate to apply a combination of the three criteria referred to in Article 20(3) of Regulation (EC) No 174/1999. In accordance with points (a) and (b) of that Article, licences should be allocated in preference to applicants which have already been engaged in the United States of America whose designated importers are subsidiaries and which have exported quantity of the concerned products to that destination in the past. In addition a reduction coefficient should be applied pursuant to point (c) of the said Article 20(3).

(5) In the case of product groups and quotas for which the quantities applied for exceed only slightly those available, the application of a combination of the criteria provided for in Article 20(3)(b) and (c) of Regulation (EC) No 174/1999 is sufficient to allocate economically viable quantities. Therefore preference should be accorded in such circumstances to applicants whose importers are subsidiaries, while applying a reduction coefficient.

(6) In the case of product groups and quotas for which the applications lodged are for quantities less than those available, it is appropriate, in accordance with Article 20(5) of Regulation (EC) No 174/1999, to provide for the allocation of the remaining quantities to the applicants in proportion to the quantities applied for. The allocation of such further quantities should be conditional upon the interested operator making a request and lodging a security.

(7) 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

1. Each application for provisional export licences lodged pursuant to Regulation (EC) No 1471/2003 in respect of the product groups and quotas identified by 16-Tokyo, 16-, 17-, 20- and 21-Uruguay, 25-Tokyo and 25-Uruguay in column 3 of the Annex hereto:

— by applicants which show an export to the United States of America of the products in question during at least one of the preceding three years and whose designated importers are subsidiaries shall be accepted in accordance with the allocation coefficients in column 5 of the Annex,

— by applicants other than those provided for under the first indent which show an export to the United States of America of the products in question during each of the preceding three years shall be accepted in accordance with the allocation coefficients in column 6 of the Annex,

— by applicants other than those provided for under the first and second indents above shall be rejected.

[1] OJ L 160, 26.6.1999, p. 48.
[2] OJ L 270, 21.10.2003, p. 121.
[3] OJ L 211, 21.8.2003, p. 5.
[4] OJ L 20, 27.1.1999, p. 8.
[5] OJ L 287, 5.11.2003, p. 13.

2. If the allocated quantity resulting from the application of Article 1(1) is less than two tonnes, applicants may withdraw their application. In such cases, they shall notify the competent authorities within five working days of the publication of this Regulation whereupon their security shall be immediately released. The competent authority shall notify the Commission within eight working days of the publication of this Regulation, of the quantity for which applications have been withdrawn and for which the security has been released.

3. Applications for provisional export licences lodged pursuant to Regulation (EC) No 1471/2003 in respect of the product group and quota identified by 18-Uruguay in column 3 of the Annex hereto:

— by applicants whose designated importers are subsidiaries shall be accepted in accordance with the allocation coefficient in column 7 of the Annex,

— by applicants other than those provided for under the first indent shall be accepted in accordance with the allocation coefficient in column 8 of the Annex.

4. Applications for provisional export licences lodged pursuant to Regulation (EC) No 1471/2003 in respect of the product group and quotas identified by 22-Tokyo and 22-Uruguay in column 3 of the Annex shall be accepted for the quantities requested. On the further application of the trader within 20 working days of the entry into force of this Regulation and subject to the lodging of the security applicable, provisional export licences may be issued for further quantities in accordance with the allocation coefficient in column 9 of the Annex.

Article 2

This Regulation shall enter into force on the third day following that of 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, 12 November 2003.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Identification of group in accordance with Additional Notes in Chapter 4 of the Harmonised Tariff Schedule of the United States of America		Identification of group and quota	Quantity available for 2004 (t)	Allocation coefficient provided for under Article 1(1)		Allocation coefficient provided for under Article 1(3)		Allocation coefficient provided for under Article 1(4)
Note No	Group			First indent	Second indent	First indent	Second indent	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
16	Not specifically provided for (NSPF)	16-Tokyo	908,877	0,1965479	0,0655160	—	—	—
		16-Uruguay	2 346,000	0,1513203	0,0504401	—	—	—
17	Blue mould	17-Uruguay	300,000	0,2147971	0,0715990	—	—	—
18	Cheddar	18-Uruguay	1 000,000	—	—	1,0000000	0,6671750	—
20	Edam/Gouda	20-Uruguay	1 000,000	0,3259807	0,1086602	—	—	—
21	Italian type	21-Uruguay	700,000	0,2350571	0,0783524	—	—	—
22	Swiss or Emmenthaler cheese other than with eye formation	22-Tokyo	393,006	—	—	—	—	1,1089209
		22-Uruguay	380,000	—	—	—	—	1,1377246
25	Swiss or Emmenthaler cheese with eye formation	25-Tokyo	4 003,172	0,4294560	0,1431520	—	—	—
		25-Uruguay	1 220,000	0,4484195	0,1494732	—	—	—