COMMISSION REGULATION (EC) No 664/2004

of 7 April 2004

laying down transitional measures as regards import licences for milk and milk products pursuant to Regulation (EC) No 2535/2001, by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular Article 2(3) thereof,

Having regard to the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular the first paragraph of Article 41, thereof,

Whereas:

(1) Chapter I, Section 2, of Title 2 of Commission Regulation (EC) No 2535/2001 of 14 December 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 [1] lays down specific provisions on the approval of applicants for import licences. In order to ensure access for operators from the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (new Member States) to import licences as from the date of accession of those countries to the European Union, transitional measures should be adopted.

(2) For the period 1 May to 30 June 2004, operators from the new Member States should be allowed to apply for import licences under the tariff quotas as referred to in the Annexes to Regulation (EC) No 2535/2001 without prior approval. They should prove their status and regular activity as traders. As regards the requirement on the proof of trade performance, the applicants in the new Member States should be allowed to consider not only trade with the Community but trade with all third countries. They should have the opportunity to choose as a reference year for the trade performance 2002 instead of 2003 if they can prove that they were not able to import or export the required quantities of milk products during 2003 as a result of exceptional circumstances. The new Member States authorities should by 15 May 2004 transmit a list to the Commission including all eligible operators. In order to enable each applicant to be identified more easily, and to facilitate the transfer of licences, the data to be forwarded for each operator should be specified. Moreover, eligible operators of the new Member States should be allowed to purchase import licences.

(3) For the period 1 July 2004 to 30 June 2005 operators from the new Member States should be approved provided they submit a request before 1 June including the necessary documents and information, or provided they have been included in the list of eligible operators to be transmitted to the Commission by 15 May 2004.

(4) It is therefore necessary to provide for certain derogations from Regulation (EC) No 2535/2001.

(5) 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. By way of derogation from Chapter I, Section 2 of Title 2 of Regulation (EC) No 2535/2001, operators established in the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (hereinafter 'new Member States') may apply for import licences for the quotas covering the period 1 May to 30 June 2004 without prior approval of the competent authorities of the Member State in which they are established.

2. By way of derogation from Article 11 of Regulation (EC) No 2535/2001, operators established in the new Member States may apply for import licences for the quotas referred to in paragraph 1 only in the Member State where they are established.

[1] OJ L 341, 22.12.2001, p. 29. Regulation as last amended by Regulation (EC) No 50/2004 (OJ L 7, 13.1.2004, p. 9).

Licence applications shall be admissible only where the applicant attaches the following documents:

(a) proof that in 2003 the applicant has imported and/or exported at least 25 tonnes of milk products covered by Chapter 04 of the Combined Nomenclature in at least four separate operations;

(b) any document and information adequately substantiating the identity and status of the applicant, in particular:
   (i) documents relating to business accounts and/or tax arrangements drawn up in accordance with national law; and
   (ii) the VAT number, if provided for under national law;
   (iii) the registration in the commercial register, if provided for under national law.

In case of point (a) of the second subparagraph, the reference year shall be 2002 if the importer concerned can prove that he/she was not able to import or export the required quantities of milk products during 2003 as a result of exceptional circumstances.

For the purposes of application of this paragraph, inward — and outward — processing transactions shall not be considered as imports and exports.

3. The competent authorities of the new Member States shall send to the Commission by 15 May 2004 lists of operators having applied for import licences for the quotas covering the period 1 May to 30 June 2004 in accordance with paragraph 1 and complying with the conditions laid down in paragraph 2. These lists shall be established in accordance with the model in Annex XIV to Regulation (EC) No 2535/2001, exception made of the approval number.

4. The Commission shall forward these lists to the competent authorities of the other Member States.

5. By way of derogation from Article 16(4) of Regulation (EC) No 2535/2001, import licences issued for the quotas covering the period 1 May to 30 June 2004 may be transferred only to natural or legal persons approved in accordance with Section 2 of that regulation and to natural or legal persons appearing on the lists referred to in paragraph 3.

Article 2

By way of derogation from Article 8 of Regulation (EC) No 2535/2001, for the quotas covering the period 1 July 2004 to 30 June 2005, approval shall be granted to:

(a) operators established in the new Member States who submit, before 1 June 2004, a request to the competent authorities of the Member State in which they are established, together with the documents referred to in Article 1(2); or

(b) operators established in the new Member States who submit, before 1 June 2004, a request to the competent authorities of the Member State in which they are established and who are included in the list referred to in Article 1(3).

Article 3

This Regulation shall enter into force subject to and on the date of the entry into force of the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia.

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

Done at Brussels, 7 April 2004.

For the Commission

Franz FISCHLER

Member of the Commission