COMMISSION REGULATION (EC) No 1118/2006

of 20 July 2006

on the suspension of the issuing of import licences for New Zealand butter imported under a tariff quota

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 Article 29(1) thereof,

Whereas:

(1) 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 [2] set out such rules in particular as regards 'New-Zealand butter' as defined in Article 25(1) of that Regulation.

(2) The Court of Justice of the European Communities in its judgment of 11 July 2006 in Case C-313/04 *Franz Egenberger GmbH Molkerei und Trockenwerk v. Bundesanstalt für Landwirtschaft und Ernährung* stated that: 'Article 35(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 is invalid in as much as it provides that applications for import licences for New Zealand butter at reduced duty may be lodged solely with the competent authorities of the United Kingdom'; and 'Articles 25 and 32 of Regulation (EC) No 2535/2001, read in conjunction with Annexes III, IV and XII to that Regulation, are invalid since they permit discrimination in the issue of import licences for New Zealand butter at reduced duty.'

(3) The effect of this judgment of the Court of Justice is that it is impossible to effectively operate the arrangements for the import of New-Zealand butter under the tariff quota concerned, in particular as those provisions of Regulation (EC) No 2535/2001 which are unaffected by the judgment are insufficient to ensure that the origin and quality of products purported to be imported under the quota indeed meet the requirements of the quota and are also insufficient to ensure proper management of the quota notably by control of the utilisation of the quota.

(4) It will therefore be necessary to amend Regulation (EC) No 2535/2001 in order to provide for such requirements whilst ensuring that such amendments meet the requirements as set out in the judgment of the Court of Justice. Such amendments cannot be made immediately, in particular since consultations with interested parties need to take place.

(5) In order to avoid speculation, to prevent the continuance of the discrimination referred to in the judgment of the Court of Justice and to avoid the risks of uncontrolled utilisation of the quota, and the import of products under the quota which do not meet the quality and origin requirements of products eligible under the quota it is therefore necessary to suspend the issuing of licences for New-Zealand butter until such amendments to Regulation (EC) No 2535/2001 may be adopted. For the same reasons it is necessary to do so with effect from the day following the judgment of the Court of Justice, namely 12 July 2006.

(6) However in respect of New-Zealand butter for which an IMA 1 certificate had been issued before 12 July 2006 and had physically left New Zealand before that date, it is necessary to continue to provide for the issuing of import licences in order to protect the legitimate expectations of the operators concerned and to provide for smoother trade flows whilst respecting the judgment of the Court of Justice.

(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

By way of derogation from the provisions of Regulation (EC) No 2535/2001, Member States shall suspend the issuing of import licences for New-Zealand butter as defined in Article 25(1) of that Regulation. This derogation shall not apply to New-Zealand butter for which an IMA 1 certificate was issued before 12 July 2006, and which physically left New Zealand before that date.

[1] OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

[2] OJ L 341, 22.12.2001, p. 29. Regulation as last amended by Regulation (EC) No 926/2006 (OJ L 170, 23.6.2006, p. 8).

Article 2

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

It shall apply from 12 July 2006.

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

Done at Brussels, 20 July 2006.

For the Commission
Mariann FISCHER BOEL
Member of the Commission