

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

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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

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 1670/2000⁽²⁾, and in particular Article 26(3) and Article 29(1) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1374/98 of 29 June 1998 laying down detailed rules for the application of the import arrangements and opening tariff quotas for milk and milk products⁽³⁾, as last amended by Regulation (EC) No 594/2001⁽⁴⁾, has been substantially amended several times. Since further amendments are to be made, in the interests of clarity and efficiency the said Regulation should be recast to include also the provisions of Commission Regulation (EEC) No 2967/79 of 18 December 1979 laying down the conditions under which certain cheeses benefiting from preferential import treatment are to be processed⁽⁵⁾, as last amended by Regulation (EC) No 1599/95⁽⁶⁾, Commission Regulation (EC) No 2508/97 of 15 December 1997 laying down detailed rules for the application to milk and milk products of the schemes provided for in the Europe Agreements between the Community and the Republic of Hungary, the Republic of Poland, the Czech Republic, the Slovak Republic, Bulgaria, Romania and Slovenia and the Agreements on free trade between the Community and the Baltic States⁽⁷⁾, as last amended by Regulation (EC) No 2856/2000⁽⁸⁾, and Commission Regulation (EC) No 2414/98 of 9 November 1998 laying down detailed rules for the application of the arrangements applicable to imports of milk products originating in the African, Caribbean and Pacific States (ACP States) and repealing Regulation (EEC) No 1150/90⁽⁹⁾.
- (2) Articles 26 and 29 of Regulation (EC) No 1255/1999 stipulate that the Commission is to ensure that import licences are issued to all applicants irrespective of where in the Community they are established and that all discrimination between importers must be avoided, whilst taking into account all the relevant provisions.
- (3) In order to take account of certain features specific to the importation of milk products, additional provisions should be adopted as well as, where necessary, derogations from Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common

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detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products⁽¹⁰⁾, as last amended by Regulation (EC) No 2299/2001⁽¹¹⁾.

- (4) Specific provisions are needed for imports into the Community of milk products at reduced duty under the tariff concessions provided for in the following texts:
- (a) the concessions set out in schedule CXL drawn up in the wake of the Uruguay Round of multilateral trade negotiations and the negotiations conducted under Article XXIV.6 of GATT following the accession to the European Community of Austria, Finland and Sweden (hereinafter called ‘the CXL schedule’);
 - (b) the tariff agreement with Switzerland concerning certain cheeses listed in position ex 0404 of the Common Customs Tariff, concluded on behalf of the Community by Council Decision 69/352/EEC⁽¹²⁾, as last amended by the Agreement in the form of an Exchange of Letters between the European Economic Community, of the one part, and the Swiss Confederation, of the other part, concerning certain agricultural products, approved by Council Decision 95/582/EC⁽¹³⁾ (hereinafter called the ‘Agreement with Switzerland’);
 - (c) the Agreement in the form of an Exchange of Letters between the European Community and the Kingdom of Norway concerning certain agricultural products, approved by Decision 95/582/EC (hereinafter called ‘the Agreement with Norway’);
 - (d) Decision No 1/98 of the EC-Turkey Association Council of 25 February 1998 on the trade regime for agricultural products⁽¹⁴⁾;
 - (e) Council Regulation (EC) No 1706/98 of 20 July 1998 on the arrangements applicable to agricultural products and goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) and repealing Regulation (EEC) No 715/90⁽¹⁵⁾;
 - (f) the Agreement on trade, development and cooperation between the European Community and its Member States, of the one part, and the Republic of South Africa, of the other part, provisionally applied under the Agreement in the Form of an Exchange of Letters concluded between the European Community and South Africa and approved by Council Decision 1999/753/EC⁽¹⁶⁾ (hereinafter called ‘the Agreement with South Africa’);
 - (g) Council Regulations (EC) No 1349/2000⁽¹⁷⁾, as amended by Regulation (EC) No 2677/2000⁽¹⁸⁾, (EC) No 1727/2000⁽¹⁹⁾, (EC) No 2290/2000⁽²⁰⁾, (EC) No 2341/2000⁽²¹⁾, (EC) No 2433/2000⁽²²⁾, (EC) No 2434/2000⁽²³⁾, (EC) No 2435/2000⁽²⁴⁾, (EC) No 2475/2000⁽²⁵⁾, (EC) No 2766/2000⁽²⁶⁾ and (EC) No 2851/2000⁽²⁷⁾, establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreements with Estonia, Hungary, Bulgaria,

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Latvia, the Czech Republic, the Slovak Republic, Romania, Slovenia, Lithuania and the Republic of Poland, respectively;

- (h) the Agreement establishing an Association between the European Economic Community and the Republic of Cyprus, signed on 19 December 1972, concluded on behalf of the Community by Council Regulation (EEC) No 1246/73⁽²⁸⁾, and in particular the Protocol laying down the conditions and procedures for the implementation of the second stage of the Agreement establishing an Association between the European Economic Community and the Republic of Cyprus, signed on 19 December 1987 and concluded by Council Decision 87/607/EEC⁽²⁹⁾ (hereinafter called ‘the Agreement with Cyprus’.
- (5) The CXL schedule provides for certain tariff quotas under the arrangements for current and minimum access. Those quotas should be opened and rules laid down for administering them.
- (6) In order to ensure correct and fair management of the tariff quotas for unspecified countries of origin fixed in the CXL schedule and the tariff quotas for imports at reduced duty from the countries of central and eastern Europe, the ACP States, Turkey and the Republic of South Africa, licence applications should be subject to the lodging of a security greater than that required for normal imports and certain rules should be laid down for the submission of licence applications. The quotas should be spread out over the year and the procedure for allocating licences and their period of validity should be laid down.
- (7) In order to ensure that applications for import licences are genuine, to prevent speculation and ensure maximum utilisation of the quotas opened, individual applications should be restricted to 10 % of the quota concerned, applicants should no longer be permitted to refuse licences where the allocation factor is less than 0,8, quotas should be open only to importers who have imported or exported the products covered by those quotas, criteria should be laid down to restrict eligibility to apply for licences by requiring all applicants to provide documents proving their status and regular activity as traders and each importer should be allowed to lodge only one licence application per quota. To facilitate the selection and admission of eligible applicants by the national authorities, a procedure should be introduced for approving eligible applicants and drawing up a list of approved applicants valid for one year. To ensure that the restrictions on the number of applications are effective, there should be a penalty where such restrictions are not complied with.
- (8) Products subject to inward- and outward-processing transactions are neither imported, and consequently released for free circulation, nor exported and have therefore never been taken into account for the purposes of establishing the eligibility of applicants under the arrangements governed by Regulation (EC) No 1374/98. In the interests of clarity, it should be specified that these transactions may not be taken into account when calculating the reference quantity provided for in this Regulation.

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- (9) For the purposes of administering the tariff quotas opened for specified countries of origin fixed in the CXL schedule and the quotas provided for under the Agreement with Norway, in particular the check that imported products comply with the description of the goods concerned and with the tariff quota, use should be made of the arrangements under which import licences are issued in a prescribed form on presentation of IMA 1 certificates (inward monitoring arrangements) on the responsibility of the exporting country. These arrangements, under which the exporting country gives an assurance that the exported products conform with their description, considerably simplify the import procedure. They are also used by third countries to monitor compliance with tariff quotas.
- (10) In order to protect the Community's financial interests, however, declarations under the IMA 1 certificate arrangements must be verified at Community level by the random sampling of lots and the use of internationally recognised testing and statistical methods.
- (11) Additional detailed rules are necessary for implementing the IMA 1 certificate system, in particular regarding the completion, issue, cancellation, amendment and replacement of certificates by the issuing body, the period of validity of certificates and the conditions for their use with a corresponding import licence. End-of-year provisions are also needed, linked to normal shipping times, for releasing for free circulation products covered by an IMA 1 certificate and intended for import in the following year. To ensure compliance with the quota, import declarations should be monitored and an end-of-year audit carried out.
- (12) New Zealand butter imported under the current access quota must be identified to ensure that the full export refund and certain aid amounts are not paid. To that end, certain definitions are needed, along with instructions on how to complete the IMA 1 certificate, how to check the weight and fat content and what procedure to follow in the event of a dispute concerning the composition of the butter.
- (13) As an exception to Regulation (EC) No 1291/2000, imports of New Zealand butter under the current access quota should also be subject to additional conditions, in particular to link the quantity covered by an IMA 1 certificate to that covered by a corresponding import licence and require that both documents be used only once together with a declaration of release for free circulation.
- (14) Canadian cheddar is now the only product covered by the IMA 1 certificate system for which a minimum free-at-frontier value must be complied with. For this purpose the buyer and the Member State of destination must be indicated on the IMA 1 certificate.
- (15) As a result of poor management by the bodies issuing IMA 1 certificates in Norway, which led to a quota overrun, Norway has asked to replace the two issuing bodies indicated in Annex VII to Regulation (EC) No 1374/98 with a single body answering directly to the Ministry of Agriculture. The necessary changes should therefore be made to comply with Norway's request.
- (16) Importers who intend to import certain cheeses originating in Switzerland must undertake to comply with a minimum free-at-frontier value in order to benefit from preferential treatment for those cheeses. In the past this undertaking was given in box

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17 of the obligatory IMA 1 certificate, but this is no longer the case. In the interests of clarity, therefore, the notion of the free-at-frontier value and the conditions for ensuring that it is complied with should be specified in some other way.

- (17) In the case of the specific provisions relating to preferential imports not subject to quotas as referred to in Regulation (EC) No 1706/98, Annex I to Protocol 1 to Decision No 1/98 of the EC-Turkey Association Council, Annex IV to the Agreement with South Africa, and under the Agreement with Switzerland, it should be specified that the reduced rate of duty is to be applied only on presentation of the proof of origin provided for in the relevant Protocols to those Agreements.
- (18) In order better to protect the Community's own resources, and in the light of the experience gained, detailed rules are needed for import checks. In particular, the procedure to be followed in certain cases where the lot covered by a declaration of release for free circulation does not conform to that declaration should be specified in order to ensure adequate surveillance of quantities actually released for free circulation against quotas.
- (19) 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:

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- (1) OJ L 160, 26.6.1999, p. 48.
- (2) OJ L 193, 29.7.2000, p. 10.
- (3) OJ L 185, 30.6.1998, p. 21.
- (4) OJ L 88, 28.3.2001, p. 7.
- (5) OJ L 336, 29.12.1979, p. 23.
- (6) OJ L 151, 1.7.1995, p. 10.
- (7) OJ L 345, 16.12.1997, p. 31.
- (8) OJ L 332, 28.12.2000, p. 49.
- (9) OJ L 299, 10.11.1998, p. 7.
- (10) OJ L 152, 24.6.2000, p. 1.
- (11) OJ L 308, 27.11.2001, p. 19.
- (12) OJ L 257, 13.10.1969, p. 3.
- (13) OJ L 327, 30.12.1995, p. 17.
- (14) OJ L 86, 20.3.1998, p. 1.
- (15) OJ L 215, 1.8.1998, p. 12.
- (16) OJ L 311, 4.12.1999, p. 1.
- (17) OJ L 155, 28.6.2000, p. 1.
- (18) OJ L 308, 8.12.2000, p. 7.
- (19) OJ L 198, 4.8.2000, p. 6.
- (20) OJ L 262, 17.10.2000, p. 1.
- (21) OJ L 271, 24.10.2000, p. 7.
- (22) OJ L 280, 4.11.2000, p. 1.
- (23) OJ L 280, 4.11.2000, p. 9.
- (24) OJ L 280, 4.11.2000, p. 17.
- (25) OJ L 286, 11.11.2000, p. 15.
- (26) OJ L 321, 19.12.2000, p. 8.
- (27) OJ L 332, 28.12.2000, p. 7.
- (28) OJ L 133, 21.5.1973, p. 1.
- (29) OJ L 393, 31.12.1987, p. 1.

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