

**COMMISSION REGULATION (EC) No 2172/2005****of 23 December 2005**

laying down detailed rules for the application of an import tariff quota for live bovine animals of a weight exceeding 160 kg and originating in Switzerland provided for in the Agreement between the European Community and the Swiss Confederation on trade in agricultural products

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⁾, and in particular the first subparagraph of Article 32(1) thereof,

Whereas:

- (1) Following the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union, the European Community and the Swiss Confederation agreed to proceed with the adaptation of tariff concessions within the framework of the Agreement between the European Community and the Swiss Confederation on trade in agricultural products ⁽²⁾ (hereinafter referred to as the Agreement). The adaptation of these tariff concessions, by Decision No 3/2005 of the Joint Committee on Agriculture ⁽³⁾ amending Annexes 1 and 2 of the Agreement, provides for the opening of a duty-free Community tariff quota for the import of 4 600 live bovine animals weighing more than 160 kg and originating in Switzerland. Detailed rules should be adopted for the opening and administration of this tariff quota on a multi-annual basis.
- (2) For the allocation of the tariff quota and given the products concerned it is appropriate to apply the method of simultaneous examination referred to in the second indent of Article 32(2) of Regulation (EC) No 1254/1999.
- (3) To be eligible for the benefit of this tariff quota, live animals should originate in Switzerland in conformity with the rules referred to in Article 4 of the Agreement.
- (4) With a view to preventing speculation, the quantities available within the quota should be made accessible to operators able to show that they are genuinely engaged in trade of a significant scale with third countries. In consideration of this and in order to ensure efficient management, the traders concerned should be required to have imported a minimum of 50 animals during the year previous to the annual quota period in question, as given that a consignment of 50 animals may be considered to be a normal load. Experience has shown that the purchase of a single consignment is a minimum requirement for a transaction to be considered real and viable.
- (5) If such criteria are to be checked, applications should be presented in the Member State where the importer is entered in a VAT register.

⁽¹⁾ OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

⁽²⁾ OJ L 114, 30.4.2002, p. 132.

⁽³⁾ OJ L 346, 29.12.2005, p. 33.

▼B

- (6) Also in order to prevent speculation, importers no longer involved in trade in live bovine animals at 1 January previous to the beginning of the annual quota period in question should be denied access to the quota. Moreover, a security should be fixed for import rights, licences should not be transferable and import licences should be issued to traders solely for the quantities for which they have been allocated import rights.
- (7) To provide a more equal access to the quota while ensuring a commercially viable number of animals per application, maximum and minimum limits should be fixed for the number of animals covered in each application.
- (8) It should be established that import rights are to be allocated after a reflection period and where necessary with a fixed allocation coefficient applied.
- (9) Pursuant to Article 29(1) of Regulation (EC) No 1254/1999, the arrangements have to be managed using import licences. To this end, rules should be laid down on the submission of applications and the information to be given on applications and licences, where necessary in addition to or by way of derogation from certain 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 ⁽¹⁾ and of 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 ⁽²⁾.
- (10) To oblige operators to apply for import licences for all import rights allocated, it should be established that the application should constitute, with regard to the import rights security, 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 ⁽³⁾.
- (11) Experience shows that a proper management of the quota also requires that the titular holder of the licence is a genuine importer. Therefore, such importer should actively participate in the purchase, transport and import of the animals concerned. Presentation of proof of those activities should thus also be a primary requirement with regard to the licence security.
- (12) With a view to ensuring a strict statistical control of the animals imported under the quota, the tolerance referred to in Article 8(4) of Regulation (EC) No 1291/2000 should not apply.
- (13) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

1. ►**M1** A duty-free Community import tariff quota is hereby opened every year for periods from 1 January to 31 December for the import of 4 600 live bovine animals originating in Switzerland weighing more than 160 kg, falling within CN codes 0102 90 41, 0102 90 49,

⁽¹⁾ OJ L 152, 24.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 1856/2005 (OJ L 297, 15.11.2005, p. 7).

⁽²⁾ OJ L 143, 27.6.1995, p. 35. Regulation as last amended by Regulation (EC) No 1118/2004 (OJ L 217, 17.6.2004, p. 10).

⁽³⁾ OJ L 205, 3.8.1985, p. 5. Regulation as last amended by Regulation (EC) No 673/2004 (OJ L 105, 14.4.2004, p. 17).

▼B

0102 90 51, 0102 90 59, 0102 90 61, 0102 90 69, 0102 90 71 or 0102 90 79. ◀

This tariff quota shall have the order number 09.4203.

2. The rules of origin applicable to the products referred to in paragraph 1 shall be those provided for in Article 4 of the Agreement.

*Article 2***▼M1**

1. For the purposes of application of Article 5 of Regulation (EC) No 1301/2006, engagement in trade with third countries as referred to in that Article shall mean that applicants have imported at least 50 animals covered by CN codes 0102 10 and 0102 90.

Member States may accept as proof of trade with third countries copies of the documents referred to in the second sub-paragraph of Article 5 of Regulation (EC) No 1301/2006, duly certified by the competent authority.

▼B

4. A company formed by the merger of companies each having reference imports complying with the minimum quantity referred to in paragraph 1 may use those reference imports as a basis for its application.

*Article 3***▼M1****▼B**

2. Applications for import rights must cover at least 50 animals and may not cover more than 5 % of the quantity available.

Where applications exceed the percentage referred to in the first sub-paragraph, the excess shall be disregarded.

3. Applications for import rights shall be lodged at the latest before 13:00, Brussels time, on 1 December preceding the annual quota period in question.

However, for the quota period from the date of entry into force of the present Regulation until 31 December 2006, applications for import rights shall be lodged at the latest before 13.00, Brussels time, on the 10th working day following the date of publication of this Regulation in the *Official Journal of the European Union*.

▼M1

5. After verification of the documents presented, Member States shall forward to the Commission, by the 10th working day following the end of the period for the submission of applications at the latest, the total quantities applied for.

Notwithstanding Article 6(3) of Regulation (EC) No 1301/2006, Article 11 of that Regulation shall apply.

▼B*Article 4*

1. Following the notification referred to in Article 3(5), the Commission shall decide as soon as possible to which extent the applications can be met.

▼M1

2. Where application of the allocation coefficient referred to in Article 7(2) of Regulation (EC) No 1301/2006 gives a figure of less than 50 head per application, the quantity available shall be awarded by the Member States concerned by drawing lots for import rights covering 50 head each. Where the remainder is less than 50 head, a single import right shall be awarded for that quantity.

▼B*Article 5*

1. The security relating to the import rights shall be EUR 3 per head. It must be lodged with the competent authority together with the application for import rights.

2. Import licence applications must be made for the quantity allocated. This obligation shall constitute a primary requirement within the meaning of Article 20(2) of Regulation (EEC) No 2220/85.

3. Where application of the allocation coefficient referred to in Article 4(2) causes less import rights to be allocated than had been applied for, the security lodged shall be released proportionally without delay.

Article 6

1. The quantities awarded shall be imported subject to presentation of one or more import licences.

2. Licence applications may be lodged solely in the Member State where the applicant has applied and obtained import rights under the quota.

Each issuing of import licence shall result in a corresponding reduction of the import rights obtained.

3. Import licences shall be issued on application by and in the name of the operator who have obtained the import rights.

4. Licence applications and licences shall show the following:

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(a) in Box 8, the country of origin and the mention “yes” is marked by a cross;

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(b) in box 16, one or several of the following CN codes:

0102 90 41, 0102 90 49, 0102 90 51, 0102 90 59, 0102 90 61, 0102 90 69, 0102 90 71 or 0102 90 79;

(c) in box 20, the order number of the quota (09.4203) and at least one of the entries listed in Annex II.

Licences shall carry with them an obligation to import from the country indicated in box 8.

▼B*Article 7***▼M1**

1. By way of derogation from Article 9(1) of Regulation (EC) No 1291/2000, import licences issued pursuant to this Regulation shall not be transferable.

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3. The grant of the import licence shall be conditional on the lodging of a security of EUR 20 per head which shall be composed of:

- (a) the security of EUR 3 referred to in Article 5(1); and
- (b) an amount of EUR 17 which the applicant shall lodge together with the licence application.

▼M1**▼B**

5. Pursuant to Article 50(1) of Regulation (EC) No 1291/2000, the full Common Customs Tariff duty applicable on the date of acceptance of the customs declaration for free circulation shall be collected in respect of all quantities imported in excess of those shown on the import licence.

6. Notwithstanding the provisions of Section 4 of Title III of Regulation (EC) No 1291/2000, the security shall not be released until proof has been produced that the titular holder of the licence has been commercially and logistically responsible for the purchase, transport and clearance for free circulation of the animals concerned. Such proof shall at least consist of:

- (a) the original commercial invoice or authenticated copy made out in the name of the titular holder by the seller or his representative, both established in the third country of export, and proof of payment by the titular holder or the opening by the titular holder of an irrevocable documentary credit in favour of the seller;
- (b) the transport document, drawn up in the name of the titular holder, for the animals concerned;
- (c) proof that the goods have been declared for release for free circulation with the indication of the name and address of the titular holder as consignee.

▼M1*Article 8*

Regulations (EC) No 1445/95 and (EC) No 1291/2000 and Commission Regulation (EC) No 1301/2006 ⁽¹⁾ shall apply, subject to this Regulation.

▼M3*Article 8a*

1. By way of derogation from the second subparagraph of Article 11(1) of Regulation (EC) No 1301/2006, Member States shall notify to the Commission:

- (a) no later than 28 February following the end of each import tariff quota period, the quantities of products, including nil returns, for which import licences were issued in the previous import tariff quota period;

⁽¹⁾ OJ L 238, 1.9.2006, p. 13.

▼ M3

(b) no later than 30 April following the end of each import tariff quota period, the quantities of products, including nil returns, covered by unused or partly used import licences and corresponding to the difference between the quantities entered on the back of the import licences and the quantities for which they were issued.

2. No later than 30 April following the end of each import tariff quota period, Member States shall notify to the Commission the quantities of products, which were actually released for free circulation during the preceding import tariff quota period.

However, as of the import tariff quota period starting on 1 January 2009, Member States shall forward to the Commission details of the quantities of products put into free circulation as of 1 January 2009 in accordance with Article 4 of Regulation (EC) No 1301/2006.

3. For the notifications referred to in paragraph 1 and the first subparagraph of paragraph 2 of this Article, the quantities shall be expressed in heads and per product category as indicated in Annex V to Commission Regulation (EC) No 382/2008 ⁽¹⁾.

▼ B*Article 9*

This Regulation shall enter into force on the 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.

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⁽¹⁾ OJ L 115, 29.4.2008, p. 10.

▼M2

▼C1

ANNEX II

Entries referred to in Article 4(1)(a)

- *in Bulgarian:* Продукт АКТБ — Регламенти (ЕО) № 2286/2002 и (ЕО) № 2247/2003
- *in Spanish:* Producto ACP — Reglamentos (CE) n° 2286/2002 y (CE) n° 2247/2003
- *in Czech:* Produkt AKT — nařízení (ES) č. 2286/2002 a nařízení (ES) č. 2247/2003
- *in Danish:* AVS-produkt — forordning (EF) nr. 2286/2002 og (EF) nr. 2247/2003
- *in German:* AKP-Erzeugnis — Verordnungen (EG) Nr. 2286/2002 und (EG) Nr. 2247/2003
- *in Estonian:* AKV toode — määrused (EÜ) nr 2286/2002 ja (EÜ) nr 2247/2003
- *in Greek:* Προϊόν ΑΚΕ — Κανονισμοί (ΕΚ) αριθ. 2286/2002 και (ΕΚ) αριθ. 2247/2003
- *in English:* ACP product — Regulations (EC) No 2286/2002 and (EC) No 2247/2003
- *in French:* Produit ACP — règlements (CE) n° 2286/2002 et (CE) n° 2247/2003
- *in Italian:* Prodotto ACP — regolamenti (CE) n. 2286/2002 e (CE) n. 2247/2003
- *in Latvian:* ĀKK produkts — Regulas (EK) Nr. 2286/2002 un (EK) Nr. 2247/2003
- *in Lithuanian:* AKR šalių produktas — reglamentai (EB) Nr. 2286/2002 ir (EB) Nr. 2247/2003
- *in Hungarian:* AKCS-államokból származó termék – 2286/2002/EK és 2247/2003/EK rendeletek
- *in Maltese:* Prodott ACP — Regolamenti (KE) Nru 2286/2002 u (KE) Nru 2247/2003
- *in Dutch:* ACS-product — Verordeningen (EG) nr. 2286/2002 en (EG) nr. 2247/2003
- *in Polish:* Produkt pochodzący z państw AKP — Rozporządzenia (WE) nr 2286/2002 i (WE) nr 2247/2003
- *in Portuguese:* Produto ACP — Regulamentos (CE) n.º 2286/2002 e (CE) n.º 2247/2003
- *in Romanian:* Produs ACP — Regulamentele (CE) nr. 2286/2002 și nr. 2247/2003
- *in Slovak:* AKT produkt — nariadenia (ES) č. 2286/2002 a (ES) č. 2247/2003
- *in Slovenian:* Proizvod iz držav AKP — Uredba (ES) št. 2286/2002 in Uredba (ES) št. 2247/2003
- *in Finnish:* AKT-tuote — asetukset (EY) N:o 2286/2002 ja (EY) N:o 2247/2003
- *in Swedish:* AVS-produkt — förordningarna (EG) nr 2286/2002 och (EG) nr 2247/2003