

Commission Regulation (EC) No 2020/2006 of 22 December 2006 amending Regulation (EC) No 2535/2001 as regards the management of the WTO tariff quota for New Zealand butter

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amending Regulation (EC) No 2535/2001 as regards the management of the WTO tariff quota for New Zealand butter

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⁾ sets out in particular rules for 'New-Zealand butter' as referred to in second subparagraph of 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 inasmuch 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) A new arrangement for managing the tariff quota as from 1 January 2007 needs to be put in place, ensuring non-discriminatory access of importers to the quota in conformity with the Court's judgment in Case C-313/04.
- (4) With a view of providing at the same time stability in the trade while gradually opening of the entire quota to all interested operators, it seems appropriate to manage the quota through the method referred to in the third indent of Article 29(2) of Regulation (EC) No 1255/1999. Therefore, a division of the quota amongst traditional importers and newcomers should be set up. Provision should be made for the traditional part to be managed taking into account the past trade under the same quota and the newcomers' part to be managed by a simultaneous examination of the licences.

Changes to legislation: Commission Regulation (EC) No 2020/2006, Introductory Text is up to date with all changes known to be in force on or before 27 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) In order to ensure that applications for import licences are genuine, to prevent speculation and to ensure maximum utilisation of the quota, each applicant under the newcomers part of the quota should apply for a minimum quantity and applications shall be limited to 10 % of the quantity available. For the same reasons, criteria should be laid down to allow participation in the quota; in particular, the quota should be opened to those operators who prove a certain level of trade activity in the milk sector. In order to provide for more equal access to the newcomers' quota each applicant may apply for a maximum quantity.
- (6) The security level should be set at a level which ensures that only genuine traders are applying under the quota. It is appropriate to adopt therefore the security level which is applicable for the management of the quotas referred to under Chapter 1 of Title II of Regulation (EC) No 2535/2001.
- (7) In order to avoid licences issued for quantities which are economically not viable, a drawing lots procedure shall be provided for in case licences would be issued for quantities less than 20 tonnes.
- (8) Imports of New Zealand butter must comply with certain quality and compositional requirements laid down in Regulation (EC) No 2535/2001. In order to show compliance with those requirements and to prove the origin of the products provision should be made for the operator to present the IMA 1 certificate at the time of import.
- (9) The Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

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- (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](#)).

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