



Eucolait position on Trade Mechanisms review 15 April 2015

With the present paper, Eucolait, the European association of dairy trade, wishes to contribute to the ongoing revision of trade mechanisms legislation covering in particular the management of import and export quotas. Eucolait awaits with interest further details of the plans to simplify and improve the existing instruments by providing operators with more flexibility.

We do however believe that by and large the existing regime for imports and exports of dairy products works well and requires no major overhaul. To ensure certainty for operators, dairy quotas should be managed by the simultaneous examination method as is the case at present for most quotas. Accordingly, Eucolait opposes the use of the 'first come first served' system.

We wish to maintain the existing specific rules governing the import and export of dairy products laid down in regulations 2535/2001 and 1187/2009. Given the differences between agricultural sectors, it would not be possible to create a horizontal system that would make sense for all TRQs.

With this in mind, we would like to make the following specific comments:

1. Access to quotas/eligibility

- Approved importer

The existing dairy import regulation 2535/2001 contains provisions which go beyond the general requirements on eligibility laid down in regulation 1301/2006. Companies need to comply with a minimum threshold of 25 tonnes of dairy products traded per year (during two consecutive years) in order to qualify as an approved importer. This regime has proven effective in reducing the number of licence applications, while making it possible for newcomers to have access to the quotas over a relatively short period of time. One could potentially consider raising the minimum threshold to a higher volume, e.g. 100 tonnes.

The EU dairy sector is now much more market oriented and competitive than when the existing import rules were drafted and it is generally less attractive to import under the various import quotas as can be observed in the fill rates. However, at times when EU production is low and prices increase, there will suddenly be a lot of demand for certain import licences, notably under the erga omnes cheddar quota. We therefore consider it important that a mechanism to limit the number of potential applicants remains in place.

- **Historical vs newcomer**

Where a distinction is made between access for traditional and newcomer exporters and importers (e.g. TRQs for cheese to the US, milk powder to the Dominican Republic), this distinction should be maintained. This sets a cap on the number of licence applications and in the case of export TRQs recognises the commitment of companies having invested in a third country market.

- **Control of the quota**

The management of quotas should be controlled by the EU as far as possible and not by the authorities of a third country as is the case for imports under the IMA1 regime.

2. Flexibility in applying for licences – number of application rounds

In order to empower operators to make the most appropriate commercial decisions, there must be a number of opportunities throughout the quota year to apply for licences. One licence application period in a year is definitively not sufficient as this would in effect force operators to make decisions up to more than twelve months in advance. This is simply too risky due to the increased price volatility and it is also questionable whether such a regime for imports would be WTO compliant. Two applications rounds may be sufficient for certain quotas, but three or four would be better.

By way of example, the management of the quota for exports of milk powders to the Dominican Republic was recently changed in that a second application round was added. This positive amendment which rendered the quota more attractive should not be reversed by a decision to move to one application round per year.

3. Maximum quantity covered by applications

Whether there is a need for a maximum quantity per application to limit extreme oversubscription depends very much on each individual import and export quota. Consequently, we are not in favour of a horizontal rule on this. For the import quotas for dairy products 'of unspecified origin', the 10% ceiling seems to have worked well but it could also be slightly higher, e.g. 20%.

4. Transfer of licences

It should be possible to transfer licences to another operator as is the case at present. We believe the risk of speculation in the dairy sector is very limited and the possibility to transfer can ensure a better use of licences.

5. Release of securities

Operators who have applied for an import/export licence and have lodged the requisite security should not stand to lose their security when the licence is not used, in instances where the quota for which they have applied is undersubscribed. Moreover, when an additional application round takes place to allocate unsubscribed quota volumes, there should be no need to lodge a security. The licence gives rise to an obligation to export or import. This is mainly to prevent speculation and to preserve the interests of other traders who could have benefited from a quantity left unused. There is however no justification for the loss of security where demand does not exceed the available quota. In this specific

case the security is not fulfilling its purpose of ensuring the use of licences or preventing speculation and there is no value attached to the licences.

6. TRQ bank/import rights

If a two-step procedure involving import rights which are converted into import licences is put in place, the practical advantages for operators should be made clear. Any TRQ bank should also be sector specific.