

SOURCE: 61 FR 53007, Oct. 9, 1996, unless otherwise noted.

### §6.20 Introduction.

(a) Presidential Proclamation 6763 of December 23, 1994, modified the Harmonized Tariff Schedule of the United States affecting the import regime for certain articles of dairy products. The Proclamation terminated quantitative restrictions that had been imposed pursuant to section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. 624); proclaimed tariff-rate quotas for such articles pursuant to Pub. L. 103-465; and specified which of such articles may be entered only by or for the account of a person to whom a license has been issued by the Secretary of Agriculture.

(b) Effective January 1, 1995, the prior regime of absolute quotas for certain dairy products was replaced by a system of tariff-rate quotas. The articles subject to licensing under the new tariff-rate quotas are listed in Appendices 1, 2, and 3 of this subpart. Licenses will be issued pursuant to the provisions of this subpart for the 1997 and subsequent quota years. These licenses will permit the holder to import specified quantities of the subject articles into the United States at the applicable in-quota rate of duty. If an importer has no license for an article subject to a tariff-rate quota, such importer will, with certain exceptions, be required to pay the applicable over-quota rate of duty.

(c) The Secretary of Agriculture has determined that this subpart will, to the fullest extent practicable, result in fair and equitable allocation of the right to import articles subject to such tariff-rate quotas. The subpart will also maximize utilization of the tariff-rate quotas for such articles, taking due account of any special factors which may have affected or maybe affecting the trade in the articles concerned.

### §6.21 Definitions.

As used in this subpart and the Appendices thereto, the following terms mean:

*Article.* One of the products listed in Appendices 1, 2, or 3 which are the same as those described in Additional

U.S. Notes 6, 7, 8, 12, 14, 16-23 and 25 to Chapter 4 of the Harmonized Tariff Schedule.

*Customs.* The United States Customs Service.

*Country.* Country of origin as determined in accordance with Customs rules and regulations, except that "EC 12", "EC 15", and "Other countries" shall each be treated as a country.

*Cheese or cheese products.* Articles in headings 0406, 1901.90.34, and 1901.90.36 of the Harmonized Tariff Schedule.

*Commercial entry.* Any entry except those made by or for the account of the United States Government or for a foreign government, for the personal use of the importer or for sampling, taking orders, research, or the testing of equipment.

*Dairy products.* Articles in headings 0401 through 0406, margarine cheese listed under headings 1901.90.34 and 1901.90.36, ice cream listed under heading 2105, and casein listed under heading 3501 of the Harmonized Tariff Schedule.

*Department.* The United States Department of Agriculture.

*EC 12.* Belgium, Denmark, the Federal Republic of Germany, France, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, and the United Kingdom.

*EC 15.* Austria, Belgium, Denmark, the Federal Republic of Germany, Finland, France, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the United Kingdom.

*Enter or Entry.* To make or making entry for consumption, or withdrawal from warehouse for consumption in accordance with Customs regulations and procedures.

*Harmonized Tariff Schedule or HTS.* The Harmonized Tariff Schedule of the United States.

*Licensee.* A person to whom a license has been issued under this subpart.

*Licensing Authority.* Any officer or employee of the U.S. Department of Agriculture designated to act in this position by the Director of the Division charged with managing the Dairy Tariff-Rate Import Quota Licensing System, currently the Import Policies and Programs Division of the Foreign Agricultural Service.

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*Other countries.* Countries not listed by name as having separate tariff-rate quota allocations for an article in the Additional U.S. Notes to Chapter 4 of the Harmonized Tariff Schedule.

*Person.* An individual, firm, corporation, partnership, association, trust, estate or other legal entity.

*Postmark.* The postage cancellation mark or date applied by the United States Postal Service. This does not include the date on metered postage affixed by the applicant, or on mail delivered by private entities.

*Process or Processing.* Any additional preparation of a dairy product, such as melting, grating, shredding, cutting and wrapping, or blending with any additional ingredient.

*Quota year.* The 12-month period beginning on January 1 of a given year.

*Tariff-rate quota amount or TRQ amount.* The amount of an article subject to the applicable in-quota rate of duty established under a tariff-rate quota.

*United States.* The customs territory of the United States, which is limited to the 50 states, the District of Columbia, and Puerto Rico.

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## § 6.22 Requirement for a license.

(a) *General rule.* A person who seeks to enter, or cause to be entered, an article shall obtain a license, in accordance with this subpart, except as provided in paragraph (b).

(b) *Exceptions.* Licenses are not required if:

(1) The article is imported by or for the account of any agency of the U.S. Government;

(2) The article is imported for the personal use of the importer, provided that the net weight does not exceed five kilograms in any one shipment;

(3) The article imported will not enter the commerce of the United States and is imported as a sample for taking orders, for exhibition, for display or sampling at a trade fair, for research, for testing of equipment; or for use by embassies of foreign governments. Written approval of the Licensing Authority shall be obtained prior to entry, and the importer of record (or a broker or agent acting on its behalf)

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shall provide to the Licensing Authority, prior to the release of such articles, the appropriate Customs documentation identifying the article, quantity to be imported, its location, intended use, an entry number and the importer of record. The Licensing Authority may also require as a condition of import that the article be destroyed or re-exported after such use; or

(4) Such person pays the applicable over-quota rate of duty.

## § 6.23 Eligibility to apply for a license.

(a) *In general.* To apply for any license, a person shall have:

(1) A business office, and be doing business, in the United States, and

(2) An agent in the United States for service of process.

(b) *Eligibility for the 1997 and subsequent quota years—*(1) *Historical licenses (Appendix 1).* Any person issued a historical or nonhistorical license for the 1996 quota year for an article may apply for a historical license (Appendix 1) for the same article from the same country for the 1997 and subsequent quota years, if such person was, during the 12-month period ending August 31 prior to the quota year, either:

(i) Where the article is cheese or cheese product,

(A) The owner of and importer of record for at least three separate commercial entries of cheese or cheese products totaling not less than 57,000 kilograms net weight, each of the three entries not less than 2,000 kilograms net weight,

(B) The owner of and importer of record for at least eight separate commercial entries of cheese or cheese products, from at least eight separate shipments, totaling not less than 19,000 kilograms net weight, each of the eight entries not less than 450 kilograms net weight, with a minimum of two entries in each of at least three quarters during that period; or

(C) The owner or operator of a plant listed in Section II or listed in Section I as a processor of cheese of the most current issue of “Dairy Plants Surveyed and Approved for USDA Grading Service” and had processed or packaged at least 450,000 kilograms of cheese or cheese products in its own plant in the United States; or