U.E.C.B.V.
Union Européenne du Commerce du Bétail et de la Viande
SIEGE SOCIAL: STRASBOURG - BOURSE DU COMMERCE

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RE: TRQ administration/Method: first come, first served (FCFS)/Arguments against/UECBV policy document

BACKGROUND

Tariff quotas for the import of agricultural products for release into free circulation in the Union, which are partly or fully administered by the Union, resulting from international agreements, are opened and/or administered by the EU Commission by means of implementing acts.

Tariff quotas are administered by applying one of the following methods or a combination of them in compliance with the international commitments:

a) a method based on the chronological order of the submission of applications ("first come, first served" principle);
b) a method of distribution in proportion to the quantities requested when the applications were submitted (the "simultaneous examination method");
c) a method based on taking traditional trade patterns into account (the "traditional/newcomers method").

Legal basis: the Regulation (EU) n° 1308/2013 of 17 December 2013, establishing a common organisation of the markets in agricultural products. Article 184.

In the livestock and meat sector, the main methods in force are the methods under (a) and (b).

The trend is a move towards the “first come, first served” principle (FCFS) due to:

- the strong request from the Third Countries for the current and the new TRQ. The main arguments are better transparency and use of the TRQ thanks to a cost reduction. The FCFS principle cancels the trade in import licences and the associated costs and, therefore, allows a financial shift from the importing countries to the exporting countries. It increases also the bargaining power of the exporters.
- the EU Commission services support the FCFS principle that requests less human and financial resources for the administration of the TRQ. This argument is very well perceived in a context of economic crisis and austerity.

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The last examples of the implementation of the FCFS principles in the livestock and meat sectors are:

- current TRQ: the high quality beef TRQ. Regulation (EU) n° 481/2012 of 7 June 2012 laying down rules for the management of a tariff quota for high-quality beef.

- new TRQ: beef TRQ originating in Nicaragua and other Central American countries. Council Decision n° 2012/734 of 25 June 2012 on the signing of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other, and the provisional application of Part IV thereof concerning trade matters.

As a consequence, the FCFS is becoming the regular method for the administration of the TRQ in the EU:

	FCFS	SE	TN	TC (exporting country)	Total
Beef	9	4	1	6	20
Pork	4	5	-	-	9
Sheep meat	13	-	-	-	13
Poultry meat	4	7	-	-	11
Total	30	16	1	6	53
%	56.6	30.2	1.9	11.3	

The next step will be the implementation of the FCFS principle for the TRQ that will be negotiated in the context of an FTA with Canada (in 2014), Mercosur (in 2014 or 2015), USA (in 2015). These FTAs will have a major impact on the EU agriculture, in general, and, more especially, on the EU livestock sector.

The purpose of the policy document is to provide arguments against the FCFS principle to the national federations with the aim of lobbying the national authorities and reversing the trend thanks to a coordinated political pressure.

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Possible impact of the FCFS principle

- FCFS would arguably have a negative effect on meat prices in the EU domestic market. If the whole idea of the TRQ is to provide protection to the domestic market, FCFS would defeat the object. EU Farmers and other economic stakeholders would likely prefer a consistent flow of trade as less fluctuation in market value helps farmers, such as the example regarding apple imports supports. However, this impact might be mitigated if the FCFS foresees a quarterly allocation, as it is the case for the high quality beef TRQ.

- FCFS would make business planning more difficult. A licence system enables operators to establish in advance their share of the quota and thus allow them to agree contracts etc. with their customers. The business planning takes into consideration many parameters, amongst them the EU domestic production forecasts, the demand development, the price fluctuation. This business plan contributes to the market stability. FCFS gives the EU operators less possibility of planning the imports. The domestic market situation of the exporting country will influence more the trade decision than the domestic market of the importing country. The situation is worst in case of a monopoly, as described under one of the following indents.

- There are possible implications of an FCFS system on small- to medium-sized businesses and the ability for businesses to compete. FCFS would make business planning incredibly difficult.

- The FCFS arguably increases the risk of monopoly of the market by a few very large companies/ multinationals which are established in the exporting countries. A certain amount of co-ordination is required to match production to import. Large multinationals do not require established importer-exporter relationships, as they manage the whole process themselves. Smaller companies, on the other hand, require time to build relationships with the exporter in order to match production time to when product needs to be imported.

Specific examples would be the catering butchers, which are often SMEs. They often tend not to have credit ratings which means that big companies are unable to supply them. If, as a result of FCFS, the market were to become controlled by a few big companies, it would become very difficult for catering butchers to obtain supplies. This would then impact the restaurants and food service industry which they supply. Catering butchers need to produce volumes of product to consistent specification for a specific menu, which has often been printed at high cost. If they cannot guarantee they can secure the product from one supplier and are instead forced to source from multiple importers due to FCFS they would be unable to deliver this. This risks them breaching their contract with their customer and potentially losing the business.

- The loss of confidence. Following the mislabelled beef incident, there is a greater emphasis on the need for strong supply chain relationships. There is more of a desire to work with suppliers that

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companies trust and have an established relationship with. If their usual importing supplier is unable to source product due to the 'random' allocation of FCFS, they will be forced to look elsewhere to suppliers whom they do not know so well and whose product they are not familiar with.

- The loss of market information. Other quota administration methods provide a better ability to gather a-priori market information. This information could be used to anticipate the market fluctuation or, like the Norwegian fish industry does, to identify anomalies and look for possible fraud. The Norwegian fish industry employs analysts to look for discrepancies in data on the number of fish caught versus the amount exported using catch certificates.

The European Commission's own arguments against an FCFS system

The European Commission provides some of its own rationale for not using an FCFS system in Regulation (EC) n° 514/2008 of 9 June 2008 amending Regulation (EC) No 376/2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products (OJ L 150,10 June 2008), where it states that 'the Commission should take account of the appropriate instruments for the management of the markets and, in particular, for the monitoring of imports'.

It goes on to give further reasons:

- 'A licence system is deemed to be the most appropriate mechanism to monitor certain agricultural products imported under preferential conditions, when considering the valuable advantage offered by the reduced rate of duty applicable and the imperative need to forecast market movements'.
- 'In the rice sector the information on foreseeable imports and exports provided by licences is the basis for the surveillance of the market, in particular because of the important position of rice in domestic consumption'.
- 'For dairy products, the information on foreseeable imports at reduced duty provided by licences is important for the surveillance of the market. As regards imports at reduced rate of duty of beef, in order to monitor the volume of trade with third countries, provision should be made for a system of licences for certain products'.
- 'Ethyl alcohol of agricultural origin imports should be subject to presentation of licences given the needs for market surveillance in case of a sensitive industry'.

Furthermore, the EU Commission Regulation (EC) n° 658/2004 of 7 April 2004 imposed definitive safeguard measures against imports of certain prepared or preserved citrus fruits (EU OJ L 104, 8 April 2004).

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The Spanish government had informed the Commission that there had been a substantial and rapid increase in imports of the product concerned and that this had negatively affected domestic prices for these products.

The Regulation explains the Commission's assessment of the claim and the reasoning behind the response. Part of the assessment was of the system of quota administration. There were some calls to move to FCFS and some who opposed this and wanted to keep a system which favoured traditional importers.

The Commission replied that 'without a system of guaranteed licences, the price of the imported product from China is likely to rise dramatically in the early part of the tariff quota period, and might subsequently collapse when importers reach or exceed the level of imports necessary to fulfil their orders which it describes as windfall effects. The 'windfall effects' of the allocation of the tariff quotas on an FCFS basis risk harming Community producers as demand will be focused on imports from China in the early part of the canning season and will only transfer to the Community producers' product after the quota is exhausted.

This risks reducing the Community producers' sales in the early part of the canning season and they would also suffer from the uncertainty created by severe price fluctuations. “It is in the interests of existing importers who normally import substantial quantities of the product concerned from China that provision is made to ensure that traditional trade flows are preserved ..."It is in the interests of retailers and consumers that there should be an adequate supply of the product concerned on the community market and the market price should be stabilised'.
'Having taken account of these considerations, **the Commission considers that it would not be appropriate to administer the TRQ on an FCFS basis**. Rather those … who have traditionally imported a substantial quantity of the product concerned to the Community should have the opportunity to apply for a licence to import'.

The academic arguments and elsewhere experience

1° OECD

There may be some merit in presenting some of the arguments which we have made by academics and organisations, such as the OECD, who have based their conclusions on statistical evidence and analysis.
The OECD argues that 'where demand for import licences is low, an FCFS method for allocating licences might be feasible. However, FCFS administration could pose problems in cases where there is high demand. Tariff quotas could be oversubscribed and it might be difficult to determine where license applications are received first. In such cases, there could be a rush to import on the day the quota is

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opened, and neither exporters nor importers would know at the time of shipment whether they would face the in-quota or over-quota duty upon importation.
The OECD also presents the argument about a potential for a surge of imports at the start of the tariff quota period and the destabilisation of trade which could result from FCFS.

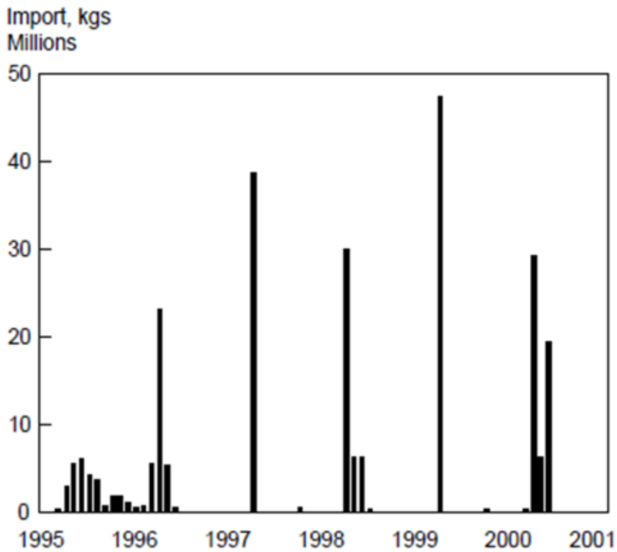
2° Xianghong Li and Colin A. Cart, Department of Agricultural and Resource Economics, Kansas State University, Kansas, USA University of California, Davis, CA, USA March 2009.

They underlined the advantage of predictability for the 'historical importers' method. They did not underline the same advantage for the FCFS principle.

3°USA experience

The United States uses a system of FCFS for peanut imports. The quota year runs from April to March and the graph below illustrates the monthly distribution of quota fill which surges in April, the beginning of the quota year.

Figure 6
U.S. peanut imports under TRQ, volume by month



Final conclusion: the FCFS principle is not compatible with the sensitive status of a product which aims to mitigate the impact of a free trade agreement, provide market stability and visibility.

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