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REGULATION (EEC) No 245/72 OF THE COMMISSION

of 2 February 1972

making a third amendment to Regulation (EEC) No 2223/70 waiving the countervailing charge on imports of certain wines originating in and coming from certain third countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 816/70[1] of 28 April 1970 laying down additional provisions for the common organization of the market in wine, as last amended by Regulation (EEC) No 2722/71,[2] and in particular Article 9 (6) thereof;

Whereas the first subparagraph of Article 9 (3) of Regulation (EEC) No 816/70 provides that where the free-at-frontier offer price for a wine, plus customs duties, is lower than the reference price for that wine, a countervailing charge equal to the difference between the reference price and the free-at-frontier offer price plus customs is to be levied on imports of that wine and of wines in the same category;

Whereas, however, that countervailing charge is not levied as regards third countries which are prepared and in a position to guarantee that the price of imports of products originating in and coming from their territory will not be lower than the reference price less customs duties and that any deflection of trade will be avoided;

Whereas the following have intimated their readiness to give that guarantee in respect of exports of certain wines to the Community;

— the Government of the Democratic and Popular Republic of Algeria by application dated 13 December 1971;

— the Government of the Kingdom of Morocco by application dated 20 December 1971;

— the Government of the Tunisian Republic by application dated 5 January 1972;

— the Government of the Republic of Turkey by application dated 10 January 1972;

Whereas exports of Algerian wine to the Community will be effected only on the basis of a written contract concluded with the Office National de Commercialisation et d'Exportation des Produits viti-vinicoles, an official agency under the control of the Ministry of Agriculture and the sole exporter; whereas exports of wines to the Community will be effected only if the free-at-Community-frontier offer price is not lower than the reference price less customs duties actually levied;

Whereas exports of Moroccan wine to the Community will be effected only on the basis of a written contract concluded with the Office de Commercialisation et d'Exportation, an official agency under the control of the Ministry of Trade and the sole exporter; whereas exports of wine to the Community will be effected only if the free-at-Community-frontier offer price is not lower than the reference price less customs duties actually levied;

Whereas the Tunisian Government has given an undertaking that all exports of wine to the Community will be effected only on the basis of a written contract under the supervision of the Office du Vin de Tunisie, a Government agency which will issue a registration certificate authorizing export only if the free-at-Community-frontier offer price is not lower than the reference price less customs duties actually levied;

Whereas the Turkish Government has given an undertaking that all exports of wine to the Community will be effected only on the basis of a

[1] OJ No L 99, 5.5.1970, p. 1.
[2] OJ No L 282, 23.12.1971, p. 1.

written contract after approval by the Ministry of Trade which will issue the registration certificate authorizing export only if the free-at-Community-frontier offer price is not lower than the reference price less customs duties actually levied;

Whereas the Tunisian and Turkish Governments have, moreover, undertaken to impose appropriate penalties on their exporters in order to ensure compliance with the measures taken;

Whereas furthermore the Algerian, Moroccan, Tunisian and Turkish Governments will ensure that any deflection of trade will be avoided; whereas they will take any measures necessary for this purpose and take all appropriate steps to ensure, in particular, that no action is taken which might indirectly bring about prices lower than the reference prices less customs duties actually levied, such as taking over marketing costs, resorting to linked transactions, or any other action having similar effect;

Whereas they undertake to communicate regularly to the Commission details of wine exports to the Community and to enable the Commission to exercise a continuous supervision of the effectiveness of the measures they have taken;

Whereas questions affecting observance of the guarantees given have been discussed in detail with the competent authorities of each of these third countries; whereas, following these discussions, it may be assumed that they are in a position to abide by their guarantees; whereas consequently there is no need to levy a countervailing charge on imports of certain wines originating in and coming from Algeria, Morocco, Tunisia or Turkey; whereas Commission Regulation (EEC) No 2223/70[1] waiving the countervailing duty on imports of certain wines originating in and coming from certain third countries, as last amended by Regulation (EEC) No 2436/71,[2] should be supplemented accordingly;

Whereas pursuant to Council Regulation (EEC) No 2313/71[3] of 29 October 1971, as regards Algeria, and to Council Regulation (EEC) No 2823/71[4] of 20 December 1971, as regards Morocco, Tunisia and Turkey, compliance with conditions listed in the second subparagraph of Article 9 (3) of Regulation (EEC) No 816/70 also leads to the provisional partial suspension, until 31 August 1972, of the Common Customs Tariff duties applicable to wines originating in and coming from these countries and which are the subject of the guarantees; whereas this suspension therefore will become operative on the date on which this Regulation takes effect;

Whereas the measures provided for in this Regulation are in accordance with the Opinion of the Management Committee for Wine;

HAS ADOPTED THIS REGULATION:

Article 1

The following shall be added to Article 1 of Regulation (EEC) No 2223/70:

(a) under point 1, the following indent shall be inserted before the indent concerning Argentina:

— 'Algeria';

(b) under point 1, the following indent shall be inserted after the indent concerning Israel:

— 'Morocco';

(c) under point 3, the following indents shall be inserted after the indent concerning Spain:

— 'Tunisia'

— 'Turkey'.

Article 2

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2 February 1972.

For the Commission

The President

Franco M. MALFATTI

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[1] OJ No L 241, 4.11.1970, p. 3.

[2] OJ No L 251, 12.11.1971, p. 26.

[3] OJ No L 244, 30.10.1971, p. 10.

[4] OJ No L 285, 29.12.1971, p. 51.