COMMISSION REGULATION (EEC) No 1407/78

of 26 June 1978

fixing a countervailing charge on imports into Belgium, the Federal Republic of Germany, Luxembourg and the Netherlands of alcohol of agricultural origin produced in France and on imports into Belgium and Luxembourg of spirit vinegar produced in France

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 46 thereof,

Whereas the German market in alcohol is at present disturbed by deliveries of agricultural alcohol at prices much lower than those ruling there; whereas the Belgian, Luxembourg and Netherlands markets are threatened with disturbance for the same reason and Belgian and Luxembourg markets in spirit vinegar are in the same situation;

Whereas the difference between prices on the French market and those on the markets of the abovementioned Member States results in particular from the pricing system applied by the French authorities, which consists in selling agricultural alcohol for export at an average price markedly lower than that at which the same alcohol is sold for consumption on the domestic market; whereas, however, as a result of the recent changes in French policy this price system does not apply to alcohol left on the producers' request at their free disposal;

Whereas, in view of this situation, the Commission has been requested to take measures under Article 46 of the Treaty;

Whereas the Council has not given a ruling under Article 42 of the Treaty on the applicability to ethyl alcohol of agricultural origin and to spirit vinegar of the provisions of the Treaty relating to State aids; whereas if France maintains its aid for exports of alcohol the ensuing difficulties can be alleviated only by fixing, under Article 46 of the Treaty, a charge on French exports, in order to restore market equilibrium; whereas, however, the arrangements referred to in this Regulation should not apply to 'liberated' alcohol, for which no export aid is given and which therefore occasions no distortion of competition;

Whereas the amount of such charge must exceed neither the amount of the aid nor the difference between the resulting market prices for the Member States in question;

Whereas, in calculating the countervailing charge, account should be taken of transport costs in respect of the deliveries in question; whereas, furthermore, in order to avoid deflections of trade, the charge for ethyl alcohol of agricultural origin should be fixed at a flat rate which is the same for Germany and the Benelux countries;

Whereas the charge should be fixed on the basis of the true exchange rates of the currencies in question;

Whereas a countervailing charge on ethyl alcohol of agricultural origin was fixed by Commission Regulation (EEC) No 851/76 fixing a countervailing charge for imports into Belgium, Germany, Luxembourg and the Netherlands of ethyl alcohol of agricultural origin produced in France (1), as last amended by Regulation (EEC) No 441/77 (2); whereas the countervailing charge to be applied in the Member States concerned was calculated at a flat rate on the basis of the prices ruling on the German market;

Whereas alcohol produced from cereals in France is sold for export at a higher price than that of other exported alcohol; whereas a reduced countervailing charge should therefore be applied to this product;

Whereas pursuant to Article 5 (2) of Regulation (EEC) No 851/76 the Commission keeps a constant watch over the development of trade in the products in question and adjusts the rate of the countervailing charge as necessary in the light of the factors taken into account in its fixing;

Whereas there has been a change in the basis for calculating the countervailing charge for ethyl alcohol of agricultural origin, while its rate has been affected by currency fluctuations; whereas a further amendment to Regulation (EEC) No 851/76 is therefore

(1) OJ No L 96, 10. 4. 1976, p. 41.
(2) OJ No L 58, 3. 3. 1977, p. 12.

required ; whereas for the sake of clarity all the provisions on the countervailing charge should be grouped in a single text ; whereas Regulation (EEC) No 851/76 should therefore be repealed ;

Whereas provision should be made for an interim period between the publication of this Regulation and its entry into force, in order to avoid as far as possible interfering with uncompleted transactions,

HAS ADOPTED THIS REGULATION :

Article 1

1. This Regulation shall apply to the following products :

CCT heading No	Description
ex 22.08 B ex 22.09 A II	Ethyl alcohol, undenatured, presented in containers holding more than two litres, produced from agricultural products listed in Annex II to the Treaty
ex 22.10 B	Spirit vinegar

2. For the purposes of this Regulation the following are considered to be the products referred to in paragraph 1 :

— all undenatured ethyl alcohol not accompanied by an attestation drawn up by the French authorities certifying the non-agricultural origin thereof within the meaning of the Treaty, with the exception of ethyl alcohol which, following the adjustment of France's regulations on ethyl alcohol, is left at the free disposal of the producers,

— all spirit vinegar.

Article 2

1. The Kingdom of Belgium, the Federal Republic of Germany, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands shall, upon the release for consumption of ethyl alcohol as described in Article 1, which has been produced in France, levy a countervailing charge thereon.

The Kingdom of Belgium and the Grand Duchy of Luxembourg shall, upon the release for consumption of spirit vinegar produced in France, levy a countervailing charge thereon.

The products referred to in Article 1 shall be considered to have been produced in France unless it is established to the satisfaction of the competent authorities of the Member State releasing them for consumption that they were produced elsewhere.

2. Paragraph 1 shall not apply when France levies the countervailing charge at the time of export.

3. The rate of the countervailing charge applicable to ethyl alcohol as described in Article 1 shall be as specified in Annex A hereto, and that applicable to spirit vinegar as specified in Annex B hereto.

Article 3

1. Where the exporter proves to the competent French customs office that the undenatured ethyl alcohol he intends to export has been left at the free disposal of the producer the document made out to show the Community status of the goods shall be endorsed in the 'description of goods' box with one of the following statements :

— 'Ausgleichsabgabe nicht anwendbar Verordnung (EWG) Nr. 1407/78',

— 'Taxe compensatoire non applicable Règlement (CEE) n° 1407/78',

— 'Compenserende heffing niet van toepassing Verordening (EEG) nr. 1407/78'.

2. Where France levies the countervailing charge as indicated in Article 2 (2) the document made out to show the Community status of the goods shall be endorsed in the 'description of goods' box with one of the following statements :

— 'Ausgleichsabgabe erhoben Verordnung (EWG) Nr. 1407/78',

— 'Taxe compensatoire perçue Règlement (CEE) n° 1407/78',

— 'Compenserende heffing toegepast Verordening (EEG) nr. 1407/78'.

3. The competent French authorities shall take the necessary measures to supervise the manufacture and dispatch of ethyl alcohol produced from cereals and shall inform the Commission and other Member States thereof.

Where the ethyl alcohol has been produced from cereals and neither paragraph 1 nor paragraph 2 applies, the document made out to show the Community status of the goods shall be endorsed in the 'description of goods' box with one of the following statements :

— 'Aus Getreide hergestellter Ethylalkohol Verordnung (EWG) Nr. 1407/78',

— 'Alcool éthylique obtenu à partir de céréales Règlement (CEE) n° 1407/78',

— 'Ethylalcohol verkregen uit granen Verordening (EEG) nr. 1407/78',

together with the indication of the tariff subheading 'ex 22.08 B' or 'ex 22.09 A II' as appropriate.

The reduced countervailing charge on ethyl alcohol produced from cereals shall be applied when it is released for home consumption in any of the Member States indicated in Article 2 (1) only on presentation of the document referred to in the previous subparagraph endorsed as specified therein.

4. The endorsements referred to in the preceding paragraphs shall be certified with the stamp of the French customs office issuing the document.

Article 4

The Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands shall each inform the Commission of the measures they have taken in application of this Regulation.

Article 5

Regulation (EEC) No 851/76 is hereby repealed.

Article 6

The Commission shall keep a constant watch over the trend of trade in the products covered by this Regulation ; it shall adjust the rate of the countervailing charge as necessary in the light of the factors taken into consideration in its fixing.

Article 7

This Regulation shall enter into force on the fifth 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, 26 June 1978.

For the Commission

Finn GUNDELACH

Vice-President

ANNEX A

Member State	Rate of charge per hl per degree of alchohol	
	Ethyl alcohol produced from cereals	Other ethyl alcohol of agricultural origin
Belgium/Luxembourg	Bfrs/Lfrs 2·1227	Bfrs/Lfrs 6·245
Federal Republic of Germany	DM 0·1360	DM 0·4004
France	FF 0·2991	FF 0·8868
Netherlands	Fl 0·1455	Fl 0·4282

ANNEX B

Member State	Rate of charge per hl
Belgium/Luxembourg	Bfrs/Lfrs 56·969
France	FF 8·027